

23

INDEPENDENT POLICE REVIEW OFFICER ACCOUNTABILITY PROCESS CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)	ADDRESS AND ZIP CODE (Optional)	Email (Optional)
✓ DR T. ALLEN BETHGE	AMA COALITION FOR JUSTICE & POLICE REFORM	* HAS TO GO EARLY
✓ DAN HANDELMAN	PORTLAND COPWATCH	
✓ DEBBIE AIONA	LEAGUE OF WOMEN VOTERS	
✓ KIMBERLY McCULLOUGH	ACLU OF OREGON	
✓ MARK KRAMER	NATIONAL LAWYERS GUILD	
KHALIL EDWARDS	BASIC RIGHTS OREGON	* HAS TO GO EARLY
✓ SHANNON COGAN	SISTERS OF THE ROAD	
✓ T J BROWNING	FORMER CRC MEMBER / CHAIR [0808] MAYOR'S WORK GROUP	
✓ PHILIP CACKA	PORTLAND COPWATCH	
✓ MR W. G. BARNETT	PORTLAND COPWATCH / CITIZEN	
✓ BARBARA ROSS	LEAGUE OF WOMEN VOTERS	

INDEPENDENT POLICE REVIEW OFFICER ACCOUNTABILITY PROCESS CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional) as an individual Email (Optional)

✓ CHRIS O'CONNOR	Attorney (METRO PUBLIC DEFENDERS)	not speaking on behalf of organization
✓ KRISTIN MALONE	CRC	
✓ JIM YOUNG	CRC	
MICHAEL LUNA ANDREW FORD ✓ Kiosha Ford	CRC	NEEDS TO GO EARLY
testimony read by Kristin Malone - testimony read by Kiosha Ford		
✓ JULIE RAMOS	CRC	
JULIE FARR MAE FRELL	CRC	
✓ Marilyn Drichas	P.O. Box 15220, Portland, OR 97293	mdrichas@gmail.com
✓ DAVE DAVIS		
Peter Parks	CRC	
✓ Mike Blue Hair	CRC	
Jason Renard	INMAP	

INDEPENDENT POLICE REVIEW OFFICER ACCOUNTABILITY PROCESS CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

NAME (PRINT)	ADDRESS AND ZIP CODE (Optional)	Email (Optional)
Eric Terrell	Former CRC / CURRENT APA	
Robert West	Film The Police 9-1-1	

For Portland City Commissioners
September 14, 2016

Jenny Westberg & Jason Renaud
For the Board of The Mental Health Association of Portland
info@mentalhealthportland.org

Amend City Code to revise filing process, investigation and appeal provisions of complaints of police officer misconduct (Ordinance introduced by Auditor Hull Caballero; amend Code Section 3.20.140 and Chapter 3.21)

There are at least five points missing or in need of revision from the Auditor's proposal.

1. "Reasonable person" standard

For years the standard of review by which officers are judged has been how a "reasonable person" would act. Many people, however, have advanced strong arguments for changing the standard to the more easily grasped "preponderance of the evidence." Portland Copwatch addressed the issue in depth in a 2011 article available at http://www.portlandcopwatch.org/preponderance_analysis_0411.pdf. Five years later, the article is still current, the questions are the same, and a change is overdue.

2. Other enumerations of needs

It would be helpful if you would relate your proposal to the *US DOJ v City of Portland* Settlement Agreement, or to other observed and prioritized needs from prior police accountability experts the city has hired over the years.

3. Smaller appeals panel

We agree individual appeals should be heard by a smaller number of CRC members, but three is too few; five or seven is fine. With only three, a citizen's panel would never reflect the diversity needed for a true representation of Portland's communities. Also, it is important to think through how a smaller appeals committee would be selected from the whole; for example, availability is not a good criterion.

4. Perspective of those directly affected

As you know, the majority of persons who come in contact with police have recurring issues with mental illness, addiction, or both. We believe their perspective is critical to any discussion of police accountability. Looking at the bullet points in your press release from the viewpoint of persons in recovery from mental illness or addiction who have been harmed by police, and who then made a complaint against an officer or officers, we offer the following comments.

To date, from what we know, not one person with mental illness or addiction has resolved a complaint about the Portland police to their advantage outside of civil court: not with police administration or Internal Affairs; not with community groups or individual advocates; not through the Independent Police Review, the Citizen's Review Commission, the former Chief's Forum, or any other venue. Out of perhaps thousands of cases, that's a total of zero. The odds

of police misusing force are low, but for the most frequent victims, it seems the gates of justice have been barred. And considering the barriers, including the intangible ones caused by symptoms of our illnesses - which, by the way, we never asked for - it's likely most complaints were never made in the first place.

Parenthetically, please note that until significant reforms actually happen, our organization will continue to refer persons harmed by police directly to local attorneys for litigation in civil court.

The process of making and resolving claims is not intended to be antagonistic to either party. The purpose is to reduce injury and increase accountability; ideally, experience guides future action. It is the resolution of complaints that increases our shared index of experience and moves us to a collective goal of reducing meritless use of force. Resolution should be a useful and positive process for all.

If the city is sincere about reducing routine harm by police to people with mental illness and addictions, surmounting the barriers to resolution should be a priority. A good first step would be to make staff support available for persons with psychiatric disabilities throughout the complaint process, as a reasonable accommodation under the ADA, and as the only way to ensure complaints are understood and fairly resolved.

What this support entails is worthy of discussion within your office, and worthy of leadership who understand the value of that discussion.

Imagine a community exists in Portland, with more than 160,000 people (a lowball federal estimate of the number of Portlanders with psychiatric disabilities) who speak a language no one outside their community understands. Does anyone on the Independent Police Review speak our language? In the police bureau? On the Citizen's Review Commission? We think no.

At minimum, support for people with mental illness and addictions must include time with a knowledgeable and skilled person who can explain the process to the claimant, and if wanted, their friends, family or a claimant-identified agency employee, either a volunteer or a staff person. Someone to stand by their side.

Whether complaints are handled by the police bureau's Internal Affairs department, the Independent Police Review Division, or the Citizen's Review Commission, people with psychiatric disabilities should be supported in understanding and navigating a process the DOJ called "Byzantine." How any of these bodies operate is obscure, interacting with them daunting. Without someone to show the way, the very people most affected by police use of force will be the most hopelessly lost.

5. Public participation

Because trust between the city and the community over police accountability has been severed - and this began before your time - reforms without intentional repairs to that relationship are probably useless. Public observation and recording of the public's business are essential to rebuilding trust. The public should always be welcome, always be able to see and hear proceedings for themselves, always be able to record proceedings and request public documents, and always be able to present testimony in response to the meeting's agenda. Repairing the damage does not require the city to tolerate mischief. It does require acknowledging people are angry and will react to trust issues.



To: Portland City Council
From: Khalil Edwards, Racial Justice & Alliance Building Manager, Basic Rights Oregon
Date: September 14, 2016
Re: Independent Police Review, Citizen Review Committee and Police Review Board

Mayor Hales and the Portland City Council,

I am Khalil Edwards, Racial Justice and Alliance Building Manager at Basic Rights Oregon, the state's largest LGBTQ policy and advocacy organization.

The LGBTQ community knows well what it's like to be the target of police raids, violence, abuse and profiling, which is why we continue to stand with this coalition on this issue of policy accountability and transparency.

The mistrust and fear our collective communities have about our criminal justice system is based on real experiences and a long history of misconduct from a system in desperate need of reform.

This mistrust will not disappear until we deliver an open and transparent process around police accountability and reform.

We recognize that this process can be painful and uncomfortable—this is democracy at work. The process of openness, transparency and inclusion will go a long way toward building the trust the community needs in our criminal justice system.

On behalf of Basic Rights Oregon, we join our partners in asking the City Council to:

1. Allow public input during appeal hearings and trust the Citizen Review Committee members to sort out fact from opinion.

2. Integrate the 20-member civilian pool of the Police Review Board into appeal hearings, and use large enough citizen review panels to ensure a diverse representation of the community on these panels.
3. Finally, we would add that is important to not to lose sight of the goal of this process. We are here because of the lack of trust the community has in this process. The only way to rebuild that trust, is for the City of Portland to be transparent and inclusive of the community most affected. Give us a voice in this process.

What the City Council is proposing is a step backward when we need to be moving forward. Portlanders deserve better. Let's get this process right--slow this process down and allow for meaningful input into fixing the oversight system.

Thank you for the opportunity to testify today.

Good afternoon all.

My name is Shannon Cogan and I am here as a representative of Sisters Of The Road. For those in the room who may not be familiar with Sisters, we are a cross-class social justice organization and café. For the last 36 years we have been serving low cost meals to fill bellies, as well as organizing with our community to end homelessness and poverty.

Sisters participated in the stakeholder workgroup of 2010 to identify recommendations for increasing police accountability and gaining community trust. We come here today to reiterate our previous demands to restore public faith. Sisters' community is often harassed by the police for doing nothing more than existing as human beings in public spaces. Our community's rational fear and distrust of the very agency tasked with maintaining the human rights of all will not be lessened by removing public comment from disciplinary appeals or reducing the weight of citizen input in the ~~ORC~~ ^{oversight} board.

The mission of the Portland Police Bureau includes "promoting individual responsibility." Individual officers are not exempt from the need to take responsibility for their actions. Public comment in meetings encourages each officer to be accountable for their actions when interacting with the community they exist to serve. Eliminating public comment would most certainly not increase public buy-in.

Reducing transparency does not fall within the community's demands, nor does not fall within the Justice Department's demands. Portland belongs to all of us. Not just the businesses, not just the police union- all of us live here and we deserve the right to be able to walk down the street in our communities and not be afraid of law enforcement. And we need to be assured, that when we have a concern, that concern will be addressed in a meaningful, transparent way. That means that stakeholders who exist outside the relatively powerful structure of the Police Bureau are well represented in the oversight meetings. Those most at risk need to have a strong presence when we are deciding how to hold our police accountable.

The reforms which have come out of stakeholder meetings are a step in the right direction. Quickening the dreadfully long oversight process is a priority, but speeding up the process at the expense of community buy-in is not the goal of the oversight board either. We at Sisters ask: why take a step backwards now?

The make-up of the oversight board should be weighted towards citizen involvement and disciplinary appeals need to be open for public comment. Slowing down the process in the short term would help us best achieve our long-term goals, so let's take the time now.

**NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER**



POST OFFICE BOX 40723
PORTLAND, OREGON 97240-0723

DATE: September 14, 2016

TO: Mayor Charlie Hales
Commissioner Dan Saltzman
Commissioner Amanda Fritz
Commissioner Nick Fish
Commissioner Steve Novick

FROM: Portland Chapter of the National Lawyers Guild

CC: Auditor Mary Hull Caballero
IPR Director Constantin Severe

RE: TESTIMONY TO CITY COUNCIL RE PROPOSAL TO MODIFY IPR & CRC

Dear Mayor Hales and City Commissioners:

For more than a decade, the Portland Chapter of the National Lawyers' Guild has worked to improve police accountability in Portland. In 2000, we joined with 17 other stakeholder organizations as part of the Mayor Katz Work Group on police oversight. We were also members of the 2010 Police Oversight Stakeholder committee. Since then, the NLG has been involved in police accountability efforts and testified before Council on numerous occasions to address police accountability issues in Portland. The NLG remains committed to an oversight system which provides effective, credible, and transparent review of police misconduct.

The current City proposal falls short of this goal. The NLG recognizes that the City, in the wake of public opposition, has reconsidered its initial plan to merge the functions of the Citizen Review Committee with the Police Review Board. Serious concerns remain, however, regarding the City's approach to reform of the police oversight system.

First, the process that led to these reforms and the timing of the current proposal before Council raise doubts about the transparency and fairness of the reform effort. The Settlement

Agreement between the City and the Department of Justice – which resolved allegations that the Portland Police Bureau had a pattern of excessive force against people experiencing actual or perceived mental health crisis – requires several changes to address problems with police accountability. The Agreement also created the Community Oversight Advisory Board (COAB) to “independently assess the implementation of the Agreement” and “make recommendations.”¹ Yet the COAB was excluded from the closed-door meetings the City held to formulate its proposals regarding the oversight system. Even more troubling, the City is proceeding on this issue despite negotiating with the Department of Justice to place the COAB on hiatus, which has prevented the COAB from voting on a series of recommendations regarding the police accountability system. Even if this timing is an unfortunate coincidence, it nonetheless jeopardizes public trust in the sincerity of the City’s reform efforts.

Second, we believe that the current proposed changes do not go far enough and that the proposal to eliminate public comment at Citizen Review Committee (CRC) appeal hearings is a step backward and should be withdrawn. The City must make fundamental changes to create a truly independent police accountability system. The changes it considers today fall well short of that mark. Our specific criticisms are set forth in greater detail below.

1. We strongly oppose the elimination of public comment at the CRC appeal hearings.

Public comments often raise issues that the CRC failed to consider. Several members of the public who attend CRC hearings have done so for many years. Their comments also serve as institutional memory. These are valuable assets, particularly in light of the current proposed plan that fewer CRC members participate in an appeal, and thus will have less diversity of perspectives, and potentially less experience, than a full panel of CRC members.

Moreover, the NLG questions the reasoning behind the elimination of public comment. As we understand it, the City Attorney’s office has concerns that an officer subject to discipline may argue, either in a grievance or at an arbitration, that public comment somehow renders the discipline process unfair because a CRC member may be unduly influenced by the public’s

¹ Settlement Agreement Pursuant to Federal Rule of Civil Procedure 41(a)(2), *United States v. City of Portland*, Case No. 3:12-cv-02265-SI, at ¶ 141.

comments. The City Attorney's office, however, acknowledges this has never happened; the risk is minimal. Moreover, CRC members are authorized only to make recommendations, not administer discipline. Any claim that CRC members lack impartiality because they were exposed to public comments cannot be attributed to the decision maker – here the chief – in the disciplinary process. According to a September 8, 2016 article in the Portland Tribune, Daryl Turner, president of the Portland Police Association, said he and his members do not support the elimination of public comment at CRC hearings.²

Additionally, the City's collective bargaining obligations do not require the elimination of the public comments at CRC hearings. Only actions by a "public employer or its designated representative" may constitute an "unfair labor practice."³ A "personal statement of opinion," by a private citizen does not meet that criteria.⁴ CRC members, even if influenced by such a personal opinion, are only rendering recommendations to the chief, who has ultimate authority to administer discipline. Moreover, attendance and lawful participation in a public meeting is not an unfair labor practice.⁵ Finally, while the collective bargaining agreement (CBA) between the City and the Portland Police Association requires that discipline of an officer be carried out in a manner least likely to embarrass them,⁶ the CRC has been accepting public comment for over ten years. Thus, even if the CBA provision is a mandatory subject of bargaining, and public comments could somehow be construed as embarrassing to an officer, public comments constitute the status quo.⁷ As a result, the City would not violate a collective bargaining

² Budnick, Nick, "City ponders police oversight reforms," available at <http://portlandtribune.com/pt/9-news/321698-200765-city-ponders-police-oversight-reforms>.

