

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to City Budget Office. Retain copy.)

1. Name of Initiator Constantin Severe		2. Telephone No. 503-823-2815	3. Bureau/Office/Dept. Auditor
4a. To be filed (hearing date): October 23, 2013	4b. Calendar (Check One) <div style="display: flex; justify-content: space-around;"> Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/> </div>		5. Date Submitted to Commissioner's office and CBO Budget Analyst:
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title: Authorize City Auditor Independent Police Review Division to directly question Portland Police Bureau employees, change Police Review Board public reporting requirements and other Police Accountability Reforms (Ordinance; amend Code Section 3.20.140 and Chapter 3.21)

2) Purpose of the Proposed Legislation: Reform Portland's police accountability system.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

N/A

5) Expense: What are the costs to the City as a result of this legislation? What is the source of funding for the expense? *(Please include costs in the current fiscal year as well as costs in future year, including Operations & Maintenance (O&M) costs, if known,*

and estimates, if not known. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)

N/A

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** (If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)
- **Will positions be created or eliminated in future years as a result of this legislation?**

N/A

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations (If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)

N/A

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

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

☒ **YES:** Please proceed to Question #9.

☐ **NO:** Please, explain why below; and proceed to Question #10.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

Proposed Council items will allow the community to have increased information about Portland's police accountability system.

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

See below.

c) How did public involvement shape the outcome of this Council item?

Proposed Council item is based on feedback heard by IPR staff during meetings with members of the community, particularly the need for IPR being able to question directly PPB officers, greater detail in public reports issued by the Police Review Board, and increased transparency and objectivity in the disciplining of officers found to have engaged in misconduct.

d) Who designed and implemented the public involvement related to this Council item?

IPR Director, Assistant Director, Outreach Coordinator and other IPR staff. Awareness of this ordinance strengthened in the last several months by holding numerous in-person meetings at City Hall and in the community, email and phone follow-up, along with interviews on local and national radio, and through interviews with newspapers.

- IPR Director or staff met personally with the following: Albina Ministerial Alliance, Center for Intercultural Organizing, Urban League, Sisters of the Road, League of Women Voters, Disability Rights Oregon, Gateway Domestic Violence Center, American Civil Liberties Union, JOIN, Human Rights Commission, Oregon Association for Black Affairs, African American Chamber of Commerce Transitions Projects, and Outside In.
- Email and phone contact with: Latino Network, Native American Youth and Family Association, Mental Health Association of Portland, NAMI, Oregon Association of Minority Entrepreneurs, Immigrant and Refugee Community

Organization and their programs: Africa House, Asian Family Center, IRCO Senior Services Center, and Basic Rights Oregon.

- Media: Russian Radio - one hour interview and Q and A with Russian-speaking population, Portland Mercury, The Oregonian, Willamette Week, and The Skanner. An interview is scheduled on KBOO Radio on October 28th

e) Primary contact for more information on this public involvement process (name, title, phone, email):

Irene Konev
IPR Community Outreach Coordinator
503-823-0926
Irene.Konev@portlandoregon.gov

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

Building awareness of IPR and CRC, strengthening relationships, and engaging the community in IPR activities and processes. Outreach will continue to all Portlanders in order to receive feedback about police services.

10-23-13

IPR STAFF

10.23.13 Change to Exhibit B – proposed IPR Revisions: IPR staff has received feedback from interested community members who were concerned about the proposed 180 day timeline and that the requirement that PPB notify IPR prior to early termination had been inadvertently left out of the draft submitted to Council. These revisions seek to address those concerns

Exhibit B – Section 3.21.120 – Independent Police Review Division

Exhibit B, pp. 11 of 24: 3.21.120 –B.5

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.

Exhibit B, pp. 24 of 24: 3.21.230 B

- A. All administrative investigations shall be completed within 180 calendar days of receipt of complaint or initiation of investigation by either IPR or the Bureau. For the purpose of this section an investigation is complete when the Police Chief approves recommended findings, including appeals, if any, to CRC.
- B. If an administrative investigation exceeds 180 calendar days, then the Police Commissioner shall be provided an explanation as to why the administrative investigation exceeded 180 calendar days. This section should not be construed to prohibit City from completing an investigation or disciplinary process if investigation is not completed within 180 days.

