INDEPENDENT POLICE REVIEW DIVISION - CASE HANDLING GUIDELINES
Administrative Rule Adopted by Bureau Pursuant to Rule-Making Authority
ARB-PSF-5.19

1. INTRODUCTION

Portland City Code 3.21.010 Purpose. The City hereby establishes an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to act on complaints against Police Bureau personnel for alleged misconduct. This office shall be known as the Independent Police Review Division.

To fulfill its mission, the Independent Police Review Division (IPR) needs administrative mechanisms to receive and evaluate complaints of police misconduct. These mechanisms, known as the intake and screening processes, are administered by the staff on a routine and daily basis.

As routine and repetitive as intake and screening may appear, it is not a mindless assembly line on which the inputs, assemblies, and outputs are always the same. IPR would be little more than an elaborate complaint desk if it did not exercise judgment about which complaints to accept, which to dismiss, and which to refer for investigation or other action. These judgments are made many times daily by the staff. This document establishes principles to guide how, when, and by whom the judgments are made.

The principles are not mechanical rules. They recognize that while complaints may have patterns or similarities, no two are identical. They recognize that it is impractical, indeed impossible, to establish a "rule" for every circumstance. The principles expect human beings to make informed judgments that are rational, independent, consistent, and transparent. They acknowledge the value of swift and certain resolutions for both citizens and Bureau personnel. Finally, they acknowledge that IPR has an obligation to use public resources wisely, which means making choices about priorities.

The principles described in these Guidelines are important. They describe how IPR interprets and exercises its discretionary authority under City Code. The Citizen Review Committee (CRC) has the responsibility and the authority to advise IPR on the content of the principles and regularly to review how IPR applies them over time, including monitoring IPR decisions to dismiss complaints and to recommend changes as needed (See PCC 3.21.090(A)(4)).

2. DEFINITIONS

a. Intake. Intake is the process by which IPR’s staff receives, records, evaluates, screens, and categorizes complaints about police misconduct made by the public or by Police Bureau personnel. Intake is a two-step process:

   (1) Initial Intake. During initial intake an IPR staff member receives and records complaints made to IPR. Complaints may be received in writing, in person, by telephone, by fax, by email, or through the IPR website. A staff member determines whether the initial complaint information meets the jurisdictional and other criteria required for filing (See Section 4, Screening by Staff During Intake). Unless the staff member resolves the complaint to the complainant’s satisfaction during initial intake, the staff member will forward the file to an IPR Intake Investigator. Complaints by Bureau supervisors or employees acting in official capacity or who were on duty at the time of the alleged misconduct are designated as Bureau-initiated complaints subject to special handling requirements.

   (2) Intake investigation. An IPR Intake Investigator conducts a preliminary investigation that normally includes a recorded telephone or in-person interview of the complainant and a review of the relevant police reports and dispatch information. The investigator evaluates the evidence, identifies and categorizes specific misconduct allegations, and screens the complaint to determine whether it meets the minimum criteria for filing (See Section 4, Screening by Staff During Intake) and whether the complaint was resolved...
to the complainant’s satisfaction during the intake investigation. After completing the intake investigation, the investigator forwards the file to the Director or the Director’s designee.

b. Administrative Investigations Management System (AIM). AIM is the computerized case management system used by IPR and IAD to record, track, and report on complaints and the actions taken by IPR and IAD.

c. Screening. Screening is the process by which IPR evaluates complaints and decides how to handle them (See paragraph 3.a below for a list of handling options). The Initial screening occurs when the IPR intake staff evaluates incoming complaints and decides which ones meet the criteria for acceptance and which to dismiss. It requires the application of sound judgment and the careful exercise of discretion. Initial screening decisions are made and recorded during the intake process in accordance with Portland City Code 3.21.120 “Handling Complaints and the principles described below in Section 4 “Screening by Staff During Intake.