³ Or. Rev. Stat. § 243.650(21); Or. Rev. Stat. § 243.672(1).

⁴ See *Am. Fed'n of State, County & Mun. Emples., Council 75, Local 2043 v. City of Leb.*, 265 Or. App. 288 (2014) (city council member who wrote a letter to the local newspaper criticizing unions was not a designated representative of the city under Or. Rev. Stat. § 243.650(21)).

⁵ *Crowfoot Elementary School Dist. v. Public Employee Relations Board*, 19 Or. App. 638, 642 (1974).

⁶ Labor Agreement Between the Portland Police Association and the City of Portland, July 1, 2013 – June 30, 2017, art. 20, available at: <https://www.portlandoregon.gov/bhr/article/10857?>.

⁷ A public employer must bargain with the union "prior to changing existing employment

obligation were it to maintain the current public comment period at CRC appeal hearings.

2. The proposal should include police oversight reforms that community stakeholders have sought for several years.

Although our comments herein focus on the problems with the process that has led to the current proposal and the elimination of public comments at the CRC hearings, the NLG is also disappointed that proposed changes do not include many reforms the community has sought over several years. These include, but are not limited to:

1. IPR should have the power to compel officer testimony independently, without the attendance of a representative from the Police Bureau;
2. CRC should have the power to compel officer testimony;
3. The definition of “supported by the evidence” should be changed from the “reasonable person” standard to a “preponderance of the evidence” standard;
4. CRC should be allowed to review the proposed allegations before an investigation or at the appeal stage;
5. One civilian-led system of review should apply to all police misconduct complaints, rather than the separate Police Review Board system for deadly force cases, other cases involving serious force allegations, and cases where proposed discipline is suspension without pay;
6. All complaints involving community members should be investigated by IPR and IPR should have appropriate financial resources to carry that out;
7. Complainants should have access to an advocate throughout the complaint process and staff support should be available for persons with psychiatric disabilities.

Items three and five above were included in the first proposal introduced to the public at the Town Hall meeting on August 1, 2016. We see no reason why they should be excluded from the final proposal.

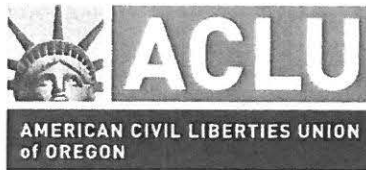
conditions that concern mandatory subjects of bargaining.” *Eugene Police Emp. Ass’n v. City of Eugene*, Case No. UP-038/41-08 (2010), available at: <http://www.oregon.gov/ERB/orders/thru%2006-30-12/UP03804108RepCosts.pdf>. Thus, in deciding whether an employer violated a duty to bargain, the first step is to “identify the status quo and determine whether the employer changed it.” *Id.*

We strongly urge Council to reject the current IPR/CRC proposal and wait to take any vote at least until the COAB has had a chance to reconvene and make recommendations on officer accountability, and preferably after the above reform items one through seven are incorporated.

For a Better World,

/s/ Mark Kramer

Shauna Curphey
Kristen Chambers
Ashlee Albies
Mark Kramer
Portland Chapter of the National Lawyers Guild



Kimberly McCullough, Legislative Director

Proposed Ordinance Regarding Complaints of Police Officer Misconduct
Portland City Council
September 14, 2016 – Item No. 1033

Mayor Hales and Commissioners:

Thank you for the opportunity to testify regarding Item No. 1033, a proposed ordinance to amend the Portland City Code to revise the filing process, investigation and appeal provisions of complaints of police officer misconduct. While the proposed ordinance would alter multiple aspects of Code Section 3.20.140 and Chapter 3.21, we are limiting our comments to two specific areas of concern.

First, we oppose the provisions in the proposed ordinance which remove the opportunity for public comment at case file reviews and appeal hearings.

As you are aware, the purpose of the Citizen Review Committee (CRC) process is to build public trust in Portland's law enforcement practices and to provide a window for the public to participate in problem solving issues of police accountability. A significant part of this process is the identification of policies that need to change. Cutting out the opportunity for public comment will contravene these important functions of the CRC.

If there are concerns that members of the public commenting on CRC proceedings do not have enough information to make informed comments, the problem is not that the public is allowed to make comments but instead that the public is not provided with enough relevant information. If the concern is that members of the public may make irrelevant comments, the same argument could be made for eliminating public comments at City Council and legislative hearings, yet we would hope that all of us would understand why that would be a bad idea. Similarly, if the concern is that public comments may influence the decisions of the CRC in some inappropriate way, this could simply be solved with proper instructions to the CRC members.

Second, we are concerned that reducing the number of Citizen Review Committee members who must be present to review case files and hear appeals will negatively impact the CRC process by reducing the diversity of CRC members conducting those proceedings.

In 2010, ACLU of Oregon participated in a Police Oversight Stakeholder Committee which made recommendations to City Council regarding the CRC. One of those recommendations,

which ACLU of Oregon supported, was increasing the size of the CRC from 9 to 11 members. The idea of this change was to increase diversity and spread out the work load.

We are cognizant of the fact that our CRC members are volunteers and appreciate that this suggested change is likely based on a desire to respect their time, but we believe moving to 3-member panels (rather than the 5 members currently necessary for a quorum) will undo the progress made in 2010. If some change is necessary due to workload constraints, we suggest again expanding the number of CRC members, rather than breaking the CRC into 3-member panels.

Thank you for considering our recommendations.

Portland Copwatch Comments on Proposed IPR/CRC/PRB Changes

(September 14, 2016)

Portland Copwatch applauds the City's decision to keep police misconduct appeal hearings public. But the current proposal has too many flaws to let it move forward.

(I) Cutting out public comment

- * We strenuously object to the proposal to silence community input during hearings.
- * CRC is not only capable of separating facts from opinions, but the existing ordinance directs them to hear any evidence offered, saying they must consider evidence only from the investigation when deciding on the findings. (1)
- * The City Attorney admitted that the Police Association has never filed a grievance based on public comments at a CRC hearing.
- * The community has the same case summary paperwork as the Appellant and the officer. Does the City plan to prohibit those parties from speaking at appeals as well?
- * The way the ordinance is written, CRC would have to call a special meeting to take public input, and might be prohibited from taking input at their regular meetings. (2)
- * Public comment helps CRC on community context, policy, training and their own protocols.
- * The last case at CRC benefitted from comments; after it was pointed out they were using an old Directive, they changed their recommendation on Taser use using the correct Directive. (3)
- * Silencing the community will only lead to more disruptions, rather than less.

(II) Breaking into panels / meeting the 21 day timeline

- * Breaking the 11-member panel into 3 person panels will create a number of problems.
- * In terms of diversity, with the current Committee of 7 women and 4 men with four persons of color it's likely some panels will be all female and all white.
- * PCW suggests expanding CRC to 15 members and tapping into the 20-member Police Review Board civilian pool to round out 7-member panels.
- * Specifically, we recommend panels with four CRC members and 3 PRB members, with a quorum of 5.
- * (Side note: The PRB members are supposed to be confirmed by Council— we know they went through training, but when will they be confirmed?) (4)
- * If one of the three CRC members becomes ill, the appeal will have to be delayed, leading to appeals taking much longer than the proposed 21 days.

* If CRC sends a case back for more investigation, the same 3 members will have to be available for the supplemental hearing or else others have to read the case file and listen to a recording of the first hearing.

* In the last 2 years, CRC has met 16 times to consider just 8 appeals, in part because of three cases that were poorly investigated and two "conference hearings."

* The "Conference Hearing" provision to allow the Chief to come back to CRC if he/she disagrees with their finding just causes more unnecessary delays; it should be removed and disputed cases should go to City Council. (5)

(III) Fairness

* The officers in the process get representation from a "union" rep or attorney for free. Complainants at the Police Review Board have no knowledgeable advocates available. Appellants have Process Advisors who can't advocate. (6)

* We do appreciate that complainants may now address the PRB, but they will be virtually alone in a room mostly filled with police to explain how they think a police officer mistreated them.

* The Appeals Process Advisors can look at the entire case file, but they can't share the contents with the Appellants. Volunteer or paid attorneys are not allowed to look at the case file.

(continued)

PORTLAND COPWATCH

a Project of Peace and Justice Works
PO Box 42456 Portland, OR 97242 (503) 236-3465
Hotline/Report Line (503) 321-5120 copwatch@portlandcopwatch.org www.portlandcopwatch.org

* Of eight times officers have appeared at CRC meetings, there was only one time the Committee proposed a “Sustained” finding. Arguably, officer input may unduly sway CRC.

* If all non-disciplinary complaints are routed to precinct supervisors, unless IPR has to sign off on the outcomes, it will lead to less consistency in how complaints are resolved.

* It is not clear whether cases with both force and rudeness allegations will be investigated by IPR or IA, or if they will be split into “major” and “minor” issues.

* While the ordinance is cutting out some reasons for the IPR to dismiss cases, it is not true as the Auditor has been claiming that “all complaints” will be investigated. (7)

(IV) Other provisions removed or ignored

* The August 1 proposal would have allowed CRC to recommend findings based on a “preponderance of the evidence” rather than the deferential “reasonable person standard”; the current proposal keeps that old standard.

* The August 1 proposal contemplated CRC hearing appeals on deadly force cases, also since removed.

* The August 1 proposal indicated there would be a majority of civilians on the Police Review Board, this proposal keeps a 3-2 or 4-3 majority of police personnel depending on the type of case heard.

* Looking at the 2010 Oversight Stakeholder report, there were 41 recommendations made; only 9 have been implemented, 7 others partially implemented, and 25 not done at all. (8)

* In 2000 and 2010 when making changes to the oversight system, the City convened public work groups to hash out the details; this process has been flawed in large part because no such dialogue has happened. (9)

* Among the unresolved issues are:

** Giving IPR power to compel officer testimony and to investigate deadly force incidents

** Giving the Auditor the ability to consult attorneys who are not also advising the Portland Police

** Giving CRC power to compel officer testimony, or letting Council hear new evidence

** Fixing the problems with allegations that don’t match the complaint

** Allowing appeals on non-disciplinary complaint outcomes

** Providing CRC its own dedicated staff

** Defining the complaint outcomes in a non-judgmental, clear and standardized way

** Increased sharing of records with the complainant and public; and

** Better reporting on discipline and the Employee Information System

* Because of the rushed nature of this process, even people who closely follow police accountability issues aren’t clear on what’s being proposed.

We urge the Council to delay this vote. It would be astonishing if Judge Simon (or the DOJ) chose to find the City out of compliance because the all-volunteer Citizen Review Committee was—predictably—unable to meet the unrealistic timeline of holding appeals in 21 days.(10)

At the very least, Council should increase the size of CRC and the panels, and reinstate public testimony.

Thank you
dan handelman and other members of
Portland Copwatch

(continued)

footnotes:

- (1) “When the Committee’s review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.” (3.21.160 [B]).
- (2) Proposed 3.21.150(B) and 3.21.160(A) state that the Case File Reviews and Appeal Hearings: “shall not be subject to public comment. Such comment shall be reserved for Committee meetings intended to hear general concerns about police services or to address particular short-term issues and needs.”
- (3) See Street Roots article of May 20, 2016: “Update in Taser complaint against police”:
<http://news.streetworks.org/2016/05/20/update-taser-complaint-against-police>
- (4) 3.20.140 (C)(1)(a)(1) “One citizen member from a pool of citizen volunteers recommended by the Auditor and confirmed by the City Council.”
- (5) 3.21.160 (A)(1)(c)(2). The provision for “conference hearings” was first instituted in policy by the first IPR Director after the first— and only— City Council hearing in 2003, but added to City Code in 2010.
- (6) PSF 5.21 Appeals Process Advisor: “An Appeal Process Advisor (APA) will be designated to assist an appellant/officer (hereafter referred to as “Participant”) before and during case file reviews and appeal hearings. The APA is not a legal advisor but will assist a Participant in understanding the case file review/appeal hearing process.
- (7) Proposed 3.21.120(C)(4) still includes five reasons IPR may dismiss a complaint.
- (8) See http://www.cdri.com/library/PoliceOversightStakeholderReport2010_V2.pdf
- (9) Also see <http://www.portlandcopwatch.org/MajorityReport.html>
- (10) One other item to consider is how to avoid having cases go to both the Police Review Board and the Citizen Review Committee. We can only find evidence of two cases of 20 since 2011 that have gone through both bodies, though our records are incomplete on 3 cases. It is unclear whether the IPR Director or IA Captain will be controverting findings any more since they will be the ones proposing them. However, one idea would be to take cases that are controverted and send them directly to CRC as appeals, rather than bogging the case down at the PRB. Such a structure would also enable the change of CRC’s standard of review by eliminating most any case going through both bodies (unless the case had at least one “Sustained” finding with the possibility of time off as discipline).

Moore-Love, Karla

From: Debbie Aiona <mdjaiona@aracnet.com>
Sent: Tuesday, September 13, 2016 9:39 PM
To: Hales, Mayor; Commissioner Fish; Commissioner Novick; Saltzman, Dan; City Auditor, Mary Hull Caballero; Severe, Constantin
Cc: Barbara Ross; Moore-Love, Karla
Subject: League of Women Voters comments on proposed changes to police misconduct complaint/appeal process
Attachments: LWV CRC-IPR code changes 9-16.pdf; ATT00001.txt

Dear Mayor Hales, Commissioners, Auditor Hull Caballero, and IPR Director Severe,

Please find attached the League's comments on the proposed changes to the police oversight system.

Thank you for considering our views.

