

**City of Portland**  
**Police Citizen Review Subcommittee**

**AGENDA**  
**June 23, 2025**  
**6:00 PM**

1. Zoom information

- a. This meeting will take place remotely using Zoom 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.

<https://portlandmaine-gov.zoom.us/j/87657624911?pwd=NrLivX7sEIllsM1rn2naQktkkgWXgo.1>

Passcode: 656169

Phone one-tap:

+13052241968, 87657624911# US

+13092053325, 87657624911# US

2. Call to Order

3. Approval of the 2024 Annual Report

- a. Attachment - 2024 Annual Report

4. Discussion of the new ordinance and letter to the City Council regarding the same

- a. Attachments: draft ordinance, 1st draft letter to City Council, letter notes to City Council, 12/14/21 letter to the Charter Commission, and 8/29/23 PCRS letter to City Council

5. Public comment on agenda items

6. Adjourn

City of Portland Civil Service Commission:

# **Police Citizen Review Subcommittee (PCRS)**

## *2024 Annual Report*

Prepared By:

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With Assistance From:

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Tracy Boyd (Paralegal, Corporation Counsel)

<https://www.portlandmaine.gov/698/Police-Citizen-Review-Subcommittee>

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# 1. What is the PCRS?

## a. HISTORY & PURPOSE

In November 2001, after a year of discussion, the Portland City Council established the Police Citizen Review Subcommittee (PCRS). The PCRS was set up to address the issue of public confidence in the Portland Police Department, following a highly publicized case alleging police brutality.<sup>1</sup>

The City sought to "to have a body outside the Police Department review the Internal Affairs (IA) investigative process, primarily to ensure public credibility of the results reached as to whether any formal citizen complaint against an officer should or should not be sustained."<sup>2</sup>

The City deliberated a variety of models for such a board, and received an interpretative ruling from the Maine Labor Relations Board regarding whether those models would require collective bargaining with the police unions. Ultimately the City avoided bargaining by choosing a narrow scope and limited powers for the PCRS.

## b. MEMBERSHIP

The PCRS consists of seven (7) members, who elect a Chair and a Vice Chair annually. All members are appointed by the City Council for terms of three (3) years via the standard Legislative & Nominating Committee process.

Members are limited by the ordinance to serving a maximum of three (3) 3-year terms, which is standard for City of Portland boards. Also, as per tradition with all boards, the City Council automatically renews the appointments of existing

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<sup>1</sup> PCRS 2001 Annual Report, Page 2

<https://content.civicplus.com/api/assets/7b17e8b4-b1c0-4f4a-b7e7-8ef564b22eeb> (See Appendix G)

<sup>2</sup> From City of Portland brief, cited by the Maine Labor Relations Board in their June 27, 2001 interpretive ruling, which can be found in the backup materials for the January 10, 2024 PCRS meeting:

<https://portlandme.portal.civicclerk.com/event/6910/files/agenda/14443>

members when their 3-year terms are up (unless they do not wish to continue, or unless there are serious problems with their service or behavior).

The PCRS has some of the most strict qualifications/disqualifications for serving of any city board. Anyone who has themselves, or has a family member (spouse, domestic partner, child, grandchild, parent, grandparent, or sibling) who has, in the last ten (10) years:

- has filed a complaint with the Portland Police Department,
- been a Portland police officer,
- been arrested,
- or sued the City for something related to police conduct

is disqualified from serving on the PCRS.

**In 2024** there were **two (2)** mid-term resignations and **one (1)** new member. **One (1)** seat remained unfilled until 2025.

*>> A complete list of PCRS members in 2024, including those who resigned or joined and the dates thereof, can be found in Appendix B.*

### c. DUTIES

The PCRS has three main duties (as defined in City Code Chapter 2, Section 2-76)<sup>3</sup>:

**i. Reviews of IA Investigation Procedures & Methods:** The PCRS reviews police investigations into complaints against police officers by members of the public to determine if they were thorough, objective, fair, and timely by auditing the police department's Internal Affairs' unit's methods and procedures.

*Note: The scope of the PCRS review is limited to whether IA investigation procedures and methods are "objective, fair, thorough and timely." The PCRS cannot make any judgements regarding the merits of the complaint itself, nor the conclusions reached by the investigation, nor any disciplinary actions that resulted from the investigation. Furthermore, the PCRS only reviews after the IA process has been completed, disciplinary*

<sup>3</sup> City Code Chapter 2

<https://content.civicplus.com/api/assets/33c0e8fb-d8ec-4b2b-a07f-8128d5052cb2>

*actions are taken, appeals are resolved, and the original complainant has been notified by the Police Department of the result of their investigation.*<sup>4</sup>

**In 2024** the PCRS reviewed **fourteen (14)** IA investigations and found that all except **two (2)** were thorough, objective, fair, and timely. Detailed information about cases and determinations appear in Section 2 of this report.

*>> A complete list of cases can be found in Appendix D.*

**ii. Annual Reports:** The PCRS submits a written report to the City Manager at least annually on:

- its determinations regarding IA investigations;
- a statistical analysis of all cases reviewed, including an analysis of trends/patterns of complaints or results of investigations of complaints;
- any recommendations to improve the police IA investigation process, policies or training, and/or recommendations for enhancing public confidence in the methods and process of investigation of citizen complaints.

*>> Determinations, statistical analyses, and recommendations from 2024 appear in Section 2 of this report.*

**iii. Public Hearings:** The PCRS is to hold a public hearing at least annually to receive comments regarding the police citizen complaint process.

**In 2024** the PCRS fulfilled this requirement for a “public hearing” by taking public comment at each of its monthly meetings, which were all held virtually over Zoom. However, only **one (1)** comment was received this way in the entire calendar year, and the commenter was an individual (Joey Brunelle) who was about to join the board at the next meeting.

*>> A complete list of meetings and topics discussed, including any public comment, can be found in Appendix A.*

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<sup>4</sup> For more information about the origins of the limitations of the PCRS review process, please refer to Appendix G.

## 2. Duties Performed in 2024

### a. INVESTIGATIONS REVIEWED & DETERMINATIONS

The PCRS reviewed fourteen (14) IA investigations in 2024. Committee members typically received investigation materials from IA one (1) week before they were to be discussed. These materials included:

- a copy of original complaint (hand-written or submitted online)
- audio, video and transcripts of interviews with the complainant (when available)
- audio, video and transcripts of interviews with the officers involved and (when appropriate and available) any witnesses
- criminal records of individuals involved (when appropriate)
- audio from 911 calls
- video and audio from body-worn cameras
- a complete timeline of the investigation
- the final disposition of IA, including disciplinary actions and the Chief of Police's review

In accordance with state law, investigations were discussed in executive session to protect the privacy of both officers and complainants. These executive sessions primarily consisted of:

1. One committee member "presenting" the case (this is a rotating responsibility assigned in advance by the chair);
2. Committee members asking Police Department IA staff (including the IA lieutenant who presided over the investigation(s) being reviewed) questions regarding their investigation, and IA staff answering those questions to the best of their ability.

When the committee was satisfied that its questions had been answered, the executive session was concluded, and members returned to the public meeting to vote on whether the investigations had been **thorough, fair, objective** and **timely**.

Committee members did not discuss specifics of cases in the public meeting.

However, in the December 11, 2024 meeting Associate Corporation Counsel Rachel Millette clarified that PCRS members can discuss their votes in a public session provided that the discussion does not in any way violate the privacy rights of the employees or the individual making the complaint. Broad generalizations are allowed, and questions can be asked during executive sessions regarding what is allowable to say in the public meeting.

**Of the fourteen (14) IA investigations that were reviewed, all except two (2) were determined to have been thorough, objective, fair and timely:**

- **IA2024-005** was determined to not have been **thorough, fair, nor objective.**
  - This investigation stemmed from a complaint from a Portland resident and pertained to officer “conduct toward the public.”
  - This complaint was submitted via the online form.
  - The IA investigation had concluded that the complaint was “not sustained,” meaning that IA found that no violation of Department rule, regulation or procedure or local, state, or federal law was proven.<sup>5</sup>
  
- **IA2024-006** was determined to have not been **thorough.**
  - This investigation stemmed from a complaint from a Portland resident and pertained to offer “conduct toward the public” and “obedience to law”<sup>6</sup>.
  - This complaint was submitted in writing at PPD headquarters.
  - The IA investigation had concluded that this complaint was “unfounded,” meaning that IA found that reasonably credible evidence exists to indicate the complainant’s allegations are false.<sup>7</sup>

The PCRS did not discuss whether these cases point to any trends, nor whether improvements or changes should be made as a result.

One case came to the PCRS without a standard IA number. This is because it was conducted by an external investigator. For privacy reasons, we cannot give an

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<sup>5</sup> For a complete explanation of the different possible outcomes of IA investigations, refer to Appendix C.

<sup>6</sup> “All employees of the Department shall obey the laws of the United States, the State of Maine, and the laws of any state and local jurisdiction in which the employee is present.” - PPD SOP, Professional Conduct and Responsibility, <https://www.portlandmaine.gov/507/Standard-Operating-Procedures>

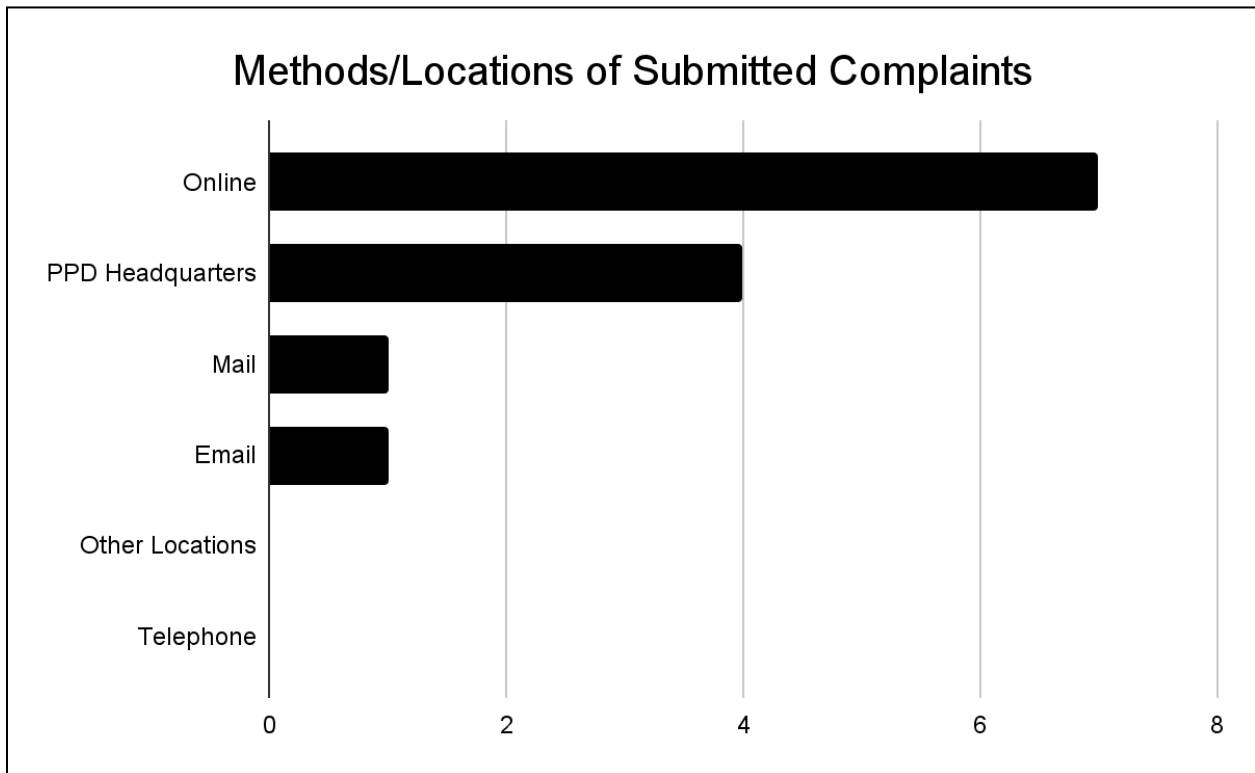
<sup>7</sup> For a complete explanation of the different possible outcomes of IA investigations, refer to Appendix C.

explanation publicly why this was handled in this way, however the PCRS reviewed this investigation in the same way that it reviews all others.

a. STATISTICAL ANALYSIS

**i. How Complaints Are Submitted to PPD**

Fully half - seven (7) - of all complaints handled by the PCRS in 2024 were submitted electronically via the form on the City’s website. Four (4) were received in person at PPD Headquarters, one (1) was received by mail, and one (1) was received by email.



These numbers should not be construed to suggest a preference for online submissions, since paper complaint forms are only available at the PPD Headquarters on Middle Street. This presents a significant barrier to anyone who does not possess technology skills or a suitable device, or even to someone who is simply unaware of the existence of the online form.<sup>8</sup>

<sup>8</sup> Current instructions for how to file a complaint form can be found in Appendix H.

Previous PCRS annual reports indicated that paper forms were also available at PPD community policing centers, the Riverton Community Center (operated by the Parks & Rec Department), the Portland Housing Authority central office, and the City Manager’s office at City Hall. However an audit by a committee member determined that none of these locations still have paper forms.

- At one community policing center, one member of the PPD said the form had been “moved online.”
- A non-police city employee at another location said that they had never heard of the complaint forms before.
- A member of city staff in the City Manager’s office at City Hall said that they didn’t think there was a formal complaint process at all, but that someone could walk down to Police Headquarters and “give feedback” there.

The lack of awareness at these locations suggests that paper forms have not been widely available in many years.

Additionally, many years ago the PCRS worked with City Staff to translate the complaint form into Arabic, French, Portuguese, Somali, and Spanish. These translations were seen as a major achievement in making the complaint process more accessible to all residents. However, these translations are now seemingly only available on the PCRS’s website in PDF format, and they are not mentioned as being available from the online form.<sup>9</sup> It is unknown if paper versions of the translations are available at the one physical location where one can fill out a form, PD Headquarters. (The paper forms also need to be updated for content: at least two had incorrect URLs for the online form.)

