



CITY OF
PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR

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MEMORANDUM

To: Mayor Vera Katz
Commissioner Jim Francesconi
Commissioner Charlie Hales
Commissioner Dan Saltzman
Commissioner Erik Sten

From: Gary Blackmer, City Auditor

Date: May 11, 2001

Subject: Proposed Ordinance for Independent Police Review

At your request, I have developed the attached proposal that will transform the Police Internal Investigations Audit Committee (PIIAC) into the Independent Police Review (IPR). This has been a topic of considerable study and public discussion over the past year. The objective of all these efforts is to develop a better means of improving police services.

Portland rightly deserves to be seen as a leader in civilian review – first developing the audit model, using the perspectives of volunteer citizens, conducting public hearings, and involving City Council in the appeals process. This proposal takes the successful ideas from throughout the country and applies them to the framework we already have. I think this proposal will build greater trust with the public, have greater influence on police services, and establish stronger ties between the community and police.

This ordinance creates an organization that identifies strategies and recommendations to address problems – whether an individual officer's actions or a broad policy. But the IPR is not enough. Our research found that no civilian review program alone could solve the problems that a community could have with its police. Improvement requires leadership from the Council, the Mayor, the Chief, all the employees of the Police Bureau, and most importantly the community.

The attached ordinance will be presented to Council on May 24 at 2:30 pm when a public hearing will be conducted. The second reading and vote are scheduled for the following week, May 30 in the morning.

I have also included some materials that provide some background on the process, compare it to other proposals, and illustrate how complaints and appeals would be handled.

Ordinance to create the Independent Police Review

Background

The Police Internal Investigations Auditing Committee (PIIAC) was created in 1982 in response to public dissatisfaction with police services. It moved from office to office in the City, then in 1994, underwent significant changes after the Mayor assumed responsibility. Growing concerns about police services initiated another review of PIIAC last year.

The Mayor appointed an 18-member work group to recommend improvements to PIIAC. In October 2000, the group produced a Majority Report and a Minority Report of recommendations. Work group members presented the two sets of recommendations to the Mayor and to Council on January 11, 2001. On January 17 Council heard public testimony on the reports. In December citizens filed and began gathering signatures for an initiative petition to create an independent civilian review committee.

As a first step to addressing some of the concerns and resolving the differences, the Mayor proposed transferring PIIAC to the Auditor's Office and requesting that the Auditor develop recommendations for Council.

As part of the study, the Auditor reviewed the work group reports, interviewed work group members, studied the professional literature, interviewed national experts, and visited with officials and community representatives in Minneapolis, San Francisco, and San Jose -- cities which are considered leaders in effective police oversight systems.

The auditor presented the report, *Addressing Citizen Complaints: A Proposal for Change*, to the Council on March 20. Based upon Council member questions and concerns and additional research, the auditor developed a proposed ordinance on May 11.

A public hearing and first reading of the ordinance will occur in Council Chambers on May 24 at 2:30 pm. The second reading and Council vote are scheduled for the morning of May 30. The effective date of the ordinance is July 1, though it will take longer to complete the transition.

Proposal

The Auditor proposed the Independent Police Review (IPR) Division with new duties and powers. IPR would be the primary intake point for citizen complaints. IPR personnel would continue to monitor the quality of police investigations but could also participate in the investigation or conduct its own investigation. Greater emphasis would be given to mediation of complaints, outreach to the public, and monitoring and reporting on police and IPR complaint handling efforts. The appeal and hearing process would be conducted similar to PIIAC, except an independent adjudicator rather than City Council would determine the final disposition.

Copies of the proposal are available upon request and on the Auditor's Office website at <http://www.ci.portland.or.us/auditor>.

Additions, Deletions, Changes to the Proposal

The proposed code language generally follows the recommendations in the March proposal. Narrative in italics indicate where the code has significant differences from the proposal. The code language helps clarify the recommendations, however it is not intended to be the complete inventory of policies and procedures for the IPR. A large number of operational duties and details still need to be worked out.

