

City of Portland Police Citizen Review Subcommittee

AGENDA August 9, 2023 6:00 PM

1. Zoom information

- a. On Wednesday, August 9, 2023 at 6:00 p.m., the Police Citizen Review Subcommittee will conduct a virtual meeting. This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Police Citizen Review Subcommittee and as authorized under 1 M.R.S. 403-B . Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

You are invited to a Zoom webinar.

When: Aug 9, 2023 06:00 PM Eastern Time (US and Canada)

Every month on the Second Wed, until Apr 10, 2024, 9 occurrence(s)

Aug 9, 2023 06:00 PM

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Topic: PCRS Meeting

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2. Call to Order
3. Approval of July 12, 2023 minutes
 - a. July 12, 2023 draft meeting minutes
4. Executive session pursuant to 1 M.R.S. Sec. 405(6)(F) to discuss IA2023-003
5. Public Comment
6. Review letter to City Council regarding new Civilian Police Review Board ordinance
 - a. Draft letter to City Council
 - b. Public comment
 - c. Revised Memo to PCRS
7. Public Comment
8. Adjourn

**DRAFT MINUTES
POLICE CITIZEN REVIEW SUBCOMMITTEE**

**July 12, 2023
Meeting Held Remotely Via Zoom**

Members present: Reggie Parson, Chair; Anne Hardcastle, Vice Chair; Xavier Botana, Reverend Kenneth Lewis; Kaylin Kerina (joined at 6:17)

Members absent: Tim Smith; Jean-Raymond Desruisseaux (Gino)

Staff present: Associate Corporation Counsel Rachel Millette; Tracy Boyd

6:03 Call to order.

Motion was made by Xavier and seconded by Anne to adopt minutes of the June 14, 2023 meeting. Passage 4-0.

Discussion of new Civilian Police Review Board ordinance. Rachel began the discussion referencing the memo she included which highlighted the major changes warranted by Article Nine of the City Charter. Rachel explained that she went before the City Council on June 21 and received some preliminary guidance with respect to outstanding issues around the ordinance. The subcommittee elected to go through the memo and discuss each point.

- Term limits. Serving on the current board will count towards time served on the newly created board. The Charter requires a minimum of new members - 6 voting and 3 non-voting. New board members will first be considered from the original board then the remaining board openings will be filled through an application process. Initial terms will be determined by the City Council or Mayor. In the event that there is not a quorum, the Mayor would appoint a non-voting member to complete the quorum. The question arose about the purpose of the non-voting members of the board, Rachel can't speak to the intent of Charter Commission but offered that it would add more voices to the conversation. There was concern about the Mayor choosing who would fill the voting position as it could appear to be political. Another alternative the subcommittee suggested would be to have an arbitrary rotation system of non-voting members if there is not a quorum.
- Eligibility requirements. Rachel recounted that there was extensive discussion regarding city employees and school employees and the amount of time that such employees are restricted from serving on the new board. Discussion followed that the board needs to remain civilian-based to build community faith in the review system; and allowing school employees on the board might be perceived as political. The subcommittee feels like there should be a minimum of a one year gap after employment with the City, however they concurred that 10 years is too long. Rachel suggested that the subcommittee draft a statement to send to the City Council including the group's opinions and concerns to be

discussed in a public meeting, and/or the members can send letters in their own personal capacity. The board can formally discuss the draft in public session. The Charter does not make any changes to the eligibility criteria, the existing ordinance itself addresses eligibility. The Charter sets the minimum standards and the ordinance can add additional standards.

- Staffing. The Charter talks about 3 or 4 various positions, the current ordinance staffing is filled by the Corp. Counsel office; going forward the Justice, Diversity, Equity & Inclusion Director or the City Manager's designee would staff the new board and also serve in the new Community Liaison (CL) position. The other staffing position created by the Charter was a police liaison, which has already been in place informally, specifically Major Martin. The Police department would appoint the police liaison. The last position outlined in the Charter is a Technical Advisor, which already exists in the ordinance, though this subcommittee has not taken advantage of employing this position. The subcommittee members thought they were going to have a budget for hiring a minimum of a part-time position. There is concern around giving this to an employee within another position/department because of the requirements that person will need: community outreach skills, training in trauma-informed intakes, and community development. The subcommittee thought that an outside entity would be hired and dedicated to this position. The group does not feel that the JDEI Director has the capacity to take on this role. The technical advisor cannot have a professional relationship with the City. Xavier looked back and found that \$180,000 was earmarked for the new positions related to the new board. The group would like a clear job description of each role.
- Board's function and duties. The subcommittee raised questions about how the new concept of the Board receiving all civilian complaints will work in practice. The draft ordinance anticipates that civilians may report complaints either to the Community Liaison or to the police department directly, but that the police department will make the CL aware of all complaints filed. The subcommittee had concerns about what is considered a "complaint" and whether they would become aware of issues addressed informally by the police department that never rise to the level of internal affairs. The group would like everything (process and terminology) defined, for example "all complaints" informal or formal. Anne had a parity question about the process: the PPD has five days to notify the CL of a complaint, but there is no guidance that the CL needs to send the complaint to PD within five days. There is also concern about the language contained in Section 2-76 that the new board will review all final internal affairs investigations, not just those brought by civilians, this increases the scope of the committee. That language abuts employment law issues and internal and confidential matters which extend well beyond IA investigations, and in turn, well beyond the scope of the committee. Rachel believes that that is not the intent of the language and indicated that she would review the draft to ensure that any ambiguity was eliminated. The group also questioned the limited scope of review of IA investigations allowed under the draft ordinance, and asked that the ordinance be expanded to allow review of additional potential due process issues, such as accessibility. It was noted that the annual report will no longer be sent to the City Manager, it will be sent to the Mayor, City Council, and Chief of Police.

- Rev. Lewis informed the subcommittee that the online complaint reporting is unavailable on the City website.
- Appeal process of an advisory opinion. The Charter requires an appeal process. The majority opinion of the City Council wished for the City Council to hear the appeals directly, but some members of the subcommittee expressed a preference for review by the Health & Human Services & Public Safety Committee. The subcommittee raised concerns that City Council is not NACOLE trained, so their review may differ from the trained PCRS members. The subcommittee questioned the benefit to the public if they receive two separate advisory opinions that are contradictory.
- Reggie will work on preparing a letter to send to the City Council. Xavier suggested that a representative of the subcommittee offer testimony to the City Council when they take up the ordinance.

No public comment was offered.

August 9, 2023 Agenda: The Police Department has indicated that there is likely to be 1 Category 1 case ready for review at the next meeting. The subcommittee anticipates reviewing a draft of the letter to the City Council regarding the ordinance (if it is ready.) Reggie will reach out to subcommittee members to poll them for attendance for the August meeting to ensure that there will be a quorum.

No public comment was offered.

8:16 Motion was made by Reverend Lewis to adjourn, seconded by Anne. Passage 5-0.

LETTERHEAD

Date

Mayor Snyder and honorable members of the Portland City Council,

The members of the Police Citizen Review Subcommittee (PCRS) write to provide our assessment regarding the proposed ordinance that will implement provisions of the Portland City Charter to create the new Civilian Police Review Board (CPRB).

At our regularly scheduled meeting on July 12, 2023, we discussed the proposed language of the ordinance along with a memo prepared by Associate Corporation Counsel Rachel Millette. We spent over two hours engaging in a very thorough and productive discussion about many provisions of the proposed ordinance that led to the decision to write this letter. Our hope is that you will take into consideration our feedback on the provisions below as you continue to work on this proposal in the coming months.

Eligibility requirements:

During our deliberations, we expressed concerns about the length of time an individual must wait to serve on the CPRB if they are or were an employee with the City of Portland within the last 10 years. This caused some members on the PCRS to be concerned that this 10-year *cooling off period* could disenfranchise members of our community from serving simply because they worked for the City of Portland. Therefore, we recommend the City Council look further into reducing the *cooling-off period* from 10 years to a minimum of 1 year but no more than 3 years before becoming eligible to serve on the CPRB.

In connection to this, we would also ask the City Council to consider creating parity that prevents the disqualification of a current or former City of Portland employee from being able to serve for a period of time while a Portland Public School employee is not subject to the same requirements. It is our understanding that based on the interpretation of the current ordinance by Corporation Counsel, it allows for a current or former Portland Public School employee to immediately become eligible to serve on the PCRS while a City of Portland employee will be disqualified from serving on the PCRS for at least for 10 years. Some members are unsure as to why this distinction exists between the two organizations, given that a Portland Public School employee also receives their compensation from Portland taxpayers similar to a City of Portland employee. Therefore, we recommend the City Council examine whether this distinction creates

an unintentional barrier for all Portland citizens to engage in serving their community regardless of whether they worked for the Portland Public Schools or the City of Portland.

Role of the Community Liaison and Police Liaison:

Our review of the proposed ordinance allows for a Community Liaison and Police Liaison to assist the CPRB in its duties, such as receiving and referring complaints to the Portland Police Department, along with other public facing functions on behalf of the CPRB. However, questions remained about who the Community Liaison would report to and how much of their role would be focused on service to the CPRB. To provide better understanding, we ask if the City Council and/or City Officials can provide a position description of these roles that may provide us clarity and how they fit in the overall function of police oversight in Portland.