Once a complaint has been accepted and an intake investigation completed, the Director or the Director’s designee makes a second screening decision: whether to forward allegations to IAD for review and handling, refer the complaint for mediation, or dismiss some or all of the allegations. This screening decision is made in accordance with Portland City Code 3.21.120 “Handling Complaints and the principles described below in Section 4 “Screening by Staff During Intake and Section 5 “Post-Intake Review and Screening.

d. Complaint. PCC 3.21.020 defines a complaint as "a complaint by a citizen of alleged member misconduct." A member is "a sworn employee of the Bureau about whom a complaint has been submitted to IPR."

IPR receives and processes other kinds of complaints that do not meet the Code’s definition. For example, IPR receives complaints from Bureau employees, complaints about Bureau services or policies generally but which do not allege member misconduct, and complaints about non-sworn employees and employees of other agencies. For the sake of efficiency and public responsiveness, IPR has developed procedures for the orderly intake, processing, and referral of this broader class of complaints.

The IPR Director may initiate a complaint if IPR receives credible information about possible police misconduct other than through the established complaint process, for example from news media reports that provide direct evidence of misconduct.

e. Minor Complaint or a complaint of minor misconduct. A minor complaint or a complaint of minor misconduct is one that, if true, would not likely result in a formal disciplinary action against the named employee. It might, however, result in a service complaint involving non-disciplinary counseling by a supervisor or an informational referral in accordance with Section 3.a(4) below. However, a minor complaint may be referred to PPB and PPB is not restricted from considering what would otherwise be considered a minor complaint for purposes of discipline or other corrective action if the circumstances warrant it.

f. Police misconduct. PCC 3.21.020 defines misconduct as “conduct by a member during an encounter with a citizen, which conduct violates Bureau regulations or orders, or other standards of conduct required of City employees." Subject to the Bureau’s approval, IPR may receive and process complaints of alleged misconduct by non-sworn employees of the Bureau and IPR may also receive and refer complaints of misconduct by employees of other law enforcement agencies who were acting under PPB control or supervision.

g. Director. Director means the appointed Director of the Independent Police Review Division. Unless prohibited by ordinance or other competent authority, the term Director includes the Director’s designees.

h. Dismiss. Dismissal is a determination by IPR to terminate formal action on a complaint. The Director may forward information contained in a dismissed complaint to the Bureau or other appropriate public agency in accordance with Section 5.a(4) Post-Intake Review and Screening.

3. IPR AUTHORIZED ACTIONS ON COMPLAINTS
a. Actions on complaints. Portland City Code Section 3.21.120 sets forth the basic guidelines for IPR’s handling of complaints. IPR’s available courses of action include:

1. Refer the complaint or selected allegations to IAD for review and handling; or

2. Refer the complaint or selected allegations to mediation (See Mediation Program protocols 5.09 and 5.10); or

3. Dismiss the complaint or selected allegations for reasons authorized by the Code and described in further detail in this document (See paragraphs 3.b and 4 below); or

4. Dismiss the complaint or selected allegations for authorized reasons and forward the information in the complaint to the Bureau (e.g., Chief’s Office, IAD, or Precinct Commander) or other appropriate public agency for whatever policy, personnel, training, or other actions the Bureau or other appropriate public agency deems advisable.

5. Take other actions consistent with law and policy to carry out the intent of Portland City Code Chapter 3.21 relating to the City Auditor’s Independent Police Review Division.

b. Grounds for dismissing complaints. Portland City Code section 3.21.120F authorizes IPR to dismiss complaints on 6 grounds. IPR uses and tracks another 4 subcategories of dismissals for purposes of clarity: (1) officer or employee resigned; (2) officer’s identity cannot be determined; (3) the complaint was previously adjudicated; and (4) IPR lacks jurisdiction. The 10 grounds for dismissal are:

1. The complainant could reasonably be expected to use, or is using, another remedy or channel or tort claim for the grievance stated in the complaint (PCC 3.221.120(F)(1)). AIM subdivides this basis into 3 categories: (1) "Other Judicial," (2) "Other Jurisdiction," and (3) "Other Remedy." IPR 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. A complaint should be dismissed on this basis only if the alternative channel is reasonably accessible to the complainant and can provide an adequate remedy.