Sincerely,

Debbie Aiona
League of Women Voters of Portland



The League of Women Voters of Portland

618 NW Glisan St., Suite 303, Portland, OR 97209

(503) 228-1675 • info@lwvpdx.org • www.lwvpdx.org

Board of Directors

Fran Dyke
President

Debbie Kaye
1st VP

Peggy Bengry
2nd VP

Margaret Noel
3rd VP

Paulette Meyer
Treasurer

Anne Davidson
Secretary

Debbie Aiona

Amy Beltaine

Doreen Binder

Diane Herrmann

Marion McNamara

Off Board Leaders

Kathleen Hersh
Nominating/Web

Corinne Paulson
Endowment

Linda Robolt
Voter Registration

Kris Hudson
Budget

Minda Seibert
Social Media

DATE: September 14, 2016

TO: Mayor Charlie Hales
Commissioners Nick Fish, Amanda Fritz, Steve Novick,
and Dan Saltzman
Auditor Mary Hull Caballero
IPR Director Constantin Severe

FROM: League of Women Voters of Portland
Frances Dyke, president
Debbie Aiona, Action Committee chair
Barbara Ross, Action Committee member

RE: Proposed changes to police misconduct complaint and appeal process

The League of Women Voters of Portland has a long-standing interest in the city's police oversight system; we believe transparency and public participation are of the utmost importance. We are very concerned about both the process used to develop the current proposals and some of the provisions in the draft code changes. We urge you to appoint a task force charged with taking a more thoughtful and inclusive look at the complaint process and the Citizen Review Committee's (CRC) role in it.

It is difficult to understand the urgency for making such drastic changes to CRC operations when there are other critical issues in the Settlement Agreement needing attention. Council is being presented with a proposal without the analysis needed to truly understand the many factors that contribute to lengthy appeals. CRC's right to request additional investigation and the time it takes to schedule a conference hearing between the Chief and the CRC to discuss disagreements over findings are just two examples of why the 21-day timeline is unrealistic.

The League is extremely troubled by the proposed elimination of public comment at appeal hearings, particularly in light of the serious issues facing Portland and our nation around policing. Our members have attended nearly all CRC meetings over the years and have found that in the vast majority of cases, public comment has been constructive and respectful. The City Attorney cited a fear that the involved Bureau member might file a grievance if the public continues to comment. This has never happened in CRC's 15-year history. Twenty minutes of

"To promote political responsibility through informed and active participation in government."

public comment does not contribute to lengthy delays; therefore, we see no reason to cut the community out of the process. Furthermore, Portland Police Association President Daryl Turner recently stated that the union has no problem with public input as long as it is delivered respectfully. The community deserves a thorough explanation of what is motivating the proposed changes and why they seem so focused on excluding the public when public participation is not delaying the process.

Another issue deserving a task force's consideration is the three-person CRC panels for appeal hearings. The ordinance gives clear direction for a diverse CRC. It will be difficult to reflect Portland's diversity with such small panels. If the size of the CRC were increased to 15, for example, five-person panels could hear appeals. A task force could explore this idea and other options. It also could address the challenge of assembling the same three CRC members for separate case file reviews, appeal hearings, and possible conference hearings and determine which changes would save time.

There are some positive features in the proposal, such as reducing the number of dismissed complaints and giving the agency conducting the complaint investigation the authority to draft findings. Allowing the complainant to attend the Police Review Board hearing on their case would be an improvement and address an issue the Department of Justice raised. A task force could explore options for supporting the complainant in light of the potentially intimidating nature of a hearing room dominated by Police Bureau officials.

Eliminating the unnecessary conference hearing that occurs when the Chief disagrees with a CRC challenge to Bureau findings would reduce the time it takes to complete the process. This was not part of the system at its inception and was added with no public discussion. Those cases where there is disagreement could go directly to City Council for resolution. Furthermore, CRC's reasonable person standard of review, the prohibition on hearing appeals of police shooting cases, and other issues from the 2010 Stakeholder Report all deserve further discussion.

It is critical that the city conduct a more thoughtful and inclusive examination of our oversight system with the involvement of community members and city staff. The CRC appeal process provides the public a window into the workings of the Police Bureau and the opportunity to participate. We fear that some of the proposed changes could alienate the community and betray its trust.

Moore-Love, Karla

From: Washington, Mustafa
Sent: Wednesday, August 31, 2016 9:50 AM
To: Wesson-Mitchell, Deanna
Cc: Council Clerk – Testimony
Subject: FW: Comments on proposed Police Accountability plan
Attachments: COMMENTS ON CITY AUDITOR.docx

From: rochelle silver [mailto:rsilver1@yahoo.com]
Sent: Sunday, August 21, 2016 11:22 AM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>; Severe, Constantin <Constantin.Severe@portlandoregon.gov>; Kristin Malone <kristinmalone@mhgm.com>
Cc: Taylor, Brad <Brad.A.Taylor@portlandoregon.gov>
Subject: Comments on proposed Police Accountability plan

Attached please find my comments on the proposed Police Accountability plan . I hope you will consider my remarks and have them read into the record at the August 23rd forum. Thank you.

Rochelle Silver, Ph.D.

COMMENTS ON CITY AUDITOR'S PROPOSED POLICE ACCOUNTABILITY PLAN - August 23, 2016

TO: Mayor Hales, Commissioners Fritz, Novick, Saltzman and Fish, City Auditor Mary Hull-Caballero and the Community-at-Large

FROM: Rochelle L. Silver, Ph.D.

Dear All: I am sorry I cannot be present at the second forum on police accountability but did want to make a few comments. As you might know, I am currently a COAB member and previously served as a member of the CRC for 5 years.

I want to thank you for delaying the hearing on the initial plan presented at the August 1 forum. And, I want to thank the Auditor for removing some of the seriously egregious facets of that plan. The current plan, however, has many downsides also. It is as, or more complicated than the current Accountability System which was deemed by the DOJ to be byzantine. It does not allow for advocacy for the complainant/appellant and most seriously, disallows the public from providing input at the appeal hearings. Having panels of only 3 CRC members to hear appeals is also a flaw, in my opinion, and should be increased to at least 4 but preferably 5 members. This can be done by increasing the number of CRC.

But, most importantly, the proposed plan does not address the two most serious flaws in the current Accountability System and that is: it does not change the Standard of Review for CRC appeals from Reasonable Person to Preponderance of the evidence; and it does not give the IPR authority to compel testimony from a police officer, therefore, disallowing true independence.

I again urge you not to be in such a hurry. I know the Auditor is concerned with being out of compliance with the Settlement Agreement but, in truth, the City is already out of compliance in several ways.

Please look at others plans that may be totally different; plans from other jurisdictions, plans that have been submitted to you already such the plan submitted by the Accountability Subcommittee of the COAB. Let other plans be considered in open, public forums such as you are having tonight and allow for community feedback. Please don't jump into another plan that will be community unfriendly and byzantine.

Thank you for your consideration,

Rochelle

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:45 PM
To: Council Clerk – Testimony
Subject: FW: Portland Copwatch testimony for Police Accountability Town Hall 8/1/16
Attachments: ipr_changes_testimony0816.pdf

Mustafa Washington
Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

-----Original Message-----

From: Portland Copwatch [mailto:copwatch@portlandcopwatch.org]
Sent: Monday, August 01, 2016 9:47 AM
To: Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>
Cc: News Media <newsmedia@portlandcopwatch.org>
Subject: Portland Copwatch testimony for Police Accountability Town Hall 8/1/16

Portland Copwatch
(a project of Peace and Justice Works)
PO Box 42456
Portland, OR 97242
(503) 236-3065 (office)
(503) 321-5120 (incident report line)
copwatch@portlandcopwatch.org
<http://www.portlandcopwatch.org>

August 1, 2016

To Auditor Hull Caballero, Mayor Hales, and members of City Council:

Most core members of Portland Copwatch are at a pre-scheduled event and unable to be at tonight's hastily assembled Town Hall.

The highest priority of the DOJ Settlement Agreement is to build community trust. The manner and substance of the proposed changes to the oversight system do not lead to that trust. All past major changes-- from its inception as PIIAC in 1982, to the move to IPR in 2001, and the Stakeholders Group in 2010-- involved lengthy community input.

Our July 22 analysis of the Auditor's proposed changes found:

1-- The proposal doesn't solve the problem of misconduct complaints taking too long to be resolved.

2-- Getting rid of public appeal hearings on misconduct cases thwarts the will of the people.

3-- The CRC's appeals are where the community gets a true sense of police training, policy and accountability.

In addition, the City Attorney says moving complainants' hearings into a room that excludes the public and the press will improve "Procedural Justice." There is no procedural justice in a Star Chamber.

We analyzed the seven appeals CRC heard since Council changed the ordinance to speed up hearings, proving that pushing CRC appeals behind closed doors will not save time.

--Two cases went through Reviews and Appeals on the same nights.

--Two cases were delayed after the Bureau refused to accept CRC's recommendations. In one, the Chief agreed to "Sustain" a complaint, the other led to further investigation.

--Two cases were sent back for more investigation. Though the Agreement requires such investigations be completed in 10 days, the first took six months, the second took three months, and the rejected findings case took five months.

--One case could not proceed because IPR failed to invite the officer's commander to the hearing.

In addition, the Bureau refused to attend one CRC hearing--a case still in limbo because the Bureau used the wrong Directive to analyze the officer's behavior. Another case was further delayed when IPR changed the summary report on the day of the hearing without informing the Appellant.

There were some scheduling conflicts when Appellants were unable to attend meetings-- but those delays won't be resolved by moving the hearings behind closed doors.

The new proposal circulated on July 28 indicates that conflicting parties-- IPR, IA, the officer and complainant-- can all send cases to the PRB. In the case of the officer who interfered with a videographer, the IPR Director urged the PRB to "Sustain" the finding and was out-voted 4-1. Only allowing CRC and City Council appeals will grant procedural justice for a person wronged by police. Perhaps controverted cases could be sent directly to a CRC/PRB hybrid for public hearings.

We urge Council to use the COAB Accountability Subcommittee's proposed changes as a basis for discussion.

We do support some aspects of the Auditor's proposal-- but not at the expense of public hearings:

--changing the standard of review to "preponderance of the evidence,"

--letting CRC hear appeals of deadly force cases; --putting more civilians on the Police Review Board; and --

allowing complainants to attend PRB meetings.

Thank you
dan handelman
and other members of
Portland Copwatch

Portland Copwatch

PO Box 42456 Portland, Oregon 97242
Office (503) 236-3065 Incident Report Line (503) 321-5120
copwatch@portlandcopwatch.org www.portlandcopwatch.org

August 1, 2016

To Auditor Hull Caballero, Mayor Hales, and members of City Council:

Most core members of Portland Copwatch are at a pre-scheduled event and unable to be at tonight's hastily assembled Town Hall.

The highest priority of the DOJ Settlement Agreement is to build community trust. The manner and substance of the proposed changes to the oversight system do not lead to that trust. All past major changes— from its inception as PIIAC in 1982, to the move to IPR in 2001, and the Stakeholders Group in 2010— involved lengthy community input.

Our July 22 analysis of the Auditor's proposed changes found:

- 1— The proposal doesn't solve the problem of misconduct complaints taking too long to be resolved.
- 2— Getting rid of public appeal hearings on misconduct cases thwarts the will of the people.
- 3— The CRC's appeals are where the community gets a true sense of police training, policy and accountability.

In addition, the City Attorney says moving complainants' hearings into a room that excludes the public and the press will improve "Procedural Justice." There is no procedural justice in a Star Chamber.

We analyzed the seven appeals CRC heard since Council changed the ordinance to speed up hearings, proving that pushing CRC appeals behind closed doors will not save time.

—Two cases went through Reviews and Appeals on the same nights.

—Two cases were delayed after the Bureau refused to accept CRC's recommendations. In one, the Chief agreed to "Sustain" a complaint, the other led to further investigation.

—Two cases were sent back for more investigation. Though the Agreement requires such investigations be completed in 10 days, the first took six months, the second took three months, and the rejected findings case took five months.

—One case could not proceed because IPR failed to invite the officer's commander to the hearing.

In addition, the Bureau refused to attend one CRC hearing--a case still in limbo because the Bureau used the wrong Directive to analyze the officer's behavior. Another case was further delayed when IPR changed the summary report on the day of the hearing without informing the Appellant.

There were some scheduling conflicts when Appellants were unable to attend meetings— but those delays won't be resolved by moving the hearings behind closed doors.

The new proposal circulated on July 28 indicates that conflicting parties— IPR, IA, the officer and complainant— can all send cases to the PRB. In the case of the officer who interfered with a videographer, the IPR Director urged the PRB to "Sustain" the finding and was out-voted 4-1. Only allowing CRC and City Council appeals will grant procedural justice for a person wronged by police. Perhaps controverted cases could be sent directly to a CRC/PRB hybrid for public hearings.

We urge Council to use the COAB Accountability Subcommittee's proposed changes as a basis for discussion.

We do support some aspects of the Auditor's proposal— but not at the expense of public hearings:

- changing the standard of review to "preponderance of the evidence,"
- letting CRC hear appeals of deadly force cases;
- putting more civilians on the Police Review Board; and
- allowing complainants to attend PRB meetings.

Thank you
dan handelman
and other members of
Portland Copwatch

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:44 PM
To: Council Clerk – Testimony
Subject: FW: Portland City Town Hall on Police Accountability

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Annette Jolin [mailto:annettejolin@gmail.com]
Sent: Monday, August 01, 2016 11:47 AM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>
Subject: Portland City Town Hall on Police Accountability

August 1, 2016

Portland City Town Hall on Police Accountability Changes

Dear Mayor Hales and Portland City Council Members Fish, Fritz, Novick, and Salzman:

I am writing to urge you to preserve the public's access to Citizen Review Committee hearings.

Open hearings have been part of the citizen review process since its inception nearly 35 years ago. During that time there have been fifteen different police chiefs. In the early 80s the citizens of Portland voted to create a committee of citizen representatives to oversee the police handling of complaints brought against bureau personnel. Central to the oversight mission was an appeals forum where citizens could seek redress for police decisions about their complaints. The ability to have grievances aired in a public setting was essential not only for the individuals involved but also for achieving the larger goal of repairing the trust that had been lost in community-police relations.

Commissioner Lindberg appointed me to the newly created Police Internal Investigations Auditing Committee, or PIACC, when it was first established. I was one of two committee members with prior police experience and served as first chairperson from 1982 to 1985. Portland was among the nation's first cities to have a civilian oversight committee. Prospects for success were dismal. Most predicted that we would either self-destruct or be co-opted by the police. The fact that in nearly 35 years neither prediction came true, is, in my opinion in large part due to the confidence the public had in our open hearings. It is true that open meetings are often less expedient than meetings in private, but they are the only real protection for maintaining a measure of trust in an inherently divisive relationship such as that between the community and the police.

It is in light of these considerations that I urge you, Mayor Hales and Commissioners Fish, Fritz, Novick, and Saltzman, to vote against any Citizen Review Committee reform that seeks to abolish public hearings.

