



CITY OF PORTLAND, OREGON



Bureau of Police

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Integrity • Compassion • Accountability • Respect • Excellence • Service

Accountability Suite: Directives 330.00, Internal Affairs, Complaint Intake, and Processing; 331.00, Supervisory Investigations; 332.00 Administrative Investigations; 333.00, Criminal Investigations of Portland Police Bureau Employees; 334.00, Performance Deficiencies; 335.00, Discipline Process; 336.00, Police Review Board; 337.00, Police Review Board Selection; and 338.00, Discipline Guide Executive Summary

Introduction

Following a 14-month investigation launched by the Department of Justice (DOJ) in 2011 to determine whether the Portland Police Bureau (PPB) engaged in a pattern or practice of using excessive force against persons who have or are perceived to have mental illness, PPB agreed to implement numerous reforms to address alleged systemic deficiencies to include refining officer accountability systems. As a result, the Bureau reviewed and completed an extensive overhaul of its directives pertaining to member accountability. The summary below describes the steps taken from complaint intake, through the investigation process, to discipline imposed on a member for a sustained allegation of misconduct.

Review Timeline and Process

The Policy Development Team began revising Directives 330.00 through 338.00 as a collective whole in June 2017. These directives have been posted for universal review and public comment within previous years in conjunction with larger scale efforts by the Bureau and the City to improve the police accountability system (e.g., Police Review Board [PRB]). PPB has since then moved forward in revising its directives to provide more guidance and structure for its members involved in the investigation and discipline process of formal complaints by community members or other Bureau members.

Over the course of several months beginning in early summer of 2017, the Bureau worked in conjunction with the DOJ, Compliance Officer/Community Liaison (COCL), and the Independent Police Review (IPR) Director through multiple conferences to update the directives in the accountability series. After a series of lengthy discussions, PPB received the DOJ's tentative approval on each directive.

Public Comments

PPB received feedback from Bureau members as well as numerous comments from the community throughout the duration of the universal review and public comment periods for each directive in the series. A large volume of input consisted of questions and comments regarding clarification on language, and omissions and changes of text from the current versions. The Policy Development Team identified several recurring themes from individual commenters as well as community stakeholders recommending substantive changes. The Bureau conducted numerous

discussions with subject matter experts within the Professional Standards Division (PSD), IPR, police union representatives, and the City Attorney's Office (CAO) prior to and during scheduled monthly DOJ and COCL conferences to address the concerns of the public and Bureau members.

The Role of IPR

The Bureau received public comments suggesting that it incorporate the role of IPR into the directives. IPR is a City entity, under the umbrella of the Auditor's Office, with its own policies and procedures that occasionally overlap with Bureau policy. For that reason, the Bureau worked closely with IPR to establish the same procedural guidelines for complaint intake and investigating misconduct. Through collaboration, the two organizations were able to clearly define a process in which a complaint is processed and investigated under the same criteria, regardless of whether PPB or IPR manages it; however, it is worth noting that IPR is not authorized to impose discipline if an investigation results in a sustained allegation of misconduct.

The Bureau has incorporated elements from the recently amended changes to Portland City Code Chapter 3.21, City Auditor's Independent Police Review, which the City Council adopted through Ordinance No. 188547 on August 9, 2017. Information regarding complaint intake and case handling found in the Bureau's directives is also reflected in the Administrative Rule Public Safety Chapter 5 provisions, which are also under IPR's purview.

Supervisory Investigations (SI)

The Bureau revised Directive 331.00, Supervisory Investigations (formerly, "Service Improvement Opportunities"), to reflect an updated process, as established in the recently amended City Code, where first line supervisors may conduct low level investigations for complaints alleging that a member under their supervision provided poor quality of service or committed a minor rule violation. The directive discusses the types of complaints that are ineligible for SIs and authorizes the Internal Affairs (IA) Captain to determine which complaints would be appropriately handled through an SI. This type of investigation is designed to address community members' concerns in a timely manner, as the nature of the complaint does not rise to the level of a more prolonged administrative investigation conducted by IA or the Responsibility Unit (RU) Manager.

Community members strongly advocated that SIs be placed in a member's personnel file for accountability purposes; however, a substantiated allegation of misconduct of these low level complaints does not amount to disciplinary action, but rather corrective action. Although SIs are non-disciplinary, the Bureau's Employee Information System (EIS) does document these events throughout the duration of a member's career.

Administrative Investigations

In an attempt to simplify the classification of possible findings, the Bureau introduced the concept of a two findings system, "sustained and not sustained," in the second universal review draft, but received strong opposition from community members and stakeholders. After lengthy discussions with the DOJ, COCL, IPR, CAO, and union representatives, the Bureau reverted to the current four findings system but updated the definitions for each category.

The Bureau received another comment from a community stakeholder in which they questioned why the Bureau's policy statement in Directive 332.00 chose to highlight that a sustained allegation of misconduct "may" result in disciplinary action as opposed to "will" or "must." The Bureau imposes

both disciplinary and non-disciplinary action against its members depending on the severity of misconduct, and for this reason, the use of words such as “will” or “must” would not be appropriate.

The Bureau would also like to highlight a significant change to Directive 332.00, which now requires investigators to make a recommended finding that is submitted with the case file and reviewed by the RU Manager.

Criminal Investigations of Bureau Members

PPB received comments questioning why the management of criminal investigation procedures in Directive 333.00, Criminal Investigations of Police Bureau Employees, differs from the deadly force or in-custody death investigation procedures set forth in Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures. Directive 333.00, which provides more general guidance regarding how complaints are received and investigated, is intended as a general guide to investigating allegations of criminal misconduct, while Directive 1010.10 is narrowly focused on specific procedures for investigating and reporting on the use of deadly force and in custody deaths to determine whether a member was justified in using force of that nature or criminally at fault for an in-custody death.

Internal Notifications Regarding Criminal Investigations

A community member expressed confusion about the notification procedures for IA, the Detective Division, and the Assistant Chief with regard to the receipt of information involving criminal misconduct by a member. Directive 333.00, Criminal Investigations of Police Bureau Employees, includes guidance regarding notifications that accounts for the possibility that one of a handful of individuals or divisions could receive a complaint of criminal conduct. While there may be times when one or multiple offices are already aware of a complaint, the directive emphasizes information sharing to ensure that all parties are informed.

Performance Deficiencies

PPB received concerns from community stakeholders that Directive 334.00, Performance Deficiencies, did not adequately emphasize the role of IA or IPR during this type of investigation, and expressed apprehension that the roles of the two units were diminished. This is not the intention of the Bureau and although the roles of IA or IPR are not explicitly described in the directive, IA and IPR are involved pursuant to Directive 330.00.

As a note, performance deficiency investigations fall under the scope of administrative investigations which are reviewed by IA and IPR. The IA Captain assigns the case based on the criteria presented to them, or IPR may choose to investigate the case independently. If, upon review of a case investigated by the Bureau, IPR determines that more inquiry is necessary, IPR can request additional investigation into the allegation. However, this directive was crafted to identify a member’s performance deficiency that demonstrates patterns of inadequate completion or execution of routine work duties. These would be investigated within the involved member’s Responsibility Unit (RU) in order to alleviate IA’s investigative case load.

Disclosure of Discipline to Complainants and the Public

PPB received several comments from community members seeking the public release of member names and the discipline imposed for sustained allegations of misconduct. The Bureau cites ORS § 192.501 which exempts from public disclosure “a personnel discipline action, or materials or documents supporting that action.” Equally, ORS § 181.854 states that “a public body may not

disclose information about a personnel investigation of a public safety employee [police] if the investigation does not result in discipline of that employee.” In addition to the state laws, provisions within police collective bargaining agreements provide that the release of information shall be done in a manner that is least likely to discredit the member before other members or the public.

The Bureau shall continue to act in accordance with applicable state laws and police union contracts regarding the disclosure of public information, unless the City determines that there is strong public interest on a case-by-case basis warranting the release of such information.

Discipline Coordinator, also known as PRB Coordinator

The Bureau received questions asking whether the role of the Discipline Coordinator identified in Directive 335.00 was the same individual as the Review Board Coordinator and PRB Coordinator listed in Directives 336.00 and 337.00. To clarify, this role is performed by one person who has other responsibilities if an investigation rises to a PRB. The Bureau acknowledges the confusion in using multiple titles and has corrected the inconsistencies to reflect one job title throughout the directives. This position resides in the Professional Standards Division.

Community and Complainant Presence in PRBs

The Bureau acknowledges the desire of the community for accountability transparency by opening PRBs to the public; however, the Bureau must also account for each member’s constitutional right to privacy. Due to the confidential nature of PRBs, the Bureau conforms to the requirements of ORS § 192.502 to protect a member’s personal information from disclosure to the general public.

Community stakeholders expressed discontent about the role of the complainant in the PRB process. Specifically, advocates recommended that the Bureau should allow complainants to participate in PRBs to share their experience and concerns with voting members. However, the Bureau believes that the complainant’s viewpoint is adequately captured during the intake and investigation. PRBs are convened to ensure procedural justice occurs by allowing voting members the opportunity to review all the facts of the case with the assistance of advisory members.

Review of Case Files by PRB Community Members

The Bureau received feedback concerned with the amount of time PRB members have to review case files versus the time allotted for an involved member. This is in regard to Section 6.1.5. in Directive 336.00, PRB, in which PRB community members are given copies of the case file five days prior to the hearing, while involved members are given 14 days. To clarify, the directive specifies that the PRB Coordinator would distribute copies at least five days prior to the hearing. In most cases, PRB members have significantly longer to review the case. In addition, the PRB Coordinator always checks in with all PRB voting members, including community members, to ensure they have had adequate time to prepare prior to the start of the PRB hearing.

The Role of the Involved Member’s RU Manager in the PRB Vote

The Bureau received consistent feedback from various community stakeholders over the course of the universal review and public comment periods about an RU Manager’s role as a voting member while serving on a PRB involving a member under their supervision. Commenters expressed a belief that this presents a conflict of interest and is inappropriate because the RU Manager had already made a finding and recommended discipline prior to the PRB. The purpose of having multiple voting members with varied experiences and positions, including the involved member’s RU Manager, is to ensure that cases are decided in an appropriate manner. By bringing more direct

knowledge of the involved member's work history and performance, the RU Manager plays a vital role in these deliberations.

We thank every individual who took the time to provide feedback on these directives. All comments received during the universal review and public comment periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

Updated Suite of Policies

Directives 330.00 through 338.00 form the core of the Bureau's police accountability directives. The current versions lack clarity in some areas, thereby insufficiently directing members involved in the complaint and discipline process. Also, they do not consistently conform to the requirements set forth in the 2012 DOJ Settlement Agreement. The revisions of all of these directives collectively help to ensure that members can better understand the process independently by directive and as a whole. Due to the complexity of these investigations, some directives are formatted to guide members through the investigation procedures in chronological order from start to completion (see Directive 334.00) while others are designed to capture the responsibilities of individuals (e.g., RU Manager, IA Captain, Assistant Chief) involved throughout the process (see Directive 332.00). Ultimately, the audience must navigate multiple directives to see the complete process from when a complaint is received, through the investigation, the findings, and finally to the discipline process.

Directive 330.00, Internal Affairs, Complaint Intake, and Processing, serves as the base of the accountability system. The revised policy more explicitly cross references the other directives to help guide members through the process of an investigation. This directive sets forth the requirements for PPB and the role of IPR when receiving complaints, whether they are initiated by the community or by Bureau members. Complaints are reviewed by IA and IPR to determine the appropriate level of investigation.

The Bureau attempted to clarify as many perceived vague statements and inconsistencies as identified by community members, as well as to eliminate information that is no longer applicable. For instance, in Directive 336.00, the Bureau removed its reference to non-sworn Bureau members in PRBs solely because non-sworn members do not undergo a PRB for discipline, and, therefore, had no place within the directive. As for the choice of wording in Section 1.4 (Removal of Community Members) in Directive 337.00, the guidance mirrors City Code Chapter 3.20.140. language with the inclusion of section 1.4.1.7. The Bureau agreed with the recommendation of a community member to incorporate such language.

The Bureau made great efforts to incorporate feedback from the community to address gaps and ambiguities within each directive regarding the role of IPR (Directive 330.00); mediation for willing complainants and Bureau members (Directive 330.00); final notification to complainants (Directive 330.00); the course of controverted findings from the IA Captain, IPR Director, or Assistant Chief (Directive 335.00); timelines in the investigation process (multiple); clarifying the types of investigations and what complaints are not eligible under a specific type (multiple); and listing the qualifications of a PRB Facilitator (Directive 336.00 and 337.00) not previously included.

The Bureau believes that the updated directives provide more clarity and enhanced guidance to its members; however, any suggestions to further improve these directives are welcome during their next review.

The following directives will become effective on March 3, 2018.

- Directive 330.00, Internal Affairs, Complaint Intake, and Processing
- Directive 331.00, Supervisory Investigations
- Directive 332.00, Administrative Investigations
- Directive 333.00, Criminal Investigation of Portland Police Employees
- Directive 334.00, Performance Deficiencies
- Directive 335.00, Discipline Process
- Directive 336.00, Police Review Board
- Directive 337.00, Police Review Board Selection
- Directive 338.00, Discipline Guide

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330.00, Internal Affairs, Complaint Intake, and Processing

Refer:

- Administrative Rule PSF 5.01, Independent Police Review—Complaint Intake and Processing
- Administrative Rule PSF 5.19 3b (5), Independent Police Review Division – Case Handling Guidelines
- Administrative Rule PSF 5.20, Internal Affairs Guidelines for Screening Referrals from IPR
- City of Portland, Human Resource Administrative Rule (HRAR) 2.02, Prohibition Against Workplace Harassment, Discrimination, and Retaliation
- DIR 211.20, Files, Bureau and Division Personnel
- DIR 310.20, Discrimination, Harassment, and Retaliation Prohibited
- DIR 315.00, Laws, Rules, and Orders
- DIR 315.30, Satisfactory Performance
- DIR 331.00, Supervisory Investigations
- DIR 332.00, Administrative Investigations
- DIR 333.00, Criminal Investigations of Police Bureau Employees
- DIR 334.00, Performance Deficiencies
- DIR 335.00, Discipline Process
- DIR 336.00, Performance Review Board
- DIR 345.00, Employee Information System
- DIR 1200.00, Inspections, Responsibility, and Authority
- Internal Affairs Complaint Log Form

Definitions:

- **Administrative Closure:** In accordance with Administrative Rule PSF 5.20, a determination by the Internal Affairs (IA) Captain, only as permitted below, that after an initial investigation has been conducted by the Bureau or the Independent Police Review (IPR), a complaint will not be investigated further.
- **Administrative Investigation:** A complete investigation into allegations of policy violations, conducted by or at the direction of IA or IPR.
- **Complaint:** Any complaint made to the City by a member of the public, a PPB officer, or a civilian PPB employee of alleged misconduct by a Bureau member.
- **Mediation:** A voluntary, non-disciplinary, confidential process used in an effort to resolve certain complaints by community members. Mediation involves the use of a neutral, professionally trained mediator to help facilitate and direct discussions between a complainant and Bureau members.
- **Misconduct:** Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.

- Supervisory Investigation (SI): A formal, non-disciplinary process in which the involved member's supervisor is tasked with reviewing a complaint stating a member provided poor quality of service or committed a rule violation that, if substantiated, would not result in corrective action greater than command counseling.

Policy:

1. The Portland Police Bureau and IPR shall work in partnership to address complaints of policy violations against members of the Portland Police Bureau. Jointly, the Bureau and IPR shall ensure that patterns or behaviors that erode community trust and confidence are identified and addressed impartially and professionally, that individual and organizational accountability for member conduct is promoted, and that policy and training issues that will strengthen our police-and-community relationship and quality of service are identified.

Procedure:

1. Role of IPR.
 - 1.1. As set forth in this directive and in city ordinance, IPR has a role in receiving, numbering, and documenting complaints regarding allegations of misconduct against members of the Bureau, monitoring IA investigations of complaints, coordinating appeals of Bureau findings of complaints, and recommending changes in police practice and policy. IPR has the authority to conduct investigations that may include the types of complaints described in section 5.3.1. of this directive.
2. Complaint Intake.
 - 2.1. Community Member Complaint.
 - 2.1.1. A community member may file a complaint (e.g., verbal, written, electronic) regarding alleged member misconduct with IPR, IA, a Police Bureau Precinct, the Police Commissioner, or with any Bureau member.
 - 2.1.1.1. If the community member elects to make a complaint in writing, the Bureau will ensure that complaint forms are made available at each precinct.
 - 2.1.2. If a community member expresses concern about the actions of a Bureau member, the receiving member shall notify a supervisor as soon as practical, but no later than end of shift.
 - 2.1.2.1. If the community member's concern alleges misconduct, the supervisor shall document the complaint and forward the information directly to IA.
 - 2.1.2.2. If the information is ambiguous or incomplete, the supervisor shall make inquiry sufficient to determine whether an allegation of misconduct is being made.
 - 2.1.2.2.1. If the supervisor determines that the allegation rises to the level of misconduct, they shall forward the allegation directly to IA.
 - 2.1.3. Supervisors receiving information about a possible complaint may contact the community member to clarify whether an allegation of misconduct is being made.
 - 2.2. Internal Complaints.
 - 2.2.1. Members may file a complaint against another Bureau member. The member may report the alleged misconduct to anyone in or out of the chain of command (e.g.,

the Chief, Bureau of Human Resources [BHR], etc.). Individuals receiving a complaint shall forward the information directly to IA.

- 2.2.2. If the circumstances warrant, the Bureau shall initiate an investigation, even in the absence of a complaint from an individual. Circumstances will warrant investigation when information regarding misconduct that has not been previously addressed and which, if true, could result in discipline.
- 2.3. When the IA Captain, the Assistant Chief of Investigations, or a member of the Police Commissioner's staff receives information that a member has engaged in conduct that may be subject to criminal and/or administrative investigation, they shall notify the IPR Director in a timely manner.
- 2.4. IA and BHR shall jointly conduct investigations regarding allegations related to HRAR 2.02. The IA Captain, or designee, shall immediately notify the Chief when any investigations involving HRAR 2.02, Directive 310.20, Discrimination, Harassment, and Retaliation Prohibited, or any other City Administrative Rule or Bureau directive the IA Captain deems appropriate are initiated. If allegations of misconduct involve the IA Captain and/or any other member of IA, the Chief shall be notified and shall designate a member of command staff to assume the role of the IA Captain and/or any other member of IA for all purposes related to the investigation.
- 2.5. Once IA receives a complaint, the authority for processing, investigating, or referring the complaint, unless the Chief directs otherwise in writing, is delegated by the Chief, to the IA Captain or designee. No Bureau official has the authority to stop, intercede in, suspend, or in any way direct and/or unduly influence the substance of an IA administrative investigation. When allegations of misconduct require immediate attention, supervisors shall initiate the necessary action and notify the IA Captain or designee and the appropriate Assistant Chief through the chain of command.
- 2.6. Documentation.
 - 2.6.1. The responding supervisor, or a designee, shall collect and document the following information, if available:
 - 2.6.1.1. Names of complainant(s) and witnesses, addresses, telephone numbers, email address, and dates of birth,
 - 2.6.1.2. Date, time, and place of alleged misconduct,
 - 2.6.1.3. Identification of the member(s) involved,
 - 2.6.1.4. Potential physical evidence identified in the complaint, and
 - 2.6.1.5. Nature of the complaint.
3. Complaint Processing and Assignment.
 - 3.1. Subject to the restrictions and criteria set forth in this Directive, the IA Captain or designee shall process each complaint through one of the following means:
 - 3.1.1. Administrative Investigation conducted by IA,
 - 3.1.2. Administrative Investigation conducted by the Responsibility Unit (RU),
 - 3.1.3. Administrative Investigation conducted by IPR,

- 3.1.4. Investigation by an outside entity, such as BHR, when IA has an actual conflict of interest or a special circumstance arises that, in the opinion of the IA Captain or designee, prohibits IA from conducting a timely or credible investigation,
 - 3.1.5. Supervisory Investigation,
 - 3.1.6. Mediation, or
 - 3.1.7. Administrative Closure.
- 3.2. The IA Captain or designee shall coordinate with the Assistant Chief of Investigations concerning all matters alleging criminal misconduct, in accordance with Directive 333.00, Criminal Investigations of Police Bureau Employees.
 - 3.3. A case shall be assigned for administrative investigation when there is a prima facie allegation of conduct that, if true, violates one or more Bureau directives and could result in discipline.
 - 3.4. Generally, IA investigators shall conduct IA investigations; however, the IA Captain or designee, when appropriate, may assign complaints to be investigated or resolved at the RU level. IA shall assign the case within seven days of receipt. In determining whether it is appropriate for an investigation to be conducted at the RU level, the IA Captain or designee shall consider the following criteria:
 - 3.4.1. If there could be a violation of criminal law,
 - 3.4.2. The seriousness of the allegation based on the level of potential discipline should the allegation be sustained,
 - 3.4.3. The involved member's complaint and discipline history,
 - 3.4.4. If the assignment to the RU presents a potential conflict of interest,
 - 3.4.5. Input provided by the member's RU Manager, and
 - 3.4.6. The involved RU Manager's ability to conduct an investigation.
 - 3.5. Allegation formation.
 - 3.5.1. If IA opens the case, they shall review the available material to determine which policies may have been violated. All alleged policy violations will be reflected in the investigation as allegations of misconduct.
 - 3.5.2. Allegations will be written in such a way as to:
 - 3.5.2.1. Accurately reflect the concerns of the complainant;
 - 3.5.2.2. Be phrased as violations of directives; and
 - 3.5.2.3. Be specific enough to give the involved member notice of what misconduct they are being accused.
 - 3.5.3. Allegations are subject to changes as the investigation uncovers new information or if the original allegation was improperly framed.
 - 3.5.4. All allegations against an involved member stemming from the same incident shall be investigated by a single investigative unit. The most serious allegation will govern the assignment of the case.
 - 3.6. The IA Captain or designee shall notify IPR of the processing and assignment of each complaint. If IPR disagrees with the decision, IPR will promptly notify the IA Captain,

or designee. IPR has the authority to conduct the administrative investigation if the disagreement is not resolved.

3.6.1. If IA is conducting an investigation at the time of the notification, IA shall cease its investigation and provide all investigative materials to IPR.

4. Notifications.

4.1. When IPR receives a complaint, IPR is responsible for providing each complainant and the involved member with a tracking number and informing each complainant of the allegation classification and assignment.

4.2. When IA opens a complaint, IA shall notify each complainant and the involved member of the allegation classification and assignment upon designating a case number. IA shall forward a copy of the notice to IPR.

4.2.1. IA shall notify the complainant if the case is internal (i.e., against a fellow member).

4.3. The information provided to the involved member shall be sufficient to reasonably apprise them of the nature of the allegation(s) in the complaint.

4.4. IA shall provide additional notification to each complainant and the involved member once the allegation has been framed. IA shall forward a copy of the second notification to IPR.

4.5. These notifications may be delayed in cases of criminal misconduct or where notification may compromise the integrity of an investigation.

5. Administrative Investigations.

5.1. An IA investigator assigned an administrative investigation shall follow the procedures described in Directive 332.00, Administrative Investigations.

5.1.1. IPR may choose to participate in an IA investigation without assuming the primary investigative role.

5.2. An RU investigator assigned an administrative investigation shall follow the procedures described in Directive 334.00, Performance Deficiencies, and Directive 332.00, Administrative Investigations.

