



## Providence External Review Authority

### **INTAKE AND REVIEW PROCEDURES**

#### **(A) PERA Complaint Procedures**

- 1) Pursuant to Chapter 18 ½ - 2(m) of the Providence Code of Ordinances, (hereinafter referred to as "the PERA Ordinance,") the parties who may file a complaint with PERA include;
  - a) an alleged victim,
  - b) a witness,
  - c) a parent, legal guardian or immediate family of a victim having personal knowledge of alleged misconduct,
  - d) Upon probable cause, the PERA may itself initiate its own investigation into alleged misconduct.
- 2) Complaints must be filed in writing and may be filed in person, by mail, email, or through our complaint portal. Efforts will be made to accommodate any non-English speakers with translated forms and services.
- 3) The PERA Executive Director has thirty (30) days or until the next scheduled PERA meeting (whichever is greater) to review all citizen complaints made to the Authority and to make a recommendation to the PERA board at the next scheduled meeting based on available information to; (1) dismiss the complaint for lack of probable cause, (2) forward the complaint to mediation or to the Police Department Office of Professional Responsibility, (3) hold the complaint in abeyance pending the outcome of any ongoing police department internal investigation, or (4) transmit the complaint for full investigation by the PERA investigative staff. Hereinafter, the foregoing subsections (1) through (4) may be collectively referred to as "the available remedies."
- 4) Within two (2) business days after receiving a complaint, the Executive Director will assign the complaint to an investigator to do a preliminary investigation, gather relevant evidence and documents, and conduct preliminary interviews. The investigator shall attempt to contact the complainant within a reasonable amount of time (not to exceed three (3) business days) to acknowledge receipt of the complaint and detail the next steps in the process.

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- 5) Within five (5) business days of receipt of the complaint, the Executive Director or designee shall notify the Chief of Providence Police, Police Office of Professional Responsibility, and the Keeper of Records of the Providence Police Department that PERA has received a new complaint and supply those individuals with enough information to identify and preserve all relevant evidence.
- 6) Within that initial thirty (30) days, the investigator will review applicable police policies, state laws, and city ordinances in conjunction with the information gathered in their preliminary investigation to determine if there are sufficient grounds to support the complaint. The investigator will compile a written summary report documenting their findings and submit it to the Executive Director for review and approval.
- 7) The PERA staff shall be responsible for securing the integrity and confidential information on each complaint received by PERA.
  - a) PERA staff will not manage any complaints or PERA work on any computer or laptop that is not issued by the City of Providence.
  - b) Pending PERA complaints will not be shared with the public.
  - c) Records requests will be governed by the Access to Public Records Act and forwarded to the city solicitor's office.
  - d) PERA shall acquire and maintain appropriate software and database to properly manage and secure all complaints.

(B) **PERA Executive Director Recommendation Matrix**

- 1) The Executive Director may consider the following factors when formulating a recommendation to the PERA board regarding each complaint:
  1. What is the wish of the complainant?
  2. What are the damages (physical, legal, or otherwise) to the aggrieved party?
  3. Do the alleged facts potentially constitute a violation of Providence Police Department Policy? If so, which policies?
  4. Do the alleged facts potentially constitute a violation of the City of Providence Code of Ordinances? If so, which ordinances?
  5. Do the alleged facts potentially constitute a violation of state or federal law? If so, which laws?

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(C) **Executive Director Recommendation**

- 1) Upon completion of the preliminary review of the complaint, the Executive Director shall present a report to the Board, in Executive session, with their recommendation as to the available remedies.
- 2) The report shall include the following information:
  1. A brief description of the facts of the case, including date, time, and location of the incident.
  2. The injury and/or misconduct that is being alleged.
  3. Applicable Rules, Laws, and/or Policies.
  4. A description of the central question (legal or factual) in the complaint.
  5. A description of all evidence that exists and gathered by the PERA staff during preliminary review.
  6. Recommendation.
- 3) **Vote**. Upon receipt of the recommendation from the Executive Director, the PERA board shall take a vote, and upon a simple majority of the board members present, the matter shall be decided according to the available remedies.
- 4) **Notice**. Upon every vote of the PERA board regarding the recommendation made on a complaint, the Executive Director shall inform the complainant, the Chief of Police, the Police Office of Professional Responsibility of the Providence Police Department, and the Keeper of Records of the Providence Police Department of the result in writing.