Thank you for your consideration,

Annette Jolin

Professor Emerita

Criminology and Criminal Justice

Portland State University

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:44 PM
To: Council Clerk – Testimony
Subject: FW: LWV comments on Police Oversight System (Aug. 1 Town Hall)
Attachments: LWV - CRC City Council 8-16.pdf; ATT00001.txt

Mustafa Washington
Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

-----Original Message-----

From: Debbie Aiona [mailto:mdjaiona@aracnet.com]
Sent: Monday, August 01, 2016 12:33 PM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; Saltzman, Dan <Dan.Saltzman@portlandoregon.gov>; Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>; Severe, Constantin <Constantin.Severe@portlandoregon.gov>
Cc: Frances Dyke <president@lwvpdx.org>; Carol Cushman <chcrail@aol.com>
Subject: LWV comments on Police Oversight System (Aug. 1 Town Hall)

Dear Mayor Hales, Commissioners, Auditor Hull Caballero, Director Severe,

Please find attached League of Women Voters of Portland comments on proposed changes to the city's police oversight system.

Thank you for your consideration of our views.

Sincerely,

Debbie Aiona
League of Women Voters of Portland



The League of Women Voters of Portland

618 NW Glisan St., Suite 303, Portland, OR 97209

(503) 228-1675 • info@lwvpdx.org • www.lwvpdx.org

Board of Directors

Fran Dyke
President

Debbie Kaye
1st VP

Peggy Bengry
2nd VP

Margaret Noel
3rd VP

Paulette Meyer
Treasurer

Anne Davidson
Secretary

Debbie Aiona

Amy Beltaine

Doreen Binder

Diane Herrmann

Marion McNamara

Off Board Leaders

Kathleen Hersh
Nominating/Web

Corinne Paulson
Endowment

Linda Robolt
Voter Registration

Kris Hudson
Budget

Minda Seibert
Social Media

DATE: August 1, 2016

TO: Mayor Charlie Hales, Portland City Commissioners,
Auditor Mary Hull Caballero, IPR Director Constantin Severe

FROM: League of Women Voters of Portland
Frances Dyke, president
Debbie Aiona, Action Committee chair
Carol Cushman, Action Committee member

RE: Proposed Changes to Police Accountability Processes in City Code

The League of Women Voters of Portland's long standing interest in police oversight dates back to 1981 when one of our past presidents served on the Storrs Committee that recommended creation of Portland's first oversight system.

The fast track nature of the process used to develop this proposal is disturbing, particularly in light of the serious issues facing Portland and our nation around policing. Had the "focus group" met in public as many of us requested, we would have had the opportunity to understand the alternatives under discussion, raise questions, and offer more appropriate solutions. Instead the community is being presented with a proposal absent any analysis of the actual reasons for the time it takes to complete an appeal. Furthermore, there is no evidence that this new approach will result in a 21-day process. In other words, this solution does not address the problem and it sacrifices many of the things most important to the public.

We do not understand why the city would be found out of compliance on the 21-day goal when the settlement agreement gives the Citizen Review Committee (CRC) the authority to request more investigation, adding time, but insuring procedural justice. Before moving forward, the city needs to examine recent cases and determine the cause of the delays. Once that information is available, the CRC and other interested parties should meet in public to discuss solutions that maintain our all-civilian review body and public appeal hearings.

If Council adopts the consolidated model, it will be a huge step backwards for the community. The review board will no longer be made up entirely of civilians and hearings will take place behind closed doors, something that has not occurred in Portland since the early 1980's. CRC appeal hearings are the one place

"To promote political responsibility through informed and active participation in government."

where the public can, through actual cases, learn about bureau policies, the investigative process, and accountability.

The League recognizes your obligation to comply with the Settlement Agreement and encourages you to take care of other items needing attention such as filling the four vacant City Council-appointed seats on the Community Oversight Advisory Board (COAB) and scheduling the required meetings with the chief, mayor, and COAB. The decision making process on the review committee should be deliberate, thoughtful, and inclusive.

Selected Excerpts from Official Reports Related to Portland's Police Oversight Systems

Portland's oversight system should be consistent with the values and concerns of its residents. A brief review of several significant reports related to the development and evaluation of Portland's current oversight system reveals a community desire for an open process led by community members. Following are selected passages from those reports:

Citizens Task Force on Internal Affairs Storrs Committee, 1981

"Most of the witnesses who came before the task force characterized the citizen complaint process as being closed and secretive, a system where the police investigate their own misconduct with no external checks and balances. Of concern to many citizens is the lack of any public involvement in the IAD process, and the inability of the complaining citizen to examine his/her investigative file as a means of assuring that a thorough investigation was performed. As one witness stated, 'secrecy creates suspicion.' The fact that citizens are not allowed to see the review process in action has created the suspicion that it is biased in favor of the police officer." p. 9

Addressing Citizen Complaints About Police: A Proposal for Change March 2001, Office of the City Auditor (Gary Blackmer)

"The basic goals of a police oversight system are to improve police accountability to the public, and to provide the opportunity for a fair and open resolution of complaints against the police. A police oversight system must reflect the needs of the individual community." p. 4

Shortcomings in the three cities the auditor studied:

"2) The opportunity for citizen involvement in the three systems is very limited. None of the three cities use citizens to advise, monitor, or review complaint-handling processes. Complainant appeals are usually held in private and very rarely heard in public." p. 11

"We [the auditor's office] believe the proposed system offers several benefits not available in our existing system or in other systems we studied. Specifically, the proposed system:
Retains active citizen input and offers redress through public hearings." p. 16

**2008 Performance Review of the Independent Police Review Division
Luna-Firebaugh report**

“For the lucky cities, and Portland is one, the system becomes integrated into the fabric of the city and the City Administration.” p. 17

“Even when departments are doing a top-notch job disciplining errant officers, the public may lack confidence in the process. An oversight procedure that provides citizens with a window into how the department operates can change the opinion of these concerned citizens.” p. 30

“Communities must take responsibility for fashioning a system that fits their local situation and unique needs. Ultimately Peter Finn, the author of the NIJ report, notes that the talent, fairness, dedication, and flexibility of the key participants are more important to the procedure's success than is the system's structure. A commitment to the value of civilian oversight of police and transparency (the right of the public to know the public's business) is also essential if a civilian oversight agency is to be effective.” p. 33

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:44 PM
To: Council Clerk – Testimony
Subject: FW: Changes to citizen oversight of police

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Isabel Sheridan [mailto:iasheridan44@gmail.com]
Sent: Monday, August 01, 2016 1:01 PM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>
Subject: Changes to citizen oversight of police

I am writing to all of you because I cannot be at the City Council community meeting at PCC Cascades tonight. Thank you for asking for citizen input.

I attended one CRC meeting several years ago, the first one at which the CRC took 2 votes on the disposition of a complaint - the one they wished they could vote, and the one the rules dictated they vote.

The complainant was a Black man in his 60's who had been stopped after dark (for jaywalking across NW 18th Ave. around Davis) by an experienced police officer and a fairly new recruit. According to the citizen, in examining his ID, the senior officer said to the recruit that the man lived in public housing, so they were paying his rent and that he was out of his neighborhood. Ironically, the man volunteers weekdays driving seniors to a center at St. Mary's Cathedral, right down the street. The senior officer also asked the man if he were the pimp for a Black woman he had been talking to immediately before this incident.

I have lived in NYC in the 1960's, Philadelphia in the 1970's and 1980's, and in Tallahassee, Florida, in the 1990's and 2000's. But I was stunned.

The CRC voted twice that night, once for the decision they wished they could vote (to support the citizen's complaint), and then for the decision they had to make, according to the rules of the CRC (to dismiss the complaint in favor of the officers).

I have read detailed information on the rules of the CRC and IPR as well as the COAB, and they make my head swim, which may be the effect they were intended to have.

Here's what I know: this kind of outrageous profiling of Black men in their 60's in close-in NW neighborhoods is still going on. My friend Kevin Jones was treated equally badly by a male police officer several weeks ago. Mr. Jones was sitting in his car outside his office in Artist Repertory Theatre, after dark. When he told the officer he worked at ART, the officer said "It's dark in there." You probably all know that story by now. The

only difference is that Kevin Jones is a nationally known director and actor, and the first man was not well-known.

Here's what I want for every resident of Portland - a citizen oversight board with some teeth.

But what I want even more is to have everyone get the same "pass" I get for being a well-enough-dressed older White woman. I get to be in any neighborhood at any hour of the day, in a car or just walking (maybe even jay-walking once in a while). And I never get stopped by the police, never get humiliated for being in the wrong neighborhood, never have it assumed I may be up to no good.

Just make it happen. It can be done; it simply takes the will.

Isabel Sheridan

1300 NE 16th Avenue, #1304
Portland, OR 97232
C: 503-915-3433

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:43 PM
To: Council Clerk – Testimony
Subject: FW: Corrected Version Portland City Town Hall on Police Accountability Changes

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Annette Jolin [mailto:jolina@pdx.edu]
Sent: Monday, August 01, 2016 1:11 PM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>; novick@portlandoregon.com; City Auditor, Mary Hull Caballero <AuditorHullCaballero@portlandoregon.gov>
Subject: Corrected Version Portland City Town Hall on Police Accountability Changes

Minor correction to earlier mailing of this email. It should read PIIAC not PIACC.

August 1, 2016

Portland City Town Hall on Police Accountability Changes

Dear Mayor Hales and Portland City Council Members Fish, Fritz, Novick, and Salzman:

I am writing to urge you to preserve the public's access to Citizen Review Committee hearings.

Open hearings have been part of the citizen review process since its inception nearly 35 years ago. During that time there have been fifteen different police chiefs. In the early 80s the citizens of Portland voted to create a committee of citizen representatives to oversee the police handling of complaints brought against bureau personnel. Central to the oversight mission was an appeals forum where citizens could seek redress for police decisions about their complaints. The ability to have grievances aired in a public setting was essential not only

for the individuals involved but also for achieving the larger goal of repairing the trust that had been lost in community-police relations.

Commissioner Lindberg appointed me to the newly created Police Internal Investigations Auditing Committee, or PIACC, when it was first established. I was one of two committee members with prior police experience and served as first chairperson from 1982 to 1985. Portland was among the nation's first cities to have a civilian oversight committee. Prospects for success were dismal. Most predicted that we would either self-destruct or be co-opted by the police. The fact that in nearly 35 years neither prediction came true, is, in my opinion in large part due to the confidence the public had in our open hearings. It is true that open meetings are often less expedient than meetings in private, but they are the only real protection for maintaining a measure of trust in an inherently divisive relationship such as that between the community and the police.

It is in light of these considerations that I urge you, Mayor Hales and Commissioners Fish, Fritz, Novick, and Saltzman, to vote against any Citizen Review Committee reform that seeks to abolish public hearings.

Thank you for your consideration,

Annette Jolin, Professor Emerita, Criminology and Criminal Justice, Portland State University

Sent from my iPad

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:43 PM
To: Council Clerk – Testimony
Subject: FW: Consolidated Police Review

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Brian Ellis [mailto:brian.s.ellis@gmail.com]
Sent: Tuesday, August 02, 2016 5:53 PM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>
Subject: Consolidated Police Review

Dear Mayor Hales,

I attended the Town Hall meeting about the Streamlined Police Accountability Process last night. This is the first town hall meeting I've attended since living in Portland, but I was interested in attending because of all the problems we've been facing with Police interactions locally and nationally. While I did not understand everything being discussed; that room sometimes felt like walking into a argument that had already been going on for a long time, I would encourage you to look closely at the recommendations made by the presenters from the CRC, who seemed to have the most productive comments, to me.

I think there were some improvements put forth by the city attorneys, such as CRC members participating in discipline cases and all officer involved shooting cases. But the idea of closed door sessions means the overall net number of community members involved is less.

It seemed to me there was some sort of compromise between giving the CRC more power, but cutting the community out of the process. But I question why that comprise needs to be made. I think the CRC could be given more power and the community be a part of the process.

I don't know how well last night event was advertised, but I think that it could have been much better attended. A LOT of people in this city are concerned about these issues, and there are a lot more people who would like to be involved in this process.

Best,

Brian S. Ellis

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:43 PM
To: Council Clerk – Testimony
Subject: FW: Police Review Board

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Judy Herzberg [mailto:herzberg.judy@gmail.com]
Sent: Wednesday, August 03, 2016 9:21 PM
To: Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; Hales, Mayor <mayorcharliehales@portlandoregon.gov>
Subject: Police Review Board

Hello,

As a Portland citizen, I care deeply about having a strong Citizens Review Committee to see that both officers and civilians are treated fairly.

I am opposed to police review board hearings being held out of the public eye. This process should be transparent.

I am opposed to rushing to decisions, and believe that the process can be improved with more time and public input.

If the City is so concerned about being found out of compliance with the Settlement Agreement, the four members whose CommunityOversight Advisory Board appointees have resigned should fill those seats (Mayor Hales, Commissioners Saltzman, Fish, and Novick).

Sincerely,
Judy Marantz-Herzberg

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:43 PM
To: Council Clerk – Testimony
Subject: FW: Police oversight

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Lea Peace [mailto:leapeace@gmail.com]
Sent: Thursday, August 04, 2016 6:01 AM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; City Auditor, Mary Hull Caballero <AuditorHullCaballero@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>
Subject: Police oversight

I really don't like the way things are heading. The police here in Portland need to have their training completely reviewed and overhauled. It is totally inappropriate for them to be responsible for their own oversight. This is obvious to anyone not enmeshed in maintaining the status quo, which, as it is, doesn't work properly. It is dysfunctional.

Good cops know this and those who are not oppressed by their union would be able to speak up and say it.

Passionately,

--

Lea Peace

I live in Chinatown, on crack alley, in Everett Station Lofts and Galleries

ps. tonight is our annual courtyard show. Come see some art. I'll have cookies to share.

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:43 PM
To: Council Clerk – Testimony
Subject: FW: Citizen Review Committee Statement Concerning Proposed Changes to the Appeal Process
Attachments: CRC Statement.pdf

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: Auditor, CRC Mail
Sent: Thursday, August 04, 2016 7:52 AM
To: Commissioner Fish <nick@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Novick <novick@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>; Hales, Mayor <mayorcharliehales@portlandoregon.gov>; Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>
Cc: Severe, Constantin <Constantin.Severe@portlandoregon.gov>
Subject: Citizen Review Committee Statement Concerning Proposed Changes to the Appeal Process

Please see attached document.

