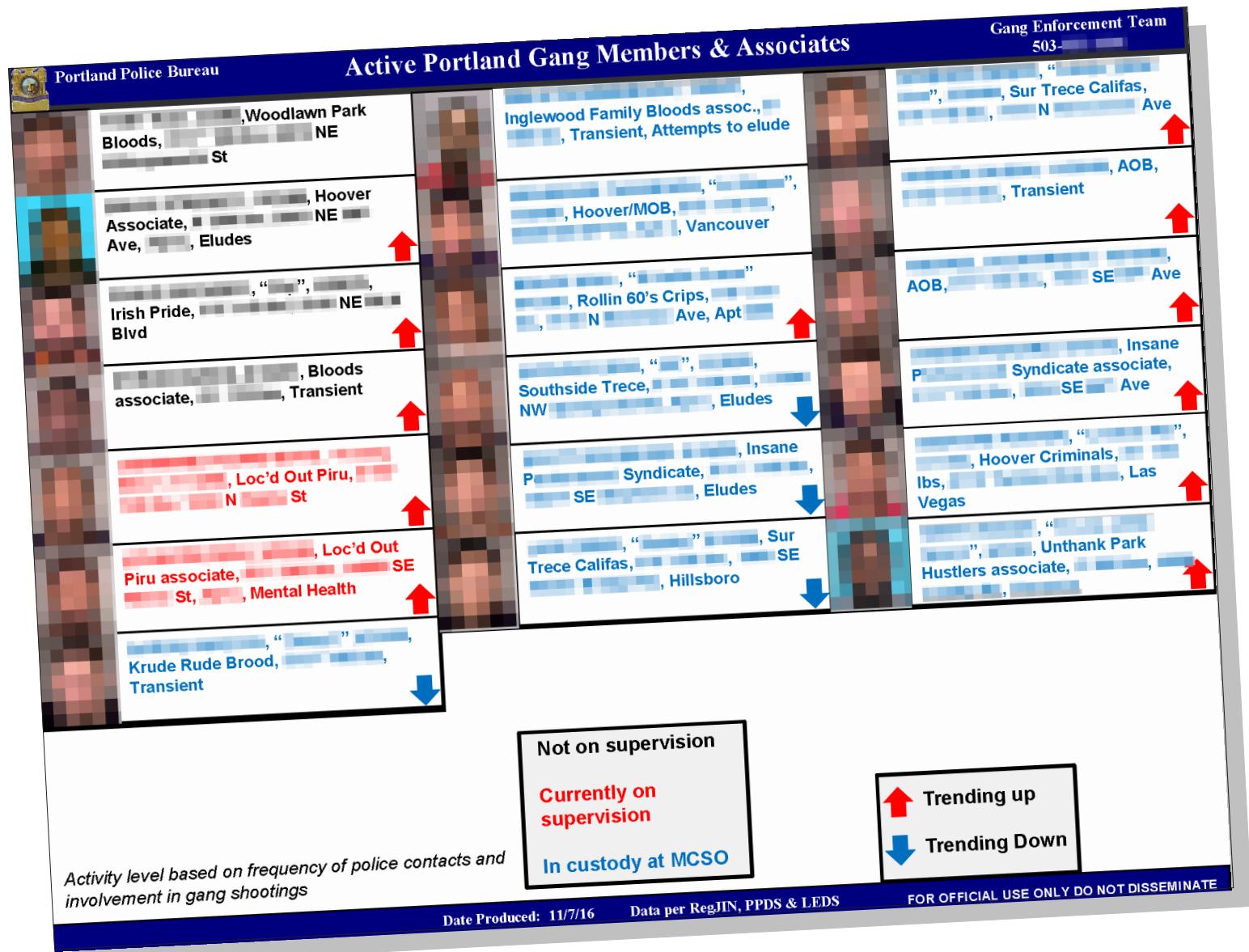


GANG CRIME INVESTIGATIONS:

Lack of accountability and transparency reduced the community's trust in police

March 2018



Portland City Auditor
Audit Services Division

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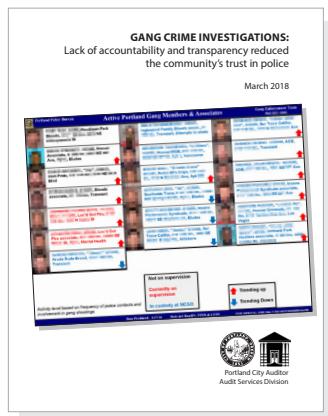
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The Gang Enforcement Team creates a list of active gang members and associates. We redacted personally identifying information.



GANG CRIME INVESTIGATIONS:

Lack of accountability and transparency reduced the community's trust in police

Summary

The Police Bureau's Gang Enforcement Team collected and shared information about people's gang associations. These practices suffered from lack of accountability and caused concerns to some community members.

For one practice, designating some people as criminal gang affiliates, the Police Bureau could not show that it complied with its own policy, despite some community concerns about this information collection. The Bureau acknowledged the community's mistrust by discontinuing this practice in October 2017. Police managers said they would no longer put gang labels on people.

A second practice, making a list of most active gang members and associates, was still in use at the conclusion of our audit. For this practice, the Police Bureau had no policy and few safeguards, despite potential public concerns and legal questions. The Bureau did not seek public input on this practice, even though community concerns persisted about the gang designation.

If the Police Bureau continues the most active list or other practices of collecting information on people's gang relationships, we recommend it should adopt a policy and put safeguards in place to protect people's rights and the accuracy of the information. It should also address potential legal questions.

The Gang Enforcement Team also investigates shooting crimes. The team did not track results of this work by measuring a case clearance rate. We recommend the Police Bureau use the clearance rate to report on results of the team's investigations. The team should also make case management improvements to balance detectives' work and track the timeliness and status of cases.

The focus of this report is on the team's investigative function. We assess the team's patrol function in a separate report.

Background

Detectives and officers from the Gang Enforcement Team, a specialty unit of the Portland Police Bureau, investigate violent crimes with a gang connection. The team's mission is to reduce criminal activity related to street gang violence. The team also patrols parts of the city, which we discuss in a separate audit report titled *Gang Enforcement Patrol: The Police Bureau must show that traffic stops are effective*.

<https://www.portlandoregon.gov/auditservices/article/677598>

The team had 28 sworn members as of December 2016 and it costs about \$6 million to \$7 million per year to fund the team.

Investigations are the largest function

Most members of the Gang Enforcement Team serve in investigative roles, rather than patrol. The team has unique access to resources that support its investigations: the team's officers respond to crime scenes to secure evidence and interview people; its officers can surveil suspects, serve search warrants, and make planned arrests; and a crime analyst provides in-depth research and data analysis. Many other investigative units in the Police Bureau do not have officers or crime analysts assigned to them.

These resources are provided because gang crimes are difficult to solve. Victims and witnesses may not cooperate with police and may face intimidation and retaliation. Police say that victims and witnesses often leave crime scenes and are reluctant to talk to police and testify in court.

