

**City of Portland
Police Citizen Review Subcommittee**

**AGENDA
August 12, 2020
6:00 p.m.**

On Wednesday, August 12, 2020 at 6:00 p.m., the Police Citizen Review Subcommittee will conduct a virtual meeting via Zoom, as allowed by 1 M.R.S. Sec. 403-A.

Please allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend the meeting live, the City will be posing a recording of the meeting after it has concluded.

Please click the link below to join the webinar:

<https://zoom.us/j/97845792103>

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Webinar ID: 978 4579 2103

International numbers available: <https://zoom.us/u/axOLxUent>

1. Call to Order at 6:00 PM
2. Approval of July 8, 2020 Minutes
 - a. July 8, 2020 Draft Minutes
3. Public Comment on Annual Report or any other relevant topic
4. Discuss and Finalize 2019 Annual Report
 - a. Draft 2019 Annual Report

5. Discuss initial NACOLE Webinars attended by members
6. Presentation of other models of citizen oversight boards by Ms. Testa
7. Update on progress towards other goals in workplan
 - a. PRCS Workplan
8. Adjourn

POLICE CITIZEN REVIEW SUBCOMMITTEE

July 8, 2020

Meeting Held Remotely Via Zoom

Members present: Emily West, Chair; Maria Testa; Luke Beland; Kaylin Kerina; Rev. Kenneth Lewis; Reggie Parson; April Fournier

Staff present: Commander Jim Sweatt; Sgt. Cliff Strout; Lt. Chris Dyer; Anne Torregrossa, Associate Corporation Counsel

6:00 Call to order via Zoom.

Discussion of June 10, 2020 draft meeting minutes. Motion to approve, second, approved 7-0

Discussion of June 24, 2020 draft meeting minutes. Motion to approve, second, approved 7-0.

Introduction of draft memo to City Manager with PCRS initial recommendations.

- Ms. Testa asked that the PCRS consider recommending two interim citizens sit on the use of force committee and identify other emerging resources in addition to the 21st Century Policing task force as sources of best practices. Rev. Lewis asked whether the memo should cite to the specific governing SOP.
- Michael Kebede, Policy Council to the Maine ACLU provided public comment that the Police Department is asked to do too much, including responding to issues resulting from mental health issues. Mr. Kebede suggested that the PCRS consider a recommendation to change the model that prioritizes having mental health professionals responding to such calls.
- The PCRS discussed the memo and made several changes.

Motion to approve the memo as amended, second, approved 6-0 (Ms. Fournier left the meeting during public comment).

The PCRS discussed Mr. Kebede's comments and discussed the PCRS's role in making such recommendations. The Committee determined that this would be an issue to be discussed within the context of its existing workplan.

The PCRS discussed the draft workplan and made assignments for who would lead the research and recommendations on each point. The PCRS mapped out a plan for August and September meetings.

7:14 Motion to move into executive session pursuant to 1 M.R.S. § 405(A) to discuss a confidential Internal Affairs report, second, approved 6-0.

7:58 Back to public session. Motion to find that IA2019-11 was timely, fair, thorough, and objective, second, approved 5-0 (Ms. Testa abstained).

8:08 Motion to adjourn, second, approved 6-0.

**CITY OF PORTLAND
CIVIL SERVICE COMMISSION
POLICE CITIZEN REVIEW SUBCOMMITTEE
2019 ANNUAL REPORT**

June 10, 2020

**Police Citizen Review Subcommittee
Emily West, Chair
c/o Corporation Counsel
389 Congress Street
Portland, Maine 04101
pcrs@portlandmaine.gov
www.portlandmaine.gov/pcrs**

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1. Introduction

a. Overview of the Committee

The Subcommittee is tasked with determining whether police investigations into citizen complaints against police officers are “thorough, objective, fair and timely.” It does so by auditing the Police Department’s Internal Affairs Division’s investigative methods and procedures after an investigation is complete. The results of these determinations are reported to the City Manager, as well as a statistical analysis of those results.

The Subcommittee evaluates the overall quality of Internal Affairs investigations using the follow four criteria^{EMW1}:

1. Was the investigation timely based on historical averages and the timelines of communication with the complainant?
2. Was the investigation completed in a thorough manner in which key evidence was pursued and analyzed?
3. Was the investigation fair and completed in an independent, confidential manner?
4. Was the investigation objective and completed in a professional, neutral and unbiased manner?

The Subcommittee also holds a public hearing at least annually to receive comments on the police citizen complaint process. In 2019, the Subcommittee held public comment sessions at all of its meetings. It is charged with providing recommendations to the City Manager for improvements or modifications in the Internal Affairs investigative process, policies, or training, as well as recommendations for enhancing public confidence in the methods and process of investigation.

The Subcommittee does not directly take complaints about the City of Portland Police Department. However, a list of resources to file a complaint is attached as APPENDIX I.

b. 2019 Membership and Meetings

The Police Citizen Review Subcommittee met nine times in 2019 and considered 11 cases. Copies of the 2019 meeting minutes are attached as APPENDIX II.