## **ii. IA Investigation Duration**

According to data received from the PPD, IA investigations in 2024 took an average of thirty-four (34) days, however there is a large spread in the data:

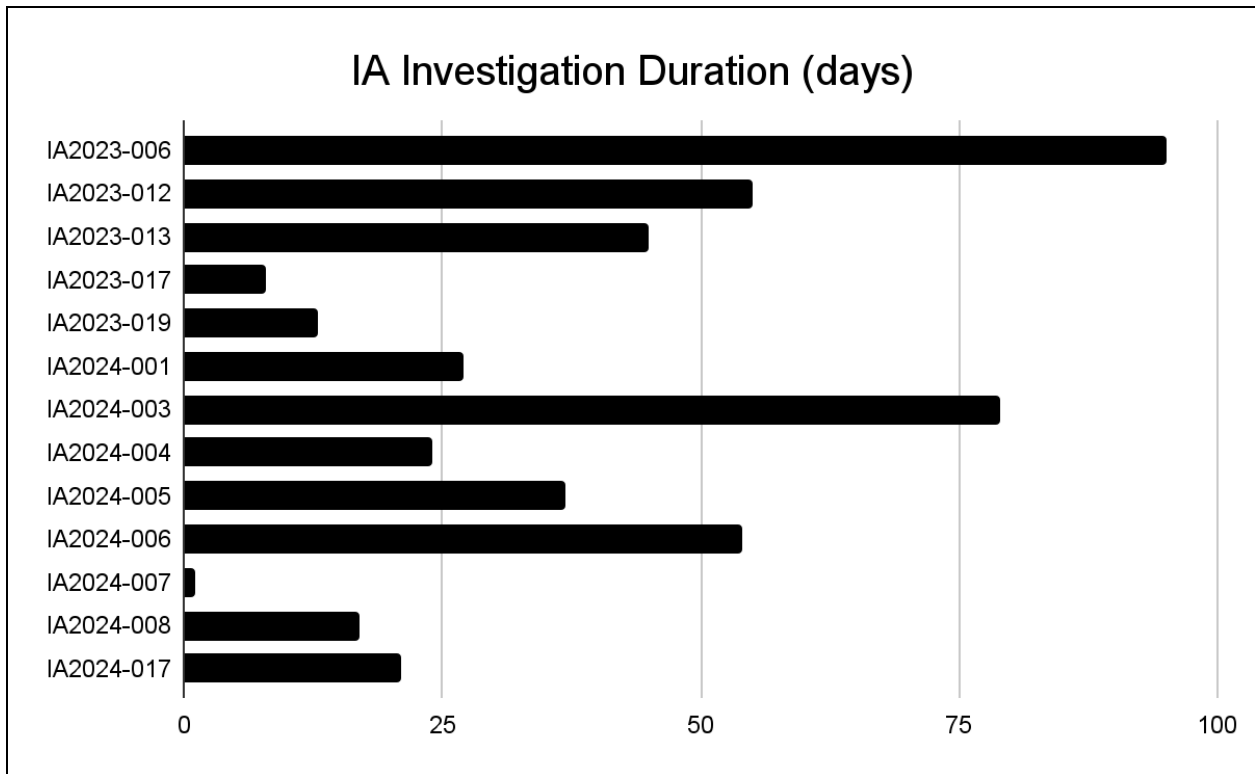
- The lengthiest investigation took ninety-five (95) days. PPD states that in

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<sup>9</sup> Translations are at the very bottom of the PCRS page on the City’s website: <https://www.portlandmaine.gov/698/Police-Citizen-Review-Subcommittee>

many of the lengthier investigations, there were “Timeline issues due to trainings, leaves, contacting witnesses, etc.”

- The fastest investigation (IA2024-007) was reported to have only taken one (1) day to complete. This complaint was concluded to be “unfounded,” and the PCRS determined that the investigation was thorough, objective, fair, and timely.

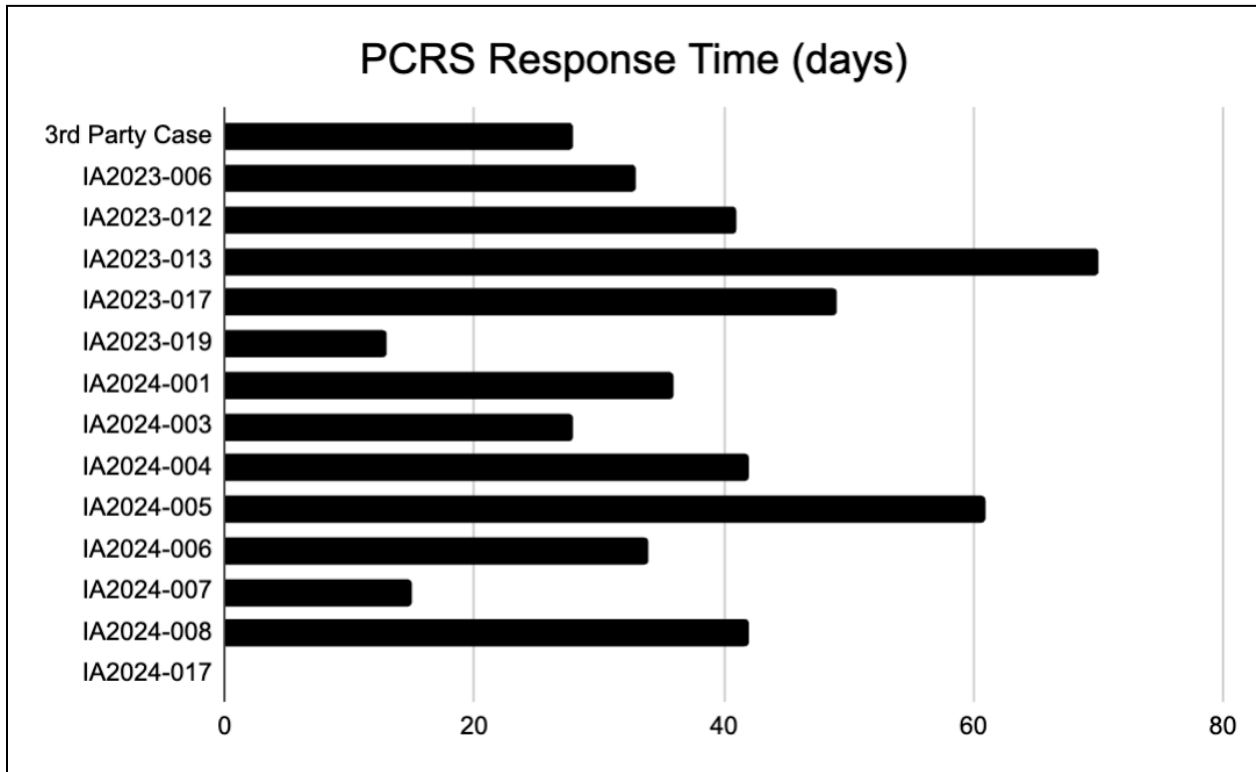


### iii. PCRS Response Time

PCRS reviews take place only after the IA process has been completed, disciplinary actions are taken, appeals are resolved, and the original complainant has been notified by the Police Department of the result of their investigation. The complainant receives an additional letter from the PCRS after the committee determines whether the investigation was thorough, fair, objective and timely.

- In 2024, the median time elapsed between the conclusion of the IA investigation (either the “Initiation of Final Review” or, when applicable, the “Chief’s Decision”) was thirty-nine (39) calendar days.

- The speediest turnaround was fifteen (13) days.
- Three (3) investigations, IA2023-017, IA2024-006, and an investigation conducted by a third-party, took more than two months.



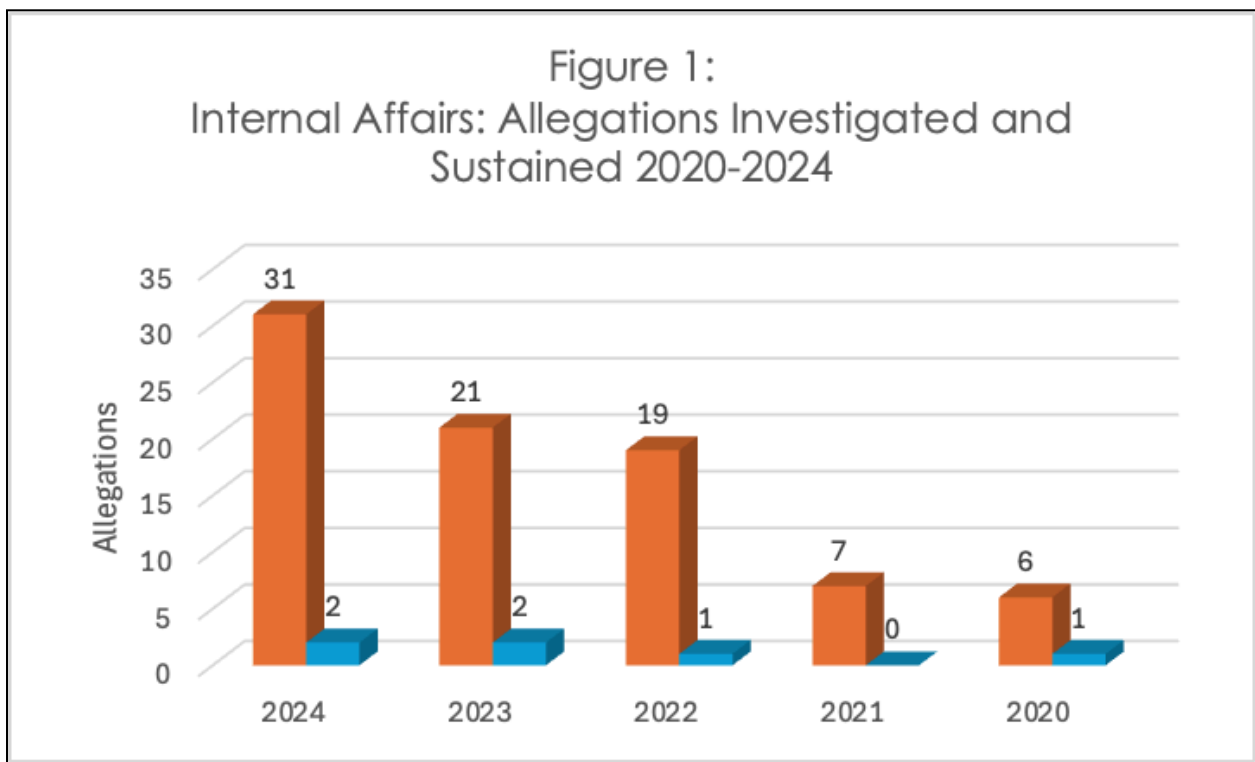
### iii. PCRS Deliberation Time

On average, the committee spent 18.7 minutes per investigation in executive session discussions in 2024.

#### iv. IA: Allegations Investigated & Sustained 2020-2024

In the last five years, PCRS reviewed 106 allegations. (Note that a single investigation often includes multiple allegations, which are Department SOPs that are alleged to have been violated.)

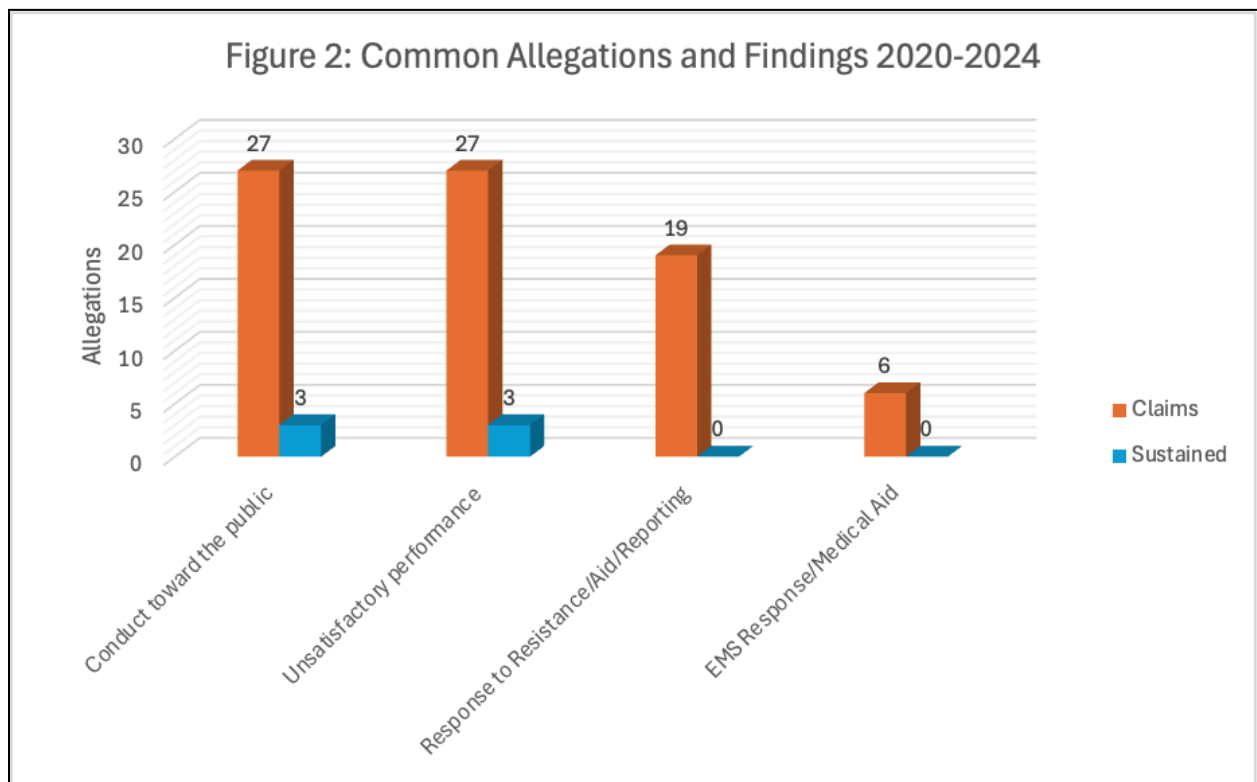
Of these, 8 allegations were sustained. Figure 1 presents a review of the number of standard operating procedures (SOPs) that IA investigated as a result of citizen complaints, along with the number of these allegations that were sustained (e.g. a violation was confirmed) between 2020-2024.



## v. IA: Common Allegations & Findings

In the period 2020-2024, Conduct Towards the Public and Unsatisfactory Performance were the two most common categories of allegations, with 27 allegations each across the five-year period.

Figure 2 highlights the most common types of allegations that internal affairs investigated between 2020-2024 (combined) and how many of those allegations were sustained (e.g. violation was confirmed). See Appendix F for a full accounting of specific allegations in complaints between 2019 and 2023.