Gang Enforcement Team tracks information about people's associations

The Gang Enforcement Team collects, analyzes, and distributes information about people involved in gangs and gang crimes as well as their associations with other people. This work differs from responding to a specific crime, such as a shooting; instead, it is proactively using information about some people and their activities. For this audit, we reviewed two methods used by the Police Bureau:

- The gang designation, which the Bureau discontinued during our audit
- The most active list

Although these two methods had different origins and processes, they both resulted in a police record that labeled people as affiliated with a gang.

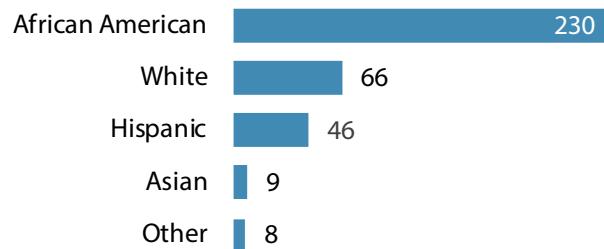
Gang Designation

From the early 1990s until 2017, police officers designated some people as “criminal gang affiliates,” which resulted in a note in their police records. The purpose of this gang designation, according to the Police Bureau, was to alert officers to potential danger and to aid investigations.

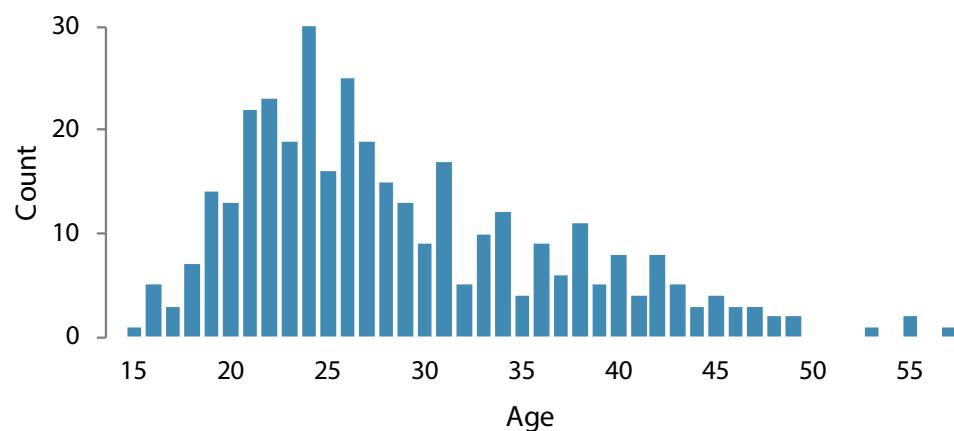
To designate a person as affiliated with a criminal gang, police had to document “clear and convincing” evidence that the person met certain criteria, which could include admitting membership or appearing in a photo with other people who display gang signs. Many times, the conduct that led to someone’s designation was not criminal, such as having a gang tattoo or wearing gang clothing. Affiliation with a gang is not a crime in Oregon.

As of fall 2016, there were 359 people with gang designations – 64 percent of whom were African American, 18 percent were White, and 13 percent were Hispanic. One person was female and the rest were male. People’s ages ranged from 15 to 57 with a concentration of people in their twenties.

Most Gang Designations were of African Americans



Most Gang Designations were of people aged 20 to 30



Source: Audit Services analysis of Police Bureau data

Since 1994, when a judge found prior Police Bureau practices unconstitutional, the Bureau has provided due process protections to people: It notified people it wanted to designate as criminal gang affiliates and they could appeal their designation in front of Police managers and a hearings officer. Designations expired after four years. The detailed process was described in a Bureau directive.

Most Active List

Since 2015, the Gang Enforcement Team has scored and ranked “active gang members and associates.” The team distributed lists of most active gang members and associates within the Police Bureau to familiarize other officers with younger gang suspects and with people whose gang affiliations were not captured by the gang designation. While the Bureau has discontinued gang designations, it continues to create most active lists, which includes a notation of people’s gang affiliations.

At the time of our audit, the Gang Enforcement Team used informal conversations among employees, police reports, and gang designations to compile a list of some 1,000 people who were associated with gang incidents. The team then assigned scores to each person based on the number and type of contacts the person had with police and created a list of the people with the top scores – usually about 30 people. The types of contact included shootings and gun seizures, but also non-criminal events and being victims of crime. The document was updated every month.

Unlike the gang designation, there was no notification or appeals process for people whom the team listed as most active gang member or associate.

The following table summarizes how the Police Bureau used both methods to collect and share information about people:

	Gang Designation	Most Active List
What is it?	A note on a person's police record about their gang affiliation	A ranking of people prepared by the Gang Enforcement Team
What were the goals?	Improve officer safety, aid investigations and racketeering cases	Familiarize officers with active gang members and associates; improve officer safety
Who prepared the information?	Officers documented observed behavior in a written report; supervisors reviewed it.	Gang Enforcement staff reviews a variety of sources, such as police reports regarding shootings and gun seizures, and calculates scores.
Did the Police Bureau have a policy?	Until rescinded in October 2017, the Bureau's directive 640.05 described the process and required clear and convincing evidence.	The Police Bureau did not have a policy describing legal standards, methods, or safeguards.
What due process did affected people have?	The Police Bureau sent notification letters and people had opportunities to appeal their designation to Police managers and a hearings officer. Appeal opportunities are required by City code section 14C.30.080 and the Ysasaga v. City lawsuit from 1993.	The Police Bureau did not inform people about this listing and there was no appeals process.
How was the information shared?	Police Bureau added the gang designation to the person's police records that could be looked up by all officers.	Every month, Gang Enforcement Team distributes names and photos of top 30 people within the Police Bureau.

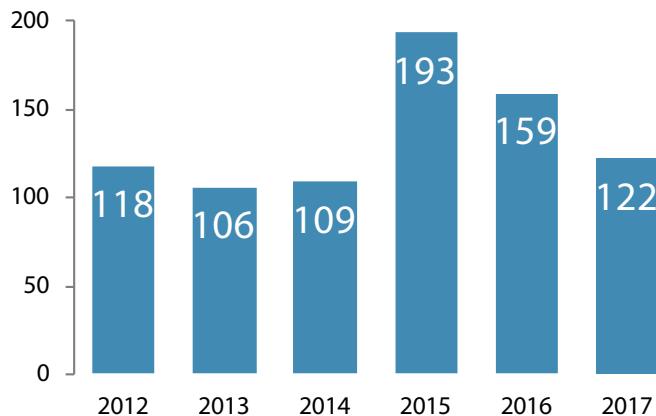
Source: Audit Services analysis

Gang Enforcement Team investigates shootings

Almost all investigations by the Gang Enforcement Team are in response to a shooter firing a gun at another person, a car, or a house.

The team says gang violence in Portland often stems from young men firing guns and people who are involved in gangs routinely carry guns for protection or retaliation. They say violent acts help individuals and gangs gain power and credibility and a single shooting can lead to cascading violence among rival gangs. The team has developed knowledge of the underlying rivalries and frequent suspects.