#1 Create an Independent Police Review (IPR) Division within the Office of the City Auditor.

The mission of the Division is to offer citizens a fair process for submitting complaints about police behavior that results in an objective resolution and improved police practices. The primary duties of the Division are to oversee the acceptance and resolution of citizen complaints about police, and to develop and transmit recommendations to improve the Portland Police Bureau. There should be a Director position created with broad powers for accepting, reviewing, and investigating citizen complaints about police behavior. The Director should have extensive investigative and administrative experience, preferably in a public safety capacity. The Director will be responsible for drafting new City Code and administrative procedures to implement the new system.

Change: The Auditor has taken responsibility for the City Code rather than the Director.

#2 The IPR will be the primary intake point for citizens wishing to file complaints.

The IPR will receive and record initial contacts with the public. A computer database will be shared with the Police Internal Affairs Division (IAD) to record, monitor, and manage all complaints. Interviews may be completed either at the IAD office, Police Bureau or another convenient City facility at the choice of the complainant or witnesses. IAD will develop criteria for declining, mediating, referring, or investigating complaints. If the case is to be investigated, sworn statements should be required.

Clarification: IPR with assistance from the Citizen Review Committee will develop criteria for declining, mediating, referring, or investigating complaints. See 3.21.070 and 3.21.090. Though not specified in the code, a shared computer database poses some technical and cost problems that will be difficult to overcome quickly.

#3 The Mayor and City Council should appoint a Citizen Review Committee to the IPR.

The Committee should meet regularly to review the status of complaints, to evaluate complainant appeals, and to recommend complaint submittal to public hearing. The committee will also act as an advisory board to the IPR-- reviewing periodic reports, assessing the number and nature of complaints, and developing recommendations for the Police Bureau on ways to reduce citizen complaints.

Clarification: The proposed code provides specifics on the selection and terms of this 7-member Citizen Review Committee. See 3.21.080

#4 The primary responsibility of investigating citizen complaints should remain with IAD. IPR will refer complaints to the Police IAD for investigation. IPR staff may participate in the IAD interviews and closely monitor the complaint investigation. IAD will transmit investigation findings to IPR. IPR may request reconsideration of the finding if the Director believes fairness and thoroughness could be improved.

No changes.

#5 Give IPR authority to conduct independent investigations if warranted.

The Director of IPR should have the authority to initiate independent investigations using staff or contract employees. Independent investigations can be initiated after IAD reconsideration of initial finding if the IPR believes the investigation was not thorough, complete, or sufficiently fair. For example, the IPR can initiate investigations if IAD fails to meet deadlines for timely completion of its work, consistently fails to conduct thorough investigations, or if the Director determines that a particular complaint merits special involvement.

Clarification: The code makes clear the intent of the recommendation, that IPR can initiate an investigation of a complaint instead of IAD. See 3.21.120.D.

#6 Provide complainants two opportunities to appeal results of investigations.

Complainants may receive reconsideration of police investigative findings if approved by the IPR or Citizens Review Committee. Complainants may also appeal findings of the IAD and IPR final investigations. The Citizens Review Committee must approve complainant appeals before forwarding to a public hearing.

Change/Clarification: A second appeal isn't necessary after a review of the investigation by IPR with additional work performed, as indicated in the proposal flowchart. See 3.21.150 and the attached flow chart.

Once completed, the appeal is scheduled for a public hearing before the Citizen Review Committee to address the finding. When the Citizen Review Committee disagrees with the Bureau finding a public hearing will be scheduled. See 3.21.160 and the attached flow chart.

#7 The final disposition of complaint findings will be made at a public hearing.

The City Auditor will appoint an independent hearing officer or professional adjudicator to resolve disagreements between parties after a final investigation. The Citizens Review Committee may also refer complaint appeals of final investigations to the public hearing. The Police Chief must report to the IPR to acknowledge the final findings and indicate whether action will be taken in response to the findings.

Change: The City Council rather than an independent adjudicator will determine the final findings. See 3.21.160.

