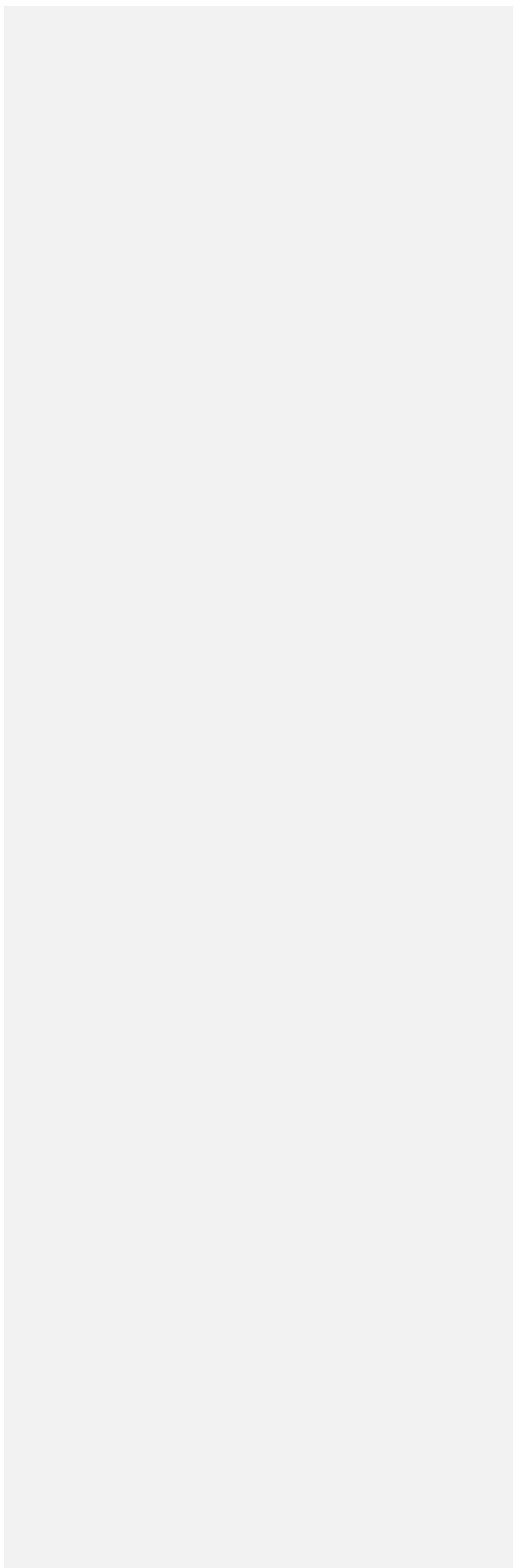


City of Portland
Police Accountability Commission
DRAFT Definitions

Contents

Accountability	2
Short Definition	2
When is there accountability?	2
Goals of Accountability	2
Reference Material	3
Independent Judgment.....	5
Short Definition	5
When is there independent judgment?.....	5
Goals of Independent Judgment.....	5
Reference Material	6



Accountability¹

Short Definition

Accountability is a system of checks and balances aimed at ensuring that police carry out their duties properly and are held responsible through a fair and transparent process if they fail to do so, and when their actions are damaging to other individuals or the community at large.

When is there accountability?

Accountability for a harm done to an individual and/or community occurs when:

- The harm that has been done is accurately described and **recognized** **addressed**
- The person or entity that has caused the harm takes whatever steps are possible to heal the harm
- The person or entity that has caused the harm takes whatever steps are possible to prevent the harm from reoccurring in the future

Commented [PAC1]:

Goals of Accountability

- **To create an environment where the community feels protected and served by the police, and the police work in an environment where misconduct is unacceptable and comes with clear and known consequences**
- Ensuring the future safety and healing of the victim and the community by repairing the harm that has been caused, and deterring future harm from being caused;
- **Policies which allow for inequitable policing are examined and changed to ensure true community safety**

Commented [PAC 04-242]: Commissioner comment (Monica): Include "leveling the playing field" between police and the community. Also, it should stick, when someone needs to be fired, they should not be able to go work somewhere else. Accountability should be more than just fixing a wrong *slightly* or just investigation, but doing something to level the playing field that has been so uneven.

Commented [PAC 04-243]: Commissioner comment (Angie): I want our community to feel protected by the police. Finding a way to discuss "serve and protect" purpose in here.

Commented [PAC 04-244]: Commissioner proposed change (Monica):

Commented [PAC 04-245]: Commissioner text (Dan) from previous version.

The goal of accountability is not punishment or retribution; accountability requires a fair, transparent, independent, and impartial system that all parties trust.