   a. The most frequent example is the complainant-defendant who alleges that he was unlawfully stopped, searched, or arrested on criminal or traffic charges. Generally IPR will decline the allegations and defer to the court on the preliminary legal issues and merits of the charges. In most cases, IPR considers acquittal to be an adequate remedy. IPR may re-open a dismissed file if the judge, one of the attorneys, or the complainant renews the misconduct allegation after the judicial proceedings are finished and the allegation is supported by objective evidence.

   b. IPR normally will dismiss allegations that the police improperly towed a vehicle or improperly issued an exclusion order. IPR typically defers to the administrative review processes specifically established for such matters. IPR will reconsider its declination if the hearings officer, a participating attorney, or the complainant renews the misconduct allegation, based on objective evidence, after the administrative proceedings are finished.

   c. Although the ordinance permits IPR to dismiss misconduct allegations that are the subject of a tort claim, in most cases IPR will treat the tort claim as a complaint and proceed accordingly.

2. The complainant delayed too long in filing the complaint to justify present examination (PCC 3.221.120(F)(2)). AIM classifies as "Filing Delay." It is desirable that complaints be filed soon after the incident. Memories are fresher, witnesses are easier to locate, and physical evidence may still be recoverable. If misconduct was committed, it is in the Bureau’s, the public’s, and the officers’ interests to take disciplinary or corrective action as soon as possible. If misconduct was not committed, employees are entitled to swift exoneration. As a general rule IPR permits more delay for complaints of serious misconduct and less delay for complaints of minor misconduct. IPR waives the time requirement for good cause. "Good cause" for a filing delay may include a defense attorney’s advice to the complainant to wait until criminal charges are resolved. Good cause may include a language barrier, a physical or mental disability, confusion about how to file a complaint, a reasonable fear of retaliation, or a reasonable delay in the complainant’s discovery of the misconduct.
(a) Except for good cause, complaints of minor misconduct involving courtesy, communications, and minor rules violations that might be handled as service complaints should be filed within 60 days of the incident. If IPR dismisses a complaint of minor misconduct on timeliness grounds, IPR may forward the complaint to the Bureau (e.g., Chief’s Office, IAD, or Precinct Commander) or other appropriate public agency in accordance with Section 3.a.(4) (Actions on complaints) above.

(b) Except for good cause, complaints of serious misconduct including, for example, excessive force that causes substantial physical injury, egregious acts of disparate treatment, or major rules violations should be filed within 6 months of the incident. IPR may waive the time limit if there is substantial corroborating evidence of the misconduct.

(c) There is no specific deadline for complaints alleging serious criminal conduct or corruption. Such complaints will be evaluated on their merits with due consideration for the quantity and quality of available evidence.

3 Even if all aspects of the complaint were true, no act of misconduct would have occurred (PCC 3.221.120(F)(3)). AIM classifies as "No Misconduct." An allegation that fails to describe at least a potential violation of federal, state, or municipal law or City or Bureau policy will be dismissed and not referred to IAD. If IPR is uncertain about the application of Bureau policy in a given case, it will refer the case to IAD for a decision. Occasionally a complaint that fails to state misconduct may merit a referral to the Chief’s Office for policy or other considerations or to mediation as a means of improving police-community relations. Using the principles described in Section 5 (Post-Intake Review and Screening), the Director may dismiss a complaint if it is probable, i.e., more likely than not, that no misconduct was committed and if it is probable that additional investigation would not reach a different conclusion.

4 The complaint is trivial, frivolous, or not made in good faith (PCC 3.221.120(F)(4)). AIM classifies as "False or Trivial."

   (a) IPR shall dismiss allegations that it determines are intentionally and materially false (See Section 6 for guidance about evaluating conflicting evidence and the credibility and reliability of witnesses).

