



## Charter, Code and Policies

### City of Portland

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## PSF-5.20 - Internal Affairs Guidelines For Screening Referrals From IPR

edit content

### INTERNAL AFFAIRS GUIDELINES FOR SCREENING REFERRALS FROM IPR

Administrative Rule Adopted by Bureau Pursuant to Rule-Making Authority

ARB-PSF-5.20

#### 1. INTRODUCTION

The mission of the Portland Police Bureau (PPB) is to maintain and improve community livability by working with all citizens to preserve life, maintain human rights, protect property and promote individual responsibility and community commitment. To fulfill its mission, the Bureau needs to respond fairly and promptly to complaints about its services, officers, and employees.

In 2001, in an effort to improve police accountability to the public, Portland Police began a partnership with the Independent Police Review Division (IPR) of the City Auditor's Office to respond to citizen complaints. Citizen complaints may be filed directly with IPR; citizen complaints may also be filed at any Police Bureau office. The Bureau will either refer the complainant to IPR or forward the complaint IPR for review and screening in accordance with "IPR Case Handling Guidelines." Police Bureau officers and supervisors are expected to attempt to resolve citizen complaints themselves, but they must also inform complainants that they may still file their complaints with IPR if they do not achieve satisfaction (see PCC 3.21.180. D). IPR may resolve or dismiss complaints or, following a preliminary investigation, refer complaints to the PPB's Internal Affairs Division (IAD) for review, handling, and investigation. IPR may also conduct a joint investigation with IAD or conduct an independent investigation.

When citizen complaints are received from IPR, the IAD Captain makes an initial screening decision that determines how each of the allegations referred by IPR will be handled. Throughout this document the term "Captain" includes the Captain's designees unless prohibited by ordinance or Bureau policy. The Captain's initial screening decision requires mature and experienced judgment. This document provides general principles that outline PPB's decision-making process. The principles are not mechanical rules. While complaints may have patterns or similarities, no two are identical. The principles of decision-making recognize that it is impractical, indeed impossible, to establish a "rule" for every circumstance. The principles expect the Captain to make informed judgments that are logical, rational, objective, consistent, and transparent. They acknowledge the value of swift and certain resolutions for citizens and Bureau employees. They acknowledge that IAD's obligation to use public resources wisely requires the Captain to make choices about priorities.

#### 2. CAPTAIN'S SCREENING OPTIONS

When IAD receives citizen complaints from IPR, the Captain's initial screening options are:

a. IAD Investigation. After reviewing IPR's preliminary investigation and any other readily available evidence, the Captain generally will assign for IAD investigation the allegations which:

(1) State a prima facie claim of disciplinable misconduct, and

(2) Have investigative merit (i.e., there is a reasonable possibility that an investigation either will sustain the allegation or exonerate the employee), and

(3) Are not eligible for another disposition.

b. Criminal Investigation. If the Captain finds that a complaint contains credible evidence of criminal conduct by a Bureau employee that is not barred by the statute of limitations, the Captain will refer the case for criminal investigation. If the Captain refers the case for criminal investigation or the conduct already is the subject of a criminal investigation, the Captain may, but is not required to defer IAD action pending the outcome of the criminal investigation.

c. Service Complaint. If the Captain finds that the complaint contains allegations that meet the Bureau's standards for being handled as service complaints, the Captain may decline to investigate and forward the complaint to the appropriate RU Manager as a service complaint. If IPR disagrees with the service complaint assignment, the Captain will be notified and the completion of the service complaint process will be postponed until the IPR has an opportunity to determine whether an independent IPR investigation should be conducted.

d. Mediation. If a complaint is referred to IAD for possible mediation and the Captain concludes that mediation will meet the needs of the Police Bureau and the community, the Captain will offer the mediation option to the involved officer through his or her RU Manager.

e. Decline. The Captain may decline to investigate some or all of the allegations in a complaint under the following circumstances:

(1) No Misconduct. The Captain may decline to assign allegations for a full IAD investigation and take no further action if the Captain finds that the employee's conduct, as alleged by the complainant, does not violate Bureau policy.

(2) Trivial or De Minimis Rules Violation. The Captain may decline to assign allegations for a full IAD investigation and take no further action (or refer the complaint to the appropriate RU Manager for an informal briefing) if the Captain finds that the employee's conduct, as alleged by the complainant, constitutes a minor technical violation that if sustained would not result in discipline and is too minor or too vague to justify a service complaint.