5.3. An IPR investigator assigned an administrative investigation follows IPR procedures.

5.3.1. IPR may choose to conduct its own investigation. Pursuant to City Code, IPR has the authority to investigate cases of public interest which may include complaints involving:

5.3.1.1. Crowd control;

5.3.1.2. Disparate treatment or retaliation against a community member;

5.3.1.3. Vulnerable or mentally ill persons;

5.3.1.4. Sworn members of the rank of Captain or higher;

5.3.1.5. Cases in which IPR disagrees with the IA Captain's processing or assignment decision; or

- 5.3.1.6. Matters that the IPR Director determines are in the public interest and over which IPR has jurisdiction under City code.
 - 5.3.2. If IPR notifies the IA Captain that they intend to conduct an independent investigation of any of the complaints listed in Section 5.3.1., IA shall not conduct a concurrent investigation.
 - 5.3.3. IPR may request that IA participate in an IPR investigation without relinquishing the primary investigative role.
6. Supervisory Investigation.
 - 6.1. Pursuant to Directive 331.00, Supervisory Investigations, supervisors shall investigate complaints against a member that, if sustained, would not result in corrective action greater than command counseling.
7. Mediation.
 - 7.1. If the complainant is willing to engage in mediation, and the IPR Director and the IA Captain (or IA designee) conclude that mediation will meet the needs of the Police Bureau and the community, the involved member's RU Manager shall offer mediation to the involved officer. This option is contingent upon the mutual agreement of: the IA Captain (or designee), the involved member's RU Manager, the involved member(s), and the complainant. The IA Captain or designee, the involved member's RU Manager, or the involved member may decline an IPR recommendation to mediate a complaint.
 - 7.1.1. If any portion of a complaint relates to the following, then the complaint will not be eligible for mediation:
 - 7.1.1.1. Allegations of excessive force by a member;
 - 7.1.1.2. Allegations of criminal conduct by a member; or
 - 7.1.1.3. Circumstances in which the member is a witness against the complainant in a pending criminal or traffic prosecution.
8. Administrative Closure.
 - 8.1. With the exception of any allegation of excessive force and after initial investigation by either IA or IPR, the IA Captain or designee may administratively close an investigation after sufficient inquiry. In that circumstance, no further investigative action will be taken, although the IA Captain may refer the complaint to the appropriate RU Manager for an informal debriefing. The IA Captain may decline to conduct further investigation of an allegation contained within a complaint under the following circumstances as set forth in Administrative Rules PSF 5.01 and PSF 5.20:
 - 8.1.1. No Misconduct: The employee's conduct, as alleged by the complainant, does not violate Bureau policy.
 - 8.1.2. Trivial or *De Minimis* Rules Violation: The employee's conduct, as alleged by the complainant, constitutes a minor technical violation that, if sustained, would not result in discipline and is too minor or too vague to justify a Supervisory Investigation.
 - 8.1.3. No Jurisdiction: The complaint is against a non-employee, a former employee, or an employee of another department or other agency; or the employee resigns, retires, or shall no longer be employed by the Bureau by the time an investigation and disciplinary process could be completed. Even if the Bureau lacks

jurisdiction, the IA Captain may decide to investigate a complaint based on the nature and seriousness of the allegations or based on a request from IPR or another law enforcement agency. For example, if serious misconduct has been alleged, the IA Captain may order an investigation so that the findings will be placed in the employee's personnel or IA file, forward the findings to another agency, review the actions of the employee's supervisors, or recommend a review of Bureau training or policies. Discipline may also be imposed if the employee returns to service.

- 8.1.4. Judicial Review: If it is likely that the investigation would focus on the action of a complainant such as an allegation that the complainant was improperly cited for a traffic infraction. Such cases are better addressed through legal proceedings where a court could place witnesses under oath, take live testimony, and render a decision.
- 8.1.5. Unidentifiable Employee: A documented reasonable investigative effort was not able to identify the (involved) employee.
- 8.1.6. Previously Investigated or Adjudicated: The alleged conduct was previously investigated or adjudicated by the Bureau and the current complaint does not provide substantially new evidence or allegations.
- 8.1.7. Lacks Investigative Merit: The IA Captain or designee must articulate specific reasons why the complaint is not credible or reliable.
- 8.1.8. The Complainant Delayed Too Long in Filing the Complaint to Justify Present Investigation: Complaints alleging significant misconduct will not be dismissed due to a delay in filing.

8.2. In all cases in which an investigation is administratively closed, IA will prepare an explanation and send it to IPR so the complainant can be advised. If the investigation is administratively closed because the involved officer is an employee of a different agency, IA will refer the complainant to that agency.

9. Criminal Complaints Involving Members.

- 9.1. Allegations of member misconduct, which include a possible criminal law violation, shall be investigated concurrently as a criminal and administrative investigation. Criminal cases involving members shall be processed according to Directive 333.00, Criminal Investigations of Police Bureau Employees.

10. Unlawful Employment Practices, Discrimination Complaints, and Equal Employment Opportunities.

- 10.1. Complaints by members alleging unlawful employment practices shall be processed according to the City's Human Resource Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination, and Retaliation and Directive 310.20, Discrimination, Harassment, and Retaliation Prohibited.

11. Personnel Performance Deficiencies.

- 11.1. Complaints regarding job performance problems or minor work rule violations may be processed according to the procedures in Directive 334.00, Performance Deficiencies.

12. Disposition Notification.

12.1. If the complainant is a community member, IA shall write a disposition letter. The letter shall explain the investigation and findings or administrative closure. IA shall provide the letter to IPR within seven days of completion of the Police Review Board (PRB) for IPR's use to notify the complainant.

12.1.1. If the complainant is a Bureau member, IA shall notify the individual directly.

12.2. If any changes in the findings occur as a result of proceedings relating to the collective bargaining agreement between the City and the labor organizations that represent sworn members of the Police Bureau, or as a result of administrative or judicial review, IA will notify IPR to follow up with the complainant as permitted by law.

13. Liability Management.

13.1. If an officer's use of force gives rise to a finding of liability in a civil trial, PPB shall: (1) enter that civil liability finding in the EIS; (2) reevaluate the officer's fitness to participate in all current and prospective specialized units; (3) if no IA investigation has previously been conducted based upon the same allegation of misconduct and reached an administrative finding, conduct a full IA investigation with the civil trial finding creating a rebuttable presumption that the force used also violated PPB policy, which presumption can only be overcome by specific, credible evidence by a preponderance of evidence; (4) if an IA investigation has already concluded based upon the same allegation of misconduct and failed to reach a sustained finding, identify whether any new evidence exists in the record of the civil trial to justify the reopening of the IA investigation, and if so, reinstate an IA investigation; and (5) if an IA investigation has already concluded based upon the same allegation of misconduct and failed to reach a sustained finding, and no new evidence from the civil trial justifies reopening the IA investigation, work with IPR to identify the reason why the administrative finding was contrary to the civil trial finding and publish a summary of the results of the inquiry.

13.2. Police liability management may review closed IA cases for compliance with policy, rules, and procedures related to the review of claims against the Bureau.

History:

- Originating Directive Date: 09/06/01
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

331.00, Supervisory Investigations

Refer:

- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 332.00, Administrative Investigations

Definitions:

- **Command Counseling:** A formal non-disciplinary corrective action that involves verbal counseling in response to a sustained finding for a minor policy violation. Command counseling is conducted by the Responsibility Unit (RU) manager or a designee and is documented in a memo to Internal Affairs (IA).
- **Complaint:** Any complaint made to the City by a member of the public, a PPB officer, or a civilian PPB employee of alleged misconduct by a Bureau member.
- **Misconduct:** Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.
- **Supervisory Investigation (SI):** A formal, non-disciplinary process where the involved member's supervisor is tasked with reviewing a complaint stating a member provided poor quality of service or committed a rule violation that, if substantiated, would not result in corrective action greater than command counseling.
- **Supervisory Investigation Findings:** A conclusion, based upon a preponderance of evidence, as to whether a member's conduct violated Bureau directives. A "substantiated" finding means that the evidence was sufficient to prove a violation of directives. A "not substantiated" finding means that either: the evidence was insufficient to prove a violation of directives; the act described by the complainant occurred, but was within policy; or the allegation was demonstrably false.

Policy:

1. The Portland Police Bureau and the Independent Police Review (IPR) will work together to address complaints of poor service quality and/or rule violations, in an effort to promote and underscore the importance of individual and organizational accountability.
2. The goals of the supervisory investigation (SI) process are to improve Bureau service delivery by addressing community member concerns in a timely manner and to review and correct member behavior that may violate established rules not rising to the level of an IA investigation.

Procedure:

1. Receipt of Complaint.
 - 1.1. IPR, IA, or any member may receive complaints from community members alleging minor rule violations or poor quality of service.
 - 1.1.1. Pursuant to Directive 330.00, Internal Affairs, Complaint Intake, and Processing, members shall submit all complaints, including those that allege poor quality of service or a rule violation, to IA.

2. IA Captain Responsibilities.
 - 2.1. The IA Captain may assign for SI those complaints which, if proven, could result in no more than command counseling.
 - 2.1.1. Complaints alleging disparate treatment, use of force, criminal conduct, or any misconduct which, if substantiated, would result in discipline will not be handled as an SI.
 - 2.1.2. Complaints against members who have already received a substantiated SI finding within the last calendar year regarding the same or similar type of misconduct shall not be eligible for assignment as an SI, and shall instead be assigned as an administrative investigation.
 - 2.2. The IA Captain shall track SIs and ensure RU Managers complete them in the prescribed timeline.
 - 2.3. Upon receipt of a complaint meeting the SI criteria, the IA Captain or designee shall notify IPR and assign the SI to the involved member's RU for resolution.
 - 2.4. When the RU Manager returns the completed SI Resolution Memorandum, the IA Captain or designee will review and either:
 - 2.4.1. Return the case to the RU for any additional information or action needed; or
 - 2.4.2. Review the memorandum and forward the case to IPR. Upon final case review from IPR, the IA Captain or designee shall close the Internal Affairs case file.
 - 2.5. The IA Captain or designee shall maintain case files for all completed SI cases through the retention period pursuant to Directive 332.00, Administrative Investigations.
 - 2.5.1. SIs are non-disciplinary in nature and, therefore, shall not be placed in a member's personnel file.
3. RU Manager Responsibilities.
 - 3.1. Upon receipt of an SI, assign the case to a supervisor.
 - 3.2. Review the supervisor's findings prior to the supervisor disclosing the result of the investigation to the involved member.
 - 3.3. Review all completed SI case files for completeness and forward them to Internal Affairs once approved.
 - 3.4. Ensure that SIs are completed within 21 days of receipt at the RU, unless extended in writing for good cause shown.
4. Investigating Supervisor Responsibilities.
 - 4.1. Identify specific quality of service issues and/or alleged minor rules violations.
 - 4.2. Review all available reports, Computer Aided Dispatch (CAD) entries, videos, photographs, and other relevant documentation.

- 4.3. Make a good faith effort to contact the complainant to discuss the complaint. Generally, supervisors should make at least three attempts at contacting the complainant prior to discussing the complaint with the involved member(s).
 - 4.3.1. Investigating supervisors shall document successful and unsuccessful attempts to contact complainants.
- 4.4. Gather information relevant to the complaint.
 - 4.4.1. The investigating supervisor should make a good faith effort to identify, contact, and interview any community member witnesses and document those efforts.
 - 4.4.2. The investigating supervisor shall identify and interview any witness members (i.e., Bureau members).
- 4.5. Meet with each involved member to gather information relevant to the complaint.
- 4.6. Make the SI finding(s).
- 4.7. Discuss the investigation and SI findings with the involved member. In the conversation, the investigating supervisor shall:
 - 4.7.1. Explain the community member's perception of the member's behavior;
 - 4.7.2. Discuss the member's actions, and if necessary, make appropriate suggestions for improvement;
 - 4.7.3. Convey Bureau and RU Manager expectations of compliance with rules and quality of service, if these expectations were not met; and
 - 4.7.4. Discuss alternative approaches for improving service, if appropriate.
- 4.8. Follow up with complainant and explain the resolution of the complaint to the extent permitted by law.
- 4.9. Document the results and process of the investigation and SI finding in an SI Resolution Memorandum.
- 4.10. Following this discussion, the supervisor shall document the discussion in the Employee Information System (EIS), pursuant to Directive 345.00, Employee Information System.
- 4.11. Forward the SI Resolution Memorandum through channels to the RU Manager.

History:

- Originating Directive Date: 10/30/14
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

332.00, Administrative Investigations

Refer:

- ORS § 192.502, Other Public Records Exempt from Disclosure
- Portland City Code Chapter 3.21, City Auditor's Independent Police Review
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 333.00, Criminal Investigations of Police Bureau Employees
- DIR 335.00, Discipline Process
- 8001 Internal Affairs Division Retention Schedule

Definitions:

- **Administrative Investigation:** A complete investigation into allegations of policy violations, conducted by or at the direction of Internal Affairs (IA) or Independent Police Review (IPR).
- **Administrative Review Findings for Deadly Force or In-custody Deaths:** A conclusion, based upon a preponderance of evidence, as to whether a member's conduct violated Bureau directives. A finding that is "in policy" means that the evidence was sufficient to prove that the member's actions complied with directives. A finding that is "out of policy" means that the evidence was sufficient to prove that the member's actions were in violation of directive(s). An "in policy" finding may include a recommendation for action items or a debriefing.
- **Command Counseling:** A formal non-disciplinary corrective action that involves verbal counseling in response to a sustained finding for a minor policy violation. Command Counseling is conducted by the Responsibility Unit (RU) manager or a designee and is documented in a memo to IA.
- **Debrief:** A formal critique of an incident added to a not sustained finding by a RU Manager. A debrief is intended to provide a learning opportunity for a member, and is non-disciplinary in nature.
- **Findings:** A conclusion as to whether a member's conduct violated Bureau directives.
 - **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.

Policy:

1. IA has the primary responsibility for investigating allegations of Bureau member misconduct, which if sustained, may result in disciplinary action. Administrative investigations may also be conducted at the RU level at the direction of the IA Captain or designee. Administrative investigations shall be conducted objectively and in accordance with Bureau directives and applicable labor agreements. IA shall work with IPR to ensure that complaints against Bureau members are investigated fairly, professionally, and objectively. In accordance with City Code, IPR has the authority to conduct administrative investigations independent from IA.

Procedure:

1. Member Responsibilities.
 - 1.1. Members shall cooperate fully in administrative investigations. Members shall answer all questions fully, truthfully, and candidly.
 - 1.2. Members shall not conceal or omit information, impede, or interfere with the reporting or investigation of any complaint.
 - 1.3. If a member (who is not the subject of the investigation) has knowledge of an incident that is being investigated, knows that the incident is being investigated, and has not been contacted by the investigator, then the member shall notify IA within 72 hours of learning of the investigation.
2. Investigator Responsibilities.
 - 2.1. When assigned an administrative investigation, the investigator shall:
 - 2.1.1. Maintain the integrity of the case file and the confidentiality of the investigation.
 - 2.1.2. Conduct a complete, thorough, and objective investigation adhering to current investigative standards for IA, as set forth in IA Standard Operating Procedures (SOP) #20.
 - 2.1.3. Complete the investigation and submit an investigative report to IA within ten weeks from the date the complaint was assigned.
 - 2.1.4. If it is anticipated that the investigation will not be completed within the allotted time, the investigator shall notify the IA Captain, as soon as that determination is made, but no later than the established due date and make a written request for extension for good cause shown of the due date not to exceed 30 days for any single extension, and all extensions not to exceed 90 days cumulatively, absent extraordinary circumstances documented in writing.
 - 2.1.5. Interview all members and witnesses separately.
 - 2.1.5.1. In the case of witnesses who are juveniles or members of vulnerable populations, a guardian or caregiver will be allowed to be present but not participate during the interview. If the guardian or caregiver is also a witness to the same incident, they shall be interviewed separately and another responsible adult will be allowed to be present during the interview with the juvenile or member of the vulnerable population.
 - 2.1.6. Audio record all interviews of members and if possible, all non-Bureau complainants or witnesses. A separate recording is required for each interview conducted. If an interview is not recorded, the investigator shall document the reason in the case file.
 - 2.1.7. Advise all members of their Garrity warning and any other applicable rights as prescribed by the appropriate collective bargaining agreement.
 - 2.1.8. Include a transcription for each person interviewed in the case file. Interviews that are not recorded shall be summarized in the investigative report.
 - 2.1.9. 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.
 - 2.1.10. Submit the investigative report with recommended findings to the IA Captain, or designee, for review and approval.

3. IA Captain Responsibilities.

3.1. The IA Captain or designee shall ensure that the assignment, investigation, documentation, and record maintenance for administrative investigations are completed in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing. Additionally, the IA Captain or designee shall:

- 3.1.1. Review all complaints received and determine how the complaints will be handled pursuant to Directive 330.00, Internal Affairs, Complaint Intake, and Processing.
- 3.1.2. 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.
- 3.1.3. 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, within seven days of receipt. If the investigation is deficient or additional investigation is warranted, the PSD Captain shall take appropriate action.
- 3.1.4. Forward a copy of the completed administrative investigation with the investigator's recommended findings to the involved member's RU Manager, who is responsible for making an RU Manager finding(s), within seven days of completion of the review.
- 3.1.5. Notify involved members and complainants when the case is sent to the RU for findings.
- 3.1.6. If an RU Manager requests that IA conduct additional investigation, the IA Captain shall ensure the investigation is completed as soon as practical but not more than 30 days, unless extraordinary circumstances documented in writing warrant otherwise.
- 3.1.7. Review the investigator's recommended findings and the RU Manager's concurrence or disagreement and distribute the information to the appropriate Assistant Chief and IPR for a concurrent seven-day review.

4. RU Manager Responsibilities.

4.1. Administrative investigations assigned to an RU.

- 4.1.1. Ensure that administrative investigations under review by a RU Manager are maintained as confidential.
- 4.1.2. Ensure that administrative investigations assigned to the RU for investigation are thoroughly investigated.
 - 4.1.2.1. Ensure investigations are completed and forwarded to IA within ten weeks.

4.2. RU Manager Review and Findings.

- 4.2.1. If the RU Manager needs more information, they shall return the case file within seven days to the investigating body with a written request for further investigation.
- 4.2.2. Review the entire case file and the investigator's recommended findings and ensure the recommendation is supported by the preponderance of evidence.
 - 4.2.2.1. If the RU Manager concurs with all findings, they shall document their concurrence by signing the accompanying findings cover memorandum.
 - 4.2.2.2. If the RU Manager disagrees with any of the findings, they shall write a thorough memorandum, stating the basis for disagreeing with the investigator's recommended findings.
- 4.2.3. The RU Manager shall submit the entire case file to IA within seven days of receipt.

- 4.2.3.1. For administrative reviews of incidents involving a member's use of deadly force, death as a result of force, and in-custody deaths, the RU Manager shall submit the entire case to IA within 14 days of receipt.
- 4.2.4. If a finding is not sustained, the RU Manager may recommend a debrief pursuant to Directive 335.00, Discipline Process, if there is a perceived benefit to discussing the incident with the involved member. The discussion should be instructive in nature, not corrective.

5. Assistant Chief and IPR Review.

- 5.1. The appropriate Assistant Chief and IPR shall 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, within seven days of receipt. If further action is required, they shall notify the IA Captain who shall ensure that follow-up is conducted.

6. Retention of IA Files.

- 6.1. The policy and procedure for retaining IA files pertains to those files that are in the custody and control of IA.
- 6.2. Files for IA 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 ten years from the date of separation.
- 6.3. PPB shall retain all other individual IA case files for ten years following the involved officers' tenure with PPB unless otherwise directed by court order.
- 6.4. Questions regarding the retention of IA files should be directed to the City Attorney's Office.

7. Public Disclosure of Personal Information.

- 7.1. The personal information of complainants and Bureau members who are the subject of complaints are exempt from public disclosure under ORS § 192.502.
 - 7.1.1. Personal information contained in files shared with Citizen Review Committee (CRC) or Police Review Board (PRB) citizen members in preparation for their respective hearings are not public disclosures under the statute.

History:

- Originating Directive Date: 10/30/14
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

333.00, Criminal Investigations of Police Bureau Employees

Refer:

- DIR 210.21, Leaves from Service
- DIR 315.00, Laws, Rules and Orders
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 332.00, Administrative Investigations
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures

Definitions:

- **Criminal Investigation:** A complete investigation into allegations of criminal conduct by a member, conducted by or at the direction of the Investigations Branch.

Policy:

1. Thorough investigations of allegations of criminal misconduct by Bureau members are essential to the maintenance of Bureau integrity, effectiveness, efficiency, and accountability. Criminal investigations of members will be conducted concurrently with any administrative investigation involving the same event without undue delay and in a manner consistent with the highest standards of objectivity and professionalism.
2. Bureau members subject to a criminal investigation will be afforded rights guaranteed under the United States and State of Oregon Constitutions throughout the investigation.
3. Investigations of deadly force or in-custody deaths are governed by Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.

Procedure:

1. Member Responsibilities.
 - 1.1. Any member who receives a complaint of criminal conduct by another member or has knowledge of any criminal conduct by a member, or has knowledge of any criminal investigation of a member, shall immediately notify their Shift Supervisor or any of the following:
 - 1.1.1. Reporting member's Responsibility Unit Manager.
 - 1.1.2. Any Assistant Chief (AC).
 - 1.1.3. IA Captain.
 - 1.2. Any member in a supervisory or higher position listed above shall forward the complaint to the Detective Division Commander.
 - 1.3. Any member who observes criminal conduct by another member has a duty to reasonably intervene if safe and feasible. Members shall immediately notify their supervisor or any individual listed above.
 - 1.4. Any member who is arrested, charged, or becomes aware that they are the subject of a criminal investigation shall ensure that their direct supervisor or, if unavailable, an on-duty supervisor

is notified as soon as practical, but no later than 24 hours. The appropriate supervisor shall notify, through channels, the Assistant Chief of Investigations.

2. Detective Division Commander Responsibilities.
 - 2.1. Brief the AC of Investigations within 24 hours of receipt of complaint for determination of investigative unit assignment.
 - 2.2. Notify the IA Captain or designee within 24 hours.
 - 2.3. Conduct monthly meetings with IA to provide IA information concerning criminal investigations, as well as provide the IA Captain with a status of the case (i.e., ongoing interviews, reports written, awaiting evidence, interviews or discussions with District Attorney's Office, etc.).
 - 2.4. Ensure the original case reports are delivered to the AC of Investigation and IA Captain when the investigation is complete.
3. AC of Investigations Responsibilities.
 - 3.1. Ensure the Chief is informed at the outset of the criminal investigation and provide updates on active criminal investigations.
 - 3.2. Notify the IA Captain or designee and the Detective Division Commander of any member who is arrested or charged in a criminal investigation.
 - 3.3. Determine what investigative unit shall be responsible for the criminal investigation of any Bureau employee providing the alleged criminal incident occurred in the City of Portland.
4. Investigations.
 - 4.1. For alleged criminal actions by Bureau members occurring within the city of Portland, the Chief or designee may request an outside law enforcement or prosecutorial agency to conduct the criminal investigation concurrent with the administrative investigation conducted by PPB.
 - 4.2. Internal Assignment.
 - 4.2.1. The assigned investigative unit supervisor shall:
 - 4.2.1.1. Assign appropriate criminal investigators to the case.
 - 4.2.1.1.1. In making the assignment, the supervisor shall avoid any real or perceived bias or conflict of interest, as well as consider investigative expertise and resource availability.
 - 4.2.1.2. Contact IA and provide the case number, complainant's name, subject member's name, name of investigators, and a summary of each allegation.
 - 4.3. Preliminary Investigations.
 - 4.3.1. Investigators shall conduct a preliminary investigation and brief the Detective Division Commander or designee who shall determine the appropriate investigative strategy.

- 4.3.1.1. If the investigation indicates the complaint is without merit, the investigator shall submit a confidential memorandum, through channels, to the AC of Investigations, detailing specific, articulable facts to close the case.
- 4.3.1.1.1. The Detective Division will create a case number for intakes of this nature.
- 4.3.1.2. If the preliminary investigation indicates the need for further inquiry, the investigator shall:
 - 4.3.1.2.1. Comport with the terms of applicable collective bargaining agreements when questioning Bureau members during a criminal investigation.
 - 4.3.1.2.2. Obtain, or cause to be obtained, a privatized and confidential Police Bureau case number from the Records Division Supervisor or via direct entry. If the case number is obtained by direct entry, then the investigator shall provide the case number to the Records Division Supervisor within 72 hours.
 - 4.3.1.2.3. Contact the District Attorney's Office or other appropriate prosecutorial agency for assignment of a Deputy District Attorney or prosecutor to the investigation to coordinate investigative and judicial proceedings.
 - 4.3.1.2.4. The investigator shall conduct a complete and thorough investigation.

4.4. Investigation Completion.

- 4.4.1. The Detective Division Commander or designee shall send the final case file to the IA Captain.
- 4.4.2. IA shall archive all criminal investigation case files.

5. IA Captain Responsibilities.

- 5.1. To ensure that concurrent administrative investigations of all cases involving criminal investigations of Bureau members are tracked and completed, the IA Captain shall:
 - 5.1.1. Maintain a Criminal Internal database that includes case number, complainant's name, subject member's name, name of investigators, case status, allegation summaries, and the opening and closure dates of investigations.
 - 5.1.2. Meet monthly with Independent Police Review (IPR) and the AC of Investigations or designee to discuss the commencement and ongoing coordination of criminal and administrative investigations, but shielding all IA *Garrity*-protected administrative investigative material from disclosure.
 - 5.1.3. Act in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing, and investigate in accordance with Directive 332.00, Administrative Investigations, upon receipt of a complaint of criminal conduct.
 - 5.1.4. Document delays due to protection of the integrity of the criminal investigation.

6. Concurrent criminal and administrative investigations.

- 6.1. An administrative investigation into allegations of misconduct shall be conducted at the same time as the criminal investigation so long as it does not compromise the criminal investigation. In these situations, the following procedures will apply:
 - 6.1.1. A clear line of separation shall be maintained between those individuals responsible for the criminal process and those responsible for the administrative process.
 - 6.1.2. No information from a *Garrity*-protected administrative interview or any information derived from the *Garrity*-protected interview shall be shared with the District Attorney's (or other prosecutor's) Office or anyone involved in the criminal investigation.
 - 6.1.3. All information developed in the criminal investigation shall be forwarded to IA.