   (b) IPR may dismiss trivial or frivolous complaints. "Trivial" or "frivolous" complaints allege minor technical violations of procedural rules which have negligible adverse effects on the public or the credibility of the Bureau. They are so trivial as to fall below the threshold for a service complaint.

   (c) A complaint is not "in good faith" if it is intentionally and materially inaccurate, misstated, or exaggerated. IPR will not dismiss a complaint solely because it is not made in good faith but may consider the complainant’s apparent bad faith for its effect on the credibility of the entire complaint (See Section 5 for guidance about evaluating conflicting evidence and the credibility and reliability of witnesses).

5 Other complaints must take precedence due to limited public resources (PCC 3.221.120(F)(5)). AIM classifies as "Lack Resources." The ordinance obligates the Director to use public resources wisely by prioritizing IPR’s and IAD’s caseload consistent with the intent of the City Council and Auditor. In accordance with this obligation, the Director authorizes IPR to impose special requirements or to dismiss the kinds of complaints described below:

   (a) Grossly illogical or improbable complaints . Complaints that that are grossly illogical or improbable may be dismissed during Intake.

Care and compassion must be exercised with a complainant who may have a mental illness. The presence of a mental illness does not necessarily make a person less able to perceive, to recall, or to report. Mental illness does not necessarily make a person delusional. A complaint may be valid even if a complainant has difficulty communicating the essential facts or is intermittently delusional. If the complainant receives services from Adult Protective Services or from a community mental health program, it may be possible to enlist the help of a protective service worker.
A person with a developmental disability, a neurological disorder, or a physical impairment that makes it difficult to communicate is as credible and reliable as any other person.

(b) *Third-party complaints*. IPR normally requires that a person have a reasonably direct relationship to an incident in order to file a minor complaint. Complainants are considered to have a direct relationship if they were directly affected by the alleged misconduct (first-hand sources), witnessed the alleged misconduct (second-hand sources), or have special, professional, or organizational knowledge about the alleged misconduct, e.g., a lawyer, a judge, or a PPB employee or manager.

The purpose for requiring a reasonably direct relationship is to help IPR respond effectively to complaints from persons who have the greatest interest in the outcome and who have the most reliable information about an incident. It is not intended to screen out otherwise reliable complaints that deserve investigation. Subject to the exceptions described below, IPR may dismiss complaints by third-hand and anonymous sources. Third-hand sources are persons who heard about an incident from someone else but did not witness the incident and do not have direct, special, professional, or organizational knowledge of the facts. Anonymous sources are persons who do not identify themselves to IPR.

IPR will not dismiss third-hand or anonymous complaints that allege corruption or other very serious police misconduct. IPR will not dismiss third-party complaints of less serious misconduct if there is a reasonable explanation why a person with standing has not filed a complaint, e.g., the person who was directly affected is a minor child, is elderly, disabled, or deceased, cannot communicate easily in English, is not a citizen, is wanted on criminal charges, or has been threatened, etc. IPR intake staff may dismiss anonymous complaints of minor misconduct. Before an IPR staff member dismisses a third-hand or anonymous complaint, the staff member will urge the complaining party to encourage a person with standing to file the complaint.

(c) *Complaints about repeatedly reviewed categories of police activity*. IPR receives allegations about some categories of police action (e.g., police procedures related to photo radar operations) that in the past have been repeatedly reviewed, preliminarily investigated, and subsequently dismissed by IPR. The discretion to summarily resolve a category of complaints should be exercised carefully with due regard to the nature and seriousness of the complaints. There is a difference between repeated complaints about photo radar citations and repeated complaints of disparate treatment or use of force. Photo radar complaints typically allege minor procedural violations or discourtesy; they are subject to judicial review. Disparate treatment and force complaints are more serious and often lack judicial review. If the Director authorizes the staff to dismiss some categories of complaints at intake, the staff should remain alert for complaints in a designated category that raise new or more serious questions. If in doubt about whether a complaint raises new or more serious questions, the staff should seek advice from the Director. If IPR staff members detect a change in the pattern of complaints within a designated category, they should notify the Director.

