

***Please note: This is a working draft of Directive 336.00. This is proposed language and the Bureau has not implemented any changes at this time.**

336.00, Police Review Board

2nd Universal Review: 7/10/17-7/24/17

Refer:

- Portland City Code 3.20.140 Police Review Board
- Portland City Code 3.21 City Auditor's Independent Police Review
- City of Portland, Human Resource Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination and Retaliation
- DIR 330.00, Internal Affairs, Complaint Intake and Processing
- DIR 335.00, Discipline Process

Definitions:

- Action Items: Recommendations to the Chief of Police to consider the review of policies, training, supervision, tactics, and equipment identified during the Police Review Board process.
- Case File: Administrative package containing the originals or copies of the Internal Affairs investigation or other investigation materials for a Police Review Board case and the proposed findings.
- Controverted: A Responsibility Unit Manager's recommended finding or proposed discipline that is challenged by the Professional Standards Captain, an assistant chief, or the Independent Police Review Director or designee.
- Police Review Board: An advisory body to the Chief of Police. The Police Review Board reviews certain incidents and investigated complaints of alleged misconduct involving current or former Bureau employees, reviews certain use of force incidents involving sworn officers, and makes recommendations to the Chief of Police regarding findings, action items, and proposed discipline. The Police Review Board may also make recommendations to the Chief of Police regarding the adequacy and completeness of an investigation.

Policy:

1. The City of Portland established the Police Review Board (PRB) to conduct an additional review of qualifying cases regarding allegations of member misconduct and certain use of force incidents. The Portland Police Bureau supports the efforts of the City and the PRB to further promote member and organizational accountability.
2. While this directive provides guidance to members regarding the PRB hearing process, Portland City Code 3.20.140, Police Review Board, more thoroughly delineates the purpose, authority and composition of the PRB.

Procedure:

1. Powers of the Police Review Board.
 - 1.1. The PRB shall review incidents and investigated complaints of alleged misconduct and inquiries regarding use of force incidents by non-probationary sworn members in the following cases:

- 1.1.1. An investigation resulting in a recommended sustained finding with proposed discipline of suspension without pay or greater.
 - 1.1.2. If the supervising Assistant Chief, the Director of the Independent Police Review (IPR) or the Captain of the Professional Standards Division (PSD) controverts the recommended findings or proposed discipline of the Responsibility Unit (RU) manager.
 - 1.1.3. The case involves the following types of use of force:
 - 1.1.3.1. Officer involved shooting,
 - 1.1.3.2. In-Custody Death,
 - 1.1.3.3. Proposed sustained finding for out-of-policy deployment of less-lethal weapons,
 - 1.1.3.4. Physical injury caused by a member that requires hospital admission.
 - 1.1.4. An investigation regarding an alleged violation or violations of City of Portland Human Resources Administrative Rules (HRARs) regarding discrimination that results in a recommended sustained finding.
 - 1.1.5. Discretionary cases referred by the Chief of Police, an Assistant Chief or the IPR Director.
 - 1.2. For cases involving probationary sworn members, the PRB shall review cases that fall under section 1.1.3. of this directive and incidents and investigated complaints of alleged misconduct when referred by the Chief of Police, an Assistant Chief, or the IPR Director. However, nothing in City Code 3.20.140 prohibits the Bureau from disciplining or terminating the employment of a probationary sworn member without convening a Police Review Board or following the procedures of the City Code or this Directive.
2. Composition of the Police Review Board.
 - 2.1. The PRB shall be composed of five voting members and eight advisory members. All PRB members shall be advised of every case presented to them. A quorum of four voting members, including the community member and the RU manager or designee, and four advisory members is required to be present to make recommendations to the Chief of Police. The PRB shall be comprised of the following voting members:
 - 2.1.1. A community member. Members shall refer to Directive 337.00, Police Review Board Personnel Selection, for the qualification standards and appointment procedures for community members of the PRB;
 - 2.1.2. A peer member of the same rank or comparable rank or classification as the Bureau member under review;
 - 2.1.3. The Assistant Chief of the member under review;
 - 2.1.4. The Director of IPR or a designee; and
 - 2.1.5. The RU manager of the member under review.
 - 2.2. When the case involves the use of force described in section 1.1.3. of this directive, one additional community member, drawn on a rotating basis from the pool of current Citizen Review Committee (CRC) members, as described in City Code 3.21.080, and one additional peer member shall serve on the PRB, for a total of seven voting members. A quorum of six voting members, including two citizen members, and the RU Manager

or designee, and four Advisory members is required to be present to make recommendations to the Chief of Police.

