CIVILIAN OVERSIGHT PROTOCOLS

Auditor’s Office Protocol

Protocols for Notification of Auditor’s Office

1. The police auditor shall receive timely notification of critical incidents to enable him/her, or a qualified designee to report to the scene of critical incidents. Ordinance No. 20374, Section 3, 2.454 (2)

2. A critical incident is an occurrence involving a significant police action including but not limited to a civil disturbance or riot, an officer-involved shooting, or other action by a sworn police officer resulting in serious physical injury or death.

3. The auditor will report his/her telephone number(s) and alternative telephone numbers to the police chief to facilitate prompt communication.

4. The auditor may respond to the scene of a critical incident in order to enable first-hand knowledge of high profile events should a complaint ensue; to participate in deadly force review boards; and to develop risk/liability reduction plans for the City of Eugene. The auditor will have no greater access to the scene of a critical incident than access afforded to the non-involved department members, or as permitted by the investigating agency.

5. The auditor will not interview the involved or witness officers at the scene regarding the incident.

Complaint Intake

1. The police auditor will perform all intake of complaints against Eugene Police Department employees by members of the public. City of Eugene employees may lodge a complaint, with the auditor’s office or with the internal affairs unit of the police department if the complaint arises out of their employment with the City.

2. Complaints may be filed by telephone, in writing by mail, by e-mail or in person. Intake forms will be made available to facilitate complaint processing by are not necessary.

3. Complaints may be accepted from third parties with a reasonably direct knowledge of the incident. Anonymous complaints alleging misconduct will be accepted provided there is specific information from which to investigate the complaint.

4. Complainants may request that their personal information, including their identity, be kept confidential and the auditor will honor this request as allowable by law and as practicable to investigate the incident.

5. The auditor may initiate a complaint based upon credible evidence of possible misconduct.

6. The auditor’s office will conduct a preliminary investigation in order to classify the complaint and further understand the nature of the potential violation(s). The preliminary investigation will include information such as a
description of the event, date, time location, name of the employee(s), badge number(s), description of the vehicle(s), name and address of any witness(s) or any other evidence relevant to the investigation. Internal affairs personnel may assist in gathering information for the auditor’s preliminary investigation.

7. Records/warrant checks will not be conducted on a routine basis as part of the complaint intake. If, during the preliminary investigation, an outstanding warrant for the arrest of the complainant is discovered, the police auditor will encourage the complainant to resolve the warrant. In situations where the complainant named in the warrant is of a serious nature, the police auditor will advise the police department. Serious nature includes crimes of violence or crimes which involve serious risk of danger to the public such as domestic violence complaints.

8. The auditor may dismiss or decline the complaint for the following reasons:
   a. Timeliness;
   b. If the complaint involves personnel who are not within the jurisdiction of the auditor’s office;
   c. If another remedy is in use or is more appropriate;
   d. The complaint has been previously reviewed.

9. The auditor will document the reason for any dismissals and explain the decision to the complainant in writing, if possible, within five business days of initial intake. A copy of this correspondence will be forwarded to internal affairs. Internal affairs will forward this information on to the affected employee(s) and EPEA if the involved employee is an EPEA represented employee.

Classification of Complaints

1. After a preliminary investigation, the auditor will classify complaints to facilitate a timely and satisfactory resolution. Complaints will be classified into the following general categories:
   a. Allegation of criminal conduct (on or off duty)
   b. Allegation of misconduct
   c. Service complaint (concerns about employee performance or demeanor, customer service and or level of police service provided)
   d. Policy complaint (where the person is dissatisfied with current policies or established procedures)
   e. Inquiries
   f. Complaints may be further categorized as a community impact case

2. Service complaints, allegations and inquiries will be further classified by type for statistical tracking and trends analysis purposes. All complaints will be recorded in a database designed to track complaints by category type and by complainant. The database will be used by both internal affairs and the police auditor to ensure a full accounting of all complaints received and so that trends can be detected.
3. Service complaints that are not resolved at intake by the police auditor’s office will be directed to internal affairs for assignment to a supervisor. The supervisor will conduct an investigation into the complaint. The supervisor will assign the adjudication, take the appropriate action concerning the employee, if any, and return reports to internal affairs.

4. Allegations of criminal behavior will be forwarded to the chief unless, in the police auditor’s view, informing the chief will compromise a criminal investigation. In those circumstances, the police auditor may forward the allegation(s) directly to the appropriate government prosecutor.

5. Allegations of misconduct will be forwarded to the chief of police for formal investigation by internal affairs or other department staff if appropriate.

6. The police auditor may choose to contract for an outside investigation to ensure a thorough and objective review of the complaint or if the chief disagrees with the auditor’s classification of a complaint as one requiring an internal affairs investigation.

