

PSF-5.02 - Independent Police Review - Administrative Investigations

Independent Police Review - Administrative Investigations

Administrative Rules Adopted by the Auditor's Office Pursuant to Rule-Making Authority

ARB-PSF-5.02

Policy: IPR seeks to conduct objective, non-biased administrative investigations of alleged misconduct by Police Bureau members.

Definitions:

- **Administrative Investigation:** A complete investigation into allegations of policy violations by members of the Portland Police Bureau conducted by or at the direction of Internal Affairs or Independent Police Review (IPR).
- **Directives:** A Portland Police Bureau official document that addresses both the policy and procedural sections for a specific topic.
- **Findings:** A conclusion as to whether a member's conduct violated directives. There are four possible findings:
 - **Sustained:** The preponderance of evidence proves a violation of policy or procedure.
 - **Not Sustained:** The evidence was insufficient to prove a violation of policy or procedure.
 - **Exonerated:** The preponderance of evidence proves the member's conduct was lawful and within policy.
 - **Unfounded:** The preponderance of evidence proves the allegation was false or devoid of fact or there was not a credible basis for a possible violation of policy or procedure.
- **Responsibility Unit Manager-** Portland Police Bureau supervisor in charge a designated unit, division, or branch.

A. Administrative Investigations

Portland City Code 3.21.070 authorizes IPR to conduct administrative investigations of Police Bureau members accused of misconduct. IPR will prioritize conducting investigations in the following areas:

1. When Internal Affairs has a conflict of interest or is unable to conduct an investigation;
2. Allegations involve a member of the rank of Captain or higher;
3. Allegations involving a claim of disparate treatment based on a protected status such as race, gender, sexual orientation, or gender identity;
4. Allegations involving a community member who is part of a vulnerable population, such as:
 - a. Juveniles
 - b. Persons experiencing a mental health crisis
 - c. Persons with a physical disability;
5. Allegations that a Police Bureau member retaliated against someone for initiating a complaint against a member;
6. Allegations arising from a crowd control event, demonstration, or other constitutionally protected speech event;
7. Cases in which IPR disagrees with the Internal Affairs Captain's processing or assignment decision

8. Matters that the Director determines are in the public interest and over which IPR has jurisdiction over under the City Code.

B. Notification

When IPR initiates an administrative investigation, it will notify in timely manner:

1. The Internal Affairs Captain or designee.
2. The complainant and the involved member.
 - a. The notification will include a case number, allegation classification, and the current investigative status.

C. Investigative Procedure

When assigned an administrative investigation, an IPR investigator will:

1. Maintain the integrity of the case file and confidentiality of the investigation.
2. Conduct a complete, thorough, and objective investigation based on investigative best practices and IPR's policies and procedures.
3. Interview all witnesses and members separately.
 - a. In the case of juveniles or vulnerable populations, a guardian or caregiver will be allowed to attend but not participate during interview. If the guardian or caregiver is a witness, they shall be interviewed separately and another responsible adult will be allowed to be present during the juvenile's interview.
4. Audio record all interviews, which will become part of the case file. If the complainant or a civilian witness objects to being recorded, the interview will not be recorded. Any interview that is not recorded should be documented in case file.
5. Complete the investigation and submit an investigative report, including recommended findings, to a IPR supervisor within ten weeks of assignment date.
6. If it is anticipated that the investigation will not be completed within the allotted time, the investigator shall notify the Director as soon as that determination is made, but no later than the established due date. The investigator shall make a written request for an extension for good cause shown not to exceed 30 days for any single extension, and all extensions not to exceed 90 days cumulatively, absent extraordinary circumstances documented in writing.
7. Secure through the Director an instruction from the Police Bureau to advise all its members of their Garrity warning and any other applicable rights as prescribed by the appropriate bargaining agreement.
8. Include a transcription in the case file for each recorded interview. Interviews that are not recorded shall be summarized in the investigative report.
9. Write an investigative report outlining the overall results of the investigation. The investigator shall include a recommended finding based on the evaluation of all relevant evidence, including interviews, physical evidence, and documentation. The standard of proof for a recommended finding shall be a preponderance of the evidence.
10. Submit the completed investigative report to the Director or designee for review and approval.

D. Director's Responsibilities

The Director or designee shall ensure that the assignment, investigation, documentation, and record maintenance for administrative investigations are completed in accordance with relevant City Code provisions, Auditor's Office Protocols, and Police Bureau Directives. The Director shall:

1. Review all complaints received and determine how they will be handled pursuant to PSF 5.01 - Complaint Intake, and Processing.
2. Coordinate with the Assistant Chief of Investigations about all matters alleging criminal misconduct, in accordance with Directive 333.00, Criminal Investigations of Police Bureau Employees.
3. Within seven days of receipt, review all investigations and recommended findings to ensure accuracy, completeness, and compliance with contractual, directive, and City Code requirements, as well as to determine whether additional allegations warrant further investigation. If the investigation is deficient or additional investigation is warranted, the case will be returned to the investigator for additional investigation or reassigned.
4. Within seven days of completion of the Director's review, forward a copy of the completed administrative investigation with the investigator's recommended finding to Internal Affairs so that it can be provided to the Responsibility Unit Manager for concurrence or disagreement.
5. If the Responsibility Unit Manager requests that IPR conduct additional investigation, the Director shall ensure the investigation is completed as soon as practicable but not more than 30 days, unless extraordinary circumstances documented in writing warrant otherwise.
6. Within seven days of receipt from Internal Affairs, review the Responsibility Unit Manager's concurrence with or objection to the investigator's recommended findings.

E. Retention of IPR Files

1. The policy and procedure for retaining IPR files pertains to those files that are in the custody and control of IPR.
2. Files for IPR investigations where the involved member was either terminated as a result of the investigations or resigned or retired with the investigation pending shall be retained for no less than 10 years from the date of separation.
3. IPR shall retain all other individual IPR case files for 10 years following the involved officers' tenure with Portland Police Bureau unless otherwise directed by court order.
4. Questions regarding the retention of IPR files should be directed to the Auditor's Office General Counsel or the City Attorney's Office.