



Commissioner Jo Ann Hardesty  
City of Portland

**TO:** Mayor Wheeler, Commissioner Eudaly, Commissioner Fritz, Commissioner Ryan

**CC:** Tim Crail, Kristin Dennis, Karly Edwards, Marshall Runkel, Kellie Torres

**From:** Commissioner Hardesty

**RE:** Fall BMP Amendments

**Date:** October 19, 2020

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Colleagues,

In a memo dated October 2<sup>nd</sup>, I outlined some of my concerns around the Police Bureau's Fall BMP submission, including their structural deficit, and response to protesting. These concerns have also been echoed by the City Budget Office in their analysis of the Bureau's Fall BMP submission. In the meantime, I have been thinking about ways to address some of these problems in collaboration with our community and would therefore like to share with you what are likely to be amendments I bring to the floor at our Fall BMP hearing on October 28<sup>th</sup>. I have amendments both specifically related to the Police Bureau, and some that are not.

First, I will address Police specific amendments. Recently I have been sharing my vision for community safety, both through the ReThink Portland campaign, and through several community events put on by my office. My vision for community safety is informed by listening to community members and organizations, learning from experts like Dr. Jonathan Jay and the Western States Center, and my own lived experience. I believe there is a different way forward from where we have been. A Portland where a reduced police force is focused solely on solving crime, where crime is addressed through a public health lens, and where we make reinvestments in community and police alternatives to provide support and de-escalated responses to those in need of assistance. My vision for community safety includes 5 major tenants:

1. Reduce and limit the size and scope of the police
2. Reinvest dollars in ways that will directly support our most vulnerable community members
3. Create alternatives to police
4. De-criminalize non-violent offenses
5. Demilitarize officers

As the Fall BMP approaches, I intend to submit an amendment package that is in alignment with my vision. This package will address reducing and limiting the size and scope of the police and demilitarizing



Commissioner Jo Ann Hardesty  
City of Portland

officers so that they may focus on violent crime and solving crime. Reinvestments from these two packages will focus on three things: directly supporting our most vulnerable community members, creating alternatives to police, and setting aside funds in contingency to help mitigate any potential cuts in FY 2021-22.

Currently we do not yet know what the Mayor will have in his Proposed Fall BMP package, so these amendments are subject to change, based on what we learn when that is presented. This memo represents my most current thinking and I want to proactively share it with you so we can work together to come to an agreement on changes our community is calling for.

In alignment with my first tenant to reduce and limit the size and scope of the police so that they may focus on solving crime I propose to:

1. Convert the portion of the Police Bureau's one-time cut related to the Mayor's directed 5.6% reduction to ongoing. This totals a reduction of \$4,665,885.
2. Eliminate 42 positions that were recently vacated by sworn members who retired in August. This totals a reduction of \$7,169,753 and 42.0 FTE. Note that there were 48 retirements in August, but we are unable to eliminate Sergeant positions due to staffing requirements for this job class outlined in the Settlement Agreement.
3. End an IGA between the Police Bureau and the County District Attorney's Office, where the Police Bureau is paying for 3 investigators in that office to issue subpoenas. This totals a reduction of \$425,000.
4. Direct the elimination of secondary employment and further reduce overtime. This totals a reduction of \$2,500,000.
5. Reduce external and internal materials and services to correspond with a reduction in FTE and reduce funding for military like supplies and munitions. This reduction totals \$2,500,000.

In alignment with my fifth tenant to demilitarize officers I propose eliminating funding associated with two programs within the Tactical Division. It has become clear to me through research and seeing tactics used during the 100+ days of protesting that the Police Bureau utilizes antiquated methods of protest policing with tactics from each of the following outdated models:

**Escalated Force** - The escalated force model has five primary characteristics: a lack of appreciation or respect for protesters' First Amendment rights; an intolerance for community disruption and a tendency for police to equate civil disobedience with anarchy; a minimal level of communication or negotiation between police and protesters; the widespread use of arrest, often under tenuous or legally





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City of Portland

questionable circumstances, as a means to control protesters; and an overreliance by police on the use of force.<sup>1</sup>

**Strategic Incapacitation** – This approach is characterized by a sense of disrespect for the exercise of First Amendment rights, an intolerance for community disruption, an unwillingness to communicate or negotiate with protesters, the use of arrests and force as primary methods for controlling protests, intensified efforts to control access to space, surveillance of protesters, and greater information sharing between law enforcement agencies.<sup>2</sup>

**Command and Control** – The command and control model emphasizes “the micromanagement of all aspects of demonstrations” including the use of very restrictive permitting processes; intense efforts to control public space through the use of barricades, police lines, and other mechanisms to surround, subdivide, and direct the flow of protesters; and “a willingness to use force against even minor violations of the law.” The command and control model is based on the view that protests are inherently disorderly and must therefore be tightly controlled to avoid more serious problems. It is consistent with the application of an order maintenance or “broken windows” style of policing to protests and other public order events.<sup>3</sup>

**Miami Model** – The Miami model is characterized by an aggressive, militarized approach to protest control, including ‘the creation of no protest zones, heavy use of less lethal weaponry, surveillance of protest organizations, negative advance publicity by city officials of protest groups, preemptive arrests, preventive detentions, and extensive restrictions on protest timing and locations.’ It is referred to as the “hard hat” approach because it involves deploying officers in full riot gear.<sup>4</sup>

To the extent that PPB needs to improve upon its procedural justice in order to reclaim some semblance of legitimacy with our community and we see no evidence of their willingness to do this at this time under current leadership, we must defund these groups and change the ways in which PPB interacts with the public. Further, PPB must create policies that include a framework of education, facilitation, communication, and differentiation consistent with the President’s Taskforce on 21<sup>st</sup> Century Policing, which has proven successful in other jurisdictions.