EXHIBIT A

Section 3.20.140 Police Review Board.

3.20.140 Police Review Board.

(Replaced by Ordinance No. 183657; amended by Ordinance No. 183995, effective August 13, 2010.)

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 proposed 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

EXHIBIT A

Section 3.20.140

Police Review Board.

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) (i) The Bureau and IPR shall develop a Bureau Directive setting the criteria for Citizen selection to be approved by City Council. All citizen members must meet at least the following qualifications to participate on the PRB:

EXHIBIT A

Section 3.20.140 Police Review Board.

- (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.
- ~~(b)~~ (c) The Auditor and the Chief shall have the authority to recommend to City Council the removal of citizen members from the pool. The Chief or the City Auditor may recommend that City Council remove a citizen member from the pool for the following reasons:
- (i) The Bureau and IPR shall develop a Bureau Directive setting the criteria for removal to be approved by City Council. 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.

EXHIBIT A

Section 3.20.140 Police Review Board.

- (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
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.

EXHIBIT A

Section 3.20.140 Police Review Board.

- 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.
- 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).

Section 3.20.140
Police Review Board.

- #### F. Board Recommendations

- ### G. Appeal of Board Recommendation.

- 11/28/2012

EXHIBIT A

Section 3.20.140 Police Review Board.

3. The Director of IPR, the Chief of Police, or Commissioner in Charge may request an expedited hearing by the ~~IPR~~-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 ~~IPR~~ 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 proposed or final findings and/or discipline is different from that recommended by the Board, the Chief shall provide a written explanation to the Police Commissioner that includes the reasons

EXHIBIT A

Section 3.20.140 Police Review Board.

for the Chief's findings of fact, and the factors used in the discipline determination.

- 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 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 followed by the Chief.
 - f. The Chief's proposed and final discipline for the involved officer(s).
 2. In cases of officer involved shootings and in custody deaths, the public reports shall contain the names of involved officer(s) and witnesses, unless confidentiality or non-disclosure is required by law, a court order, an administrative order or a collective bargaining agreement, or unless the Police Commissioner believes confidentiality is required or appropriate due to a collective bargaining agreement or by pending criminal or civil legal proceedings.

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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.

3.21.010 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.

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

3.21.020 Definitions.

(Amended by Ordinance Nos. 176317 and 183657, effective April 30, 2010.) 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 IPR-Citizen Review Committee, which is appointed by City Council members to assist the IPR in the performance of its duties and responsibilities pursuant to this Chapter.
- 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.

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

- 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 within the Auditor's Office.

3.21.040 Director Selection.

The City Auditor shall select the Director of ~~the~~ 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.

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

3.21.050 Staff and Delegation.

- 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 ~~his or her staff members any of his or her duties, unless otherwise specified in this chapter.~~ a designee any or all duties or responsibilities. ~~The IPR Investigator shall succeed to all duties and responsibilities of the Director, including those specified by ordinance, when he or she is serving as the acting Director.~~

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 and 185076, effective December 14, 2011.) 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

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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 IPR Director (or designee) 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 ~~an internal~~ a Bureau or IPR administrative investigation of a member. The IPR Director (or designee) 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

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

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.
- N. 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.
- O. The Auditor may work through the City Attorney's Office to hire outside legal counsel when the Auditor and the City Attorney agree that outside legal advice is necessary or advisable.
- P. Compel the testimony of Bureau employees. IPR may compel a Bureau employee to attend interviews, cooperate and answer questions during the administrative investigation of a member.

3.21.080 Citizen Review Committee.

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

- A. The Committee shall consist of ~~nine~~ eleven citizens. Five members shall constitute a quorum of the Committee. 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

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

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 ~~who may be given preference over others of equivalent background and~~ 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, ~~attending the Bureau Citizens' Academy 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, and training on investigative practices.~~ 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.

11/28/2012

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

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.

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

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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 No. 179162, effective March 30, 2005.)

- 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.
- 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.