¹ City Council Resolution 37548, Exhibit A: "Accountability: Provide a working definition of accountability that includes the relationship between communities and the police."

Reference Material

Ideally, the work of accountability is performed willingly by the person that has caused the harm in conjunction with the oversight system. An obligation or willingness to accept responsibility or to account for one's actions and to answer for them when damaging/disruptive to other individuals or the community at large. When the person who is alleged to have caused the harm denies responsibility, accountability requires the oversight system to investigate, fairly determine the facts at hearing, and, based upon the record, impose discipline or corrective action that serves the purposes of justice and healing for the victim and the community, while fully protecting the rights of all participants.

An obligation or willingness to accept responsibility or to account for one's actions and to answer for them when damaging/disruptive to other individuals or the community at large.

In the context of the new police oversight board, accountability means ensuring employees of the Portland Police take responsibility and accept appropriate corrective action for violating the policies, practices or training of the Bureau. This includes actions which have directly or indirectly harmed members of the community through the use of excessive force, violation of rights, racial bias and even harms against fellow officers which break the community's trust. For the Bureau, this means that policies which allow for inequitable policing and actions which shock the conscience, even if they are lawful and justifiable by the book, should be examined and changed to ensure true community safety. In England, policing is based on "public approval of their existence, actions and behaviour."

In short, "Accountability is, 'You're not doing your job.'"

More broadly, accountability should also include reimbursing victims of police misconduct financially through civil lawsuits, ensuring officers who are fired for misconduct cannot work in law enforcement again, and changing laws or legal decisions such as qualified immunity which make holding officers to account difficult or impossible.

UNODC: "Accountability is defined as a system of internal and external checks and balances aimed at ensuring that police carry out their duties properly and are held responsible if they fail to do so. Such a system is meant to uphold police integrity and deter misconduct and to restore or enhance public confidence in policing."

UNODC: "Effective police accountability involves identifying and punishing those who have committed misconduct, and ensuring accountability after the act. Because police officers act on the basis of directives, accountability includes responsibility for the direction, control or diligence exercised before and during operations to ensure observance of the law and policies and of human rights. This is known as accountability before the act, which also includes the notion that the police are acting in accordance with the stated requirements of the general public or their representatives."

Institute for Government (UK), "Police Accountability."

<https://www.instituteforgovernment.org.uk/article/explainer/police-accountability>

Psychology Today, "The Difference Between Shame and Accountability."

<https://www.psychologytoday.com/us/blog/happiness-is-state-mind/202102/the-difference-between-shame-and-accountability>

Brookings Institute, "How can we enhance police accountability in the United States." <https://www.brookings.edu/policy2020/votervital/how-can-we-enhance-police-accountability-in-the-united-states/>

UN Office of Drugs and Crime Handbook on Police Accountability, Oversight, and Integrity.

https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf

Independent Judgment²

Short Definition

A demonstrable absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency.

When is there independent judgment?

The oversight board will have independent judgment to make internal policy changes, as well as discipline decisions and policy recommendations for PPB, apart from the influence of any person or entity within or without the City of Portland.

This means that the Board shall not be influenced in its decision-making except in an advisory capacity by any other official or entity, including the Police Bureau, the City Attorney's office, the Risk Management Division, the Bureau of Human Resources, and the Portland Police Association.

The non-interference clause means that when the Board makes a decision under the authority of the Charter, other City officials and entities shall enact the will of the Board and refrain from any attempt to thwart the Board's decision. This non-interference clause extends to all people beyond the Board members themselves.

Goals of Independent Judgment

To enact the will of the voters, who approved Charter Section 2-1006: "The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment."

In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents.

² City Council Resolution 37548, Exhibit A: "Independent Judgment: what constitutes independent judgment."

Reference Material

In the context of the new police oversight board, independent judgment is primarily defined in Charter section 2-1006: "The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment." The Board also is required to "[comply] with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance" (Section 2-1001). This means that the Board shall not be influenced in its decision-making except in an advisory capacity by any other City official, including the Police Bureau, the City Attorney's office, the Risk Management Division or the Bureau of Human Resources. Because the Board will be hiring the Director, who in turn will hire other staff, this non-interference includes the staff of the Board itself. Conversely, the non-interference clause means that when the Board makes a decision under the authority of the Charter, these other bodies shall enact the will of the Board.

NACOLE: "One of the most important and defining concepts of civilian oversight of law enforcement is independence. In its broadest sense, it refers to an absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency. In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents."

Portland City Charter Section 2-10 <https://www.portland.gov/charter/2/10>

NACOLE: <https://www.nacole.org/independence>