#8 The Police Chief should determine the appropriate level of discipline for sustained complaints.

No changes.

#9 IPR will prepare frequent public reports on the status and resolution of citizen complaints.

The IPR should track and monitor the disposition of all cases from receipt to resolution. The IPR will provide periodic reports on individual officers to the Police Bureau's Early Warning System for appropriate personnel action. The IPR will prepare quarterly and annual reports to the Citizen Review Committee, the City Council, and the Police Chief. The IPR should also prepare special reports to City Council to address complaint handling timeliness, corrective actions, and other problem areas.

No changes.

#10 The Citizen Review Committee should develop and submit recommendations to the Police Bureau for improvements to policies and procedures.

Recommendations could include, but not be limited to, the types of recommendations made by the current Citizens Advisory Committee.

No changes.

#11 IPR should implement an ongoing outreach program to inform citizens and police officers of the operation of the complaint handling system.

The IPR should meet regularly with the Citizen Review Committee, police officers, union representatives, and police management. Complaint forms should be available at community facilities around the City and on-line. IPR should attend community meetings to make the public aware the Division's mission.

No changes.

#12 Evaluation surveys be distributed on a regular basis to monitor customer service goals.

Performance goals and measurement instruments, including customer surveys, should be developed, analyzed and reported on regularly. This should include surveys of complainants, police officers, and community satisfaction.

No changes.

#13 We do not recommend that the IPR review police shootings or deaths in custody.

Other review mechanisms already exist for police shootings and deaths in custody. For example, the County grand juries, comprised of citizens, review these incidents under the purview of an independent agency, the District Attorney's Office. Further, the complexity of these cases is not suitable to the process we have developed. We believe there may also be legal uncertainties and liabilities which would need additional research to identify.

No changes.

Comparison of Recommendations

Recommendation	Currently	Majority	Minority	Initiative	Proposed
Citizen members appointed	●	●		●	●
Training for Citizen members	◐	●	●	◐	●
Ready availability of complaint forms	●	●	●	●	●
File complaints on City webpage	○		●	●	●
Training for volunteers to assist with forms	○	●	◐		
City funds for training	○	●	◐		
Public awareness outreach	○	●	●		●
Office not in City Hall or Police Bureau	○	●			○
Dual intake	○	●	●	●	◐ ¹
Case management software	○		●		●
Mediation of some complaints	◐	●	●	●	●
No sworn statements at intake	●	●	●	●	●
Sworn statement if investigated	○	●	●		●
Independent investigations	○	●	○	●	◐ ²
Complainant choice: IAD/independent investigation	○	●	○		○
Power to compel testimony	●	●	○	●	◐ ³
Notify complainant and officer of status	◐		●	◐	●
Inform IAD of deficiencies before hearing	◐		●		●
Review shootings and deaths in custody	○	●	○	●	○
Public hearings	●	●		●	●
Citizen/Council decisions on findings are final	○	●	○	●	●
Recommend that discipline happens	○	●	○	●	○
Final say by Chief on discipline	●	●	●	●	●
Feedback from complainant	○	●	●		●
Policy recommendations	●	●	●	●	●
Public hearings on policy	●	●		●	●
Performance standards for IAD	○		●		●
Investigations will be timely	○	●	●		●
One investigator per 100 sworn	○	●	●		○
Minimum qualifications for IAD captain			●		
Actively recruit for IAD positions	○		●		
Make PIIAC examiner position attractive			●		●
Mayor meet quarterly with PIIAC examiner			●		