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

(Amended by Ordinance Nos. 179162 and 183657, effective April 30, 2010.) 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 a 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: ~~The Auditor's Independent Police Review division~~ 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 ~~his/her~~ 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 IPR-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

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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.

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

The IPR shall gather information from the complainant and forward it to the Bureau/IAD. The 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.

~~When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, IPR personnel shall direct questions through the IAD investigator. The IAD investigator may repeat the question to the member and/or direct the member to answer the question.~~

IPR personnel shall have an opportunity to review and comment on

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

draft reports 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 IPR Director or designee shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. may determine that IPR should investigate a complaint. If the Director concludes that IAD has not done an adequate job investigating complaints against a particular member, the Director may determine that IPR should investigate a complaint against the member. If the Director concludes that IAD has not done an adequate job investigating a particular category of complaints, the Director may determine that IPR should investigate a complaint or complaints falling in that category. If the Director concludes that IAD has not completed its investigations in a timely manner, the Director may determine that IPR should investigate some complaints. The Director has the discretion to conduct an independent investigation. 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. ~~When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, the Director shall notify the IAD commander that IPR has undertaken an investigation and the reason. The IAD commander shall appoint a liaison investigator from that office within two working days to arrange and participate in interviews. When members represented by a collective bargaining unit are being interviewed by IPR personnel, the IAD investigator may repeat the question and/or direct the member to answer the question. When a collective~~

11/28/2012

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

~~bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question.~~

The Director shall provide the IAD commander and the Police Chief with a report on the investigation, and present the IPR investigation to the RU manager for preparation of findings and 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 IPR declines to take action on the complaint, IPR will send a dismissal letter to the complainant. IPR will also notify the involved officer(s) and involved 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;
 - 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. the complainant withdraws the complaint or fails to complete necessary complaint steps.
 - g. it is more likely than not that additional investigation would not lead to a conclusion that the officer engaged in misconduct.

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

h. 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 IPR 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 IPR Director.
3. Bureau/IAD Investigation. If the Type II complaint is filed with IPR, the IPR shall gather information from the complainant and forward it to the Bureau/IAD. The 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.
~~When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, IPR personnel shall direct questions through the IAD investigator. The IAD investigator may repeat the question to the member and/or direct the member to answer the question. When a collective bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question.~~
IPR personnel shall have an opportunity to review and comment on draft

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

reports 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 IPR Director or designee may determine that IPR should investigate a complaint. The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. If the Director concludes that IAD has not done an adequate job investigating complaints against a particular member, the Director may determine that IPR should investigate a complaint against the member. If the Director concludes that IAD has not done an adequate job investigating a particular category of complaints, the Director may determine that IPR should investigate a complaint or complaints falling in that category. If the Director concludes that IAD has not completed its investigations in a timely manner, the Director may determine that IPR should investigate some complaints. The Director may conduct an independent investigation based on the Director's discretion that it is warranted. 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. When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, the Director shall notify the Bureau/IAD commander that IPR has undertaken an investigation and the reason. The Bureau/IAD commander shall appoint a liaison investigator from that office within two working days to arrange and participate in interviews. When members represented by a collective bargaining unit are being interviewed by IPR personnel, the IAD investigator may repeat the question and/or direct the member to answer the question. When a collective bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question.~~

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

The Director shall provide the IAD commander and the Police Chief with a report on the investigation, and present the IPR investigation to the RU manager for preparation of findings and proposed 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 ~~IPR~~ Director a summary of the complaint and a summary of any subsequent investigation of a sworn member. The ~~IPR~~ 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 is complete, IAD will provide the ~~IPR~~ Director or ~~designee~~ 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 or ~~designee~~ 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

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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.
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.
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

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

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.

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 No. 183657, effective April 30, 2010.)

- 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 30 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.

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

- 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.

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

- A. When a timely appeal has been submitted to and accepted by the Director, the Director and the Committee chair will schedule a case file review meeting before the Committee to assess the completeness and readiness of the investigation for an appeal hearing.
- B. As a result of the case file review, IPR or IAD may conduct additional investigation in accordance with applicable provisions of the collective bargaining agreements covering Bureau personnel per Section 3.20.120.

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 to hold such a hearing at the case file review or other meeting of the full Committee.
 - 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

Chapter 3.21

- 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.

