

**Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.*

330.00, Internal Affairs, Complaint Intake, and Processing

2nd Universal Review: 2/1/19 – 3/3/19 (clean view)

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.

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

- 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.

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

- 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,

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

- 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.

*Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.

- 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;

*Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.

- 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 jurisdiction under City code has.
 - 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. When requested, IA shall assist strictly in an administrative capacity and shall not perform any investigative functions.
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

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

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.

*Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.

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 shall write a new disposition letter to follow up with the complainant as permitted by law. The complainant shall be notified of the new findings as described in Section 12.1. of this directive.

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.

Provide feedback [here](#).

**Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.*

330.00, Internal Affairs, Complaint Intake, and Processing

2nd Universal Review: 2/1/19 – 3/3/19 (redline markup view)

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.

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

- 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.

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

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:

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

- 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.

*Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.

- 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;

*Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.

- 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 has.
 - 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. When requested, IA shall assist strictly in an administrative capacity and shall not perform any investigative functions.
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

***Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.**

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.

*Please note: This is a working draft of Directive 330.00. This is proposed language and the Bureau has not implemented any changes to the current directive at this time.

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~~ shall write a new disposition letter to follow up with the complainant as permitted by law. The complainant shall be notified of the new findings as described in Section 12.1. of this directive.

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.

Directive 330.00 Feedback

#1

1st Universal Review: 9/1/18-9/16/18

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, September 15, 2018 4:31:42 PM
Last Modified: Saturday, September 15, 2018 4:32:38 PM
Time Spent: 00:00:56

Page 1

Q1 Please provide feedback for this directive

COMMENTS ON PROFILING, ACCOUNTABILITY, AND OTHER DIRECTIVES SEPTEMBER 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Independent Police Review, Citizen Review Committee and the Portland Police Bureau:

Below are Portland Copwatch's comments on the Directives posted for review in September . We are very concerned that the PPB released SEVENTEEN Directives for review on the Saturday of Labor Day weekend, expecting meaningful feedback by September 16. Because we have made comments on all of these Directives in the past, this task was somewhat easier for us but still requires checking to see what changes were made in between comment periods. We continue to encourage the Bureau to post comments as they arrive so commenters might be able to build off others' ideas (de-identified is fine with us, though we are fine being identified). We point out that until recently, comments on Body Cameras were posted on the Bureau's website for everyone to read.

We make a few comments about the possible findings on misconduct allegations, below. We are glad that the Bureau moved away from trying to cut down the four possible findings to two, but continue to believe that the same findings should apply to deadly force cases. They should not just be "In Policy/Out of Policy," as there could be room for an "Insufficient Evidence" (aka "Not Sustained") finding in those cases. We did not see any reference to applying this concept to deadly force cases in the Bureau's published Directives memos, rather, Directive 336.00 still only includes the two findings previously being used.

In publishing the finalized 330 series in February, the Bureau claimed they clarified that the "Discipline Coordinator" is the same person as the "Review Board Coordinator." The Discipline Coordinator's role and position at the Professional Standards Division (PSD) is not made clear in Directive 335.00, though there is a brief mention in Section 2.1.1.1 that the person is in PSD. The term "Review Board Coordinator" is still used in Directive 336.00. So it seems no clarification actually happened.

Similarly, in previous comments we noted: "A general point of confusion is that many Directives refer to the Professional Standards Division and/or Captain, while others refer to the Internal Affairs Captain. Our understanding of the structure is that IA is part of PSD and there is a ranking member over all of PSD, not just IA. We hope the Bureau can clarify this point." The two terms are still used interchangeably among the Directives.

We also continue to believe that the review periods should be at least 30 days on both ends of the rewriting process so there is time for organizations who only meet monthly to weigh in. As we noted, this might include the BHU Advisory Committee, though they seem to have special dispensation to make comments and receive feedback above and beyond all other groups, as well as the Training Advisory Council, Citizen Review Committee, and if it ever begins meeting, the Portland Committee on Community Engaged Policing.

Although the Bureau has been putting out "redline" versions of the Directives when they are up for their second round of public comments, the final versions-- which frequently are significantly different from what was posted in round two-- do not indicate where changes were made, making comments on the policies extremely difficult when they come back up again as all of these have.

Directive 330.00 Feedback

The Bureau did make some changes-- some of which are substantive-- based on PCW's comments, as noted below, although in once case the change reversed a policy PCW supported.

We continue to believe the Bureau should add letters to section headings (Definitions, Policy, Procedure) so that there are not multiple sections with the same numbers, and to enumerate the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

DIRECTIVE 330.00 INTERNAL AFFAIRS COMPLAINTS (previous comments July 2017)

The Bureau rewrote this Directive significantly following the last draft that was sent out for public comment. To their credit, they included language requiring that as required by the DOJ Agreement, Use of Force complaints will not be subject to "Administrative Closure" (now in Section 8.1). This was suggested by PCW in July. Similarly, there is now a list of what kinds of cases cannot go to mediation, including Use of Force cases (Section 7.1.1), also a PCW suggestion. The Bureau also reinserted the terms "impartially and professionally" into the Policy Section on IA per our comments.