- 6.1.4. The IA Captain shall take all steps necessary to prevent the disclosure of information from administrative interviews of any employee subject to a criminal investigation. This includes securing interview recordings and transcripts.
- 6.1.5. If the criminal investigation is ongoing, no one from the Investigations Branch, including the AC of Investigations, shall review findings and/or participate in or attend any Police Review Board proceeding associated with the case.
- 6.1.6. Administrative staff authorized to conduct work on the case shall be limited strictly to those individuals necessary to conduct the work.
- 6.1.7. If necessary at the outset of the administrative investigation, the Chief and IA Captain shall prepare a memorandum outlining specific procedures for maintaining the line of separation between the criminal and administrative investigations, including who is authorized to possess information about the administrative case.

7. Outside Jurisdiction.

7.1. For a case in which a criminal investigation is being conducted by another agency, the following procedures shall apply:

7.1.1. The IA Captain or designee shall:

- 7.1.1.1. After receiving notification that an outside criminal investigation is being conducted, inform the AC of Investigations within 24 hours.
- 7.1.1.2. Act as the liaison with the other jurisdiction to monitor the progress of the investigation and court action if the alleged criminal conduct occurred outside the City of Portland boundaries.
 - 7.1.1.2.1. The role of the liaison is to offer assistance and gather information without influencing the course of the investigation.
- 7.1.1.3. Coordinate investigative actions (such as interviews) with the agency conducting the investigation and/or the prosecutor so as to avoid jeopardizing the criminal case.
- 7.1.1.4. Ensure that no information from the administrative investigation is shared with anyone involved in the criminal investigation or prosecution.

History:

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- Next Review Date: 09/03/18

334.00, Performance Deficiencies

Refer:

- Portland City Code 3.21.120(F), Independent Police Review Division, Handling Complaints
- DIR 315.30, Satisfactory Performance
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 332.00, Administrative Investigations
- DIR 335.00, Discipline Process

Definitions:

- Findings: A conclusion as to whether a member's conduct violated Bureau directives.
 - 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.
- Performance Deficiency: Inadequate completion or execution of routine work duties or functions including, but not limited to, issues with attendance, incomplete reports, lack of follow through on cases, and failure to properly perform assigned duties.
- Performance Deficiency Investigation: An administrative investigation performed at the Responsibility Unit (RU) level to address inadequate completion or execution of routine work duties or functions.

Policy:

1. Member accountability and professionalism are of paramount importance. The Bureau shall ensure that all member misconduct, including insufficient or poor work performance, is thoroughly investigated and appropriately addressed to maintain individual and organizational accountability and preserve community trust and confidence. Internal Affairs (IA) shall manage the investigation of performance deficiencies and work closely with Independent Police Review (IPR) to ensure that allegations of this nature are investigated fairly, professionally, and objectively.

Procedure:

1. Investigations of member work performance are generally conducted by the RU in accordance with the necessary provisions in Directives 330.00, Internal Affairs, Complaint Intake, and Processing, and 332.00, Administrative Investigations.
2. Investigation Initiation Procedures.
 - 2.1. The RU Manager shall identify member performance deficiencies and consult with Internal Affairs (IA) to determine if an investigation into the member's performance is warranted.
 - 2.1.1. When notifying IA, the RU Manager shall include a detailed description of the member's behavior, in an effort to identify specific Bureau directives that will frame the allegations if there is an investigation.
3. Processing and Case Assignment.

- 3.1. The IA Captain (or Designee) shall:
 - 3.1.1. Assign the investigation to the involved member's RU Manager or a designee, if the IA Captain agrees that the case is related to a performance deficiency and determines that an investigation is necessary.
 - 3.1.2. Provide all necessary forms and case materials to the RU Manager.
 - 3.1.3. Number and track all performance investigations to ensure adherence with procedures and timelines.
 - 3.1.4. Notify IPR Director of the investigation.
- 3.2. The RU Manager presumptively shall assign the investigation to the involved member's shift Lieutenant. However, the RU Manager may assign the investigation to another appropriate supervisor.

4. Investigation.

- 4.1. The Investigating Supervisor shall:
 - 4.1.1. Conduct the Performance Deficiency Investigation in accordance with the necessary provisions of Directive 332.00, Administrative Investigations.
 - 4.1.2. Submit the investigative report with recommended findings to the IA Captain, or designee, for review and approval.
- 4.2. The RU Manager shall:
 - 4.2.1. Ensure that performance deficiency investigations are maintained as confidential.
 - 4.2.2. Ensure that performance deficiency investigations are adequately investigated, in a manner consistent with all applicable law and bargaining agreements.
 - 4.2.3. Ensure that performance investigations are completed within 10 weeks after assignment.
 - 4.2.4. Review the investigator's recommended findings and ensure the recommendation is supported by the preponderance of evidence.
 - 4.2.4.1. If the RU Manager concurs with all findings, they shall document their concurrence by signing the accompanying findings cover memorandum.
 - 4.2.4.2. If the RU Manager disagrees with any of the findings, they shall write a thorough memorandum, stating the basis for controverting the investigator's recommended findings.
 - 4.2.5. Upon completion of review and concurrence or contravention with proposed findings, the RU Manager or designee shall submit the proposed findings, through channels, to the IA Captain or designee.
- 4.3. The IA Captain (or Designee) shall:
 - 4.3.1. Review investigative reports and recommended findings for completeness and accuracy.
 - 4.3.2. Review the investigation and assigned RU investigator's findings within seven days of receipt of the investigation and case file. The IA Captain shall assess adequacy of the investigation and determine whether the investigation supports the recommended findings. The IA Captain will return for timely further investigation all case files requiring further information.
 - 4.3.3. If the IA Captain approves the investigator's recommended findings, then within seven days of receipt of the case file, the IA Captain shall distribute a copy of the completed investigative report with the investigator's recommended findings to the involved member's RU Manager for making proposed findings.

5. Findings and Corrective Action.

5.1. A member who did not serve as the investigating supervisor (i.e., RU Manager or designee) shall make a proposed finding on each allegation investigated within seven days of receipt of the case file.

5.1.1. Upon completion of review and development of proposed findings, the RU Manager or designee shall submit the proposed findings, through channels, to the IA Captain or designee.

5.2. The IA Captain (or Designee) shall:

5.2.1. Review proposed findings and discipline to ensure completeness and accuracy.

5.2.2. Distribute the case file, including the recommended and proposed findings and discipline, to the appropriate Assistant Chief and IPR for a concurrent seven-day review.

5.2.2.1. Neither the RU Manager, nor the Assistant Chief shall take any action on proposed findings, initiate corrective action, or discipline a member prior to formal approval and notification IA.

5.3. Disciplinary action related to performance deficiencies will normally be progressive in nature; however serious performance problems may justify suspension or termination without prior warning or attempts at corrective action or discipline.

5.3.1. Supervisors shall refer to Directive 335.00, Discipline Process for guidance regarding the process for recommending and assigning corrective or disciplinary action.

6. Records Retention.

6.1. IA shall maintain performance investigation case files in accordance with records-retention policies. Performance investigation files shall be retained for no less than ten years from the date of separation.

History:

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- Next Review Date: 09/03/18

335.00, Discipline Process

Refer:

- Portland City Code 3.20.140 Police Review Board
- City of Portland, Human Resources Administrative Rule 5.01, Discipline
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 336.00, Police Review Board
- DIR 338.00, Discipline Guide

Definitions:

- **Case File:** Administrative package containing the originals or copies of the Internal Affairs (IA) investigation or other investigation materials, including all materials related to findings.
- **Command Counseling:** A formal non-disciplinary corrective action that involves verbal counseling in response to a sustained finding for a minor policy violation. Command counseling is conducted by the Responsibility Unit (RU) manager or a designee and is documented in a memorandum to IA.
- **Corrective Action Recommendation Memorandum:** A form attached to an administrative investigation case file by the RU Manager recommending the corrective action or discipline. The form indicates whether the RU Manager believes a Command Counseling, a Letter of Reprimand, or a Performance Review Board is appropriate. The form also ensures the RU Manager considers the individual's discipline history and uses the Discipline Guide in reaching their recommended discipline.
- **Demotion:** Reversion to a lower rank or job classification.
- **Discipline Guide:** An advisory document used to provide direction to Responsibility Unit Managers, the Police Review Board (PRB), the Chief of Police, and the Commissioner in Charge, when determining appropriate discipline.
- **Findings:** A conclusion as to whether a member's conduct violated Bureau directives.
 - **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.
- **Findings Cover Sheet:** A form attached to an administrative investigation case file by the RU Manager recommending the finding. This form includes sections for the appropriate Assistant Chief, Professional Standards Division (PSD) Captain, and the Independent Police Review (IPR) Director to list whether they concur or controvert the findings, whether more investigation is warranted, whether the case would benefit from a PRB hearing, and/or suggest additional recommendations (e.g., training review, policy review, supervisory review).

- Letter of Reprimand: A disciplinary letter placed in the member's personnel file detailing a member's conduct or performance that violated one or more Bureau directives but does not involve an economic sanction such as a suspension, demotion or termination.
- Pre-determination meeting: A due-process meeting with the Chief of Police or designee to discuss the involved member's proposed discipline prior to a final disciplinary decision. This meeting is the member's opportunity to discuss the case with the Chief or Assistant Chief, and present any mitigating factors for consideration.
- Preponderance of the Evidence: The facts and circumstances indicate it is more likely than not that a violation of policy or procedure either occurred or did not occur.
- Suspension: Removal from work status, without pay, for a specified period of time.
- Termination: Discharge from Police Bureau employment.

Policy:

1. The purpose of this directive is to provide guidance to members regarding the process for recommending and assigning corrective or disciplinary action when an allegation of a policy violation or misconduct against a member is sustained.
2. In order to maintain public confidence in the ability of the Police Bureau to investigate and properly address legitimate complaints concerning employee conduct and performance, and to ensure internal accountability, a broad range of tools are available to set expectations, issue corrective action, and institute discipline. The Bureau has a responsibility to impose corrective or disciplinary action warranted by a member's violation of policy.
3. The Bureau's philosophy with respect to corrective action and discipline is the same philosophy that is applied to employees who work elsewhere in the City, which is that corrective and disciplinary action are tools available to assist supervisors in working with employees whose behavior or job performance does not meet the expectations associated with the position they hold. Corrective action or discipline can be used to correct behavior, to deter a violation of policies or procedures, and to hold employees accountable for their behavior or performance. Generally speaking, corrective action or discipline is used to put the employee on notice of unacceptable conduct or performance, and give the employee a reasonable opportunity to correct their behavior.
4. Generally, discipline is progressive, beginning with an oral warning or Letter of Reprimand and proceeding to suspension, demotion, or termination. Serious offenses include, but are not limited to, criminal or other unlawful acts, abuse of authority, theft, untruthfulness, excessive force, failure to follow orders, unlawful discrimination, workplace harassment, retaliation, creation of a hostile work environment, or workplace violence and may justify suspension or termination without the necessity of prior warnings or attempts at corrective action or discipline.
5. In all cases, the level and degree of discipline shall be in keeping with the seriousness of the offense, taking into account the circumstances relevant to the case. It is not the purpose of this directive to require an automatic progression of disciplinary measures. Rather, the circumstances of each

situation are considered on a case-by-case basis. The Discipline Guide serves to ensure that corrective action and discipline are applied in an impartial and consistent manner.

6. Before the Bureau takes corrective action or disciplinary action, the Bureau or IPR will conduct a thorough investigation to assist it in determining whether the employee, in fact, engaged in misconduct or performance that is contrary to Bureau directives and policies.
7. Members are subject to disciplinary action for cause or just cause. Possible disciplinary actions are identified in Human Resources Administrative Rule 5.01, Discipline, the Discipline Guide, or the applicable collective bargaining agreement.
8. Counseling, instruction, and training are not considered disciplinary action.

Procedure:

1. Those responsible for making recommendations on findings and discipline shall refer to the Discipline Guide in accordance with Directive 338.00, Discipline Guide.
2. Development of Proposed Findings and Recommended Discipline.
 - 2.1. RU Manager Responsibilities.
 - 2.1.1. Obtain the member's discipline history by contacting:
 - 2.1.1.1. The discipline coordinator in PSD for administrative investigations of sworn members.
 - 2.1.1.2. The CRB coordinator in PSD for collision review board (CRB) cases.
 - 2.1.1.3. The BHR business partner in PPB's personnel division for non-sworn members.
 - 2.1.2. Review and consider the member's work history including aggravating and mitigating factors as set forth in the Discipline Guide when recommending corrective or discipline action.
 - 2.1.3. Make a discipline recommendation and document such on the Findings Cover Sheet and in the Corrective Action Recommendation Memorandum.
 - 2.1.4. Submit the entire packet to IA, including the Findings Cover Sheet and the Corrective Action Recommendation Memorandum, within seven days of receipt of the case file.
 - 2.1.5. RU Managers or designees are not permitted to take any corrective action or discipline prior to being informed by the IA Captain that the case has been closed.
 - 2.2. IA Captain Responsibilities.
 - 2.2.1. Upon receipt of the RU Manager's proposed findings, the IA Captain or their designee shall, by the end of the next business day, send a copy of the case file, including the proposed findings and recommended discipline, to the IPR Director and the supervising Assistant Chief for a seven-day concurrent review.
 - 2.2.2. The IA Captain shall review the proposed findings and recommended discipline within seven days of receipt.
 - 2.2.2.1. The IA Captain may controvert the RU manager's proposed findings and/or recommended discipline. All controverts shall be documented in a memorandum that clearly articulates that the reviewer wishes to controvert and provides an adequate explanation for the writer's basis for disagreeing with the proposed finding or recommended discipline.

2.3. Supervising Assistant Chief Responsibilities.

2.3.1. The Supervising Assistant Chief shall review the proposed findings and recommended discipline and resubmit to IA within seven days of receipt.

2.3.1.1. The Assistant Chief may controvert the proposed findings and/or recommended discipline. All controverts shall be documented in a memorandum that clearly articulates that the reviewer wishes to controvert and provides an adequate explanation for the writer's basis for disagreeing with the proposed finding or recommended discipline.

2.4. IPR Director Responsibilities.

2.4.1. The IPR Director will review the proposed findings and recommended discipline and resubmit to IA within seven days of receipt.

2.4.1.1. The IPR Director may controvert the proposed findings and/or recommended discipline. All controverts shall be documented in a memorandum that clearly articulates that the reviewer wishes to controvert and provides an adequate explanation for the writer's basis for disagreeing with the proposed finding or recommended discipline.

2.5. Controverted Findings and Discipline.

2.5.1. If a proposed finding or recommended discipline of the RU Manager is controverted by the supervising Assistant Chief, the IPR Director, or the IA Captain, the case will be heard by the PRB in accordance with Directive 336.00, Police Review Board.

3. Imposition of Corrective Action or Discipline.

3.1. Command Counseling or Letter of Reprimand.

3.1.1. The IA Captain shall refer all cases where proposed corrective action or discipline is less than suspension to the involved member's RU Manager to implement the corrective action or discipline.

3.1.2. The IA Captain shall notify the RU Manager and the Discipline Coordinator when the case is closed and the Command Counseling or Letter of Reprimand can be issued.

3.1.3. The RU Manager, in consultation with the Discipline Coordinator, shall prepare the proposed corrective action or discipline and other documentation as appropriate.

3.1.4. The appropriate Assistant Chief shall review the RU Manager's recommended action and upon approval return the documentation to the Discipline Coordinator.

3.1.5. The Discipline Coordinator shall receive the documentation and coordinate corrective action or discipline with the RU Manager.

3.1.6. Pursuant to city code, involved members may appeal the proposed findings to the Citizen Review Committee (CRC).

3.1.6.1. In such cases, the Chief shall not issue proposed discipline or make recommendations until the CRC has made a final decision, or until after the City Council has made a determination, if the CRC appeal process has resulted in referral of the case to the City Council.

3.1.7. If the proposed corrective action is Command Counseling:

3.1.7.1. The RU Manager shall meet with the member to review the incident and communicate their expectations moving forward.

- 3.1.7.2. The RU Manager shall outline the expectations in the meeting with the member and document as such in a memorandum.
- 3.1.7.3. The RU Manager shall forward the Command Counseling memorandum to the Discipline Coordinator.
- 3.1.7.4. The Command Counseling memorandum shall not include debriefings associated with not sustained findings. Debriefings shall be documented separately in accordance with Directive 332.00, Administrative Investigations.
- 3.1.8. If the proposed corrective action is a Letter of Reprimand:
 - 3.1.8.1. The RU Manager shall meet with the member to review the incident and communicate their expectation moving forward.
 - 3.1.8.2. The RU Manager shall serve the member with the letter of proposed discipline.
 - 3.1.8.2.1. The member can request a pre-determination meeting with their supervising Assistant Chief.
 - 3.1.8.2.1.1. Following the meeting, the Assistant Chief shall notify the Discipline Coordinator in writing of the final discipline to be imposed.
 - 3.1.8.3. The Discipline Coordinator shall coordinate with the RU Manager the service of the final Letter of Reprimand.
- 3.1.9. The Discipline Coordinator shall forward a copy of the Command Counseling memorandum or the proposed and final Letters of Reprimand to the Personnel Division for inclusion in the member's personnel file.
- 3.2. Discipline of Suspension or Greater.
 - 3.2.1. All cases in which recommended discipline is suspension or greater will be heard by the PRB. PRB procedures are outlined in Directive 336.00, Police Review Board.
 - 3.2.2. Pursuant to city code, involved members may appeal the PRB's recommended findings to the CRC.
 - 3.2.2.1. If a member files a timely appeal with the CRC, the Chief shall not issue proposed discipline until the CRC has made a final decision or until after the City Council has made a determination, if the CRC appeal process has resulted in referral of the case to the City Council.
 - 3.2.3. After the close of the CRC appeal window or after the completion of the CRC appeal process, if any, the Discipline Coordinator shall forward the PRB's recommendation memorandum to the Chief.
 - 3.2.4. The Chief, after consultation with the Police Commissioner, shall provide the Chief's proposed findings to the Discipline Coordinator and to PSD.
 - 3.2.5. The Discipline Coordinator shall provide the letter of proposed discipline to the RU Manager for delivery to the involved member.
 - 3.2.6. Upon receipt of the letter of proposed discipline, the involved member may request a pre-determination meeting with the Chief.
 - 3.2.6.1. The Chief shall notify the Discipline Coordinator in writing of the final discipline to be imposed following the meeting.
 - 3.2.6.2. The Discipline Coordinator shall coordinate the service of the final letter of imposed discipline to the involved member with the RU Manager.
 - 3.2.7. The Discipline Coordinator shall schedule the dates of the suspension or separation with the RU Manager and shall forward the dates to the Fiscal Division.

History:

- Originating Directive Date: 10/30/14
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

336.00, Police Review Board

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 to consider the review of policies, training, supervision, tactics, and equipment identified during the Police Review Board (PRB) process.
- Case File: Administrative package containing the originals or copies of the Internal Affairs (IA) investigation or other investigation materials, including all materials related to findings.
- Controverted: A Responsibility Unit (RU) Manager's recommended finding or proposed discipline that is challenged by the Captain of the Professional Standards Division (PSD), an Assistant Chief, or the Independent Police Review (IPR) Director or designee.
- Police Review Board: An advisory body to the Chief. The PRB 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 regarding findings, action items, and proposed discipline. The PRB may also make recommendations to the Chief regarding the adequacy and completeness of an investigation.

Policy:

1. The City of Portland established the 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 PRB.
 - 1.1. The PRB shall review incidents and investigate 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 IPR Director, or the PSD Captain 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; or
 - 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, 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, 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 PRB or following the procedures of the City Code or this Directive.
2. Composition of the PRB.
- 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. 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 or designee of the member under review;
 - 2.1.4. The IPR Director or a designee; and
 - 2.1.5. The RU Manager or designee of the member under review.
 - 2.2. When the case involves the use of force, 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.
 - 2.3. The PRB shall be comprised of the following advisory members:
 - 2.3.1. The PSD 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, except as provided in Section 3.3, 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.
 - 3.3. Pursuant to the terms of PPA collective bargaining agreement, PPA union representative shall be allowed to be present during any portion of the PRB Executive Session in which non-Board member "presenter" representatives of Training Division, Internal Affairs Division, or Detective Division are allowed 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 PRB Coordinator of their need. The PRB Coordinator 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 shall reach a conclusion regarding each allegation before them based upon a preponderance of evidence standard.

- 4.4. In cases where voting members recommend a sustained finding, they shall also recommend discipline that is consistent with applicable City and Bureau rules, the Discipline Guide, and obligations under collective bargaining agreements.
 - 4.5. Voting members may make recommendations regarding the following:
 - 4.5.1. The adequacy and completeness of an investigation; and/or
 - 4.5.2. Policy or training.
 - 4.6. All information and discussions are confidential and shall only be discussed amongst participants of the particular review for the purposes of the particular review.
 - 4.7. By majority vote, the PRB may request that investigations be returned to the investigating entity for additional investigation necessary to reach a finding. The investigating entity shall conduct the additional 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. Within seven days of receipt of the findings review from IPR, the Assistant Chief and IA, 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 approve any delays in scheduling PRB hearings and ensure the reason 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 regarding the PRB's recommended findings and corrective action by the end of the day that the hearing is conducted.
 - 5.1.3.2. The 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 individual members 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. Upon receipt of the PRB Facilitator's memorandum containing the PRB's recommended findings and recommendations, forward the memorandum to the Chief within seven days.
- 6.1.9. 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
- 6.1.10. 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 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.
 - 7.1.2.1. The PRB Facilitator shall recuse themselves from participating in a PRB if they have a potentially strong bias with regard to a particular case.
- 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. A summary of the case;
 - 7.1.3.2. 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;
 - 7.1.3.3. The PRB's range of recommended discipline, if any; and
 - 7.1.3.4. 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. Chief Responsibilities.
 - 8.1. Review the case file and, considering the PRB recommendations, make a final determination of findings and discipline.
 - 8.2. Notify the PRB Coordinator of the Chief's findings within two weeks of receipt of the PRB Facilitator's memorandum from the PRB Coordinator.
9. Involved Member.
 - 9.1. The involved member shall be given at least 14 days to review the case file before the PRB meeting.
 - 9.2. 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.
 - 9.2.1. The involved member may provide the information to the PRB in written or oral format.
 - 9.3. The involved member may remain in the hearing until executive session.
10. Special Case Findings.
 - 10.1. Findings for deadly force or in-custody death cases shall be limited to the following:
 - 10.1.1. In Policy: The member's actions complied with policies; or
 - 10.1.2. Out of Policy: The member was found to be in violation of policy.
 - 10.2. Any finding may include a recommendation for action items or a debriefing regarding any of the following:
 - 10.2.1. Debriefing for the involved member and/or chain of command;
 - 10.2.2. Organizational Assessments to include policies, training, and/or tactics.

History:

- Originating Directive Date: 12/21/07
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

337.00, Police Review Board Personnel Selection

Refer:

- City of Portland Code 3.20.140, Police Review Board
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 336.00, Police Review Board

Policy:

1. The Portland Police Bureau's (PPB) Police Review Board (PRB) serves as an advisory body to the Chief of Police ("Chief"). The PRB includes command staff, community members and peer members of the same rank as the Bureau member whose conduct is the subject of review, in addition to a facilitator. Portland City Code 3.20.140 requires PPB and Independent Police Review (IPR) to establish a directive outlining selection criteria and confidentiality provisions for PRB members and facilitator.

Procedure:

1. PRB Community Members.
 - 1.1. Pursuant to City code, IPR is responsible for the selection and management of qualified community member volunteers approved to participate on the PRB.
 - 1.1.1. The Chief may identify candidates for IPR's consideration, but IPR is ultimately responsible for providing a list of qualified candidates to the Chief.
 - 1.2. Qualification of PRB Community Members:
 - 1.2.1. Community members must pass a background check performed by PPB.
 - 1.2.2. Community members must participate in Bureau training to become familiar with PRB process, police policy, and training.
 - 1.2.3. Community members must sign and adhere to a confidentiality agreement.
 - 1.2.4. Community members will be required to participate in ride-alongs at least once per year to maintain sufficient knowledge of police patrol procedures.
 - 1.3. Appointment of PRB Community Members:
 - 1.3.1. Community board members will be selected by City Council, upon nomination by IPR, based on the following:
 - 1.3.1.1. Demonstrated ability to make sound and rational decisions under pressure.
 - 1.3.1.2. Demonstrated ability to review complex investigations.
 - 1.3.1.3. Absence of any real or perceived bias for or against the police.
 - 1.3.1.4. Absence of any real or perceived bias against persons based on race, color, national origin or ethnicity, citizenship or immigrant or refugee status, religion, gender or gender identity or gender expression, age, marital or familial status, sexual orientation, mental or physical disability, mental illness, economic status, political ideology or affiliation, veteran status, language, or housing status.
 - 1.3.1.5. Absence of any real or perceived conflict of interest.
 - 1.3.1.6. Residence or business ownership within the City of Portland.
 - 1.3.2. The City Council will confirm community member volunteers to form a pool of community members to serve on the PRB.