The Gang Enforcement Team started 159 new investigations in 2016



Source: Police Bureau, Gang Enforcement Team

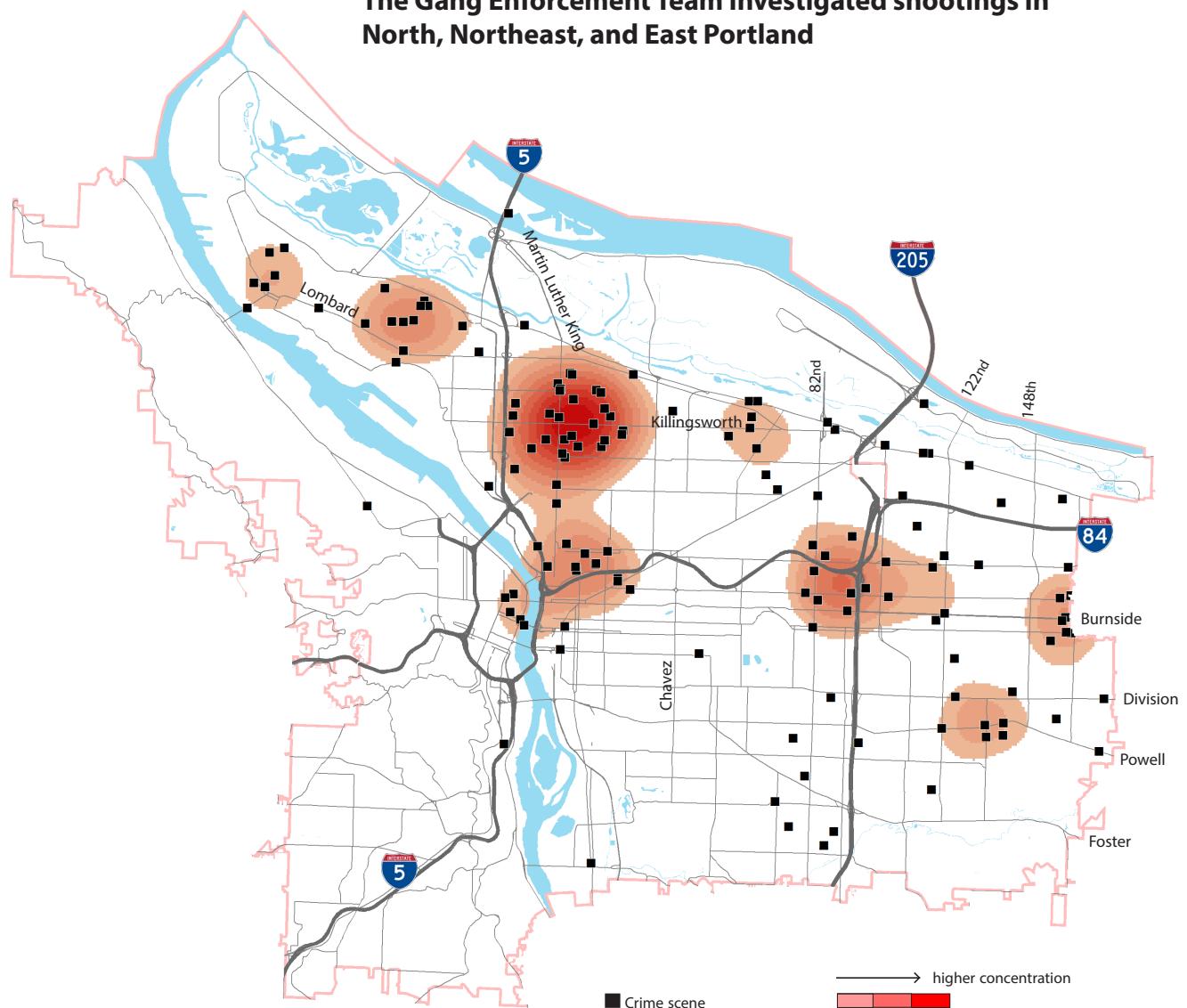
Of the 159 investigations launched by the team in 2016, two were homicides. About half were assaults against persons, resulting in about 50 injuries. The remainder were categorized as violations of weapons law, such as unlawful use or unlawful possession of a gun, or had property damage, such as bullet damage to cars or houses, without any reported injuries.

Initially, it can be unclear if a crime has gang connections. The team identified suspected gang involvement in 127 of the 159 cases from 2016. Gang Enforcement detectives and officers usually respond to crime scenes after they learn of the crime in one of two ways:

- Gang Enforcement officers dispatch themselves when they learn of a shooting from listening to the police dispatch radio or hearing gunshots, or
- Patrol officers who are already at a shooting crime scene request the Gang Enforcement Team to respond to the crime scene.

Some neighborhoods experience more violence and a more frequent presence of the Gang Enforcement Team than others. Crime scenes under investigation by the team were often located in North, Northeast, and East Portland, with the largest concentration in the inner Northeast.

The Gang Enforcement Team investigated shootings in North, Northeast, and East Portland



159 crime scenes from 2016

Source: Audit Services analysis of Gang Enforcement Team case data

Audit Result 1: Gang Enforcement Team's collection of information has not been accountable

The Gang Enforcement Team's practices in collecting information on people's gang affiliations suffered from lack of accountability and caused concerns among some community members.

Gang designation was mistrusted by some community members

The Police Bureau stopped recording new gang designations, deleted existing designations, and rescinded its policy in October 2017, to address community concerns about this information collection.

Even though the gang designation was discontinued during our audit, we are reporting our findings to provide Police officials and the public with information on its risks and to inform current and future practices.

One concern was with the gang designation's accuracy. Some community members had a perception that the Gang Enforcement Team inaccurately considered people to be criminal gang suspects, even though they had no gang or crime affiliations. Community members also said that young African American men and North/Northeast Portland neighborhoods were facing more police scrutiny.

Another concern was about the impact of being designated as criminal gang affiliate by police. Some community members suggested that people about whom police collected information were harmed. Police managers acknowledged the unintended consequences to and barriers faced by people who were designated as gang affiliate.

A 2016 public opinion survey for the City echoes these concerns. The survey showed that concerns about being stereotyped and treated differently by police were higher in the African American community and that African Americans' trust in police was low.

A strong relationship of mutual trust between police and communities they serve is critical to maintaining public safety, according to the U.S. Department of Justice. Community members' willingness to trust the police depends on whether they believe that police actions reflect

community values and are procedurally just and legitimate. The gang designation stood in the way of a good relationship between the Police Bureau and the community until the Bureau acknowledged this and discontinued the gang designation.

Police Bureau cannot show it followed its own policy

Guidance from law enforcement associations emphasize accountability, such as having annual reviews of procedures, processes, and files. The Police Bureau did not carry out comprehensive reviews of its gang designation records to verify they were in accordance with policy.