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<sup>1</sup> (Maguire, Edward R. (2015) "New Directions in Protest Policing," Saint Louis University Public Law Review: Vol. 35 : No. 1 , Article 6. , p.g 75.)

<sup>2</sup> (Maguire, Edward R. (2015) "New Directions in Protest Policing," Saint Louis University Public Law Review: Vol. 35 : No. 1 , Article 6. , p.g 83.)

<sup>3</sup> (Maguire, Edward R. (2015) "New Directions in Protest Policing," Saint Louis University Public Law Review: Vol. 35 : No. 1 , Article 6. , p.g 83.)

<sup>4</sup> (Maguire, Edward R. (2015) "New Directions in Protest Policing," Saint Louis University Public Law Review: Vol. 35 : No. 1 , Article 6. , p.g 84-85.)





Commissioner Jo Ann Hardesty  
City of Portland

Therefore, I propose to:

1. Eliminate Special Emergency Response Team funding. This totals a reduction of \$633,989.
2. Eliminate Rapid Response Team funding. This totals a reduction of \$,633,989.

**In total, this package will reduce the Police Bureau's budget by \$18,022,101 and 42.0 sworn FTE.**

I would like to work with you all to get to an agreement on how this money is reinvested going forward. Council has stated its priorities to BIPOC and houseless communities, and those most affected by the COVID crisis as we continue working through these unprecedented times. I would like reinvestments to reflect those priorities.

In preparation of the Fall BMP work session I would also like to share with you questions I have particularly around ongoing GF request, and the Police Bureau. I will also send these questions to bureau Directors, and cc: the Commissioner in charge, so that bureaus are able to prepare in advance. The questions are:

**Questions regarding requests for ongoing General Fund funding:**

**For the Office of Equity**

I understand that you have been working hard on a new strategic plan, and I look forward to your presentation on that later this year. Can you help me understand how your current requests relate to the work and goals that will be outlined in that plan?

You have significant requests for funding around training both internally and externally. Have your requests taken into consideration the need for a citywide equity training plan? Does the funding level requested reflect the new realities of virtual training and the inability to travel for in person training and conferences?

**For the Office of Violence Prevention**

I understand that the Office of Violence Prevention is working to promote a "focused deterrence" strategy in addressing gun violence in our City. The Department of Justice describes the practice goals of the model in this way:

"The strategies target specific criminal behavior committed by a small number of chronic offenders who are vulnerable to sanctions and punishment. Offenders are directly confronted and informed that continued criminal behavior will not be tolerated. Targeted offenders are also told how the criminal justice system (such as the police and prosecutors) will respond to continued criminal behavior; mainly



Commissioner Jo Ann Hardesty  
City of Portland

that all potential sanctions, or levers, will be applied. The deterrence-based message is reinforced through crackdowns on offenders, or groups of offenders (such as gang members), who continue to commit crimes despite the warning. In addition to deterring violent behavior, the strategies also reward compliance and nonviolent behavior among targeted offenders by providing positive incentives, such as access to social services and job opportunities.<sup>5</sup>

The Office's Strategic Plan executive summary includes highlights from a local problem analysis. One thing that struck me was that suspects had been arrested an average of more than 10 times by the time of the incident. Shooting victims had been arrested an average of more than 13 times.<sup>6</sup> Can you help me understand how the promotion of focused deterrence will help if deterrence, presumably through criminal justice system involvement, hasn't worked in the past, and why we should promote a program that only offers access to social services and job opportunities through compliance, essentially making help a bribe? If we are to address violence, and gun violence in particular, as a public health issue as urged by experts, why wouldn't we instead use the funding from your request to directly fund those social services and job opportunities?

**For the Office of Government Relations Tribal Liaison Program**

Do you have any goals or outcomes you could share that you hope to achieve as a result of your requests?

Can you help me understand what the \$237,700 external materials and services portion of the request would fund?

**A question for all 3 offices:** It's likely that the City will face another round of cuts in the FY 2021-22 Budget. Though we don't yet know what those might be, if the City were to be faced with steep ongoing cuts and the Mayor were to direct cuts across the board, how would your offices address that, if given an increase in funding and positions in the Fall BMP?

**Questions for the Portland Police Bureau**

City Budget Office analysis shows that the ways in which the Bureau has chosen to staff protests is a direct factor in what could be an unprecedented level of Bureau overspending at year-end if not addressed. For example, the officers previously staffed in the School Resource Office Program, Gun Violence Reduction Team, Special Emergency Response Team, and Transit Division could have helped

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<sup>5</sup> <https://crimesolutions.ojp.gov/practicedetails?id=11&ID=11#pd>

<sup>6</sup> <https://www.portland.gov/sites/default/files/2020-07/ovp-executive-summary-document-final-updated.pdf>



Commissioner Jo Ann Hardesty  
City of Portland

the bureau to increase its response to 911 calls, but instead have been directed to ongoing protest responses. We have dozens of General Liability claims in process now because of the bureau's chosen response to protests, and the Attorney's Office has submitted a request for an additional limited term Litigation Lawyer to handle impending litigation. If the bureau makes different choices, we could in part, address your current budget issues. What, if anything, are you going to do, to deescalate yourselves, restore community trust and respect, and get back on a path to fiscal responsibility? Can you commit to changing the way you staff protests, to do this?

Can you help me understand what the Public Safety Support Specialist positions are doing, and how they are working to improve community relations, as was originally envisioned with the creation of these unarmed positions?

As I mentioned previously, I look forward to continuing to work with each of your offices, and a productive Fall BMP work session. Please don't hesitate to reach out to me to discuss.

Sincerely,

Commissioner Hardesty