- 1.3.3. Community members shall be appointed for a term of no more than three years. Community members may serve no more than two full terms, not including the remainder of any unexpired vacancy they are appointed to fill.

1.4. Removal of PRB Community Members:

- 1.4.1. The Chief or IPR may recommend that City Council remove a community member from the pool for the following reasons:
 - 1.4.1.1. Failure to attend training;
 - 1.4.1.2. Failure to read Case Files;
 - 1.4.1.3. Objective demonstration of disrespectful or unprofessional conduct;
 - 1.4.1.4. Repeated and excessive unavailability for service when requested;
 - 1.4.1.5. Breach of confidentiality;
 - 1.4.1.6. Objective demonstration of bias for or against the police;
 - 1.4.1.7. Objective demonstration of bias against persons based on the basis of race, color, national origin or ethnicity, citizenship or immigrant or refugee status, religion, gender or gender identity or gender expression, age, marital or familial status, sexual orientation, mental or physical disability, mental illness, economic status, political ideology or affiliation, veteran status, language, or housing status.; and/or
 - 1.4.1.8. Objective demonstration of conflict of interest.

2. PPB PRB Peer Members.

2.1. Appointment of PRB Peer Members:

- 2.1.1. Representatives of PPB's bargaining units may review peer member applications.
- 2.1.2. Peer member applications will be reviewed by Assistant Chiefs, the Professional Standards Division Captain, and a Responsibility Unit Manager, who will make appointment recommendations to the Chief.
- 2.1.3. The Chief will appoint Bureau members to serve among a pool of peer members for the PRB.
- 2.1.4. The PRB Coordinator shall select candidates for each PRB from the pool.

2.2. Eligibility and Removal of PRB Peer Members:

- 2.2.1. All peer members will serve at the discretion of the Chief.
- 2.2.2. Bureau members are ineligible to serve as PRB peer members for the following reasons:
 - 2.2.2.1. Members currently under investigation are ineligible to serve as a peer member until the investigation is closed and any resultant discipline is imposed as a result of a sustained finding.
 - 2.2.2.1.1. This provision does not apply to investigations of complaints regarding poor quality of service or alleging a rule violation that, if sustained, would not result in corrective action greater than command counseling.
 - 2.2.2.2. Members whose actions have resulted in a sustained finding related to unsatisfactory performance or misconduct, with resulting discipline less than a 40-hour suspension, are ineligible to serve as peer members for a period of one year from the date they accept notice of final discipline. Members can reapply after the one year has passed.
 - 2.2.2.3. Members whose actions have resulted in a sustained finding related to unsatisfactory performance or misconduct, with resulting discipline greater than a

40-hour suspension without pay, are ineligible to serve as peer members for a period of two years from the date they accept notice of final discipline. Members can reapply after the two years has passed.

2.2.3. The Chief may remove a Bureau member from the PRB for the following reasons:

2.2.3.1. Failure to attend training;

2.2.3.2. Failure to read Case Files;

2.2.3.3. Objective demonstration of disrespectful or unprofessional conduct;

2.2.3.4. Repeated and excessive unavailability for service when requested;

2.2.3.5. Breach of confidentiality;

2.2.3.6. Objective demonstration of bias for or against the police;

2.2.3.7. Objective demonstration of bias against persons based on the basis of race, color, national origin or ethnicity, citizenship or immigrant or refugee status, religion, gender or gender identity or gender expression, age, marital or familial status, sexual orientation, mental or physical disability, mental illness, economic status, political ideology or affiliation, veteran status, language, or housing status; and/or

2.2.3.8. Objective demonstration of conflict of interest.

2.2.4. Peer members may request to be removed from the list of peers at any time.

3. PRB Facilitator.

3.1. Qualifications of PRB Facilitator:

3.1.1. To qualify, facilitators must:

3.1.1.1. Demonstrate impartiality and no appearance of conflict of interest.

3.1.1.2. Pass a background check performed by PPB.

3.1.1.3. Participate in Bureau training to become familiar with the PRB process.

3.1.1.4. Sign a confidentiality agreement.

3.2. Appointment of PRB Facilitator:

3.2.1. The PRB will be facilitated by an independent contractor who is not a board member or employed by PPB and will be selected as follows:

3.2.1.1. PPB will prepare a solicitation document in accordance with City procurement rules.

3.2.1.2. PPB will provide the IPR Director a draft of the solicitation document for comment.

3.2.1.3. The selection criteria will include:

3.2.1.3.1. Experience in the basic skills of following good meeting practices: timekeeping, following an agreed-upon agenda, and keeping a clear record.

3.2.1.3.2. Experience in managing groups and individuals and group dynamics.

3.2.1.3.3. Demonstrated listening skills including the ability to paraphrase and balance participation.

3.2.1.3.4. Demonstrated ability to be a neutral party who, by not taking sides or expressing or advocating a point of view during the PRB meeting can manage PRB meetings in accordance with established procedures.

3.2.1.3.5. Demonstrated ability to contribute structure and process to interactions so groups are able to function effectively and make high-quality decisions.

3.3. PPB will screen the responses to the solicitation in accordance with City procurement rules.

History:

- Originating Directive Date: 10/30/14
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

338.00, Discipline Guide

Refer:

- DIR 335.00, Discipline Process
- Portland Police Bureau Discipline Guide (Appendix A)

Definition:

- Aggravating Factor: A circumstance, fact, or influence that may increase the level of discipline recommended.
- Discipline Guide: An advisory document used to provide direction to Responsibility Unit Managers, the Police Review Board, the Chief of Police, and the Commissioner in Charge, when determining appropriate discipline.
- Mitigating Factor: A circumstance, fact, or influence that may reduce the level of discipline recommended.

Policy:

1. Imposing discipline for sustained allegations of misconduct is necessary to hold members accountable for their conduct and performance. Discipline shall be reasonably predictable and consistent. The appropriate discipline shall be based on the nature of the allegation, with both mitigating and aggravating factors considered in light of a member's disciplinary history. The Portland Police Bureau (PPB) requires members involved in recommending discipline to reference the Discipline Guide when making a determination.

Procedure:

1. Bureau members involved in the disciplinary process shall refer to and acknowledge use of the Discipline Guide (See Appendix A) in making their recommendations regarding discipline.
 - 1.1. Outside of the PRB, if any members recommend or impose discipline at a level outside the Discipline Guide, they shall provide a written explanation.
 - 1.2. During a PRB, if any voting member recommends discipline at a level outside the Discipline Guide, they shall provide a verbal explanation. The Facilitator shall document the reasoning in the memorandum to the Chief.
 - 1.3. In all cases where the Chief's and Police Commissioner's final discipline is outside of the range recommended by the discipline guide, the Chief and Police Commissioner shall provide an explanation in the final discipline letter of the reason(s) for imposing discipline outside of the recommended range.
2. Professional Standards Division (PSD)/Internal Affairs (IA) shall include a copy of the Discipline Guide when providing case materials for review and findings.
3. PSD and the City Attorney's Office shall review the Discipline Guide on an annual basis to consider any changes to the Discipline Guide, Aggravating Factors, or Mitigating Factors. Any

recommended changes shall be forwarded to the Chief of Police and Commissioner in Charge for review and approval.

4. PSD shall post the Discipline Guide online; however, the Police Review Board Coordinator shall provide a written copy when requested.

History:

- Originating Directive Date: 10/30/14
- Last Revision Signed: 02/02/18
 - Effective Date: 03/03/18
- Next Review Date: 09/03/18

Directive 330.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
330.00	5/1/14		<p>The sentence in the following paragraph is confusing (see below):</p> <p>"Members may communicate directly with IA investigators"</p> <p>Does this mean members can file the complaint directly with IA? It's confusing since the first sentence says members WILL submit a complaint through their RU Manager.</p> <p>Receiving Complaints and the Intake Process (330.00)</p> <p>Members who observe misconduct will document and transmit their observations to IA through their RU manager. This information will be evaluated as an internal Bureau-initiated complaint. Members may communicate directly with IA investigators regarding alleged misconduct for which they have knowledge. Members may also report misconduct directly to IPR.</p>
330.00	5/6/14		<p>Numbering is used in the first half of this directive but not in the section titled Concurrent Criminal and Administrative Investigations. Numbering would benefit the first 7 items listed related to Portland investigations and the 3 items related to other agency investigations.</p>
330.00	5/30/14		<p>The Internal Affairs manager and the Professional Standards Division manager are the same person. It seems like it would be less confusing to use one term to refer to this person unless the Bureau is contemplating splitting them prior to the next review period.</p>
330.00	5/28/14		<p>Declination: IA may decline to investigate some or all of the allegations in a complaint as subsequently outlined in this directive. IA may refer the information in a declined complaint to another Bureau official (e.g. Chief of Police, IA Supervisor <u>RU Manager</u> or precinct commander).</p>

			<p>Role of the Independent Police Review Division (IPR) IPR is responsible for receiving and numbering citizen complaints regarding allegations of misconduct against members of the Bureau, monitoring Internal Affairs (IA) investigations of <u>bureau and</u> citizen complaints, coordinating appeals of Bureau findings of citizen complaints, and recommending changes in police practice and policy. IPR may conduct its own investigation into allegations of police misconduct at the discretion of the IPR Director.</p> <p>Complaints Regarding former Members Notwithstanding section 3 above, IA may decide to investigate a complaint involving a former member based on the nature and seriousness of the allegations, or upon request from IPR. For example, if misconduct has been alleged, the IA Supervisor may order an investigation. The case will proceed according to DIR 332.00 Administrative Investigations, except that former members cannot be ordered to make a statement. At the conclusion of the investigation and any subsequent findings process, IA will place the findings in the employee's personnel or IA file. Discipline may be imposed if the employee returns to service.</p> <p>Criminal Complaints Regarding Members Allegations of member misconduct, which include a possible criminal law violation, will be initially treated as a criminal case rather than an IA investigation <u>investigated concurrently as a criminal and administrative</u> investigation. Criminal cases involving members will be processed according to DIR 333.00, Criminal Investigations of Police Bureau Employees.</p>

Directive 330.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
330.00	9/1/14		<p>Often the chief makes decisions when he has not read or looked into the discipline handed down. He has TO TAKE AN INTEREST AND NOT JUST LISTEN TO THE JAWS FLAPPING. Just because someone says it is so ,it isn't necessarily the truth. I cant tell you how many times a chief says "I didn't know" including the Mayor. This is a poor excuse for truth finding and credibility. The bureau is entirely top heavy with managers that are a gossip group rather than fact finding and seeking justice. Just because you don't like someone doesn't mean you can lie and fabricate embellish and exaggerate as often takes place. Internal affairs is a questionable group as they too are a gossip bunch rather than seeking the truth. Officers and non sworn often win discipline cases after seeking legal council because the bureau embellishes and exaggerates wrong doing. This embellishing and point blank lying needs to stop. If you have a case process it but, don't make a mountain out of a mole hill when you want to rid of someone. Do the investigation be creditable and quit the office antics. The bureau is not transparent and needs to be. The bureau used to be a great place to work. As of today I wouldn't trust a person from Portland Police Bureau.</p>
330.00	9/19/14		<p>Complaint is spelled incorrectly in the title</p>
330.00	9/26/14		<p>I recommend anyone reading section 2.3's first sentence take a deep breath before doing so! Some sentences just have to be long....</p> <p>Anyway, being really picky: Re: 4.4.1 If there could be (a violation of criminal law)----</p>

			<p>Is this referring to a prior act? The one under investigation? Or something that might yet occur? Did they mean: could have been; might have been... S/b past tense rather than future tense?</p> <p>There have probably been multiple reports on section 9.1 - Where it s/b mediation results; not medication results.</p> <p>10.1.6 - remove the word "that"</p> <p>10.1.7 - drop the word "either" (the word investigation that proceeds it doesn't apply to both parts that follow. The 2nd part refers to the complaint.)</p> <p>10.1.8 - needs something after "and will continue to exceed", perhaps just the word "them" will suffice.</p> <p>That first sentence in 10.1.8 is another really wordy sentence! I'd end it after "or more provable complaints. [and then follow it up with something like:] Less serious or less provable cases may be declined.</p> <p>14.1 "Police Liability Management" should be capitalized.</p>
330.00	9/30/14		<p>1) IPR’s Authority Should Be Clearly Stated The definition of “Administrative Investigation,” and subsections 1.1, 2.1, and 2.2 should be revised to properly state IPR’s authority to conduct investigations. For example, 1.1 should say “IPR may conduct its own investigation into allegations of police misconduct at the discretion of the IPR director.” The current language mischaracterizes and improperly constrains the authority of IPR to investigate police misconduct which may or may not include policy violations. It is critical to IPR’s actual and perceived independence that the Bureau be required to report complaints to IPR and the community be encouraged to communicate directly with IPR.</p> <p>2) The Directive Should Maintain a Policy of Impartiality and Professionalism</p>

			<p>It is troubling that the words "impartiality and professionalism" were removed from the Policy section of this Directive. If these are still goals, they should be re-inserted.</p> <p>3) The Term "Service Improvement Opportunity" Should Be Replaced The euphemism "Service Improvement Opportunity," should be replaced by the more appropriate term "Non-Disciplinary Complaint." Every complaint of misconduct, whether minor, outside the normal structure, or major is an opportunity to improve. The changed definition demeans the importance of the issues raised by the complainant.</p> <p>4) "Minor Rule Violation" References Should Be Removed or Defined In subsections 2.1, 8.1, and 13.1, minor rule violations should be removed or defined in the context of the Discipline Guide and SIO Directive. Some of what we might think of as "minor violations," such as rudeness, can be a basis for discipline, as stated in the Discipline Guide. It is not clear how the procedure for these violations differs from the SIO procedure or that such complaints must be documented. See comments below on Directive 331.00.</p> <p>5) Complaint Assignment Should Prohibit Consideration of Irrelevant Factors Subsection 4.4 should specifically exclude consideration of an officer's performance record, a complainant's unrelated criminal history, and a complainant's family's criminal history. These factors are irrelevant to the complaint assignment, create bias, and distract from the purpose of the investigation</p> <p>6) More Attention Should Be Given to Complaints Declined Due To Lack of Resources Special attention and communication is necessary to ensure that as few complaints as possible are declined investigation for lack of resources. Subsection 10.1.8 should require that IPR be notified in every instance when a complaint is declined due to lack of resources.</p>
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Directive 330.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
330.00	4/1/15		<p>If section 10.1.8 is applicable, what ramifications would it have on the DOJ agreement.</p> <p>Section 14.1. type - "Internal Affair" should be Internal Affairs..</p>
330.00	4/6/15		<p>Two points:</p> <p>1) Anonymous complaints should not be allowed. Officers have the right to know their accusers and furthermore, requiring ID would have the effect of minimizing frivolous or blatantly untrue accusations, which leads to:</p> <p>2) The policy should state unequivocally that accusations made against an officer that are found to outright lies or fabrications will result in prosecution against the accuser. Just as citizens have a presumption of innocence and have legal remedies against defamation, so should officers.</p>
330.00	4/14/15		<p>This email speaks to the RU manager findings portion of the internal affairs investigative process. This practice is new and is now in effect.</p> <p>When a formal Internal Affairs administrative investigation is completed by the IA investigator, and is being reviewed by IA Command and IPR, Internal Affairs will notify the involved member’s RU manager that the case file will be assigned to the RU in approximately seven days. This will allow time for the RU manager to assign the case file appropriately.</p> <p>Internal Affairs administrative staff will prepare the case file for delivery to the RU. One day prior to formally assigning the case to the RU, Internal</p>

Directive 330.00 – Website comments as of 4/30/15, close of Universal Review

		<p>Affairs will notify the RU that the file is ready to be picked up at the Internal Affairs office.</p> <p>When a case file is assigned to a precinct, the notification will be addressed to the precinct commander and the precinct captain, with a copy sent to the assistant chief. In all other divisions, the notification will be sent to the RU manager with a copy sent to the appropriate assistant chief.</p> <p>It is the RU’s responsibility to personally pick up the file at Internal Affairs on the appropriate date; during normal business hours 0800-1700, Monday through Friday. That person will sign the finding log book at Internal Affairs documenting the exact date and time the file is received by the RU. Internal Affairs will no longer send formal administrative case files to the RU via inter-office mail or via email.</p> <p><i>Any exception to this rule must be approved by the appropriate assistant chief and documented in writing in the case file.</i></p>
330.00	4/14/15	<p>You need to first take the complaint to have it investigated. In the spring of 1989 Portland Police crashed thru my windows and barged thru the door of my rental on Amherst St. in N.Portland at midnight, without a warrant, beat me and arrested me for resisting arrest, and stole all my personal and private property. They destroyed evidence and bore false witness. No one at your Police Bureau would take a complaint against these officers. I still haven't seen my property 26 years later. And you want people to trust you. Good luck with that.</p>
330.00	4/28/15	<p>DIRECTIVE 330.00 INTERNAL AFFAIRS COMPLAINTS</p> <p>We do not see any substantive changes in this section, which is particularly troubling since Section 6 still does not comply with the spirit of paragraph 129 of the DOJ Agreement calling for all Use of Force complaints to be</p>

Directive 330.00 – Website comments as of 4/30/15, close of Universal Review

			<p>investigated. (We also think all Disparate Treatment complaints should be investigated.) The Directive still does not prohibit mediation for Force complaints, though a previous version did.</p> <p>We continue to encourage the Bureau to re-insert the words "accountability, impartiality and professionalism" in the Internal Affairs Directive.</p> <p>We see nothing requiring precinct-level resolutions of complaints to be documented (Section 2.1 and elsewhere).</p> <p>***The one change we did notice was the new title for Directive 314.00, Prohibited Discrimination, which is now called "Compliance with Human Resources Administrative Rules." Whatever other kinds of activities Human Resources forbids, we think the word "Discrimination" should appear in the title of that Directive.</p> <p>Also, as previously noted: --There's nothing instructing Internal Affairs to check an officer's complaint history; --There is no provision in City Code to dismiss complaints that are "too vague" (Section 10.1.2); and --There is still no requirement that dismissals for "unidentifiable" officers be based on lack of information, rather than speculation (Section 10.1.5).</p>
330.00	4/30/15		<p>I was looking at the directives up for universal review and comment. I had a comment but wasn't able to tell by briefly reading them if my suggestion is already a step in the directive. I also wasn't sure whether it would apply more to: 335.00 Discipline Process, 332.00 Administrative Investigations, or 330.00 Internal Affairs, Complaint Intake and Processing. I thought it would be a good step to have some sort of general communication to the complainant employee about the final decision. I know this would be kind of a slippery slope, but it is my hope that it would be possible to let</p>

Directive 330.00 – Website comments as of 4/30/15, close of Universal Review

			<p>someone know in a general way that something happened to resolve the matter. I hear people frequently saying that “nothing happened” in other situations where something might have happened and they just don’t realize it and it seems like with a sensitive complaint process every effort should be made to make sure the person felt like they were heard. An example of this type of “nothing happened” is when I worked in DVD and people who had called in drug complaints called again they would frequently say they called before but “nothing happened”. They probably expected to see immediate and noticeable police action and when that didn’t happen they assumed that their previous complaint did no good at all. When we told them that they might not see the police action, that surveillance isn’t something that people would notice for instance, and that just because they didn’t see anything didn’t mean their complaint wasn’t important, that really seemed to reassure them. I know in the past in my personnel experience I did not really find out what the resolution was and that is why I was going to suggest it.</p>
330.00	4/30/15		<p>IPR's authority to independently conduct investigations should be more clear. For example, the "administrative investigation" definition should include IPR.</p> <p>"Minor rule violation" is subjective and needs to be defined. Otherwise, this directive is another opportunity to avoid the proper channels for complaints (considering that rudeness can be a basis for discipline).</p> <p>Complaint assignment should specifically exclude irrelevant factors, such as consideration of an officer’s performance record, a complainant’s unrelated criminal history, and a complainant’s family’s criminal history.</p>

Directive 330.00 – Website comments as of 4/30/15, close of Universal Review

			<p>All use of force complaints must be investigated--this directive should say so.</p> <p>We support the suggestions made by Copwatch.</p>
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Directive 330.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

Date	Individual	Comment
2 nd UR		
7/11/17		<p>330.00: Internal Affairs, Complaint Intake and Processing 2nd Universal Review, July 2017</p> <p>We join the comments from our colleagues at Copwatch with regard to this and all complaint-related directives currently up for review.</p> <p>We further wish to reiterate that the recent spate of directives up for review with staggered deadlines is difficult for community groups to adequately track and comment. A “universal review” is not effective or an equitable comment process when it amounts to burying stakeholders in paper.</p> <p>Comments:</p> <p>We have significant concerns about record keeping for this entire process. We suggest that written records of every step be kept in a secure database that is compatible with PPB’s HRIS software.</p> <p>2.4: We suggest that the notifications to the Chief of Police in this section be made in writing. The types of misconduct implicated in this section are significant enough that records ought to be kept in a way that could be referred to later. Mere oral notification is not sufficient.</p> <p>2.6: More criteria are needed regarding situations where the parties to a complaint receive delayed notification due to circumstances “where notification may compromise the integrity of an investigation.” Potential threat of physical harm to a party is one such criterion we suggest. As it is, this section is vague and allows for too much discretion.</p> <p>4.4: These criteria are a promising start, but guidance is needed for when these criteria are determinative. For example, a conflict of interest in the make-up of the Responsibility Unit ought to be an automatic reason not to use the RU. We suggest that the presence of any of these criteria should result in an administrative investigation.</p> <p>4.4.2: We suggest putting in a threshold based on the seriousness of the allegation that triggers an</p>

automatic administrative investigation. Any potential directive violation, any potentially criminal misconduct and any conduct that, if proven, would result in administrative leave or more severe levels of discipline is one multi-pronged threshold we suggest.

4.4.4: We suggest the Bureau specify whose conflicts of interest are meant in this section explicitly.

4.4.6: We suggest that RU managers who are not able to conduct investigations not be involved in an RU unless that inability is temporary (such as short-term disability leave, vacation, etc.)

6.3: To avoid confusion and potential conflict, we suggest incorporating IPR’s jurisdiction by reference. Referencing IPR’s official jurisdiction as laid out in the code will prevent a more restrictive or selective reading based on potentially conflicting understandings of the code and the directives. This can be easily remedied by not attempting to paraphrase IPR’s jurisdiction and instead sending readers to the source.

8: There does not appear to be a mechanism for a community member complainant to refuse mediation. We suggest that such a mechanism be built in for occurrences where an aggrieved community member is seeking an investigation.

9.1.2: We strenuously suggest that minor or de minimus violations be further defined with examples. These are very subjective criteria that are subject to significant abuse of discretion. Moreover, vagueness is not a sufficient reason to decline a case. Vagueness is an indicator that further investigation is needed to clarify the unclear. If a community member complains that “Officer Doe was mean and cruel to me” that could be something as minor as a nasty look or unprofessional remark or as significant as assaultive behavior or a refusal of needed service.

We also note that this reason for declining is not the in the City Code.

9.1.5: We suggest that “reasonable investigative effort” not only be further defined, but be defined to include at least one follow up interview with the complainant and an attempt on the part of the investigator to identify the subject.

9.1.7: We strongly suggest that the IA Captain document the articulable reasons that the complaint lacks merit in a way that can be accessed in case of future review.