Citizen Review Committee (CRC)
Community Oversight of Portland Police Bureau
Message: 503-823-0146
Fax: 503-823-4571
TTD: 503-823-6868
crc@portlandoregon.gov

CITIZEN REVIEW COMMITTEE

Community Oversight of Portland Police Bureau

Kristin Malone, Chair

Message: 503-823-0926

Fax: 503-823-3530

TTD: 503-823-6868

E-mail: crc@portlandoregon.gov

www.portlandoregon.gov/auditor/lpr

CRC Statement Concerning Proposed Changes to the Appeal Process

The CRC opposes the proposed changes to the appeal process because the proposal (1) decreases transparency and public access to the complaint and appeal process; (2) increases the potential for intimidation of citizen complainants and volunteers; and (3) eliminates the sole all-civilian police accountability body in the City of Portland. The CRC demands that City Council postpone the September 7 vote on the current proposal until a proposal is generated that incorporates input from the CRC, the COAB, and other stakeholders.

The proposal under consideration is poorly understood, even by its drafters, and is therefore not clear to the CRC. However, the "Consolidated Review Board" model is said to require that appeals be conducted in non-public meetings. The CRC unequivocally opposes a model that eliminates the current level of public access to appeals. Much of the same discussion and deliberation occurs in CRC and PRB meetings, but only the latter are currently held in private. The CRC supports a model that retains those features of CRC meetings that enable them to be held in public.

The "consolidated" model also provides that complainants will be able to make a statement during meetings of the consolidated board. However, they will be forced to testify in a room full of uniformed officers. The new model will also require CRC members to conduct their deliberations in the same context, and without community support. The CRC feels that this could have a chilling effect on community complaints as well as CRC criticism of bureau practices.

Moreover, the "enhanced participation" envisioned for the CRC in the consolidated model would only feature the participation of a one or two CRC members per hearing. This eliminates the rich diversity of the CRC, which has been prioritized by the city in recruitment and retention for years.

Further this proposal fails to analyze or address the problems related to the timeliness of appeals. The CRC has not seen any analysis of the factors contributing to the delays in our process. As a result, the CRC lacks confidence that use of the Consolidated Model would produce significant time savings. Of the various factors contributing to delays in the processing of appeals, the CRC's all-citizen public meetings are unfairly singled out and eliminated at the expense of public benefit. The CRC believes that better options are available to address issues related to timeliness.

The CRC is encouraged that the focus group proposed changes that would permit the committee to apply a "preponderance of the evidence" standard-of-review and to hear appeals related to officer involved shootings and in custody deaths. The CRC has been pursuing these important changes to the citizen review process for some time. However, the CRC's position is that these gains would not make up for the severe losses to the community inherent in the current proposal. Nevertheless, these changes to the CRC's standard of review and scope of authority should be incorporated to any changes to the appeal process that are seriously considered by City Council.

The timing of these changes has afforded a very limited opportunity for meaningful input from the public or the CRC, which only became aware of the current proposal on July 6, 2016. The CRC demands that more thought, analysis, and discussion be devoted to developing a model that preserves public access to citizen appeals while streamlining this process. Lastly, the intent of the CRC is to provide a forum for transparency into the City's handling of citizen complaints.

Moore-Love, Karla

From: Washington, Mustafa
Sent: Thursday, August 18, 2016 2:42 PM
To: Council Clerk – Testimony
Subject: FW: Citizen Review Board

Mustafa Washington

Constituent Services Specialist
Office Of Mayor Charlie Hales
P: 503-823-4120
mustafa.washington@portlandoregon.gov

From: william herzberg [mailto:billherzberg@gmail.com]
Sent: Thursday, August 04, 2016 4:49 PM
To: Hales, Mayor <mayorcharliehales@portlandoregon.gov>
Subject: Citizen Review Board

Dear Mayor Hales,

Transparency is the best disinfectant. Please allow some sunshine into the closed door police accountability sessions. We need more citizen review and less secrecy to assure Portland does not become corrupt. More democracy not less! Do not be bullied by the police unions.

Thank you,

William Herzberg

3527 SE Ankeny Street
Portland, OR
97214

--

William Herzberg

503 799-4841

IMPACT STATEMENT

Legislation title: Amend City Code to revise filing process, investigation and appeal provisions of complaints of police officer misconduct
Contact name: Constantin Severe
Contact phone: (503) 823-0146
Presenter name: Constantin Severe

Purpose of proposed legislation and background information:

Proposed legislation will allow the City to comply with its obligations under the Settlement Agreement with the United States Department of Justice, which Council first approved in 2012 and went into effect in August 2014. The proposed code changes seek to comply with the following provisions of Section VIII of the Settlement Agreement:

- Paragraph 121 all administrative investigations of officer misconduct must be completed with 180 days.
- Paragraph 123 the City must identify sources of delays in the officer accountability system and implement an action plan.
- Paragraph 128 IPR must have the ability to conduct meaningful independent investigations into officer misconduct.

This is the City's third significant police accountability related code change since 2010. The proposed legislation seeks to ease community member's ability to file complaints and commendations about the actions of Portland Police Bureau officers, require that IPR receive faster notification of possible officer misconduct, change investigative procedures, allow the Citizen Review Committee to meet in panels to hear community appeals of investigated complaints of misconduct, allow public comment at only general Citizen Review Committee meetings, and allow a complainant to provide a statement to the Police Review Board.

Financial and budgetary impacts:

In order to meet an anticipated increase in cases investigated or monitored by IPR, the Auditor will seek an additional 1.5 FTEs for the 2017-18 budget year.

Community impacts and community involvement:

The community impact will be city wide. The proposed legislation will streamline the existing police accountability system, provide more certainty to community complainants and officers on how a complaint will be resolved, and increase the number of complaints that are subject to administrative investigation by Internal Affairs or IPR. Additionally complaints regarding quality of service, rudeness, or other non-disciplinary complaints will be subject to investigations at the precinct level.

In the summer 2015, IPR conducted a series of community information sessions about Portland's police accountability around the City to gather community feedback regarding officer

accountability. In January 2016, the City convened a work group composed of several community members and city staff whose work significantly informed the proposed legislation.

There have been two community forums, August 1 and August 23, where the public provided testimony on the proposed legislation. Significant revisions to the Police Review Board and Citizen Review Committee to create a new review board were not incorporated into the proposed legislation due to questions raised by community members regarding the ability of the public to attend the new board's meetings.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

In E. H. H. H.

Proposed Code Change 3.21 and 3.21.140

SEPTEMBER 14, 2016

Values Reflected in Code Changes

- Community complaints are an important and direct feedback mechanism
- City needs to move towards an officer accountability system as opposed to a focus on misconduct
- In order for complaints and investigations to be useful to the involved community member and officer they must be completed in a timely manner
- Portland's officer accountability system must be fair and reflective of the values of our community
- Accountability system must be able to withstand outside scrutiny
 - As much as possible must incorporate national best practices of civilian oversight of police and internal investigations
 - NACOLE
 - IACP
 - Look to comparable agencies

How Code Change Developed

- Community Feedback
 - IPR better articulate the cases that it will investigate
- Feedback from DOJ
 - All complaints investigated
 - Lower dismissal rate
 - IPR/IA provide recommended finding
- Accountability Focus group
 - Making quality of service/rudeness complaints subject to Supervisory Investigation
 - Allowing greater flexibility in appeal review process
 - ALJ
 - Panel
 - Consolidated Review Board



Timeline of Accountability Changes

2001 IPR and CRC created

2010 Code Change

- Created Police Review Board
- Allowed IPR to Self Initiate Investigations
- IPR authorized to monitor Officer Involved Shootings/In Custody Deaths
- Recommended the Police Bureau implement a discipline guide
- IPR approval required for all PPB administrative investigations and findings

2010 Stakeholder Committee

2012 DOJ Agreement approved by Council



Accountability Timeline

2013 Code Change

- Implemented settlement agreement provisions related to CRC and PRB
- CRC expanded to 11 member
- Discipline guide required

2014 DOJ Settlement Agreement goes into effect


2014 Police Bureau Implement discipline guide

2015 Code Change

- Modifications to CRC case file review and appeal procedures



Department of Justice Settlement Agreement


- Approved by Council 2012
 - Became effective in August 2014
 - Section VIII Officer Accountability Section covers City, including
 - Police Bureau
 - IPR
 - CRC
 - Seeks to retain and strengthen the citizen and civilian employee input mechanisms that exist prior to the agreement
- 

Settlement Agreement

- Paragraph 121 - All administrative investigations of officer misconduct shall be completed within 180 days from intake to recommended chief's findings. CRC Appeals within 21 days.
- Paragraph 123 - City must identify sources of delays in the officer accountability system and implement an action plan
- Paragraph 128 - IPR must have the ability to conduct meaningful independent investigations into officer misconduct



Outstanding Issues

- IPR
 - Ability to investigate officer involved shootings (bargaining issue)
 - Compel officer testimony without utilizing internal affairs (bargaining issue)
 - CRC
 - Standard of Review
 - Increasing size of CRC
 - Removing Conference Hearing when Chief and CRC disagree
 - CRC being able to hear officer involved shootings/in custody deaths appeals(bargaining issue)
 - Consolidated Review Board
 - Tension between confidentiality of disciplinary cases versus public access
 - Lack of consensus
- 

3.21.110 (A)(1) Intake

- Community members may file complaints regarding misconduct with
 - IPR
 - Internal Affairs
 - Police Bureau
 - Mayor's Office
 - Police Bureau member
- All complaints forwarded to IPR or IA and entered into database
- All Bureau facilities that have public access will have complaint and commendation forms
- Bureau business cards will have IPR's phone number and email address

3.21.110(A)(2) Investigative Tracks

- All complaints of officer misconduct will be investigated as either
 - **Formal Administrative Investigations** conducted by either IPR or IA
 - Examples
 - Force
 - Biased Based Policing/Racial Profiling
 - Truthfulness
 - **Supervisory Investigations**
 - Minor non disciplinary complaints
 - Examples
 - Courtesy/Rudeness issues
 - Quality of services provided community member

3.21.110 Improved Notification

- Requirement that IPR Director is notified when Assistant Chief of Investigations, Captain of PSD, or Police Commissioner's staff become aware of officer behavior that is subject to criminal/administrative investigation
- Ability of IPR to request that Police Bureau open a deadly force investigation in situation where IPR believes that the Bureau member used force capable of causing death or serious physical injury.
- Police Bureau must forward to IPR any force related after action report where it is believed the member's actions were out of policy

Recommended Findings

- Investigative entity (IPR or IA) will complete investigations with recommended findings attached
 - Change from current practice where PPB commanding officer completes a recommended finding
 - Ultimate decision would still rest with Chief/ Police Commissioner
 - Brings Portland into the best practice of investigative unit making recommendation
 - Seattle
 - Albuquerque
 - Atlanta
 - San Francisco
 - Honolulu
- Additional work at the Directives/IPR Protocols level needed to provide template for recommended findings that would allow for a consistent.
- IPR/IA currently have the ability to approve recommended findings and when there is a disagreement write their own recommended findings

Recommended Findings

- At IPR the recommend findings would be written by IPR supervisors who are all attorneys and have significant criminal or administrative law experience prior to their time with the City
- Joint IA/IPR training for completing recommended findings that are objective and fair.



3.21 Citizen Review Committee Appeals

- Panels of three members of CRC would be allowed to hear appeals
 - Would allow multiple appeal hearings a month without overextending members
 - Address current case backlog
 - Appealed filed today would be heard in July 2017
- Public Comment would be reserved for non appeal CRC Meetings

3.21.140 Police Review Board

- All complainants will have an opportunity to be present at a board session and provide a statement.



3.20.140 Police Review Board.

(Replaced by Ordinance No. 183657; Amended by Ordinance Nos. 183995 and 186416, effective February 7, 2014.)

- A.** Purpose. The Police Review Board (“Board”) is an advisory body to the Chief of Police (“Chief”). The Review Board will make recommendations as to findings and proposed officer discipline to the Chief of Police.

- B.** Powers of the Board:
 - 1.** Review incidents and investigations. The Board shall review incidents and investigated complaints of alleged misconduct by non-probationary sworn officers (“officers”) who are employed by the Portland Police Bureau (“Bureau”) in the following cases:
 - a.** The supervising Assistant Chief, the Director of the Independent Police Review Division of the Auditor (“IPR”) or the Captain of the Internal Affairs Division of the Bureau (“IAD”) controverts the findings or proposed discipline of the Reporting Unit (“RU”) manager pursuant to Code Section 3.21.120.
 - b.** Investigations resulting in a recommended sustained finding and the recommended discipline is suspension without pay or greater.
 - c.** The following incidents involving use of force:
 - (1)** All officer involved shootings.
 - (2)** Physical injury caused by an officer that requires hospitalization.
 - (3)** All in custody deaths.
 - (4)** Less lethal incidents where the recommended finding is “out of policy”.
 - d.** All investigations regarding alleged violations of Human Resources Administrative Rules regarding complaints of discrimination resulting in a recommended sustained finding.
 - e.** Discretionary cases referred by the Chief, Branch Chief, or the IPR Director.
 - 2.** Probationary sworn officers. The Board shall review incidents and investigated complaints of alleged misconduct by Portland Police Bureau probationary officers when referred by the Chief, Branch Chief or the IPR

Director. However, nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section.

3. Recommendations to Chief. The Board shall make recommendations to the Chief regarding findings and discipline. The Board may make recommendations regarding the adequacy and completeness of an investigation. The Board may also make policy or training recommendations to the Chief. The Board shall make recommendations as to discipline based on discipline guidelines. The guidelines shall be developed by the Bureau in consultation with IPR
4. On September 1, 2010, the Board shall replace the Use of Force and Performance Review Boards set forth in the Bureau's 2009 Manual of Policy and Procedure. Before September 1, 2010, the Use of Force and Performance Review Board shall review incidents and investigated cases pursuant to the existing Bureau directives.

C. Composition of Board

1. The Board shall be composed of five voting members and eight advisory members. All Board members will be advised of every case presented to the Board. A quorum of four Voting Members, including the Citizen member and the RU Manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
 - a. Voting members
 - (1) One citizen member from a pool of citizen volunteers recommended by the Auditor and confirmed by the City Council.
 - (a) Citizens shall be appointed for a term of no more than three years. Citizens may serve two full terms plus the remainder of any unexpired vacancy they may be appointed to fill.
 - (b) All citizen members must meet at least the following qualifications to participate on the PRB:
 - (i) Pass a background check performed by the Bureau.
 - (ii) Participate in Bureau training to become familiar with police training and policies.