The Bureau was also unable to provide information we requested to check if gang designations followed policy. The Bureau's own policy provides a minimum standard against which actual practices and records can be compared.

Police managers said that they did not have and were unable to provide a list of designated individuals because of constraints in the electronic records system. Without a list of people designated as gang affiliates, neither we nor the Police Bureau could check that the Bureau followed all the safeguards required by its directive. For example, it is unclear:

- If the Bureau kept complete records for each person
- If it followed all required steps, such as describing the conduct that shows affiliation with a criminal gang
- If it notified the affected person

The Police Bureau's lack of compliance reviews and a list of names for the gang designation diminished accountability.

Gang designation discontinued in 2017

We learned in September 2017, after our audit work regarding gang designations was complete, that the Police Bureau was about to end recording gang designations. Police managers said they would no longer put gang labels on people.

Our findings are still relevant to other or future Police Bureau practices in collecting, analyzing, and sharing information about people, such as the most active list described in the next section.

Following the end of the gang designation, the Police Bureau also announced a new practice of flagging the police records of people who have a history of violence or carrying weapons. This new practice was not within the scope of our audit.

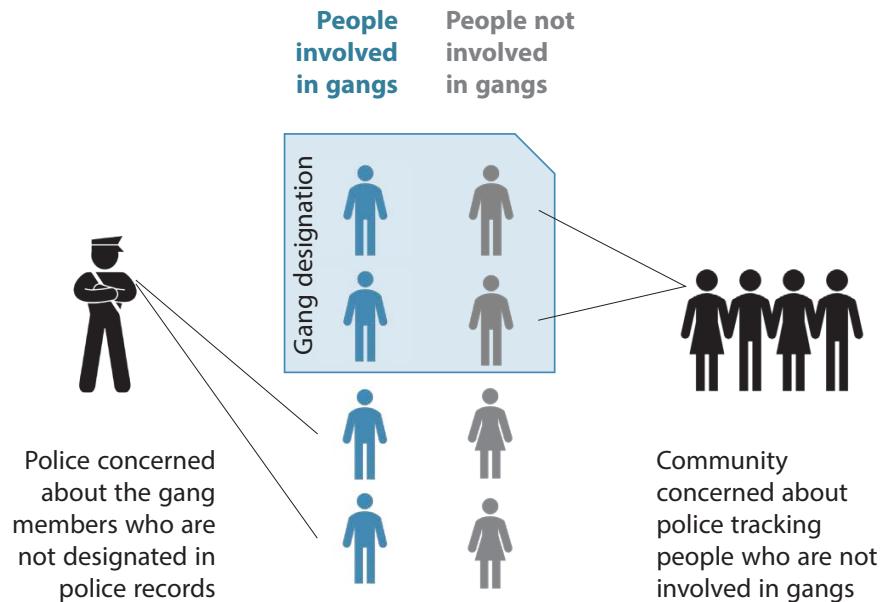
Gang designations did not cover all criminal gang affiliates, reducing effectiveness

One major purpose of the gang designation was to alert patrol officers who were not familiar with criminal gang affiliates to their potential danger. Gang designations, however, were incomplete, which made the practice less reliable for officer safety and gang investigations. Members of the Gang Enforcement Team said there were many gang affiliates who were not designated. For example, a team member said that, during one evening, the team had arrested eight people for a gang shooting and none of them had been designated. Team members gave varying estimates of how many people were not designated in police records even though they were affiliated with criminal gangs.

Police staff gave three explanations why fewer people were designated:

- Reduced Gang Enforcement staff meant there were fewer officers and less time to complete forms – in October 2016, staffing for Gang Enforcement patrols was halved
- Officers were reluctant to designate someone while the Bureau was considering changes to the directive in 2015 and 2016
- They considered the bar for evidence “too high,” especially because fewer people were willing to admit gang membership

While team members were concerned that not all criminal gang affiliates were designated in police records, community members were concerned that the police designated people who were not involved in gangs.



Source: Audit Services analysis

Police Bureau cannot show that gang designations were focused on the most dangerous people

The Police Bureau was unable to provide information we requested to measure how effective the designation was at identifying criminal gang affiliates.

We wanted to determine whether the people who were the highest concern to the Gang Enforcement Team were designated. We also wanted to find out if there were any people with designations who were low-risk or should not be designated. Our plan was to review the police records of a sample of people who had been designated to determine how many of them had frequent encounters with the police, but the Police Bureau did not provide a list of names from which we could develop a sample.

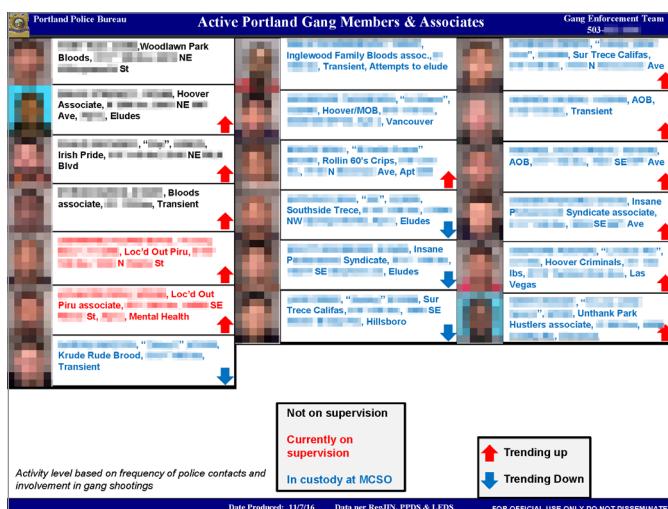
Without a policy, the most active list lacks accountability and transparency

Like the gang designation, the Gang Enforcement Team's most active list resulted in the Police Bureau connecting a person's name with a gang association and sharing this information within the Bureau.

Because police officers potentially use the most active list to give more scrutiny to people they encounter – for example, making extra efforts to detain and search them – the Bureau needs to be accountable and transparent to the public about how the list is created and used. Practices to build the most active list, however, reduced or removed accountability in several ways, compared to the gang designation. The Police Bureau did not have a written policy for this method of collecting information. Consequently, the Police Bureau also did not seek public input for the most active list and community members were unaware of it.

The Bureau has not addressed potential legal questions about the most active list. Despite prior lawsuits against the City regarding the gang designation, the Bureau did not ask for a legal review of its practices putting together the most active list. The Bureau, however, did seek legal advice regarding collecting gang information generally.

Gang Enforcement Team distributed lists of most active gang members and associates



Source: Gang Enforcement Team

The Bureau did not notify people whom it listed as most active gang members or associates, nor offer them a chance to appeal their listing, as was required for the gang designation. The Bureau also did not define or consider any legal standard, such as reasonable suspicion, needed to place people on the most active list.

A policy provides a standard for managers and the public to use

When police agencies establish policies that guide their information collection and sharing, they can assure the public that the information collection is achieving goals and protecting civil liberties. The Police Bureau, however, did not have a policy regarding the most active list. The Gang Enforcement Team collected information and produced the most active list for more than two years without a policy that authorized or guided the work.