<p>7/10/17</p>	<p>DIRECTIVE 330.00 INTERNAL AFFAIRS COMPLAINTS</p> <p>We sent comments on this Directive last month, including that the Administrative Investigations paragraph (Section 6.1) did not indicate that all Use of Force complaints need to be investigated. The new version cuts the offending language which said investigations would follow if a sustained finding would likely result in disciplinary action. PCW appreciates the change. A new provision explicitly says IA should check an officer's complaint history (Section 4.4.5), as we suggested. The Bureau also appears to have fixed our concern about precinct-level resolutions being documented as all complaints now need to be documented and sent to Internal Affairs (2.1.1).</p> <p>That said, the Directive still does not call for all Disparate Treatment allegations to be investigated, nor does it prohibit such allegations or Force allegations from being sent to mediation. We think it should.</p> <p>Although the word "accountability" does appear in Policy Section 1 (as it did in previous Policy Section 1.2), the words "impartiality" and "professionalism" have not been returned from an earlier iteration as we suggested.</p> <p>We noticed a few other improvements, including that PPB and IPR now look for "patterns" as well as specific behaviors that erode community trust (Policy Section 1. There is also a "Chief O'Dea" clause requiring IA, the Assistant Chief or the Police Commissioner to notify IPR if an officer is under investigation (new Section 2.3). We hope this covers all complaints, because otherwise the Directive doesn't indicate IPR should receive complaints initiated within the Bureau or Commissioner's office--where complaints may now be made per Section 2.1. We do acknowledge, though, that IPR is finally mentioned in the definition of Administrative Investigations, has a section (6.3.1) saying what kinds of cases IPR might investigate, and section 1.1 says IPR is responsible for receiving all complaints.</p> <p>It's not clear why Supervisory Investigations (formerly Service Complaints/Service Improvement Opportunities) now include complaints that could result in discipline, where discipline is a Letter of Reprimand or Command Counseling (Section 7.1 and 331.00, below). The point of these less-than-full investigations was to handle low level complaints with no discipline attached.</p> <p>It's also not clear why the new draft cuts a provision that actions prior to investigation attempting</p>
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Directive 330.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

		<p>to resolve the complaint be documented (previous Section 5.1.5)</p> <p>We are still concerned about: --the provision that complaints can be dismissed for being "too vague," which is not in City Code (9.1.2); --there is no requirement that IA try to determine the identity of officers who are "unidentifiable" before declining an investigation for that reason (9.1.5), --and, though we failed to include it in our June comments, that IA can decline a case if they think there is "no reasonable possibility that an investigation shall sustain the allegation or the complaint is not credible or reliable" (9.1.7), or if they need to focus resources on "more provable complaints" (9.1.8).</p> <p>Incidentally, Section 8.1 says mediation can happen if the IPR Director and IA Captain "concludes" it is reasonable (instead of "conclude") and Section 13.1 says "Internal Affairs" (singular).</p>
7/3/17		<p>RU Mangers should be prohibited against conducting an administrative investigation without first receiving written approval from IA.</p> <p>Cases which are assigned to the RU Manager for investigation, and any form of progressive discipline (including memo of expectation, formal reprimand, etc.) should be done in conjunction with the HR Business Partner to ensure a fair and appropriate process.</p>
1 st Universal Review		
6/24/17		<p>330.00 Internal Affairs, Complaint Intake and Processing</p> <p>6. Administrative Investigations: 6.1. A case may be assigned for administrative investigation when there is a prima facie allegation of conduct that violates one or more Bureau directives and, if sustained, is likely to result in disciplinary action. Comment: All prima facie allegations of conduct that violates a PPB directive should be assigned for an administrative investigation. The qualifying "if sustained..." grants PPB too much</p>

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discretion and is counterproductive to a “prima facie allegation.”
Otherwise, the Bureau should specifically cite directives (or examples of directive) that a member could violate and not face disciplinary action for his/her violation.

Addition: PPB shall notify IPR in a timely manner if a member has engaged in conduct that may be subject to criminal and/or administrative investigation in conformity with Portland City Code 3.21.110:

3. The [IPR] Director will be notified in a timely manner by either the Assistant Chief of Investigations, Captain of IAD, or a member of the Police Commissioner's staff upon their knowledge that a member has engaged in conduct that maybe subject to criminal and/or administrative investigation.

10. Declination:

10.1.2. Minor or De Minimus Rules Violation: The employee’s conduct, as alleged by the complainant, constitutes a minor technical violation that if sustained would not result in discipline and is too minor or too vague to justify a service complaint.

Comment: Same comment as 6.1. Bureau should specifically cite directives (or examples of directives) which a violation would be “too minor” or not result in discipline. Second Copwatch’s comments for striking “too vague.”

11. Criminal Complaints Involving Members:

11.1. Allegations of member misconduct, which include a possible criminal law violation, may shall be investigated concurrently as a criminal and administrative investigation. Criminal cases involving members will be processed according to Directive 333.00, Criminal Investigations of Police Bureau Employees.

Comment: In accordance with DOJ recommendations as reiterated in the 2017

DOJ Quarterly Update Report:

“PPB shall conduct administrative investigations concurrently with criminal investigations, if any, concerning the same incident. All administrative investigations shall be subject to appropriate tolling periods as necessary to conduct a concurrent criminal investigation, or as otherwise provided by law, or as necessary to meet the CRC or PRB recommendation to further investigate.”

Directive 330.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

6/13/17		<p>Section 6 on Administrative Investigations still does not comply with the spirit of paragraph 129 of the DOJ Agreement calling for all Use of Force complaints to be investigated. (We also think all Disparate Treatment complaints should be investigated.) The Directive still does not prohibit mediation for Force complaints, though a previous version did.</p> <p>We continue to encourage the Bureau to re-insert the words "accountability, impartiality and professionalism" in the Internal Affairs Directive.</p> <p>We see nothing requiring precinct-level resolutions of complaints to be documented (Section 2.1 and elsewhere).</p> <p>Also, as previously noted:</p> <ul style="list-style-type: none"> --There's nothing instructing Internal Affairs to check an officer's complaint history; --There is no provision in City Code to dismiss complaints that are "too vague" (Section 10.1.2); and --There is still no requirement that dismissals for "unidentifiable" officers be based on lack of information, rather than speculation (Section 10.1.5).
5/26/17		These investigations should be subject to public release with any names redacted
5/25/17		Don't perpetuate white supremacy

Directive 331.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
331.00	5/6/14		<p>Under Supervisor's Responsibilities, a list of 7 items beginning under "Meet with each involved member:" would flow better if numbered in the same manner as the 1 through 5 items listed under RU-Generated Service Improvement Opportunities.</p> <p>The first paragraph under RU-Generated Service Improvement Opportunities talks about a "complaint log" and says it's available on the intranet. The only related forms I found is a "Service Improvement Opportunity Log" and "Citizen Complaint Form". From the text, it appears the SIO log is what the directive is referring to. To make it easier to find referenced material, could the names be changed to the same thing in both sources?</p>
331.00	5/30/14		<p>This directive requires allegations of excessive force to be sent to IA: "Complaints to an RU alleging disparate treatment, excessive force, criminal conduct, or other serious misconduct will not be handled as SIOs. A supervisor receiving such a complaint shall document it in a memo and send the complaint directly to IA. IA will forward the complaint to IPR for further review and action pursuant to Directive 330.00." DIR 940.00 requires an after action, but not necessarily an IA referral, for excessive force allegations. With the after action process we have in place now, would it be appropriate to allow supervisors to forward allegations of excessive force to IA at their discretion?</p>

Directive 331.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
331.00	9/4/14		<p>The format used in all new Directives is hard to read, and hard to find relevant information. For example, if you are a supervisor and you want to know what the supervisor responsibilities are, you have to read the whole directive to find the appropriate section. Readers want to find directive information relevant to their responsibilities.</p> <p>A better format is to have headings, or at least skip a line between responsibility sections. The directives all look like giant run-on sentences.</p>
331.00	9/19/14		<p>2.2.3 complaint is spelled incorrectly</p> <p>4.5 Resolutions should be Resolution</p>
331.00	9/30/14		<p>1) “Minor Rule Violation” References Should Be Removed or Defined Again, the lack of definition for a minor rule violation in this directive makes it difficult to know when an officer's conduct would be treated as a service improvement opportunity, or as appropriate for discipline, as provided in the Discipline Guide.</p> <p>2) SIOs Should Be Documented In Officers’ Personnel Files While one or two SIOs might not mean much, an officer’s accumulation of many SIOs may warrant discipline. If an SIO is not documented in an officer’s file, the Bureau will not know that that particular officer has had many minor violations, and may need corrective action to address his or her behavior.</p>

			<p>3) Complainant Should Have Recourse As is, SIOs provide absolutely no review for a complaint that is denied a full investigation. We strongly believe the complainant should be allowed to appeal to the CRC if his or her complaint is treated merely as an SIO. If that is out of the question, the complainant should at least have the right to submit written comments in response to the resolution that will be kept on file. The DOJ findings that led to the lawsuit against the City described Portland’s police oversight system as “layers of review [that] have provided escape valves inappropriately eviscerating full administrative investigations and corrective action for some complaints.” Findings Letter to Mayor Sam Adams, USDOJ, September 12, 2012, p.34, available at http://www.justice.gov/crt/about/spl/documents/ppb_findings_9-12-12.pdf. The SIO procedure is one of these escape valves, and it should be closed.</p>
331.00			<p>The draft directive appears unclear as to whether any documentation of the SIO will be placed in an officer’s personnel file. If so, we wish to address an officer’s right to submit a rebuttal to the SIO consistent with ORS 652.750.</p>

Directive 331.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
331.00	4/28/15		<p>DIRECTIVE 331.00 SERVICE IMPROVEMENT OPPORTUNITIES</p> <p>We continue to insist that the Bureau refer to so called "Service Improvement Opportunities" as Non-Disciplinary Complaints (NDCs).</p> <p>Nothing has been done to require reporting of complaints received and dismissed by precinct supervisors to IPR. Nor has anything been done to reconcile Policy Section 3, which says NDCs will not be placed in officers' personnel files, with Directive 332's requirement to retain Internal Affairs files for 7-10 years. The older NDC Directive ensured the "satisfaction of the complainant" but the current one says these mini-investigations are done merely to "satisfy the complainant," as in, the Bureau is just going through the motions.</p> <p>We also continue to believe that supervisors should not be able to (a) dismiss complaints stemming from traffic stops if misconduct other than improper stop is alleged (Section 5.4.2); nor (b) decide a complaint is "grossly illogical or improbable on its face," (Section 5.4.3).</p> <p>**There were no substantive changes made to this Directive.</p>
331.00	4/30/15		<p>The euphemism "Service Improvement Opportunity," should be replaced by the more appropriate term "Non-Disciplinary Complaint."</p> <p>SIOs should be documented in an officer's personnel file so that patterns can be observed and repeat problems addressed. Otherwise, SIOs are another mechanism to avoid accountability.</p> <p>Complainants should be allowed to appeal to the CRC for SIOs.</p> <p>IPR should have access to the complaint log and retain it for more than 3</p>

Directive 331.00 – Website comments as of 4/30/15, close of Universal Review

			<p>yrs.</p> <p>A complaint should not be denied because it is "grossly illogical or improbable on its face." The complainant should be given the opportunity to explain the complaint to an IPR investigator and further investigation should be conducted before a complaint is dismissed.</p> <p>We support the suggestions made by Copwatch.</p>
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Directive 331.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

Date	Individual	Comment
2 nd Universal Review		
7/11/17		<p>331.00: Supervisory Investigations</p> <p>We are very concerned that there appears to be no mechanism to appeal or contest the decision for an investigation to be supervisory rather than administrative. Because no comments are made in the personnel file for supervisory investigations, this appears to be a significantly less impactful and transparent mechanism for processing complaints.</p> <p>We suggest that IPR be notified of each SI and be tasked with tracking their outcomes and making additional recommendations. The current structure for SIs lacks transparency.</p> <p>2.2.2.1: Because these are non-disciplinary in nature, SI records are not placed in a member's personnel file. We disagree with this practice and suggest that SI records be placed in a member's personnel file. We understand, however, that there are reasons for that beyond this directive. In light of that, we suggest that a reference to the separate SI file be made in the personnel file.</p> <p>3.4: We are concerned that three weeks is not sufficient time to fully investigate an SI. We suggest putting measures into place to extend this time frame if necessary.</p> <p>We also join Copwatch in thanking the Bureau for removing previous sections 5.4.2 and 5.4.3. Those sections were extremely problematic and we applaud their removal.</p>
7/10/17		<p>DIRECTIVE 331.00 SUPERVISORY INVESTIGATIONS</p> <p>As we said in our June comments and many other times (including when we were part of the Stakeholder group on oversight which also recommended this), these minor cases should be called "Non-Disciplinary Complaints" (NDCs). The fact that the name was changed from Service Complaints to Service Improvement Opportunities to Supervisory Investigations just makes it seem as if the Bureau is being petty and childish in ignoring this reasonable community request. That said, as noted in 330.00, we wonder why these Investigations now can include minor complaints that might result in discipline (Letter of Reprimand or Command Counseling) since the definition includes that this is a "non-disciplinary process."</p>

It's also worth noting that there are numerous references to findings being made on these investigations, but the possible findings are not listed in the Directive.

Perhaps we do not fully understand record-keeping at the Bureau, but we hope that Internal Affairs keeps records of the NDCs and their outcomes for 7-10 years as required by Directive 332.00, even if they are not placed in officers' personnel files (Section 2.2.2.1). There's no mention of whether these get entered into the Employee Information System. PCW continues to be concerned that NDCs are designed to silence complainants who wished to see full investigations, as there is no requirement that the civilian involved approve the case handling or the outcome, only that the Supervisor contact the complainant during the investigation (Section 4.3) and explain the resolution of the complaint (Section 4.9). It is good that supervisors are now required to document their efforts to talk to the complainant (Section 4.3.1), though that seems to apply only to the investigation and not the outcome.

It's also not clear what happens if the RU manager does not approve of the Supervisor's proposed findings, as the Directive only calls upon the manager to approve (Section 3.2).

We're glad that Policy Section 1 and Procedure Section 2.2.2 mention the IPR being involved in/need to approve of NDCs. As we noted in June, the new name sounds as if only the officer's supervisor will look at the allegations. It's only mildly reassuring that NDCs are only allowed to be used once for the same kind of allegation for an officer within a year-- though it is "the last calendar year" rather than one year prior to the complaint being filed (Section 2.1.2). It's also good that NDCs cannot be used for Disparate Treatment, Force, criminal conduct or misconduct that could result in discipline (presumably, here, meaning time off or worse-- Section 2.1.1).

We called attention to the possibility of NDCs being dismissed and never logged by IA or IPR-- but that has been partially fixed in section 1.1.1 which requires all NDCs to be sent to IA for processing. The Directive doesn't explicitly say that such complaints also have to be shared with IPR until the time they are closed (Section 2.2.2).

Generally speaking, the Directive doesn't seem to take into account if the complainant is a fellow officer, though perhaps the same procedures apply if that is the case.

Finally, we thank the Bureau for removing the two sections we noted as problematic in the old Directive, allowing Supervisors to (a) dismiss complaints stemming from traffic stops if

Directive 331.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

		<p>misconduct other than improper stop is alleged (previous Section 5.4.2); or (b) decide a complaint is "grossly illogical or improbable on its face" (previous Section 5.4.3).</p>
<p>1st Universal Review</p>		
<p>6/13/17</p>		<p>DIRECTIVE 331.00 SERVICE IMPROVEMENT OPPORTUNITIES</p> <p>With new changes to City Code made in April, we assume the Bureau will want to change the name of this Directive to "Supervisory Investigations." However, we would urge the Bureau instead to use the term Non-Disciplinary Complaints (NDCs). This makes it clear to both the officer and the civilian that the outcome of an investigation into such a complaint will not be any kind of discipline for the officer. "Supervisory Investigations" makes it seem as if the officer's supervisor will review behavior without any scrutiny from IPR.</p> <p>That said, nothing has still been done to require reporting of complaints received and dismissed by precinct supervisors to IPR. Nor has anything been done to reconcile Policy Section 3, which says NDCs will not be placed in officers' personnel files, with Directive 332's requirement to retain Internal Affairs files for 7-10 years. The older NDC Directive ensured the "satisfaction of the complainant" but the current one says these mini-investigations are done merely to "satisfy the complainant," as in, the Bureau is just going through the motions.</p> <p>We also continue to believe that supervisors should not be able to (a) dismiss complaints stemming from traffic stops if misconduct other than improper stop is alleged (Section 5.4.2); nor (b) decide a complaint is "grossly illogical or improbable on its face" (Section 5.4.3).</p>
<p>5/26/17</p>		<p>Multiple Service Improvement Opportunities should trigger a more formal review or potential disciplinary action</p>

Directive 332.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
332.00	5/1/14		I'm sure this was vetted, but it seems to me a member should be notified of a delay if they've been notified about the investigation, not just if they'd been interviewed?
332.00	5/6/14		The first half of this directive uses numbering for related topics but then stops under the Purging of IA Files section. Three areas under purging could benefit from numbering.

Directive 332.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
332.00	9/30/14		<p>1) IPR’s Authority Should Be Properly Stated The changes in this directive seem to take a step backward from the progress the City has made in increasing IPR’s authority and independence by giving IAD primary responsibility and removing the terms “partnership” and “jointly” in reference to its relationship to IPR.</p> <p>2) Policies Potentially Violated Should Be Identified As mentioned above, the new directive does not require the RU Manager to cite to the appropriate section of the policy and procedure manual in her/his findings. Also, former subsection 4 was removed, which required IAD to determine which policies may have been violated. We believe identifying the policy violated is critical to proper investigation and evaluation.</p> <p>3) Communication With Complainant Should Be Kept Complainants have repeatedly expressed frustration at the CRC appeals stage that they were not communicated with more during the process of the investigation. The complainant should be informed of the policies that IAD has identified as allegedly violated early on to make sure that the complaint has been properly interpreted at a time when it would still be relatively easy to change the allegations and scope of the investigation. Also, we believe the requirement to communicate with the complainant every six weeks should stay in 1.1.4.</p> <p>4) IPR’s Role Should be Better Defined Subsection 3.1.6 allows IPR to “determine additional allegations of member misconduct,” but does not specify whether IPR can order further investigation. We believe IPR should be able to do so, and this subsection should reflect that authority by explaining what it means for IPR to take “appropriate action.”</p>
332.00			<p>The draft directive appears to exclude the purging of IA files in BHR’s and IPR’s custody. We wish to discuss why such a limitation exists.</p>

Directive 332.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
332.00	4/28/15		<p>DIRECTIVE 332.00 ADMINISTRATIVE INVESTIGATIONS</p> <p>The Definition of Administrative Investigation still does not mention IPR.</p> <p>Because language from a previous iteration about the confidentiality of the files has been omitted, we wonder whether complainants now can have access to the file (Section 4.1). Another previous requirement, that Internal Affairs contact the complainant and officer every 6 weeks, still has not been re-inserted.</p> <p>***The only major change in this Directive is the addition of another apparent PPA-driven clause. New Section 5.5 gives officers the ability to have their Exonerated, Insufficiently Proven ("Not Sustained"), and Unfounded cases withheld from employment related information requests.</p> <p>Also, as noted before, the timeline to finish investigations begins when the investigator is assigned, rather than when IA receives the case from IPR.</p>
332.00	4/30/15		<p>The majority of the Citizen Review Committee endorses this comment, but the bureau's 30-day review timeline prevented us from complying with public records law and issuing this comment as a committee. As a result, I submit this comment in my individual capacity. I strongly urge the committee to provide a longer timeline for public comment to allow for meaningful public comment by informed citizens.</p> <p>I make this comment as a member of the Citizen Review Committee based on my experience reviewing Internal Affairs' investigations and findings. Bureau directives need to make explicit the process and responsibility for drafting a complainant's allegations. Currently, there is nothing in the directives addressing this issue. The directives should make clear who drafts the allegations, what information they rely on, and in what circumstances the allegations may change. The directives should also</p>

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			<p>require the person responsible for drafting the allegation to make a good faith effort to confirm the allegations fully and accurately reflect the complainant’s concerns. Any cooperation between PPB and IPR on this process should be made clear. Setting out this process will further transparency and public trust in PPB’s process of handling complaints about its members’ conduct.</p> <p>It is the CRC’s experience that the wording of an allegation can be determinative of whether the bureau finds a member’s conduct was within policy. CRC has heard testimony by complainants that the conduct about which they were complaining was not correctly or fully reflected in the allegations driving the investigation and the findings. PPB staff has testified to the CRC in at least one investigation that had allegations been drafted differently, the member would have been found to be acting out of policy. PPB staff has also testified to the CRC that certain conduct by a member was not considered because it was not included in an allegation.</p> <p>These circumstances undermine public trust and transparency because they give the appearance that PPB may manipulate allegations to serve a desired outcome. Regardless of whether that has ever happened, members of the public should not be in the dark about how the language of their own complaints.</p>
332.00	4/30/15		<p>IA should be required to determine the policy(ies) allegedly violated and communicate this to the complainant and IPR early on. Other violations may be identified this way.</p> <p>IPR should be included the in the definition of administrative investigations.</p> <p>We support the suggestions made by Copwatch.</p>

Directive 332.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

Date	Individual	Comment
2 nd Universal Review		
7/11/17		<p>332.00: Administrative Investigations</p> <p>1: Policy statement Language: "...which if sustained, may..." We wish to question of if the intent was for this to say "sustained" or "substantiated"</p> <p>Our second issue is the "may." If misconduct is substantiated it should result in some sort of disciplinary action, even if it's simply a verbal reprimand. Failing to act on misconduct, even if it is extremely minor, would do nothing to prevent misconduct from recurring in the future. The policy statement should reflect that misconduct is a serious issue, not just an issue that "may" need to be taken care of.</p> <p>1.1.1. It seems inappropriate that the very first responsibility listed is maintaining confidentiality. It gives the impression that the priority is to keep the entire thing quiet as opposed to getting to the bottom of the investigation. This should simply be shifted down the list a few slots. 1.1.2. seems like the most important item on the list. We recognize that employee misconduct is sensitive and investigations can have significant impacts on a workplace. Nonetheless, we advocate for rearrangement in this section.</p> <p>1.1.8. The investigator should not provide conclusions about a witnesses' credibility, and relevance issues. Fact-based statements about credibility and relevance are certainly appropriate, but conclusions put too much power in one person's impressions which could easily be biased. For example, interviewing a witness who appeared nervous and avoided eye contact is one thing to note. Coming to the conclusion the witness was being evasive and lying because of this behavior is another. There are many explanations for the behavior besides lying that an investigator, and any people viewing the file later, could miss if conclusions were listed.</p> <p>3.1.4. The number of steps and review the investigative report goes through before being forwarded to IPR is concerning. It should be made clear that the results of the investigation may be added to, but should not be otherwise altered before it is given to IPR for review.</p> <p>4.1. As with 1.1.1., this should not be the first responsibility. Confidentiality is important, but 4.2. is more important. We suggest rearranging the order to emphasize the purpose of such</p>

Directive 332.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

		<p>investigations.</p> <p>5.2. Wiping all record of an investigation after 7 years is inappropriate. Digital storage makes long-term storage of records a fairly simple matter. Long-term patterns of misconduct could be missed with a 7-year window.</p> <p>5.3. Similar to 5.2, a young officer who was terminated for misconduct could have their records destroyed well before retirement age. These records should not be destroyed.</p>
7/10/17		<p>League of Women Voters of Portland representatives regularly attend Citizen Review Committee meetings and, since IPR’s inception, have observed numerous appeal hearings. We saw the confusion that resulted from the Bureau’s consolidation of Unfounded and Insufficient Evidence into the Unproven finding several years ago. This action was taken with no community input. Officers and community members appreciate the distinction among the findings and, in the recent past, an officer successfully appealed a finding he believed should have been Exonerated.</p> <p>We do not support the proposal to move to two findings: Sustained and Not Sustained. Complainants and Bureau personnel will not be satisfied with a Not Sustained finding because they will not know whether the finding means there wasn’t enough evidence to make a determination, the officer acted within policy, or the investigation showed that the act did not occur or the officer was not involved in the act.</p> <p>The current findings: Exonerated, Unfounded, Not Sustained, and Sustained could be improved by changing Not Sustained to Insufficient Evidence, a much clearer term. We urge you to reject adopting the proposal for two findings.</p> <p>Thank you for your consideration.</p>
7/10/17		<p>DIRECTIVE 332.00 ADMINISTRATIVE INVESTIGATIONS</p> <p>As with 330.00, Directive 332.00 now includes IPR in its definition of Administrative</p>

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		<p>Investigations, something we were concerned about. PCW also called attention to the odd provision that allowed officers to ask their non-sustained findings to be withheld from employment information requests, and the Bureau has pulled that provision--so thank you. In addition the Bureau has added that IA investigations must be done in conformity with Bureau Directives (Policy Section 1), a good addition.</p> <p>However, as noted in our general comments above, this Directive defines Administrative Investigation Findings as "sustained" or "not sustained," and "Administrative Review Findings for Deadly Force" as "in policy" and "out of policy." At least four findings should be available in either type of case, though "unfounded" may never apply to a deadly force situation unless the City wises up and lets community members file complaints in such cases. We continue to object to deadly force being handled as entirely separate from other kinds of cases ("administrative reviews" rather than "investigations"), even though such action is just an extreme example of the continuum of force.</p> <p>One major change in the Directive says that IA investigators should send recommended findings to the officer's supervisor (Sections 2.1.9 and 4.2). Because a similar provision was struck from a draft of changes to the IPR ordinance, we wonder whether this means IPR will not be allowed to offer recommendations when they conduct the investigation. It's also not clear whether the Commander controverting the IA recommendation triggers a Police Review Board hearing, as would happen if IA controverted the Commander (4.2.2.2). If the case has to go back to IA again, it will just result in more unnecessary delays.</p> <p>Also, as we mentioned in our June comments: --A previous requirement, that Internal Affairs contact the complainant and officer every 6 weeks, still has not been re-inserted. --The timeline to finish investigations begins when the investigator is assigned, rather than when IA receives the case from IPR (2.1.3).</p> <p>Incidentally, the word "recommendation" appears in the definition of "Debrief" but probably should not be there.</p>
1 st Universal Review		
6/24/17		332.00 Administrative Investigations Procedure

