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

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:

(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.

(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.

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).

b. The voting members of the Board shall schedule a meeting to recommend a pool of facilitators based the Bureau Directive for approval of the Commissioner in Charge in accordance with City contract rules.

2. The Board facilitator shall write the statement of recommended findings and discipline and a summary of any training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief within two weeks of the Board meeting date.

F. Board Recommendations

1. The Board shall prepare a statement of its recommended findings and proposed discipline, if any, in every case for submission to the Chief. Such statement shall include:

a. The Board's recommended findings and a brief explanation of the Board's rationale for its recommendation, and a record of the Board's vote.

b. In the event that the Board is not unanimous, the statement shall contain a portion detailing the minority's recommendation.

2. The Board facilitator shall write the Board's statement of recommended findings and proposed discipline and a summary of any policy training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief.

a. IPR and the Bureau will develop a Bureau Directive setting forth the timeliness provisions of the statement.

G. Appeal of Board Recommendation.

1. As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the complainant or involved officer may have the opportunity to appeal the recommended findings to the ~~IPR~~ Citizen Review Committee.

2. Until the appeal period allowed by Code Chapter 3.21 has expired, and if an appeal is filed, until there is a final decision by the ~~IPR~~ Citizen Review Committee or Council, the Chief may not issue proposed discipline or make recommendations to the Commissioner in Charge.

3. The Director of IPR, the Chief of Police, or Commissioner in Charge may request an expedited hearing by the ~~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. <u>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</u>

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.