Without a policy, the Bureau did not get the most active list practices vetted by the public like it would for its other directives. The Bureau was not transparent about its practices, even though some community members had concerns about similar practices in the gang designation.

The team's practices to create the most active list were less formal compared to the gang designation. Gang Enforcement staff who prepared the list had little guidance. Because the Bureau did not have a written policy, it also had no definition of acceptable data sources, description of the calculation formula, or safeguards to evaluate the accuracy of information.

In addition, there was no policy for keeping records. We asked to review calculations from 2016, but Gang Enforcement staff had deleted the records prior to our request. We reviewed a spreadsheet from 2017 instead, but staff said that the formula for the calculation had changed over time. When records are missing, Police managers' ability to provide accountability over the process is diminished. According to the Bureau's rules, criminal intelligence records and criminal intelligence bulletins should be kept for five years.

Police Bureau managers said during the audit that it was not necessary to have a policy for the most active list. A manager said that other investigative teams produced flyers that were similar without policies. Another manager said that the Bureau did not need a standard operating procedure because the team needed flexibility to change the method and no policy could describe all the methodology details. We disagree: A policy can provide high-level direction and does not need to include all details. But without a policy, there is ambiguity and no transparency.

When the Bureau develops a policy, it can look to models that emphasize accountability and safeguards.

Model policies emphasize accountability and safeguards

We reviewed practices from law enforcement associations and another police agency:

- The Chicago Police Department's Strategic Subjects List, on which Portland loosely based its most active list, had a written directive to provide guidance to staff, explain the program to the public, and define safeguards, such as evaluation and monitoring. Notifications to people were a key part of Chicago's program to warn people to abstain from violence and connect people to social services.
- One professional association highlighted legal requirements and the link between police work and public confidence: The Commission on Accreditation for Law Enforcement Agencies said that law enforcement agencies should operate under specific guidelines to ensure that no intelligence abuses occur. The commission emphasized that having written guidelines is essential for conforming to legal requirements and maintaining the public's confidence in the agency. The commission commented that police should gather information respecting the rights of those involved and only when they have reasonable suspicion of criminal activity.
- Model policies developed by professional associations such as the International Association of Chiefs of Police and the Commission on Accreditation for Law Enforcement Agencies included elements such as:
 - Statement of the mission/purpose
 - Type of information that will be gathered
 - How the information will be analyzed
 - Safeguards for the accuracy of information
 - Security of information
 - A requirement to regularly review the program for compliance with rules

Recommendations

We recommend the Commissioner-in-charge direct the Police Bureau to implement the following recommendations.

To ensure that the Police Bureau's collection of information has safeguards and addresses legal risks, we recommend the Bureau:

1. Adopt official policies and procedures for collecting and disseminating information about people with gang relationships. If the Police Bureau uses more than one method, each should have a stated purpose that differentiates it from other methods and have its own policy.
2. Ensure that policies related to collecting information about people's gang relationships include:
 - a) A statement of purpose
 - b) A description of the type of information gathered, how it will be analyzed, and how police will document reasonable suspicion
 - c) Safeguards to ensure each record is complete and accurate
 - d) Safeguards to control access and keep the information secure
 - e) A requirement to maintain auditable records that complies with records retention policies
 - f) A requirement to regularly evaluate the program for compliance with policy
3. Review current practices for creating the most active list against legal requirements.

Audit Result 2: Gang Enforcement Team can improve how it manages investigations

The Gang Enforcement Team investigates shootings that can lead to injuries and further violence. Good case management practices help detectives and managers solve crimes by demonstrating results, prioritizing resources, and tracking work. We found that the Gang Enforcement Team can improve its case management in three areas:

- Measuring performance by using the case clearance rate
- Monitoring detectives' caseload
- Tracking the timeliness and status of cases

These management practices were underdeveloped in the Gang Enforcement Team because managers relied more on the individual skills and experiences of the team's members. Managers said team members were highly qualified. Managers have not developed more advanced management practices, such as a method for tracking case status, collecting and using performance measures, and setting targets, because they saw these as unnecessary for what they described as a high-performing unit. Even in a highly-skilled unit, improved case management can help managers better allocate resources and potentially improve clearance rates.

Gang Enforcement officers responded to a shooting crime scene in 2016



Source: Police Bureau photograph

Gang Enforcement Team did not assess results of its investigations

While police managers tracked how many investigations the Gang Enforcement Team had started, they did not pay attention to how many investigations the team completed. The case clearance rate is one way to track results; it measures the percentage of investigations solved. The clearance rate is widely accepted by police agencies and used in national crime reporting to measure the effectiveness of investigative organizations.

What is a clearance rate?

For crime reporting, a crime is considered cleared or solved when police have identified, arrested, and turned the suspect over to prosecution.

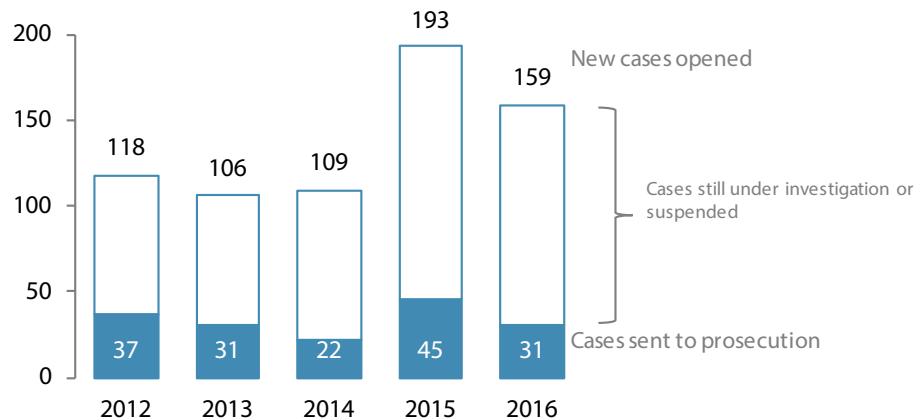
$$\text{Case clearance rate} = \frac{\text{Number of cases cleared}}{\text{Number of new cases}}$$

Not tracking and reporting results reduces the accountability of the Gang Enforcement Team to upper managers and transparency to the public. Managers did not use a clearance rate to guide the team's operations or to study its effectiveness.

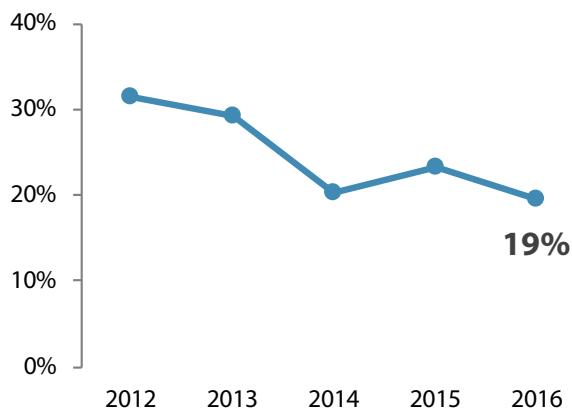
The Bureau reported unreliable data to the City Council about the team's investigations. While the Bureau reported in the City's budget that it had cleared 25 percent of gang violence cases in fiscal year 2016-17, it did not provide requested documentation to support this result. The calculation did not follow the standard methodology for clearance rates, because it excluded prior years' cases. City Council relies on information like this to set the Bureau's budget and expects to receive reliable information. Other reports from the Gang Enforcement Team did not include any case clearance information.