### c. RECOMMENDATIONS/PROPOSALS FOR IA OR THE COMPLAINT PROCESS

In 2024, the PCRS did not make any recommendations for improvements to the IA investigation process, policies or training, nor did it make recommendations for enhancing public confidence in the methods and process of investigation of citizen complaints.

### d. COMMUNITY OUTREACH & EDUCATION

In 2024 the PCRS fulfilled the requirement for a “public hearing” by taking public comment at each of its monthly meetings, which were all held virtually over Zoom.

In response to feedback from members of the public in late 2023, the committee began inviting public comment both before and after executive sessions, to make it easier for the public to participate. The Committee also made some improvements to how public comments are recorded in the meeting minutes.

However, only **one (1)** comment was received this way in the entire calendar year. That commenter was an individual (Joey Brunelle) who was about to join the board at the next meeting.

There is a very clear need to improve when it comes to public engagement. However, in 2023 and again in 2024, the committee frequently decided to forgo addressing this issue because the new ordinance and board was perceived to be “right around the corner.” Due to significant delays with the City Council and bargaining with the police unions, this has yet to come to fruition, leaving the PCRS in a kind of “limbo” that has hampered its ability to effectively do its job.

## **3. Looking Forward**

### a. WAITING FOR THE NEW ORDINANCE

The PCRS still awaits the new ordinance establishing its replacement, as required by a Charter Amendment passed by voters in November 2022, and as recommended by the Racial Equity Steering Committee in 2021.

In 2024, the PCRS discussed the prospective new ordinance many times:

- The PCRS received updates from staff at each meeting regarding the status of the new ordinance, but most of these updates said that there were no updates due to the new ordinance being discussed in private with the police unions as part of collective bargaining.
- Multiple members asked whether there was a legal requirement to implement the Charter as amended by voters. Corporation Counsel staff indicated that there was not any such requirement, despite the Charter language saying that a new board should be established “promptly.”
- Members asked about the transition from the PCRS to the new board, however because details remain in flux, it is impossible to plan for a transition.
- Members discussed whether the PCRS should write another letter to the City Council with its opinion about the new ordinance, but this was never agreed to.

Because its demise and replacement has seemed, at times, to be imminent, the PCRS has avoided tackling certain long-term projects like expanding public engagement. This has been disruptive to the effective functioning of the committee.

#### b. THE NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

As Councilors continue to deliberate a draft ordinance, the PCRS would like to refer them to the standards set by the [National Association for Civilian Oversight of Law Enforcement \(NACOLE\)](https://www.nacole.org)<sup>10</sup>.

This esteemed, three-decade-old organization has published an easy-to-read guide for meaningful oversight boards, which also includes common pitfalls when creating a new oversight board.

This guide can be found here:

[https://www.nacole.org/community\\_oversight\\_paves\\_the\\_road\\_to\\_police\\_accountability](https://www.nacole.org/community_oversight_paves_the_road_to_police_accountability)

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<sup>10</sup> <https://www.nacole.org>

### c. IMPROVEMENTS TO STATISTICAL ANALYSIS

New members on the PCRS have expressed an interest in doing a more sophisticated statistical analysis in the investigation and complaint data, however we first need to do a deep dive into:

1. What data is available to us, and what additional data may be useful
2. What statistical analyses are possible with that data
3. What statistical analyses would be useful for the board, the public, and the department.

The Board intends to consult other civilian oversight boards and their reports, as well as NACOLE best standards, to help answer these questions. In addition, the Board would like to implement a more rigorous and thorough process of data verification for our analyses.

The Board will also begin to include the full data set for our annual reports as an attachment to the annual report, to enable future Boards to do their own statistical analyses on historical data.

### e. REVIEW OF BOARD PROCEDURES

The Board will also soon start a process of documenting our own internal procedures, definitions and norms. This will include a holistic review of how we currently operate, and potentially the introduction of changes or improvements.

The goal is to document our standard procedures for:

- Training
- Meeting Management
- Offline Communication/Collaboration
- Public Engagement

We believe documenting this information will systematize, regularize, and strengthen the work of the Board well into the future.

## **APPENDICES**

**Appendix A** - Committee Meetings, Topics & Video

**Appendix B** - Membership in 2024

**Appendix C** - Possible Outcomes of IA Investigations

**Appendix D** - Overview of Cases Reviewed in 2024

**Appendix E** - Demographics of Complainants (2020-2024)

**Appendix F** - Overview of Allegation Types & Outcomes (2020-2024)

**Appendix G** - The Origin of the Limited Scope of the PCRS

**Appendix H** - How to File a Citizen Complaint with the Portland Police Department



## Appendix A - Committee Meetings, Topics & Video

The PCRS has set the second Wednesday of each month at 6pm as its regular meeting time. The committee met nine (9) times in 2024:

Green indicates investigations that were determined to be all four: thorough, objective, fair and timely.

Red indicates investigations that were not found to be all four, with the failed metric in (parentheses).

Note: These votes in no way indicate agreement or disagreement with the ultimate conclusions of investigations into complaints; the PCRS ordinance does not allow the committee to make any determinations regarding the merits of complaints, conclusions reached, or disciplinary actions taken.

| <b>Date</b>   | <b>Cases Discussed</b>                          | <b>Exec. Session Duration</b> | <b>Additional Topics Discussed</b>   | <b>Agenda &amp; Video</b>   |
|---------------|---|-------------------------------|--|---|
| <b>Jan 10</b> | IA2023-006<br>IA2023-17<br>IA2023-19            | 21 min                        | - Adding additional content & timestamps to meeting minutes<br>- No news about new ordinance<br>- 2023 Annual Report delegation              | <a href="https://portlandme.portal.civicclerk.com/event/6910/files/agenda/14178">https://portlandme.portal.civicclerk.com/event/6910/files/agenda/14178</a> |
| <b>Feb 14</b> | IA2023-012<br>IA2023-013<br>an un-numbered case | 42 min                        | - News about new ordinance<br>- 2023 Annual Report delegation  | <a href="https://portlandme.portal.civicclerk.com/event/7108/media">https://portlandme.portal.civicclerk.com/event/7108/media</a>                           |
| <b>Mar 13</b> | IA2024-001                                      | 23 min                        | - 2023 Annual Report delegation<br>- De-escalation training from PPD for PCRS members  | <a href="https://portlandme.portal.civicclerk.com/event/6912/files/agenda/14486">https://portlandme.portal.civicclerk.com/event/6912/files/agenda/14486</a> |
| <b>Apr 10</b> | <i>cancelled</i>                                |                               |  |   |
| <b>May 8</b>  | IA2024-004                                      | 23 min                        | - No news about new ordinance<br>- No updates about the 2023 Annual Report preparation<br>- De-escalation training from PPD for PCRS members | <a href="https://portlandme.portal.civicclerk.com/event/6914/files/agenda/14771">https://portlandme.portal.civicclerk.com/event/6914/files/agenda/14771</a> |
| <b>Jun 12</b> | None  | n/a                           | - Review of 2023 Annual Report draft (Xavier & Gino)   | <a href="https://portlandme.portal.civicclerk.com/event/6">https://portlandme.portal.civicclerk.com/event/6</a>   |

|               |   |        |  |   |
|---------------|---|--------|--|---|
|               |   |        |  | <a href="https://portlandme.portal.civicclerk.com/event/7178/files/agenda/14896">915/files/agenda/14896</a>   |
| <b>Jul 10</b> | IA2024-007<br>IA2024-008                                | 17 min | - No news about new ordinance<br>- 2023 Annual Report draft still in progress  | <a href="https://portlandme.portal.civicclerk.com/event/7178/files/agenda/15002">https://portlandme.portal.civicclerk.com/event/7178/files/agenda/15002</a> |
| <b>Aug 14</b> | IA2024-003<br>IA2024-005<br>(thorough, fair, objective) | 52 min | - Approval of '23 Annual Report<br>- Election of Anne Hardcastle as Chair and Rev. Lewis as VC<br>- No news about new ordinance<br>- Statutory requirements re: the new ordinance & Charter compliance   | <a href="https://portlandme.portal.civicclerk.com/event/7179/files/agenda/15094">https://portlandme.portal.civicclerk.com/event/7179/files/agenda/15094</a> |
| <b>Sep 11</b> | None<br>(IA2024-006 was postponed to October)           | n/a    | - Discussion of progress towards a new ordinance<br>- One public comment: Joey Brunelle, re: the new ordinance   | <a href="https://portlandme.portal.civicclerk.com/event/7180/files/agenda/15168">https://portlandme.portal.civicclerk.com/event/7180/files/agenda/15168</a> |
| <b>Oct 9</b>  | IA2024-006<br>(thorough)                                | 45 min | - Discussion of progress towards a new ordinance   | <a href="https://portlandme.portal.civicclerk.com/event/7181/files/agenda/15267">https://portlandme.portal.civicclerk.com/event/7181/files/agenda/15267</a> |
| <b>Nov 13</b> | <i>cancelled due to lack of quorum</i>                  |        |  |   |
| <b>Dec 11</b> | IA2024-017  | 39 min | - Discussion of progress towards a new ordinance<br>- Presentation from Nicole Albert (Corp. Counsel) re: Use of Force Incident Review<br>- Presentation from Rachel Millette (Corp. Counsel) re: PCRS roles & responsibilities<br>- Sending letters to complainants <i>before</i> PCRS process, not just after<br>- Member interest in trainings<br>- 2024 Annual Report prep | <a href="https://portlandme.portal.civicclerk.com/event/7383/files/agenda/15500">https://portlandme.portal.civicclerk.com/event/7383/files/agenda/15500</a> |

## Appendix B - Membership in 2024

| <i>Seat</i> | <i>Name</i>                                 | <i>Joined</i> | <i>Departed</i> | <i>Notes</i>  |
|-------------|---|---------------|-----------------|---|
| 1           | Jean "Gino" Raymond<br>Medford-Desruisseaux | 4/1/2022      |                 |   |
| 2           | Rev. Kenneth Lewis (Vice Chair)             | 4/1/2019      |                 |   |
| 3           | Kaylin "Kay" Kerina                         | 4/1/2020      |                 |   |
| 4           | Reginald "Reggie" Parson (Chair)            | 4/1/2020      | 7/31/2024       | Resigned ("moved to another municipality")                              |
| 4           | Joey Brunelle                               | 8/1/2024      |                 |   |
| 5           | Xavier Botana                               | 4/1/2023      |                 |   |
| 6           | Timothy "Tim" Smith                         | 4/1/2024      | 10/9/2024       | Resigned ("scheduling issues")<br>Note: Seat not filled until 1/22/2025 |
| 7           | Anne Hardcastle (Chair)                     | 4/1/2021      |                 |   |

Complete board member history can be found on the city's website:

<https://onboard.portlandmaine.gov/board/4371>

### Appendix C - Possible Outcomes of IA Investigations

|                              |  |
|------------------------------|--|
| <b>Sustained</b>             | Sufficient evidence exists to indicate that the employee did, in fact, commit one or more of the alleged acts. |
| <b>Not Sustained</b>         | No violation of Department rule, regulation or procedure or local, state, or federal law has been proven.      |
| <b>Exonerated</b>            | The incident occurred, but the employee's actions were justified, lawful, and proper.                          |
| <b>Unfounded</b>             | Reasonably credible evidence exists to indicate the complainant's allegations are false.                       |
| <b>Cleared Exceptionally</b> | Elements beyond the police department's control prevents a final disposition.                                  |
| <b>No Finding</b>            | The officer left the department before a final disposition could be made.                                      |

### Appendix D - Overview of Cases Reviewed in 2024

| <i>IA Case #</i> | <i>Allegation (one line for each)</i>   | <i>Command Finding</i> | <i>Thorough</i> | <i>Fair</i> | <i>Timely</i> | <i>Objective</i> |
|------------------|---|------------------------|-----------------|-------------|---------------|------------------|
| 2024-006         | Conduct toward the public               | Unfounded              | N               | Y           | Y             | Y                |
| 2024-006         | Obedience to law                        | Unfounded              | N               | Y           | Y             | Y                |
| 2024-006         | Conduct toward the public               | Unfounded              | N               | Y           | Y             | Y                |
| 2024-001         | Civil matters                           | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-004         | Response to Resistance                  | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-004         | Handcuffing                             | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-004         | Response to Resistance                  | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-005         | Conduct toward the public               | Not sustained          | N               | N           | Y             | N                |
| 2023-013         | Conduct toward the public               | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-007         | Conduct toward the public               | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-008         | Conduct toward the public               | Unfounded              | Y               | Y           | Y             | Y                |
| 2023-012         | Conduct toward the public               | Not sustained          | Y               | Y           | Y             | Y                |
| 2024-017         | Preliminary Investigations              | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-017         | Discretion                              | Exonerated             | Y               | Y           | Y             | Y                |
| 2024-017         | Stop & Frisk                            | Exonerated             | Y               | Y           | Y             | Y                |
| 2023-006         | Conduct toward the public               | Sustained              | Y               | Y           | Y             | Y                |
| 2023-006         | Body Worn Cameras - Mandatory Recording | Sustained              | Y               | Y           | Y             | Y                |
| 2023-019         | Unsatisfactory Performance              | Unfounded              | Y               | Y           | Y             | Y                |

| <b>IA Case #</b> | <b>Allegation (one line for each)</b> | <b>Command Finding</b> | <b>Thorough</b> | <b>Fair</b> | <b>Timely</b> | <b>Objective</b> |
|------------------|---------------------------------------|------------------------|-----------------|-------------|---------------|------------------|
| 2024-003         | Conduct Toward the Public             | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-003         | Impartial Attitude                    | Unfounded              | Y               | Y           | Y             | Y                |
| 2024-003         | Arrests Without Warrants              | Exonerated             | Y               | Y           | Y             | Y                |
| 2024-003         | Conduct Toward the Public             | Not sustained          | Y               | Y           | Y             | Y                |
| 2023-017         | General Responsibility                | Unfounded              | Y               | Y           | Y             | Y                |
| 2023-017         | Handcuffing                           | Unfounded              | Y               | Y           | Y             | Y                |

