

**NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER**



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HOW TO FILE A POLICE MISCONDUCT COMPLAINT IN PORTLAND

This document provides answers to some basic questions about Portland's Independent Police Review. They are not a substitute for an attorney's advice. Please consult an attorney for specific advice about a legal case

What does the Independent Police Review Division do?

The Independent Police Review Division (IPR) is part of the City Auditor's office. The IPR receives and screens complaints regarding Portland Police Bureau officers, monitors or participates in Internal Affairs investigations, and communicates outcomes to the complainants. *The IPR does not have the power to discipline a police officer.* Rather, IPR can make recommendations for discipline to the Police Bureau if appropriate.

What does the Citizen Review Committee do?

The Citizen Review Committee (CRC) hears appeals from the outcome of a complaint investigation and can either request further investigation, recommend a different investigation finding, or uphold the investigation finding.

Do I have to give my name if I file a complaint?

A complainant can submit contact information without a name, however, IPR may dismiss anonymous complaints at intake if they involve minor misconduct. Nonetheless, if the complaint is investigated - absent a compelling reason to do otherwise - the complainant's name will likely be revealed to at least to Internal Affairs investigators.

Can I file a complaint on behalf of someone else?

IPR accepts complaints from individuals who directly witnessed the misconduct. IPR may dismiss complaints from sources that did not witness the incident unless the complaint alleges corruption or very serious misconduct.

When is it too late to file a complaint?

Complaints regarding courtesy or minor rules violations should be filed within 60 days. If the complaint alleges serious misconduct, such as excessive force that results in serious physical injury, it may be investigated up to 6 months after the incident. There is no deadline for complaints alleging serious criminal conduct or corruption.

How do I file a complaint?

Although it is best to file a written complaint because it provides a record of the allegations, written complaints are not required. Complaints can be filed by:

1. Completing a complaint form online at: <http://www.portlandonline.com/auditor/index.cfm?a=7372&&c=27067>
2. Calling IPR at 503-823-0146
3. Mailing a form to: Independent Police Review Division, 1221 SW 4th Ave., Room 320, Portland, OR 97204

What happens after I file a complaint?

IPR will assign the case to an intake investigator who conducts a preliminary review, gathers police reports if available and interviews the complainant and witnesses. The IPR Director will then choose to have the complaint handled in one of four ways:

1. Dismissal: IPR can dismiss the complaint.
2. Dismissal and Referral: In some situations, even if the complaint is dismissed, IPR may forward the complaint to the Police Bureau for whatever policy, personnel or training actions the Bureau deems advisable.
3. Mediation: In certain cases, if the complainant and the officer agree to mediate, IPR will arrange for an outside mediator to meet with the complainant and the officer to discuss the incident in a non-confrontational setting.

4. Referral to another agency: Cases may be referred to other City Bureaus. For example, if there is evidence of criminal conduct, the IPR Director can refer the case to the District Attorney's Office for a criminal investigation.
5. Internal Affairs Referral: The case is referred to Internal Affairs for their review and handling.

What happens if my complaint is referred to Internal Affairs?

Once it receives a referral from IPR, Internal Affairs (IA) can take the following actions:

1. Decline the complaint. Internal Affairs can decline to investigate.
2. Decline and refer: Even if it declines to investigate, IA may forward information about a declined complaint to a Police Bureau official or other agency for review and possible action.
3. Treat the complaint as a service complaint: A service complaint involves minor rules violations that would not result in discipline, but may result in non-disciplinary counseling. Service complaints must be resolved in 10 days and cannot be appealed.
4. Refer to mediation: If Bureau concludes that mediation will meet the needs of the Bureau and the community, the Bureau will offer the mediation option to the involved officer.
5. Criminal investigation: If the Bureau finds that a complaint contains credible evidence of criminal conduct by a Bureau employee that is not barred by the statute of limitations, it will refer the case for criminal investigation
6. Conduct an investigation. IA assigns the case to an investigator who then sends an introductory letter to the complainant.

What happens after the Internal Affairs investigation is complete?