Review of Complaints and Criteria:

The proposed ordinance allows for the CPRB to review **“all completed internal affairs investigations of complaints of police misconduct by police command staff.”** Three questions were raised as a result of our review: (1) whether investigating complaints by police command staff will fundamentally change the role of the CPRB?, (2) what is the definition of “all complaints” as proposed in the ordinance? and (3) whether this will include any complaints that do not receive an Internal Affairs (“IA”) number and are addressed by the Portland Police Department informally?

We ask for the City Council to provide any guidance and clarity on the three questions above and if possible, provide clarifications in the proposed language that would resolve those three questions.

Finally, the current ordinance requires PCRS to review cases in a **timely, fair, thorough and objective** manner. The proposed ordinance also calls for the same criteria to be used. We appreciate the consistency between the current and proposed ordinance with regard to the criteria. However, questions arose on whether the scope of our review will constrain the CPRB to the four criteria standards as outlined in the ordinance or will there be any flexibility in reviewing a case that allows for the four criteria to be used plus any other factors that a member deems relevant during the review of a case. We also ask for the City Council’s guidance on this question as well.

Appeal of the CPRB's Findings:

As stated above, the proposed ordinance allows the City Council to review the findings of the CPRB as to whether the Internal Affairs case was completed in a **timely, fair, thorough, and objective** manner. The proposed ordinance also enables a complainant to appeal the CPRB's findings to the Portland City Council that will, then, issue its own advisory opinion about the review of the CPRB's findings.

During our discussions, a question was raised about the effectiveness of the appeal process given the uncertainty based on the language as written that the City Council will be able to review the information that is only provided to members of the PCRS/CPRB. While the appeals process may provide value to complainants that would like a second review of the CPRB's findings that a case may have met all, some or none of criteria, we believe this provision as written will not achieve the goals that the Charter is attempting to accomplish. Therefore, we ask the City Council to consider making significant modifications to the proposed ordinance that will strengthen the process for all parties involved.

Composition of CPRB with Voting and Non-voting Members:

Finally, we also ask the City Council to explore the option of reviewing the number of voting and non-voting members of the CPRB including the selection of the non-voting member on the CPRB. During our discussions, a concern was raised on how the Mayor would select a non-voting member if there was less than the required number of voting members to constitute a quorum. Without fully knowing the criteria the Mayor would consider in appointing a non-voting member of the CPRB, some members expressed that the selection of the non-voting member may be based on preference if they express similar ideologies on matters of policing, etc.

In addition, some members were concerned that having six voting members may result in a deadlock if members are split on the outcome of a case with a 3-3 tie for example. By having more than six as voting members, it ensures the CPRB is able to conduct the work in a manner that accomplishes both an opportunity to achieve a quorum if at least four voting members are present and prevents potential issues of a tie, when voting to decide whether a case is done in a timely, fair, thorough, and objective manner.

We would like to thank you for your consideration of our recommendations and thoughts that we hope carries out the will of the public to create better police oversight in Portland.

Best,

(Insert signature here)

From: **Joey Brunelle** <joey.brunelle@gmail.com>
Date: Wed, Jul 19, 2023 at 11:34 AM
Subject: Red-lined changes to the civilian police board ordinance
To: <council@portlandmaine.gov>
Cc: Maria Testa <mtesta@maine.rr.com>, Zack Barowitz <zbarowitz@gmail.com>, Ryan Lizanecz <ryan.lizanecz@maine.edu>, Michael Kebede <michaelgkebede@gmail.com>, Patricia J. Washburn <pat@patwashburn.net>, Catherine Buxton <catherine.anne.buxton@gmail.com>, Damon Yakovleff <damon.yakovleff@gmail.com>

Councilors & Mayor,

Today I discovered that City Staff included their [red-lined proposed changes](#) to the police review ordinance in the most recent agenda for the PCRS. The proposed changes are contrary to both the letter and the spirit of the Charter amendment that was passed by voters, and are deeply concerning. In some cases, powers and duties have actually been *removed* from the board.

I've just spent two hours comparing the language of the Charter amendment with the proposed changes (you're welcome), and here are the highlights, as I see it:

1. Contrary to the letter of the Charter amendment passed by voters, the police board still would not receive complaints directly. The current structure, where they receive the results of PPD internal affairs investigations long after complaints have been submitted, has been retained. This is explicitly contrary to the language of the amendment.
 - Staff's proposed changes stipulate that a member of city staff - either the Justice, Diversity, Equity, and Inclusion Director or an unspecified designee of the City Manager (at the discretion of the City Manager, presumably) - a role called the "Community Liaison" in the proposed changes - would receive complaints, and forward them to the Police Department.
 - While the role of "Community Liaison" is created by the Charter amendment, it does **not** stipulate that this person shall receive complaints and forward them to internal affairs. **This structure was entirely invented by City Staff, it does not exist in the Charter Amendment.**
 - The charter amendment says, in Section 2(a): **"The civilian police review board shall receive all complaints brought by civilians regarding the Portland police department** and shall refer such complaints to the Portland police internal affairs department." It does **not** say that a member of city staff or a Community Liaison will receive complaints.
 - Even the Summary for voters for this amendment said it too, that the new police board would "Receive complaints directly from civilians for referral to Portland Police Department Police Command and/or Internal Affairs for investigation." **The amendment is not vague about this point!**

2. Staff's proposed changes still specifically **limit** the board to reviewing Internal Affairs investigations for "fairness, thoroughness, objectivity, and timeliness," when the Charter amendment **explicitly** states that the board **is not limited to those criteria**. According to the Charter amendment, the new board can issue findings about whatever it wants.
 - Section 2(b): "The board shall review all final investigation reports submitted by internal affairs and/or command staff under Section 2. (a) above for due process issues, **including but not limited to**, issues of fairness, thoroughness, objectivity, and timeliness."
 - The Charter amendment **requires that the board not be limited to these four criteria**. The changes to the ordinance must reflect this.
 - Similarly, the new appeals process required by the Charter amendment **is also not limited to reviewing for fairness, etc.** but staff's proposed changes still have this limitation. According to the Charter amendment, the appeals process, like the board, can review police investigations for whatever criteria they want.

3. Contrary to the letter of the Charter amendment, the City Manager would have the power to select the "Community Liaison" as well as the selection of the person in that role.
 - The Charter amendment is specific that this role is to defined and filled by the City Council - **not the City Manager**.
 - Section 3(a): "The city council shall decide whether the community liaison and police liaison positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees."
 - The City Council has the power to, for example, require that the Community Liaison **always** be the JDEI Director, not a City Manager designee. Or you could create a new part-time position for this role. Or you could do something else entirely. But this **should not** be at the discretion of the City Manager, as that's contrary to the Charter Amendment.

4. Contrary to the letter of the Charter amendment, the Police Department would select a member of its ranks to be the "Police Liaison."
 1. Again, the Charter amendment says that this role is to be filled by the City Council - **not the Police Department**. And there is nothing in the Charter amendment that says this has to be a member of the police department, either. It could be anyone. It could be the Parks Director if you wanted, or a new position, or a member of the council. It's simply someone who's responsibilities would be to liaise between the civilian board and the Police Department.
 2. Section 3(a): "The city council shall decide whether the community liaison and **police liaison** positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees."

5. The Charter amendment adds to the current police board's duties by giving the City Council the ability to task it with researching policing issues, and adds to the police board's powers the ability to address the council at-will, presumably with a communication that does not need the approval of the City Manager, the Mayor or the City Council to be placed on the Council's agenda.
 - Section 2(e): "[The board] may be assigned by the city council and mayor to staff for research, and may be enacted or implemented. The board also may, in its discretion, address the city council on an as-needed basis."
 - None of these new powers are in the revised ordinance, and should be added.**
6. The red-lined changes have **removed** some duties of the board, entirely against the intention and language of the Charter amendment that was passed by voters.
 - The board formerly had the power to recommend to the City Council changes "in the police internal affairs investigative process, policies or training, and for enhancing public confidence in the methods and process of investigation of citizen complaints against police officers." **All of this language has been removed by City Staff.** Neither the letter nor the spirit of the charter amendment prohibit these things to be part of the board's purview.
 - The board is still required to submit an annual report to the council, but this report is now only required to contain data about **how many** cases the board reviewed, not any data about **its findings of those cases**. While the Charter amendment does not *require* that this information be shared in the annual report, removing this from the ordinance would be a step backwards in terms of public accountability and transparency.
 -
7. According to the proposed changes, the new police board would continue to **have no budget**, and not have any pathway to obtain one.
 - The Charter amendment says "The board may request additional funding from the city council at any time" but this is not reflected anywhere in the changes to the ordinance.
 - This language or some equivalent **must** be included in the changes to the ordinance, so that the Police Board has the power to ask for resources directly from the Council (and, importantly, not the City Manager).
8. Lastly, the Charter amendment was drafted specifically to be an open-ended bare-minimum - **in a number of key areas, it intentionally and explicitly does not limit you in defining what this new board can do**. You have the power to add a whole array of duties, responsibilities, and powers to this new board, far beyond what it currently has - if you so choose.