**Appendix E - Demographics of Complainants (2020-2024)**

| <i>Demographics</i> |                    | <i>Total<br/>2020-2024</i> |
|---------------------|--------------------|----------------------------|
| Age                 | Under 40           | <b>50</b>                  |
|                     | Over 40            | <b>32</b>                  |
|                     | Not reported       | <b>24</b>                  |
| Gender              | Male               | <b>43</b>                  |
|                     | Female             | <b>42</b>                  |
|                     | Not reported       | <b>21</b>                  |
| Race                | Black              | <b>7</b>                   |
|                     | White              | <b>53*</b>                 |
|                     | Not reported       | <b>46</b>                  |
| Residency           | Portland           | <b>53</b>                  |
|                     | Non-Portland       | <b>51</b>                  |
|                     | Other/Not reported | <b>2</b>                   |

*\* For reporting purposes, cases involving individuals who were labeled as “mid-eastern” or “middle eastern” in Police Department data set were included in the “white” column.*

### Appendix F - Overview of Allegation Types & Outcomes (2020-2024)

| <i>Allegations</i>                                 | <i>Exceptional</i> | <i>Exonerated</i> | <i>Not sustained</i> | <i>Sustained</i> | <i>Unfounded</i> | <i>Total</i> |
|--|--------------------|-------------------|----------------------|------------------|------------------|--------------|
| Accident investigations and reporting              |                    |                   |                      | 1                |                  | 1            |
| Arrests Without Warrants                           |                    | 1                 |                      |                  |                  | 1            |
| Body Worn Cameras - Mandatory Recording            |                    |                   |                      | 1                |                  | 1            |
| Civil matters                                      |                    |                   |                      |                  | 1                | 1            |
| Conduct toward the public                          | 3                  |                   | 3                    | 3                | 18               | 27           |
| Discretion   |                    | 1                 |                      |                  |                  | 1            |
| EMS Response/Medical Aid                           |                    |                   |                      |                  | 6                | 6            |
| Field stop   |                    | 1                 |                      |                  | 3                | 4            |
| General responsibility                             |                    |                   |                      |                  | 2                | 2            |
| Handcuffing  |                    |                   |                      |                  | 3                | 3            |
| Impartial Attitude                                 |                    |                   |                      |                  | 1                | 1            |
| Obedience to law                                   |                    |                   |                      |                  | 2                | 2            |
| Operation of Police Vehicles                       |                    |                   |                      |                  | 3                | 3            |
| Preliminary investigations                         |                    |                   |                      |                  | 2                | 2            |
| Professional Conduct and Responsibility            |                    |                   |                      |                  | 3                | 3            |
| Professional Standards: Unsatisfactory Performance |                    |                   |                      |                  | 3                | 3            |

| <i><b>Allegations</b></i>                           | <i><b>Exceptional</b></i> | <i><b>Exonerated</b></i> | <i><b>Not sustained</b></i> | <i><b>Sustained</b></i> | <i><b>Unfounded</b></i> | <i><b>Total</b></i> |
|---|---------------------------|--------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| Accident investigations and reporting               |                           |                          |                             | 1                       |                         | 1                   |
| Arrests Without Warrants                            |                           | 1                        |                             |                         |                         | 1                   |
| Body Worn Cameras - Mandatory Recording             |                           |                          |                             | 1                       |                         | 1                   |
| Civil matters                                       |                           |                          |                             |                         | 1                       | 1                   |
| Response Option Guidelines (Response to Resistance) |                           |                          |                             |                         | 2                       | 2                   |
| Response to resistance justifications***            |                           |                          |                             |                         | 2                       | 2                   |
| Response to Resistance/Aid/Reporting                |                           | 9                        |                             |                         | 6                       | 15                  |
| Stop & Frisk  |                           | 1                        |                             |                         |                         | 1                   |
| Truthfulness*                                       |                           |                          | 1                           |                         |                         | 1                   |
| Unsatisfactory performance                          |                           | 6                        |                             | 3                       | 15                      | 24                  |
| Grand Total   | 3                         | 19                       | 4                           | 8                       | 72                      | 106                 |

## Appendix G - The Origin of the Limited Scope of the PCRS

In 2001, while crafting the ordinance that would create the PCRS, City administration requested an Interpretive Ruling from the Maine Labor Relations Board (MLRB) as to whether the establishment of a body to provide civilian oversight of the Police Department would be a mandatory subject of bargaining with the City's two police unions. The MLRB's answer was that, in general, such a committee was indeed a mandatory subject of bargaining and therefore could be established only upon agreement of the police unions.

However, the MLRB's decision noted that bargaining would not be necessary if

- 1) the committee's purview was limited to only the IA investigation methods and procedures (and not the underlying complaints or ultimate conclusions or disciplinary actions), and
- 2) the committee's work occurred only after the IA process was fully completed.

From the MLRB's interpretive ruling:

*"At the other end of the spectrum is a review committee that looks over the work of the Internal Affairs investigation after everything has run its course: after discipline has been imposed or the decision has passed, and after any grievance filed has completely run its course. Such a review would not be to pass judgement on Internal Affairs' handling of a particular case, but to perform a general audit of their investigative methods and the integrity of the disciplinary process. The target of that review would be Internal Affairs and Police Administration, rather than the officer who was investigated. In such a model, the relation of the process to working conditions or contract grievance arbitration procedures would be remote."*<sup>11</sup>

This is the model that the City of Portland subsequently chose, avoiding the need for collective bargaining with the unions.

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<sup>11</sup> PCRS 2001 Annual Report, Pages 2-3

<https://content.civicplus.com/api/assets/7b17e8b4-b1c0-4f4a-b7e7-8ef564b22eeb>

## **Appendix H - How to File a Citizen Complaint with the Portland Police Department**

**Online** at <https://portlandmaine-portal.app.transform.civicplus.com/forms/26747>

**In Person** at Portland Police Headquarters, 109 Middle Street, Portland, ME 04101

**By Telephone** by calling the PPD Shift Commander at 207-874-8555

**By Mail** by printing out a complaint form (see links below) and mailing it to Portland Police Department, Attn: IA, 109 Middle Street, Portland ME 04101

*The complaint form is available in multiple languages:*

English:

<https://content.civicplus.com/api/assets/4c5a2a5c-3770-42b8-9426-59f1a136fa33>

Arabic:

<https://content.civicplus.com/api/assets/829177f9-db86-430c-bda7-cf8b77b84a27>

French:

<https://content.civicplus.com/api/assets/1d748004-a28d-4b08-b590-5575597be77b>

Portuguese:

<https://content.civicplus.com/api/assets/0b3f2b8a-31d7-443d-9333-a31b13d247a6>

Somali:

<https://content.civicplus.com/api/assets/1a6293f2-be37-451e-ab92-5992a0f7bffa>

Spanish:

<https://content.civicplus.com/api/assets/c3fd5a2c-f373-44e8-9e6d-4fe692c9bbdf>

*For updates about in-progress complaint investigations, call the PPD Internal Affairs Lieutenant at 207-756-8354*



**CITY OF PORTLAND**  
POLICE CITIZEN REVIEW SUBCOMMITTEE  
Emily West, Chair

December 14, 2021

Dear Chairperson Kebede and members of the Charter Commission,

First we would like to thank Chairperson Lizanecz and members of the Departments Subcommittee of the Charter Commission for their time in October in discussing the role of police oversight and allowing a representative from the Police Citizens Review Subcommittee (PCRS) to provide an important perspective.

We understand that the Charter Commission is tasked with the very significant role of developing recommendations to reshape city government in Portland. As the structure of police oversight is one of the key topics being reviewed, it is even more vital that perspectives of those that are part of the PCRS on a day-to-day basis are brought to the table. We too are looking to find ways to strengthen our current structure and believe we have relevant insights to share. We look forward to sharing those insights and information in the near future. In the meantime, please see the attached results from our Community Survey administered in Spring 2021, as well as our latest Annual Report, which includes monthly meeting minutes with relevant discussions on this topic.

Moving forward, we would like to invite you to attend the PCRS monthly meeting on February 9<sup>th</sup>, 2022 to further expand our initial discussion on police oversight, and more specifically the learnings and insights gathered from the day-to-day activities of the PCRS. We also encourage you to share any relevant updates with the PCRS you may have as to the work you are conducting on alternative police oversight models for Portland.

Please RSVP by January 28<sup>th</sup> so that we can post our agenda for that meeting in a timely manner. Additionally, if there are specific items that you would like included in that agenda, please let the Chair know.

Thank you in advance for your prompt response to our request. We look forward to engaging in a robust and productive conversation at the Charter Commission's soonest convenience. Thank you as well for your service to the City of Portland.

Signed,

Emily West, Chair

Reginald Parson, Vice Chair

Rev. Kenneth Lewis, Member

*389 Congress Street, Room 211, Portland ME 04101  
www.portlandmaine.gov / tel. 207.874.8480 / tty. 207.874.8936 / fax. 207.874.8497*

Kaylin Kerina, Member

Anne Hardcastle, Member

Sarai Manyiel, Member

Tim Smith, Member

**CC:** Daniella P. West, Mayor Kate Snyder, Pious Ali, April Fournier, Roberto Rodriguez, Anna Trevorrow, Victoria Pelletier, Tae Chong, Andrew Zarro, and Mark Dion



**CITY OF PORTLAND**  
POLICE CITIZEN REVIEW SUBCOMMITTEE  
Reginald Parson, Chair

August 29, 2023

Mayor Snyder and honorable members of the Portland City Council,

I submit this letter on behalf of the members of the Police Citizen Review Subcommittee (PCRS). I 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. On August 9, 2023, the PCRS discussed the contents within the letter and approved the document to move forward with some additional modifications. 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. Below please find our comments for your review:

**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 before becoming eligible to serve on the CPRB.

In connection with this, we would also ask the City Council to consider creating parity for both City of Portland employees as well as Portland Public School employees with respect to the eligibility requirements to serve on the CPRB. 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

389 Congress Street, Room 211, Portland ME 04101

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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. In addition, our assessment of the proposed ordinance leads us to believe there are two separate and distinct roles that we hope the City Council will provide financial support for in future municipal budgets. To provide better understanding, we ask the City Council and/or City Officials to provide a position description of these roles that may provide clarity and how they fit in the overall function of police oversight in Portland. In addition, we also ask if there is any flexibility in allowing either the Community Liaison and/or Police Liaison be a contracted person from outside the City and reports to the CPRB.

### **Review of Complaints and Criteria:**

The proposed ordinance that was presented to the PCRS in August allows for the CPRB to review “**all final investigation reports submitted by internal affairs and/or police command staff [...]**” Two questions were raised during our review: (1) what is the definition of “all complaints” as proposed in the ordinance? And (2) whether this will include any complaints that do not receive an Internal Affairs (“IA”) number and are addressed by the Portland Police Department informally?

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 can 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.

**CPRB Status as Separate and Independent Agency:**

Under the current City Code, the PCRS is constituted under the Civil Service Commission as "two independent subcommittees constituting the commission."<sup>1</sup> While the recently adopted provisions in Article 9 may not address whether the CPRB will be maintained as a separate but independent body from other commissions, we ask the City Council to consider separating the CPRB from the Civil Service Commission entirely, which will strengthen the CPRB role as an independent body and further the intended purpose of the new Board.

In sum, 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,

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, likely representing the name 'Reginald Parson'.

Reginald Parson  
Chair, Police Citizen Review Subcommittee

## Chapter 2 ADMINISTRATION\*

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**\*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.

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### **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 Employment Commission, §§ 2-47--2-57

Div. 3. Employment Subcommittee Fire and Police Department  
Employment, §§ 2-58-2-75

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

##### **Art. IV-A. 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.\***

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**\*Cross reference(s)**--Civil service commission, § 2-66 et seq.; planning board, § 14-16 et seq.; jurisdiction of board of appeals for zoning, § 14-471 et seq.; board of appeals, § 14-541 et seq.; historic preservation committee, § 14-603 et seq.; friends of the parks, § 18-10.  
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**Sec. 2-31. Oath of office.**

(a) All persons appointed by the City Council to membership on any board or commission of the City shall, prior to taking office as such member, be sworn to the faithful discharge of their duties by the City Clerk, Justice of the Peace, or Notary Public.

(b) The form of such oath shall be as follows:

I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties incumbent upon me as a member of \_\_\_\_\_, according to said Constitutions and the laws of this State and ordinances of this City.

State of Maine \_\_\_\_\_  
County of Cumberland, ss. \_\_\_\_\_

I, \_\_\_\_\_, certify that \_\_\_\_\_ personally appeared before me on this day and took the above oath.

\_\_\_\_\_  
City Clerk  
Justice of the Peace  
Notary Public

(Code 1968, §§ 204.1, 204.2; Ord. No. 478-73, 7-16-73)

**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~~commission;
- (6) ~~Civil service commission police citizen review subcommittee~~Civilian police review board;
- (7) Community development block grant allocation committee;
- (8) ~~Friends of the park~~Parks commission;
- (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.

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**\*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.  
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(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~~their 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.

(f) If an individual who served as a member of the police citizen review subcommittee is appointed to serve on the civilian police review board, the years that the individual served on the police citizen review subcommittee and the years served on the civilian police review board will count toward the nine-year limitation in section 2-32(a).  
(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)

**Sec. 2-34. Period of ineligibility.**

Any person who completes the maximum terms or years of service on a board or commission shall be ineligible for reappointment to that board or commission for a period of three (3) consecutive calendar years from the date of completion of such maximum terms or years of service.

(Ord. No. 301-91, 4-1-91; Ord. No. 118-08/09, 12-1-08)

**Sec. 2-35. Reserved.**

**Sec. 2-36. Reserved.**

**Sec. 2-37. Reserved.**

**Sec. 2-38. Reserved.**

**Sec. 2-39. Reserved.**

**Sec. 2-40. Tenure of Directors of the Board of the Greater Portland Transit District.**

Each Director of the board of the Greater Portland Transit District representing the City of Portland on the effective date of this amendment, or thereafter, shall be appointed annually for a term of one (1) year and until ~~his or her~~their successor is appointed. Each Director so appointed shall serve at the pleasure of the City Council.  
(Ord. No. 659-86, § 1, 6-16-86)

\* \* \*

**ARTICLE IV. CIVIL SERVICE\***

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\*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.  
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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~~their 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 employment 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~~their 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.~~

*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~~their 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 EMPLOYMENT COMMISSION\*

### **Sec. 2-47. Created.**

There is hereby created a civil service employment 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. 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 shall consist of seven (7) commissioners who shall serve in the absence of any commissioner. (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 employment commissioner and alternate shall be a resident of the City of Portland. 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 or school department, who was employed by the city or school department within the previous one ten (10)-year periods;
- (2) Any present or former member of the City Council or School Board, who ~~has~~ held that position in the previous one ten (10)-years period; ~~or~~
- (3) Any civil service employment commissioner who has completed three (3) consecutive full terms of three (3) years as provided in Chapter 2, Article III;
- (4) Any individual presently serving as a member of the civilian police review board; or-
- (5~~b~~) Any relative of a present member of the police or fire departments. 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. 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 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, parents, grandparents, and siblings.~~

(~~be~~) 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.

