

City of Portland Police Citizen Review Subcommittee

AGENDA November 13, 2024 6:00 PM

1. Zoom information

On Wednesday, November 13, 2024 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.

Hi there,

You are invited to a Zoom webinar.

When: Nov 13, 2024 06:00 PM Eastern Time (US and Canada)

Every month on the Second Wednesday

Nov 13, 2024 06:00 PM

Please download and import the following iCalendar (.ics) files to your calendar system.

Monthly: <https://portlandmaine-gov.zoom.us/webinar/tZcpfu2sqTssGNV6CZYBteABamEsRuTi0hJm/ics?icsToken=98tyKuGrqjIuHtOVthuGRpwqBor4LOjwtnJdjY1ryjzfOgJHZyLUN-9nIYBqJNGA>

Topic: Police Citizen Review Subcommittee

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/83494470621?pwd=PqEvcCqi4naT2Pa1QNco1u4TPI1U3Q.1>

Passcode: 928732

Or One tap mobile :

+13126266799,,83494470621# US (Chicago)

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Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 312 626 6799 US (Chicago)

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+1 309 205 3325 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

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Webinar ID: 834 9447 0621

International numbers available: <https://portlandmaine-gov.zoom.us/j/kdvyCFfvFR>

2. Call to Order
3. Approval of October 9, 2024 minutes
 - a. Attachment
4. Potential update on the new Civil Police Review Board ordinance
5. Public comment on agenda items
6. Workshop: role/responsibilities of the PCRS Board and IA process overview
 - a. Attachment
 - b. Attachment - presentation
7. Executive session pursuant to 1 M.R.S. Sec. 405(6)(F) to discuss IA2024-017
8. Public comment on agenda items
9. Topics for next month's meeting
10. Adjourn

MINUTES
POLICE CITIZEN REVIEW SUBCOMMITTEE

October 9, 2024
Meeting Held Remotely Via Zoom

Members present: Anne Hardcastle, Chair; Reverend Lewis, Vice-Chair; Xavier Botana Gino Desruisseaux; Tim Smith; Joey Brunelle; Kaylin Kerina (joined at 6:46)

Staff present: Associate Corporation Counsel Rachel Millette; Chief Mark Dubois; Major Dan Hondo; Lt. Jacob Titcomb

6:04 Call to order.

Motion was made by Reverend Lewis and seconded by Gino to adopt the September 11, 2024 meeting minutes. Passage 6-0.

Standing of the new ordinance:

Rachel reported that there is a plan of action for moving the new ordinance forward, however, there needs to be more negotiations with the police unions before bringing the ordinance back to the City Council, hopefully in December. Rachel will inform the subcommittee when the exact date is as soon as she knows. Reverend Lewis asked about the City Council timeline as it relates the number of readings this will need. Rachel responded that if the ordinance is added to a December agenda it would likely be in an executive session and then opened up after into a workshop session. There may be different approaches to the process if the City Council decides to make significant changes to the ordinance, it could be sent to committee where the changes would be made and then workshopped. If the City Council comes to an agreement of what the ordinance would look like, there would be two readings of the ordinance, the first of which is not open to public comment. The second read is open to public comment before the City Council votes on the ordinance.

Joey pointed out that there will be three new city council members and that a workshop would be appropriate. Xavier asked what version of the ordinance the police unions are bargaining over. Rachel expressed that the police negotiations are confidential. Xavier asked if the PCRS will see the ordinance before it goes to the City Council. Rachel responded that once the ordinance is presented to the City Council in executive session, it will then be workshopped, and then the PCRS should be able to review it before it is voted on by the City Council. Rachel expressed that there are a lot of moving parts and that there is no way to predict if the City Council will want changes. Rachel suggested that the PCRS schedule a special meeting to review the ordinance if the timing doesn't align with their normally scheduled monthly meeting. Joey pointed out that the PCRS meets on 11/13 and 12/11, the City Council meets on December 2, which may end up being the inaugural meeting for new members. Joey predicted that there could be a workshop on December 9 before the PCRS December 11 meeting.

Reverend Lewis asked if the PCRS could authorize the Chair to speak/write on behalf of the PCRS to the City Council with its response regarding the new ordinance. Rachel agreed that it could be done that way, or workshopped, though she cautioned the subcommittee about not

meeting outside of the public forum. Anne asked if they planned a special meeting what kind of advance notice would the public need. Rachel answered that there are no hard and fast meeting notice rules adding that she will know well in advance of seven days when the City Council workshop will take place.

Anne inquired about the timing of the transition from the PCRS to the Citizen Police Review Board (CPRB). Rachel responded that once the ordinance is passed, it will go into effect after 30 days, then the PCRS will be dissolved, and an appointment process will begin for the new CPRB, similar to the process that has been in place. Preference will be given for current members to serve on the new, larger board. Anne surmised that theoretically it could be 30-60 days before the new board is in place.