I urge you to take the time to review what was in the Charter amendment, and what is actually reflected (and not reflected) in Staff's proposed changes. You are the ultimate decision makers here, not City Staff. Please please please take the

time to familiarize yourself with these issues, and reach out to those in the community who have been part of this discussion for years: for example Maria Testa, Zack Barowitz, Ryan Lizanecz, other members of the Charter Commission, and myself.

- Joey

You are welcome! I have been following the PCRS and police oversight issues in Portland since like 2014, and I worked closely with the Charter Commissioners to draft the charter amendment that was passed by the voters, so I'm happy to help in any way I can.

You can totally share my email with the PCRS and add it to the agenda, and I've just gotten permission from fmr Commissioner Lizanecz to do the same for the text below (which he has polished from the original I sent you earlier).

Also, since there was a lot of "I wonder what the commissioners intended?" in the last PCRS meeting, I've reached out to both Commissioners Lizanecz and Barowitz, the two people who led the drafting of the amendment about police oversight. Both are able to attend your August 9 meeting to answer any questions y'all might have, and you can communicate that to the board as well. (I'm working on Commission Chair Michael Kebede, an ACLU attorney, as well.)

I will also attend your August 9 meeting, but I'm available to discuss anything separately in advance of the meeting as well - let me know if you want to chat over the phone or over zoom. My number is (207) 229-2725, you are welcome to call me anytime. :-)

Thank you for your work and your service!!

--- From Ryan Lizanecz ---

1. The community liaison is not the person in the charter amendment who is supposed to receive the complaints. The BOARD ITSELF is supposed to receive complaints. Most likely, the Chair.

2. The appeals process was intended to be broad, and need not be advisory in nature and does not have to be the city council. The city council can create a separate appeals board if they want.

3. The appeals process also does not need to be limited to fairness, etc,. The appeals process can be by whatever metric the council decides. For example; a full hearing, etc.

4. The community liaison does not need to report to the city managers office, it should/could report to the board.

5. The purpose of removing limitations to the eligibility criteria was to allow anyone to serve on the board. We should not be adding in restrictions, while permissible, certainly not the intent.

6. The council can ADD whatever duties they want, they don't have to stick with the minimum in the amendment, for example, basic due process issues.

7. The board should be able to request funding from the council, the intent was to give the board funding to conduct research, etc.

I would encourage the board and council to ask the corporation counsel's office for OPTIONS, as there are several ways in which this could go.

Honorable Mayor and Councilors:

The charter language for the new Citizen Police Oversight Board expands upon the current model of a complaint review with several enhanced duties, including the ability to make recommendations to the Council on a broad array of police matters.

It is critical that the new ordinance allows the Board, Council, and Staff to utilize the tools and resources necessary to carry out the expansion of the new Board's authority to the full extent as specified in the Charter. The charter sets some minimal requirements of the Board; these should be seen as the floor not the ceiling, so that if the Board or Council sees the need to exercise their authority then they have the flexibility to do so.

In short, while the new Board is similar to the old one in many respects, there are several significant changes.

Below please find:

1. A brief outline of *some* of the changes for which the Board, Council, and Staff is responsible including notes on the three staff positions
2. The charter report summary of the amendment
3. The charter language itself (which is just a few pages and pretty straightforward).

Thank you,

Zack Barowitz

Part One: Outline of Changes

Council Prerogatives

- The City Council shall provide by ordinance procedures for vacancies and removal of members. The only *requirement* for membership is three months of residency in Portland, but the Council can use their discretion—just as in any other appointment. (Sec 1d)
- Enact an ordinance to implement the charter amendment (Sec 1g)
- Create an appeals process. (Section 2c)
- The Council *or* Mayor may assign additional duties to the Board (Sec 3c)
- Funding, budget, and staff: To include a Community Liaison, a Police Advisor, and a Technical Advisor. The Board may request additional funding at any time. (Sec. 3a)
 - **Community Liaison:** In accordance with the Racial Equity Steering Committee's recommendation, the liaison should be a "credible messenger" who can provide outreach and education to the community about the Board's work as well as attend Board meetings and assist the Board administratively (including organizing public meetings). Personally, I see this position as approximately 1/3-1/2 FTE to start.
 - **Police Advisor:** A person who is well acquainted with police procedures who attends Board meetings to assist in an advisory capacity with SOPs and other police policies. This *could* be a current member of the force/police command.
 - **Technical Advisor:** The city shall make this position available on an as needed basis, for the purposes of training; briefing the board on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function. This position *could* be filled by a consultant with a background in criminology, municipal auditing, police policy, etc. but NOT by a member of the Police force (Sec 3b)

NB: *The Technical Advisor and the Police Advisor could be the same person so long as that person is NOT a member of the Police force.*

Staff Prerogatives

- Coordinate the hiring of the Community Liaison, Police Liaison, and Technical Advisor who will train, advise, and assist the Board.

Board Prerogatives

- The Board shall receive all complaints prior to any investigation. This means that if someone files a complaint with *any* City entity (such as the Police, City Council, Mayor's office, Manager's office, etc.) that complaint shall be forwarded *directly* to the Board. Additionally, people can file complaints with the Board. In all cases, the Board shall refer ALL complaints to police Internal Affairs. (Sec. 2a)
- The civilian police review board shall now be able to make *policy recommendations* to the Mayor, the Council, and the Chief of Police. (Sec. 3d)
- The Board shall hold *at least* one public meeting annually (but they may hold more). (Sec. 2e).
- The Board shall present an Annual Report to the City Council and may address the City Council at other times. The Annual Report may contain policy and procedural recommendations. (Sec. 2e)

Part Two: Summary

[From the Charter Report]

Citizen Police Oversight Board Recommendation

Introduction

One overarching goal of the Charter Commission is to increase accountability and public trust in our city government. The Departments Committee has given special attention to the Police Department due to the fact that because mortal danger is inherent to police work, police reform has become one of the most pressing issues of our times.

However, the committee did not think that the charter is the appropriate forum to examine the intricacies of police procedures or the police budget. Instead, the focus was on improving the system of civilian oversight, specifically the practice of evaluating complaints brought against the police.

Portland's current oversight system is the Police Citizen's Review Subcommittee (PCRS) which is an appointed volunteer board that reviews completed investigation of complaints against the police as to whether the process met the standards of being "fair, objective, timely, and thorough" for which the PCRS submits an annual report to the city manager.

Because policing is a core function of municipal government, the committee recommends that citizen oversight should be in the Charter to elevate the status of the existing board in order to mitigate the potential for harm and to build broader public trust between civilians and police. To these ends, the committee looked at various models and hybrid models, including:

- The early oversight (1920s-1960s) took the form of volunteer civilian review boards wherein investigations conducted by police command/Internal Affairs are reviewed for being thorough, timely, objective and fair. This is the least active form of oversight and is the model that we currently use as with the PCRS.
- In the 1970s-1980s some cities initiated investigative offices of trained staffers to investigate misconduct. This is a far more active, and far more expensive, form of oversight than review boards.
- Beginning in the 1990s municipalities began to employ a professional auditor to get a big picture assessment by reviewing cases, looking for patterns, and making recommendations accordingly.
- Newer theories are focusing on gaining a degree of civilian control of policies and Procedures.

Despite advances in the field, the rule of thumb of civilian oversight is not “best practice” but best fit. Given that Portland has both an excellent Police Department and a low crime rate, the committee did not feel that chartering a professional investigative or auditing office was either operationally or fiscally necessary; and that such action is best left to the city council or another office. Rather, the committee recommends retaining the current review board system with several enhancements to strengthen community involvement and oversight capabilities.

Specifically, these enhancements include:

- Requiring that the board shall deliver an annual report and recommendations to the city council;
- Removing eligibility restrictions for board membership;
- Allowing complaints to be brought directly to the board and for the board to render advisory opinions on citizen appeals;
- Retention of the “police liaison”; and
- Hiring of a “community liaison” who shall assist the board in conducting outreach and other duties as the board may assign. The city council shall decide whether the community liaison and police liaison positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees and/or the accountability officer.

Methodology

The departments committee consulted with a diverse range of experts, readings, and community members for their input on this topic. They are as follows.

October 4th, 2021:

1. Maria Testa: (Former Member of the Portland Police Citizen Review Subcommittee)
2. Dr. Brendan McQuade: (Professor of Criminology at University of Southern Maine)
3. Cameron McElhiney: (Director of Training and Education at National Association Civilian Oversight of Law Enforcement)

October 25th, 2021:

1. Dr. Lelia DeAndrade: (Former Member of Portland’s Racial Equity Steering Committee)
2. Emily West: (Current Chair of the PCRS)
3. Ali Ali: (Former Member of Portland’s Racial Equity Steering Committee & Currently with Maine Youth Justice)

November 1st, 2021:

1. Discussion with Commission Attorney Katsiaficas

November 15th, 2021:

1. Workshop on Police Oversight Board language

December 6th, 2021:

1. Workshop on Police Oversight Board language
2. Unanimous vote for passage out of committee

Documents & Research Consulted

- PCRS meeting minutes, videos and documents
- National Association for Civilian Oversight of Law Enforcement documents:
 - “Guidebook for the Implementation of New or Revitalized Police Oversight”
 - “A Review of the Strengths and Weaknesses of Various Models of Police Oversight”
 - “Civilian Oversight of Law Enforcement: Assessing the Evidence”
 - “Civilian Review of Police: Approaches & Implementation” by Peter Finn; US Department of Justice, Office of Justice Programs, National Institute of Justice 2001
- Portland’s Racial Equity Steering Committee Final Report
- Memo from Commission Attorney Katsiaficas
- Memo and feedback from Portland Police Chief Heath Gorham

Part Three: Charter Language

Article IX: CIVILIAN POLICE REVIEW BOARD

Section 1. Purposes, composition, term, appointment, first board, qualifications, vacancies, removal, compensation.