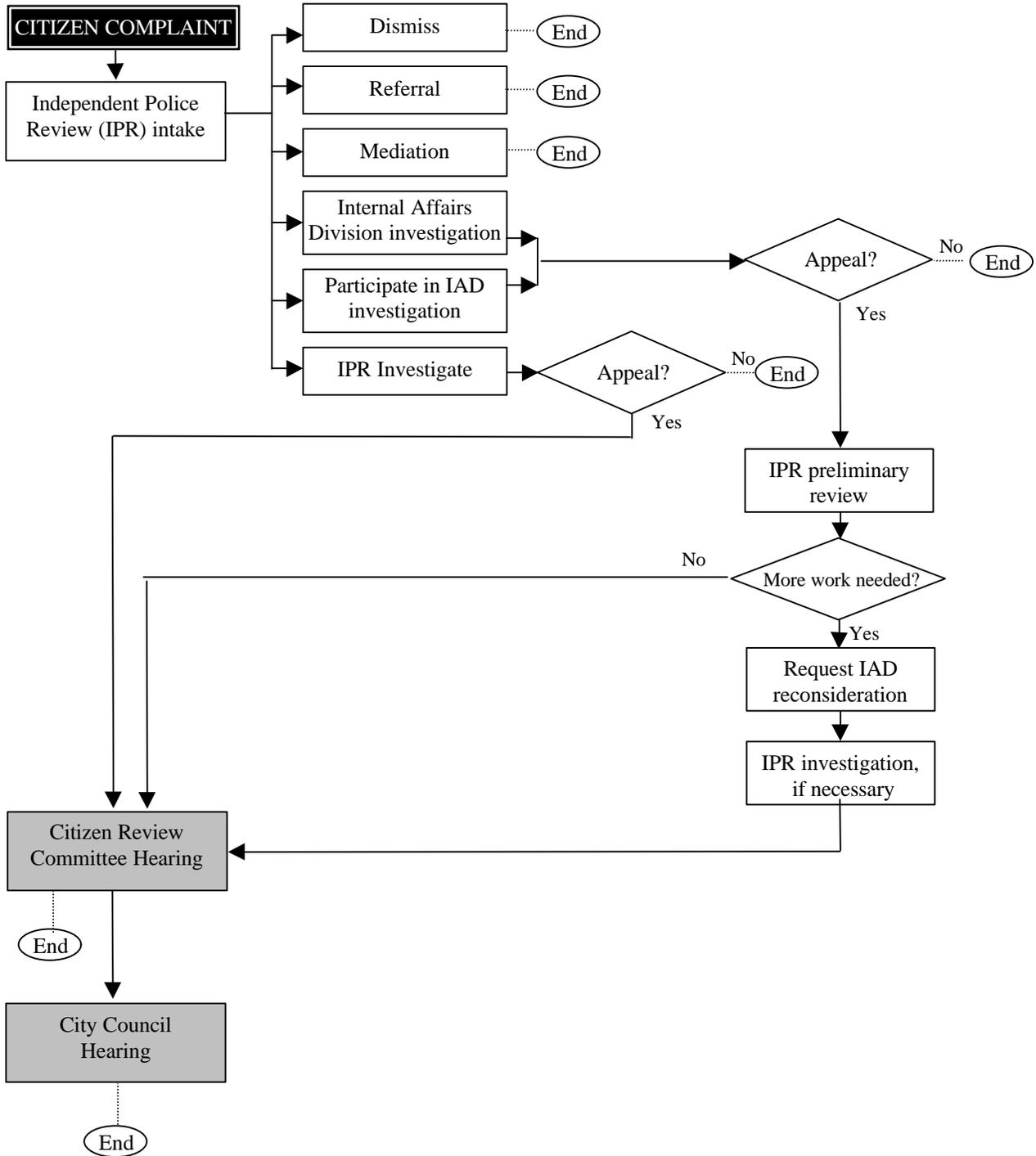
- Agree
- ◐ Partially Agree
- Disagree
- <blank> Not addressed

¹ Intake is removed from PPB, not shared

² Selective independent investigations

³ Council has subpoena power, not Citizen Review Committee

Flowchart of police complaint handling



IPR Intake Decisions

These are examples only. Specific guidelines will be drafted, discussed with the Citizen Review Committee, and regularly reviewed for appropriateness. Other factors such as a fearful complainant could affect the intake decision.