(~~cd~~) Any civil service employment commissioner or alternate who becomes ineligible to serve during ~~his or her~~their 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~~ commission 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.

(~~de~~) Reasonable efforts shall be made to ensure that the appointments to the civil service employment 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.**

Civil service employment commissioners and the alternates shall be

appointed by the City Council. 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 employment 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 hertheir successor is appointed and qualified, but in no case longer than one hundred twenty (120) days from the expiration of his or hertheir term.

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

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

(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)

### **Sec. 2-52. Compensation.**

Civil service commissioners shall serve without compensation, except that reasonable expenses incurred by any commissioner or alternate incidental to his or her duties under this article may be reimbursed.

(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. 2-53. Removal.**

Any civil service commissioner or alternate may be removed from

office by the City Council for cause, after notice and the opportunity to be heard.

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

### **Sec. 2-54. Officers.**

~~Each subcommittee of~~ The civil service employment commission shall annually elect one (1) of its members as the chair. ~~Each~~ ~~The commissionsubcommittee~~ may, at its option, 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~~ their designee shall serve as secretary to the employment subcommittee commission and shall furnish any necessary administrative assistance. ~~The corporation counsel or his or her designee shall serve as secretary to the police citizen review subcommittee 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 employment commission members and alternate, or other circumstances, so that a quorum of ~~a subcommittee~~ the commission 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 Employment 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 commission. ~~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~~ Commission exists.

~~A quorum of the Police Citizen Review Subcommittee shall be 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)

### **Sec. 2-57. Prohibited practices.**

(a) *Forfeiture of office.* A determination by a court of competent jurisdiction of a practice, or facts necessarily constituting a practice prohibited by this section by any civil service employment commissioner, alternate, member of a department, or any other person shall result in the forfeiture of any office held by such person and shall be a permanent disqualification for any office existing under or governed by this article.

(b) *Nondiscrimination.* No discrimination shall be exercised, promised, or threatened by any person, in connection with any action taken or to be taken under this article, in favor or against any applicant or member of a department because of ~~his or her~~ their religious beliefs, ancestry, national origin or veteran's status; race, sex, sexual orientation, or color; because of age or physical or mental disability, except where such requirements constitute a bona fide occupational qualification or failure to meet the requirements poses a safety hazard or cannot be reasonably accommodated; because the applicant or member of the department, or member of ~~his or her~~ their family, has or has declined to contribute to any political fund or to render political service; or because of any lawful union activity or membership. No person shall seek or attempt to use, nor shall the civil service employment commission give consideration to, any political endorsement, or any other factor prohibited by the preceding sentence. To the extent consistent with law and with this article, it is the policy of the city to encourage diversity in its work force and to use affirmative action in its recruitment of applicants for positions hereunder.

(c) *Falsification.* No person shall make any false statement, certificate, mark, rating or report with respect to any test, certification or appointment made under any provisions of this article, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this article and the rules and the regulations adopted hereunder, or to cheat, or attempt to cheat, or abet cheating on any examination.

(d) *Bribery.* No person shall directly or indirectly give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in a

position, or in an examination for a position, in the departments.  
(Code 1968, § 201.7; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 239-91, § 1, 2-20-91; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97)

**Cross reference(s)--Definitions and rules of construction generally, § 1-2.**

DIVISION 3. EMPLOYMENT SUBCOMMITTEE FIRE AND POLICE DEPARTMENT  
EMPLOYMENT

**Sec. 2-58. Applicability; duties.**

(a) *In general.* This division shall govern the appointment, reinstatement, promotion, demotion, layoff, suspension, resignation, or removal of members of the fire and police departments of the city, other than the chiefs thereof, except to the extent that the Maine Public Employees Labor Relations Law and any collective bargaining agreement made in accordance therewith provides to the contrary.

(b) *Duties.* In addition to carrying out the duties described elsewhere in this article, it shall be the duty of the employment subcommittee commission:

- (1) To establish a system of personnel administration for members of the departments based on competition, merit principles, and scientific methods, and to prevent unlawful discrimination based upon race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law, or political affiliation;
- (2) To oversee the process of creating lists of names of persons eligible for specific appointments; and
- (3) To make suitable rules, from time to time, which rules shall not be inconsistent with this article, applicable statutes, or regulations. Proposed rules shall be submitted to the City Manager and shall become effective when approved by the City Manager. All such rules shall be recorded in the office of the City Clerk.

(Code 1968, § 201.2; 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; Ord. No. 174-05/06, 3-6-06; Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59. Reserved.**

**Sec. 2-59.1. Minimum qualifications for original appointment to the fire department.**

(a) *Standards required.* Each candidate for original appointment to the fire department must meet the minimum requirements set forth in this subsection. The deadline by which these requirements must be met, the method of proving such requirements have been satisfactorily met, and any additional requirements shall be established by rule of the employment subcommittee commission:

- (1) *Age.* Have reached the age of twenty-one (21), or have reached the age of twenty (20) with two years of post-high school education.
- (2) *Good character.* Be of good character; which includes a personal history of honesty, fairness, and respect for the rights of others and for state and federal law. No person shall be appointed who has a history which includes a disqualifying criminal offense or conviction.
- (3) *Education and experience.* Have a high school diploma or general equivalency diploma (GED);
- (4) *Licensing.* Possess a valid State of Maine Emergency Medical Technician license of EMT-B or higher;
- (5) *Motor vehicle driver's license.* Possess a valid motor vehicle driver's license for the three (3) years immediately preceding the date of application. If such license is from a state other than the State of Maine, the candidate must be qualified to receive a State of Maine driver's license; and
- (6) *Citizenship or immigration status.* Be a citizen of the United States or eligible to work in the United States.

(b) *Automatic disqualifiers.* An applicant for original appointment will be automatically disqualified from the hiring process for any of the following characteristics, and as further established by rule of the employment subcommittee commission:

- (1) *Disqualified Individuals.* Disqualification from participating in federal funded health care programs under the Social Security Act.
- (2) *Criminal Convictions/Conduct.* Disqualifying criminal conviction;
- (3) *Protection Orders.* An active Protection from Abuse or Protection from Harassment Order (temporary or permanent) served on the applicant;
- (4) *Military Service.* Dishonorable discharge from the military or a bad conduct discharge from the military;

- (5) *Tattoos or Body Art.* Tattoos, branding, body art or body markings that (a) indicate a criminal gang affiliation, (b) depict sexually explicit art or nudity, (c) are associated with hate groups or supremacist groups such as swastikas, pentagrams, or (d) otherwise violate the rules promulgated by the Fire Chief.

(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59.2. Hiring process for original appointment to the fire department.**

(a) *Fire department hiring process.* All applicants for original appointment to the fire department shall satisfactorily complete the minimum requirements in this section. The ~~employment subcommittee~~ commission may, by rule, establish processes and procedures to implement these requirements, may set minimum passing scores, and may impose additional requirements for original appointment.

- (1) *Job-related aptitude capacity test.* All applicants for original appointment must pass a job-related aptitude capacity test.
- (2) *Physical fitness test.* All applicants for original appointment must pass a physical fitness test.
- (3) *Oral interview.* All applicants for original appointment must satisfactorily complete an oral interview. The oral interview panel shall consist of one member of the ~~employment subcommittee~~ commission and designees of the fire chief. No member of the panel may be a candidate for the position nor a relative of a candidate.

(b) *Conditional offer of employment.* Upon successful completion of the job-related aptitude capacity test, the physical fitness assessment and the oral interview, the fire chief may evaluate the candidates and make a conditional offer of employment to qualified applicants, at ~~his or her~~ their discretion. The conditional employee must successfully complete the following requirements. Failure to do so will result in revocation of the conditional offer of employment.

- (1) *Background check.* All applicants for original appointment must satisfactorily complete a background check, including criminal history, driving record, and credit check.
- (2) *Medical examination.* The applicant must satisfactorily complete a medical exam to determine whether the applicant is physically capable of performing the essential functions of the job.
- (3) *Job suitability assessment.* The applicant must satisfactorily complete a job suitability assessment.

(c) *Rehire of former fire department member.* In the sole discretion of the fire chief, a fire department member who voluntarily terminated ~~his or her~~their employment on satisfactory terms may be rehired to a vacant, entry-level position within one year of termination without completing the full process required by subsection (a) above. However, the member must satisfactorily complete a new medical examination and job suitability assessment, and must complete a new probationary period.

(d) *Transfer between public safety departments.* Upon the written request of the employee to the chief of ~~his or her~~their department, an employee in good standing within either department may be transferred from one department to the other to an entry level position, subject to the conditions and limitations established by rule of the employment subcommittee commission and with the approval of both chiefs and the City Manager. Police officers requesting a transfer to the Fire Department must successfully complete the Candidate Physical Abilities Test (CPAT) and provide proof of a valid State of Maine Emergency Medical Technician license. The Chief of Police may waive the police entrance exam for firefighters. All other hiring requirements must be successfully completed.

(e) *Waiver.* During periods of difficulty in recruitment, the employment subcommittee commission may vary the requirements of this section by rule, which rule shall not be effective for more than one hiring cycle.

(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59.3. Disqualification and temporary withdrawal from fire application process.**

In accordance with rules promulgated by the employment subcommittee commission, an applicant may be disqualified, or temporarily withdraw, from the application process as follows:

(a) *Disqualification.* After notice and an opportunity to be heard, the employment subcommittee commission or the fire chief may disqualify an applicant for original appointment.

(b) *Temporary withdrawal of applicants for original appointments.* An applicant for original appointment may, for sufficient cause, temporarily withdraw from consideration for a limited period of time with the prior approval of the fire chief. During the period of temporary disqualification the applicant's eligibility for appointment shall automatically expire 12 months after the date the applicant passed the aptitude capacity test.  
(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59.4. Fire department promotional process.**

(a) *Minimum qualifications.* All candidates for promotion within the fire department shall satisfactorily complete the minimum requirements in this section. The employment subcommittee commission

may, by rule, establish processes and procedures to implement these requirements, may set minimum passing scores, and may impose additional requirements for promotion.

- (1) *Time in service.* Promotional candidates must have the following amount of time in service to be eligible for a promotion:
  - a. Six years of continuous service in the fire department for promotion from firefighter to lieutenant.
  - b. One year of continuous service as a lieutenant for promotion from lieutenant to captain.
- (2) *Training.* Promotional candidates must possess the minimum amount of training, certification, and/or education for the rank to which he or she is seeking promotion.
- (3) *Departmental officer candidate program.* Promotional candidates must participate in and complete a fire department officer candidate program, which may include job-shadowing, mentorship, and similar requirements.
- (4) *Assessment center exam.* Promotional candidates must complete and pass an assessment center exam each year.
- (5) *Oral interview.* All promotional candidates must satisfactorily complete an oral interview. The oral interview panel shall consist of one member of the [employment subcommittee commission](#) and designees of the fire chief. No member of the panel may be a candidate for the position nor a relative of a candidate. The president of the union, or [his](#) designee, shall have the right to observe, but not participate in, the interview.
- (6) *Job suitability assessment.* Candidates must undergo a job suitability assessment. Assessments within three (3) years from the date of examination may be used, or the fire chief may require an updated job suitability assessment at any time. Assessments may be taken into consideration in the promotional process.
  - (b) *Eligible promotion list.* Promotional candidates shall be placed on a ranked certified promotional list. A separate list shall be made for each promotional rank.
    - (1) The list shall be ranked based on a methodology established by the [employment subcommittee commission](#).
    - (2) The [employment subcommittee commission](#) shall also establish rules governing the validity of the list, including the minimum number of names required on the list, the duration and expiration of the list, and other requirements.

(c) *Promoting from ranked certified promotional list.* Promotions in the fire department shall be made from the ranked certified promotional list in their order of ranking, unless the candidate refuses the promotion, is disqualified for cause by the chief, or lacks the particular skill set required by the promotional vacancy. If the chief disqualifies a candidate for cause, he or she shall state the reasons for disqualification in writing.

(d) *Command staff.* The ~~employment subcommittee~~commission may provide by rule for special procedures or different competitive examination for appointment to fire department command staff because such rank requires particular and exceptional qualifications of a scientific, managerial, professional, technical, or educational character and said rule may waive any requirement of this article in such cases.

(e) *Waiver.* When the number of employees eligible for promotion to a particular vacancy is insufficient to permit meaningful competition, the ~~employment subcommittee~~commission may vary the requirements of this section by rule, which rule shall not be effective for more than one promotional cycle.  
(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59.5. Disqualification during fire promotional process.**

After notice and an opportunity to be heard, the ~~employment subcommittee~~commission or the fire chief may disqualify a candidate from participating in the promotional process, or may remove a candidate for promotion from the ranked certified promotional list.  
(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59.6. Fire department appeals and rights.**

(a) *Appeals from decisions of the fire chief.* Except as otherwise provided, an applicant, candidate for original appointment, or candidate for promotion shall have the opportunity to appeal any decision made by the fire chief under this division to the ~~employment subcommittee~~commission, pursuant to rules established by the ~~subcommittee~~commission. The ~~subcommittee~~commission may, after hearing, uphold or overturn the fire chief's decision. The ~~subcommittee~~commission shall provide the fire chief and the appellant with written notice of its decision and the reasons therefor.

(b) *Appeals from decisions of the* ~~employment subcommittee~~commission. An appeal of a decision of the ~~employment subcommittee~~commission under this section may be taken to the city council. The city council may, after hearing, uphold or overturn the ~~employment subcommittee~~commission's decision. The council shall provide the ~~subcommittee~~commission, fire chief, and appellant with written notice of its decision and the reasons therefor.

(c) *Applicant rights.* If a decision is overturned with respect to an applicant, the applicant shall continue through the remainder of the application process or be considered eligible for hire, as applicable.  
In the event an applicant is reinstated pursuant to this section, he

or she shall have no right or entitlement to be considered for any vacancy that exists at or prior to the date of said reinstatement.