Directive 332.00 – Website comments 5/25/17 through 6/24/17 and 6/27/17-7/11/17

		<p>Addition: PPB shall notify IPR in a timely manner if a member has engaged in conduct that may be subject to criminal and/or administrative investigation in conformity with Portland City Code 3.21.110:</p> <p>3. The [IPR] Director will be notified in a timely manner by either the Assistant Chief of Investigations, Captain of IAD, or a member of the Police Commissioner's staff upon their knowledge that a member has engaged in conduct that maybe subject to criminal and/or administrative investigation.</p> <p>Addition: Add timeline language which incorporates DOJ recommendation as reiterated in the 2017 Quarterly Update Report: PPB and the City shall complete all administrative investigations of officer misconduct within one-hundred eighty (180) days of receipt of a complaint of misconduct, or discovery of misconduct by other means. For the purposes of this provision, completion of administrative investigations includes all steps from intake of allegations through approval of recommended findings by the Chief, including appeals, if any, to CRC. Appeals to CRC shall be resolved within 21 days.</p>
6/13/17		<p>DIRECTIVE 332.00 ADMINISTRATIVE INVESTIGATIONS</p> <p>The Definition of Administrative Investigation still does not mention IPR.</p> <p>A previous requirement, that Internal Affairs contact the complainant and officer every 6 weeks, still has not been re-inserted.</p> <p>Section 5.5 gives officers the ability to have their Exonerated, Insufficiently Proven ("Not Sustained"), and Unfounded cases withheld from employment related information requests. If this is being done pursuant to a state law or collective bargaining contract, the Directive should state so. If not, it should be removed.</p> <p>The timeline to finish investigations begins when the investigator is assigned, rather than when IA receives the case from IPR (1.1.3).</p>
5/26/17		<p>These records should be subject to release for transparency</p>

Directive 333.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
333.00	9/19/14		<p>"10.1.5. Ensure the original case reports are delivered to the Records Manager after the investigation is completed."</p> <p>How does this work with electronic field reporting?</p>
333.00	9/30/14		<p>1) Determination of Compromise Should Be Clarified Subsection 13 should indicate who determines whether the administrative investigation will compromise the criminal investigation. We suggest this determination be made by a prosecutor involved in the criminal investigation.</p> <p>2) Actions Officers Must Report Should Be Clarified Subsection 3 is confusing and vague in that it does not articulate what types of legal actions may affect the officer’s employment. Perhaps a few examples of types of legal actions that do and do not need to be reported would be helpful here.</p> <p>3) Community Policing Is An Important Policy Goal That Should Remain Removing the reference to community policing in the Policy section creates the impression that community policing is not an important policy goal for the Bureau.</p>

Directive 333.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
333.00	4/28/15		<p>DIRECTIVE 333.00 CRIMINAL INVESTIGATIONS OF PPB EMPLOYEES</p> <p>We still do not understand why Directive 333.00 explicitly states that it does not relate to deadly force or in custody deaths (Policy section). Portland Police Detectives should not investigate their colleagues. We don't think the Directive's intent is to invite independent investigation and prosecution, though we do urge the Bureau to adopt such a policy.</p> <p>We continue to encourage the Bureau to allow officers to go outside their chain of command if they witness another officer engaging in possible criminal conduct, at which point the Directive requires them to notify someone (Section 2).</p> <p>***The only substantive changes in the Directive are apparently just rewordings of policies from the last draft. Previous section 11.1.3 on ensuring Constitutional Rights has been expanded to include collective bargaining rights (no doubt another PPA comment) and moved into the Policy section. Procedure Section 3 requiring officers to report any arrest removes the previous restriction that such court action had to be based on their scope of employment-- this is a good change that we can support.</p> <p>We also continue to believe that highlighting the goal of accountability should return to this Directive from its previous iterations.</p>
333.00	4/30/15		<p>Officers should be required to report to persons outside the chain of command when a complaint of criminal conduct is received or observed if no one within the chain of command is immediately available. Reports to the chain of command should be required as soon as reasonably feasible.</p> <p>In the case of criminal investigations, the prosecutor should decide whether the administrative investigation should continue and under what circumstances.</p>

Directive 333.00 – Website comments as of 4/30/15, close of Universal Review

			We support the suggestions made by Copwatch.
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Directive 333.00 – Website comments 5/25/17-6/24/17 and 8/8/17-8/22/17

Date	Individual	Comment
2 nd Universal Review		
8/22/17		<p>DIRECTIVE 333.00 CRIMINAL INVESTIGATIONS OF PPB EMPLOYEES</p> <p>Procedure</p> <p>1.1 – The language change of procedure 1.1 is difficult to interpret. The policy is unclear as to whether members are supposed to report knowledge of actual conduct, or just knowledge of an “investigation of a member.” We suggest refining the language indicating what exactly should be reported.</p> <p>1.3 – We suggest changing the language from “shall immediately notify” to “must immediately notify.” Notifying the chain of command should be explicitly mandatory to reflect the intent of the policy to maintain integrity and accountability, and to remain in line with the “duty to reasonably intercede” language in the previous sentence.</p> <p>4.2.1.1 – Minor point, but we are unsure of the purpose of “through channels.” Could this be re-written as: “submit a confidential memorandum to the AC of investigations detailing specific articulable facts, to close the case.”</p> <p>Additional notes</p> <p>Directive 333.00 improved significantly, with more clarity around language and procedure than previous drafts.</p> <p>Ultimately, the NLG recommends/believes that an independent investigation is best when dealing with a criminal and administrative investigations. An independent investigation would allow the Bureau to continue to operate without distractions while also ensuring a neutral, unbiased investigation process.</p> <p>Also, the NLG also endorses Copwatch’s comments regarding the use of the term “privatized” and their comments regarding the timeline and duplication of reporting incidents.</p>
8/20/17		<p>DIRECTIVE 333.00 CRIMINAL INVESTIGATIONS OF PPB EMPLOYEES</p> <p>In our previous comments, we wondered why the Policy (previously Policy 1, now Policy 3)</p>

explicitly states that criminal investigation procedures do not relate to deadly force or in-custody deaths. While this Directive includes numerous guidelines for keeping the administrative and criminal investigations separated, which is the basis for the discussion about the "new 48 hour rule" and the Bureau's withdrawal of proposed Directive 1010.10, it is not clear why those guidelines are any different for deadly force incidents. What is clear is that "firewall" between Internal Affairs (IA) and Detectives would be much clearer if someone other than the Portland Police investigated criminal behavior, such as an independent prosecutor's office, and/or if the administrative investigations were handed over to the "Independent" Police Review to conduct without any PPB supervisory involvement.

In our last comments we also suggested that officers should be able to go outside their chain of command to report possible criminal behavior. As updated, Section 1.1 continues to allow them to report to "any" Assistant Chief or Internal Affairs, which we concede is, in fact, outside the chain of command. However, they should also be allowed to report to IPR or the Police Commissioner if they fear retaliation.

Our last previous comment was to re-insert a policy goal of accountability that was cut from older versions, which still has not happened.

As for the new changes that were made, we will begin with compliments to the Bureau for adding these sections:

- 1.3, which calls upon officers to intercede and report on it if they observe their colleagues engaging in criminal behavior;
- 4.2.1.2.3 which asks the investigator to "conduct a complete and thorough investigation";
- 5.1.4 which requires IA to document delays caused by trying to protect the criminal investigation; and
- 7.1.1.2.1 which notes IA should help outside jurisdictions gather information but not influence the outcome of an investigation.

There were a few deletions which we found confusing:

- previous section 11.1.2 called on the investigative supervisor to approve the reports before they are forwarded to IA (Section 4.3.1 only says the Detectives Commander should forward the file to IA);
- previous section 13.1.6 specified that the Assistant Chief of Services would handle the administrative findings and the Police Review Board, which is important since the A/C of

Directive 333.00 – Website comments 5/25/17-6/24/17 and 8/8/17-8/22/17

		<p>Investigations is barred from the PRB in Section 6.1.5 (previously 13.1.5); and --previous section 15 called on supervisors to remind officers of the "ramifications" of criminal behavior and to encourage reporting by education on the Bureau's goals.</p> <p>Also confusing is that an officer's supervisor is supposed to notify the A/C of investigations about criminal investigations (1.4), the Detective Division is supposed to brief the A/C within 24 hours of being assigned a case (2.1) and yet the A/C is supposed to notify the IA Captain and Detective Division if a member is arrested or charged (3.2). Perhaps there should be clauses saying "if the information did not originate from those offices." Along the same lines, the IA Captain is supposed to notify the A/C within 24 hours (a time frame that wasn't previously specified) if an officer is under investigation from an outside agency (7.1.1.1). We hope all this duplication of notification will ensure the debacle that followed Chief O'Dea's arrest last year will not be repeated, however it should be noted that a Chief does not have a supervisor other than the Commissioner.</p> <p>Our final comment, for now, is that the Bureau should not use the term "privatized" to mean "redacted" (Section 4.2.1.2.1). We made this comment about Directive 900.00, noting that "privatized" means taking a public entity and putting it in the hands of a private corporation. We assume this is not what the PPB intends.</p> <p>Side note: there is an odd insertion of the word "of" in Section 5.1.1 so it now reads that a database should contain "the date of investigations open and close." Perhaps the Bureau means "the date of investigations opening and closure"?</p>
<p>1st Universal Review</p>		
<p>6/24/17</p>		<p>Directive Review 333.00 Criminal Investigations of Police Bureau Employees In the Policy Section 1, lines 2-3, the directive states that “Criminal investigations of members will be conducted without undue delay.” To avoid ambiguity, the time period in which investigations should begin or occur should be clearly specified, or preferably the wording changed to “immediately.”</p>
<p>6/13/17</p>		<p>DIRECTIVE 333.00 CRIMINAL INVESTIGATIONS OF PPB EMPLOYEES</p> <p>We still do not understand why Directive 333.00 explicitly states that it does not relate to deadly force or in-custody deaths (Policy section). Portland</p>

Directive 333.00 – Website comments 5/25/17-6/24/17 and 8/8/17-8/22/17

		<p>Police Detectives should not investigate their colleagues. We don't think the Directive's intent is to invite independent investigation and prosecution, though we do urge the Bureau to adopt such a policy.</p> <p>We continue to encourage the Bureau to allow officers to go outside their chain of command if they witness another officer engaging in possible criminal conduct, at which point the Directive requires them to notify someone (Section 2).</p> <p>We also continue to believe that highlighting the goal of accountability should return to this Directive from its previous iterations.</p>
5/26/17		These records should be subject to public release for transparency
5/25/17		Don't protect racists

Directive 334.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
334.00	5/6/14		For consistency sake and ease of reading, the titles "RU Manager's Responsibilities", "Investigation Supervisor's Responsibilities", and "Professional Standards Division Manager's (or designee's) responsibilities" should be in bold. Professional Standards Division Manager's (or designee's) Responsibilities has a colon (:) after it but the other titles do not. Items listed under these titles would benefit from being numbered and would make it easier to read/follow.

Directive 334.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
334.00	9/4/14		<p>Oh boy, this is very confusing and difficult to read. Similar to all the new directives, it looks like we just added a random section number after each sentence. It is not easy to decipher where one responsibility ends and another begins.</p> <p>Other Problems:</p> <p>There is not consistency in the language used in several places:</p> <p>Example 1. Under Policy, number 2: ...should address specific allegations of policy violations.</p> <p>Section 2.6.2identify specific allegations of performance deficiencies....</p> <p>Are we addressing allegations of policy violations or performance deficiencies?</p> <p>Example 2. In several places, Captain of Professional Standards, or just Professional Standards Division is used. In other areas of this draft, Captain of Internal Affairs, or just Internal Affairs Division is used?</p> <p>Internal Affairs and Professional Standards seems to be used interchangeably in several places. If they are one and the same, we should pick one and remain consistent throughout the document.</p>

			<p>Contradictory language: Policy, number 5 says...not to be used as a substitute for an administrative investigation.... However, the Administrative Review policy reads that it is to review policy violations. How can two separate policies review policy violations, but 334.00 prohibits substituting for an administrative review which reviews policy violations?</p> <p>Redundancies: There are lots of redundancies in this document.</p> <p>Example 1. 2.6.7 repeats 2.4</p> <p>Example 2. 2.6.12 repeats 2.5</p> <p>General Problems with the formatting in all new directives:</p> <p>The other problems in this new directive are consistent with the problems in all the re-formatted directives.</p> <p>*The numbering scheme is hard to follow; it doesn't offer separation between sections.</p> <p>* There are no easily identifiable subject headings. Using BOLD or an underline, or a font change, or at least different line spacing would help create relevant subject headings so the reader can easily find what they</p>
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Directive 334.00 – Website comments as of 9/30/14, close of Universal Review

			need.
334.00	9/30/14		<p>1) Another Escape Valve to Avoid Discipline That Should Be Eliminated</p> <p>Similar to the SIO provisions above, this directive seems to provide additional ways to avoid discipline procedures. As an initial matter, it is not clear why this section is required at all, in light of the option to treat a complaint as an SIO. The section does not explain how a performance deficiency is different than an SIO. It leaves a lot of concerning discretion for supervisors to decide what is “misconduct.” We believe these types of issues should be addressed in an officer’s regular performance evaluation, along with acknowledgment of good behavior, to be kept on record. Adding another directive and another name for rule violations that do not warrant investigation or review seems confusing, misleading, and a way to avoid accountability in some circumstances.</p>

Directive 334.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
334.00	4/1/15		<p>It seems the language about adhering to law and collective bargaining agreements is buried within the directive. I didn't even see it for a bit and thought it was missing altogether, even though I was looking for it. I think it would be better served to move to the introductory section like in the earlier directives.</p> <p>Proofreading/Copy Editing comments Policy Section, Line 3: Active voice reads: Internal Affairs will number and track all performance investigations</p> <p>Line 5: A performance investigation is not a substitute for an administrative investigation...</p> <p>Procedure Section; Line 2.3 If Internal Affairs agrees the case is related to a performance deficiency...(no need for "that") Additionally in Line 2.3: Internal Affairs will assign the subject member's Responsibility Unit Manager or designee to conduct the performance investigation. (no need for "that")</p> <p>Line 2.6.2.1 The Captain of the Professional Standards Division or designee will decide who will conduct the performance investigation, and if assigned to the Responsibility Unit, will provide all necessary forms (add commas)</p> <p>I'm not sure what line 2.6.3 means exactly...but I'm wondering if it means: Assign supervisors within the Responsibility Unit to investigate performance cases.(?)</p>

			<p>Line 2.6.4: Ensure performance investigations are completed within sixty (60) days after assignment (no need for "that")</p> <p>Line 2.6.5: Ensure performance investigations are conducted in a manner consistent with all applicable law and bargaining agreements. (Clearer active voice)</p> <p>Line 2.6.7 ...(eliminate the last comma before "for approval")</p> <p>Section 3: Investigating Supervisor Responsibilities Line 3.1: The Investigating Supervisor will conduct Performance Deficiency Investigations in accordance with procedures outlined in Directive 332.00 Administrative Investigations.</p>
334.00	4/28/15		<p>DIRECTIVE 334.00 PERFORMANCE DEFICIENCIES</p> <p>This Directive allows an investigation not involving IPR or Internal Affairs of an officer who files "incomplete reports" or makes "inaccurate statements." ***This is now called a "Performance Deficiency Investigation" rather than a "Performance Investigation," which seems clearer. The only other potentially substantive change is that patterns of performance deficiencies now may rise to "the level of misconduct" rather than "a conduct violation" (Section 1.1). While this clarifies how serious performance problems can lead to suspension or even termination (Policy Section 4), it is not clear why IPR and IA would not be assigned more involvement than reviewing the finished investigation (Sections 2.4 , 2.6 and 4.4) and signing off on discipline (Sections 2.5 & 2.6.12).</p> <p>We continue to think that filing incomplete reports and making inaccurate statements have serious impacts on the community and that IPR should have more involvement in these investigations.</p> <p>DIRECTIVE 338.00 DISCIPLINE GUIDE</p>

Directive 334.00 – Website comments as of 4/30/15, close of Universal Review

			<p>***This blissfully short Directive had only one word change for clarity.</p> <p>We continue to be concerned that discipline can "be modified based on mitigating and/or aggravating factors" (Policy Section 4), when the Guide is supposed to ensure that wildly different punishment isn't being doled out for the same behavior.</p>
334.00	4/30/15		<p>Performance deficiencies should be kept in personnel file and reviewed as part of personnel evaluations.</p> <p>IPR should have access to and the ability to investigate performance deficiencies.</p> <p>We support the suggestions made by Copwatch.</p>

Directive 334.00 – Website comments 5/25/17-6/24/17 and 8/1/17-8/15/17

Date	Individual	Comment
2 nd UR		
8/15/17		<p>334.00: Performance Deficiencies</p> <p>We echo concerns from our colleagues at Copwatch with regard to the apparently diminished role of IPR and Internal Affairs. While some personnel matters will be most effectively managed by a supervisor (such as tardiness or absenteeism) other matters are in the community’s interest and ought to be resolved in accordance with maintaining the accountability noted in the Policy section of this directive.</p> <p>Section 2: A definition of Responsibility Unit Manager is still needed. A mechanism for ensuring the RU manager does not have a conflict</p> <p>We further suggest that any manager or supervisor involved in the investigation not be the direct manager or supervisor of the person under investigation to prevent potential conflicts of interest or the appearance thereof.</p>
8/15/17		<p>DIRECTIVE 334.00 PERFORMANCE DEFICIENCIES</p> <p>In our brief comments on this Directive in May, we wondered why the Independent Police Review (IPR) or Internal Affairs (IA) would not have a larger role in looking at patterns of performance problems. The new draft seems to cut out IPR from the ability to review completed investigations (old Section 2.6.8) even though they still have to be informed the investigation is happening (Section 3.1.4) and sign off on the recommended findings and discipline (Section 5.2.2). We strongly believe IPR should also review the investigation before it moves on for findings (likely in Section 4.3).</p> <p>See our comments on Directive 335.00 for our concerns about the definitions of possible findings.* (pasted in below)</p> <p>We are supportive of the fact that the Bureau cut out "inaccurate statements" as an example of a performance deficiency-- this seems more like untruthfulness which is a fireable offense.</p> <p>Another change about which we have no strong feelings is that Performance Deficiency Investigations can now take 70 days instead of 60 (old Section 2.6.4, new Section 4.2.2).</p> <p>The package to be submitted by the RU Manager previously specified its contents (investigative</p>

Directive 334.00 – Website comments 5/25/17-6/24/17 and 8/1/17-8/15/17

		report, interview recordings, transcripts and exhibits-- old Section 2.6.7) but now only asks for "development of proposed findings" (Section 5.1.1). The fuller description is much more useful.
8/1/17		<p>How about we modify this Directive so there are two findings: sustained and not sustained.</p> <p>Exonerated is basically “not sustained” with frosting and sprinkles on the top. It’s not needed. All exonerated conduct is not sustained, so it is really just something to make members feel better. If the conduct at hand was really so clearly within policy.</p> <p>Unfounded should not be necessary if the screening at the outset is done well. An unfounded finding indicates there is no basis for a violation. If there was no basis for a violation at the outset, why was it investigated? If, at the conclusion for the investigation, it is clear to the IPR Manager or an IAD Lieutenant that there is no basis...why send it out for a finding? “Unfounded” as it is currently used is really just away for the RUs to say “not just not sustained, but unfounded...because we don’t believe you at all.”</p>
1 st UR		
6/24/17		<p>334.00 Performance Deficiencies</p> <p>1.1: This section is vague and would benefit from some examples to differentiate poor work performance that doesn’t rise to the level of misconduct to poor work performance that does rise to the level of misconduct. For example, one unexcused absence may not be misconduct, but ten might be.</p> <p>2. A definition of Responsibility Unit Manager is needed.</p> <p>2.2 – 2.4: The mechanics of this process are not at all clear, nor are the criteria for Internal Affairs’ approval of the investigation. There need to be actionable criteria for when performance deficiencies are investigated or else the process will lose credibility because it will appear arbitrary.</p> <p>We further suggest that any manager or supervisor involved in the investigation not be the direct manager or supervisor of the person under investigation to prevent potential conflicts of interest.</p>
6/13/17		<p>DIRECTIVE 334.00 PERFORMANCE DEFICIENCIES</p> <p>This Directive allows an investigation not involving IPR or Internal Affairs of</p>

Directive 334.00 – Website comments 5/25/17-6/24/17 and 8/1/17-8/15/17

		<p>an officer who files "incomplete reports" or makes "inaccurate statements." Patterns of performance deficiencies may rise to "the level of misconduct" (Section 1.1). While this clarifies how serious performance problems can lead to suspension or even termination (Policy Section 4), it is not clear why IPR and IA would not be assigned more involvement than reviewing the finished investigation (Sections 2.4 , 2.6 and 4.4) and signing off on discipline (Sections 2.5 & 2.6.12).</p> <p>We continue to think that filing incomplete reports and making inaccurate statements have serious impacts on the community and therefore IPR should have more involvement in these investigations.</p>
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Directive335.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
335.00	5/1/14		The cited referred rules directives doesn't include the discipline matrix. However, it does read: DIR 338.00 Early Warning System. Directive 338 is the same as the discipline matrix directive 338. Is this an error?
335.00	5/4/14		Bureau command staff has, for years, routinely handed out letters of expectation to subordinates when they arrive at a new assignment/RU. This directive indicates that a Letter of Expectation is a disciplinary action, which would seem to fly in the face of past practice.
335.00	5/5/14		<p>I thought the bureau was going to return "unfounded" as a finding category.</p> <p>unfounded unproven exonerated sustained</p>
335.00	5/14/14		<p>At the beginning of the first section titled "Policy", the directive number is listed next to it. The next 2 sections have the policy number listed but then the rest of the section titles do not.</p> <p>A few of the sections have the responsibilities numbered (For example, RU Manager Responsibilities are numbered 1-3) but other sections are not numbered that have multiple responsibilities listed. One section (IA Manager's Responsibilities under Procedure for recommended discipline of suspension or greater) has a number 4 listed but the first 3 are not numbered.</p>

Directive 335.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
335.00	9/4/14		<p>2.1.4 should require (a) findings, (b) the facts or reasons upon the finding is based & (c) the recommendations. The "facts or reasons for the finding" is not included in the proposed policy. If someone contests the findings, then the factual basis (or lack of facts) of the findings are crucial to a review. The findings could be reviewed by the CRC or even the City Council. Thus, the reasons for the findings are crucial. Perhaps, it is intended for the Findings Cover Sheet to contain a place for this information. However, better practice is to place this requirement in the policy, itself.</p>
335.00	9/27/14		<p>In the section for "Guidance for the Discipline Process" in paragraph 1, we don't really "issue" corrective action. Perhaps the word they were going for was "effect corrective action". (Cause or strongly encourage it to happen, impose that it be done - rather than send it out into the world ourselves.)</p>
335.000	9/30/14		<p>Under 8.4.2, the language needs to be clarified.</p> <p>As written, it will allow for private personal attorney attendance. This is not allowed.</p> <p>It should read:</p> <p>Members may be accompanied by a bargaining unit attorney or representative.</p>

335.00	9/30/14		<p>1) Discipline Policies Should Be Consistent</p> <p>This language of this directive conflicts with itself and the Discipline Guide—it states that every incident should be treated as “unique” in the Guidance section, and at the same time requires repeated actions to lead to more serious discipline. We believe this directive should refer directly to the Discipline Guide for consistency and to eliminate the possibility that the Guide is not followed. In particular, the Guide should be referred to in ¶6, and ¶¶ 2,3 and 4 of the section titled “Guidance for the Discipline Policy.” Also, it is not clear whether the “Corrective Action Guide” in 2.1.8 of the RU Manager Responsibilities the same as the Discipline Guide. If so, it should be named consistently. If not, it should be defined.</p> <p>2) Investigators Should be Allowed to add More Allegations Early On</p> <p>Subsections 2.1.2 and 2.1.7 only allow the RU Manager to identify policies violated and refer back for additional investigation on new allegations after the investigation is complete. It would save time and allow for a more thorough investigation if investigators were allowed to identify and investigate new allegations as they arise during the investigation.</p> <p>3) IPR’s Authority Should Be Clear</p> <p>Subsection 5 seems to misrepresent the extent of IPR’s Authority. IPR’s authority to disagree with the findings, add allegations, and conduct its own investigation should be articulated here.</p> <p>4) Discipline Factors Should Include Complaints and Service Improvement Opportunities</p> <p>The section on Appropriate Corrective Action or Discipline Factors should include an officer’s complaint and SIO history. As mentioned above, a few complaints may not be indicative of a larger problem, but repeated</p>
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Directive 335.00 – Website comments as of 9/30/14, close of Universal Review