(D) **Remedies**

- 1) **DISMISSAL**. Complaint may be dismissed for the following reasons:
  - a) Complaint lacks probable cause.
  - b) Complaint is not timely.
  - c) Complaint lacks sufficient information to follow up.
  - d) Complaint is not within PERA's statutory jurisdiction.
  - e) Complaint does not allege behavior reviewable by PERA.
  - f) Dismissed complaints are closed with no further action required.

**2) HELD FOR GOOD CAUSE:**

- a) If a complaint is held for good cause, the complaint will automatically be on the docket for the next board meeting at which point the executive director will provide an update as to the status of the complaint.
- b) At that meeting, the executive director can again recommend any of the available remedies.
- c) Any complaint held for good cause for ninety (90) days must be reviewed at which point the executive director must make a formal recommendation as to the merits of the complaint. The executive director may recommend any of the available remedies, including continued abeyance for good cause.
- d) Any complaint forwarded to the Police Office of Professional Responsibility by PERA for investigation is deemed to be held for good cause.

**3) MEDIATION:**

- a) If a complaint is referred to mediation, the designated PERA mediator shall send notice in writing, inviting both the complainant and involved police officer(s) to mediation.
- b) The purpose of the mediation shall be to provide a confidential and respectful setting for both the complainant and the officer to discuss the incident candidly in the presence of a mediator.
- c) The goal of the mediation will be to promote a better understanding between the officers and the community they serve.
- d) At the conclusion of each mediation, there will be a formal written agreement memorializing all resolutions and remedies identified during the mediation.
- e) If either party rejects the invitation to mediate and/or rejects the proposed agreement at the end of mediation, the complaint shall be referred to the Authority for alternative remaining available remedies.

**4) INVESTIGATION:**

- e) Pursuant to section (q) of Chapter 18 ½ - 2 of the PERA Ordinance, any investigation shall be completed within one hundred twenty (120) days from the date the complaint was filed.

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- f) The executive director may extend this deadline by not more than sixty (60) days by submitting a formal notice of extension of deadline to the board, the Chief of Providence Police, Police Office of Professional Responsibility, and the Keeper of Records of the Providence Police Department.
- g) This deadline may be held in abeyance for good cause by the executive director.
- h) Upon the conclusion of an investigation, the investigator shall submit a report to the PERA Executive Director, detailing the findings of his or her investigation.
- i) After the full investigative file has been made available to the board for review and a summary of the investigation has been delivered to the board, the Executive Director shall recommend one of the following dispositions for each allegation of misconduct in a civilian complaint involving officer misconduct:
  - 1. "Unfounded," where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the subject PPD Employee.
  - 2. "Sustained," where the investigation determines, by a preponderance of the evidence, the alleged misconduct did occur.
  - 3. "Not Sustained," where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.
  - 4. "Exonerated," where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate PPD policies, procedures, or training.
  - 5. "Sustained violation not based on original complaint," where the investigation determines, by a preponderance of the evidence, that misconduct did occur that was not alleged in the original complaint but that was discovered during the misconduct investigation.

6. "Administratively closed," where the policy violations are minor, the allegations are duplicative, or investigation cannot be conducted because of the lack of information in the complaint. Administrative closing of a complaint investigation shall be used only for the most minor policy violations that do not constitute a pattern of misconduct, duplicate allegations, or allegations that even if true would not constitute misconduct. Administratively closed complaints may be re-opened if additional information becomes available. In such cases, the deadlines for investigation and review set forth above shall run from when the complaint is re-opened.
  
7. "Proceed to a full evidentiary hearing," Where the investigation is concluded and there is reasonable evidence that the alleged conduct occurred, but significant issues in the case hinge on credibility issues that need to be resolved by a "finding of facts" by a hearing panel.