(d) *Promotional candidate rights.* If a decision is overturned with respect to a promotional candidate, that candidate shall 1) be allowed to continue through the promotional process; 2) be placed on or reinstated to the ranked certified promotional list; or 3) be promoted, as applicable. The decision maker shall specifically state the appropriate remedy.

(e) *Vested rights.* No rights shall vest in any person who is deemed to be a qualified applicant or who is placed on the ranked certified promotional list, and no names shall be carried over from one eligible list to another, except as otherwise provided in this section.

(f) *Rulemaking.* The employment-subcommitteecommission may promulgate rules to implement this section, including forms and deadlines for appeal.  
(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-59.7. Fire department probationary period.**

(a) Each member who is originally appointed to or rehired in the fire department, or who is promoted, pursuant to this division shall be a probationary employee for one (1) year from the date of appointment or promotion. This section shall not, however, apply to an employee who is recalled after layoff, so long as he or she completed the probationary period prior to layoff.

(b) The fire chief may at any time during the probationary period reject any person appointed or promoted. The fire chief must state his or hertheir reasons for rejection in writing, and provide those reasons to the employee and the employment-subcommitteecommission.

(c) In the case of a promotional candidate, any candidate rejected by the fire chief shall revert to the rank and pay status from which he or she was promoted.

(d) Any person rejected during the probationary period shall have no right of hearing or appeal under this division.  
(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-60. Reserved.**

**Sec. 2-60.1. Minimum qualifications for original appointment to the police department.**

(a) Standards required. Each candidate for original appointment to the police department must meet the minimum requirements set forth in this subsection. The deadline by which these requirements must be met, the method of proving that such requirements have been satisfactorily met, and any additional requirements shall be established by rule of the employment-subcommitteecommission:

- (1) *Age.* Have reached the age of twenty-one (21) by the date of appointment;
- (2) *Good character.* Be of good character; which includes a personal history of honesty, fairness, and respect for the rights of others and for state and federal law. No person shall be appointed who has a history which includes a disqualifying criminal offense or conviction.
- (3) *Education and experience.* Have a high school diploma or general equivalency diploma (GED) and meet the admission standards of the Maine Criminal Justice Academy.
- (4) *Motor vehicle driver's license.* Possess a valid motor vehicle driver's license for— the three (3) years immediately preceding the date of application. If such license is from a state other than the State of Maine, the candidate must be qualified to receive a State of Maine driver's license.
- (5) *Citizenship or Immigration status.* Be a citizen of the United States or demonstrate a permanent right to work in the United States.

(b) *Automatic Disqualifiers.* An applicant for original appointment will be automatically disqualified from the hiring process for any of the following characteristics, and as further established by rule of the [employment-subcommittee](#) commission:

- (1) *Criminal Convictions/Conduct.* Any conviction for a disqualifying criminal offense or engaging in conduct that qualifies as a disqualifying criminal offense as defined in Maine law and the entrance standards of the Maine Criminal Justice Academy, including having no convictions for or have engaged in any conduct which would constitute Murder, Class A, Class B, Class C, or Class D crimes, or any provision of the —Maine Criminal Code, Chapters 15, 19, 25, or 45 which include Theft, Falsification in Official Matters, Bribery & Corrupt Practices, and Drugs.
- (2) *Domestic Violence.* Any conviction for a crime of domestic violence or any active Protection from Abuse Order (temporary or permanent) served on the applicant.
- (3) *Drug Activities.* The use, purchase, or possession of illegal drugs or controlled substances within the five (5) years prior to the date of application.

The trafficking in and/or furnishing of marijuana, as defined in the Maine Criminal Code, is an automatic disqualifier from the hiring process. The use of marijuana is not an automatic disqualifier. The use of marijuana by an applicant will be

assessed on a case by case basis; including, but not limited to, the frequency and recency of the use.

(4) *Military Service.* Dishonorable discharge from the military or a bad conduct discharge from the military.

(5) *Tattoos or Body Art.* Tattoos, branding, body art or body markings that (a) indicate a criminal gang affiliation, (b) depict sexually explicit art or nudity, (c) —are associated with hate groups or supremacist groups such as swastikas or pentagrams, or (d) are on the applicant's face, neck or hands.

(Ord. No. 143-17/18, 2-5-2018)

### **Sec. 2-60.2. Hiring process for original appointment to the police department.**

(a) *Police department hiring process.* All applicants for original appointment to the police department shall satisfactorily complete the minimum requirements in this section. The ~~employment subcommittee~~ commission may, by rule, establish processes and procedures to implement these requirements, set minimum passing scores, and impose additional requirements for original appointment.

(1) *Job-related aptitude capacity test.* All applicants for original appointment must pass a job-related aptitude capacity test. The aptitude capacity test may be waived for a police applicant who is a full-time employee with law enforcement duties and arrest authority in another jurisdiction at the time of application and is certifiable by the Maine Criminal Justice Academy.

(2) *Physical fitness assessment.* All applicants for original appointment must pass meet the Maine Criminal Justice Academy's physical fitness assessment standards prior to the oral interview. or Applicants may take the fitness test at the Portland Police Department or produce a current, valid letter from the Maine Criminal Justice Academy stating that the applicant has —successfully completed the Academy's physical fitness assessment.

(3) *Oral Board.* An oral interview will be conducted with all applicants who have passed both the aptitude capacity test and the physical fitness assessment.

(b) *Conditional offer of employment.* Upon successful completion of the job-related aptitude capacity test, the physical fitness assessment and the oral interview, the Police Chief may evaluate the candidates and make a conditional offer of employment to qualified applicants, at ~~his or her~~ their discretion. The conditional employee must successfully complete the following requirements. Failure to do so will result in revocation of the conditional offer of employment.

- (1) *Background check.* A conditional employee must be fingerprinted and satisfactorily complete a background check, including, but not limited to, criminal history, prior substance abuse, driving record, and credit check.
- (2) *Polygraph.* A conditional employee, shall be required to submit to a polygraph examination to the extent such examination is permitted by law.
- (3) *Medical examination.* A conditional employee shall undergo a medical examination to determine whether the applicant is physically capable of meeting the standards established by the Maine Criminal Justice Academy.
- (4) *Job suitability assessment.* Candidates for police original appointment shall be given a post-offer job suitability assessment as required by the Maine Criminal Justice Academy.

(b) *Transfer between public safety departments.* Upon the written request of the employee to the chief of ~~his or her~~their department, an employee in good standing within either department may be transferred from one department to the other to an entry level position, subject to the conditions and limitations established by rule of the ~~employment subcommittee~~commission and with the approval of both chiefs and the City Manager. Police officers requesting a transfer to the Fire Department must successfully complete the Candidate Physical Abilities Test (CPAT) and provide proof of a valid State of Maine Emergency Medical Technician license. The Chief of Police may waive the police entrance exam for firefighters. All other hiring requirements must be successfully completed.

**Sec. 2-60.3. Disqualification and temporary withdrawal from police application process.**

In accordance with rules promulgated by the ~~employment subcommittee~~commission, an applicant may be disqualified, or temporarily withdraw, from the application process as follows:

(a) *Disqualification.* After notice and an opportunity to be heard, the ~~employment subcommittee~~commission or the police chief may disqualify an applicant for original appointment.

(b) *Temporary withdrawal of applicants for original appointments.* An applicant for original appointment may, for sufficient cause, temporarily withdraw from consideration for a limited period of time with the prior approval of the police chief. During the period of temporary disqualification the applicant's eligibility for appointment shall automatically expire 12 months after the date the applicant passed the aptitude capacity test.

(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-60.4. Police department promotional process.**

(a) *Minimum qualifications.* All candidates for promotion within the police department shall satisfactorily complete the minimum requirements in this section. Promotional appointments shall be made from successive ranks. The ~~employment subcommittee~~commission may, by rule, establish processes and procedures to implement these requirements, may set minimum passing scores, and may impose additional requirements for promotion.

(1) *Time in service.* Promotional candidates must have the following amount of time in service to be eligible for a promotion:

- a. Three (3) years of continuous service in the police department for promotion from officer to the rank of Sergeant.
- b. Twelve months of continuous service as a Sergeant in the police department for promotion to the rank of Lieutenant.

(2) *Selection Components*

- a. An annual professional development course.
- b. A job-related aptitude capacity test.
- c. Consideration of the candidate's last completed performance evaluation immediately prior to the date of the aptitude capacity test.
- d. Seniority in the department as of the date of the aptitude capacity test.

(3) *Oral interview.* All promotional candidates must satisfactorily complete an oral interview. The oral interview panel shall consist of one member of the ~~employment subcommittee~~commission, a member designated by the president of each of the affected unions and three (3) members appointed by the police chief.

(4) *Job suitability assessment.* Candidates for the position of Sergeant must undergo a job suitability assessment. Assessments within three (3) years from the date of examination may be used, or the police chief may require an updated job suitability assessment at any time. Assessments may be taken into consideration in the promotional process.

(b) *Promotion list.* Promotional candidates shall be placed on a certified promotional list. A separate list shall be made for each promotional rank.

- (1) The list shall be prepared based on a methodology established by the employment-subcommitteecommission.
- (2) The employment-subcommitteecommission shall also establish rules governing the validity of the list, including the minimum number of names required on the list, the duration and expiration of the list, and other requirements.

(c) *Creation of certified list for promotional appointment.*

- (1) When requested to do so by the Chief, the employment-subcommitteecommission shall furnish a certified list of names from which a promotional appointment may be made.
- (2) There shall be one eligible list maintained for police promotion in weighted score order for each promotional rank and the certified list shall be made up from the eligible list in the weighted score order. The certified list for promotional appointment shall contain the names of a minimum of three (3) and a maximum of five (5) applicants on the eligible list with the highest, aggregate scores.

(d) *Command staff.* The employment-subcommitteecommission may provide by rule for special procedures or different competitive examination for appointment to a sworn, non-union command staff position in the police department because such rank requires particular and exceptional qualifications of a scientific, managerial, professional, technical, or educational character and said rule may waive any requirement of this article in such cases.

(e) When the number of employees eligible for promotion to a particular vacancy is insufficient to permit meaningful competition, the employment-subcommitteecommission may vary the requirements of this section by rule, which rule shall not be effective for more than one promotional cycle.

(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-60.5. Disqualification during police promotional process.**

After notice and an opportunity to be heard, the employment-subcommitteecommission or the police chief may disqualify a candidate from participating in the promotional process, or may remove a candidate for promotion from the ranked certified promotional list.

(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-60.6. Police appeals and rights.**

(a) *Appeals from decisions of the police chief.* Except as otherwise provided, an applicant, candidate for original appointment, or candidate for promotion shall have the opportunity to appeal any decision made by the police chief under this division to the employment-subcommitteecommission, pursuant to rules established by the subcommitteecommission. The subcommitteecommission may, after hearing, uphold or overturn the police chief's decision. The commission-subcommittee shall provide the police chief and the

appellant with written notice of its decision and the reasons therefor.

(b) *Appeals from decisions of the ~~employment subcommittee~~commission.* An appeal of a decision of the ~~employment subcommittee~~commission under this section may be taken to the city council. The city council may, after hearing, uphold or overturn the ~~employment subcommittee~~commission's decision. The council shall provide the ~~subcommittee~~commission, police chief, and appellant with written notice of its decision and the reasons therefor.

(c) *Applicant rights.* If a decision is overturned with respect to an applicant, the applicant shall continue through the remainder of the application process or be considered eligible for hire, as applicable. In the event an applicant is reinstated pursuant to this section, he or she shall have no right or entitlement to be considered for any vacancy that exists at or prior to the date of said reinstatement.

(d) *Promotional candidate rights.* If a decision is overturned with respect to a promotional candidate, that candidate shall 1) be allowed to continue through the promotional process; 2) be placed on or reinstated to the ranked certified promotional list; or 3) be promoted, as applicable. The decision maker shall specifically state the appropriate remedy.

(e) *Vested rights.* No rights shall vest in any person who is deemed to be a qualified applicant or who is placed on the ranked certified promotional list, and no names shall be carried over from one eligible list to another, except as otherwise provided in this section.

(f) *Rulemaking.* The ~~employment subcommittee~~commission may promulgate rules to implement this section, including forms and deadlines for appeal.  
(Ord. No. 143-17/18, 2-5-2018)

#### **Sec. 2-60.7. Police department probationary period.**

(a) *Probationary period.* A specified period of time during which the employee has no expectation of continued employment and may be removed from employment for any reason, with or without just cause.

(b) *Original appointment.* Except as otherwise provided below for police lateral transfers, every person receiving an appointment as a police officer shall be a probationary employee for a period of two (2) years from the date of appointment.

(c) *Lateral transfers.* A police lateral transfer who has two years of post-academy, full-time, continuous service as a police officer at the time of appointment shall be ~~credited~~ credited with up to twelve (12) months of service toward completion of the department's two year probationary period. Eligibility for promotional appointment shall be the completion of three (3) years of service in the Portland Police

department.

(d) *Promotional appointments.* Every person receiving a promotional appointment shall serve a probationary period of one (1) year while occupying the position to which he or she has been appointed.

(e) *Completion of probationary period.* The police chief may at any time during the probationary period reject any person appointed or promoted to a position in the police department. The police chief must state ~~his or her~~their reasons for rejection in writing, and provide those reasons to the employee and the employment subcommittee~~commission~~. In the case of a promotional appointment, the officer shall revert to the rank and pay status from which he or she was promoted.

(f) *No hearing or appeal.* Any person rejected during the probationary period shall have no right of hearing or appeal under this section.

(Ord. No. 143-17/18, 2-5-2018)

**Sec. 2-61. Reserved.**

**Sec. 2-62. Reserved.**

**Sec. 2-63. Reserved.**

**Sec. 2-64. Reserved.**

**Sec. 2-65. Reserved**

**Sec. 2-66. Physical standards and background investigation for original appointment; Job suitability assessment for promotion, for police lateral transfer and for police original appointment.**

(a) *Physical standards for original appointment.*

(1) *Medical examination.* All candidates on the eligible list for original appointment shall undergo a medical examination by a physician specified by the employment subcommittee~~commission~~, said medical examination to be done only after a conditional offer of employment has been made to the candidate. The examining physician shall report ~~his or her~~their findings in writing to the subcommittee~~commission~~ with respect to whether the candidate is physically capable of meeting the standards established by rule of the subcommittee~~commission~~. If the physician's report indicates a disqualification which can be corrected, the candidate's name shall be returned to the eligible list except that such person shall not be again considered for appointment until such time as he or she furnishes satisfactory evidence that the disqualifying condition has been corrected. If the physician's report indicates a disqualification which cannot be corrected and which prevents the candidate from performing an essential function of the position with or without reasonable accommodation, the candidate's name shall be permanently

removed from the eligible list pursuant to section 2-61 above.