We are concerned, though, that IA's terminology for ending investigations is now the same as IPR's. IPR ceasing work on complaints used to be called "dismissals" and IA's were called "declinations." This made it easier to sort out which entity was responsible for shutting down the investigation. Now both are using the term "Administrative Closure," which will make these data harder to track. Combining them erases the difference between the entities and further suggests that IPR is not as "Independent" as its name suggests.

PCW continues its call for all Disparate Treatment allegations to be investigated.

Section 2.1 contains several troubling provisions. Most striking is Section 2.1.3 which allows a supervisor to contact a community member to clarify why they felt an officer's actions were inappropriate. This was probably written by someone who does not appreciate that a person who feels they have been harmed by the police in most cases does not want to be contacted by the police. This is one reason the community keeps pushing for IPR to be a truly independent review body. Such follow up should be done from the IPR office by default unless the community member asks for the Supervisor to call. PCW apologizes for not noticing this provision (old Section 2.1.2) previously.

Section 2.1.2 suggests that officers intercept a person's complaint before sending it to IA to be sure the complaint includes allegations of misconduct. This determination should be made by IPR, not anyone associated with the Bureau. The desire to streamline the process should not result in people being discouraged from filing complaints-- or complaints being misinterpreted as less than meaningful.

New Section 2.1.1.1 is written in an illogical way, stating that if a community member wants to file a complaint in writing, the PPB will make a form available. Instead it should say PPB shall have forms available so that people can file complaints in writing.

While it apparently reflects work related to the DOJ Agreement, the various intake points for complaints seem to increase the likelihood that IPR will be bypassed, now that they are no longer listed as the single point for intake. Section 1.1 used to say IPR was responsible for receiving and numbering complaints, now they "have a role" in those actions.

PCW is also concerned that a new Section (5.3.3) allows IPR to ask for help from Internal Affairs during an "Independent" investigation. Though that sentence should clarify the reason for our concern, we will spell it out: If IPR is independent of the Bureau, they should not be relying on them during investigations the community expects to be done by an outside agency.

Another alarming new section states that changes to a complaint's outcome as a result of collective bargaining-related actions may or may not be relayed back to the complainant (Section 12.2).

We still do not understand why Supervisory Investigations include complaints that could result in discipline, where discipline is Command Counseling (Section 6.1 and 331.00, below).** The point of these less-than-full investigations was to handle low level

Directive 330.00 Feedback

complaints with no discipline attached.

It's also not clear why the current version still did not reinsert the provision that actions prior to investigation attempting to resolve the complaint be documented (previous Section 5.1.5).

We appreciate that the Bureau responded to our concerns about dismissals based on failure to identify officers. Rather than saying "a reasonable investigative effort would not" be able to identify a cop, Section 8.1.5 now requires a documented effort to do so.

The Bureau also cut former Section 9.1.8 saying IA could decline a case because they have to focus resources on "more provable complaints," another suggestion by PCW.

We are still concerned about:

- the provision that complaints can be dismissed for being "too vague," which is not in City Code (8.1.2); and
- IA's ability to decline a case if they think "the complaint is not credible or reliable" (8.1.7).

PCW also appreciates these new sections and edits, which again were added without being posted for comment ahead of time:

- New Section 3.5 talks about formulating allegations, including that they must reflect the complainant's concerns, and might change as the investigation goes on.
- New Section 3.6.1 requires IA to hand over its initial investigative files if IPR takes over the investigation.
- Section 7.1 on mediation now begins by acknowledging the complainant has to agree to the process first.
- Section 12.1 now requires IA to return its disposition letter to IPR within seven days.
- New Section 13.1 incorporates language from the DOJ Agreement about investigating cases where a jury has found an officer to be liable for harm, requiring new investigation if none was done or if new information came out at trial, and if no new information came out for the PPB and IPR to figure out why the jury and the Bureau disagreed.

** In our previous comments we mentioned Letters of Reprimand, which are actually one step up the discipline ladder from Command Counseling, thus are not involved in cases assigned as Supervisory Investigations. PCW regrets the error.

CONCLUSION

Once again we thank the Bureau for seeking for community input, and to the extent that some of our comments have been addressed, for taking our advice seriously. We repeat here our deep concern about publishing so many important policies at one time, during a holiday season. We continue our struggle to see a Bureau free from corruption, brutality and racism, which is the basis for our participating in this process. As noted before, while we don't always agree with the Bureau's reasons for rejecting certain recommendations, it is helpful to be receiving them.

Thank you for your time

--Portland Copwatch

Q2 Contact Information (optional)

Name

Portland Copwatch

Email Address

copwatch@portlandcopwatch.org