7. Service complaints will be forwarded to internal affairs who will work with the involved employee’s supervisor to address any possible employee performance issues and to determine the most appropriate complaint resolution option. The police auditor will be notified of the resolution of the complaint within ten (10) days of the resolution. If the supervisor uncovers possible misconduct during review of the incident, the matter may be reclassified.

8. The police auditor will coordinate with internal affairs to gather appropriate information necessary to resolve inquiries.

9. The police chief may reclassify a complaint; such decisions will be recorded as part of the auditor’s complaint handling process.

10. The police auditor will determine if complaints are appropriate for alternative resolution (refer to mediation protocols).

11. The police auditor determines if complaints will be treated as a community impact case and reviewed by the Civilian Review Board prior to closure. A community impact case may include complaints alleging excessive force, bias, disparate treatment, or a violation of constitutional rights.

12. The police auditor’s office will notify the complainant, the affected employee and EPEA (if the affected employee is an EPEA-represented employee) about receipt and classification decision within seven (7) business days after the complaint was received.

Auditor Review of Completed Administrative Investigations

1. Allegations of misconduct will normally be investigated by internal affairs. Upon conclusion of the internal investigation, all relevant case files will be provided to the police auditor for review and a determination that the investigation was thorough and complete. The police auditor will make this determination within ten (10) business days of receipt of the completed investigation.
2. The police auditor may require the city to undertake additional investigation if
the investigation is deemed incomplete.
3. If the police auditor becomes aware of criminal allegation(s) not previously
known, the police auditor will refer the matter to the police chief unless, the in
the police auditor’s view, informing the police chief will compromise a
criminal investigation. In those circumstances, the police auditor may forward
the allegation(s) directly to the appropriate government prosecutor.
4. After the police auditor has reviewed the investigation and it is deemed
complete, the employee’s immediate supervisor will develop a case
adjudication recommendation after conferring with the auditor. The
supervisor’s recommendation then will be forwarded through the chain of
command to the chief of police for final adjudication. The police auditor may
develop independent adjudication recommendations, but is not allowed to
recommend the level of discipline for police employees.
5. Adjudications may include the following:
   a. Sustained: The complainant’s allegation(s) was determined to be a
      violation of Eugene Police Department policies, rules and/or
      procedures and, the employee(s) involved committed the violation(s)
      as alleged.
   b. Insufficient Evidence: The chain of command was unable to
determine whether or not a violation of Eugene Police Department
   policies, rules, and/or procedures occurred.
   c. Unfounded: The claim is unsubstantiated. It was determined that the
      employee(s) involved did not engage in the behavior as alleged by the
      complainant.
   d. Within Policy: It was determined that the behavior of the
      employee(s) involved did occur but was consistent with Eugene Police
      Policies, rules, practices and/or procedures.
   e. Mediated: During the process of an investigation it was determined
      that the case would likely be more successfully resolved through
      mediation; all parties agreed to mediate the complaint and the
      mediation process was completed.
   f. Administratively Closed: The investigation is closed prior to
      reaching a conclusion. For instance, the complainant does not provide
      the information needed or refuses to cooperate with the investigation.
      The investigation may be re-activated upon the discovery of new,
      substantive information or evidence.
6. If the police auditor disagrees with the supervisor’s recommendation, his/her
   disagreements and comments will be documented and forwarded to the chief
   of police.

**Dismissal or Declining Investigation of Complaints**

1. Except for good cause, complaints of minor misconduct involving courtesy,
   communications, and minor rules violations that might be handled as a service
complaint shall be dismissed by the police auditor, if not filed within 60 days of the incident.

2. Except for good cause, complaints of serious misconduct including, for example, excessive force that causes substantial physical injury, egregious act of disparate treatment, or major rules violations shall be dismissed by the auditor if not filed within six (6) months of the incident.

3. A complaint will be dismissed if the complaint is about an employee who does not work for the City of Eugene Police Department. The complaint will also be referred to the appropriate agency if that agency can be identified.

4. A complaint may be dismissed if the complainant could reasonably be expected to use or is using another remedy or channel for resolution of the complaint (for example, a judicial determination of guilt).

5. The police auditor may dismiss complaints that are subject to a judicial, administrative, or other review which will explicitly or implicitly require a finding or ruling on the conduct that is the subject of the complaint.

6. Absent new, substantial evidence or information, a complaint shall be dismissed if the complaint was previously adjudicated. This circumstance may arise if a second person files a complaint about an incident that was previously resolved. It might also arise if the same complainant files a second complaint about a matter that was previously adjudicated.

7. A complaint may be dismissed if the involved employee cannot be identified.

8. A complaint may be dismissed if the involved employee has resigned or has been terminated.

9. A complaint may be dismissed if upon review of the facts presented or information learned during intake, the allegations are found to be illogical, malicious or improbable.

Civilian Review Board Protocol

Community Impact Cases

1. A community impact case is an investigation or complaint involving sworn police personnel that alleges excessive force, bias, disparate treatment or violation of constitutional rights, which the police auditor determines should be reviewed by the Civilian Review Board as a community impact case.