			<p>complaints may be even though the allegation was not sustained. Also, cumulative minor policy violations should be a factor in discipline, as is currently reflect in the Discipline Guide matrix. We believe the former directive language should remain: “All recent discipline is relevant, not just discipline for a specific kind of conduct.”</p>
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Directive 335.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
335.00	4/28/15		<p>DIRECTIVE 335.00 DISCIPLINE PROCESS</p> <p>We wish the Bureau would consider our proposal to use the term "Insufficiently Proven" or equivalent instead of the term "Not Sustained," since two other possible findings, "Exonerated" and "Unfounded," also mean that the allegation was not sustained. Though the term "Not Sustained" is used by many review systems, we think it will cause confusion. We also asked that "Unfounded" be reverted to its previous definition ("available facts do not support the allegation") rather than the accusatory one the Bureau's adopted ("false or devoid of fact"). We also continue to believe that training around how to assign and support the "Unfounded" finding will go further than setting a higher levels of proof for "Unfounded" than all the other findings (which use preponderance of the evidence).</p> <p>We continue to think the definition of "finding" should be whether the allegation is supported by the facts, not a definition that includes the possible findings.</p> <p>We never received a response from the Bureau whether a list of issues about training, policy and supervision raised in the "Findings Cover Sheets" is publicly available.</p> <p>It also seems the problem that the Chief might debrief an officer prior to the CRC hearing an appeal has not been remedied (Section 8.5.2). Also, the officer under scrutiny continues to have the ability to review the case file, while the complainant does not (Section 8.3.1).</p> <p>Nothing was done to clarify how officers with repeat violations might be treated ("Guidance" Section 2, Policy Section 3, "Appropriate Corrective Action or Discipline Factors" Section 4). We noted before that the old Directive specifically said "All recent discipline is relevant, not just discipline for a specific kind of conduct."</p>

Directive 335.00 – Website comments as of 4/30/15, close of Universal Review

			<p>***The only substantive change we noticed was an odd one, specifying that an officer has the right to "a bargaining unit attorney" rather than just "an attorney." It's not for us to judge, but if an officer doesn't want the bargaining unit's attorney, or the bargaining unit decides not to support him/her because of the nature of the investigation, it seems strange that other attorneys would not be welcome in the process.</p> <p>We also continue to wonder why:</p> <p>--The Bureau no longer includes the possibility of written warnings in Policy Section 2; --The process for a complainant to learn the outcome of "minor" violations treated as debriefings is not clear (Procedure Section 2.1.7); and - -There's no definition of the "Discipline Coordinator."</p>
335.00	4/30/15		<p>The majority of the Citizen Review Committee endorses this comment, but the bureau's 30-day review timeline prevented us from complying with public records law and issuing this comment as a committee. As a result, I submit this comment in my individual capacity. I strongly urge the bureau to provide a longer timeline for public comment to allow for meaningful public comment by informed citizens.</p> <p>335.2.1.7</p> <p>This comment is related to my comment on Directive 332, regarding the process for drafting a complainant's allegations. There is nothing in the directives governing that process, which should be addressed. In Directive 335.2.1.7, the "Responsibility Unit Manager may recommend a bifurcation of the findings that were not part of the complainant's allegation(s) but were uncovered during the administrative investigation." When findings are "uncovered during the administrative investigation," there should be a transparent process for drafting new allegations or revising existing</p>

			<p>allegations.</p> <p>335.8.2.3 The Citizen Review Committee hears a lot of complaints from community members that the discipline process for PPB members is not transparent. To further transparency and public trust, the CRC strongly recommends a change to Directive 335.8.2.3. This subsection requires the Professional Standards Division Captain to draft a letter to the complainant after a Police Review Board hearing, “explaining the disposition of each applicable allegation in the complaint and submit the letter to Independent Police Review to be mailed to the complainant.” However, the directive prohibits the letter from containing “information about the discipline imposed.” The CRC strongly recommends that this prohibition be removed. The discipline imposed is central to officer accountability and the disposition of the allegation. By excluding that information, the PPB sends a message of distrust and secrecy to the public. The last sentence of Directive 335.8.2.3 should simply be removed.</p> <p>I believe the letter referred to in Directive 335.8.2.3 is sent before the discipline is finalized. This should not prevent transparency; it should simply be noted that the discipline is not final and should explain in plain English the process remaining. When the discipline is finalized, that too should be told to the complainant. When discipline is imposed, the bureau deserves credit for holding its members accountable. Showing this to the public will build public trust and the bureau should embrace opportunities to demonstrate that it takes accountability seriously.</p> <hr/> <p>Subject: Proposed Change to Directive 335.8.2.3</p>
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			<p>Dear Citizen Review Committee Members,</p> <p>I have read the CRC’s <u>notification regarding proposed changes to 335.8.2.3:</u> <i>Second Proposed Comment by CRC on Directive 335</i></p> <p><i>The Citizen Review Committee hears a lot of complaints from community members that the discipline process for PPB members is not transparent. To further transparency and public trust, the CRC strongly recommends a change to Directive 335.8.2.3. This subsection requires the Professional Standards Division Captain to draft a letter to the complainant after a Police Review Board hearing, “explaining the disposition of each applicable allegation in the complaint and submit the letter to Independent Police Review to be mailed to the complainant.” However, the directive prohibits the letter from containing “information about the discipline imposed.” The CRC strongly recommends that this prohibition be removed. The discipline imposed is central to officer accountability and the disposition of the allegation. By excluding that information, the PPB sends a message of distrust and secrecy to the public. The last sentence of Directive 335.8.2.3 should simply be removed.</i></p> <p>As a part of the appeals process, the letter mentioned in this part of Directive 335.8.2.3 is sent prior to any final decision by the Chief and the Mayor. It is the letter that informs the complainant of the PRB’s recommended findings. Upon receipt of the letter/notice, the complainant can appeal the recommended finding to the CRC. The PRB’s</p>
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			<p>recommendations to the Chief are advisory only. Imposed discipline (if any) doesn't occur until after the CRC appeals process is closed and the Chief and Mayor have made a final discipline decision. As such, the letter mentioned in this part of the directive will not include discipline information.</p> <p>With regards to imposed discipline information, the PRB memos are posted twice a year and the actual discipline imposed in each case (after a final discipline decision is made by the Chief and Mayor) is reported to the public-at-large and available on the bureau's website. The names and identifying information of the involved bureau members are redacted from these reports in accordance with ORS 192.501(12) and ORS 181.854(3) and in accordance with the provisions of the police union contracts. ORS 192.501(12), which is part of the Public Records Law, generally exempts from public disclosure "A personnel discipline action, or materials or documents supporting that action." This statute applies when discipline is imposed. ORS 181.854, which applies to public safety employees (e.g. police, fire), generally provides: "A public body may not disclose information about a personnel investigation of a public safety employee of the public body if the investigation does not result in discipline of the employee." This statute applies when there has been an investigation of a public safety employee that does not result in discipline.</p> <p>Both union contracts (the Portland Police Association and the Portland Police Commanding Officers Association) contain the following provision: "If the City has reason to reprimand or discipline [an officer], it shall be done in a manner that is least likely to embarrass the officer before other officers or the public." A public release of proposed or imposed discipline likely would violate this provision of the union contracts and draw a possible grievance.</p> <p>I'm bringing this to your attention because I feel this proposed change</p>
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Directive 335.00 – Website comments as of 4/30/15, close of Universal Review

			<p>creates unrealistic expectations on the part of the public who may not have an understanding of the Bureau’s discipline and administrative appeals process and certain prohibitions regarding the disclosure of discipline information under state law and the City’s police union contracts. For these latter concerns, I encourage the CRC to defer to their legal counsel for clarification the City’s legal obligations under the two cited Oregon Revised Statutes and the police union contracts.</p>
335.00	4/30/15		<p>This process should refer to the Discipline Guide so that they don't conflict.</p> <p>Complainants should be able to review the case file, just as the subject member is allowed to.</p> <p>Discipline should be possible for multiple performance deficiencies, SIOs, and other complaints that are not treated the same as individual disciplinary matters.</p> <p>We support the suggestions made by Copwatch.</p>

Directive 335.00 – Website comments 5/25/17 through 6/24/17 and 8/1/17-8/15/17

Date	Individual	Comment
2 nd UR		
8/15/17		<p>335.00: Discipline Process</p> <p>We echo the comments of Copwatch when it comes to the types of finding that can result from this process. We also echo their appreciation for naming the preponderance of the evidence standard in this context.</p> <p>Although the IA Captain, the Assistant Chief and the IPR Director all have an ability to submit a memorandum to controvert, the procedures for the controvert process appear to end there. If this is covered in another directive (such as 338.00) we suggest a cross-reference. Absent a directive on point, we suggest that the controvert documentation prompt the Chief or suitably qualified designee to review all relevant evidence and generate a decision memo that addresses the points in the RU Manager’s submission as well as the controvert submission.</p>
8/15/17		<p>DIRECTIVE 335.00 DISCIPLINE PROCESS</p> <p>These are follow up comments to those we submitted in June.</p> <p>It is very confusing that there are references to the proposed findings in the new draft Directive, but there is no part of the Directive calling on Managers to make such findings (old Section 1, which has been struck).</p> <p>We appreciate that the Bureau created a stand-alone definition of "finding" as "a conclusion as to whether a member's conduct violated Bureau directives."</p> <p>The Bureau also created clear guidelines that the Chief should not debrief officers prior to the CRC hearing appeals (Sections 7.6.1 and 8.2.1) per our suggestion. There is also a new section prohibiting the officer's supervisor from imposing discipline before submitting the document to Internal Affairs (Section 2.6) but isn't clear that they have to wait for the whole process to be completed.</p> <p>We are still interested in knowing whether the issues about training, policy and supervision raised in the "Findings Cover Sheets" are publicly available (Definition). Note that section 2.4 only requires a supervisor to make a discipline recommendation on that sheet, not a finding or identification of such issues.</p>

Nothing was done to clarify how officers with repeat violations might be treated. We noted before that the old Directive specifically said "All recent discipline is relevant, not just discipline for a specific kind of conduct."

We raised a question about the old section (8.4.2) which gave officers a right to "a bargaining unit attorney" at a Police Review Board hearing. Rather than clarify the issue, that item is now gone. (Also gone is the reference to the officer receiving the case file 14 days before a PRB hearing, which we noted is not done for the complainant.)

We also continue to wonder why there's no definition of the "Discipline Coordinator" and whether that person is the same or related to the Review Board Coordinator, the Professional Standards Division or something else.

Observations on other changed and new language include:

--The process seems as if it could speed up since the IA Captain, IPR Director and Assistant Chief now all look at the findings at the same time, rather than one at a time (Sections 3.1, 4.1 and 5.1). However, the IA Captain used to only have 14 days to turn around the file (old Section 2.1.6) but now can take as long as "practicable" (Section 3.1).

--It is made clear in the new document that the IA Captain, IPR Director and Assistant Chief all have the ability to "controvert" the supervisor's proposed findings and discipline (Sections 3.2.1, 4.1.1 and 5.1.1).

--Instructions on sending non-sustained findings to the complainant and officer have been struck (old Section 6.2), as has the requirement for IA to keep original copies of case files (old Section 7.1.2).

--A rather significant change in how a Letter of Reprimand is delivered shows up in Section 7.8. The old Directive had the officer asking for a meeting with an Assistant Chief (old Section 7.2.4), while the new one requires the supervisor to hold such a meeting with the officer. Then the officer can ask for what used to be called a "mitigation" or "due process hearing" and is now called a "pre-determination meeting" with the A/C. Officers can also ask for such a meeting with the Chief when discipline is time off or more (Section 8.5, replacing old Section 8.4.3).

Directive 335.00 – Website comments 5/25/17 through 6/24/17 and 8/1/17-8/15/17

		<p>--There is no reference any more to the Chief needing to consult with the Commissioner in Charge on discipline decisions (old Section 8.5.3) even though this is a crucial point of accountability: a civilian overseer of our paramilitary police.</p> <p>As with other Directives in this set, the "redline" version is imperfect and still required our manual review. In addition to dozens of places where old sections were moved about and/or reworded, Policy Section 5 is shown as being integrated into Policy Section 1 and crossed out at line 5 in green. It is not clear why there are two colors or how this error occurred.</p>
8/1/17		<p>Under the section titled Policy</p> <p>#4. Before taking corrective action or disciplinary action, the Bureau will conduct an investigation to assist in in determine whether the employee, in fact, engaged in misconduct or performance that is contrary to Bureau expectations, whether the employee knew or should have known better, and if so, whether corrective or disciplinary action is appropriate and fair considering all the circumstances. The Bureau strives to ensure that its investigations are fair and thorough, with truth as its primary objective.</p> <p>Is there any delineation between what constitutes the “Bureau” what about IPR led investigations into officer conduct”? How does that configure into this statement? Officers need to know specifically what a “Bureau” led investigations is versus what an IPR generated investigation means as it pertains to the end result and “discipline”</p> <p>There are countless internal cases that IPR has improperly investigated which resulted in questionable outcomes and resulting discipline or not.</p> <p>The membership will be better protected knowing that the “Bureau” and not IPR investigated any incidents they are named in.</p>
8/1/17		<p>Progressive discipline for DCTU-represented members begins with an Oral warning, and then proceeds to the Letter of Reprimand, etc. Please refer to Article 34.1. of the Labor Agreement between the DCTU and the City of Portland.</p> <p>Thank you!</p>
1 st UR		

Directive 335.00 – Website comments 5/25/17 through 6/24/17 and 8/1/17-8/15/17

6/24/17		<p>335.00: Discipline Process We echo the comments of our colleagues at Copwatch with regard to this directive. Specifically, we encourage the use of a term such as “insufficiently proven” or “not sustained.”</p>
6/13/17		<p>DIRECTIVE 335.00 DISCIPLINE PROCESS</p> <p>We again urge the Bureau to consider our proposal to use the term "Insufficiently Proven" or equivalent instead of the term "Not Sustained," since two other possible findings, "Exonerated" and "Unfounded," also mean that the allegation was not sustained. Though the term "Not Sustained" is used by many review systems, we think it causes confusion. (Amusingly, on June 7 CRC Vice Chair Julie Ramos noted that "last time I think when we voted the finding should have been 'Not Sustained,' not 'Sustained.'") We also asked that "Unfounded" be reverted to its previous definition ("available facts do not support the allegation") rather than the accusatory one the Bureau's adopted ("false or devoid of fact"). We continue to believe that training around how to assign and support the "Unfounded" finding will go further than setting a higher level of proof for "Unfounded" ("high level of certainty") than all the other findings (which use preponderance of the evidence).</p> <p>We continue to believe the definition of "finding" should be whether the allegation is supported by the facts, not a definition that includes the possible findings.</p> <p>We have still not received a response from the Bureau whether a list of issues about training, policy and supervision raised in the "Findings Cover Sheets" is publicly available (Section 2.1.4).</p> <p>The problem that the Chief might debrief an officer prior to the CRC hearing an appeal still has not been remedied (Section 8.5.2). Also, the officer under scrutiny continues to have the ability to review the case file, while the complainant does not (Section 8.3.1). We cannot stress enough how unfair this makes the oversight process.</p> <p>Nothing was done to clarify how officers with repeat violations might be</p>

treated ("Guidance" Section 2, Policy Section 3, "Appropriate Corrective Action or Discipline Factors" Section 4). We noted before that the old Directive specifically said "All recent discipline is relevant, not just discipline for a specific kind of conduct."

The 2015 iteration changed the language from officers having the right to "an attorney" to their right to "a bargaining unit attorney." We noted that if an officer doesn't want the bargaining unit's attorney, or the bargaining unit decides not to support him/her because of the nature of the investigation, it seems strange that other attorneys would not be welcome in the process (Section 8.4.2).

We also continue to wonder why:

- The Bureau no longer includes the possibility of written warnings in Policy Section 2;
- The process for a complainant to learn the outcome of "minor" violations treated as debriefings is not clear (Procedure Section 2.1.7); and
- There's no definition of the "Discipline Coordinator."

Directive 336.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
336.00	5/1/14		<p>Under this section it reads: The Police Review Board’s Responsibilities (336.00)</p> <p>Advisory PRB members may participate in case discussions and raise issues as appropriate.</p> <p>However, a rule of the PRB stated at the time of a hearing reads:</p> <p>An advisory member’s role is to answer questions of voting board members and to bring to the attention of the board clarifying facts within their area of expertise. Advisory members are not here to provide opinions.</p> <p>Does this need to be clarified in the directive?</p>
336.00	5/20/14		<p>For unknown reason, the bold words do not print bold. Some of the sections/titles within this directive have (336.00) next to them and some do not. The arrow tabs do not print well and the arrow tabs are not consistent with the layout of previous new directives. Paragraph spacing is inconsistent throughout this directive.</p> <p>"Voting Members" and "Advisory Members" probably does not need to be bold since it is not a new section/title. Above "Voting Members" it states there are nine advisory members but only 8 are listed.</p>

			<p>Numbering added to lists would make it easier to read and more consistent with prior new directives.</p> <p>Under The Police Review Board's Scope, "1. Officer involved Shooting" and the next 3 items are tabbed over to the left instead of the right.</p> <p>Under Types of findings for Deadly Force..., there are only 2 possible outcomes but the layout of the paragraphs make it appear there are 3. Moving "An in Policy finding..." up within the "In Policy" section might read better and make more sense.</p> <p>Under Review Board Coordinator's (RBC) Responsibilities, The numbering starts out with "a" then "1" and "f" is tabbed in further than the rest of the letters. A more consistent numbering system would make it easier to read.</p> <p>Under Board Facilitator's Responsibilities, the tabbing does not print well. Online, the paragraphs are easier to read but are not consistent with prior directives which use numbers/letters.</p>
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Directive 336.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
336.00	9/26/14		<p>The sentence in 8.7 below is a little awkward. It probably was rewritten to combine two different approaches - that weren't quite compatible:</p> <p>8.7. At the conclusion of the hearing, the Police Review Board Coordinator will provide the Professional Standards Division in writing of the Police Review Board’s recommendations.</p> <p>will provide in writing of doesn't quite work.</p> <p>We can provide them with, or submit something to...</p> <p>Maybe either: At the conclusion of the hearing, the Police Review Board Coordinator will provide the Police Review Board's recommendations, in writing, to the Professional Standards Division.</p> <p>or maybe:</p> <p>At the conclusion of the hearing, the Police Review Board Coordinator will provide a written copy of the Police Review Board's recommendations to the Professional Standards Division.</p>
336.00	9/26/14		<p>Part II-</p> <p>Section 9.3 and 12. appear to be redundant and 9.3 could probably be dropped:</p> <p>9.3.Facilitators shall maintain strict confidentiality of all case file information and Police Review Board discussions and deliberations.</p> <p>12. Confidentiality:</p> <p>12.1. Information regarding case files and Police Review Board discussions and deliberations is strictly confidential.</p>

Directive 336.00 – Website comments as of 9/30/14, close of Universal Review

			<p>12.2. All individuals involved in the Police Review Board process shall strictly maintain the confidentiality of all case file information and Police Review Board discussions and deliberations and shall only discuss case file information and Police Review Board discussions and deliberations as necessary for purposes of the Police Review Board process or as otherwise authorized in accordance with their position with the City.</p>
336.00	9/30/14		<p>Under the Policy section:</p> <p>It reads "complaints of alleged misconduct by current or former..."</p> <p>I believe the word "by" incorrectly modifies the current or former employee as having made the complaint. The word "by" should be changed to the word "involving."</p> <p>Also, I think the words "current and former" should be dropped altogether. As written, it could include/require investigations into former employees who engage in misconduct even while not employed by the City.</p> <p>Sections 2 and 3 should refer the reader to Charter 3.20.140 and not reiterate, in different terms than the ordinance the same or similar language. This will negate the need to change the directive every time there is an ordinance change.</p> <p>Also, if you decide to keep sections 2 and 3, the titles of these sections should mirror the titles of their respective sections within the ordinance, i.e.</p>

Directive 336.00 – Website comments as of 9/30/14, close of Universal Review

			"Powers of the Board" and "Composition of the Board."
336.00	9/30/14		<p>1) The Complainant and Public Should Be Allowed To Attend Hearings For both real and perceived transparency and fair police oversight, both the complainant, or the complainant’s representative, and the public should be allowed to attend PRB hearings.</p> <p>2) Selection of PRB Members Should Be Clarified Subsection 8.2 allows the Police Review Board Coordinator to select the facilitator, citizen members, and peer members for the PRB. We assume this selection is solely for a particular hearing. The scope of this directive should be made clear so it does not conflict with the PRB personnel selection process directive.</p> <p>3) The Subject Officer’s Supervisor Should Not Have a Vote The subject officer’s supervisor has an unavoidable conflict of interest as a voting member on the PRB because she is the one who made the original decision that is under review by the PRB</p>
336.00			The draft directive prohibits the PPB from presenting to the PRB when the involved member elects not to make a presentation. Such a limitation appears to interfere with the PPA’s representation rights under the Public Employee Collective Bargaining Act. Further, such a limitation would deny PRB members the opportunity to hear from the involved member who elects to have the PPA speak on his/her behalf. We wish to further discuss this prohibition.

Directive 336.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
336.00	4/7/15		I would like to change the requirement that the composition requires only the voting AC and one other AC not all the remaining AC's as currently written.
336.00	4/28/15		<p>DIRECTIVE 336.00 POLICE REVIEW BOARD</p> <p>We still believe that the Bureau's stated commitment to transparency and thoroughness are undercut by closing Police Review Board (PRB) hearings entirely to the public and the press. As we noted previously, the Directives do not allow for the person who was harmed by an action of a police officer (or his/her representative) to sit in and talk to the PRB about their experience. The officer under investigation can address the board and review the entire case file. City Code does not bar civilian complainants from participating.</p> <p>Our previous concerns included the confidentiality of PRB hearings. We reiterate that while Section 12.2 indicates that there may be discussions of the case "as otherwise authorized in accordance with their position with the City," there should be more deliberate directions regarding public interaction with the Board. We suggested the PRB's community member pool could meet twice a year when the semi-annual reports are released. They could describe what the process is like, whether they felt they had enough information to deliberate, and whether they felt under any pressure in a room filled with a majority of police officers. ***At the Citizen Review Committee's March 2015 retreat, members who'd sat in on PRB hearings expressed feeling intimidated by such surroundings.</p> <p>We also noted that the current ordinance allows names to be released in officer-involved shooting and deaths in custody cases where the names have already been made public, but the Directive does not discuss that issue.</p> <p>***In fact, the January 2015 report not only lacked names for its two deadly</p>

Directive 336.00 – Website comments as of 4/30/15, close of Universal Review

			<p>force cases, but continued the Bureau's odd practice of redacting the gender of the persons involved in all misconduct investigations. With sexual misconduct a recurring theme, it is unconscionable that the Bureau considers gender to be confidential information.</p> <p>The Directive's Section 7.5 still does not make it clear that the Bureau or the Independent Police Review Division (IPR) must complete investigation requested by the PRB, even if it takes more than the 10 days listed in the Directive and the Department of Justice (DOJ) Agreement.</p> <p>It also still isn't made clear that the Review Board Coordinator and the Discipline Coordinator (formerly Corrective Action Coordinator, see Directive 335.00 below) work for the Professional Standards Division (PSD).</p> <p>***The new changes to this Directive are relatively minor. The section on "Scope of Review Authority" is now changed to "Powers of the Police Review Board"; and in what seems to be one of only seven of our recommendations actually adopted by the Bureau, "Citizen Review Committee" is now capitalized in Section 3.1.1.6.</p> <p>And, also, as noted previously:</p> <p>--We continue to object to the officer's supervisor continuing to have a vote on the board when he/she was the one who made the original finding that is being reviewed (Section 3.1.1.4); and --Most parties have 14 days to review the Case File, but some only have 5 days (Section 8.5).</p>
336.00	4/30/15		<p>Complainant and public should be able to participate on PRB.</p> <p>The subject member's RU should not be a voting member since they made the finding under review.</p> <p>Voting PRB members should have 14 days to review the case file, just like the subject member does.</p>

Directive 336.00 – Website comments as of 4/30/15, close of Universal Review

			<p>Section 7.5 should require that, even where additional time is needed, the investigation should be completed within a reasonable amount of time.</p> <p>We support the suggestions made by Copwatch.</p>
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Directive 336.00 – Website comments 5/25/17 through 6/24/17 and 7/10/17-7/24/17

Date	Individual	Comment
2 nd Universal Review		
7/24/17		In 6.1.9. I would like to see 4 times a year rather than 2 times a year.
7/24/17		<p>DIR 336.00 2nd Universal Review</p> <p>NOTE: These comments focus solely on those sections of the Directive that are not contained in Portland City Code 3.20.140. The NLG recognizes that additional changes to the Police Review Board will have to be implemented at the City Council level and therefore limits its comments here to those items that are not expressly contained in the City Code.</p> <p>In addition to our comment below, the NLG supports the comments submitted by Portland Copwatch. In particular, the following points bear repeating, as the fairness and transparency of this process is crucial to public trust in the City’s police accountability system:</p> <ul style="list-style-type: none"> - There is no provision allowing for the person who was harmed by an action of a police officer (or his/her representative) to sit in and talk to the PRB about their experience and concerns. - The involved officer has 14 days to review the Case File (Section 8.1), but community and peer officer members only have 5 days (Section 6.1.5). - The officer's supervisor ("RU Manager") is permitted to vote on his/her own recommendation at a PRB hearing. <p>Section 3.1.2 allows an attorney or a representative of the involved member’s bargaining unit to attend the case presentation. Section 3.2.2. states that 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. It should be made clear that the attorney or involved member’s bargaining unit representative who attended the case presentation should not also be allowed to attend the executive session under Section 3.2.2 This prevents any possibility that the attorney or bargaining unit representative could influence the outcome of the executive session.</p>
7/24/17		DIRECTIVE 336.00 POLICE REVIEW BOARD

As we noted in June, the Bureau's stated commitment to transparency and thoroughness are undercut by closing Police Review Board (PRB) hearings entirely to the public and the press. The new draft Directive 336.00 does not allow for the person who was harmed by an action of a police officer (or his/her representative) to sit in and talk to the PRB about their experience and concerns. We noted earlier that the Ordinance guiding the PRB does not prohibit a civilian from attending, so the Bureau could add that provision in policy, but obviously has actively chosen not to do so.