- 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

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

(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

- 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 the 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 the IPR is the primary means for citizens to file complaints.
- D. The 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.

- A. The Chief, after reviewing a report provided by the IPR under City Code Section 3.21.170, shall respond promptly to IPR in writing, but in no event more than 60

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

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, effective April 30, 2010.) 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 Section 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

- A. IPR shall have the authority to compel a Bureau employee to attend interviews, cooperate and answer questions during an administrative investigation of a member. 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 employee may be subject to discipline or discharge by the Police Chief or Police Commissioner following a separate administrative investigation regarding the employee's refusal to attend the investigative interview or refusal to answer a question or questions during the interview
- B. All IPR interviews of Bureau employees shall be conducted in conformance with legal 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.

EXHIBIT B

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

2. Informed of the right to bring a union representative to the interview.
3. Read a statement that informs the employee that they have the duty to cooperate during the interview, must answer all questions truthfully, and that failure to cooperate or engaging in untruthful behavior will be cause for a separate administrative investigation that may result in discipline or discharge imposed by the Police Chief or Police Commissioner.

3.21.230 Timeline for Administrative Investigations

All administrative investigations shall be completed within 180 calendar days of receipt of complaint or initiation of investigation by either IPR or the Bureau. For the purpose of this section an investigation is complete when the Police Chief approves recommended findings, including appeals, if any, to CRC.

ORDINANCE No. *REFERRED TO OFFICE OF Auditor*

Authorize City Auditor Independent Police Review Division to directly question Portland Police Bureau employees, change Police Review Board public reporting requirements and other Police Accountability Reforms (Ordinance; amend Code Section 3.20.140 and Chapter 3.21)

The City of Portland ordains:

Section 1. The Council finds:

1. That the Independent Police Review Division is the City's civilian oversight agency of the Portland Police Bureau and has had the ability to conduct independent investigations of allegations of misconduct by Police Bureau members since its creation in 2001.
2. The settlement agreement between the United States Department of Justice and the City requires that the Independent Police Review Division has the ability to conduct meaningful independent investigations.
3. Allowing the Independent Police Review Division to directly question Police Bureau employees will reduce time and effort in the City's investigations of police officer misconduct.
4. In accordance with the settlement agreement the City seeks to retain and strengthen citizen and civilian employee input by expanding the Citizen Review Committee to 11 members and having those members serve as rotating members on use of force cases heard by the Police Review Board.
5. That a discipline guide will allow the City to implement discipline for sustained allegations of officer misconduct that is objective, consistent and predictable.
6. In order for police accountability to be effective it must be done in a timely basis, using objective measures, and be as transparent as possible.
7. That all aspects of Portland's police accountability system will meet national best practices.
8. If the implementation of any provisions of this ordinance creates collective bargaining obligations, the City will comply with any bargaining obligations it may have.

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 shall review and revise its directives to the extent that the directives conflict with these code provisions;

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 LaVonne Griffin-Valade

LaVonne Griffin-Valade
Auditor of the City of Portland
By

Prepared by: Constantin Severe, Director of IPR

Date Prepared: October 4, 2013

Deputy

Agenda No.
ORDINANCE NO.
 Title

REFERRED

Authorize City Auditor Independent Police Review Division to directly question Portland Police Bureau employees, change Police Review Board public reporting requirements and other Police Accountability Reforms (Ordinance; amend Code Section 3.20.140 and Chapter 3.21)

INTRODUCED BY Commissioner/Auditor: LaVonne Griffin-Valade	CLERK USE: DATE FILED <u>OCT 18 2013</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	LaVonne Griffin-Valade Auditor of the City of Portland By: <u>[Signature]</u> Deputy
BUREAU APPROVAL Bureau: Auditor Bureau Head: LaVonne Griffin-Valade Prepared by: Constantin Severe Date Prepared: 10/17/13 Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	ACTION TAKEN: OCT 23 2013 <i>Referred to Office of City Auditor</i>
City Auditor Office Approval: required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter Council Meeting Date	

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 Total amount of time needed: 2 hours (for presentation, testimony and discussion) CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/> 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	