Michael Harris served as Chair of the Subcommittee, and other members included Sam Beal, Emily West, Luke Beland, Maria Testa, Reginald Parson, Rev. Kenneth Lewis, and April Dawn. Lt. Cliff Strout led the Police Department’s Internal Affairs Division.

2. Analysis of Cases Reviewed in 2019

The Internal Affairs Division investigates complaints against members of the Portland Police Department that come from within the Department (internal complaints), as well as from members of the public (external complaints). The Subcommittee reviews only the external complaints that are filed.

Table 1 below summarizes the following information with respect to the cases reviewed by the Subcommittee in 2019:

1. The number of the case reviewed by the Subcommittee.
2. The nature of the complaint alleged, and the Standard Operating Procedure (SOP) allegedly violated. The SOPs involved in complaints reviewed by the PCRS in 2019 include:^[EMW2]
 - a. SOP 1A, *Use of Force*
 - b. SOP 10, *Professional Conduct*
 - c. SOP 41B, *Warrantless Search and Seizures*
 - d. SOP 86A, *Mobile Video Recording*
3. The result of the Internal Affairs investigation. Potential results include:
 - a. **Sustained** – Sufficient evidence exists to indicate that the employee did, in fact, commit one or more of the alleged acts.
 - b. **Not Sustained** - No violation of Department rule, regulation or procedure or local, state or federal law has been proven.
 - c. **Exonerated** - The incident occurred, but the employee's actions were justified, lawful and proper.
 - d. **Unfounded** - Reasonably credible evidence exists to indicate the complainant's allegations are false.
 - e. **Cleared Exceptionally** –
 - f. **No Finding** -
4. Whether the Subcommittee found the investigation to be thorough, objective, fair, and timely.

As Table 1 presents, the Subcommittee reviewed a total of 11 citizen complaints in 2019. Six of these complaints occurred in 2018 and the other five in 2019. These 11 complaints often involved more than one allegation, for a total of 27 allegations across all cases. Internal Affairs concluded that six allegations (across four cases) were sustained—indicating that the employee did violate an SOP. The Subcommittee concluded that all 11 cases met the criteria of being thorough, timely, fair and objective in nature.

Table 1. Overview of Cases Reviewed in 2019

Case Number	Allegations	Sustained	Not Sustained	Exonerated	Unfounded	Cleared Exceptionally	No Finding	Investigation was thorough, objective, fair, and timely	
								Yes	No
2018-012	- Theft by unauthorized taking or transfer (17-A M.R.S. § 353) (employee 1) - Use of force (SOP 1A) (employee 1)		X					X	
	- Theft by unauthorized taking or transfer (17-A M.R.S. § 353) (employee 2) - Use of force (SOP 1A) (employee 2)		X						
	Theft by unauthorized taking or transfer (17-A M.R.S. § 353) (employee 3)		X						
	- Theft by unauthorized taking or transfer (17-A M.R.S. § 353) (employee 4) - Use of force (SOP 1A) (employee 4)		X						
2018-014	- Conduct towards the public (SOP 10) - Unsatisfactory performance (SOP 10) - Mandatory recording (SOP 86A-V-G.1)	X X		X				X	
2018-015	- Unsatisfactory performance (SOP 10) - Impartial attitude (SOP 10) - Mandatory recording (SOP 86A)	X X	X					X	
2018-017	- Conduct towards the public (SOP 10) - Mandatory recording (SOP 86A)	X	X					X	
2018-018	- Conduct towards the public (SOP 10) - Impartial attitude (SOP 10)			X X				X	
2018-021	Use of force (SOP 1A)			X				X	
2019-001	- Warrantless search (SOP 41B) - Unsatisfactory performance (SOP 10)	X				X		X	
2019-002	Unsatisfactory performance (SOP 10)						X	X	
2019-004	Rumor (SOP 10)						X	X	
2019-006	- Use of force (SOP 1A) - General responsibility (SOP 10) - Conduct toward the public (SOP 10) - Impartial attitude (SOP 10)				X X X X			X	
2019-007	Conduct towards the public (SOP 10)		X					X	
TOTAL		6	7	7	4	1	2 [EM]		

Table 2 summarizes the number of each type of allegation brought in the complaints and the number of those allegations that were sustained. Numbers from 2019 are compared to earlier years with available data. In 2019 the most common allegations at the case level included conduct toward the police (five cases), unsatisfactory performance (four cases), and impartial attitude, use of force, and mandatory recording (with three cases each). While most of these categories were common in the previous two reporting years, allegations involving impartial attitude and mandatory recording [EMW4] were not as frequent previously.

Just over 20 percent of all allegations from the 2019 reporting year were sustained (six of 27). Of these sustained allegations, three were for mandatory recording, two were for unsatisfactory performance, and one was for a warrantless search.