Joey asked how to go about bringing up a subject previously discussed at an earlier meeting. Rachel answered that the subcommittee sets the next meeting's agenda at the end of each meeting. If something comes up after a meeting, she suggests that he email her and Anne and Anne can decide if the subject should be added to the agenda. Rachel said the individual conversations around procedural topics can take place between two individuals and explained that nothing confidential should be discussed and to avoid a quorum.

No public comment was offered.

Reverend Lewis motioned to postpone review of IA2024-006 until the next meeting, Joey seconded.

Reverend Lewis explained that he believes that the case should be reviewed by the person it was assigned to – thus postponing the case until the next meeting for Kay to review the case. Anne agreed with postponing the case. Joey asked if they need to wait a whole month before reviewing the case. Anne responded that there is precedence of postponing meetings, thus it is not usual practice to hold a special meeting to review a case. Reverend Lewis re-stated his motion to defer the review of IA2024-006 until the next regular meeting of the PCRS. Tim seconded. Xavier suggested that the subcommittee appoint two people to each case to review, the second person acting as back-up. Anne agreed that it would be good practice and volunteered to be that person. Xavier volunteered to be the second person for the pending case.

Passed 6-0.

Next month's agenda:

Anne suggested that they hold a workshop around the subcommittee's roles – what they do and how they function so that the group is moving forward in the same direction. Rachel can help with some of it. Rachel and Anne will come up with an agenda. Joey would like the committee to develop SOPs for different aspects of what they do.

There are currently no new cases to review next month.

Joey asked about the Use of Force Report which was emailed to the subcommittee and if it would be added to agenda next month. Joey also asked about an earlier case which resulted in a vote that deemed the case was not thorough, not objective and not fair and what happened as a result of that vote. Anne suggested that they cover that in a workshop. Rachel will provide a copy of the redacted complainant letter that was sent. Xavier would like a forum to discuss the Use of Force Report. Rachel offered to ask someone to come and explain the report and process. The PCRS does not review Use of Force Reports. Tim suggested that the workshop include the training

opportunities available to the subcommittee. Reverend Lewis asked if the SOP addresses the Use of Force Report because it is not a citizen complaint and if the report is a public document. Rachel responded that the report is a public document. Joey also asked about discussing training in police oversight, NACOLE and their best practices. Kay joined the meeting. Anne asked the subcommittee if they wanted to review the case. Reverend Lewis expressed that he would like to go into Executive Session to discuss the case.

6:54 Motion was made to enter into Executive Session pursuant to 1 M.R.S. Sec. 405(6)(F) to discuss IA2024-006 by Anne and seconded by Reverend Lewis. Passage 7-0.

7:39 Out of Executive Session.

Motion was made by Reverend Lewis to find that IA2024-006 was objective; seconded by Kay. Passage: 3 yes; 2 no; 2 abstention, IA2024-0006 was found to be objective.

Motion was made by Xavier to find that IA2024-006 was timely; seconded by Reverend Lewis. Passage: 6 yes; 1 no, IA2024-0006 was found to be timely.

Motion was made by Reverend Lewis to find that IA2024-006 was fair; seconded by Kay. Passage: 4 yes; 2 no; 1 abstention, IA2024-0006 was found to be fair

Motion was made by Kay to find that IA2024-006 was thorough; seconded by Reverend Lewis. Fails: 3 yes; 3 no; 1 abstention, no consensus reached, IA2024-0006 was not found to be thorough, nor was it found not to be thorough.

No public comment.

7:46 Motion was made by Reverend Lewis and seconded by Gino to adjourn. Passage 7-0.



CITY OF PORTLAND
POLICE CITIZEN REVIEW SUBCOMMITTEE
Anne Hardcastle, Chair

RE: Police Citizen Complaint
IA

Dear _____:

The City of Portland has a Police Citizen Review Subcommittee (PCRS) that reviews all of the Police Department's Internal Affairs (IA) investigations into citizen complaints about the Police Department. The PCRS reviews the IA investigations to ensure that they are thorough, objective, fair, and timely. Although the Subcommittee cannot change the Police Department's decision on an investigation, or impose discipline, it ensures that the IA division is conducting its investigations appropriately. The PCRS reports its findings directly to the City Manager so that she can address any issues that the Subcommittee might identify with the IA process.

The PCRS reviewed the IA investigation into your complaint and found that the investigation was thorough, objective, fair, and timely.

If you have any questions about the PCRS or its process, or would like to provide feedback, the PCRS meets regularly throughout the year, and welcomes public comment at the beginning of each meeting. Meetings are posted on the City website at <https://www.portlandmaine.gov/602/Agendas-Minutes>. You are also welcome to reach out by email at pcrs@portlandmaine.gov, or by mail or phone through the City's Corporation Counsel's Office, whose contact information is at the bottom of this letter. Any comments or questions you provide will be shared in the next meeting of the PCRS.

