

Civilian Police Review Board Dept. of Inspector General

Reminder of Roles / Investigation Protocol / Complaint Flow

Background:

CCSAC and The Matrix Consulting Group

- ▶ The Columbus Community Safety Advisory Commission was created by Mayor Ginther in November 2017. Its purpose was to review the Columbus Division of Police in the area of recruitment, training, and policies and procedures.
- ▶ Ultimately, the Commission was to recommend best practices for protecting and serving the community.
- ▶ In conjunction with the work of CCSAC, the Matrix Consulting Group is hired towards the end of 2018 to perform a comprehensive operations review of the Columbus Division of Police

CCSAC Report

- ▶ Published on January 30, 2020, this report contained 80 recommendations to the Mayor.
- ▶ There were 3 specific recommendations under the heading “Independent Investigations”
- ▶ Recommendation #70:
 - ▶ Establish an independent civilian review board. We understand this recommendation to be extremely complex and requires time to research, benchmark and review by the City of Columbus elected officials, leadership of Public Safety, the Chief of Police and FOP leadership. Progress on the pursuit of this recommendation is to be reported in the CDP annual report. A diverse work group comprised of internal and external stakeholders should be established within a year of the installation of the permanent Chief of Police.

City Charter

Sec. 215 - Establishing the CPRB

- ▶ There shall be a Civilian Police Review Board which shall be comprised of an odd number of members, a majority of whom shall constitute a quorum. The members shall be representative of the diverse communities within the City of Columbus on the basis of race, sex, sexual orientation, gender identity or expression, religion, disability, ethnicity, age, socioeconomic status, and geographic region.

City Charter

Sec 216 - CPRB Powers & Duties

- ▶ The Civilian Police Review Board shall receive, initiate, cause investigation of, and recommend resolution of complaints filed with it or initiated by the Board alleging misconduct by sworn members of the Columbus Division of Police. Upon completion of an investigation, the Board shall make recommendations to the Division of Police regarding resolution of the complaint and, where warranted by the facts, may make recommendations pertaining to discipline.

City Code

235.03 - CPRB Duties

- ▶ Receive, initiate, review, and, if appropriate, direct the IG to investigate and prepare a report, complaints alleging misconduct and/or excessive use of force by sworn personnel of the Columbus Division of Police
- ▶ Make recommendations on resolutions of complaints to the Chief of Police and/or the Director of Public Safety
- ▶ Make recommendations on discipline to the Chief of Police and/or Director of Public Safety
- ▶ Evaluate and identify complaint patterns & make recommendations to reduce complaints
- ▶ Review and make recommendations regarding police policies & procedures

CCSAC Report:

Additional recommendations

- ▶ **#71** - Amend City Charter to create a city-funded, operationally independent, professionally-staffed, public-facing entity empowered to participate fully in criminal or administrative investigations involving CDP personnel.
- ▶ **#72** - Implement a process for independent investigation of 1) officer use of force, including but not limited to, officer use of force resulting in death, officer involved shootings, and in-custody injuries and deaths; and 2) complaints about serious Columbus Division of Police officer misconduct.

City Charter

Sec. 217 - Formation of DIG

- ▶ There shall be a Department of the Inspector General for the Division of Police, consisting of an Inspector General, one or more investigators, administrative support staff, and the Civilian Police Review Board. The Inspector General shall be appointed by a two-thirds vote of the Civilian Police Review Board and confirmed by the Mayor. The Department of the Inspector General shall be independent from the Department of Public Safety and the Inspector General shall serve under the guidance of the Civilian Police Review Board

City Code

235.04 & 235.05 - Experience & Duties

- ▶ The IG shall have professional experience in the investigation of allegations of misconduct and shall conduct the duties of IG in a fair & impartial manner
- ▶ Prepare reports documenting findings on investigation
- ▶ Based on investigations & findings, make recommendations on resolution of complaints & suggest discipline to CPRB

Independent & Distinct Roles of CPRB & DIG

- ▶ The CPRB can:
 - ▶ Initiate a complaint to forward to the DIG for investigation
 - ▶ Direct the complaints of citizens to the DIG for investigation
 - ▶ Review complaints/reports/recommendations provided by the DIG
 - ▶ Forward recommendations to Director of Public Safety and/or the Chief of Police
 - ▶ Conduct hearings to gather more information about a report
 - ▶ Refer a report back to the DIG for further investigation

CPRB Hearings

- ▶ The purpose of a hearing is to enable the CPRB to more fully flush out and better understand the information contained in the DIG report.
- ▶ If the CPRB believes a hearing is necessary/appropriate, it can request attendance of witnesses, production of documents, photographs, audio recordings, electronic files, and other tangible evidence.
- ▶ The hearing should add clarity to the report. If the CPRB believes further investigation is necessary, it can direct the IG to reopen the complaint for a specific purpose.
- ▶ A majority vote of the Board is necessary to schedule a hearing.