- 2.3. The PRB shall be comprised of the following advisory members:
 - 2.3.1. The Professional Standards Division Manager or designee;
 - 2.3.2. The PPB Human Resources Manager or designee;
 - 2.3.3. A representative from the City Attorney's Office (CAO);
 - 2.3.4. The PRB Coordinator;
 - 2.3.5. A representative of the Commissioner in Charge of the Bureau ("Commissioner in Charge");
 - 2.3.6. The Training Division Captain or designee; and
 - 2.3.7. The other branch Assistant Chief(s) who do not serve as the supervisor of the member under review.
3. Other PRB Hearing Attendees.
 - 3.1. During the case presentation, the following individuals may also be present:
 - 3.1.1. The involved member.
 - 3.1.2. Either a representative of the involved member's bargaining unit or an attorney.
 - 3.1.3. Representatives from the investigative divisions (e.g., IA, Detective Division, etc.).
 - 3.1.4. Other individuals invited at the discretion of the PSD Captain.
 - 3.2. After the presentation of the facts of the case, the involved member, their union representative and the case investigators will vacate, unless instructed to do otherwise, and the PRB members will convene into an executive session to discuss the presentation findings and vote. If the finding is sustained, PRB members will discuss proposed discipline.
 - 3.2.1. The PSD Captain shall have the discretion to allow non-involved observers (e.g., IA staff) to remain in the hearing through the executive session for training or similar purposes.
 - 3.2.2. A bargaining unit representative may also be present during any portion of the PRB executive session in which a non-PRB member "presenter" from the Training Division, IA or the Detective Division is permitted to attend.
4. PRB Voting and Advisory Member Roles and Responsibilities.
 - 4.1. Voting members shall review the case file prior to the PRB hearing.
 - 4.1.1. During the review of the case file, if a voting member deems that additional information is needed in order to render a finding, the voting member shall apprise the Review Board Coordinator (RBC) of their need. The RBC will solicit assistance from the IA investigator to answer any questions. Any unanswered questions shall be brought to the attention of the PSD Captain prior to the hearing.
 - 4.2. An advisory member's role is to answer the questions of voting members and to bring to the attention of the PRB clarifying facts within their area of expertise. Advisory members will not provide opinions or information outside of their areas of expertise.

- 4.3. Voting members may make recommendations regarding the following:
 - 4.3.1. Findings and discipline. In cases where discipline is recommended, the PRB shall recommend a level of discipline that is consistent with applicable City and Bureau rules, including obligations under collective bargaining agreements;
 - 4.3.2. The adequacy and completeness of an investigation; and/or
 - 4.3.3. Policy or training.
- 4.4. All information and discussions are confidential and shall only be discussed amongst participants of the particular review for the purposes of the particular review.
- 4.5. By majority vote, the PRB may request that investigations be returned to the investigating entity to complete the investigation necessary to reach a finding. The investigating entity shall complete the requested investigation. The investigating entity must make reasonable attempts to conduct the additional investigation or obtain the additional information within 10 business days or provide a written statement to the PRB explaining why additional time is needed.
5. PSD Captain Responsibilities.
 - 5.1. Convening a PRB.
 - 5.1.1. The PSD Captain shall present a qualifying case file to the PRB Coordinator, authorizing the scheduling of a PRB hearing.
 - 5.1.2. The PSD Captain shall ensure the reason for any delays in scheduling PRB hearings is documented in the case file.
 - 5.1.3. On the date of the hearing, the PSD Captain shall meet with the involved member and/or their bargaining unit representative or attorney (if present), peer and community voting members, and review the PRB's process.
 - 5.1.3.1. The PSD Captain shall notify the involved member, or their designated representative, and the Chief of Police regarding the PRB's recommended findings and corrective action by the end of the day that the hearing in conducted.
 - 5.1.3.2. PSD, Internal Affairs (IA) Unit shall facilitate the review of the case file by the involved member(s) and/or their union representatives.
 - 5.1.4. The PSD Captain shall not disclose how each member voted.
6. PRB Coordinator Responsibilities.
 - 6.1. The PRB Coordinator shall:
 - 6.1.1. Upon receipt of a qualifying case file or request from the PSD Captain, set a date for the hearing. The hearing must be within 21 days from receipt of the file. If a reason exists to convene a hearing on a date outside of the 21 day requirement, notify the PSD Captain of the delay and reason;
 - 6.1.2. Schedule the facilitator, community members, and peer members for each PRB;
 - 6.1.3. At least 14 days prior to the hearing, notify the voting and advisory PRB members and the involved Bureau member(s) of the date, time, and location of the PRB hearing;
 - 6.1.4. Facilitate the review of the case file by the community and peer members at a Bureau facility selected by the PRB Coordinator;

