

Amendments
4-13-2017

364 **TIME CERTAIN: 2:00 PM** – Amend Independent Police Review code to revise filing process, investigation, and appeal provisions of complaints of police officer misconduct (Ordinance introduced by Auditor Hull Caballero; amend Code Chapter 3.21) 2 hours requested

- 1. Motion to accept amendments in Fritz handout to 3.21.150 B Case File Review and 3.21.160 A Hearing Appeals to delete “the end of the meeting,” add “through a vote” and delete last sentence of 3.21.150 B:** Moved by Fritz and seconded by Fish. Motion withdrawn.
- 2. Motion to accept addition 3.21.120 H regarding appeal process for complaints that are dismissed by the IPR Director:** Moved by Fritz and seconded by Eudaly. Motion withdrawn.
- 3. Motion #1 as above but restore last sentence to 3.21.150 B:** Moved by Fritz and seconded by Fish. Motion withdrawn.
- 4. Motion to delete the Auditor proposed amendments 3.21.150 B and 3.21.160 A to delete all references that limit testimony to after the decision:** Moved by Fish and seconded by Fritz. (Y-5)
- 5. Motion to put back the sentences in 3.21.150 B and 3.21.160 A with the change to specify public comment is “allowed before” the Committee decision and recommendation is made:** Moved by Fritz and seconded by Fish. (Y-5)

**PASSED TO
SECOND READING
AS AMENDED
APRIL 19, 2017
AT 9:30 AM**

FRITZ Amendment
4/13/2017 adopted.

188331

(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. 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. Public comment will be reserved for the end of the meeting after the Committee has made a decision whether a case is ready for an Appeal Hearing. In the event that the Committee conducts a Case File Review and Appeal Hearing on the same day,

↓ allowed before

allowed before

public comment will be reserved for after the Committee has made its recommendation to the Bureau.

- 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 to hold such a hearing at the case file review or other meeting of the full Committee. Public comment will be reserved for the end of the meeting after the Committee has made its recommendation to the Bureau. *allowed before*
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.

Ben Kerensa / VIA fritz

4-13-17 188331
FRITZ motion #2.
WITHDRAWN.

Dear City Council,

While I cannot make it to the City Council meeting tomorrow to provide testimony I wanted to write about the IPR item on the agenda for April 13th, 2017. Specifically, I am asking the City Council to make an amendment to the proposed change, more specifically, I would would implore City Council to make the following changes to 3.21.120 of the City Code.

3.21.120(C)(3) currently states:

“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”

I would encourage the current proposed language change be amended to add language that states:

3.21.120 of the City Code is amended to add the following section:

H. Upon dismissal of a complaint by the Director the complainant may appeal the dismissal to the CRC for review of the reason for dismissal and to review complainant appeal. If the CRC finds that the Director dismissal was in error the CRC may refer the complaint back to the Director for reconsideration.

The justification behind this request is that currently there is no check and balance for dismissals and if the Director errs or the staff of the director miss something, there is no opportunity for a complainant to appeal a dismissal that was in error or due to poor investigation. I currently have a case that two allegations were dismissed and the reasoning that the Director provided is not based on the public record or evidence supplied to IPR and I am very confident that given an opportunity to take the information I supplied IPR before the CRC, if they had the power to hear appeal of dismissal that they would be inclined to refer my complaint back to the Director for reconsideration.

I implore City Council, if you are serious about police accountability and making the IPR process fairer for citizens, that you consider making this common sense change to our only process for police accountability.

4-13-17
FRITZ MOTION #1
MOTION WITHDRAWN

3.21.150 Case File Review

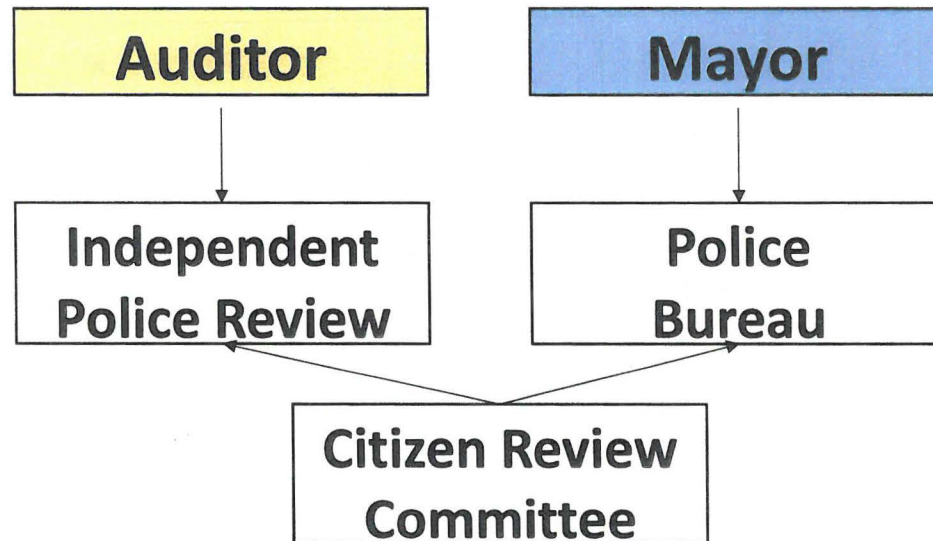
The Case File Review will be an opportunity for the Committee to assess the completeness and readiness of the investigation for an Appeal Hearing. Public comment will be reserved for the end of the meeting after the Committee has made a decision whether a case is ready for an Appeal Hearing through a vote. ~~In the event that the Committee conducts a Case File Review and Appeal Hearing on the same day, public comment will be reserved for after the Committee has made its recommendation to the Bureau.~~

↑
Last sentence
Restored

3.21.160 Hearing Appeals

- B. 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. Public comment will be reserved for the end of the meeting after the Committee has made its recommendation to the Bureau through a vote.

Police oversight system is a shared responsibility



Entities involved in police misconduct complaints

Task	Auditor's Independent Police Review	Police Internal Affairs	Police Commanders	Police Review Board	Police Chief ²	Police Commissioner (Mayor)	Arbitrator
Receives complaints	■	■					
Assigns/Dismisses complaints	■						
Investigates complaints	■	■					
Decides if violation occurred			■	■	■	■	■
Recommends discipline			■	■	■		
Decides discipline						■	■
Monitors process	■						

Notes:

1. The Police Review Board considers cases in which the outcome could result in at least one day off without pay for the officer and all officer-involved shootings. The Auditor's Independent Police Review is a voting member of the Police Review Board, which is internal to the Police Bureau.
2. The Police Chief and Police Commissioner are not obligated to reach the same decisions or follow the disciplinary recommendations made by commanders and the Police Review Board.
3. Complainants have the option to have the Citizens Review Committee, a group of community volunteers, review a Commander's violation decision to determine if it was reasonable based on the evidence. This option is not available for Police Bureau employees who file a complaint against an officer.
4. Complaints that involve allegations of less serious misconduct and will not result in discipline follow a separate process.

IMPACT STATEMENT

Legislation title: Amend City Code to revise filing process, investigation and appeal provisions of complaints of police officer misconduct (Ordinance; amend Code Section Chapter 3.21)
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, allowing public comment at Citizen Review Committee Case File Reviews and Appeal Hearings after the Committee has made its decision.

Financial and budgetary impacts:

No anticipated fiscal or budgetary impact.

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 were two community forums in 2016 on 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 by the Auditor 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