(d) *History of unfounded complaints*. Occasionally, a single individual repeatedly files non-meritorious, unfounded, or duplicative complaints, diverting time, attention, and resources from other complaints. The Director may authorize in writing that repeated complaints from specifically-named individuals receive special handling. Special handling may mean that designated persons are required to file their complaints in writing or that they not be interviewed as part of the intake investigation. This procedure may be used if IPR can demonstrate that a person:

(i) Has a history of filing unverifiable, non-credible, or non-meritorious complaints and was warned in writing that the filing of similar complaints in the future may result in special handling, rapid disposition, or other specified actions, or

(ii) Previously filed a demonstrably false complaint.

The discretion to specially handle complaints from named individuals must be exercised with great care and only with a supporting record.
(e) Significant imbalance between workload and resources. If the workload at IPR or IAD significantly exceeds available resources and the existing screening criteria are insufficient to re-balance the caseload with existing resources, the Director may authorize in writing special criteria to reduce intake, increase dismissals, and focus available resources on the most serious and most provable allegations.

The Director will notify the Auditor and the CRC in writing of the nature and scope of the problem, the actions taken to control the workload, and recommendations for a solution. This procedure is an extraordinary remedy. It should be invoked only if IPR or IAD faces a significant long-term shortage of staff or other resources which cannot be corrected by other internal measures. This ground for dismissal should not be used to compensate for cyclical or predictably short-term imbalances between workloads and resources.

(6) The complainant withdraws the complaint or fails to complete the necessary complaint steps (PCC 3.221.120(F)(6)). AIM subdivides this basis into 2 categories: (1) "Complainant Withdraws," and (2) "Complainant Unavailable." IPR may dismiss a complaint if the complainant requests that it be withdrawn or explicitly agrees that his or her concern has been resolved and that IPR need not take any further action on the complaint. IPR may also dismiss if the complainant cannot be located or does not respond to requests for information or fails to complete other necessary steps in the complaint process. The Director may authorize in writing intake staff members to dismiss minor complaints when the complainant withdraws, agrees that the complaint is resolved, cannot be located, or fails to complete the necessary steps. Whether dismissed during the intake process or during post-intake screening, the file needs to demonstrate a good faith effort to communicate with the complainant.

(7) The officer or other employee is no longer employed by PPB. AIM classifies as "Officer Resigned." The Bureau lacks jurisdiction to discipline persons it no longer employs. Under the ordinance’s authority to conserve limited public resources and after conferring with the IAD Captain, IPR may dismiss a complaint if the employee resigns, retires, or will no longer be employed by the Bureau by the time the investigation and discipline process can be completed.

However, in cases of serious misconduct by former employees, IPR may refer the complaint to the Bureau to:

(a) Conduct an investigation and place the findings in the employee’s IAD or personnel file, or

(b) Review the actions of the employee’s supervisors, or

(c) Review the Bureau’s policies and training curriculum.

If it appears that the employee may be rehired by the Bureau or by another law enforcement agency, IPR may forward complaints of less serious misconduct to the Bureau for information or elect not to dismiss the complaint until an investigation has been completed.

(8) The identity of the officer cannot be determined. AIM classifies as "UTI Officer." In some cases there is no reasonable means of identifying the employee who is alleged to have committed misconduct. Depending on the nature of the complaint, dismissal may be prudent and proper under the ordinance’s authority to conserve limited public resources. IPR may dismiss a complaint if IPR, after a good faith effort, cannot identify the involved employee and also concludes that it would be unlikely that the Bureau would be able to identify the employee. Even if IPR dismisses the complaint, it may forward the complaint to the Bureau for information.