- (a) **Purposes.** For the purposes of increasing public trust and confidence in the Portland Police Department, there shall be a civilian police review board.
- (b) **Composition, term, appointment, first board.** The civilian police review board shall be composed of nine (9) or more members who shall hold office, except as hereinafter provided, for a term of three (3) years unless appointed to fill a vacancy, and until their successors are appointed and qualified, but in no case longer than 120 days after expiration of their term. A minimum of four (4) voting members shall be appointed by the city council, one (1) voting member shall be appointed by the mayor and three (3) non-voting members shall be appointed by the city council. A majority of the total number of voting members appointed shall constitute a quorum of the board and the board shall act by a majority of voting members present and voting.

For the first board appointed following its creation, the city council and mayor shall first select from the current members of the police citizen review subcommittee, currently established by City ordinance, which subcommittee shall be supplanted by the board, in making appointments to the board. On the first board, two voting members shall serve for a one (1) year term, two voting members shall serve for a two (2) year term, and the voting member appointed by the mayor shall serve for a three (3) year term; and one non-voting member shall serve for a one (1) year term, one non-voting member shall serve for a two (2) year term, and one non-voting member

shall serve for a three (3) year term. Thereafter, all members shall serve for a term of three (3) years. No person shall be appointed to, nor serve, more than three (3) consecutive full terms or nine (9) consecutive years, whichever is greater, on the board. Following appointment of the first board, the city council shall exercise its power of appointment only after the city clerk has published a notice announcing the availability of board positions, describing the responsibilities thereof and soliciting applications by qualified persons, in a newspaper of general circulation at least 15 days before the city council acts to appoint to the board.

- (c) **Qualifications.** All candidates for the civilian police review board must be at least 18 years of age and must be residents of the City for a period of at least three (3) months prior to the date on or before which the board member is to be seated.
- (d) **Vacancies and Removal.** The City Council shall provide by ordinance procedures for vacancies and removal of members.
- (e) **Training.** Prior to assuming their duties hereunder, civilian police review board members shall attend training provided by city staff as to the board's duties and responsibilities, applicable state and local law, ordinances and rules and regulations, accepted police practices and the police department's internal affairs investigation process.
- (f) **Confidentiality.** Each member of the civilian police review board is obligated to maintain the confidentiality of all information and documents either provided to or reviewed by them, in accordance with state law. Failure to maintain such confidentiality will constitute "cause" for removal from the board under (d) above. All reports prepared by the board and all requests received by the board for disclosure of any information or documents in the custody of the board or its members shall be referred to the corporation counsel for review prior to release.

- (g) **Transition.** The city council shall promptly consider and enact an ordinance to implement this Article, which ordinance upon its effective date also shall repeal the existing Police Citizen Review Committee ordinance provisions in Chapter 2, Art. IV, Div. 4 of the Code of Ordinances, City of Portland, Maine.

Section 2. Powers and duties.

- (a) **Complaints.** The civilian police review board shall receive all complaints brought by civilians regarding the Portland police department and shall refer such complaints to the Portland police internal affairs department. Members of the police department may bring complaints to the board, to internal affairs, or to command; the board shall refer any such complaints it receives to internal affairs. Portland police department command shall review internal affairs draft findings on complaints and shall submit its report on the conclusions of any investigation on complaints to the board for consideration no more than fourteen (14) days after the findings become final and after any final disciplinary action has been taken and all appeals exhausted or settled or the case has been closed with no disciplinary action. Neither police officers nor their representatives may file complaints regarding disciplinary actions or personnel matters under this subsection.
- (b) **Review, reports.** The board shall review all final investigation reports submitted by internal affairs and/or command staff under Section 2. (a) above for due process issues, including but not limited to, issues of fairness, thoroughness, objectivity, and timeliness. Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures, all reports of the board issued to address complaints filed under Section 2. (a) above shall be done in such a manner that particular complainants, witnesses and officers are not personally identifiable. Reports of the board shall be made available to the public to the extent consistent with the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 *et seq.*
- (c) **Appeals.** The city council shall by ordinance adopt an appeal process consistent with federal, state, and local law for persons aggrieved by a report issued by the civilian police review board on complaints filed with the board under Section 2. (a) above to appeal that board report to the city council or such other body as the city council may designate or create for a hearing, in executive session where required, and for the issuance of an

- (d) advisory opinion which shall not be legally binding on the city, the police department, police officers, or individuals, and which hearing and advisory opinion shall not include or address any disciplinary proceedings. Neither police officers nor their representatives may file appeals regarding disciplinary actions or personnel matters under this subsection.
- (e) **Policy.** The civilian police review board shall be able to make policy recommendations to the mayor, the city council, and the chief of police.
- (f) **Annual report, communications, additional duties.** The civilian police review board shall hold a public hearing at least annually to receive comments upon the community complaint process and to engage City residents as to the board's purposes and goals, and shall prepare and present to the mayor, city council, and chief of police an annual report, including but not be limited to, policy and funding recommendations, and the number of complaints submitted to the board and the number of complaints resolved during the previous year. Any recommendations made by the board regarding the police department shall be based on policy evaluations, may be assigned by the city council and mayor to staff for research, and may be enacted or implemented. The board also may, in its discretion, address the city council on an as-needed basis. The city council and mayor may add to the board's duties by ordinance at any time.
- (g) **Board Officers & Procedural Rules.** The civilian police board shall annually elect one of its members to serve as chair, and shall annually elect one of its members to serve as vice-chair, to serve in the absence of the chair. The City Council shall by ordinance establish rules of procedure and board member roles. The board may recommend such rules to the City Council.

Section 3. Funding, staff, resources.

- (a) **Funding, staff.** The civilian police review board shall be funded as needed by the city council through the annual budget. Such funding shall include professional staff, including but not limited to a "Community Liaison" and a "Police Liaison" familiar with Portland police department standard operating procedures. The city council shall decide whether the community liaison and police liaison positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees. The community liaison shall serve at the direction of the board and shall ensure the public is aware of the methods for filing complaints, and shall assist the board with carrying out its duties, powers and functions, conducting

outreach and with other duties as the board may assign. The board may request additional funding from the city council at any time. The police liaison may be the same person/position as the “technical advisor” described in Section 3(b) below.

- (b) **Resources.** The city shall make available to the board the services of a technical advisor, as needed by the board. The technical advisor may be used for the purposes of training; briefing the board on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the board on aspects of the internal investigation process. The technical advisor shall be retained by the city manager after consultation with the chief of police, representatives of the police unions and the chair of the board. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor. The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the board to conduct its duties hereunder. In no case shall the board have access to police officers’ personnel records except to the extent that they are part of an internal affairs investigation report or are considered a public document under the Maine Freedom of Access Act
- (c) **Coordination.** The board shall work in conjunction with the City’s communications department, internal affairs, and any other city departments or offices to effectuate all powers and duties granted to it in this charter and any additional duties assigned to it by the city council or mayor.

Office of Corporation Counsel
Michael Goldman, *Acting Corporation Counsel*
Amy McNally, *Associate Corporation Counsel*
Nicole Albert, *Associate Corporation Counsel*
Rachel Millette, *Associate Corporation Counsel*



MEMORANDUM

To: Police Citizen Review Subcommittee

From: Rachel Millette, Associate Corporation Counsel

Date: July 7, 2023; updated August 4, 2023

Subject: Ordinance Creating Civilian Police Review Board

At a workshop on June 21, 2023, the City Council discussed changes to the City Code in order to implement Ballot Question #7 - Civilian Police Review Board, which was approved by the voters during the November 2022 election and added Article IX to the City Charter as of July 1, 2023. Article IX creates a new Civilian Police Review Board (the "New Board"), which will replace the City's existing Police Citizen Review Subcommittee ("PCRS") and requires the Council to adopt an ordinance that will govern that board. The New Board, like the existing PCRS, is charged with reviewing internal affairs investigations on the issues of fairness, thoroughness, objectivity, and timeliness.

At the City Council's workshop, the Council provided guidance with respect to what eligibility criteria it felt were appropriate for members of the New Board. In addition, the Council considered what the new appeal process outlined in the Charter will look like. Following the City Council's workshop, my office prepared a revised version of Chapter 2 of the City Code, which includes the ordinance governing the New Board. For ease of reference, I have attached a copy of Article IX of the City Charter and the revised draft of Chapter 2.

Given that the City Council and Mayor will first select from the PCRS in creating the first New Board, I am seeking the PCRS' input as to the revised ordinance. Following this Subcommittee's input, the revised ordinance will be shared with the police unions for their input as well (though the City maintains its position that bargaining is not necessary). Next steps will

include an additional workshop with the City Council prior to final adoption of the ordinance.