Independent & Distinct Roles of CPRB & DIG

- ▶ The DIG can:
 - ▶ Accept complaints from the CPRB and/or citizens
 - ▶ Investigate complaints to determine the appropriate course of action
 - ▶ Provide reports with recommendations to the CPRB for review
 - ▶ Recommendations may be related to:
 - ▶ Resolving complaints
 - ▶ Suggested discipline
 - ▶ Policies & procedures of the Division of Police
 - ▶ Conduct follow up investigations at the direction of the CPRB

Investigations

- ▶ The CBA FOP governs how investigations are to be conducted by the Department of Inspector General.
 - ▶ CBA FOP Effective Date: December 9, 2020 - December 8, 2023
- ▶ Article 8 of the CBA FOP details procedures by which investigations must be conducted by the Chain of Command, the Equal Employment Opportunity Office (EEO), personnel assigned to the Internal Affairs Bureau and/or the Office of the Inspector General.
- ▶ If any of the procedures set forth in Article 8 of the CBA FOP are violated, such violations shall be subject to a Grievance Procedure (Article 12).

Investigations

- ▶ Receipt of Citizen Complaints (Article 8, Section 8.12)
 - ▶ A citizen complaint is a complaint made by an individual or individuals who are not sworn employees of the Columbus Division of Police, and any anonymous complaint.
 - ▶ In order for a citizen complaint to be investigated it must be:
 - ▶ In writing
 - ▶ Received in writing or reduced to writing.
 - ▶ Received by the City or reduced to writing within 90 days after the date of the alleged event giving rise to the complaint
 - ▶ Who is the City?
 - ▶ Equal Employment Office (EEO), CPD Internal Affairs Bureau (IAB), Department of Inspector General, Civilian Police Review Board.
 - ▶ If the complaint is anonymous (unidentified complainant) and no corroborative evidence is obtained from the information that accompanies the complaint or that is reasonably obtainable from information provided in the complaint, complaint shall be classified as not investigated.

Investigations

- ▶ Receipt of Citizen Complaints (Article 8, Section 8.12)
- ▶ Exceptions to the 90 day rule:
 - ▶ Allegation of misconduct is criminal on its face
 - ▶ 90 day timeline extends to the statute of limitations for the alleged crime.
 - ▶ Allegation of misconduct could reasonably lead to criminal prosecution as determined by the City Attorney's Office
 - ▶ 90 day timeline extends to the statute of limitation for the alleged crime.

Investigations

Timeline for the Investigation of Citizen Complaints (Article 8, Section 8.14):

- ▶ The investigation of citizen complaints shall be concluded within 90 days after the date in which the complaint was received by the City.
 - ▶ Deadline may be extended by the Fraternal Order of Police upon written request from the City.
 - ▶ Extension of 90 day timeline shall not be unreasonably withheld by the Fraternal Order of Police.
 - ▶ Investigation shall be considered concluded on the date in which it is initially forwarded to the chain of command and/or Civilian Police Review Board.
- ▶ The 90 day time limit shall be held in abeyance:
 - ▶ Pending determination by the Chain of Command to investigate criminal activity.
 - ▶ During any ongoing criminal investigation.

Parallel Investigations

Considerations During Ongoing Criminal Investigations

- ▶ Article 8, Section 8.1:
 - ▶ The DIG has the discretion to conduct non-criminal investigations.
 - ▶ A DIG investigator may observe a criminal investigation.
 - ▶ When the DIG conducts an internal investigation, the DIG shall have the authority to compel attendance and participation at an interview under threat of insubordination or like offense.
- ▶ If a member has been advised that the investigation may result in criminal charges, the member's refusal to answer questions or to participate in the investigation shall not be considered insubordination or like offense. (Article 8, Section 8.9).
- ▶ Garrity Rule: If a public employee is compelled to answer questions as part of a disciplinary interview, neither the employee's answers nor the fruits of the answers can be used to criminally prosecute the employee.