(9) The complaint was previously adjudicated by IPR. AIM classifies as "Previously Adjudicated." Absent significant new and objective evidence, dismissal is proper under the ordinance’s authority to conserve limited public resources. IPR may dismiss complaints or allegations that were previously reviewed and decided by IPR or IAD. 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 decided. This may sometimes happen if the complainant did not like IPR’s or
IAD’s decision the first time. An allegation should be dismissed as "previously adjudicated" only if the previous decision was made by IPR or IAD. If the subject matter of the complaint was adjudicated by a court or an administrative body, the proper basis for declination is "Availability of Another Remedy".

(10) IPR lacks jurisdiction. AIM classifies as "Other Jurisdiction." The authority to dismiss for lack of jurisdiction is inherent in the limited sovereignty of the City of Portland. IPR will dismiss complaints over which it has no jurisdiction, including complaints against persons who were not employed or supervised by PPB at the time the alleged misconduct was committed. If possible, IPR will refer the complainant to the proper department, agency or government. Occasionally IPR receives complaints against officers from other police departments who are temporarily assigned or operating under PPB supervision. Normally IPR will refer such complaints to the other police department. If the complaint raises issues about PPB’s supervision of the officer, IPR may assert jurisdiction and screen the complaint on its merits.

4. SCREENING BY STAFF DURING INTAKE

Normally when IPR receives a complaint, a file is opened, an intake investigation is conducted, and the Director or Assistant Director decides whether to refer the case to IAD or take some other authorized action. The Director may authorize designated IPR staff members to take certain actions, up to and including dismissal under limited circumstances, during the initial intake or intake investigation.

IPR staff members must take special care to initially consider all complaints with an open and uncritical mind before exercising the authority granted in this section to specially handle or dismiss some complaints.

Complaints that are dismissed during initial intake are recorded in AIM as an "R" case, signifying a rapid disposition of the complaint; no paper file is created. Complaints that are dismissed or resolved during the intake investigation are recorded in AIM and in an abbreviated paper file.

During intake IPR staff members may the take the actions described below.

a. Complaints resolved to complainants’ satisfaction during Intake. A complaint may be dismissed if the complainant explicitly withdraws the complaint or explicitly agrees that he or she is satisfied with the information or referral provided during the intake process and that no further action by IPR should be taken.

Auth: PCC 3.21.120(F)(6) “The complainant withdraws the complaint or fails to complete the necessary complaint steps; PCC 3.221.120(F)(5)”Other complaints must take precedence due to limited public resources.

b. Complaints about a police policy generally, not related to the actions of a specific officer during a specific incident. A complaint that a PPB policy violates the law or is simply a poor policy may be dismissed and referred to the Bureau for information provided that it does not include an allegation of employee misconduct in a specific incident. For example, a complaint about police crowd control policies or car-stop tactics may be dismissed and referred to the Bureau for information, action, or response to the complainant.

Auth: PCC 3.21.120(F)(3) “Even if all aspects of the complaint were true, no act of misconduct would have occurred.

c. Complaints alleging conduct that clearly does not violate law, ordinance, or policy. A complaint may be dismissed or resolved at intake if the facts are undisputed, it is clear that the alleged conduct does not violate law or policy, and the complainant is explicitly told that the complaint is being closed and that no further action will be taken. For example, a complaint that an officer failed to give a Miranda warning may be dismissed if, as a matter of law, Miranda would not apply to the facts described by the complainant (e.g., the complainant was not in custody or was not interrogated).

Auth: PCC 3.21.120(F)(3) “Even if all aspects of the complaint were true, no act of misconduct would have occurred.
d. **Grossly illogical or improbable complaints.** Complaints that are grossly illogical or improbable may be dismissed during Intake. See the cautionary guidance in paragraph 3.b. (5).

Auth: PCC 3.21.120(F)(5) “Other complaints must take precedence due to limited public resources; PCC 3.21.120(F)(4) “The complaint is trivial, frivolous, or not made in good faith.

e. **Third-party complaints of minor misconduct.** Subject to the exceptions described below, IPR intake staff may dismiss minor complaints by third-hand and anonymous sources. Third-hand sources are persons who heard about an incident from someone else but did not witness the incident and do not have direct, special, professional, or organizational knowledge of the facts. Anonymous sources are persons who do not identify themselves to IPR. See paragraph 3.b.(5)(b) above for further discussion.