Below I have highlighted the major changes to the City Code, most of which are required by the revisions to the Charter:

Term Limits for Board Members

- Section 2-32 provides that members may not serve more than three (3) consecutive full terms or nine (9) consecutive years on the same board or commission. The changes to the ordinance in Section 2-33 make clear that service on the existing PCRS will count towards members' term limits on the New Board.

Composition of the Board

- Section 2-48 increases the number of members of the New Board from seven (7) to nine (9); however, four (4) members will be non-voting members.
- Section 2-50 outlines who is responsible for appointing each of the Board members.
- Section 2-51 requires that the City Council and Mayor first select from the existing PCRS in appointing members of the first New Board. All other vacancies will be posted for application in accordance with the normal process. Term limits for the initial New Board members are also laid out in this section.
- Section 2-56 updates the quorum of the Board.

Eligibility Criteria for Board Members

- Section 2-49 is amended to include requirements that Board members be at least 18 years of age and a resident of the City for at least three (3) months before the start of their term.
- Section 2-49 of the City Code currently provides that present or former city employees and City Council members are prohibited from serving on the subcommittee for ten (10) years after their service with the City. The City Council is considering whether this time period should be reduced. In addition, the Council is considering whether there should be different standards for individuals who hold or have held policy-making positions in the past. As the City Council is still considering these issues, changes have not yet been made to this

section of the Code. This section is not required by the new Charter revisions.

Staffing of the New Board

- Section 2-54 changes the staffing of the New Board from corporation counsel's office to the Justice, Diversity, Equity, and Inclusion ("JDEI") Director or the City Manager's designee.
- Section 2-76 provides that the JDEI Director or the City Manager's designee shall serve as the New Board's Community Liaison.
- Section 2-76 further provides that the Police Department will designate a staff member to serve as the New Board's Police Liaison and that such person will assist the New Board with respect to the Police Department's standard operating procedures.

Board's Functions and Duties

- Increasing the public's trust and confidence in the police department is added as a duty of the New Board in Section 2-76.
- Section 2-76 also requires the Community Liaison to accept complaints of police misconduct on the New Board's behalf. Complaints may be accepted from civilians or from police. The City Charter requires that the Board receive all civilian complaints of police misconduct.
 - If civilians make complaints directly to the police department, a copy of those complaints will be sent within five (5) calendar days to the Community Liaison.
 - Complaints accepted by the Community Liaison will be referred to the police internal affairs department for investigation.
 - The Community Liaison will report on complaints received to the New Board each month.
- As outlined in Section 2-76, the New Board will review all final internal affairs investigations, not just those brought by civilians.
- The New Board's annual report will be provided to the Mayor, City Council, and Chief of Police, rather than the City Manager, as outlined in Section 2-76.

Appeal Process

- Section 2-78, a new section of the Code, creates an appeal process for "persons aggrieved by a report issued by the [New Board]." Appeals will be heard by the City Council in executive session and subject to the

same confidentiality requirements as those required of the New Board. The City Council will provide a de novo review of the investigation and the grounds of appeal and will provide an advisory opinion regarding the thoroughness, objectivity, fairness, and timeliness of the internal affairs investigation.

If you have suggestions for other changes or any questions about the Charter, the ordinance changes, or the ordinance-development process, please feel free to contact me directly to discuss them either before or during the upcoming PCRS meeting.

August Update: Following the PCRS' meeting on July 12th, I made a revision to the draft ordinance to clarify that the New Board will only be reviewing internal affairs investigations. Language in the previous draft regarding "investigations of police misconduct by command staff" created unintended ambiguity with respect to the scope of the New Board's duties. The attached draft ordinance has been updated to remove this language.

Chapter 2 ADMINISTRATION*

*Charter reference(s)--Powers and duties, art. I, § 2.

Cross reference(s)--Ordinances promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds in the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city saved from repeal, § 1-4(1); ordinances making any appropriations saved from repeal, § 1-4(4); ordinances prescribing the number, classification or compensation of any city officers or employees saved from repeal, § 1-4(10); ordinances providing for retirement benefits saved from repeal, § 1-4(11); uniform procedure for collecting assessments, § 1-16; elections, Ch. 9; general assistance, Ch. 13; planning board, § 14-16 et seq.; administration and enforcement of zoning, § 14-461 et seq.; jurisdiction of board of appeals for zoning, § 14-471 et seq.; board of appeals, § 14-541 et seq.; historic preservation, § 14-600 et seq.; licenses and permits, Ch. 15; police, Ch. 20; special police, § 20-16 et seq.; administration and enforcement of traffic regulations, § 28-11 et seq.; traffic division, § 28 et seq.; traffic engineer, § 28-21 et seq.; parking division, § 28-41 et seq.

Art. I. In General, §§ 2-1 -- 2-15

Art. II. Officers, §§ 2-16--2-30

Div. 1. Generally, §§ 2-16-2-20

Div. 2. Prohibition on Immigration Status Checks §§ 2-21-2-30

Art. III. Boards, Commissions, Committees, etc., §§ 2-31--2-40

Art. III-A. Portland Land Bank Commission; Fund, §§ 2-41-2-45

Art. IV. Civil Service, §§ 2-46--2-90

Div. 1. Generally, §§ 2-46

Div. 2. Civil Service Commission, §§ 2-47--2-57

Div. 3. Employment Subcommittee, §§ 2-58-2-75

Div. 4. ~~Police Citizen Review Subcommittee~~Civilian Police Review Board, §§ 2-76-2-90

Art. V. Employee Benefits, §§ 2-91--2-200

Div. 1. Generally, §§ 2-91--2-100

Div. 2. Retirement, §§ 2-101--2-200

Art. VI. Funds Due to City, §§ 2-201--2-300

Div. 1. Generally, §§ 2-201--2-220

Div. 2. Provisional Payments, §§ 2-221--2-229

Div. 3. Interest, §§ 2-230--2-300

Art. VII. Procurement and Contracting Procedures, §§ 2-301--2-400

Div. 1. Generally, § 2-301

Div. 2. Competitive Process for Contracts, §§ 2-302-2-312

Div. 3. Sale or Disposal of Real or Personal Property §§ 2-313-2-400

Art. VIII. Civil Emergency Preparedness, §§ 2-401--2-415

Art. X. Exemption from Vehicle Excise Tax for Certain Military Personnel, §§ 2-436--2-437

* * *

ARTICLE III. BOARDS, COMMISSIONS, COMMITTEES, ETC.*

* * * **Sec. 2-32. Limitation on term of service--Generally.**

(a) No person shall be appointed to, nor serve, more than three (3)

consecutive full terms or nine (9) consecutive-years, whichever is greater, on the same board or commission of the city.

~~(b) Except as otherwise specified in the Charter, the~~ foregoing limitation shall apply only to service as a regular voting member of the board or commission, and not to service as an alternate nor as a nonvoting member.

(c) To the extent that this Code provides for a different limitation on the term of service for a specific board or commission, the limitation provided in this article shall apply.
(Ord. No. 301-91, 4-1-91; Ord. No. 118-08/09, 12-1-08)

Sec. 2-33. Applicability.

(a) The above limitation on terms shall apply to the following boards and commissions:

- (1) Board of appeals;
- (2) Board of assessment review;
- (3) Reserved;
- (4) Cable television committee (CATV);
- (5) Civil service commission employment subcommittee;
- (6) ~~Civil service commission police citizen review subcommittee~~ Civilian Police Review Subcommittee;
- (7) Community development block grant allocation committee;
- (8) Friends of the park;
- (9) Historic preservation committee;
- (10) Land bank commission;
- (11) Planning board; and
- (12) Portland public art committee;

(b) ~~Except as otherwise specified in the Charter, the~~ above limitation on terms shall not be applied retroactively and shall apply to any person serving on one (1) of the above-named boards or commissions on the effective date of this section (5/1/91) beginning with the expiration of the term in which they are so serving. Notwithstanding the foregoing, the limitation on terms shall be applied to members serving on the boards and commissions identified in section 2-33, subsection (a), paragraphs 5,6,7 and 12, beginning with the expiration of the term of any sitting board or commission member

following the passage of this amendment.

***Editor's Note**--In reference to Section 2-33(b) above, "passage of this amendment" refers to Council Order 118-08/09, passed on December 1, 2008.

(c) Nothing herein shall prevent consecutive appointment of any person to a different board or commission from that on which he or she has served the maximum consecutive time.

(d) In the case of the board of harbor commissioners, such limitation shall apply only to the two (2) members appointed by the City Council.

(e) Any member on the above-named boards or commissions who completes the maximum years of service prior to the expiration of his or her term shall be allowed to complete that term of service and to continue to serve after expiration of that term until a successor is appointed and qualified, provided such service shall not continue in excess of one hundred twenty (120) days after expiration of the term.

(Ord. No. 301-91, 4-1-91; Substitute Ord. No. 233-99, §2, 4-5-99; Ord. No. 118-08/09, 12-1-08; Ord. No. 219-17/18, 6-4-2018)

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ARTICLE IV. CIVIL SERVICE*

***Charter reference(s)**--Mandate for civil service, Art. VI, § 3.
***Cross reference(s)**--Commissions generally, § 2-31 et seq.

