Chapter 3.21

CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION

(Chapter replaced by Ordinance No. 175652,
effective July 1, 2001.)

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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.

(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 <u>or the Director's designee.</u>

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.

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 <u>or a supervisor of sworn employees</u>. 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.

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

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

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

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.

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

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. <u>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.</u>

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.

(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

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

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~~

~~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.

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

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.~~

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

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

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.

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

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.

2. In its hearing the Council shall decide:

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

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

(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

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.

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 proposes findings and discipline.