

EXHIBIT A**3.20.140 Police Review Board.**

(Replaced by Ordinance No. 183657; Amended by Ordinance Nos. 183995, 186416, 189159 and 189292, effective December 12, 2018.)

- 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. Except as provided in Code Section 3.20.140 J., 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)** Any use of force where the recommended finding is “out of policy”.
 - (5)** Any other use of force case referred to the Board pursuant to Code Subsection 3.20.140 B.1.a. or Code Subsection 3.20.140 B.1.e.
 - 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
2. However, when the incident to be reviewed by the board involves ~~the following~~ any use of force—incidents, including all officer involved shootings, all in-custody deaths, any physical injury caused by an officer that requires hospitalization, and any use of force case referred to the Board pursuant to Code Subsection 3.20.140 B.1.a. or Code Subsection 3.20.140 B.1.e., 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. ~~Any use of force 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).
 - 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.

- 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.
3. The public reports shall include any stipulated agreements where a final decision has been reached.

J. Stipulated Findings and Discipline

1. The following categories of cases are not eligible for stipulated findings and recommended discipline: cases involving alleged use of excessive force; those categories of cases listed under Subsection 3.20.140 B.1.c.; cases involving alleged discrimination, disparate treatment or retaliation; reviews of officer involved shootings and in-custody deaths; and cases in which the Chief or the Commissioner in Charge does not agree to accept the member's proposed stipulation to findings and recommended discipline. These categories of cases, if they otherwise meet the criteria for review by the Board, shall go through Board review and recommendations.
2. The following categories of investigations are eligible for stipulated findings and recommended discipline without review by the Board when the involved member elects, with the concurrence of the Chief and the Commissioner in Charge, to accept the proposed findings and recommended discipline of the RU Manager following a full investigation of the alleged misconduct, issuance of investigative findings and concurrence with the findings by the Independent Police Review, the Professional Standards Division and the member's Branch Chief:
 - a. First time offenses that fall under Category A through Category D of the Police Bureau Discipline Guide.
 - b. Second time offenses that fall under Category A of the Police Bureau Discipline Guide.
 - c. First time off-duty driving while under the influence offenses that fall under Category E of the Police Bureau Discipline Guide. To be eligible for stipulated discipline for an off-duty driving under the influence offense, there can be no other driving-related violations or charges and the member must comply with all court ordered conditions of a diversion or delayed prosecution.

- d. In an investigation involving multiple sustained violations, the violation with the highest category from the Police Bureau Discipline Guide will be used to determine whether the case qualifies for stipulated discipline.