IPR ACTION: DISMISSAL

Allegation	Reason For Dismissal
A PPB officer was rude to the complainant during a traffic stop that occurred eight months ago.	The complainant delayed too long in filing a complaint to justify opening an investigation.
Excessive force was used during an arrest and the complainant states that he has filed a civil suit with the City on the same incident.	The complainant is using another remedy.

IPR ACTION: REFERRAL

Allegation	Reason For Referral
Complainant's eyeglasses are broken in an altercation with police officers. He states that he is only interested in getting reimbursed for his financial loss.	IPR/IAD does not deal with financial liability issues. This would best be handled by the Office of Risk Management.
Complainant was falsely arrested.	The appropriate venue for this complaint would be the District Attorney's Office.

IPR ACTION: MEDIATION

Allegation	Reason For Mediation
A driver who was pulled over for a suspicious activity was given contradictory orders by a police officer ("Get your hands on the steering wheel... let me see your driver's license.") and ordered out of his car and berated for not following the officer's directives.	This was a communication problem in which complainant felt insulted and disrespected. Mediation could have more satisfactory results for both complainant and officer than an internal investigation.
A PPB officer yelled a profane insult at a woman who refused to stay in her car during a traffic stop.	There were no witnesses which would have made an investigation difficult and mediation could improve future interactions of the officer with other citizens and the citizen with other officers.

IPR ACTION: SEND TO IAD FOR INVESTIGATION

Allegation	Reason For IAD To Investigate
PPB officer and precinct clerk failed to file complainant's theft report.	Nothing in this case would warrant additional IPR involvement. IPR would review and conduct additional investigation if appealed.
A PPB detective left rude messages on her home answering machine. She doesn't want mediation; she wants the detective fired.	Nothing in this case would warrant additional IPR involvement. IPR would review and conduct additional investigation if appealed.
PPB officers were derelict in their duties by failing to fully investigate a crime.	Nothing in this case would warrant additional IPR involvement. IPR would review and conduct additional investigation if appealed.

IPR ACTION: IPR PARTICIPATES IN IAD INVESTIGATION

Allegation	Reason For Participation In IAD Investigation
A young man arrested after a car and foot pursuit alleges PPB officers used excessive force in arresting him after he had surrendered.	Previous IAD investigations have not adequately addressed injuries occurring at the end of pursuits.
A littering incident in a park escalated to a charge of excessive force in arresting a man.	Though no serious injuries occurred, questions about dealing with a minor littering problem by an apparently mentally ill person could lead to policy recommendations for a better resolution.

IPR ACTION: IPR INVESTIGATES

Allegation	Reason For IPR To Investigate
African American male alleges that two officers used excessive force in arresting him.	The officers in question have a lengthy history of excessive use of force allegations involving African American males.
A woman seven months pregnant is left stranded in an industrial area when her car is towed. She alleges the officer handcuffed her unnecessarily and rudely refused when asked for a ride to a telephone.	This could have been investigated by IAD except the completion date for their investigations has extended beyond acceptable standards.
A motorcycle officer "went ballistic" toward the victim during an on-scene motor vehicle accident investigation.	Officer's name continuously comes up as being rude and unprofessional in situations with no witnesses.

Example Complaint Handling

Independent Police Review Division (IPR)

The following chronological scenario follows a hypothetical complaint from the initial filing with Independent Police Review Division through a City Council hearing.

9/4/01: A complainant calls IPR to file a complaint regarding an incident that occurred on September 1, 2001. The support staff person who answers the phone obtains the complainant's name, day and night telephone number, and mailing address. A brief description of the incident and the complaint is documented. Complainant is advised that an intake investigator will call her within one week.

9/7/01: Intake Investigator calls complainant at her home phone. He asks for more details regarding her complaint and decides that it does not fall within mediation guidelines. He learns she works downtown and schedules a face to face interview with the complainant in the IPR office the following week.

9/11/01: She is asked to sign that her statements are truthful. She is advised that the interview will be audiotaped. Her allegation includes injuries due to use of force, and she is asked to sign a release of medical information and have her medical records sent to IPR immediately.