IPR intake staff will not dismiss third-hand or anonymous complaints that allege corruption or other very serious police misconduct. IPR will not dismiss third-party complaints of less serious misconduct if there is a reasonable explanation why a person with standing has not filed a complaint, e.g., the person who was directly affected is a minor child, is elderly, disabled, or deceased, cannot communicate easily in English, is not a citizen, is wanted on criminal charges, or has been threatened, etc. IPR intake staff may dismiss anonymous complaints of minor misconduct.

Before an IPR staff member dismisses a third-hand or anonymous complaint, the staff member will urge the complaining party to encourage a person with standing to file the complaint.

Auth: PCC 3.21.120(F)(5) “Other complaints must take precedence due to limited public resources; PCC 3.221.120(F)(4) “The complaint is trivial, frivolous, or not made in good faith.

f. **IPR lacks jurisdiction.** IPR intake staff members may dismiss complaints of minor misconduct against persons not employed or supervised by PPB. IPR staff will refer the complainant to the proper department, agency or government.

Auth: PCC Chapter 3.21 generally “Limited jurisdiction is Inherent in the limited sovereignty of the City of Portland; PCC 3.21.120 E “Referral.

g. **Untimely complaints of minor misconduct.** Unless the complainant provides a reasonable explanation for the delay, IPR intake staff may dismiss complaints of minor misconduct alleging courtesy, communications, and minor rules violations that are filed 60 days or more after the incident. Reasonable explanations include a defense attorney’s advice to the complainant to wait until criminal charges are resolved, a language barrier, a physical or mental disability, confusion about how to file a complaint, a reasonable fear of retaliation, or a reasonable delay in the complainant’s discovery of the misconduct. See Section 3.b.(2) (Grounds for dismissing complaints) for more information about filing delays.

Auth: PCC 3.21.120(F)(2) “The complainant delayed too long in filing the complaint to justify present examination.

h. **Minor complaints with other remedies.** Minor complaints that are subject to effective judicial review (e.g. traffic citations) or administrative review (e.g., vehicle tows and Tri-Met exclusion orders) may be dismissed during intake.

Auth: PCC 3.21.120(F)(1) “The complainant could reasonably be expected to use, or is using another remedy or channel or tort claim for the grievance stated in the complaint; PCC 3.21.120(F)(5) “Other complaints must take precedence due to limited public resources.

i. **Minor complaints about specified categories of police activity.** As more fully described above in paragraph 3.b. (5)(c), the Director may identify certain categories of police action (e.g., photo radar enforcement procedures) that in the past have been repeatedly reviewed, preliminarily investigated, and subsequently dismissed by IPR. The Director may authorize the intake staff to dismiss or otherwise specially handle minor complaints about designated categories of activity. Special handling may mean that certain categories of complaints must be corroborated by documentation from the complainant (e.g., proof of liability insurance on a specific date or
photocopy of a valid operator’s license) or that an intake interview need not be conducted.

If the Director authorizes the staff to dismiss some categories of complaints at intake, the staff should remain alert for complaints in a designated category that raise new or more serious questions. If in doubt about whether a complaint raises new or more serious questions, the staff should seek advice from the Director. If IPR staff members detect a change in the pattern of complaints within a designated category, they should notify the Director.

Auth: PCC 3.21.120(F)(5) “Other complaints must take precedence due to limited public resources.

j. Complainant unavailable. The intake staff may dismiss minor complaints if the complainant cannot be located or fails to complete the necessary complaint steps.

Auth: PCC 3.21.120(F)(6) “The complainant withdraws the complaint or fails to complete the necessary complaint steps.

k. Officer no longer employed or cannot be identified. The intake staff may dismiss minor complaints if the officer cannot be identified or is no longer employed by PPB.