***Cross reference(s)**--32 M.R.S.A. § 7166 (Limitation on use of polygraph in employment)

***Editor's Note**--The Civil Service Ordinance was substantially reorganized and revised by Council Order No. 89-02/03, 11-4-02.

DIVISION 1. GENERALLY

Sec. 2-46. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them unless the context otherwise indicates:

Cause. In the case of a member, "cause" shall mean just cause and shall include any act or omission which constitutes legal cause and includes, but is not limited to: violation of any departmental rule or rules; incompetent or inefficient performance of duty; or inattention to or dereliction of duties; insubordination; discourteous treatment of the public or a fellow employee; violation of any provision of this article or the rules adopted thereunder, whether such violation may

result in a forfeiture of office hereunder, or not; job suitability or physical unfitness to perform the normal duties of the position which the member holds; the use of intoxicating liquors, narcotics, or any other drug, liquid, or preparation on duty, or to such an extent that such use interferes with the efficiency or job suitability or physical fitness of the member, or prevents the member from properly performing the normal functions and duties of his or her position; misconduct; the commission of any disqualifying criminal offense; failure to report to the appropriate superior; errors, incompetence, misconduct, inefficiency, neglect of duty, or any other form of misconduct or negligence of which the member has knowledge; and any other acts or omissions which would tend to directly discredit or injure the public service or would jeopardize the effective functioning of the department. In the case of a civil service commissioner or alternate, "cause" shall include any act or omission which constitutes legal cause, and includes but is not limited to: incompetent or inefficient performance of duty; unexcused absences from commission meetings; violation of any provision of this article or the rules adopted thereunder, whether such violation may result in a forfeiture of office hereunder, or not; the commission or conviction for any disqualifying criminal offense, or any action by the Civil Service Commissioner or alternate intended to affect or influence, or which could reasonably be expected to affect or influence any decision of the City Manager, the Chief of either department, or the City Council with respect to the department, or of any member of the department with respect to the performance of his or her duty.

Charge means a written statement to the member describing the act or omission constituting cause for action taken or proposed to be taken.

Civil service commission means collectively the two independent subcommittees constituting the commission, i.e. the employment subcommittee and the ~~police-citizen review subcommittee~~civilian police review board.

Demotion means any reduction in rank within the department but shall not include any economic layoff.

Director of human resources shall mean the person designated by the City Manager to act as Director of Personnel for the City and his or her designees (also referred to herein as the "Director").

Member means any firefighter, fire officer, police officer, or superior officer appointed hereunder to any rank within the fire or police departments, except the chiefs thereof.

Promotion means any advancement in rank within the department, other than the rank of chief.

Rank means the position classification of any member to which he or she has been appointed hereunder within the fire department or

police department but shall not include any contractual or other pay differentials between functions or grades within each rank.

Relative means grandfather, grandmother, father, mother, son, daughter, grandson, granddaughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, domestic partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, step-father, step-mother, step-son, step-daughter, step-brother, step-sister, half-brother, or half-sister, whether by half-blood or full blood, and whether by consanguinity or affinity.

(Code 1968, § 201.1; Ord. No. 89-80, 7-7-80; Ord. No. 433-82, § 1, 3-15-82; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 4, 11-5-01; Ord. No. 143-17/18, 2-5-2018)

DIVISION 2. CIVIL SERVICE COMMISSION*

Sec. 2-47. Created.

There is hereby created a civil service commission, also referred to in this article as the commission. The commission shall consist of two separate and independent subcommittees as follows: the civil service employment subcommittee and the ~~civil service police citizen review subcommittee~~ civilian police review board. Commissioners shall be appointed to, and serve on, one of the two subcommittees only.

(Code 1968, § 201.3; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01)

Sec. 2-48. Composition.

(a) The Civil Service Employment Subcommittee of the Civil Service Commission shall consist of three (3) commissioners and one (1) alternate who shall serve in the absence of any commissioner.

(b) The ~~police citizen review subcommittee~~ civilian police review board shall consist of ~~seven-nine (9)~~ seven (7) or more commissioners ~~who shall serve in the absence of any commissioner~~. A minimum of six (6) of the commissioners shall be voting members, while three (3) of the commissioners shall be non-voting members and may vote only in the absence of a voting member of the board.

(Code 1968, § 201.3; Ord. No. 89-80 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01; Ord. No. 143-17/18, 2-5-2018)

Sec. 2-49. Qualifications.

(a) *Qualifications of commissioners.* Every civil service commissioner and alternate shall be at least 18 years of age and a resident of the City of Portland for at least three (3) months prior to the start of their term. In addition, the following persons shall not be eligible for appointment to, or service on the Commission:

(1) Any present or former employee of the city, who was employed by the city within the previous ten (10) years;

(2) Any present or former member of the City Council, who has held that position in the previous ten (10) years; or

(3) Any civil service commissioner who has completed three (3) consecutive full terms of three (3) years as provided in Chapter 2, Article III.

(b) Additional subcommittee eligibility requirements:

(1) *Employment subcommittee*. The following persons shall not be eligible to serve on the employment subcommittee:

any relative of a present member of the police or fire departments.

(2) ~~Police-Citizen Review Subcommittee~~Civilian Police Review Board. In order to ensure an objective and unbiased audit of the police department's internal affairs investigation process, any applicant for service on the ~~citizen-review subcommittee~~civilian police review board shall be disqualified from serving on said subcommittee if:

- a. any member of the applicant's immediate family is or has been a Portland police officer in the previous ten (10) years;
- b. the applicant or any member of his or her immediate family has been arrested by any member of the Portland police department within the previous ten (10) years, or has had the final disposition of any criminal proceedings resulting from such an arrest within the previous ten (10) years, whichever is longer;
- c. his or her immediate family has filed a complaint with the internal affairs unit of the Portland police department within the previous ten (10) years;
- d. the applicant or any member of his or her immediate family has brought suit against the City of Portland, the Chief of Police, the police department or any individual police officer for a cause of action arising out of an officer's performance of his or her duties; within the last ten (10) years, or has had such a suit finally disposed of within the previous ten years, whichever is longer; and
- e. "Immediate family" as used herein shall mean and include spouse, domestic partner, children, grandchildren,

2-6

Commented [RM1]: The City Council is considering reducing this restriction. They are also considering whether this restriction should be different for those in policy-making positions.

parents, grandparents, and siblings.

(c) Failure to disclose any grounds for disqualification or falsification of any information in the application process shall disqualify the person from service on the commission and shall constitute "cause" within the meaning of section 2-46.

(d) Any civil service commissioner or alternate who becomes ineligible to serve during his or her term shall resign, and failure to do so shall be "cause" within the meaning of section 2-46. A commissioner or alternate on the employment subcommittee who is a relative of any candidate for appointment under this article shall inform the secretary in writing of such relationship and shall not attend any meeting of the subcommittee dealing with such candidacy, nor participate in nor attempt to influence any action by the commission with respect to the position for which such relative has applied.

(e) Reasonable efforts shall be made to ensure that the appointments to the civil service commission are diverse and representative of the community.

(Code 1968, § 201.4; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 370-91, § 1, 6-5-91; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01; Ord. No. 118-08/09, 12-1-08; Ord. No. 143-17/18, 2-5-2018)

Sec. 2-50. Appointment.

(a) Civil service commissioners and the alternates of the employment subcommittee shall be appointed by the City Council.

(b) Members of the civilian police review board shall be appointed as follows:

- (1) A minimum of five (5) voting members appointed by the City Council;
- (2) One (1) voting member appointed by the Mayor; and
- (3) Three (3) non-voting members appointed by the City Council.

~~+(a)~~(c) Such power of appointment shall be exercised only after the City Clerk has published a notice announcing such position or positions, describing the responsibilities thereof, and soliciting applications by qualified persons in a newspaper of general circulation within the city not less than fifteen (15) calendar days in advance of action by such council. Applications may be solicited whether or not there is a vacancy, and such applicants may be considered for any vacancy which occurs within one hundred eighty (180) days of the closing date for such applications. Such applicants may also be considered for appointment as a commissioner pro tem pursuant to section 2-55 below. Nothing herein shall limit the city's authority to solicit applications whenever the City Manager deems that it is necessary.

(Code 1968, § 201.4; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 138-92, § 3, 10-19-92; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97)

Sec. 2-51. Terms.

(a) *Term.* Each civil service commissioner or alternate shall be appointed to a three-year term, unless appointed to fill a vacancy. ~~Police citizen review subcommittee commissioners first appointed hereunder shall be appointed for one, two and three year terms so that only two (2) are initially selected each year other than by reason of resignation, removal or death.~~ A commissioner or alternate shall serve until his or her successor is appointed and qualified, but in no case longer than one hundred twenty (120) days from the expiration of his or her term.

(b) *Limitation on service.* The term limitations of Chapter 2, Article Iii shall apply to service on each of the subcommittees of the civil service commission.

(c) *Applicability.* The limitation on terms provided by this amendment shall apply to any person serving on the civil service commission as of the effective date of this amendment (7/5/1991) and to any person appointed after said effective date.