We estimated a 19-percent clearance rate for cases from 2016, by comparing case data from the Gang Enforcement Team and the District Attorney. We found that the team sent about 31 cases to prosecutors in 2016 and started 159 new investigations. A case clearance rate of 19 percent may be reasonable given the complexity of solving gang crimes and available resources. In the year before that, 2015, the team started 196 new investigations and sent 45 to prosecutors, resulting in a case clearance rate of 23 percent.

The Gang Enforcement Team sent 31 cases to prosecutors in 2016



The case clearance rate appears to be falling



Estimate. Source: Audit Services analysis of case data from the Gang Enforcement Team and Multnomah County District Attorney

The Gang Enforcement Team did not have a goal for how many cases it is expected to solve. It is unrealistic to expect to solve 100 percent of cases. Setting goals helps managers monitor performance, identify improvements, and make staffing decisions.

Gang Enforcement managers did not view the clearance rate as an important item to measure. They said it was more important to present high-quality cases to prosecutors.

Case assignments resulted in unbalanced workload for detectives

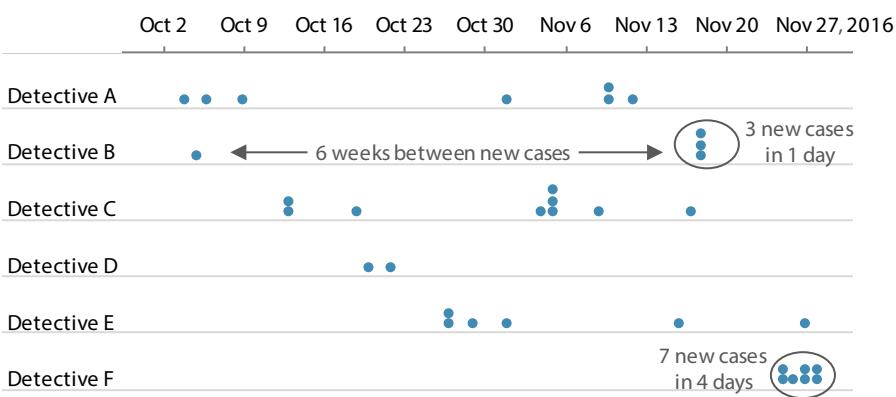
Managers need to know the workload of the Gang Enforcement Team as a whole and of each detective to assess resource needs and set priorities.

Contrary to written procedure that requires managers to consider caseload when assigning cases, the Gang Enforcement Team assigned most new investigations to one of its six detectives based on a calendar rotation. Each detective was on call for one week at a time and got assigned to all new shootings that happened during that week. The detective stayed on the case until it was solved or closed. This practice did not consider the needs and existing caseload of detectives, nor the new case's complexity or unique needs.

As a result, the caseload was not strategically spread among detectives. One detective received 30 new cases in 2016, whereas another got 20. One team member said that it was a point of pride among detectives to carry a high caseload, making it less likely that detectives would request a change in caseload if they were overburdened.

This practice also meant that detectives often received several new cases within a short period of time. For more than half of the 159 investigations launched in 2016, the lead detective was already investigating a case from the prior two days. This required detectives to divide their attention among multiple cases. Detectives then went several weeks without new cases, only to receive a new batch during their next on-call week.

Caseload was not balanced as individual detectives received several new cases within a few days



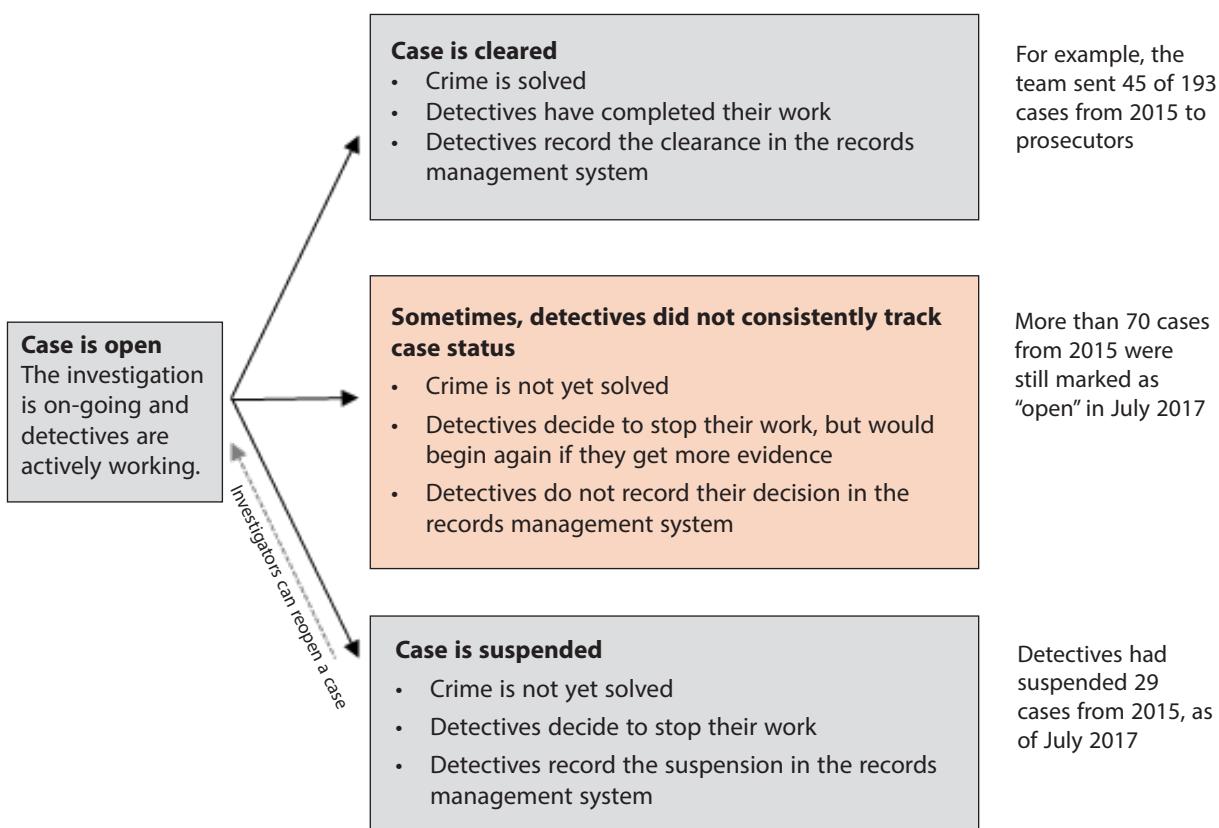
Source: Audit Services analysis of Gang Enforcement Team case data for 2016

Gang Enforcement Team did not track status or timeliness of investigations

Knowing the status of each case and being able to provide information on the overall status of all investigations is important for managers to prioritize work, rebalance caseload among detectives, and report results. In general, a case can be open, cleared, or suspended. To prioritize resources, it is a common practice in police agencies to suspend investigations when no suspect can be identified or located.