9/18/01: Intake Investigator submits a report to the IPR Director or Deputy Director. The report includes a summary of the allegations, a summary or transcript of the intake interview, and related documents such as dispatch records, PPDS records, and medical records. The Director sends the case to IAD to investigate because this is the first complaint of this type against the officer, who has had only one other complaint in his three-year career.

9/20/01: IPR Investigator sends complaint to Internal Affairs Division for full investigation.

10/18/01: IAD informs IPR Director that the investigation is in progress, that two officers and one witness have been interviewed and that they are still trying to contact a second witness.

11/12/01: Investigation is completed and a Letter of Finding is received with a finding of "Exonerated".

11/13/01: IPR Director sends Letter of Disposition to complainant and advises of right to appeal the finding.

11/16/01: Written request for review received from Complainant.

11/20/01: After IPR review, IPR Director returns case to IAD for more investigation, citing the need for additional witnesses to be interviewed.

11/28/01: IAD Commander advises IPR Director that the one witness was sufficient to discredit the complaint and no further investigation will be done.

11/30/01: IPR Director and Investigator conduct additional work and conclude no witnesses and evidence could be found. They send a report of their efforts to IAD.

01/11/02: Citizen Review Committee hearing is conducted. Citizen Review Committee votes to change the finding from "Exonerated" to "Insufficient Evidence".

2/13/02: City Council hears the case and agrees to change the finding from "Exonerated" to "Insufficient Evidence".

2/14/02: IPR Director directs Police Chief to change the finding.

ORDINANCE No.

Amend City Code to establish the Independent Police Review Division. (Ordinance, replace Code Chapter 3.21.)

The City of Portland ordains:

Section 1. The Council finds:

1. The City is committed to hearing concerns and complaints from our citizens about police services and responding in such a way that services are improved and trust in government is restored.
2. The complaint handling system can be a critical element of a community policing program, ensuring effective communication between citizens and members of the Police Bureau.
3. It is important that a complaint handling system is accessible to the community at large, and perceived as fair by participants and the community.
4. Improvements can be made to the current practices of handling complaints against the police, and these improvements can result in better police services.
5. That an independent police review division, under the authority of the City Auditor, empowered to investigate and recommend appropriate changes towards the goals of holding police accountable and promoting higher standards of City police services is in the best interest of the citizens of Portland.

NOW, THEREFORE, the Council directs:

- a. PCC Chapter 3.21 is replaced as provided by Exhibit 1.

Section 2. In order to provide adequate time for the Auditor to establish the Independent Police Review Division the effective date of this ordinance shall be July 1, 2001.

Passed by the Council:

Auditor Gary Blackmer

GARY BLACKMER
Auditor of the City of Portland
By

Deputy

Chapter 3.21

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION

(Chapter replaced by Ordinance No.
_____, 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 Committee Created.
- 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 Reviews and Supplementary Investigations.
- 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.

3.21.010 Purpose.

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

3.21.020 Definitions.

In this chapter:

- A. "Appellant" means either:

1. A person who has filed a complaint with IPR and subsequently requested review by the Committee 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.** “Commissioner In Charge” means the Commissioner In Charge of the Bureau.
- E.** “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.
- F.** “Complaint” means a complaint by a citizen of alleged member misconduct.
- G.** "Complainant" means any person who files a complaint against an employee of the Portland Police Bureau.
- H.** "Director" means the director of the Independent Police Review Division.
- I.** "Finding" a conclusion reached by the bureau after investigation.
- J.** "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.
- K.** “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.
- L.** "IPR Investigator" means the investigator of the Independent Police Review Division.
- M.** "IPR" means the Independent Police Review Division.
- N.** "Member" means a sworn employee of the Police Bureau about whom a complaint has been submitted to IPR.

- O. “Misconduct” means conduct by a member during an encounter with a citizen, which conduct violates Police Bureau regulations or orders, or other standards of conduct required of City employees.
- P. “Request for Review” means a request by an appellant that the Committee review an IAD or IPR investigation of alleged member misconduct.
- Q. “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.