(d) *Initial Civilian Police Review Board.* For the first civilian police review board appointed following its creation, the City Council and Mayor shall first select from the current members of the police citizen review subcommittee in making appointments to the board. Additional vacancies shall be filled in accordance with the process outlined in Section 2-50. On the first board, two (2) voting members appointed by the City Council shall serve for a one (1) year term, two (2) voting members appointed by the City Council shall serve for a two (2) year term; one (1) voting member appointed by the City Council shall serve for a three (3) year term; the one (1) voting member appointed by the mayor shall serve for a three (3) year term; one (1) non-voting member appointed by the City Council shall serve for a one (1) year term; one (1) non-voting member appointed by the City Council shall serve for a two (2) year term; and one (1) non-voting member appointed by the City Council shall serve for a three (3) year term.

(Code 1968, § 201.3; Ord. No. 89-80, 7-7-80; Ord. No. 275-83, 11-7-83; Ord. No. 299-86, 1-22-86; Ord. No. 370-91, § 2, 6-5-91; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01; Ord. No. 118-08/09, 12-1-08)

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Sec. 2-54. Officers.

Each subcommittee of the civil service commission shall annually elect one (1) of its members as the chair. Each subcommittee ~~may, at its option, shall~~ also elect one (1) of its members as the vice chair, to serve in the absence of the chair. The Director of Human Resources or his or her designee shall serve as secretary to the employment subcommittee and shall furnish any necessary administrative assistance.

The ~~corporation counsel~~Justice, Diversity, Equity, and Inclusion Director or the City Manager's designee shall serve as secretary to the ~~police citizen review subcommittee~~civilian police review board and shall furnish any necessary administrative assistance to that subcommittee.

(Code 1968, § 201.3; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01; Ord. No. 143-17/18, 2-5-2018)

Sec. 2-55. Commissioners pro tem.

In the case of temporary absence from the city, temporary disability of the ~~civil service commission~~employment subcommittee members and alternate, or other circumstances, so that a quorum of ~~the~~a subcommittee cannot be constituted without such action, the City Council may appoint such commissioners pro tem as may be necessary to constitute a quorum. Commissioners pro tem shall be subject to the eligibility requirements of this division. A commissioner pro tem shall possess the powers and discharge the duties of a regular commissioner during the absence or disability for which he or she has been appointed; provided, however, that a commissioner pro tem shall have no authority with respect to rule-making by the commission and shall not participate in any action or decision where a quorum is otherwise present.

(Code 1968, § 201.4; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97)

Sec. 2-56. Meetings.

(a) *Calling of meetings.* Meetings or hearings of either subcommittee of the Civil Service Commission may be called at any time by its Chair, or in the absence from the city or disability of the Chair, by any member of the Subcommittee. The Chair of a Subcommittee shall call a meeting upon request from any Subcommittee Commissioner.

(b) *Quorum.* A quorum of the Employment Subcommittee of the Civil Service Commission shall be two (2). The Subcommittee Alternate may attend any hearing or meeting, but shall participate as a Commissioner only during the absence or disability of any Commissioner or whenever a vacancy on the Subcommittee exists.

A quorum of the ~~Police Citizen Review Subcommittee~~Civilian Police Review Board shall be a majority of the total number of voting members presently appointed to the board. When a majority of the total number of voting members presently appointed to the board is not available for a meeting, the Mayor may appoint non-voting members as voting members to the extent necessary to create a quorum for that particular meeting. The board shall act by a majority of voting members present and voting.~~four (4). Notwithstanding the foregoing, the quorum shall be reduced to three (3) during any period when there is a vacancy on the Subcommittee, including a vacancy in the position of alternate.~~

(Code 1968, § 201.5; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-

01; Ord. No. 247-03/04, 6-21-04)

* * *

DIVISION 4. ~~POLICE CITIZEN REVIEW SUBCOMMITTEE~~CIVILIAN POLICE REVIEW BOARD

Sec. 2-76. Functions and duties.

(a) *Duties.* The duties of the ~~police citizen review subcommittee~~civilian police review board are as follows:

- (1) To receive, through the Justice, Diversity, Equity, and Inclusion Director or the City Manager's designee (the "Community Liaison"), complaints of police misconduct by civilians and police as follows:
 - a. Complaints received by the Community Liaison shall be referred to the police internal affairs department for investigation.
 - b. To the extent that civilians report police misconduct to the police department directly, the police department will provide the Community Liaison with a copy of the complaint within five (5) calendar days.
 - c. The Community Liaison will not accept any complaints from police officers or their representatives regarding disciplinary actions or personnel matters.
 - d. The Community Liaison or his or her designee shall provide a report to the board each month regarding the complaints received.
- ~~(1)~~(2) To review all final investigation reports submitted by internal affairs and/or police command staff to determine whether such police investigations into citizens' complaints by members of the public against police officers are were thorough, objective, fair and timely by auditing the police department's internal affairs' unit investigative methods and procedures;
- (3) To maintain the confidentiality of all information and documents provided to and/or reviewed by the board in accordance with state law.
- ~~(24)~~(4) To provide a written annual report in writing to the City Manager, Mayor, City Council, and Chief of Police that includes, but is not limited to, the periodically, but no less than annually beginning in January 2003, as follows:

~~a. a.—the board’s policy and funding recommendations concerning the police internal affairs process, the board’s review process, and the appeal process laid out in Section 2-78; and~~

~~b. the number of complaints submitted to the board and the number of complaints resolved during the previous year. on the subcommittee’s determination as to the thoroughness, objectivity, fairness and timeliness of the police internal affairs’ investigation of citizen complaints against police officers; and~~

~~b.—any recommendations and/or proposals for improvements or modifications in the police internal affairs investigative process, policies or training, and for enhancing public confidence in the methods and process of investigation of citizen complaints against police officers.~~

(3) To hold a public hearing at least annually to receive comments upon the ~~police citizen~~ complaint process and to engage the City residents as to the board’s purposes and goals.

(4) ~~Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures,~~To ensure that all reports of the ~~subcommittee board~~ shall be prepared ~~done~~ in such a manner that particular complainants, witnesses, and officers are not personally identifiable.

(5) ~~To ensure that its r~~Reports of the subcommittee shall be ~~are~~ made available to the public but only to the extent permitted by~~consistent with~~ the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 et. seq. and other applicable law.

(6) To propose make~~—~~suitable procedural rules and rules regarding board member roles, from time to time, for the conduct of its duties. Such Pproposed rules shall be submitted to the City Council and shall become effective only when approved by the City Council. All such rules shall be recorded in the office of the City Clerk.

(b) *Complaints to be reviewed:* The ~~subcommittee board~~ shall review all completed internal affairs investigations ~~of citizen complaints.~~

(c) *Timing of review.* All ~~subcommittee board~~ reviews of ~~citizen complaints~~internal affairs investigations shall take place only after final disciplinary action has been taken and all appeals exhausted or settled or the case has been finally closed with no disciplinary action taken. The police department shall submit its report on the conclusions

of any internal affairs investigation no more than fourteen (14) calendar days after the findings become final and after final disciplinary action has been taken and all appeals exhausted or settled or the case has been finally closed with no disciplinary action.

(d) *Notification of review.* The ~~subcommittee board~~ shall notify the ~~citizen~~ complainant, in writing, of the ~~subcommittee's board's~~ review and any findings made by the ~~boardsubcommittee~~ regarding the thoroughness, objectivity, fairness and timeliness of the internal affairs investigation.

(e) *Scope of authority.* The ~~subcommittee board~~ shall conduct its duties solely to determine the thoroughness, objectivity, fairness and timeliness of the police department's internal affairs' methods and procedures in regard to ~~citizen complaints against police officersinternal affairs investigations~~, and the ~~subcommittee board~~ shall have no power or authority to subpoena or call witnesses nor to impose or modify any disciplinary action, or lack of action, against any police officer. The ~~subcommittee board~~ shall make no recommendations nor offer any findings or comments relative to any disciplinary action, or lack of action, against any officer.

(f) *Training.* Prior to assuming their duties hereunder, ~~subcommittee board~~ commissioners shall attend training by city staff as to the subcommittee's duties and responsibilities, applicable state and local law, ordinances, and rules and regulations, ~~issues relevant to the conduct of the citizen review function~~, accepted police practices and the department's internal affairs investigation process. Such training shall be provided by the city at no cost to the ~~subcommittee board~~ members.

~~(a) (g)~~ *Resources.* To facilitate the effectiveness and objectivity of the ~~police citizen review subcommittee~~ civilian police review board, the city shall make available to the ~~subcommittee board~~ the services of a technical advisor, as needed by the ~~subcommitteeboard~~. The technical advisor may be used for the purposes of training; briefing the ~~subcommittee board~~ on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the ~~subcommittee board~~ on aspects of the internal investigation process. The ~~technical~~ advisor shall be retained by the City Manager after consultation with the Chief of Police, representatives of the police unions and the ~~subcommittee chairperson~~ chair of the board. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor.

In addition to receiving complaints and forwarding them to the board, the Community Liaison shall ensure that the public is aware of the methods for filing complaints, and shall assist the board with carrying out its duties, conducting outreach, and other duties as assigned by action of the board.