- (2) *Physical fitness standards.* In addition to the medical examination, the ~~employment-subcommittee~~commission shall establish by rule minimum standards and procedures for a physical fitness assessment of candidates for original appointment, which standards shall be determined by the ~~subcommittee~~commission to be a bona fide occupational qualification or failure to meet them poses a safety hazard or cannot be reasonably accommodated in an individual case. Such physical fitness assessment shall be administered to each candidate by the department as provided in section 2-65(a)(3) above, and the result thereof shall be provided to the chief.

(b) *Background investigation for original appointment.*

- (1) *Fingerprinting.* Candidates for original appointment to either department shall be directed to the police department where they shall be fingerprinted. All candidates shall execute any necessary waivers for the background check. The fingerprints and records of each candidate shall be checked against the local police files, state police files and, if available, the files of the Federal Bureau of Investigation, in order to determine whether the candidate has been convicted of a disqualifying criminal offense.

- (2) *Polygraph.* Candidates for original appointment to the police department shall be required to submit to a polygraph examination to the extent such examination is permitted by law.

(c) *Job suitability assessment for promotional appointments, for police lateral transfers and for police original appointments.*

- (1) All candidates whose names appear on any certified list for promotional appointment may be required to be examined by a psychologist for job suitability, the results of which examination shall be used by the chief of the department and by the city manager. Examinations hereunder for promotional appointment shall be required every year, except that the chief may waive said requirement if such examination has been done within three years of the date of the candidate's appearance on a certified list, and the results are available for use by the chief and the city manager. The extent of said examination shall be determined by a psychologist on an individual basis and may be either pre-offer or post-offer, depending upon the content of the assessment, the psychologist's representation as to the purpose of the assessment and the department's preference.

To the extent permitted by law, the chief of either department may request that candidates on an eligible list undergo the job suitability examinations prior to drawing up a certified list if (1) doing so would overcome scheduling difficulties for a candidate and the candidate agrees to such scheduling and (2) doing so is necessary to ensure a timely appointment process. Nothing herein shall change a candidate's position on the eligible list or give him or her any vested rights therein.

(2) Candidates for police lateral transfer shall be given a post-offer job suitability assessment.

(3) Candidates for police original appointment shall be given a post-offer job suitability assessment as required by the Maine Criminal Justice Academy.

(d) *Failure to pass polygraph test or job suitability assessment for police original appointment or job suitability assessment for police lateral transfer or job suitability assessment for police or fire promotional appointment.* Notwithstanding anything herein to the contrary, any candidate for police original appointment who fails to pass a polygraph test as required hereunder, or, in the case of a police original appointment, police lateral transfer or police or fire promotional appointment, who fails to meet the job suitability assessment pursuant to this section, shall be removed from any list on which the candidate appears pursuant to section 2-61 above, and shall not be eligible to retake the written test until two years from the date the eligible list from which the candidate was removed was made.

(e) *Failure to appear or complete hiring requirements.* Any candidate who fails to appear for, or to complete, any component of the examination process, or any other requirement of the hiring procedure, shall be disqualified as a candidate and removed from any list on which he or she may appear. Such disqualification shall be reported to the employment-subcommittee commission by the Director. Upon request of the candidate, the employment-subcommittee commission may, in its discretion, waive the disqualification herein if: (i) the subcommittee commission finds that the candidate had sufficient excuse for such failure; and (ii) it finds that any rescheduling necessitated by such failure can be accomplished in a timely manner and with no disruption of the hiring process. Any candidate disqualified hereunder may reapply for any succeeding examination.

(f). *Temporary withdrawal of applicants for original appointments.* Notwithstanding the foregoing, a candidate for original appointment may, for sufficient cause, temporarily withdraw from consideration for a limited period of time upon the prior approval of the chief of the department. Any denial of a request for temporary withdrawal by the chief may be appealed to the subcommittee commission which may grant the request if (i) the subcommittee commission finds that the candidate had sufficient cause for such request; and (ii) it

finds that any rescheduling necessitated by request can be accomplished in a timely manner with no disruption of the hiring process. A candidate who is permitted to withdraw temporarily shall retain ~~his or her~~their place on the eligible list but shall not be considered for hire, or in the case of promotional appointment, shall not be placed on any certified list requested during the period of temporary disqualification. "Sufficient excuse" or "sufficient cause" as used herein shall include, but not be limited to, death or serious illness of a family member; temporary illness or disability of the candidate; completion of an academic or training program, or similar excuse and cause.

(g) *Duration of certified list.* The certified list shall be limited to the vacancy or vacancies for which it was requested. The names of persons not appointed shall be returned to the eligible list from which they were drawn. Each candidate for promotion who is not appointed shall be given, upon request, a statement by the chief of the department as to the reason or reasons why he or she was not recommended for appointment; or if he or she was recommended, a statement from the City Manager as to why he or she was not appointed. (Code 1968, § 201.12; 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 Ord. No. 220-99, § 4, 3-1-99; Ord. No. 121-99, 12-20-99; Ord. No. 174-05/06, 3-6-06; Ord. No. 298-05/06, 6-19-06 emergency passage; Ord. No. 126-09/10, 1-4-10)

#### **Sec. 2-67. Working test period.**

(a) Except as otherwise provided below for police lateral transfers or as otherwise provided for re-hires under subsection 2-59(e), every person receiving any appointment or transferring pursuant to section 2-59 above shall be tested for a working test period of one (1) year while occupying the position to which he or she has been appointed or transferred, except that the working test period for original appointees or transferees to the police department shall be two (2) years. The period of the working test shall begin immediately upon appointment or transfer. The City Manager may at any time during the working test period reject for reasons stated in writing any person appointed to a position in either department. The City Manager shall forthwith report to the ~~employment subcommittee~~commission in writing each rejection during such working test period, stating the date of the rejection and the reason for the rejection.

(b) Any person rejected during the working test period shall have no right of hearing, or appeal under this article, and in the case of a promotional appointment, shall revert to the rank and pay status from which he or she was promoted. No original appointment shall be effective beyond the end of the working test period unless, within ten (10) days preceding the end of the working test period, the City Manager shall report to the ~~employment subcommittee~~commission in writing that in the opinion of the City Manager, the employee's work has been such as to indicate that ~~he~~the employee is willing and able to perform ~~their~~his duties in a satisfactory manner. Upon delivery of a

favorable report from the City Manager, the appointment shall become permanent.

(c) A police lateral transfer who has prior service as a police officer at the time of appointment shall be credited with up to twelve (12) months of service toward completion of the department's two year working test period, provided, however, that eligibility for promotional appointment shall continue to be completion of three (3) years in the Portland police department.

(Code 1968, § 201.13; 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; Ord. No. 174-05/06, 3-6-06; Ord. No. 126-09/10, 1-4-10)

### **Sec. 2-68. Disciplinary action.**

(a) *Action by chief of department.* Unless otherwise governed by a collective bargaining agreement, the chief of the department may, for cause:

- (1) Suspend without pay any member for one (1) offense for a period of not more than fifteen (15) working days, resulting in the loss of not more than three (3) weeks' pay;
- (2) Issue a written reprimand to be included in the member's personnel file.

Suspensions without pay shall not be for more than thirty (30) working days in aggregate in a calendar year. Upon imposition of any discipline, the chief shall immediately file with the employment subcommittee commission a written statement of the disciplinary action taken and the reason therefor. A copy of the statement shall be delivered to the department member in person or by mail at the member's last and usual place of abode. Actions of the chief taken within this subsection shall be final and there shall be no appeal therefrom under this article.

(b) *Action by subcommittee commission.* The employment subcommittee commission shall have the power and authority to demote, suspend with or without pay, and remove members of the police department and the fire department for cause and after presentation of charges and hearing. The subcommittee commission shall have the right to reinstate any such demoted, suspended or removed member of the police department or fire department after a hearing upon recommendation of the chief of the department to which the applicant seeks reinstatement, provided the City Manager joins in such recommendation for reinstatement.

(c) *Action by chief pending hearing.* Pending a hearing before the employment subcommittee commission, the chief of the department or the City Manager may, for the cause to be presented to the subcommittee commission, suspend any member, without pay, until the next succeeding meeting of the subcommittee commission; provided, however,

that no suspension without pay pending a hearing by the subcommittee commission shall be effective for more than fifteen (15) days; no suspension without pay shall be effective unless it is either preceded by a filing of charges with the subcommittee-commission or such charges are filed within ten (10) days thereafter, Saturday, Sunday and legal holidays excepted; and if the subcommittee-commission determines that no disciplinary action is warranted, it shall provide that any salary which should have been paid during such period of suspension shall be paid to the member.

A member may elect to waive a hearing before the employment subcommittee commission and accept disciplinary action determined by the chief of the department. Said waiver shall be made in writing prior to the implementation of the discipline. Prior to waiving a subcommittee commission hearing, the member shall be provided with written notice of the charges against him or her, a brief statement of the evidence against him or her, and an opportunity for a hearing before the chief. Said hearing shall be informal in nature and shall not be an adversarial hearing, but the member may have counsel and/or a union representative present. The member shall have the right to confer with said counsel and/or representative during the hearing and to have them speak on his-or-her~~their~~ behalf. The hearing before the chief may be tape recorded upon the request of either party.

(d) *Notice; opportunity to respond.* Prior to suspending any member without pay under subsection (c) above, the chief of the department shall provide the member with notice of the substance of the charges against him or her, a statement of the evidence, and an opportunity to respond to said charges and evidence.

(e) *Hearings without formal charges.* Whether or not charges are filed with the subcommittee commission, the subcommittee-commission shall within thirty (30) calendar days schedule a hearing to determine whether disciplinary action should be taken against any member where:

- (1) The member fails or refuses to testify before the subcommittee-commission at any disciplinary hearing; or
- (2) The member becomes the defendant in a pending criminal proceeding, the conviction in which proceeding would be a disqualifying criminal conviction.

Either party may request a continuance of such hearing, which may be granted by the subcommittee-commission upon such terms and conditions as it deems appropriate. If the continuance is requested by a city official, the member shall receive their~~his~~ regular pay for the duration of the continuance. However, if a suspended member requests a continuance of the hearing, the member will not be paid for the duration of the continuance period requested by him~~the~~ suspended member.

(f) *No deferral of action.* Disciplinary action by the

~~subcommittee-commission~~ for the same conduct which is the subject matter of a pending criminal proceeding shall not be deferred unless the ~~subcommittee-commission~~ shall order such deferment at the request of the member charged, in which case the ~~subcommittee-commission~~ may impose reasonable conditions, including but not necessarily limited to, a continuing suspension without pay.

(g) *Result of collateral criminal proceeding.* The acquittal of the member on criminal or civil charges involving material allegations which are substantially similar to the material allegations made in the disciplinary proceeding shall not require abatement of a disciplinary proceeding by the ~~Subcommittee~~commission. A final judgment of conviction of a crime which is a disqualifying criminal offense shall operate as a disqualification from office, and, upon proof of such conviction to the ~~subcommittee~~commission, such member shall be removed.

(h) *Procedure at disciplinary hearings.* All hearings of the ~~subcommittee-commission~~ shall be deemed to be civil in nature and shall be informal in conduct. Such hearings shall be governed by this article and by any rules of practice and procedure adopted by the ~~subcommittee~~commission. In the conduct of such hearings, the ~~subcommittee-commission~~ shall not be bound to the technical rules of evidence. No informality in any proceeding or hearing or in the manner of taking testimony before the ~~subcommittee-commission~~ shall invalidate any decision of the ~~subcommittee~~commission. Disciplinary action shall be taken only upon a preponderance of the evidence.

(i) *Decision.* After hearing, the ~~subcommittee-commission~~ shall make written findings of fact with respect to any specific allegations and shall determine whether such facts constitute cause for disciplinary action, and if the ~~subcommittee-commission~~ determines that cause for disciplinary action exists, the nature of the disciplinary action to be taken. Such decision may be appealed as provided by law.

(j) *Expenses.* The ~~subcommittee-commission~~ may, if it determines that charges made were without substantial justification, recommend to the City Council the payment of reasonable counsel and witness fees incurred by any member in the defense of such unjustified charges.

(Code 1968, § 201.14; 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; Ord. No. 174-05/06, 3-6-06)

**Sec. 2-69. Reserved.**

**Sec. 2-70. Reserved.**

**Sec. 2-71. Reserved.**

**Sec. 2-72. Reserved.**

**Sec. 2-73. Reserved.**

**Sec. 2-74. Reserved.**

**Sec. 2-75. Reserved.**

~~DIVISION 4. POLICE CITIZEN REVIEW SUBCOMMITTEE~~

~~Sec. 2-76. Functions and duties.~~

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

~~(1) 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;~~

~~(2) To report in writing to the City Manager periodically, but no less than annually beginning in January 2003, as follows:~~

~~a. 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.~~

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

~~(5) Reports of the subcommittee 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.~~

~~(6) To make suitable procedural rules, from time to time, for the conduct of its duties. Proposed 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 shall review all completed internal affairs investigations of citizen complaints.~~

~~(c) Timing of review. All subcommittee reviews of citizen complaints shall take place only after final disciplinary action has been taken and all appeals exhausted or the case has been finally~~

~~closed with no disciplinary action taken.~~

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

~~(e) Scope of authority. The subcommittee 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 officers, and the subcommittee 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 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 commissioners shall attend training by city staff as to the subcommittee's duties and responsibilities, applicable state and local law 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 members.~~

~~(g) Resources. To facilitate the effectiveness and objectivity of the police citizen review subcommittee, the city shall make available to the subcommittee the services of a technical advisor, as needed by the subcommittee. The technical advisor may be used for the purposes of training; briefing the subcommittee on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the subcommittee on aspects of the internal investigation process. The advisor shall be retained by the City Manager after consultation with the Chief of Police, representatives of the police unions and the subcommittee chairperson. 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 subcommittee to conduct its duties hereunder. In no case shall the subcommittee 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 thru 2-90. Reserved.~~

#### ARTICLE IV-A. CIVILIAN POLICE REVIEW BOARD

##### Sec. 2-76. Created.

Pursuant to Article IX of the Charter, there is hereby created a civilian police review board, the purpose of which is to increase public trust and confidence in the Portland Police Department.

