

City of Portland Police Accountability Commission Outline – Broader System

1. Implementation of the Oversight Board in the context of City government
 - a. “Which parts of the current system should function, or cease to function?” / “How and when to wind down the current oversight systems? “
 - i. IPR and CRC are known
 - ii. Other staff entities related to accountability
 - iii. Advisory groups related to policing and accountability
 - b. How the new system will relate to remaining parts of the system
2. How the new system will relate to the county government (incl. DA’s office)
3. How the new system will relate to the state government
4. How the new system will relate to the federal government, including DOJ/Settlement Agreement

Commented [PAC 05-181]: Staff Note: includes Internal Affairs question.

Commented [PAC 05-182]: Commissioner comment (Sophia): Coroner’s offices.

Commented [PAC 05-183R2]: Co-chair comment (Seemab): Local Public Safety Coordinating Council (LPSCC)

1. From Barriers and Best Practices

“3. Some parts of the current system are duplicative, confusing, and contradictory.

Recommended Findings: Multiple reviewers can recommend findings, and those recommendations sometimes contradict each other.

For example, unofficial recommended findings come from IA or IPR, then go to the commanding officer who makes the official recommended findings. Then the

Branch Assistant Chief, the Internal Affairs Captain, and the IPR may choose to recommend findings that are different from the commanding officer (known as controverting). If the findings are controverted, or if the findings are sustained, or if the case involves deadly force, the Police Review Board then reviews the investigation and again recommends findings. PRB has no obligation to form a majority opinion, so the PRB may send multiple sets of recommended findings to the Chief. The case may then be appealed to CRC, which makes a majority-opinion recommendation on findings. If the Bureau disagrees with the CRC's recommendation, the appeal goes to City Council. With the exception of cases which go to City Council, as provided in City Code, the Police Chief or Commissioner-in-Charge makes the ultimate final decision on findings."

"7. Burdensome parts of the accountability system disproportionately impact community members who are part of historically excluded groups. Current accountability systems structurally fail to address or even take seriously the impacts of policing on historically excluded groups or the disproportionate level of effort it takes for those community members to participate in the accountability system as they attempt to pursue individual misconduct complaints."

"9. The current system is governed and protected by several layers of local, state, and federal law and policy, including and especially labor law. Collective bargaining: The current system is subject to collective bargaining between the City government and the collective bargaining units. Most of the collective bargaining process is not open to the public. No representatives from either the volunteer or staff portions of the current community oversight system are part of collective bargaining processes. What currently exists is the result of many years of collective bargaining by the collective bargaining units. Law: Current labor laws do not take into consideration the input of the community, but rather favor the police collective bargaining units' input."

"12. The current civilian accountability system lacks the comprehensive power necessary to be effective at reducing misconduct. Limitations of Scope: Some complaints have no avenue for resolution outside of private litigation. Importantly, not everyone has the capability to pursue private

litigation. The system's limitations direct some potential complaints to be resolved in civil court, instead of through an administrative system. Civil courts focus on violations of rights, not of policy, and as a result are not the appropriate place for all types of complaints. For example, officer rudeness would not rise to the level of a civil rights violation but should be addressed by the administrative process. This results in some officer misconduct being excused that would not have been excused by a more comprehensive administrative accountability system."

"15. People who are making decisions about and within the system have a vested interest in the system being upheld.

Investigations: The current system relies on the Portland Police Bureau to investigate itself in most cases for both administrative and criminal allegations. IPR was created in 2002 but didn't do their first investigation until 2013. IPR can't compel testimony and is still reliant on police to do so. This demonstrates that the police are still involved in nearly all cases.

Internal Affairs: PPB IA investigations give a tremendous amount of deference to involved officers. PPB officer judgement receives wide latitude from PPB IA investigators. PPB IA Investigations are not rigorous enough, especially when officer statements and physical evidence do not match up."

"19. Community volunteers who participate in the current system often feel their work is ineffectual because it lacks real authority.

Final decision-making: The final decision-making power is vested in entities other than the Citizen Review Committee, which makes members of that committee often feel their input is not heard when their recommendations are not taken. Community volunteers on the Police Review Board, which also only makes recommendations, are outnumbered by police.

Lack of response and implementation: Policy recommendations from community entities often do not receive a response from decision-makers in a timely fashion. Even when they are responded to, community input is regularly not taken. Public input and testimony from the Citizen Review Committee indicates that volunteers often feel like their work is meaningless because their recommendations are often ignored by the City and the police."

2. From Access to Information

“B3. The oversight board, with the assistance of legal counsel, shall have the authority to subpoena witnesses, administer oaths and require the production of evidence. Through legal counsel, the board shall apply to Multnomah County Courthouse (or to the appropriate court) for the enforcement of a subpoena or to impose the penalties for failure to obey a subpoena or order.”

“B6. Any *person* who fails to comply with a subpoena may be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.”

“C4. To the extent allowable under state and federal law, the oversight board shall have direct access to all relevant database networks to which the Bureau subscribes. This includes, but is not limited to:

- a. Regional Justice Information System (RegJIN)
- b. Criminal Justice Information Systems (CJIS)”

3. From Officer Accountability

“B1. Referral of criminal investigations

A. The Board has the authority to refer cases to the District Attorney or other authority for criminal investigation when the incident or allegations indicate possible criminal activity by the officer(s).”

4. From Structural Oversight

“H. Board Proposals Related to Federal/State Law

The Board may officially endorse legislation/policy ideas and shall have the authority to testify in front of relevant government bodies and communicate its policy positions with employees and elected officials at any level of government. The Office of Government Relations shall consult directly with the Board as part of its development of the City’s legislative agenda, in a manner equivalent to any top-level administrative division of the City government.”

5. From Board Membership

“B3(2). Board Members cannot simultaneously be members of any other government-run advisory group related to police or policing.”

“C5. The applications of board applicants shall remain confidential to the extent allowable by law.”

“D6. The Oversight Board shall be empowered to advocate to other governmental entities (including the State of Oregon) for protections for oversight board members.”

6. From Oversight Staff

“B7b-vii. Community engagement includes discussions on how to improve police practices and policy which include soliciting community input.¹ Policy discussion should also include local, state, and federal laws which are not necessarily police bureau policies.”

7. From Reporting and Transparency

(Nothing found in this document.)

¹ From Chicago and Los Angeles County.