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.

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. 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.

The Director's powers and duties are the following:

- A.** Intake. To receive complaints and select the appropriate manner to address the complaint.
- B.** Report on complaint activities. To track and report on the disposition of complaints to the public, IAD, the Chief, and the Council; to monitor and report measures of activity and performance of IAD and IPR.
- C.** Monitor and conduct investigations. To identify complaints which merit additional involvement of the Director; to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the initial investigation.
- D.** Communicate with Complainants. To be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Bureau employee.
- E.** Arrange hearings of appeals. To explain the appeal options to complainants and schedule hearings before the Committee and Council.
- F.** Recommend policy changes. To evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems.
- G.** Outreach. To 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.
- H.** Notwithstanding any other provision of city law, to have access to and to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law, subject to any applicable state or federal laws. Except, the Director shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Director shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- I.** To 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.

3.21.080 Citizen Review Committee

- A.** The Committee shall consist of seven citizens. The Citizen Reviewers shall be appointed as follows:
 - 1.** The Director shall solicit applications from the Office of Neighborhood Involvement, the seven Neighborhood Coalition offices, Mayor and commissioners' offices, PPB advisory committees, and the general public.
 - 2.** The Director and the Committee shall select the appropriate number of nominees to fill impending vacancies. During the transition until the first Committee is appointed, the Citizen Advisors of the Police Internal Investigations Auditing Committee shall serve in this role.
 - 3.** Selection criteria shall include an established 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.
 - 4.** The Director shall forward the nominees to Council for appointment.
 - 5.** In the event a majority of the Council fail to appoint a person recommended under the provisions of City Code Section 3.21.080 the Director and Committee shall initiate the process again within 30 days after the Council action.
 - 6.** In selecting Citizen Reviewers, consideration shall be given to the current composition of the group of Citizen Reviewers and appointments should be made that will cause the group to best reflect the demographic make-up of the community.

- B.** The Citizen Reviewers shall:
 - 1.** Participate in orientation and training activities that may include review of Bureau and IPR procedures, attending the Bureau Citizens' Academy, and training on investigative practices.
 - 2.** Each serve a term of two years, subject to reappointment by Council. Upon expiration of the term, a Citizen Reviewer shall serve until re-appointed or replaced.

3. Attend committee meetings or provide an explanation in advance for an absence.
4. Serve staggered terms to better ensure continuity. Three Citizen Reviewers shall be appointed to one year terms in July 2001.
5. Adopt such operating policies and procedures as necessary to carry out their duties.

3.21.090 Powers and Duties of the Committee

- 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 Citizen Reviewers 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 help the Director identify specific patterns of problems and to participate in the development of policy recommendations
 4. Advise on operations. To review methods for handling complaints and advise on criteria for dismissal, mediation, and investigation.
 5. Hear appeals. To hold hearings of complainant or member appeals as defined in City Code Section 3.21.160; to recommend referral to a final hearing before Council; to publicly report its findings, conclusions and recommendations.
 6. Outreach to public. To advise and assist the Director to disseminate information about IPR and Committee activities to organizations in the community; to present reports to Council.
 7. Nominate committee members. To fill vacancies on the Committee as defined in City Code Section 3.21.080.
 8. 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

- 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.
- B. The Director shall not investigate matters currently in litigation; where a notice of tort claim has been filed; where a grievance or other appeal under collective bargaining agreement or City personnel rules has been filed; or 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

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 Bureau employee, the employee's supervisor 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. **IAD Investigation.** The IPR shall gather information from the complainant and forward it to the IAD. The IPR shall monitor timeliness and disposition of the investigation.

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.

- C. IAD Investigation with IPR Involvement. The Director may determine that an IAD investigation should also involve IPR personnel. When forwarding the complaint to IAD the Director shall notify the IAD Commander of the extent that IPR personnel must be included in the investigation. IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.