The Police Department shall designate a staff member to serve as

the civilian police review board's Police Liaison. The Police Liaison shall be familiar with the police department's standard operating procedures and shall assist the board with questions concerning the department's standard operating procedures.

The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the ~~subcommittee~~ board to conduct its duties hereunder. In no case shall the ~~boardsubcommittee~~ have access to police officers' personnel records except to the extent that they are part of an internal affairs investigation report or are considered a public document under the state Freedom of Access law.

(Substitute Ord. No. 83-01/02, § 3, 11-5-01; Ord. No. 143-17/18, 2-5-2018)

Sec. 2-77. Confidentiality.

Each member of the civil service commission is obligated to maintain the confidentiality of all information and documents either provided to or reviewed by them, in accordance with state law. Failure to maintain such confidentiality will be cause for removal from the commission. All reports and requests for disclosure of any information shall be referred to the corporation counsel for review prior to release.

(Substitute Ord. No. 83-01/02, § 3, 11-5-01)

Sec. 2-78. Appeals.

(a) Individuals aggrieved by the civilian police review board's determination regarding the thoroughness, objectivity, fairness, and timeliness of an internal affairs investigation may appeal the civilian police review board's determination to the City Council.

(b) The City Council shall review the internal affairs investigation materials as well as the basis for the appeal and provide an advisory opinion regarding the thoroughness, objectivity, fairness and timeliness of the internal affairs investigation. The City Council's review shall be de novo and will occur in executive session in accordance with state law. The City Council shall have no power or authority to subpoena or call witnesses nor to impose or modify any disciplinary action, or lack of action, against any police officer. The City Council shall make no recommendations nor offer any findings or comments relative to any disciplinary action, or lack of action, against any officer. The City Council's decision on any appeal will be final and not appealable.

(c) All such appeals to the City Council are subject to the same confidentiality requirements that are applicable to members of the police civilian review board. All reports or decisions of such appeals and requests for disclosure of any information related to an appeal shall be referred to the corporation counsel for review prior to release.

Sec. 2-7~~98~~ thru 2-90. Reserved.

City of Portland
Code of Ordinances
Sec. 2-459

Administration
Chapter 2
Rev. 11-20-2017

2-14

ARTICLE IX: CIVILIAN POLICE REVIEW BOARD

Section 1. Purposes, composition, term, appointment, first board, qualifications, vacancies, removal, compensation.

(a) Purposes. For the purposes of increasing public trust and confidence in the Portland Police Department, there shall be a civilian police review board.

(b) Composition, term, appointment, first board. The civilian police review board shall be composed of nine (9) or more members who shall hold office, except as hereinafter provided, for a term of three (3) years unless appointed to fill a vacancy, and until their successors are appointed and qualified, but in no case longer than 120 days after expiration of their term. A minimum of four (4) voting members shall be appointed by the city council, one (1) voting member shall be appointed by the mayor and three (3) non-voting members shall be appointed by the city council. A majority of the total number of voting members appointed shall constitute a quorum of the board and the board shall act by a majority of voting members present and voting.

For the first board appointed following its creation, the city council and mayor shall first select from the current members of the police citizen review subcommittee, currently established by City ordinance, which subcommittee shall be supplanted by the board, in making appointments to the board. On the first board, two voting members shall serve for a one (1) year term, two voting members shall serve for a two (2) year term, and the voting member appointed by the mayor shall serve for a three (3) year term; and one non-voting member shall serve for a one (1) year term, one non-voting member shall serve for a two (2) year term, and one non-voting member shall serve for a three (3) year term. Thereafter, all members shall serve for a term of three (3) years. No person shall be appointed to, nor serve, more than three (3) consecutive full terms or nine (9) consecutive years, whichever is greater, on the board. Following appointment of the first board, the city council shall exercise its power of appointment only after the city clerk has published a notice announcing the availability of board positions, describing the responsibilities thereof and soliciting applications by qualified persons, in a newspaper of general circulation at least 15 days before the city council acts to appoint to the board.

(c) Qualifications. All candidates for the civilian police review board must be at least 18 years of age and must be residents of the City for a period of at least three (3) months prior to the date on or before which the board member is to be seated.

(d) Vacancies and Removal. The City Council shall provide by ordinance procedures for vacancies and removal of members.

(e) Training. Prior to assuming their duties hereunder, civilian police review board members shall attend training provided by city staff as to the board's duties and responsibilities, applicable state and local law, ordinances and rules and regulations, accepted police practices and the police department's internal affairs investigation process.

(f) Confidentiality. Each member of the civilian police review board is obligated to maintain the confidentiality of all information and documents either provided to or reviewed by them, in accordance with state law. Failure to maintain such confidentiality will constitute "cause" for removal from the board under (d) above. All reports prepared by the board and all requests received by the board for disclosure of any information or documents in the custody of the board or its members shall be referred to the corporation counsel for review prior to release.

(g) Transition. The city council shall promptly consider and enact an ordinance to implement this Article, which ordinance upon its effective date also shall repeal the existing Police Citizen Review Committee ordinance provisions in Chapter 2, Art. IV, Div. 4 of the Code of Ordinances, City of Portland, Maine.

(Referendum 11/8/2022)

Section 2. Powers and duties.

(a) Complaints. The civilian police review board shall receive all complaints brought by civilians regarding the Portland police department and shall refer such complaints to the Portland police internal affairs department. Members of the police department may bring complaints to the board, to internal affairs, or to command; the board shall refer any such complaints it receives to internal affairs. Portland police department command shall review internal affairs draft findings on complaints and shall submit its report on the conclusions of any investigation on complaints to the board for consideration no more than fourteen (14) days after the findings become final and after any final disciplinary action has been taken and all appeals exhausted or settled or the case has been closed with no disciplinary action. Neither police officers nor their representatives may file complaints regarding disciplinary actions or personnel matters under this subsection.

(b) Review, reports. The board shall review all final investigation reports submitted by internal affairs and/or command staff under Section 2. (a) above for due process issues, including but not limited to, issues of fairness, thoroughness, objectivity, and timeliness. Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures, all reports of the board issued to address complaints filed under Section 2. (a) above shall be done in such a manner that particular complainants, witnesses and officers are not personally identifiable. Reports of the board shall be made available to the public to the extent consistent with the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 *et seq.*

(c) Appeals. The city council shall by ordinance adopt an appeal process consistent with federal, state, and local law for persons aggrieved by a report issued by the civilian police review board on complaints filed with the board under Section 2. (a) above to appeal that board report to the city council or such other body as the city council may designate or create for

a hearing, in executive session where required, and for the issuance of an advisory opinion which shall not be legally binding on the city, the police department, police officers, or individuals, and which hearing and advisory opinion shall not include or address any disciplinary proceedings. Neither police officers nor their representatives may file appeals regarding disciplinary actions or personnel matters under this subsection.

(d) Policy. The civilian police review board shall be able to make policy recommendations to the mayor, the city council, and the chief of police.

(e) Annual report, communications, additional duties. The civilian police review board shall hold a public hearing at least annually to receive comments upon the community complaint process and to engage City residents as to the board's purposes and goals, and shall prepare and present to the mayor, city council, and chief of police an annual report, including but not be limited to, policy and funding recommendations, and the number of complaints submitted to the board and the number of complaints resolved during the previous year. Any recommendations made by the board regarding the police department shall be based on policy evaluations, may be assigned by the city council and mayor to staff for research, and may be enacted or implemented. The board also may, in its discretion, address the city council on an as-needed basis. The city council and mayor may add to the board's duties by ordinance at any time.

(f) Board Officers & Procedural Rules. The civilian police board shall annually elect one of its members to serve as chair, and shall annually elect one of its members to serve as vice-chair, to serve in the absence of the chair. The City Council shall by ordinance establish rules of procedure and board member roles. The board may recommend such rules to the City Council¹.
(Referendum 11/8/2022)

Section 3. Funding, staff, resources.

(a) Funding, staff. The civilian police review board shall be funded as needed by the city council through the annual budget. Such funding shall include professional staff, including but not limited to a "Community Liaison" and a "Police Liaison" familiar with Portland police department standard operating procedures. The city council shall decide whether the community liaison and police liaison positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees. The community liaison shall serve at the direction of the board and shall ensure the public is aware of the methods for filing complaints, and shall assist the board with carrying out its duties, powers and functions, conducting outreach and with other duties as the board may assign. The board may request additional funding from the city council at any time. The police liaison may be the same person/position as the "technical advisor" described in Section 3(b) below.

(b) Resources. The city shall make available to the board the services of a technical advisor, as needed by the board. The technical advisor may be used for the purposes of training; briefing the board on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the board on aspects of the internal investigation process. The technical advisor shall be retained by the city manager after consultation with the chief of police, representatives of the police unions and the chair of the board. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor. The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the board to conduct its duties hereunder. In no case shall the board have access to police officers' personnel records except to the extent that they are part of an internal affairs

investigation report or are considered a public document under the Maine Freedom of Access Act.

(c) Coordination. The board shall work in conjunction with the City's communications department, internal affairs, and any other city departments or offices to effectuate all powers and duties granted to it in this charter and any additional duties assigned to it by the city council or mayor.

(Referendum 11/8/2022)