Gang Enforcement members did not consistently record each case's status. There were cases where it appears detectives stopped working on them, but did not record this decision in the records management system. For example, more than 70 cases from 2015 – when the team started 193 new investigations – were still marked as open as of July 2017.

Gang Enforcement detectives stopped work on some cases without formally suspending the investigation



Source: Audit Services analysis

Detectives said they prioritized more recent cases, more violent cases, and cases with known victims. They also said it was their intent to continue investigating old cases, so they did not want to suspend them. Other team members, however, said it was not a problem to reopen a suspended case if new information was discovered. This approach of not letting go of old cases, plus inconsistent status tracking, makes it difficult to manage detectives' workload. Without that information, it is also more difficult for managers to prioritize limited resources.

Managers also did not review case status at the 60-day mark, as is required by Police Bureau directive. With this requirement, the Bureau wanted its investigators to track the status of each case, ensure supervision, and achieve standardization across the Bureau.

Gang Enforcement managers also did not keep track of the timeliness of investigations. Some investigations can wrap up quickly when suspects are known and arrested within a few days of the crime, but other investigations last a long time while police are trying to figure out the identity of suspects or are waiting for information from the crime laboratory or other entities.

As a result of not tracking these case status and timelines, Gang Enforcement managers were unable to reliably assess what their detectives and investigators were actively working on. Because case status was not tracked, attempts to measure timeliness would have been difficult.

Recommendations

We recommend the Commissioner-in-charge direct the Police Bureau to implement the following recommendation.

4. To improve the management of Gang Enforcement investigations, we recommend the Police Bureau:
 - a) Track the clearance rate for the Gang Enforcement Team's investigations; set a goal for the clearance rate; and publicly report the outcome
 - b) Track caseload by detective regularly and rebalance workload as needed
 - c) Maintain accurate case status in the records management system and other case management systems and use this information to track the timeliness of cases.

Objective, scope, and methodology

Our audit objective was to assess how well the Police Bureau's Gang Enforcement Team was meeting its goals and what the results of its work were. This report focuses on investigations led by detectives and methods used to collect information on gang suspects in 2015 and 2016.

We are issuing a separate report about Gang Enforcement patrol. The Metro Gang Task Force and Gun Task Force, which organizationally are close to the Gang Enforcement Team, were not our focus.

Our methodologies included:

- We interviewed Gang Enforcement Team members about their roles, their work, and their tools. We observed several police responses to crime scenes and roll-call briefings. We also interviewed team members about management practices and case status tracking.
- We researched background and historical information from various sources, including reports issued by the Police Bureau, the City's budget, a Multnomah County comprehensive gang assessment from 2014, news media reports, law and caselaw regarding the gang designation, and stakeholder interviews.
- We reviewed the Police Bureau's directives on gang designation and on case management, as well as standard operating procedures. We reviewed best practices for investigations and case management from the Commission on Accreditation for Law Enforcement Agencies, the International Association of Chiefs of Police, other police management literature, and our previous audit *Police Investigations: Improvements needed to address relatively low clearance rates*, from 2005.

<https://www.portlandoregon.gov/auditservices/article/87331>

- We obtained and analyzed data from: the Police Bureau's assignment roster about staffing levels, the Gang Enforcement Team and the Multnomah County District Attorney's Office about case status, and the Police Bureau about arrests. While we did not carry out detailed data reliability testing, we performed analyses to conclude that the data was reasonable for our objectives and conclusions.

- We requested a list of people the Police Bureau had designated as criminal gang affiliates. The Bureau said it was unable to provide a list due to limits in its information system. Instead we reviewed a list without names that the Bureau had created in October 2016 in response to a public records request.
- We requested inputs and calculations the Bureau used to create the Most Active Lists in 2016. The Bureau had deleted these records prior to our audit and could not provide them to us. Instead we reviewed the January 2017 inputs and calculations.
- We reviewed police reports, investigative files, and court records for 20 selected investigations.
- We interviewed stakeholders, including staff from the Multnomah County District Attorney's Office, defense attorneys, community leaders, and community members about their perceptions and opinions of the Gang Enforcement Team.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

RESPONSE TO THE AUDIT



**OFFICE OF MAYOR TED WHEELER
CITY OF PORTLAND**

March 23, 2018

Mary Hull Caballero
City Auditor
1221 SW 4th Avenue, Ste. 310
Portland, OR 97204

Dear Auditor Hull Caballero,

Thank you for the opportunity to review and respond to your audit of the Portland Police Bureau's Gang Enforcement Team (GET). In conversations about crime in Portland, gang violence – particularly gang violence involving firearms -- is often left out of the conversation. While gang violence in our city grabs media headlines, it continues to elude deeper reflection and analysis by Portlanders, ultimately revealing deeply entrenched biases about which communities are prioritized in Portland and how they are prioritized.

In 2017, there were 121 gang-related shootings. This year, in 2018, there have been 19 gang-related shootings in Portland; at this time, last year, there were 14. Of the 19 gang-related shootings that have afflicted Portland, two have been homicides. Since 2016, gang-related shootings have been reduced by 39%. These shootings rarely occur in a vacuum; they are more than statistics, and are often part of a devastating chain reaction that has ripple effects throughout the community. In one shooting, a Northeast home was struck by a barrage of bullets while four people, including two children, were inside. Officers located twelve bullet casings in the street, scattered across half a block, appearing as if they had been fired from a moving vehicle. In another, a Southeast Portland resident pulled into a residential driveway behind his friend. Before the victim could exit his vehicle, his vehicle was hit by 16 rounds of gunfire. The victim suffered a gunshot wound to his face. In a more recent shooting, officers arrived at a location in Southwest Portland to find a man inside a vehicle with multiple gunshot wounds to his body and head. The victim was later pronounced dead at an area hospital.

The skewed demographics of gang-related shootings demand a heightened understanding of the activities of the Gang Enforcement Team. Accordingly, the GET must be able to justify its practices through accurate and thorough data collection. The audit correctly notes that it is difficult to demonstrate to the community that the GET is not engaging in racial profiling if there is inadequate data collection and analysis of stops (including “mere conversations”).

