

RESOLUTION No.

Establish a Commission to write rules, definitions, procedures, and other necessary details for recommendation to Council for the new police oversight system authorized by voters at the November 3, 2020 general election.

WHEREAS, on July 30th, 2020, the Portland City Council voted to refer a Charter amendment to the voters of Portland that would authorize the creation of a new police oversight system; and

WHEREAS, on November 3rd, 2020, Portland voters approved the new Charter amendment supporting the measure by 81.58%; and

WHEREAS, the Charter language provides a framework for what is required of any police oversight system; and

WHEREAS, Council is interested in a community-driven process for recommendations to City Council for the rules, definitions, procedures, and other necessary details for the new police oversight system; and

WHEREAS, a process is needed to make code recommendations to City Council that would provide the details of the new oversight system that are not already addressed in the Charter amendment; and

WHEREAS, it is of critical importance that there be a lengthy, involved process where consideration is given to the complex topic of police accountability; and

WHEREAS, on December 16th, 2020, Portland City Council authorized an application process for the Commission for the Community Police Oversight Board; and

WHEREAS, the application went live on Thursday, February 11th, 2021, and ran until March 15th, 2021, generating over 100 completed applications.

NOW THEREFORE BE IT RESOLVED THAT the City Council authorizes the creation of the Commission for the Community Police Oversight Board; and

BE IT FURTHER RESOLVED THAT the Commission is tasked with writing procedures, specifying powers, creating definitions, and producing other details outlined in Exhibit A and referring this package to Council as a code change to establish a new Community Police Oversight Board and system.

Exhibit A

Mandated Duties of the Commission

The Commission is required to complete the tasks below. The Commission will develop a code change package to create a new police oversight system as reflected in the City of Portland Charter amendment establishing a community police oversight board (“Board”). The code change package will contain all the provisions below. The Commission is required to seek out testimony and input from all stakeholders in the federal Department of Justice settlement agreement, as well as other interested parties, impacted communities, and concerned constituents. Upon completion of their work the Commission will present this code change package to City Council for its consideration. After the work below is completed and the package is presented to Council, this Commission will be disbanded.

Definitions: The Commission shall define, as necessary, any terms below, or shall include and refine those definitions already defined below. The Commission is authorized to provide other definitions as it deems necessary.

1. Name: The name of the new oversight Board and system.
2. Operational Budget: The Charter amendment requires that the oversight system have funding of at least 5% of the Portland Police Bureau's annual operational budget.
3. For Cause Removal of Board Member: For what reasons a Board member can be removed.
4. Independent Judgment: What constitutes independent judgment.
5. Interference by other Bureaus/Commissioners: What level of involvement may other parts of the City Government have with the Board, and what types of interactions are not authorized.
6. Existing Barriers: Identify current barriers that have stymied the work of Portland's police oversight system, and make suggestions on how to overcome these barriers.
7. Duties of the Board: Other types of misconduct the Board should investigate, if any, outside of those included in the Charter amendment.
8. Accountability: Provide a working definition of accountability that includes the relationship between communities and the police.
9. Discipline: Describe and define the discipline procedure, with consideration of the existing procedures and the addition of the Board.
10. Any other terms that the Commission feels need to be defined.

Transition Plan: This system will replace and fundamentally change how police oversight is conducted in the City of Portland. A transition plan is required to shift from the current system to the new system. The Transition Plan must include the following components.

1. Council shall continue to fund the Independent Police Review to maintain the existing staffing and resources as needed for the transition.
2. Once the new system is formally adopted, provide the manner in which existing police misconduct investigations and cases will be concluded.
3. How to incorporate current best practices and procedures into the new system.
4. How to transfer existing files and institutional knowledge to the new system.
5. Whether the existing human resources administrative rules that provide a preference for employees of the current oversight system should apply to positions staffing the Board.
6. How and when to wind down the current oversight system.
7. What parts of the current police oversight code should be transferred to the new system.

Powers of the New Oversight System: The Charter amendment outlines various powers of the new oversight system which require a more detailed explanation of how these will function.

1. Power to compel testimony and method of obtaining testimony.
2. Access to police records, evidence, and data, and access to police databases as authorized by federal and state law.
3. How to propose direct changes to police policies and directives.
4. How the Board imposes discipline within any due process and/or just cause requirements.

Organizational Details: Appointment of a Director and professional staff are required by the Charter amendment. Other details are required about how the system will be set up.

1. Flowchart of investigations and processes.
2. Procedures after completion of an investigation, including determination of the validity of an allegation applying the preponderance of evidence standard, due process considerations, and application of any discipline guide and compliance with other federal or state laws.
3. Size of the Board.
4. Initial and replacement selection method for Board members.
5. How initial staff will be hired and onboarded.
6. Method to ensure Board membership meets diversity goals outlined in the Charter amendment.
7. Transparency of the process: When will reports be made from the Board to Council and what will they contain, when will Board meetings be open to the public, and what information about individual investigations will be available to the public.

The Commission will work with the City Attorney's Office and Bureau of Human Resources to ensure that recommendations comply with collective bargaining and other requirements.

Optional Duties of the Commission

1. The Commission may choose to author a report to present to City Council to further explain their recommendations.
2. Should a minority of the Commission feel their viewpoint and opinions are critical to understanding the outcome of the Commission's report, a Minority Report may be written and presented before City Council.
3. Should the Commission believe that additional changes should be made to the Charter relating to this oversight system, they may provide a proposed change in language to the Charter Review Commission.
4. The Commission may make recommendations to add duties to the above listed work that they believe are important to the success of the oversight system.