- (iii) Sign a confidentiality agreement.
 - (iv) Participate in ride alongs to maintain sufficient knowledge of police patrol procedures.
- (c) The Chief or the City Auditor may recommend that City Council remove a citizen member from the pool for the following reasons:
- (i) Failure to attend training
 - (ii) Failure to read case files
 - (iii) Objective demonstration of disrespectful or unprofessional conduct
 - (iv) Repeated and excessive unavailability for service when requested.
 - (v) Breach of confidentiality
 - (vi) Objective demonstration of bias for or against the police
 - (vii) Objective demonstration of conflict of interest
- (2) One peer member of the same rank/classification as the involved officer; peer member will be selected from a pool of Bureau representatives pre-approved by the Chief.
- (3) The Assistant Branch Chief who is the supervisor of the involved officer.
- (4) The Director of IPR (or designee).
- (5) A Commander or Captain who is the supervisor of the involved officer (RU Manager).
- b. Advisory members
- (1) The Office of Accountability and Professional Standards manager.
 - (2) Representative from Bureau of Human Resources.

- (3) Representative from City Attorney's Office.
 - (4) The Internal Affairs Division Manager.
 - (5) Review Board Coordinator.
 - (6) Representative of Commissioner in Charge of the Bureau ("Commissioner in Charge").
 - (7) Representative of the Training Division.
 - (8) The Assistant Chief(s) that are not the supervisor of the involved member.
- c. Representatives/Individuals that may also be present during the presentation of the case include:
- (1) Bargaining Units
 - (2) Involved Member
 - (3) Complainant. Any person (including a Bureau employee) has initiated a complaint of possible misconduct heard by the Board will have an opportunity to be present and provide a statement. A complainant may be accompanied by a representative.

2. However, when the incident to be reviewed by the board involves the following use of force incidents, one additional citizen member drawn on a rotating basis from the pool of current Citizen Review Committee members, as those members are described in Code Section 3.21.080, and one additional peer member shall serve on the Board, for a total of seven voting members. A quorum of six voting members, including two citizen members, and the RU manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
- a. All officer involved shootings.
 - b. Physical injury caused by an officer that requires hospitalization.
 - c. All in custody deaths.
 - d. Less lethal incidents where the recommended finding is "out of policy".

3. Citizen Review Committee members serving on the Board shall be subject to the same qualification and removal standards as other citizen members of the Board.
4. A Citizen Review Committee member who participates in a Board review of an incident cannot participate in a later appeal to the Committee of the same allegation(s).
5. Removal from participation on the Board shall not affect Citizen Review Committee membership.

D. Access to information

1. All members of the Board shall have access to necessary and relevant documents and an equal opportunity to participate in Board deliberations.
 - a. The Bureau and IPR shall develop a Bureau Directive establishing confidentiality provisions and distribution timeline provisions of Board materials.
2. ~~The RU manager or designee will provide a written recommendation of the findings, reasoning for the recommendation and disposition recommendation.~~ The investigative entity that prepares the findings for a case that goes before the Board, whether it is IAD, other designated PPB division, or IPR, will provide the Board with a written recommendation of its findings, reasoning for the recommendation and, for recommended sustained findings, a recommended category level on the Bureau's discipline guide.

E. Board Facilitator

1. The Board shall be facilitated by a person who is not employed by the Bureau and who is not a member of the Board.
 - a. The Bureau and IPR shall develop a Bureau Directive establishing selection criteria and confidentiality provisions for the Facilitator(s).
 - b. The voting members of the Board shall schedule a meeting to recommend a pool of facilitators based the Bureau Directive for approval of the Commissioner in Charge in accordance with City contract rules.
2. The Board facilitator shall write the statement of recommended findings and discipline and a summary of any training and/or investigation issues or

concerns on behalf of the Board and submit the statement to the Chief within two weeks of the Board meeting date.

F. Board Recommendations

1. The Board shall prepare a statement of its recommended findings and proposed discipline, if any, in every case for submission to the Chief. Such statement shall include:
 - a. The Board's recommended findings and a brief explanation of the Board's rationale for its recommendation, and a record of the Board's vote.
 - b. In the event that the Board is not unanimous, the statement shall contain a portion detailing the minority's recommendation.
2. The Board facilitator shall write the Board's statement of recommended findings and proposed discipline and a summary of any policy training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief.
 - a. IPR and the Bureau will develop a Bureau Directive setting forth the timeliness provisions of the statement.

G. Appeal of Board Recommendation.

1. As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the complainant or involved officer may have the opportunity to appeal the recommended findings to the Citizen Review Committee.
2. Until the appeal period allowed by Code Chapter 3.21 has expired, and if an appeal is filed, until there is a final decision by the Citizen Review Committee or Council, the Chief may not issue proposed discipline or make recommendations to the Commissioner in Charge.
3. The Director of IPR, the Chief of Police, or Commissioner in Charge may request an expedited hearing by the Citizen Review Committee of an appeal when deemed necessary due to the nature of the underlying complaint.

H. Action by Chief of Police and Commissioner in Charge. After receiving the Board's statement described above and after the appeal period allowed by Code Chapter 3.21 has expired, or if an appeal is filed, after the Chief receives the Citizen Review Committee or the Council's recommendation in accordance with Code Chapter 3.21:

1. In the following cases, the Chief shall make a recommendation regarding the appropriate findings and level of discipline to the Commissioner in Charge:
 - a. Investigations resulting in a sustained finding and the proposed discipline is suspension without pay or greater.
 - b. The following incidents involving use of force:
 - (1) All officer involved shootings.
 - (2) Physical injury caused by an officer that requires hospitalization.
 - (3) All in custody deaths.
 - (4) Less lethal incidents where the recommended finding "out of policy".
 2. In the cases described in Subsection 1 above, the Commissioner in Charge shall make the final decision on findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
 3. In all other cases, unless the Commissioner in Charge exercises authority over the case, the Chief shall make the final decision on proposed findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
 4. In all cases where the Chief's and Police Commissioner's final discipline is outside of the range recommended by the discipline guide, the Chief and Police Commissioner shall provide an explanation in the final discipline letter of the reason or reasons for imposing discipline outside of the recommended range. The Chief and Police Commissioner shall not be required to disclose information that is confidential or otherwise protected against disclosure. The cumulative report of discipline imposed outside of the recommended range shall be included in the PPB semi-annual report.
- I. Public reports. As often as deemed necessary by the Board, but at least twice each calendar year, the Board shall publish public reports summarizing its statements of findings and a summary of any training and/or investigation issues or concerns. Except as provided otherwise in this Subsection, the reports shall keep confidential and not include involved officers' names, the names of witnesses, or the name of any complainants. The reports shall be written by the Board facilitator. The reports

may not be released before a final decision, including discipline if any, is made by the Chief or Commissioner in Charge.

1. The public reports shall include the following for each case brought before the Board:
 - a. Allegation(s) heard by the Board.
 - b. A factual summary of the case.
 - c. Summary of the Board's discussion.
 - d. Record of the Board's vote, including recommended findings and discipline.
 - e. Training and policy recommendations, including whether the recommendations were accepted by the Chief.
 - f. The final decision of the Chief or Commissioner in Charge.
2. The public reports shall include the names of involved officers and witnesses in cases of officer involved shootings or in custody deaths where the names of such persons have previously been publicly released in connection with the incident, unless confidentiality or non-disclosure is required by statute, a court order, an administrative order, or a collective bargaining agreement. Where the names have not been previously released, the report may include the names if the public interest requires disclosure or if nondisclosure would undermine the public's confidence.

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

(Chapter replaced by Ordinance No. 175652,
effective July 1, 2001.)

Sections:

- 3.21.010 Purpose.
- 3.21.020 Definitions.
- 3.21.030 Independent Police Review ~~Division~~.
- 3.21.040 Director Selection.
- 3.21.050 Staff and Delegation.
- 3.21.060 Office Facilities and Administration.
- 3.21.070 Powers and Duties of IPR.
- 3.21.080 Citizen Review Committee.
- 3.21.090 Powers and Duties of the Committee.
- 3.21.100 Council Role.
- 3.21.110 Intake.
- 3.21.120 Handling Complaints.
- 3.21.130 Communications.
- 3.21.140 Filing Requests for Review.
- 3.21.150 Case File Review.
- 3.21.160 Hearing Appeals.
- 3.21.170 Monitoring and Reporting.
- 3.21.180 Increasing Public Access.
- 3.21.190 Response of Chief.
- 3.21.200 Limitation on Power.
- 3.21.210 Subpoenas.
- 3.21.220 Bureau Witnesses.

3.21.010 Purpose.

The City hereby establishes an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to act on complaints against Police Bureau personnel for alleged misconduct, and recommend appropriate changes of Police Bureau policies and procedures toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of community policing services. This office shall be known as the Independent Police Review ~~Division~~.

3.21.020 Definitions.

(Amended by Ordinance Nos. 176317, 183657 and 186416, effective February 7, 2014.)
In this Chapter:

- A. "Appellant" means either:

1. A person who has filed a complaint with IPR and subsequently requested review of the investigation or
 2. A member about whom a complaint has been filed with IPR and who has subsequently requested review by the Committee of the investigation.
- B.** "Bureau" means the Bureau of Police of the City of Portland, Oregon.
- C.** "Chief" means the Chief of the Bureau.
- D.** "Citizen" or "community member" means any person who is not an employee of the Bureau.
- E.** "Commissioner In Charge" means the Commissioner In Charge of the Bureau.
- F.** "Committee" means the Citizen Review Committee, which is appointed by City Council members to assist IPR in the performance of its duties and responsibilities pursuant to this Chapter. Includes when at least three members of the Committee hear an appeal as a Committee panel.
- G.** "Complaint" means a complaint by a citizen, the Director, a member or other employee of the Bureau of alleged member misconduct.
- H.** "Complainant" means any person who files a complaint against a member of the Portland Bureau.
- I.** "Director" means the director of the Independent Police Review ~~Division~~ or the Director's designee.
- J.** "Finding" means a conclusion reached after investigation as to whether facts show a violation of Bureau policy.
- K.** "Early Warning System" means the Bureau's method of identifying officers exhibiting a pattern of behavior that signals potential problems for both the Bureau and public, as explained in General Order 345.00.
- L.** "IAD" means the Internal Affairs Division of the Bureau, whose responsibilities and procedures are described in Section 330.00 of the Manual of Rules and Procedures of the Bureau, as amended from time to time.
- M.** "IPR Investigator" means an investigator of the Independent Police Review ~~Division~~.
- N.** "IPR" means the Independent Police Review ~~Division~~.

- O. "Member" means a sworn employee of the Bureau or a supervisor of sworn employees. An "involved" member is a member about whom a complaint has been submitted to IPR or the Bureau.
- P. "Misconduct" means conduct by a member which conduct violates Bureau regulations or orders, or other standards of conduct required of City employees.
- Q. "Request for Review" means a request by an appellant that the Committee review an IAD or IPR investigation of alleged member misconduct.
- R. "RU (Responsibility Unit) Manager" means a commanding officer or manager of a Bureau division, unit or precinct.
- S. "Supported by the Evidence." A finding regarding a complaint is supported by the evidence when a reasonable person could make the finding in light of the evidence, whether or not the reviewing body agrees with the finding.
- T. "Police Review Board" means the board established by Code Section 3.20.140.
- U. "Policy-related issue" means a topic pertaining to the Police Bureau's hiring and training practices, the Manual of Policies and Procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct.

3.21.030 Independent Police Review ~~Division~~.

There is established by the City Council the Independent Police Review ~~Division~~, a division within the Auditor's Office.

3.21.040 Director Selection.

(Amended by Ordinance No. 186416, effective February 7, 2014.) The City Auditor shall select the Director of IPR in accordance with any applicable civil service regulations and other laws. The Director shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of administration, and public policy, and shall have a working knowledge in criminal justice commensurate to the powers and duties of the office.

3.21.050 Staff and Delegation.

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A. The Director may appoint other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the IPR.
- B. The Director may delegate to a designee any or all duties or responsibilities.

3.21.060 Office Facilities and Administration.

- A. The City shall provide suitable office facilities for the Director and staff in a location convenient for the public but separate from the Bureau.
- B. The IPR office shall be located within the City Auditor's office, and be accountable to the City Auditor. The Director shall comply with City purchasing procedures but shall have sole discretion in choosing consultants to assist with investigations.

3.21.070 Powers and Duties of IPR.

(Amended by Ordinance Nos. 176317, 183657, 185076 and 186416, effective February 7, 2014.) The Director's powers and duties are the following:

- A. Intake. IPR shall receive complaints and select the appropriate manner to address the complaint.
- B. Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type as well as frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- C. Access to Police data and data sources. IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- D. Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations. IPR is authorized to identify complaints or incidents involving members that are of community concern which merit additional involvement of the Director and to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigations in conjunction with or independent of the Bureau. The Bureau shall notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation. IPR will conduct these investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.
- E. Compel review. In accordance with the procedures of Code Section 3.20.140, the Director may compel review by the Police Review Board of any recommended findings of or recommendation for discipline by an RU Manager or Commanding

Officer resulting from a Bureau or IPR administrative investigation of a member. The Director may compel review by the Police Review Board on the basis of recommended discipline whether or not discipline was recommended as a result of the investigation.

- F.** Communicate with Complainants. IPR will be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Member.
- G.** Arrange hearings of appeals. IPR will explain the appeal options to complainants and schedule hearings before the Committee and Council.
- H.** Recommend policy changes. IPR will evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems. Policy change recommendations shall be published for public review.
- I.** Outreach. IPR will widely distribute complaint forms in languages and formats accessible to citizens, educate them on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.
- J.** Access to records. Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law, and police databases, subject to any applicable state or federal laws. The Director shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Director shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- K.** Adoption of rules. IPR shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Director's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Director may not levy any fees for the submission or investigation of complaints.
- L.** Review of closed investigations. IPR shall hire a qualified person to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis. IPR shall issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The Director and the Citizen Review Committee shall address any policy-related or quality of investigation issues that would warrant further review.
- M.** Additional public reports. The Director may issue public reports related to member misconduct trends and Bureau disciplinary practices. Conduct investigative interviews of Bureau employees.

- N. Conduct investigative interviews of Bureau employees.
- O. All Bureau employees shall be truthful, professional and courteous in all interactions with IPR. No member shall conceal, impede or interfere with the filing, investigation or adjudication of a complaint.
- P. The Auditor may work through the City Attorney's Office to hire outside counsel when the Auditor and City Attorney agree that outside legal advice is necessary and advisable.

3.21.080 Citizen Review Committee.

(Amended by Ordinance Nos. 177688, 185076 and 186416, effective February 7, 2014.)