Auth: PCC Chapter 3.21 generally “The Bureau lacks jurisdiction to discipline former employees; PCC 3.21.120(F)(5) “Other complaints must take precedence due to limited public resources.

l. Complaint was previously adjudicated. IPR intake staff may dismiss complaints that were previously reviewed and decided by IPR or IAD. 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 decided. It sometimes happens when a complainant did not like IPR’s or IAD’s decision the first time. An allegation should be dismissed as "previously adjudicated" only if the previous decision was made by IPR or IAD. If the subject matter of the complaint was adjudicated by a court or an administrative body, the proper basis for declination is "Availability of Another Remedy".

Auth: PCC 3.21.020(F)(5) “Other complaints must take precedence due to limited public resources; PCC 3.21.120(F)(4) “The complaint is trivial, frivolous, or not made in good faith.

m. Special handling of complaints from persons with a demonstrated history of non-meritorious, unfounded, or duplicative complaints. Occasionally, a single individual repeatedly files non-meritorious, unfounded, or duplicative complaints, diverting time, attention, and resources from other complaints.

The Director may authorize in writing that repeated complaints from specifically-named individuals receive special handling. Special handling may mean that designated persons are required to file their complaints in writing, that they not be interviewed as part of the intake investigation, or that they must provide additional corroboration of their complaints. This procedure may be used if IPR can demonstrate that a person:

   (i) Has a history of filing unverifiable, non-credible, or non-meritorious complaints and was warned in writing that the filing of similar complaints in the future may result in special handling, rapid disposition, or other specified actions, or

   (ii) Previously filed a demonstrably false complaint.

The discretion to specially handle complaints from named individuals must be exercised with great care and only with a supporting record.

Auth: PCC 3.21.120(F)(4) “The complaint is trivial, frivolous, or not made in good faith; PCC 3.21.120(F)(5) “Other complaints must take precedence due to limited public resources.

5. POST-INTAKE REVIEW AND SCREENING
The Director’s screening decisions are based in part on the Director’s evaluation of the evidence gathered during the intake investigation and the Director’s assessment of the ability to successfully investigate and sustain a disciplinary or other action.

The Director makes screening decisions based on evidence provided by others, usually the complainant and the police. The evidence may be inconsistent, contradictory, biased, or otherwise of questionable reliability. Evaluating the evidence and knowing whether to investigate further is an art, not a science.

a. **Evidence guidance**. The Director and the Director’s designees will evaluate the evidence using standard evidentiary principles and the guidance described below:

1. IPR may properly assess a witness’s credibility. IPR presumes that complainants, officers, and other witnesses are truthful, but the presumption may be overcome by contradictory evidence or evidence of bias, self-interest, or past untruthfulness.

2. IPR may properly assess a witness’s reliability, i.e., the witness’s ability to observe, remember, and report an incident. For example, was the witness in a position to observe the incident? Was the witness under the influence of an intoxicant at the time of the incident or the time of the complaint?

3. IPR may properly assess the internal logic and probability of a witness’s statement for the effect it has on the witness’s credibility and reliability. IPR is not bound to accept as true statements that are highly improbable or illogical on their face.

4. IPR may also consider a witness’s past history of making demonstrably inaccurate statements to IPR or IAD for the effect it has on the witness’s credibility. IPR may also consider an officer’s complaint or disciplinary history in determining whether or not to refer a complaint to IAD.

5. IPR will give greater weight to information that is corroborated by independent witnesses or by physical evidence.

b. **Referral to IAD**. After evaluating the evidence, the Director should refer the complaint to IAD if the Director determines that:

1. It is more likely than not that an act of misconduct was committed; or

2. An act of misconduct may have been committed and it is likely that additional investigation by IAD would make a factual finding possible.

c. **Dismissal based on the evidence**. After evaluating the evidence, the Director may dismiss the complaint if the Director determines that:

1. It is more likely than not that no misconduct was committed: and

2. It is unlikely that additional investigation would reach a different conclusion.

**HISTORY**

Filed for inclusion in PPD February 24, 2005.