Considerations related to a parallel investigation

- ▶ Should the IG conduct a separate administrative investigation while a criminal investigation is occurring?
 - ▶ What position does BCI, Chain of Command, IAB take regarding this question?
 - ▶ What type of deference, if any, should the IG give to other agencies and their preferences?
 - ▶ Will the IG's efforts hamper the ability of another agency to conduct their criminal investigation?
 - ▶ Will witnesses experience "interview fatigue" or get confused/suspicious if two different agencies are inquiring?
 - ▶ Is there a possibility that conflicting information from the same source will arise if the two investigations are occurring at the same time?

How to file complaint with DIG

- ▶ Citizens (unsworn) may file a complaint with the DIG:
 - ▶ In person
 - ▶ Through the main phone line during business hours
 - ▶ Through the DIG hotline
 - ▶ Via email at DIG@Columbus.gov
 - ▶ Using the DIG's website
 - ▶ By mail to 150 S. Front Street

The standardized complaint form will be used to collect information. **Once the information is received by the DIG's office, the complaint is considered filed.**

Citizen Complaint

- ▶ A citizen can file a complaint with:
 - ▶ DIG using any of the methods detailed in previous slide
 - ▶ CPRB - the citizen will be referred to the DIG
 - ▶ IAB - will determine if it is criminal/administrative in nature and refer complaint to either Chain of Command or DIG

CPRB Initiates Complaint

- ▶ The CPRB may initiate a complaint through discussion at a Board meeting, a motion, second, and majority vote. The specifics of the vote shall then be forwarded to the DIG.

Sworn Personnel Complaint

- ▶ A sworn officer can file a complaint with:
 - ▶ DIG
 - ▶ CPRB - the sworn officer will be referred to DIG
 - ▶ IAB - will determine if it is criminal/administrative in nature and refer complaint to EEO, Chain of Command, or DIG
 - ▶ EEO - will determine jurisdiction and make referral to IAB if appropriate

What Happens With DIG Complaint

- ▶ In the Matrix system, it is assigned a unique ID number.
- ▶ Investigators with the DIG conduct follow up to gather more information.
- ▶ Each complaint is then evaluated to determine its status:
 - ▶ A complaint can be withdrawn by the individual who initially filed it
 - ▶ Closed - there is insufficient information to proceed
 - ▶ Forwarded - the DIG has no authority to investigate (i.e. jurisdiction)
 - ▶ Further investigation - the DIG continues to work the complaint and an investigation report with recommendation(s) will be prepared for review and approval by the IG

Reports forwarded to CPRB

- ▶ Approved investigation reports with recommendation(s) are forwarded to the CPRB for review.
- ▶ The CPRB may vote to conduct a hearing on any particular investigation.
- ▶ The CPRB may vote to refer the matter back to the DIG for further investigation.
- ▶ The CPRB may vote to adopt the recommendation(s) and forward them to the Chief of Police and/or the Director of Public Safety.
 - ▶ The CPRB may adopt its own recommendations upon discussion, motion, second, and majority vote
 - ▶ The CPRB may vote to reject the recommendation(s) of the DIG

Time Considerations / Tolling

- ▶ A complaint must be received in writing or reduced to writing within 90 days of an incident (4 exceptions)
- ▶ Once the complaint is received/filed, the DIG has 90 days to conclude an investigation unless there is a tolling event.
- ▶ Tolling events
 - ▶ Criminal investigations:
 - ▶ BCI
 - ▶ IAB forwards a complaint to the Chain of Command (Chief)
 - ▶ DIG forwards a complaint to the Chain of Command (Chief)
 - ▶ Chain of Command forwards a complaint to BCI
 - ▶ Upon request by the DIG, the FOP agrees to an extension of time
 - ▶ The decision by the FOP must be reasonable
 - ▶ The request by the DIG and any agreement to extend time must both be in writing

Time Considerations / Tolling

- ▶ Once a criminal investigation has concluded, if no charges are going to be pursued, time will then begin to run against the 90 day window. This can occur when:
 - ▶ When the agency conducting the criminal investigation is finished with its work, the matter is referred to the appropriate prosecutor's office, and a charging is made.