- A. The Committee shall consist of eleven citizens. Five members shall constitute a quorum of the Committee for meetings of the full Committee. For a case file review or hearing an appeal, the quorum shall be set at three members. Decisions shall be made by a majority of Committee members present and constituting a quorum. However, adoption or amendment of rules of procedures or protocols requires an affirmative vote of six members. The Committee members shall be appointed as follows:
 - 1. The Director shall solicit applications from the Office of Neighborhood Involvement, the seven Neighborhood Coalition offices, Mayor and commissioners' offices, PPB advisory committees, and the general public.
 - 2. The City Auditor shall appoint a committee that shall recommend to the Auditor the appropriate number of nominees to fill impending vacancies. The selection committee shall consist of three CRC representatives, either past or not applying for reappointment, two members of the community, and the Director. Three of the selection committee members, including one CRC representative and the Director, shall serve as the interview panel.
 - 3. Selection criteria shall include a record of community involvement, passing a criminal background check performed by an agency other than the Bureau, and absence of any real or perceived conflict of interest. The selection committee will nominate individuals who are neutral, unbiased, and capable of making objective decisions. The Mayor and commissioners may each submit an applicant meeting these qualifications.
 - 4. The Auditor shall recommend nominees to Council for appointment.
 - 5. In the event a majority of the Council fails to appoint a person nominated under the provisions of City Code Section 3.21.080 the Auditor shall initiate the process again within 30 days after the Council action.

6. In selecting Committee members, consideration shall be given to the current composition of the Committee and appointments should be made that will cause the group to best reflect the demographic make-up of the community.

B. The Committee members shall:

1. Participate in orientation and training activities that may include review of Bureau and IPR procedures, participation in Bureau training to become familiar with police training, policies and investigative practices, including Police Review Board process, participate in ride-alongs with officers, to maintain sufficient knowledge of police patrol procedures.
2. Each serve a term of three years, subject to reappointment by Council. Upon expiration of the term, a committee member shall serve until re-appointed or replaced.
3. Attend committee meetings or provide an explanation in advance for an absence.
4. Serve staggered terms to better ensure continuity. Four members of the Committee shall be appointed to one year terms in July 2001.
5. Select a chair from among their members. Adopt such operating policies and procedures as necessary to carry out their duties.
6. Sign a confidentiality statement.
7. Serve on the Police Review Board when the Board reviews use of force cases as defined in Chapter 3.20. Committee members shall serve on the Police Review Board on a rotating basis for no more than two terms of three years.

C. The Committee is authorized to conduct case file reviews or appeals as either a panel or as a full Committee.

3.21.090 Powers and Duties of the Committee.

(Amended by Ordinance Nos. 177688 and 185076, effective December 14, 2011.)

A. The Committee's duties and powers are the following:

1. Conduct meetings. To schedule and conduct at least four meetings per year for the purpose of exercising the authority delegated to it in this chapter. Quarterly meetings and hearings conducted pursuant to the Chapter shall be subject to the Oregon Public Meetings Law, ORS 192.610 through 192.710. The number of Committee members required for a quorum shall be five.

2. Gather community concerns. To participate in various community meetings to hear concerns about police services.
3. Recommend policy changes. To evaluate complaint, investigative practices, and other information to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems.
4. Advise on operations. To review methods for handling complaints and advise on criteria for dismissal, mediation, and investigation.
5. Hear appeals. To hold hearings of complainant or member appeals as defined in City Code Section 3.21.160; to recommend referral to a final hearing before Council; to publicly report its findings, conclusions and recommendations.
6. Outreach to public. To advise and assist the Director to disseminate information about IPR and Committee activities to organizations in the community; to present reports to Council.
7. Create other committees. To create special purpose subcommittees or committees including other citizens to address particular short-term issues and needs.

3.21.100 Council Role.

- A. Council shall review applications of nominees to the Committee and vote whether to approve each appointment.
- B. Council shall hear final appeals as specified in 3.21.160.

3.21.110 Intake.

(Amended by Ordinance Nos. 179162 and 186416, effective February 7, 2014.)

- A. The Director shall receive complaints from any source concerning alleged member misconduct. The Director shall make reasonable accommodation when complainants cannot file their complaint at the IPR office. All allegations of use of excessive force shall be subject to a full and completed investigation resulting in findings, unless there is clear and convincing evidence to IPR that the allegation has no basis in fact.
 1. A community member may file a complaint regarding alleged member misconduct with IPR, Internal Affairs, Police Bureau Precinct, the Mayor's Office, or with any Bureau member.

- a. All complaints regardless of intake point will be forwarded to IPR or Internal Affairs and entered into the Administrative Investigation Management database.
 - b. All Bureau facilities will have complaint and commendation forms available in areas accessible to the public.
 - c. All Bureau issued business cards intended to be given to community members during calls for service will have IPR's phone number and email address printed in a prominent location.
2. All complaints of alleged member misconduct will be investigated as either:
- a. Formal administrative investigations conducted by either Internal Affairs or IPR.
 - b. Supervisory investigations conducted by a supervisor assigned to the same responsibility unit as the involved member.
 - (1) Supervisory investigations will only be used for non-disciplinary complaints, such as those related to quality of service or minor rule violations.
 - (2) All supervisory investigations will include a recommended disposition.
3. The Director will be notified immediately by either the Assistant Chief of Investigations, Captain of the Professional Standards Division, or a member of the Police Commissioner's staff upon their knowledge that a member has engaged in conduct that may be subject to criminal and/or administrative investigation.
4. IPR may request that the Bureau open a deadly force investigation into any incident where IPR believes the physical force used by a member was such that it was readily capable of causing death or serious physical injury.
5. The Bureau will forward to IPR any force related after action report where a Bureau supervisor or the Force Inspector believes the force used was out of policy.
- B.** The Director shall develop procedures for handling complaints and appeals involving matters currently in litigation or where a notice of tort claim has been filed. The Director shall not initiate a case where a grievance or other appeal has been filed under a collective bargaining agreement or City personnel rules; or with respect to employee or applicant discrimination complaints.

- C. The Director, when requested, shall protect the confidentiality of complainants, members or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Director to carry out his or her duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. When considering a request for public records, the Director shall consult with appropriate Bureau personnel and obtain approval from the Bureau prior to disclosure of records under the Oregon Public Records Law.

3.21.120 Handling Complaints.

(Amended by Ordinance Nos. 179162, 183657 and 186416, effective February 7, 2014.)

To ensure appropriateness and consistency in handling complaints the Director shall work with the Committee to establish procedures for taking action based upon the characteristics of the complaint.

- A. Mediation. The complainant, the Member who is the subject of the complaint, and Bureau administration must all agree before mediation can be conducted. A complaint that undergoes mediation shall not be investigated. A mediation may be suspended if, in the opinion of the mediator, there is no reasonable likelihood of reaching resolution.
- B. Complaint Types:
 - 1. Complaint Type I: IPR is the intake point for complaints from community members and others regarding the conduct of members during an encounter involving a community member. Type I complaints involve alleged misconduct of a member during an encounter involving a community member.
 - 2. Complaint Type II: A complaint about alleged member misconduct that does not occur during an encounter involving a community member is a Type II complaint. Such a complaint may be initiated by another Bureau employee or supervisor, or may be based on information obtained from another law enforcement agency, an employee of governmental agency acting in an official capacity or a community member. These complaints may be filed with the Bureau or with IPR.
 - 3. Complaint Type III: A complaint may be initiated by the Director at the discretion of the Director that an administrative investigation is warranted. IPR can initiate a complaint whether or not the alleged misconduct occurred during an encounter involving a community member and is not dependent on a community or Bureau member filing a complaint.

- a. IPR will initiate and conduct administrative investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.
 - b. If a criminal investigation has been initiated against the involved member, or during the course of an IPR administrative investigation a basis for conducting a criminal investigation arises, IPR shall advise the City Attorney and/or District Attorney prior to initiating or continuing an administrative investigation. IPR shall take all steps necessary to meet constitutional requirements and comply with existing provisions of City labor agreements.
- 4. Complaint Type IV: When Bureau supervisors generate complaints about poor member performance or other work rule violations. RU managers are responsible for intake and investigation of allegations of Type IV cases.
 - 5. For all complaint types, the Bureau shall notify IPR prior to the termination of any administrative investigation that has not been assigned for recommended findings.

C. Initial Handling and Investigation of Type I Complaints

- 1. Once IPR receives a Type I complaint regarding alleged misconduct of a member during an encounter involving a community member, IPR will:
 - a. Gather information about the complaint through an intake interview;
 - b. Assign an IPR/IAD Case Number;
 - c. Make a case handling decision; and
 - d. Send a letter to the complainant summarizing the complaint and the Director's case handling decision.
- 2. If IPR determines an investigation is appropriate, IPR will identify the complainant's allegations and either:
 - a. Recommend that the Bureau/IAD conduct an investigation

IPR shall gather information from the complainant and forward it to the Bureau/IAD. IPR shall monitor the on-going Bureau investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD the Director shall notify the IAD Commander of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and

other investigative activities to ensure that IPR personnel can attend and participate.

IPR personnel shall have an opportunity to review and comment on draft reports, including recommended findings, regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation cannot be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

b. IPR may conduct an independent investigation.

The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member.

IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. The Director shall notify the IAD commander that IPR has undertaken an investigation and the reason. To facilitate review, IPR shall tape record all interviews with witnesses, including members of the Bureau, conducted during an investigation and shall make those tapes, or accurate copies, available during a review of an investigation.

The Director shall provide the IAD commander and the Police Chief with a report on the investigation, including recommended findings and, for recommended sustained findings, a recommended category level on the Bureau's Discipline Guide. ~~and present the~~ The IPR investigation will be forwarded to the RU manager for preparation ~~of findings and~~ of proposed discipline. At the completion of the investigation and any appeal process the records of the investigation shall be transferred to the IAD offices for retention.

3. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the

City or another agency that would be more appropriate to address the complaint.

4. Dismissal. ~~If After an initial investigation, IPR may declines to take further action on the a complaint. If IPR declines a complaint,~~ IPR will send a dismissal letter to the complainant. IPR will also notify the involved officer(s) and ~~involved- their~~ commanding officer within 30 calendar days of the dismissal. The Director may dismiss the complaint for the following reasons:

- a. ~~the complainant could reasonably be expected to use, or is using, another remedy or channel or tort claim for the grievance stated in the complaint; IPR was unable to identify the involved member.~~
- b. the complainant delayed too long in filing the complaint to justify present examination;
- c. even if all aspects of the complaint were true, no act of misconduct would have occurred;
- d. ~~the complaint is trivial, frivolous or not made in good faith;~~
- e. ~~other complaints must take precedence due to limited public resources;~~
- f.d the complainant withdraws the complaint or fails to complete necessary ~~complaint~~ steps to continue.
- g. ~~it is more likely than not that additional investigation would not lead to a conclusion that the officer engaged in misconduct.~~
- h.e. lack of jurisdiction.

D. Initial Handling and Investigation of Type II Complaints

1. If a Type II complaint is filed with IPR, IPR will gather information about the complaint and make a case handling decision. When appropriate, IPR will assign an IPR/IAD case number. Before disposing of a complaint of alleged misconduct or initiating an investigation, IPR shall notify the Bureau in writing how it intends to process the complaint and whether it intends to refer the case to the Bureau/IAD to conduct an investigation or conduct an independent investigation as set forth below. IPR will make an entry regarding the allegations in the Administrative Investigation Management (AIM) or other appropriate database which can be reviewed by the Director.

2. If a Type II complaint is filed within the Bureau, Bureau/IAD staff will create an intake worksheet and assign an IPR/IAD case number for use by IAD. Before disposing of a complaint of alleged misconduct or initiating an investigation, the Bureau/IAD shall notify the Director in writing how it intends to process each complaint and whether it intends to conduct an internal investigation. In addition, the Bureau/IAD will make an entry regarding the allegations in the Administrative Investigation Management (AIM) database or other appropriate database which can be reviewed by the Director.

3. Bureau/IAD Investigation. If the Type II complaint is filed with IPR, IPR shall gather information from the complainant and forward it to the Bureau/IAD. IPR shall monitor the on-going investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD, the Director shall notify the Bureau/IAD Commander of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.
IPR personnel shall have an opportunity to review and comment on draft reports and recommended findings regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete.
To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.
In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

4. IPR independent investigation. The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member. IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. The Director shall notify the Bureau/IAD commander that IPR has undertaken an investigation and the reason.
To facilitate review, IPR shall tape record all interviews with witnesses, including members of the Bureau, conducted during an investigation and shall make those tapes, or accurate copies, available during a review of an investigation.

The Director shall provide the IAD commander and the Police Chief with a report on the investigation, with recommended findings and present the and, for recommended sustained findings, a recommended category level on the Bureau's Discipline Guide. IPR investigation will be forwarded to the RU manager for ~~preparation of findings and proposed~~ recommended discipline. At the completion of the investigation the records of the investigation shall be transferred to the IAD offices for retention.

5. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.

E. Initial Handling and Investigation of Type III Complaints

Upon opening a Type III IPR initiated complaint investigation. IPR staff will create an intake worksheet and assign an IPR/IAD case number. If a Type III case involves alleged member misconduct during an encounter involving a community member, the case will be handled following the same procedures as a Type I complaint. If a Type III case involves alleged member misconduct that does not occur during an encounter involving a community member, the case will be handled following the same procedures as a Type II complaint.

F. Initial Handling and Investigation of Type IV Complaints

RU managers are responsible for intake and investigation of allegations of Type IV cases. The RU manager will provide the Director a summary of the complaint and a summary of any subsequent investigation of a sworn member. The Director may refer the matter to IAD for further investigation, conduct additional investigation, or controvert the RU manager's recommendations and compel review by the Police Review Board after receiving the completed investigation.