We would add that once the Bureau decides to allow complainants/survivors into the hearings, they should be allowed to have an advocate with them.

The major changes to the Directive all seem to be around reining in certain parties from taking actions (such as non-voting members offering their opinions about case outcomes-Section 4.2) and/or clarifying that certain people are required to take others (such as saying the Independent Police Review [IPR] or Internal Affairs [IA] must complete further investigation if ordered, as PCW suggested-Section 4.5).

We raised the concern that there is too much confidentiality around these hearings, which are very meaningful to the community. Rather than expand the section (Old Directive 336.00 Section 12.2) that said participants could discuss the case "as otherwise authorized in accordance with their position with the City," the Bureau has cut that clause out of the new version, implying there is no acceptable discussion of the proceedings at all. The Bureau is (allegedly) trying very hard to win over the public's trust and confidence in the post-Ferguson era, one way to do that would be to crack open these hearings, at least by calling for the semi-annual meetings we suggested wherein the civilian pool members of the PRB could meet with the public to go over the reports and discuss generalities about how the system works.

We continue to be concerned that the involved officer has 14 days to review the Case File (Section 8.1), but community and peer officer members only have 5 days (Section 6.1.5).

The current ordinance allows names to be released in officer-involved shootings and deaths in custody cases where the names have already been made public, but the proposed Directive still does not discuss that issue, only saying the names shall not be used (Section 6.1.9). As we noted before, the semi-annual reports have been redacting the gender of the persons involved in all misconduct investigations even though that is not required by ordinance or the Directive. If we

are reading the draft correctly, a case summary is no longer required to be part of the PRB reports, which is very troubling (Old Directive 336.00 Section 9.2.5, which has been cut), especially since that is required in the Ordinance (3.20.140 [I][1][b]).

It is still not clear that the Review Board Coordinator (Section 6) works for the Professional Standards Division (PSD-Section 5). The new version also uses the terms "Review Board Coordinator [RBC]" (Section 4.1.1) and "PRB Coordinator" (elsewhere including Section 2.3.4), which probably is the same person but should be clarified.

Interestingly, tied to our ongoing concern about the officer's supervisor ("RU Manager") voting on his/her own recommendation at a PRB (Section 2.1.5), that supervisor wasn't previously required to be in attendance for a quorum to exist. That has been changed (Sections 2.1 and 2.2). Since the RU Manager has already has his/her say, we feel this is inappropriate. We wonder whether some PRBs were held without RU Managers, leading to these changes.

We also note there are new sections making up the Policy portion of the Directive, talking about promoting "member and organizational accountability" (Policy 1) and deferring some details to City Code (Policy 2). There is no mention of community trust or transparency, values stated by the Bureau elsewhere.

As we noted in our July 10 comments on the Internal Affairs Directives, we believe that it is prejudicial to only have two findings (In Policy or Out of Policy) for deadly force cases (Section 9). Since there are many cases where the evidence may not be sufficient to prove or disprove an officer violated policy, an "Insufficient Evidence" finding should apply in these cases as it does in all others.

It is not clear why the PPB has chosen to remove non-sworn members from the purview of the PRB (old Directive 336.00 Section 2.3 has been cut).

Because of the haphazard re-ordering of the voting and advisory members, it took us a while to discover that the missing ninth advisory member is the Review Board Facilitator (old Directive 336.00 Section 3.1.2.8), which makes sense as that person runs the meeting. There is a new Section (7.1) saying the facilitator has to "balance participation, pay attention to group dynamics, and strictly adhere to established processes and rules."

Directive 336.00 – Website comments 5/25/17 through 6/24/17 and 7/10/17-7/24/17

		<p>It is not clear, again, if this is based on some specific concerns or just a guideline that previously wasn't included.</p> <p>There's also a change in how most voting members ask for more information after reading a case finding-- now the Review Board Coordinator asks the IA investigator to answer questions, or else is instructed to bring the question "to the attention of the PSD Captain prior to the hearing" (Section 4.1.1). This seems to indicate some questions may never be answered. Also, the PRB Coordinator now provides community and peer members access to the case files (6.1.4), while the other Bureau members including the involved officer receive that information from the PSD Captain (5.1.3.2).</p> <p>We generally support the comments from the National Lawyers Guild on this Directive.</p> <p>Final note: In a discussion with members of the Citizen Review Committee, it came to light that it is possible no CRC members made themselves available to sit on PRBs on officer-involved shootings. The members' impression was that if that happens, a second member of the PRB pool will be seated instead of a CRC member. The ordinance and Directive do not seem to allow for that possibility. PCW hopes the Bureau can clarify this issue.</p>
<p>1st Universal Review</p>		
<p>6/24/17</p>		<p>General Comments:</p> <ol style="list-style-type: none"> 1. As it stands, an officer under review and her/his representative may speak to the panel representation, but the bureau or community member harmed is not given express space to do so in the directive. While it may be problematic for both parties to occupy the same space at the same time, we recommend providing an opportunity for the victim (if applicable) to be heard (if possible). 2. After reviewing 337.00 (Police Review Board Selection) and this directive (338.00), we recommend that both directives are housed together as one directive. This provides continuity and a clearer vision of the Police Review Board. <p>Policy</p> <p>The policy states that Police Review Board “makes recommendations to the Chief of Police regarding findings, action items, and proposed discipline,” but the procedure does not outline the</p>

Directive 336.00 – Website comments 5/25/17 through 6/24/17 and 7/10/17-7/24/17

	<p>criteria for these recommendations. While we trust that there is a procedure in place for determining the criteria for recommendations, we recommend including how the criteria for recommendations are determined, how they are scored when evaluating evidence and testimony (e.g. rubric), and from where (other bureaus, academic research, etc.) these recommendations derive. Ultimately, we recommend data on the effectiveness of the Police Review Board (addressed below).</p> <p>Procedure 1.2; 8.1-8.10 - Review Board Coordinator Selection The Professional Standards Division Captain presents cases to the Review Board Coordinator, who has the responsibility of coordinating and facilitating the entire review process; but the directive does not provide a procedure for the selection of the Coordinator. Given the magnitude of this role, we recommend that the directive lists the qualifications of and the selection process for the Coordinator.</p> <p>If the coordinator position is the same as the facilitator mentioned in 337.00, then this distinction needs to be clear and unambiguous. If they are one and the same, this should be clearly state in both directives.</p> <p>3.1.1.3; 4.1 –Community Members The directive lists that community and peers members will be chosen from their respective pools, but it does not indicate what those pools are. We recommend that the directive indicate the pools, and that it provides an overview (or link to another directive) indicating how members are selected for those pools.</p>
6/13/17	<p>DIRECTIVE 336.00 POLICE REVIEW BOARD</p> <p>We still believe that the Bureau's stated commitment to transparency and thoroughness are undercut by closing Police Review Board (PRB) hearings entirely to the public and the press. The Directives do not allow for the person who was harmed by an action of a police officer (or his/her representative) to sit in and talk to the PRB about their experience; this restriction was reinforced when the Independent Police Review (IPR) removed a proposal to allow civilian input from its Code changes to Council in April. Technically the ordinance does not prohibit a civilian from addressing the board in its current form, so a policy change can be made by the Bureau. The current system is fundamentally unfair because the officer under investigation</p>

can address the board and review the entire case file.

Another issue is the confidentiality of PRB hearings. Section 12.2 indicates that there may be discussions of the case "as otherwise authorized in accordance with their position with the City," but there should be more deliberate directions regarding public interaction with the Board. We repeat our suggestion that the PRB's community member pool could meet twice a year when the semi-annual reports are released. They could describe what the process is like, whether they felt they had enough information to deliberate, and whether they felt under any pressure in a room filled with a majority of police officers. We continue to hear members of the Citizen Review Committee express concerns about being out-numbered by police officers at the PRB.

The current ordinance allows names to be released in officer-involved shootings and deaths in custody cases where the names have already been made public, but the Directive does not discuss that issue. For years, the semi-annual reports have been redacting the gender of the persons involved in all misconduct investigations. With sexual misconduct a recurring theme, it is unconscionable that the Bureau considers gender to be confidential information.

The Directive's Section 7.5 still does not make it clear that the Bureau or the Independent Police Review must complete investigation requested by the PRB, even if it takes more than the 10 days listed in the Directive and the Department of Justice (DOJ) Agreement. It only says the investigators have to report why it is not completed in 10 days.

It also still isn't made clear that the Review Board Coordinator and the Discipline Coordinator work for the Professional Standards Division (PSD).

And, also, as noted previously:

--We continue to object to the officer's supervisor continuing to have a vote on the board when he/she was the one who made the original finding that is being reviewed (Section 3.1.1.4); and

--Most parties have 14 days to review the Case File, but some only have 5 days

Directive 336.00 – Website comments 5/25/17 through 6/24/17 and 7/10/17-7/24/17

		(Sections 8.3-8.5).
5/26/17		"Information regarding case files and Police Review Board discussions and deliberations is strictly confidential." The files should be subject to public record with any PII redacted but otherwise the remainder of the contents should be subject to release.

Directive 337.00 – Website comments as of 5/30/14, close of Universal Review

Directive	Date	Individual	Comment
337.00	5/20/14		<p>"POLICY" has (337.00) listed after it but "PROCEDURE" does not. Bold titles do not print bold.</p> <p>Changing "Citizen board members shall be appointed and removed as follows" to "Citizen board members shall be appointed as follows:" would better represent the items listed below it since there is a paragraph later that lists the reasons for removing a member. Numbering the items will make it easier to see where the "appointed" items end and the next topic (removal) begins. Numbering is used later on under "Citizen board member qualifications" but no where else in this directive.</p> <p>There is a random "or" at the end of one of the items listed under reasons to remove a citizen. The "or" would be better placed after "Demonstrates bias for or against police".</p> <p>The last section titled "Board Facilitator"s Secection and Qualifications" might be better organized if "The selection criteria will include:" through "Demonstrated ability to contribute... decisions." were moved to the end and the other items were all listed (and numbered?) together. The "Facilitators must" items seem to be part of the "selection criteria" and could be included with "The selection criteria will include:" items.</p>
337.00	5/30/14		<p>Generally, I think this is a good directive. It clearly sets out the process for selecting peer and citizen members. Two suggestions:</p> <p>1--Specify the number of ride alongs the citizen members have to participate in to remain active (One per quarter?) as well as a requirement to see different shifts (maybe no three consecutive ride alongs can be on the same shift). This would give the citizen members a better rounded picture of police work.</p> <p>2--For peer members, it says the Branch Chief recommends, the Chief selects, and the bargaining unit may review. This order implies the</p>

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			review happens after the selection. If that is accurate, that's fine. If not, you might consider changing the bullet points to whatever the actual order is.
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Directive 337.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
337.00	9/26/14		<p>Re 7.1.3.2. Seems like watching TV would be sufficient to meet this qualification as written. Probably need to replace the word watching with whatever was really intended, such as leading? managing? overseeing? organizing? Something along those lines.</p> <p>Re 7.1.3.5 "and make high-quality decisions." and arrive at fair and impartial decisions?</p>
337.00	9/30/14		<p>1) Improvement on Selection of PRB Members</p> <p>The NLG believes the new proposed process for selecting citizen members to sit on the PRB is an improvement over the former process. It would be a greater improvement to allow the CRC to provide input on who is selected to sit on the PRB.</p> <p>2) IPR Should Have Equal Authority To Select PRB Facilitator</p> <p>The PRB facilitator role seems extremely important and influential in the PRB hearing composition and process. Therefore, we believe the IPR should be as equally involved as the Bureau in the solicitation of PRB Facilitator.</p>
337.000			<p>The draft directive provides that the PPA may review peer member applications. We wish to clarify the meaning of this provision.</p>

Directive 337.00 – Website comments as of 4/30/15, close of Universal Review

Directive	Date	Individual	Comment
337.00	4/28/15		<p>DIRECTIVE 337.00 POLICE REVIEW BOARD PERSONNEL</p> <p>***We begin our feedback here by thanking the Bureau for removing the clause we flagged last time which allowed the Chief 30 days to respond to the Auditor's nominees for the Police Review Board (cut from Section 2.3). However, nothing has been done about the Section (2.2) allowing the Chief to identify PRB candidates, which, like the 30-day provision, is not in City Code.</p> <p>***We also thank the Bureau for replacing the word "citizen" with the words "community member" as per our past comments.</p> <p>***Another apparent PPA recommendation, that bargaining units can review applications by "peer officers" who rotate onto the board, is of some concern. The Directive does not say whether the Bargaining Unit can object to the officers serving, so for now we assume this is just a courtesy.</p> <p>We continue to believe it was a good idea to prohibit peer officers serving in the same Responsibility Unit (Reporting Unit?) from sitting on the PRB, and we hoped that previous provision would be re-inserted.</p>

Directive 337.00 – Website comments 5/25/17-6/24/17 and 7/10/17-7/24/17

Date	Individual	Comment
2 nd Universal Review		
7/24/17		With regard to the appointment of a PRB facilitator...there is no mention of the individual having been a former PRB member/employee..I think it wise to address that. All else looks appropriate in my opinion. Thank you again.
7/24/17		<p>In addition to the comments below, the NLG also supports the comments and suggestions submitted by Portland Copwatch.</p> <p>Procedure:</p> <p>Section 1.2.1 states that “Community members must pass a background check performed by PPB.” It is important to have community members that have been impacted by the criminal justice system on the Police Review Board. “Conviction or arrest for a crime shall not disqualify community members” should be added.</p> <p>Section 1.3.1.3 states that community board members shall be selected based upon “Absence of any real or perceived bias for or against the police.” An additional line should be included after 1.3.1.3 that states “Absence of any real or perceived bias against persons based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income.”</p> <p>Section 1.4.1.6. states that community board members may be removed for “Objective demonstration of bias for or against the police.” An additional line should be included after 1.4.1.6. that states “Demonstrated bias against persons based on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income.”</p> <p>Section 2.2 governs appointment and removal of Bureau members, but does not include relevant criteria that are applied to the selection and removal of community members. Additional lines should be included after 2.2 that state “The Chief of Police shall not appoint Bureau members who demonstrate bias for or against the police” and “The Chief of Police shall not appoint Bureau members who demonstrate bias against persons based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income.”</p>

	<p>As for removal of Bureau members, 2.2.3. states, “Peer members may request to be removed from the list of peers at any time” but provides no other specific grounds for removal. With regard to removal of community members, Section 1.4.1 lists seven reasons. Reasons two through seven should apply equally to removal of Bureau members and should be included in Section 2.2.</p> <p>Section 7.1.4. states that “The Bureau will screen the responses to the solicitation in accordance with City procurement rules.” An additional line should be included that state “The Bureau will provide the Independent Police Review Division Director copies of the responses for comment.”</p>
7/24/17	<p>DIRECTIVE 337.00 POLICE REVIEW BOARD PERSONNEL</p> <p>In our previous comments on Directive 337.00, we noted Section 1.1.1 (Previously 2.2) allows the Chief to identify PRB candidates-- a provision that is not in City Code, which gives sole authority to the Auditor (3.20.140 [C][1][a][1]). The Directive now turns over the nomination responsibility to IPR, which would make more sense if IPR were truly independent. It's not clear how this jibes with the ordinance, which perhaps needs to be amended to say "the Auditor or designee."* (This change from "Auditor" to "IPR" is also reflected in Sections 1.3.1 and 1.4.1.)</p> <p>We continue to be concerned that bargaining units may review applications by "peer officers" who rotate onto the board (Section 2.1.1). The Directive still does not say whether the bargaining unit can object to the officers serving, so we continue to hope this is just a courtesy and not an opportunity for a veto.</p> <p>While the Bureau has not re-inserted the prohibition on officers serving on the PRB if they are from the same Responsibility Unit as the involved officer (as we have asked), they have added other new restrictions we can support:</p> <p>2.2.2.1: Officers under investigation can't serve, though it's not clear why low-level complaints do not count (2.2.2.1.1).</p> <p>2.2.2.2&3: Officers who have been found out of policy for performance or misconduct will be barred from the PRB for one year (if discipline is less than a 40-hour suspension) or 2 years (if it</p>

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		<p>is more).</p> <p>It is not clear why changes were made to reasons PRB community members can be removed. It seems as if there is an effort to make the decision less subjective (by adding the word "objective" in Sections 1.4.1.3, 1.4.1.6, and 1.4.1.7) but perhaps better definitions of the alleged behavior would be better. In other words, who decides what is "disrespectful or unprofessional conduct" (1.4.1.3)? Would that include questioning the Bureau's training and policies, or a specific officer's egregious conduct? Similarly, who decides what is "excessive" unavailability to serve on a Board? Wouldn't having a specific number of refusals be better so this isn't applied differently to different people?</p> <p>The other criteria including bias for or against the police (1.4.1.6) and conflict of interest (1.4.1.7) also should have specifics attached to them.</p> <p>We generally support the comments from the National Lawyers Guild on this Directive, but specifically want to highlight the idea that any Board member should be barred if they show bias against certain persons based on race, religion, gender, sexual orientation, etc., not just bias for or against police.</p>
7/17/17		<p>I think section 1.2 should be fleshed out more. For example, how much training is required? Is there annual maintenance training that is required? How many ride-along hours are required before a community member can serve on a PRB, and how many hours are required annually? Who is required to certify that these requirements have been met (or report that they haven't been)?</p> <p>Overall, I like the build out. It's nice to have some more structure in this process.</p>
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6/24/17		<p>337.00 addresses the qualifications of community members, but does not discuss the process of selection.</p> <p>Additionally, if the pool includes a community at-large position, not simply positions reserved for members of the community not involved with... (CRC, etc.), then the directive should address how this position will be publicized.</p> <p>8.10 – Report Should Include Effectiveness Data In addition to the information provided in the semi-annual report, effectiveness data should be kept and reported. This data should track not</p>

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		<p>only repeat offenses by individual officers, but overall historical findings of specific offenses. This data can be used to determine the effectiveness of the Police Review Board, and more so the ability of the Bureau to deter poor professional conduct by its officers.</p>
6/13/17		<p>DIRECTIVE 337.00 POLICE REVIEW BOARD PERSONNEL</p> <p>In the last iteration of this Directive, the Bureau removed a problematic section which allowed the Chief 30 days to respond to the Auditor's nominees for the Police Review Board. However, nothing has been done about Section 2.2, which allows the Chief to identify PRB candidates-- a provision that is not in City Code, which gives sole authority to the Auditor (3.20.140 [C][1][a][1]).</p> <p>The 2015 addition allowing bargaining units to review applications by "peer officers" who rotate onto the board, is of some concern. The Directive does not say whether the Bargaining Unit can object to the officers serving, so for now we assume this is just a courtesy (4.1).</p> <p>We continue to believe it was a good idea to prohibit peer officers serving in the same Responsibility Unit from sitting on the PRB, and ask again for that previous provision to be re-inserted.</p>

Directive 338.00 – Website comments as of 9/30/14, close of Universal Review

Directive	Date	Individual	Comment
338.00	9/9/14		<p>Just a reminder -- The term "Discipline Guide" is used in the USDOJ Agreement and the Portland City Code.</p> <p>If the bureau changes the title and reference of the Discipline Guide to "Corrective Action Guide" in it's Directive and Professional Standards Division SOP -- does that mean Federal and City Officials have already agreed to this change as well?</p>
338.00	9/30/14		<p>1) Public Comment Should Be Allowed</p> <p>Paragraph 1 of the Policy statement says Bureau members will have the opportunity to comment on the Discipline Guide. We believe this should be modified to allow community members to comment as well.</p>
338.00			<p>The draft directive makes no mention of the advisory nature of the discipline guide, which is directly counter to the Letter of Agreement executed by the City and the PPA in December 2013.</p>

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Directive	Date	Individual	Comment
338.00	4/1/15		It's overly broad and falls short of allowing discretion on a case by case basis. As its written, it leaves what is and what is not within its scope open for interpretation/misinterpretation.
338.00	4/28/15		<p>DIRECTIVE 338.00 DISCIPLINE GUIDE</p> <p>***This blissfully short Directive had only one word change for clarity.</p> <p>We continue to be concerned that discipline can "be modified based on mitigating and/or aggravating factors" (Policy Section 4), when the Guide is supposed to ensure that wildly different punishment isn't being doled out for the same behavior.</p>

Directive 338.00 – Website comments 5/25/17 through 6/24/17 and 7/24/17-8/7/17

Date	Individual	Comment
2 nd Universal Review		
8/7/17		<p>DIRECTIVE 338.00 DISCIPLINE GUIDE</p> <p>It took a while to figure out that first sentence of the new section listed as Policy 1 was at some point subjected to proposed changes. Since the sentence did not derive from the existing Directive, it's not clear why this wasn't just shown as inserted text. The content is appropriate as it says disciplining officers for misconduct is necessary, to hold officers accountable. The rest of the paragraph came from existing Policy: nothing discipline should look at appropriate factors including the officer's previous history (old Policy 4) and that supervisors recommending discipline have to use the Guide (old Policy 3).</p> <p>Procedure Section 1 also reflects parts of old Policy Section 3 (using the Guide) as well as old Policy 4 & 5 (recommending discipline outside the Guide requires written explanation). Section 3 modifies old Policy 6 by adding that after the Professional Standards Division and City Attorney review the guide, not only the Chief of Police but now the Commissioner in Charge will have to approve it. PCW supports this change.</p> <p>We continue to be concerned that discipline can "be modified based on mitigating and/or aggravating factors" (Policy Section 1), when the Guide is supposed to ensure that wildly different punishment isn't being doled out for different officers engaging in the same behavior, but appreciate that those two terms are now defined in the new draft, however vaguely. Perhaps items that should not be considered for mitigating and aggravating factors (such as information supervisors knows about a person's personal life that have no bearing on their performance as an officer and did not come up in the investigation or review) can be listed.</p>
8/5/17		<p>We echo the concerns of our colleagues at Copwatch. In particular, we note:</p> <ol style="list-style-type: none"> 1. That we are grateful for redline copies of directives. IT would be still more helpful to show how older paragraphs have been moved within the directive. 2. The copy we saw did not indicate that the new policy section contained changes from the old one. Copwatch details this further. This somewhat defeats the purpose of doing a redline. 3. Mitigating and aggravating factors are not sufficiently fleshed out in this context. We strongly suggest that specific criteria are developed here to guide decision makers.

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7/27/17		I like the edits proposed. Many of our directives are overly verbose.
7/25/17		<p>Regarding Policy, first sentence: “1. Imposing discipline for sustained allegations of misconduct....” Change “allegations” to “findings.” The sentence should read “1. Imposing discipline for sustained findings of misconduct....” Discipline is not meted out for allegations but rather for findings of fact after an investigation has been completed.. It is my understanding that the RU is fundamentally the finder of fact in most disciplinary investigations. When the RU, After an investigation, sustains an allegation of misconduct, the misconduct becomes a finding of fact. If or when the member contests the finding and appeals the case, the review(s will either sustain or reverse the finding.</p>
7/25/17		Looks fine. Much more succinct and to the point.
7/24/17		I have reviewed this and it appears appropriate in my opinion. Thank you for asking the community input on these matters.
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6/13/17		<p>DIRECTIVE 338.00 DISCIPLINE GUIDE</p> <p>We continue to be concerned that discipline can "be modified based on mitigating and/or aggravating factors" (Policy Section 4), when the Guide is supposed to ensure that wildly different punishment isn't being doled out for different officers engaging in the same behavior.</p>