(3) No Jurisdiction. The Captain may decline to assign a complaint for a full IAD investigation and take no further action if the complaint is against a non-employee, a former employee, or an employee of another department or other agency. The Captain may also decline to investigate and take no further action if the employee resigns, retires, or will be no longer employed by the Bureau by the time an investigation and disciplinary process could be completed. Even if the Bureau lacks jurisdiction, the Captain may decide to investigate a complaint based on the nature and seriousness of the allegations or based on a request from IPR or another law enforcement agency. For example, if serious misconduct has been alleged, the Captain may order an investigation so that the findings will be placed in the employee's personnel or IAD file, forward the findings to another agency, review the actions of the employee's supervisors, or recommend a review of Bureau training or policies. Discipline may also be imposed if the employee returns to service.

(4) Judicial or administrative review. The Captain may decline to assign allegations for a full IAD investigation and take no further action if the allegations have been or will be subject to effective judicial or administrative review. A pending tort claim or lawsuit generally shall not be a sufficient basis for declining to investigate a complaint.

(5) Unidentifiable employee. The Captain may decline to assign a complaint for a full IAD investigation and take no further action if the Captain finds that a reasonable IAD investigative effort would not be able to identify the complained-against employee.

(6) Previously investigated or adjudicated. The Captain may decline to assign allegations for a full IAD investigation and take no further action if the Captain finds that the alleged conduct was previously investigated or adjudicated by the Bureau and that the current complaint does not provide substantial new evidence.

(7) Lacks Investigative Merit. The Captain may decline to assign allegations for a full IAD investigation and take no further action based on the preliminary investigation if:

(a) The Captain finds that there is no reasonable possibility that an investigation either will sustain the allegation; or

(b) The Captain articulates specific reasons why the complaint is not credible or reliable; or

(8) Insufficient Resources. If the Captain finds that IAD's workload significantly exceeds available resources and will continue to do so for the foreseeable future, the Captain may focus available resources on more serious or more provable complaints and decline less serious or less provable complaints. The Captain will notify the IPR Director if IAD's workload exceeds IAD's resources to such an extent that IAD must significantly raise its threshold for investigating complaints.

f. Decline and refer. The Captain may forward information about a declined allegation or complaint to another Bureau official (e.g., Chief, Assistant Chief, or Precinct Captain) or another agency for review and possible action.

g. Declination Letters. If the Captain decides to close out a complaint through declination or informal referral to an RU Manager, the Captain will write a letter addressed to the complainant(s) (at the complainant's last known address) and explain the reasoning behind this decision. The original of this letter will be forwarded to the IPR Director to mail to the complainant(s).

h. IPR review of IAD dispositions. The Captain notifies IPR of his disposition of each allegation in every complaint through timely data entry in AIM. If IPR disagrees with a disposition, IPR will notify the Captain; the IPR Director and the Captain will confer as to whether an independent IPR investigation should be conducted. If IPR does not promptly notify the Captain of a disagreement, the Captain's decision will be considered final.

#### 4. EVALUATING PRELIMINARY INVESTIGATIONS

The Captain's initial screening decisions are based in part on the Captain's evaluation of the evidence gathered during the IPR intake investigation, other available evidence, and the Captain's assessment of the Bureau's ability to successfully investigate the complaint.

The Captain makes screening decisions based on evidence provided by others, usually the complainant, Bureau employees, and IPR. The evidence may be inconsistent, contradictory, biased, or otherwise of questionable reliability.

a. Evidentiary guidance. The Captain will evaluate complaints referred by IPR using standard evidentiary principles and the guidance described below:

(1) The Captain may consider a witness's credibility. Complainants, officers, and other witnesses are presumed to be truthful, but the presumption may be overcome by contradictory evidence or circumstances or evidence of bias, self-interest, or past untruthfulness.

(2) The Captain may consider a witness's reliability, i.e., the witness's ability to observe, remember, and report an incident. For example, was the witness in a position to observe the incident? Was the witness under the influence of an intoxicant at the time of the incident or the time of the complaint?

(3) The Captain may consider the internal logic and probability of a witness's statement for the effect it has on the witness's credibility and reliability. The Captain is not bound to accept as true statements that are highly improbable or illogical on their face.

(4) The Captain may consider a complainant's past history of making demonstrably inaccurate statements to IPR or IAD for the effect it has on the witness's credibility. Similarly the Captain may consider an employee's past history of inaccurate statements or acts of misconduct when deciding whether to order an investigation.

(5) The Captain may give greater weight to information that is corroborated by independent witnesses or by physical evidence.

#### HISTORY

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Adopted February 22, 2005.

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