##### Sec. 2-77. Composition.

The civilian police review board shall consist of ten (10) board members. Seven (7) of the board members shall be voting members, and three (3) of the board members shall be non-voting members.

##### Sec. 2-78. Qualifications.

(a) *Qualifications of commissioners.* Every board member 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. The following persons are not eligible to be members on the board:

- (1) Any present or former employee of the city or school department, who was employed by the city or school department in the previous five-year period;
- (2) Any present or former member of the City Council or School Board, who held that position in the previous five-year period; or
- (3) Any individual presently serving as a commissioner or alternate on the civil service employment commission;
- (4) In order to ensure an objective and unbiased audit of the police department's internal affairs investigation process, any applicant for service on the civilian police review board shall be disqualified from serving on said board 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 their 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. the applicant or any member of their 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 their 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 their duties within the last ten (10) years or has had such a suit finally disposed of within the previous ten (10) years, whichever is longer; and

e. "Immediate family" as used herein shall mean and include spouse, domestic partner, children, grandchildren, 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 board and shall constitute "cause" within the meaning of section 2-82.

(d) Any board member who becomes ineligible to serve during their term shall resign, and failure to do so shall constitute "cause" within the meaning of section 2-82.

(e) Reasonable efforts shall be made to ensure that the appointments to the civilian police review board are diverse and representative of the community.

### **Sec. 2-79. Appointment.**

(a) Subject to the provisions of section 2-80, members of the civilian police review board shall be appointed as follows:

- (1) Six (6) 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.

(b) 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 the city council. Applications may be solicited whether or not there is a vacancy, and such applicants may be considered for any vacancy that occurs within one hundred eighty (180) days of the closing date for such applications. Nothing herein shall limit the city's authority to solicit applications whenever the City Manager deems that it is necessary.

**Sec. 2-80. Terms.**

(a) Term. Each board member shall be appointed to a three-year term except as set forth in subsection (c) or unless appointed to fill a vacancy. A board member shall serve until their successor is appointed and qualified, but in no case longer than one hundred twenty (120) days from the expiration of their term.

(b) Limitation on service. 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.

(c) 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 2-79. 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; two (2) 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.

**Sec. 2-81. Compensation.**

Civilian police review board members shall serve without compensation, except that reasonable expenses incurred by any member incidental to their duties under this article may be reimbursed upon prior approval of the city manager.

**Sec. 2-82. Removal.**

Any civilian police review board member may be removed from office by the city council for cause, after notice and the opportunity to be heard. "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 board 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 board member intended to affect or influence, or which could reasonably be expected to affect or influence any decision of the city manager, the chief of police, or the city council with respect to the department, or of any member of the police department with respect to the performance of their duty.

**Sec. 2-83. Officers.**

The board shall annually elect one (1) of its members as the chair and one (1) of its members as the vice chair, to serve in the absence of the chair. Whenever possible, non-voting members of the board shall serve as the chair and vice chair. A member may not serve as chair for more than three (3) consecutive years. The City Manager's designee shall serve as secretary to the civilian police review board and shall furnish any necessary administrative assistance to the board.

**Sec. 2-84. Meetings.**

(a) Calling of meetings. Meetings or hearings of the board 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 board. The Chair shall call a meeting upon request from any board member.

(b) Quorum. A quorum of the Civilian Police Review Board shall be a majority of the total number of voting members presently appointed to the board. The board shall act by a majority of voting members present and voting.

**Sec. 2-85. Functions and duties.**

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

- (1) To receive complaints of police misconduct by civilians and police as follows:
  - a. Complaints received by the board, whether from civilians or police officers, shall be referred within twenty-four (24) hours after receipt to the police internal affairs department for investigation. When receiving complaints, the Board shall follow the police department's standard operating procedures regarding interviewing the complainant and documentation requirements.
  - b. To the extent that the police department receives a civilian complaint directly or through means other than referral by the board, the police department will provide the community liaison with a copy of the complaint within five (5) calendar days.

- c. The board will not accept any complaints from police officers or their representatives regarding disciplinary actions or personnel matters.
  - d. For purposes of this Article, complaint shall have the same definition as outlined in the police department's standard operating procedure.
- (2) To review all final investigation reports submitted by internal affairs and/or police command staff for due process issues, including but not limited to, issues of fairness, thoroughness, objectivity, and timeliness, for both the complainant(s)/civilian(s) involved in the matter and the officer(s);
  - (3) To maintain the confidentiality of all information and documents provided to and/or reviewed by the board in accordance with state law;
  - (4) To hold a public hearing at least annually to receive comments upon the complaint process and to engage the City residents as to the board's purposes and goals.
  - (5) To provide a written annual report to the Mayor, City Council, City Manager, and Chief of Police that includes, but is not limited to, the following:
    - a. the board's policy and funding recommendations concerning the police internal affairs process, police policies, practices and procedures, and the board's functions and duties; and
    - b. the number of complaints submitted to the board and the number of complaints resolved during the previous year.
  - (6) To ensure that all reports of the board shall be prepared in such a manner that particular complainants, witnesses, and officers are not personally identifiable.
  - (7) To ensure that its reports are made available to the public but only to the extent permitted by the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 et. seq. and other applicable law.
  - (8) To propose, from time to time, suitable rules governing the board's administrative procedures and board member roles. Such proposed rules will become effective only when approved by the city council.
  - (9) To request additional funding from the city manager as part of the city's annual budget process and at such other times as it deems necessary, though nothing in this Article shall require the city manager or the city council to provide any

particular amount of funding.

(b) *Timing of review.* All board reviews of 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.

(c) *Notification of review.* The board shall notify the complainant, in writing, of the board's review and any findings made by the board regarding due process in the internal affairs investigation, including but not limited to, issues of fairness, thoroughness, objectivity and timeliness.

(d) *Scope of authority.* The board shall have no power or authority to subpoena or call witnesses or to impose or modify any disciplinary action, or lack of action, against any police officer. The board shall make no recommendations or offer any findings or comments relative to any disciplinary action, or lack of action, against any officer.

(e) *Training.* Prior to assuming their duties hereunder, board members shall attend training by city staff as to the board's duties and responsibilities, applicable state and local law, ordinances, and rules and regulations, accepted police practices, the department's internal affairs investigation process, including the rights of officers being investigated, and proper techniques for receiving internal affairs complaints, including the process utilized by the police department. Such training shall be provided by the city at no cost to the board members.

(f) *Resources.* To facilitate the effectiveness and objectivity of the civilian police review board, 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 Manager shall designate a staff member to serve as the civilian police review board's Community Liaison. 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

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 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 state Freedom of Access law.

### **Sec. 2-86. 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 be cause for removal from the board. All reports and requests for disclosure of any information shall be referred to corporation counsel for review prior to release.

### **Sec. 2-87. Appeals.**

(a) An individual aggrieved by the report on a complaint issued by the civilian police review board may submit a notice of appeal of the board's due process determinations to the city council. Any such appeal must be in writing addressed to the mayor, must state the basis for the appeal, and must be filed with the mayor on or before the day that is thirty (30) days after the date of the board's report.

(b) Within sixty (60) days after receipt of a notice of appeal, the city council shall hold a hearing during which it shall review the board's report, the internal affairs investigation materials, and the notice of appeal. After such hearing, the city council will provide an advisory opinion regarding due process issues of the internal affairs investigation, including, but not limited to, issues of fairness, thoroughness, objectivity, and timeliness, for both the complainant/civilian involved in the matter and the officer. The city council's review shall be de novo and will occur in executive session where required by state law. The council's advisory opinion will not be legally binding on the city, the police department, police officers, or individuals. The city council will 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's hearing will not address, and its advisory opinion will make no recommendations nor offer any findings or comments relative to any disciplinary action, or lack of action, against any officer or any other personnel matter. The city council's advisory opinion 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 corporation counsel for review prior to release.

Sec. 2-88. Reserved.

Sec. 2-89. Reserved.

Sec. 2-90. Reserved.

PCRS

MEMO: New Ordinance Collaboration & Engagement in Implementation

June 2025

Dear Portland City Counselors,

Thank you for your time and dedication to this great city and those you serve. At this time the PCRS would like to extend an opportunity to relay thoughts, concerns, and recommendations about the new Ordinance that will shepherd this subcommittee forward into its new iteration.

As previously stated 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” (Letter to the City Manager c. 2021).

As the structure of police oversight is one of the key topics being reviewed, it is even more vital that perspectives of those that are part of the PCRS on a day-to-day basis are brought to the table. We too are looking to find ways to strengthen our current structure and believe we have relevant insights to share. We look forward to sharing those insights and information in the near future.

Moving forward, we would like to invite you to attend the September 2025 PCRS Meeting to further delve into the work that has been done in the past by previous members and the work this current group is championing to set a foundation for the next group that will take over. We also encourage you to share any relevant updates with the PCRS you may have as to the work you are conducting on alternative police oversight models for Portland.

Thank you in advance for your prompt response to our request. We look forward to engaging in a robust and productive conversation

## Notes for PCRS Meeting to Discuss Letter to City Council in Response to Draft Ordinance

### Relevant Documents:

- [Question 7 Charter Amendment, as it appeared on the ballot, with summary](#)
- [Final Report from the Charter Commission which included a explanation of the police oversight amendment](#)
- [PCRS Ordinance from current City Code \(starts at page 52\)](#)
- [Final Report of the Racial Equity Steering Committee \(2021\), recommendation to totally dissolve PCRS, start from scratch to build a more effective oversight body, and remove all barriers to serving \(second paragraph of page 11\)](#)

*The 6 categories below represent areas in which PCRS members have identified questions/concerns/observations about the current draft ordinance:*

### 1. SCOPE

- a. Expanded to include all internal and external complaints
  - i. No longer being limited to only external complaints will allow board members access to evaluate and respond to a broader range and a larger amount of police department matters in relation to the IA process as well as broader police department topics.
- b. “Included but not limited to” language
  - i. Pertains solely to “due process” and the IAs
  - ii. Feels vague—what does and doesn't this include within the above criteria?
    1. Can it include discussion of IA categorization?
    2. What else could it possibly include? What else is in “due process?”
- c. Annual report
  - i. Audience is expanded to include Mayor, City Council, City Manager, and Chief of Police
  - ii. “Included but not limited to” policy and funding recommendations concerning the IA process; police policies, practices and procedures; and the board’s functioning and duties
  - iii. Is the annual report the opportunity the Board is given to provide feedback on potential issues observed to be underlying IA cases? Is there any additional avenue for the Board to share this type of related feedback?
    1. The Charter states: “The civilian police review board shall be able to make policy recommendations to the mayor, the city council, and the chief of police.” << How exactly do we do that? What mechanism other than the annual report is there to do that in the current draft ordinance?

- iv. Is it possible to include in this section language such as “the City Manager must respond in XX days detailing actions that will be taken to respond to the problems/issues/areas for improvement raised in the report”?
- d. Receiving complaints directly from complainants
  - i. See below “Complaint Process”
- e. Limits of scope
  - i. Remains focused on the IA process with the exceptions of the above mentioned instances
  - ii. The Charter languages specifically mentions things that are not reflected in the ordinance draft:
    - 1. The Charter says the new board has 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 is missing from the ordinance.

## 2. ELIGIBILITY CRITERIA

- a. Ordinance imposes criteria that isn't in the charter
  - i. Is this ok, and if so, why?
- b. Changed from 10 to 5 years for city/school department employees, makes school and city employees both subject to the same restrictions—change from last draft. However the other barriers (e.g. has submitted a complaint to PD, etc) remain 10 years.
- c. The Charter amendment says in Section 1(c): “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.” These are the only qualifications enumerated in the Charter amendment, and was 100% intentional - the Charter Commissioners wanted to, and did, completely eliminate almost all barriers to serving on this board. They thought this language accomplished that. However, these barriers have now been added back in.
- d. The Racial Equity Steering Committee also recommended in 2021 that all barriers to serving be eliminated for serving the PCRS.

## 3. COMPLAINT PROCESS

- a. We will need to create a process to receive complaints directly from the public, handle that information properly, and conduct our own interviews/and or research. We will need to determine what this will look like in practice once the new ordinance passes.
- b. The new ordinance says we must follow IA SOPs when receiving complaints directly. Does this leave no room for the new board to

determine how exactly it should receive complaints, what information to collect, how to collect it? As long as IA's needs are met, I don't see why the committee should be prohibited from developing its own complaint process based on what it believes it needs, for example, maybe the board could collect some kind of demographic data that PD doesn't collect. The way the ordinance is currently written, that would not be permissible because it wouldn't follow PD's IA SOP.

#### **4. APPEALS PROCESS**

- a. The Charter mandates an appeals process, but does not state who the appeals board should be. It could be the city council, but the Charter says the Council could designate another body to do it. Is the Council really the best option here? A political body operating in a quasi-judicial capacity?
- b. Is the appeals process useful? Maybe this ship has sailed, but what exactly is being appealed here? The oversight board's decisions about whether an investigation was timely, thorough, fair, and objective?

#### **5. STAFF/RESOURCES**

- a. Community Liaison
  - i. Interfaces with the public about methods for filing complaints, assists board with carrying out duties, conducting outreach.
  - ii. Is a city employee? Yes, the Charter says the Council decides whether this is an existing employee, or a new part-time or full-time one. It could be dedicated staff, but it sounds like the latest draft just assigns these duties to an existing staff member.
- b. Police Liaison
  - i. Familiar with PPD SOPs and answering Board's questions about such.
  - ii. The current draft says the PD selects this person and that it must be a member of the Department; the Charter says the City Council selects this person and that it could be anyone, it doesn't have to be a member of the department.
- c. Technical Advisor
  - i. Assists with training and education on police practices, the law, and issues related to the citizen review process.
  - ii. This could be a city employee, or a third-party consultant or expert
- d. IA reports and relevant documents
  - i. Is the ordinance where we want to specify the need for increased security features for document sharing, as well as extended access for data-collection purposes?

#### **6. BUDGET**

- a. Board is able to request additional funding from the city manager as part of annual review process.

- b. How are the 3 staff/advisor roles budgeted for?
  - i. Currently they are not. The new board has zero budget for anything beyond the bare minimum staff time, and zero budget for its own duties.