I am pleased to share that several recommendations are currently either in practice or in process by the Portland Police Bureau. The Police Bureau has collected stops data since 2002, and has been issuing annual Stops Data Collection Reports since 2014. Data specific to the Gang

Enforcement Team will be published in the Police Bureau's 2016 Stops Data Collection Report, and will continue to be included in annual reports going forward. Suppression operations are not undertaken lightly, and are initiated with the intent of reducing gang violence in the short term in response to a spike in gang violence during a specified time frame, where the incidents are interrelated, or in response to a high-profile incident that could precipitate retaliatory incidents. The Police Bureau's outcomes will continue to be measured to access efficacy. Outside of the report's recommendations, it's also important to highlight the relationship-driven work of the Gang Enforcement Team. The unit's efforts to build relationships have been instrumental in its collection of needed intelligence, its ability to intercede at critical points, and ultimately its ability to have an impact within the community.

I applaud and whole-heartedly support the recent anti-profiling bill signed into law by Governor Kate Brown. It lays the groundwork for a new standard for the Portland Police Bureau to follow. No later than July 1, 2018, the Oregon Criminal Justice Commissioner, in consultation with the State Police and Department of Justice, must develop and implement a standardized method for all law enforcement agencies to record officer-initiated traffic and pedestrian stops data. Notably, this data must include the race, ethnicity, age and sex of the pedestrian or driver; and the results of the stop. This will apply to the Gang Enforcement Team, and reinforces the work currently underway by the Police Bureau.

I fully support the recommendations outlined in the report. These recommendations raise critical questions that strike at the heart of the Gang Enforcement Team's practices, and I intend to conduct a full review and analysis of the practices at issue. Of particular concern is the treatment of "mere conversations," and the apparent lack of unanimity between the Bureau of Emergency Communications and the Police Bureau. Though they may not fit the legal definition of a "stop," there is a community-wide recognition that "mere conversations" are more than community engagement. The GET's high rate of "mere conversations" certainly raises questions for my office, and I'd like for data collected from "mere conversations" to be included alongside annual stops data to provide a more holistic view of the GET's interactions with the community. Along with the recording of investigative reasons for "stops," there are some recommendations that deserve deeper analysis with respect to feasibility and potential legal limitations. I am committed to working with the Police Bureau to determine what those limitations are, if any, and to find solutions that will address the gaps identified in the report.

Auditor, I appreciate your team's careful review and assessment of the Gang Enforcement Team. Thank you for your work.

Sincerely,



Mayor Ted Wheeler



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor

Danielle M. Outlaw, Chief of Police

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March 20, 2018

Mary Hull Caballero
City Auditor
1221 SW 4th Avenue, Room 140
Portland, OR 97204

Dear Auditor Hull Caballero:

I appreciate the opportunity to review and respond to the recent audit and recommendations on Gang Enforcement Patrol and Gang Crime Investigations.

During the past year, and as a result of this audit, we have made changes to our policies and procedures. This was done in an effort to further improve our efficiencies and effectiveness when investigating and preventing violent crime related to those who are most at risk of being gang affected. However, there is still room for enhancements and I agree with the recommendations outlined within this report.

We appreciate the effort put forth by your staff during the course of this review and look forward to working with your office on future assessments.

As a police agency we remain committed to transparency and are willing to always pursue enhancements that benefit the Bureau's efforts in ensuring public safety in our service of the Portland community.

Sincerely,

Danielle M. Outlaw
Chief of Police

DMO/as/drh

Portland Police Bureau Responses to the Portland City Auditor Report on Gang Crime Investigations.

To ensure that the Police Bureau's collection of information has safeguards and addresses legal risks, we recommend the Bureau:

- 1) *Adopt official policies and procedures for collecting and disseminating information about people with gang relationships. If the Police Bureau uses more than one method, each should have a stated purpose that differentiates it from other methods and have its own policy.*

Agree. Currently in process. To be completed by June 29th, 2018. Bureau Chief Responsible: Assistant Chief of Investigations. Tactical Operations Division (TOD) Command will author a new Standard Operating Procedure (SOP) outlining procedures for collection and dissemination of information regarding people involved in gang related criminal activity. The SOP shall be drafted and enacted within 90 days. The previous gang designation policy was rescinded in October 2017 and individual gang member designations purged. Furthermore, GET members will continue to adhere to PPB Directives 310.70, Dissemination of Information; 344.05, Bias-Based Policing/Profiling Prohibited; 631.30, Cooperation with Other Agencies; 614.50, Release of Information; and City of Portland HRAR 11.04, Protection of Restricted and Confidential Information.

- 2) *Ensure that policies related to collecting information about peoples gang relationships include:*

A statement of purpose.

A description of the type of information gathered, how it will be analyzed, and how police will document reasonable suspicion

Safeguards to ensure each record is complete and accurate

Safeguards to control access and keep the information secure

A requirement to maintain auditable records that complies with records retention policies

A requirement to regularly evaluate the program for compliance with policy

Agree. Currently in process. To be completed by June 29th, 2018. Bureau Chief

Responsible: Assistant Chief of Investigations. As described above in recommendation one, a new Standard Operating Procedure (SOP) will be drafted and enacted within 90 days to include the above listed recommendations and additional direction to comply with state and federal law regarding the collection of information.

- 3) *Review current practices for creating the most active list against legal requirements.*

Agree. Currently in process. To be completed by June 29th, 2018. Bureau Chief

Responsible: Assistant Chief of Investigations. TOD Command staff will analyze both local and national best practices concurrent with the City Attorney's Office legal review to ensure compliance with all state and federal laws. A Standard Operating Procedure (SOP) will be

drafted and enacted within 90 days establishing criteria for identifying at risk individuals, and protocols detailing how information is used, disseminated, and retained.

- 4) To improve the management of Gang Enforcement investigations, we recommend the Police Bureau:

A. Track the clearance rate for the GET investigations; set a goal for the clearance rate; and publicly report the outcomes.

Agree. In practice. Through the utilization of the RMS case management system, GET is currently tracking case clearances for adopted cases. A clearance rate goal of 30% has been established for 2018. Clearance rates for 2016 and 2017 were 26% and 22% respectively.

B. Track caseload by detective regularly and rebalance workload as needed

Agree. In practice. TOD supervisory staff currently tracks individual detective caseload both in RMS and through a secondary tool developed by our crime analyst. The detective sergeant will assign or redistribute cases as necessary to ensure that the workload, not just the number of cases, remains balanced among the available detectives.

C. Maintain accurate case status in the records management system and other case management systems and use this information to track the timeliness of cases.

Agree. In practice. TOD supervisors will review open cases every 60 days and work with detectives to determine if changes in status are appropriate based on existing investigative information.

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Gang Crime Investigations: Lack of accountability and transparency reduced the community's trust in police

Report #494B, March 28, 2018

Audit Team: Minh Dan Vuong, Elizabeth Pape,
Casey Bieberich

This report is intended to promote the best possible management of public resources. This and other audit reports produced by the Audit Services Division are available for viewing on the web at: www.portlandoregon.gov/auditservices. Printed copies can be obtained by contacting the Audit Services Division.

Mary Hull Caballero, City Auditor
Kari Guy, Director of Audit Services

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