Table 2. Overview of Allegation Types and If Sustained by Years Available

SOP Allegations	2019		2018		2017	
	Total Allegations	Total Sustained	Total Allegations	Total Sustained	Total Allegations	Total Sustained
Conduct toward the public	5 (5 cases)	0	6 (5 cases)	1	7 (5 cases)	1
Use of force	5 (3 cases)	0	4 (3 cases)	0	9 (4 cases)	0
Unsatisfactory performance	4 (4 cases)	2	7 (5 cases)	4	3 (2 cases)	3
Theft by unauthorized taking	4 (1 case)	0	0	-	0	-
Impartial attitude	3 (3 cases)	0	1	1	0	-
Mandatory recording	3 (3 cases)	3	0	-	0	-
General responsibility	1	0	5 (1 case)	0	0	-
Illegal/warrantless search	1	1	3 (1 case)	2	0	-
Rumor	1	0	0	-	0	-
Proper action required	0	-	5 (1 case)	0	0	-
Divulging police information	0	-	1	1	1	0
Failure to make a police report	0	-	1	1	0	-
Improper handling of evidence	0	-	1	0	0	-
Race discrimination	0	-	1	0	0	-
Stop and frisk	0	-	1	1	0	-

SOP Allegations	2019		2018		2017	
	Total Allegations	Total Sustained	Total Allegations	Total Sustained	Total Allegations	Total Sustained
Illegal arrest	0	-	0	-	5 (2 cases)	0
Uniform policy	0	-	1	0	0	-
Total	27 (from 11 cases)	6 (22%)	37 (from 13 cases)	11 (30%)	25 (from 9 cases)	4 (16%)

3. Demographics of Complainants

Table 3 presents available demographics of the complainants in the cases reviewed by the Subcommittee in 2019. All demographic information was either self-reported by the complainant, or reported by the Police Department in related documentation. The Subcommittee plans to track this information going forward in future annual reports.

Table 3. Demographics of Complainants

Demographics		2018	2019
		# out of 13 complainants	# out of 11 complainants
Age	Younger than 40	7	4
	Older than 40	3	5
	Age unknown	3	2
Gender	Male	8	5
	Female	5	6
	Gender unknown/other	0	0
Race	Black	3	3
	White	2	2
	Race unknown/other	8	6
Ethnicity	Hispanic	1	0
	Non-Hispanic	4	0
	Ethnicity unknown/other	8	11
Residency	Portland resident	9	6
	Other resident	3	5
	Residency unknown	1	0

4. Recommendations

The Subcommittee spent much of its time discussing the role of the PCRS and how to better educate the public on the Subcommittee's roles and responsibilities. The Subcommittee drafted an educational flyer to assist with that goal, a copy of which is included as APPENDIX IV. The Subcommittee has also been working towards having meetings in alternative locations to make the meetings more accessible to members of the public.

5. Conclusion

The Subcommittee desires to have a positive role in its review of the Portland Police Department's procedures. It is not the Subcommittee's role to criticize individual officers nor to interfere with the Chief's management of the Department. It is critical, however, that the public have faith in the integrity and professionalism of the Portland Police Department. The Subcommittee can play a positive role in improving both the public's perception of the Department's ability to conduct fair and impartial investigations of citizen complaints of wrongdoing and of the investigations themselves. The Subcommittee can serve both the public interest and the Department interest in ensuring citizen confidence in the Department's ability to fairly investigate citizen complaints against officers.

PCRS WORKPLAN

DUTIES OF PCRS

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.

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PCRS GOALS FOR 2020

1. Review the structure of the PCRS.
 - a. Review other models of citizen oversight boards. Recommend changes in PCRS purview, if any, to City Manager to the extent necessary to enhance public confidence in the methods and process of investigation of citizen complaints against police officers.
 - (1) Summarize examples of a few other types of models from NACOLE website and other sources
 - (2) Come up with a plan for bringing back information from NACOLE's annual conference webinars to the subcommittee

LEAD: Maria Testa (Kaylin Kerina, April Fournier)

- b. Review PCRS methods and reporting:
 - (1) Define what thorough, fair, objective, and timely means within context of review of IA investigations.
 - (2) Evaluate annual report to determine additional information, trends, statistics, etc. to include.

LEAD: Emily West (Reggie Parson)

2. Review 21st Century Policing Report and other sources for best practices in policing to recommend to the City Manager.

LEAD: Luke Beland (Kaylin Kerina)

3. Review PD complaint/commendation process to recommend changes to improve effectiveness in gathering data on community relations with police.

LEAD: Maria Testa (Kaylin Kerina, April Fournier)

4. Continue further public education, transparency, and outreach to educate public about PCRS and its role and to solicit feedback to increase public confidence.

- a. Consider community relations liaison (would require ordinance change)

LEAD: Kaylin Kerina

June 24, 2020	Workshop ● Discuss scope of work for PCRS moving forward ● Discuss any immediate recommendations to City Manager
July 8, 2020	● Public comment ● Review and finalize memo to City Manager ● Set priorities on workplan and assign tasks to members ● Review IA case
August 12, 2020	● Public comment (general) ● Finalize annual report ● Debrief on initial NACOLE webinars ● Presentation of other models of citizen oversight boards (Maria) ● Update on progress toward other topics
September 9, 2020	● Public comment (general) ● Follow up on work re other models of citizen oversight boards and additional NACOLE webinars ● Presentation on 21st Century Policing recommendations and other sources of best practices (Luke)
October 14, 2020	Public comment
November 11, 2020	Public comment
December 9, 2020	Public comment