G. Type I, II, III & IV Post-Investigative Case Handling Procedures:

1. Adequacy of investigation. When an investigation of any type of complaint is conducted by IAD or other designated PPB division, after the investigation, including recommended findings, is complete, IAD will provide the Director with a copy of and provide unrestricted access to the entire investigation file. Upon review of the file, the Director or designee must determine whether or not the investigation is adequate, considering such factors as thoroughness, lack of bias, objectivity, and completeness. If the Director determines that the investigation is not adequate, the investigation shall be returned to the IAD or other designated division within the Bureau explaining the determination and providing direction. Such direction shall include, but not limited to, rewriting portions of the summary, gathering additional evidence, conducting additional interviews, or re-interviewing officers or civilians. The investigation can not be closed

~~or sent to the RU manager without IPR's determination that the investigation is complete. Upon receipt of IPR's determination that the investigation is complete, IAD shall send the investigation to the appropriate RU Manager.~~

2. ~~Submission of recommended findings or proposed discipline. The RU manager will review the investigation for any type of complaint when the investigation is conducted by IAD, other designated PPB division or IPR and submit recommended findings and proposed discipline to the supervising Assistant Chief. The supervising Assistant Chief will circulate the recommended findings and proposed discipline to the Director and the Captain of IAD. After receipt of the recommended findings and proposed discipline, the supervising Assistant Chief, the Director or the Captain of IAD may controvert the RU Manager's recommended findings and/or proposed discipline. The investigative entity whether it is IAD, other designated PPB division, or IPR, will submit recommended findings along with its completed investigation, and, for recommended sustained findings, a recommended category level on the Bureau's Discipline Guide. If there is no recommended sustained finding, the investigation, including findings, will be forwarded to the RU manager for their review. For every administrative investigation of a member, the completed investigation, recommended findings, and/or proposed discipline will be reviewed by the RU manager, Director, Captain of Professional Standards Division, and the supervising Assistant Chief who may controvert the recommended findings and/or discipline.~~
3. Police Review Board meeting. If the recommended findings and/or proposed discipline are controverted, the Bureau shall schedule a Police Review Board meeting on the complaint. As specified in Code Section 3.20.140, the Police Review Board shall also hold a meeting for review of a case if it involves an officer-involved shooting, physical injury caused by an officer that requires hospitalization, an in-custody death, a less lethal incident where the recommended finding is "out of policy" or if the investigation resulted in a recommended sustained finding and the proposed discipline is suspension without pay or greater.
 - a. No IPR staff member who has participated in an investigation or in the writing of recommended findings will serve as IPR's voting representative at a Board meeting.
4. Notification and Appeals of Type I and III complaints without Police Review Board meeting. In Type I cases, and Type III cases where the alleged misconduct occurred during an encounter involving a community member, if the recommended findings are not sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant

explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. IPR will notify the complainant that they have a right to request a review of the Bureau's recommended findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the disposition of the complaint. The Bureau will notify the involved member of the right to request a review of the recommended findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.

5. Notification and Appeals of Type I and III complaints after Police Review Board hearing. In Type I cases and Type III cases where the alleged misconduct occurred during an encounter with a community member and the recommended findings are sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. IPR will notify the complainant that they have a right to request a review of the recommended findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the proposed findings of the Police Review Board. The Bureau will notify the involved member of the right to request a review of the recommended findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.
6. No appeal of Type II and certain Type III complaints. In Type II cases and Type III cases that involve alleged member misconduct that does not occur during an encounter involving a community member, the recommended findings may not be appealed to the Committee.
7. Nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this Section.
8. The Police Commissioner and the City Auditor shall be notified and provided with explanatory information in all cases where an administrative investigation exceeds 129 days, and the information posted on the City's website.

3.21.130 Communications.

The IPR shall ensure that the complainant and member complained about are informed of the progress and status of the complaint or appeal. Communication may be accomplished orally or by first class mail.

3.21.140 Filing of requests for review.

(Amended by Ordinance Nos. 183657 and 187136, effective June 19, 2015.)

- A. Any complainant or member who is dissatisfied with an investigation of alleged member misconduct that occurred during an encounter with a community member may request a review.
- B. The request for review must be filed within 14 calendar days of the complainant or member receiving IPR's notification regarding disposition of the case. The Director may adopt rules for permitting late filings. When good cause has been established, the Director may accept late filings. Good cause includes, but is not limited to:
 - 1. Appellant has limited English language proficiency.
 - 2. Appellant has physical, mental or educational issues that contributed to an untimely request for review.
- C. A request for review must be filed in writing personally, by mail or email with the IPR Office, or through other arrangements approved by the Director.
- D. The request for review shall include:
 - 1. The name, address, and telephone number of the appellant;
 - 2. The approximate date the complaint was filed (if known);
 - 3. The substance of the complaint;
 - 4. The reason or reasons the appellant is dissatisfied with the investigation.
- E. The complainant or member may withdraw the request for review at any time.

3.21.150 Case File Review.

(Replaced by Ordinance No. 187136, effective June 19, 2015.)

- A. When the Director receives and accepts a timely request for review, a Case File Review and Appeal Hearing shall be scheduled before the Committee or a Committee panel. The Director will notify the CRC Executive Committee upon receipt of a request of review. The Case File Review shall take place prior to the Appeal Hearing either on the same day or on an earlier date.

- B. The Case File Review will be an opportunity for the Committee to assess the completeness and readiness of the investigation for an Appeal Hearing. Case File Reviews shall not be subject to public comment. Such comment shall be reserved for Committee meetings intended to hear general concerns about police services or to address particular short-term issues and needs.
- C. During either the Case File Review or Appeal Hearing, the Committee may direct, by majority vote, additional investigation by either IAD and/or IPR.
 - 1. Only Committee members who have read the case file are eligible to vote.
 - 2. The Committee will have one opportunity to direct additional administrative investigation, all other requests will be at the discretion of either IAD or IPR.
 - 3. The request for additional investigation may include multiple areas of inquiry.
 - 4. All additional investigation will be conducted in a timely manner, with the Committee given regular updates.
- D. If the Committee agrees no further investigation and consideration of the evidence appears warranted, the committee shall vote on when to hold an Appeal Hearing.

3.21.160 Hearing Appeals.

(Amended by Ordinance No. 185076, effective December 14, 2011.)

- A. An Appeal Hearing shall be conducted after a majority vote of the Committee or, if heard by a Committee panel, by a majority vote of the panel, to hold such a hearing at the case file review or other meeting of the full Committee or Committee panel. Appeal hearings shall not be subject to public comment. Such comment shall be reserved for Committee meetings intended to hear general concerns about police services or to address particular short-term issues and needs.
 - 1. At the Appeal Hearing the Committee shall decide by majority vote:
 - a. To recommend further investigation by IAD or IPR; or
 - b. If the finding is supported by the evidence. In a case where the majority of the voting members of the Committee affirms that the Bureau's recommended findings are supported by the evidence, the Director shall close the complaint; or
 - c. If the finding is not supported by the evidence. In a case where a majority of the voting members of the Committee challenges one or more of the Bureau's recommended findings by determining that

one or more of the findings is not supported by the evidence, and recommends a different finding, the Director shall formally advise the Bureau in writing of the Committee recommendation.

- (1) If the Bureau accepts the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall close the case.
- (2) If the Bureau does not accept the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall schedule the case for a conference hearing.
 - (a) At the conference hearing, if the Committee, by a majority vote, is able to reach an agreement with the Bureau on the recommended findings, the Director shall close the case.
 - (b) If, by majority vote, the Committee can not reach an agreement with the Bureau on the recommended findings, the Committee shall vote whether to present the appeal to City Council.
 - (c) If, by majority vote, the Committee decides to present the appeal to City Council, the Director and the Committee Chair will schedule an appeal hearing before City Council. The Committee shall appoint one of its members to present its recommended findings during the appeal to City Council.

2. In its hearing the Council shall decide:

- a. If the finding is supported by the evidence. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint; or
- b. If the finding is not supported by the evidence. The Council shall decide what the finding is. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint.

B. In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the complainant or the member or

other officers involved or any other citizen. The complainant or member may appear with counsel. When the Committee's review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.

- C. In reviewing the investigation, the Council may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, any documents accumulated during the investigation, the recording of the Committee's case file review and appeal hearing, the Committee's Case File review Worksheet, and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Council may receive any oral or written statements volunteered by the complainant or the member about whether or not they believe the finding is or is not supported by the evidence in the record. No new evidence may be introduced in the hearing. The complainant or member may appear with counsel.
- D. Witnesses.
 - 1. The Committee and Council may require within its scope of review the investigators and Commander of IAD and the Director to appear and answer questions regarding the investigation and may also require the responsible Bureau Commander to answer questions regarding the basis and the rationale for a particular decision.
 - 2. Other Witnesses. Other witnesses shall not be required to appear involuntarily before the Committee.
 - 3. Council may utilize the full powers granted by Section 2-109 of the Charter, including the power to compel the attendance and testimony of witnesses, administer oaths and to compel the production of documents and other evidence. The power to compel the attendance and testimony of witnesses in accordance with City Code Section 3.21.160 D.3. shall not be delegated by the Council to the Committee.

3.21.170 Monitoring and Reporting.

(Amended by Ordinance No. 181483, effective January 18, 2008.)

- A. The Director shall develop a data system to track all complaints received, develop monthly reports to inform IAD and the Chief regarding IAD workload and performance, and inform complainants and members regarding the status of complaints and appeals.
- B. The Director shall use complaint and OMF Risk Management Division data to support the Bureau's Early Warning System.

- C. The Director shall work with the Committee to develop recommendations to modify Bureau policies and procedures in order to prevent problems, improve the quality of investigations, and improve police-community relations.
- D. The Director shall work with the Committee to develop quarterly and annual summary reports for the Chief, Commissioner in Charge, Council and public on IPR and IAD activities, policy recommendations, and Bureau follow-through on recommendations. The report may include analysis of closed files which were not appealed, but it is not the intent that the files be reopened.

3.21.180 Increasing Public Access.

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A. The Director shall work with the Committee to make complaint forms available in formats and locations to reach as many community members as possible.
- B. The Director shall work with the Committee to develop programs to educate the public about IPR and the importance of reporting problems.
- C. The Director shall work with the Committee to develop programs to educate Bureau personnel on the complaint process, mediation, and IPR activities. Bureau personnel shall be informed that IPR is the primary means for citizens to file complaints.
- D. IPR, Committee and Bureau shall develop guidelines for situations when a commander or supervisor in a precinct is directly contacted by a complainant with a complaint. In general, they may intervene and attempt to resolve the complaint themselves, but they must also inform complainants that they can still file with IPR if they do not achieve satisfaction.

3.21.190 Response of Chief.

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A. The Chief, after reviewing a report provided by IPR under City Code Section 3.21.170, shall respond promptly to IPR in writing, but in no event more than 60 days after receipt of the report. The response shall indicate what, if any, policy or procedural changes are to be made within the IAD or the Bureau.
- B. If the Chief fails to respond within 60 days after receipt of the Committee Report, the Auditor shall place the matter on the Council Calendar, for consideration by City Council, within 15 days thereafter.

3.21.200 Limitation on Power.

The Committee and Director are not authorized to set the level of discipline for any member pursuant to any request for review made under this Chapter. However, this Section shall not be construed to limit the authority granted to City Council by the City Charter, City Code, state statutes, and other applicable law.

3.21.210 Subpoenas.

(Added by Ordinance No. 183657; Amended by Ordinance No. 186416, effective February 7, 2014.) IPR shall have the authority to issue subpoenas for the purpose of compelling witness testimony or the production of documents, photographs, or any other evidence necessary for IPR to fully and thoroughly investigate a complaint or conduct a review.

IPR personnel will not subpoena a sworn Bureau member employed by the Portland Police Bureau, but is authorized to direct Bureau members to cooperate with administrative investigations as described in Sections 3.21.120 and 3.21.220.

Any person who fails to comply with a subpoena will be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.

3.21.220 Bureau Witnesses.

(Added by Ordinance No. 186416, effective February 7, 2014.)

- A. A Bureau employee shall attend investigative interviews conducted by IPR, cooperate with and answer questions asked by IPR during an administrative investigation of a member conducted by IPR. If an employee refuses to attend an investigative interview after being notified to do so by IPR or refuses to answer a question or questions asked by IPR during an investigative interview, the Police Chief or Police Commissioner shall direct the employee to attend the interview and answer the question or questions asked.
- B. All IPR interviews of Bureau employees shall be conducted in conformance with legal requirements and collective bargaining provisions.
- C. Prior to being interviewed, a Bureau employee will be:
 - 1. Notified of the time, date, and location of the interview.
 - 2. Informed of the right to bring a union representative to the interview.
 - 3. Read a statement, issued under the authority of the Police Chief or Police Commissioner, that the employee is directed to attend the interview, cooperate during the interview and answer all questions fully and truthfully and, if the employee fails to attend the interview, cooperate during the interview or answer any questions fully and truthfully, the employee will be subject to discipline or discharge

4. Provided with any other information or protections required by any applicable collective bargaining agreement.
- D.** A representative of the Police Bureau shall attend IPR interviews of Bureau employees for the purpose of reading the statement referenced in Subsection C. and to provide any assistance required by IPR.

ORDINANCE No.

Amend City Code to revise filing process, investigation and appeal provisions of complaints of police officer misconduct (Ordinance; amend Code Section 3.20.140 and Chapter 3.21)

The City of Portland ordains:

Section 1. The Council finds:

1. That in order for the community to have confidence in the delivery of police services it must have an accessible and expeditious means of reporting officer misconduct.
2. The City must ensure that every complaint of officer misconduct is documented and appropriately investigated.
3. The settlement agreement between the United States Department of Justice and the City requires that administrative investigations of police officer misconduct, including Citizen Review Committee appeals, take no longer than 180 days.
4. The Settlement Agreement requires that appeals to the Citizen Review Committee should be resolved within 21 days.

NOW, THEREFORE, the Council directs:

- a. Code Section 3.20.140 is amended as shown in Exhibit A.
- b. Code Chapter 3.21 is amended as shown in Exhibit B.
- c. The Portland Police Bureau and Independent Police Review shall review and revise their respective directives and protocols to the extent that they conflict with these code provision.

Section 2. Council hereby declares that if any section, subsection, sentence, clause or phrase of this Ordinance, or the code amendments it adopts, is for any reason held to be invalid or unconstitutional, that shall not affect the validity of the remaining portions of the Portland City Code.

Passed by the Council:

Auditor Mary Hull Caballero
Prepared by: Constantin Severe, IPR Director
Date Prepared: August 24, 2016

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

Agenda No.
ORDINANCE NO.

Title

Amend City Code to revise filing process, investigation and appeal provisions of complaints of police officer misconduct (Ordinance; amend Code Section 3.20.140 and Chapter 3.21)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Auditor Mary Hull Caballero <i>Mary Hull Caballero</i></p> <p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Auditor Bureau Head: Auditor Mary Hull Caballero</p> <p>Prepared by: Kelsey Lloyd Date Prepared: 8/30/16</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/> City Auditor Office Approval: required for Code Ordinances <i>Toni</i></p> <p><input checked="" type="checkbox"/> City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>WP</i></p> <p>Council Meeting Date 9/14/16</p>	<p style="text-align: right;">CLERK USE: DATE FILED SEP 06 2016</p> <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p> <p>SEP 14 2016 CONTINUED TO</p> <p>SEP 14, 2016 Referred to Office of the City Auditor</p>
---	---

AGENDA

TIME CERTAIN
Start time: 3:45

Total amount of time needed: 1 hour
(for presentation, testimony and discussion)

CONSENT

REGULAR

Total amount of time needed: _____
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Novick	4. Novick		
Hales	Hales		