When Bureau personnel are being interviewed IPR personnel shall direct questions through the IAD investigator. The IAD investigator shall either repeat the question to the employee or direct the employee to answer the question.

IPR personnel shall have an opportunity to review and comment on draft reports regarding an IAD investigation in which they participated to ensure accuracy, thoroughness, and fairness.

- D. IPR investigation with IAD involvement
The Director may determine that IPR should investigate a complaint. IPR investigations shall be conducted in conformance with legal and collective bargaining provisions.

The Director shall notify the IAD commander that IPR has undertaken an investigation and the reason. The IAD commander shall appoint a liaison investigator from that office within two working days to arrange and participate in interviews of Bureau personnel. When Bureau personnel are being interviewed IPR personnel shall direct questions through the IAD investigator. The IAD investigator shall either repeat the question or direct the employee to answer the question.

The Director shall provide the IAD commander and the Police Chief with a report on the investigation. The Director shall provide the IAD commander and the Police Chief with a report on the investigation, and present the IPR findings to the Chief or designee to assist the Chief in determining what, if any, action is appropriate. At the completion of the

investigation and any appeal process the records of the investigation shall be transferred to the IAD offices for retention.

Complainants and members wishing to appeal an investigation by IPR or the findings shall appeal to the Committee as described in City Code Section 3.21.160 A.2.

- E. Referral. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.
- F. Dismissal. The Director may dismiss the complaint for the following reasons:
 - 1. 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;
 - 2. the complainant delayed too long in filing the complaint to justify present examination;
 - 3. even if all aspects of the complaint were true, no act of misconduct would have occurred;
 - 4. the complaint is trivial, frivolous, vexatious or not made in good faith;
 - 5. other complaints must take precedence due to limited public resources;
 - 6. the complainant withdraws the complaint or fails to complete necessary complaint steps.

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

- A. Any complainant or member who is dissatisfied with an IAD investigation of alleged member misconduct may request the IPR to review the IAD investigation.

- B.** The request for review must be filed within 30 days of the complainant or member receiving IPR's notification regarding disposition of the case. The Director may adopt rules for permitting late filings in extraordinary circumstances.
- 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 Reviews and Supplementary Investigations

A complaint resulting in an investigation may be reviewed or supplemented with additional investigative work as a result of an appeal. The IPR will act in accordance with applicable provisions of the collective bargaining agreements covering Bureau personnel when it participates in an IAD investigation, or when it initiates an investigation. The Director shall conduct a preliminary review of IAD's investigation and may conduct an investigation to supplement IAD work. The Director shall decide:

- A.** If no further investigation and consideration of evidence is warranted the Director shall inform the complainant or member of the basis for the decision and the opportunity for a hearing before the Committee or,
- B.** If additional investigation and consideration of evidence is warranted the Director shall request IAD reconsider its efforts and results. After additional investigation has been performed by IAD the Director shall review the work and may conduct supplemental investigation. The Director shall schedule the appeal for a hearing before the Committee.

3.21.160 Hearing Appeals

- A.** Appeal hearings may be conducted either at the following points:

- 1.** When a complainant or member appeals the finding the Committee shall decide:
 - a.** If the finding is supported by the evidence. The Director shall inform the complainant and member of the Committee's decision and close the complaint; or
 - b.** If the finding is not supported by the evidence. The Committee shall inform the complainant, member, IAD and the Chief of what finding should have been made. The Director shall schedule a hearing before Council for final disposition. The Committee shall select one of its members to represent the Committee's viewpoint before Council.
- 2.** In its hearing the Council shall decide:
 - a.** If the finding is supported by the evidence. The Director shall inform the complainant and member 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, the member and the Chief of the Council's decision and close the complaint.
- B.** In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the appellant or the member or other officers involved or any other citizen.
- 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, and any documents accumulated during the investigation 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.
- 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 C.3. shall not be delegated by the Council to the Committee.

3.21.170 Monitoring and Reporting

- 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.
- D. The Director shall use complaint and Bureau of Risk Management 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.

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 minor 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 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.