After the investigation is complete, a report on the investigation will be forwarded to a Portland Police Bureau commanding officer, Portland Police Bureau managers, and the IPR for review. They will review the evidence and issue one of the following findings on the complaint:

1. Unproven: The facts of the investigation do not support the allegation or there was not enough evidence to prove or disprove the allegations.
2. Exonerated: The officer's actions were within the guidelines of police policy and procedure.
3. Sustained: The investigation revealed that the officer violated police policy or procedure.

What happens if the complaint is sustained?

If the complaint is sustained, the IPR will notify the person who filed the complaint of the finding. Portland Police Bureau managers will recommend discipline actions to the Chief of Police. The Mayor may also review serious discipline actions, such as termination or suspension. An officer against whom a complaint is sustained can appeal the finding with the IPR.

Can I appeal if my complaint is not sustained?

The complainant has the right to request an appeal and must do so within 35 calendar days after receiving notice of the decision. If the complainant appeals after 35 days, but within 60 days of the notification regarding the outcome of the complaint, IPR may refer it to the Citizen's Review Committee if the appeal has merit or the complainant has a reasonable explanation for filing the appeal late.

How do I appeal?

An appeal form is available online at: <http://www.portlandonline.com/auditor/index.cfm?a=116402&c=27067>. Otherwise, the complainant must send a letter or email to the IPR office that includes:

1. The name, address and telephone number of the complainant
2. The approximate date the complaint was filed
3. The substance of the complaint
4. An explanation of the complainant's dissatisfaction with the investigation.

What happens after I appeal?

After an appeal is filed, the IPR Director will notify Internal Affairs if further investigation or consideration of the evidence appears to be warranted, and the reasons for that recommendation. After the investigation has been reviewed and any further investigation has been completed, IPR and CRC will schedule a Case File Review to assess the completeness and readiness of the investigation for appeal. The Case File Review will be scheduled at least one month before the appeal hearing.

If CRC agrees that no further investigation and consideration of the evidence appears warranted and the appeal is timely, CRC must schedule a hearing on the appeal as soon as practicable, and two members of the CRC will prepare a case summary.

How do I prepare for an appeal hearing?

1. Request an NLG Advocate: The complainant can request assistance from the Portland Chapter of the National Lawyers Guild by calling 503.512.0654. The Portland NLG coordinates law students to assist complainants with their appeals.

2. Review the Case File Summary: Complainants will receive a draft of the case summary at least two weeks prior to the scheduled hearing. The complainant must provide corrections in writing to IPR within 5 calendar days after receipt of the draft. Copies of the final case summary shall be delivered to the complainant, involved officers, and the Portland Police Association no later than one week prior to the scheduled hearing.

3. Request an Appeals Process Advisor: Complainants may request an appeal process advisor to explain the appeal process and the roles of the people at the hearing. The Advisors have access to the entire case file because they are former CRC members. They cannot, however, disclose confidential information to the appellant or the appellant's advocate.

What happens during the appeal hearing?

During the appeal hearing you will hear statements from various representatives (CRC Chair, CRC members, respondent officer, IPR members), a case summary presentation, and explanations of Command Staffs' findings. In addition, the complainant or a representative of the complainant will make a statement regarding the incident and introduce any material witnesses. The hearing will conclude with a vote by CRC members to affirm or challenge a Police Bureau finding or refer the case to IA or IPR for further investigation.

What happens after the Citizen Review Committee decision?

If the CRC decides the investigation finding is supported by the evidence, the complaint is closed. If the CRC decides the investigation finding is not supported by the evidence, the CRC will then recommend a finding. IPR confers with Internal Affairs and the Portland Police Bureau command staff to determine if the Bureau will accept the CRC's findings. If the IPR and the Bureau decide to disagree with the CRC, the CRC must hold a conference hearing and then vote on whether to agree with IPR and the Bureau. If the CRC decides to disagree with IPR and the Portland Police Bureau, the complaint goes before the City Council for a hearing. Note, however, that this has happened only once, in 2003.



The Portland Chapter of the National Lawyers Guild, in conjunction with the Oregon Justice Resource Center, offers free assistance to individuals who wish to file a police misconduct complaint with IPR. If you wish to file a police misconduct complaint and would like help with this process, please contact the NLG at: 503.512.0654.