2. If the police auditor selects a case for review as a community impact case, the Civilian Review Board will review a summary of the complaint and investigation and may decide if they will accept this matter as a community impact case. If the Civilian Review Board votes by a majority to review the matter as a community impact case, the chief of police will be notified by the police auditor.

3. The police auditor will monitor and review investigations of community impact cases as s/he would other misconduct investigations.

4. Upon completion of the investigation and preliminary adjudication decision by the police chief, the police auditor will provide the completed investigation to the Civilian Review Board for their confidential review.
5. Members of the Civilian Review Board will not discuss the investigation with anyone other than members of the board or the office of the auditor before the completion of the Civilian Review Board review. Board members may discuss the case with other members of the Civilian Review Board and the Police Auditor. If a board member requires further information to complete their review, they may direct the police auditor to conduct research to report to the Civilian Review Board.

6. If a community impact case is also the subject of an on-going criminal investigation or prosecution, the case will be discussed in executive session when legally permissible.

7. Within 14 days of receiving the case, the Civilian Review Board shall meet in order to discuss and present its determinations on the case. Within 30 days of the receiving the case, the Civilian Review Board will do one or more of the following:
   a. Concur with the case adjudication;
   b. Develop recommendations regarding the handling of the complaint and the investigation process, and/or identify other relevant policy or procedural issues for further consideration;
   c. Require the city to reopen the investigation if it finds either:
      i. The investigation was incomplete or inadequate, and the civilian review board has reasonable basis to believe that additional investigation is likely to reveal facts that could affect the case adjudication; or
      ii. The adjudication reached by the city is not supported by substantial evidence.
   d. Unless the Civilian Review Board has voted to reopen the investigation, the police auditor shall develop a written synopsis of the board’s proceedings and conclusions concerning the investigation and will provide that information to the chief of police so that appropriate steps to close the case can be taken.
   e. When the Civilian Review Board has voted to reopen a community impact case, the police auditor shall inform the Civilian Review Board of the subsequent investigation conducted and the final adjudication decision.

8. The Civilian Review Board will notify the complainant(s) and involved employee of its decision on whether to accept a case for review, and shall inform the complainant, the affected employee(s) and EPEA if an affected employee is an EPEA-represented employee, of its conclusions on the case.

Civilian Review Board Review of Closed Cases

1. Community members, upon receiving the disposition of a complaint previously lodged with the auditor’s office, may request that the Civilian Review Board review the complaint investigation and adjudication decision for a determination whether it was handled fairly and with due diligence. The auditor may also recommend the Civilian Review Board review a closed case.
that was not previously identified as a community impact case. This review shall not impact the outcome of the case but the board may make recommendations concerning the investigation.

2. The purpose of the Civilian Review Board review of closed cases includes the following:
   a. Identify deficiencies regarding the complaint system (intake and classification).
   b. Develop recommendations for process improvements.
   c. Make judgments about the quality of the investigation.
   d. Make judgments about the rationale for the case disposition.
   e. Increase transparency by the public discussion of a complaint.

3. The Civilian Review Board shall develop criteria to decide whether to accept a case for review. However, the Civilian Review Board may not accept a completed case that was previously reviewed as a community impact case.

4. All materials contained in the investigative file concerning the completed investigations of cases the Civilian Review Board selected to review will be made available to members for their confidential review.

5. The police auditor will prepare a case summary for use during the public meeting of the Civilian Review Board. This summary will strive to protect confidentiality of the complainant(s) and the police employee(s).

6. The Civilian Review Board may review a random sample of complaint intake and classification decisions by the auditor in order to ensure complaints are handled with due diligence.

7. The Civilian Review Board may review an investigation when the complainant requests that the board do so. The request by the complainant may be made in writing, by appearance at a scheduled board meeting, by e-mail, telephone or FAX.

8. The Civilian Review Board will report annually to the City Council concerning the following:
   a. A summary of the Civilian Review Board’s Activities, findings and recommendations during the preceding year;
   b. Assessment of the performance of the police auditor consistent with section 2.233(7) of the ordinance.
   c. Evaluating the work of the auditor’s office, including whether it is functioning as intended.

Public Comment

1. The Civilian Review Board will hold public comment period at its meetings at least quarterly.

2. The purpose of public comment will be to gather information about community concerns and about specific police actions. This information may be forwarded to the police auditor for processing and/or intake or to the Eugene Police Commission in order to review policy matters.
3. Public comment about incident specific police actions may not occur at the same meeting as the Civilian Review Board is reviewing the investigation of the incident.

4. Public comment is limited to three minutes. Generally, the speakers will be called upon in order in which to “request to speak” forms are received by staff at the meetings. No persons will be allowed to complete a request to speak form more than 15 minutes prior to the start of the meeting.