- 6.1.5. Distribute copies of the case file to the voting and advisory members of the PRB at least five days prior to the hearing;
 - 6.1.6. Provide PRB members with a written description of the PRB procedures;
 - 6.1.7. At the conclusion of the hearing, provide a written copy of the PRB's majority findings to the PSD Captain;
 - 6.1.8. Serve as the custodian of all PRB records, while PSD shall maintain a record of all Action Items recommended and document the actions taken in response to the recommendations; and
 - 6.1.9. At least twice each calendar year, release a public report including the summations of the statements of findings and training or investigation issues written by the PRB facilitator(s). The reports shall not include the names of involved members, witnesses or complainants. A case may not be included in the report until a final decision, including discipline (if any), is made by the Chief of Police or Commissioner in Charge.
7. PRB Facilitator Responsibilities.
- 7.1. The PRB Facilitator shall:
 - 7.1.1. Balance participation in PRB meetings as appropriate, pay attention to group dynamics, and strictly adhere to the established board processes and rules;
 - 7.1.2. Remain neutral and not influence PRB members' decision-making or encourage a particular recommendation, even if the facilitator possesses an opinion on the subject matter. The facilitator shall allow voting board members to arrive at their own conclusions and recommendations.
 - 7.1.3. Prepare a written statement of recommended findings and recommendations, along with any proposed discipline, as well as any policy, training and/or investigation issues or concerns raised by the PRB. The completed statement must be submitted to the PRB Coordinator within two weeks of the PRB meeting date and include the following:
 - 7.1.3.1. The PRB's recommended findings and a brief explanation of the board's rationale for its recommendations, including a description of the recommendations proposed by members voting in the minority, when the decision is not unanimous;
 - 7.1.3.2. The PRB's range of recommended discipline, if any; and
 - 7.1.3.3. Any policy, training or supervisory issues raised by the PRB.
 - 7.2. Facilitators shall maintain strict confidentiality of all case file information and PRB discussions and deliberations.
8. Involved Member.
- 8.1. The involved member shall be given at least 14 days to review the case file before the PRB meeting.
 - 8.2. If the involved member and/or their representative elect to be present, they may, after the presentation of the case, provide a personal statement of relevant details.
 - 8.2.1. The involved member may provide the information to the PRB in written or oral format.

8.3. The involved member may remain in the hearing until executive session.

9. Special Case Findings.

9.1. Findings for deadly force or in-custody death cases shall be limited to the following:

9.1.1. In Policy: The member's actions complied with policies; or

9.1.2. Out of Policy: The member was found to be in violation of policy.

9.2. An "in policy" finding may include a recommendation for action items or a debriefing regarding any of the following:

9.2.1. Tactical Development: An opportunity to develop new tactics or modify existing tactics;

9.2.2. Organizational Review: Issues regarding Bureau organizational structure or process; and/or

9.2.3. Performance Analysis: While no policy violations were identified, an involved member or supervisor would benefit from a critique of the incident.

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