The PCRS takes its role seriously in ensuring that the review of citizen complaints about the Portland Police Department is fair and effective, and appreciates you bringing forward your concerns.

Sincerely,
/s/ [Anne Hardcastle](#)
Anne Hardcastle, Chair

cc: Police Citizen Review Subcommittee
Danielle P. West, City Manager
Mark DuBois, Portland Police Chief
Michael I. Goldman, Corporation Counsel

Police Citizen Review Subcommittee

Review of Obligations & Duties

November 13, 2024





Structure of the PCRS

Established by Chapter 2, Article IV of the Portland City Code

- Composed of seven (7) commissioners, who are residents of the City of Portland
 - Cannot be former employees or City Council members (10 year restriction)
 - Family members or commissioners cannot have been Portland police officers, arrested, filed a complaint, or brought suit (10 year restriction)
- Appointed by the City Council to 3 year terms
 - Limited to 3 terms
- Assisted by the City's Corporation Counsel's office



Meetings of PCRS

Quorum: Four (4) members; Three (3) members during vacancy

Public Meetings

- Required by Freedom of Access Act
- Public notice of meetings
- Executive session to discuss specifics of IA cases
 - To protect privacy of employees & other individuals involved in the underlying situation
- Vote in public session
 - Public discussions should not include specifics of IA cases which are otherwise confidential
- Meeting minutes are required
 - Must include date, time, place, presence or absence of members, motions or votes taken

Outside communications

- Exercise caution in emails & other external communications



PCRS' Duties - Review of IA Investigations

Section 2-76 of Chapter 2 of the City Code

To determine whether police investigations into citizens' complaints by members of the public against police officers are thorough, objective, fair and timely by auditing the police department's internal affairs' unit investigative methods and procedures.

Key Points

- Review of IA process, not reinvestigation of underlying incident
- Review is to determine if investigation is thorough, objective, fair, and timely
- Review only citizens' complaints



PCRS' Duties - Review of IA Investigations

Limitations on Review

- No power to call witnesses
- No ability to impose or modify disciplinary action or lack of action against a police officer
 - No recommendations, findings, or comments relative to disciplinary action
- Consideration is limited to thoroughness, objectivity, fairness and timeliness

PCRS' Duties - Review of IA Investigations

PCRS has developed its own [suggested guidelines](#) for evaluating IA investigations - updated in March 2023

Timely

- Number of days between date of complaint and date of IA letter transmittal to command staff. _____
Note: [SOP 90](#) provides that every effort will be made to conclude review within 45 business days.
- Number of days between date of complaint to when letter was sent to complainant. _____
Note: [SOP 90](#) provides that investigation and command review should be completed within 60 business days of complaint.
- If delays occurred, did IA provide a reasonable explanation given either the level of complexity of the case or outside demands that took precedence over the timely disposition of the case in their report?



PCRS' Duties - Review of IA Investigations

Thorough

- **Was the articulated basis for categorizing the complaint as a Category U, Category 1, or Category 2 complaint consistent with SOP 90?**
 - **If not, was a more detailed investigation warranted?**
- Was key Information/evidence (including available video and audio files, telephone logs, electronic media posts, photos, written statements, etc.) pursued and analyzed by IA?
- If appropriate based on the categorization of the complaint, were all witnesses identified in the complaint interviewed?
- If appropriate based on the categorization of the complaint, was an adequate level of due diligence used to locate and contact witnesses?
- Did the investigator elicit all relevant information from the complainant, witnesses and officer(s) in their interviews?
- Did the investigator conduct follow up interviews with the complainant, witnesses or officer(s) to clarify any conflicting or new information discovered after the initial interviews, if applicable?



PCRS' Duties - Review of IA Investigations

Fair

- Was the investigation process followed as defined by IA department standards and policies?

Note: See [SOP 90](#) issued by Portland PD on IA standards and policies.

- Was the complaint received in an impartial, non-judgmental way?
- Did the investigator approach the investigation in an impartial, non-judgmental way?



PCRS' Duties - Review of IA Investigations

Objective

- Did the investigator exhibit professionalism and neutrality with the complainant, witnesses or officer(s) in his/her interviews?
- Did the investigator evaluate all facts and evidence in a dispassionate, objective manner in the IA report
- Was open-ended questioning used by the investigator with the complainant, witnesses or officer(s)?
- Did the investigator explain his or her role and the IA process, including the role of the PCRS?

PCRS' Duties - Review of IA Investigations

Letter send to citizen complainant after review notifying them of findings



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PCRS' Duties - Review of IA Investigations

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PCRS' Duties - Additional Duties

Annual Report to the City Manager

- Subcommittee's determinations on thoroughness, objectivity, fairness, and timeliness of IA investigations
- Recommendations and/or proposals for improvements or modifications in:
 - Police internal affairs investigative processes, policies or training
 - Enhancing public confidence in the methods and processes of investigation of citizen complaints

Public Hearing

- At least annually
- To receive comments upon the police citizen complaint process



Questions?