

Minutes

Date: Wednesday, November 4, 2015 (meetings are typically held the first Wednesday of each month)

Time: 5:30 pm * *Please Note: agenda times are approximate*

Location: **Room C, Portland Building.** 1120 SW 5th Ave. Portland, OR 97204

Present: Roberto Rivera, David Green, Julie Falk, Mae Wilson, Julie Ramos, Bridget Donegan, Kristin Malone, Angelo Turner, James Young, Constantin Severe, Derek Rodrigues, Chris Davis, Kelli Sheffer, Joseph Pugh, Teressa Raiford, Linda Hunter, JoAnn Hardesty, Derek Swanson, Carol Cushman, Debbie Aiona, Barbara Ross

AGENDA

5:30 pm—5:45 pm Introductions and Welcome (CRC Chair Mae Wilson)
Approved of October 7, 2015 Meeting Minutes

- Ms. Falk would like to make a correction under the Standard of Review Workgroup update. She would like to add “ the CRC 2010 structural report and the 2007 letter to City Council contain recommendations for CRC standard of review to be changed to preponderance of evidence”
- The Committee voted to add the change and approved the minutes

5:45 pm—6:00 pm Director's Report (IPR Director Constantin Severe)

- IPR would like to thank CRC member David Green for his service to the committee and to the City of Portland. We have scheduled an appearance in front of City Council on November 18 to appoint a new CRC member to fill his position.
- IPR would like to thank the CRC and the community for their support of the City Auditor’s budget request for additional IPR investigator positions. With your support, the City Budget Office has approved one additional IPR investigator position as part of the City’s Fall budget package. City Council will vote on the budget package Thursday, November 12
- IPR Director Constantin Severe, IPR Investigator Erin Playman, and CRC Chair Mae Wilson attended the annual conference of the National Association of Civilian Oversight of Law Enforcement (NACOLE) in Riverside, California from October 4 – 8.
- IPR Director Constantin Severe was selected to serve as a member of the task force that was established by House Bill 2002 to propose ways to detect patterns of improper profiling by law enforcement. The task force has been meeting regularly and is scheduled to submit a report to the legislature in December.
- IPR is happy to announce the placement of intern Keela Johnson who is finishing her master’s degree program at PSU. She currently works as the Program Manager at Resolutions Northwest, and is working with IPR in creating community engagement dialogue sessions for Portland’s diverse community.
- IPR Community Outreach Coordinator Irene Konev attended and networked at the Portland State University Center for Women’s Leadership Luncheon, Asian Pacific American Chamber Fundraising & Award Gala, Oregon Health and Science University Night for Networking event and at the Hip Hop Concert at City Hall. She also attended an all - day Annual Northwest Public Employee Diversity Conference.
- Konev and CRC member Bridget Donegan met with the coordinator of the Multnomah County Youth Commission to connect with youth and learn about their experiences with police. Konev and CRC member Julie Ramos attended and connected to community at the Oregon Task Force on Law Enforcement Profiling bill hearing.
- Through the World Affairs Council, Severe, CRC members Jim Young, and Julie Ramos hosted a meeting with Russian delegates and talked about police accountability, human rights and government transparency. Konev introduced IPR commendation/complaint process to high school students in the Portland – Khabarovsk Bridge to Russian student exchange program. The Russian students were visiting and attending Franklin High School for a few weeks.

6:00 pm—6:15 pm Chair's Report (CRC Chair Mae Wilson)

- Chair Wilson attended the NACOLE Conference. She will use the Outreach Workgroup meeting to share her experience being at the Conference

6:15 pm—7:15 pm **Case File Review/Appeal Hearing: 2014-C-0371/ 2015-X-0003**

Community members filed a complaint with IPR about the police handling during the Ferguson related protest on December 20, 2014. Appellant alleged that Sergeant A and B failed to provide assistance Sergeant B did not immediately provide his name and badge number. Sergeant B also used physical force to move a flash light held by one of the complainants.

- Director Severe addressed questions CRC members had while reviewing the case file
- Ms. Falk asked Director Severe why was there only one complainant instead of two? In the document listed two complainant
 - The complainant who is here today initiated the case. We made several attempts to contact witness 2, but she did not demonstrated that she would like to be a complainant in the case. Generally we would like the person who were directly involved in the complaint to be the complainant, but in this case it was the person who witness the whole incident be the complainant
- Ms. Rivera asked Director Severe why didn't the officer help direct traffic?
 - There's no guidance to officers on how to redirect traffic in this kind of situation
- Ms. Falk asked Director Severe how IPR came up with the allegation on Sergeant A did not immediately provide his name and badge number?
 - We have gone back and forth on how to craft the allegation. There was a business card giving out at some point but we used this allegation as a starting point
- Chair Wilson asked Director Severe if he needs witness 2 to be the complainant to write an allegation?
 - Not necessarily we work with the complainant on allegation formations. Allegation often change in a case
- Mr. Young ask the appellant if there's anything regarding the case that he would like an additional investigation and why?
- The appellant would like to clarify regarding which agency did the principle investigation? It looks like IPR did the investigation but he received a finding letter from Internal Affairs?
 - IPR is only doing the fact gathering while the officer commander is the one who get to write finding letter. IA and IPR then get to review thing findings. At the end of the case a complainant typically receiving a finding letter from IA and an appeal notice from IPR. This was the case the IPR actually did the whole investigation on. IA acted as liaison to the Bureau and helped organize officer interviews since per City Codes, IPR does not have the ability to compel officer's presence or statement
- The appellant made a suggestion on changing the wording in the correspondence letter to better clarify things since the letter he received stated "the complaint has been forward to Internal Affairs for administrative investigation"
- The Appellant provided the Committee with a written statement on each allegations regarding his case. He pointed out several important points that he would like to raise:
 - He wasn't aware of the details of the investigation and which witnesses was interviewed by IPR
 - Officers cited in the interview that they acted that way because the crowd was being hostile. He is wondering if officers followed procedures on how to deal with hostile crowd?
- Mr. Rivera asked the appellant if he provided a list of witnesses who were at the march to IPR?
 - I don't remember naming people in specific when I filed the complaint, but I can recall so people who were at march
- Chair Wilson asked City Attorney if the Committee can hear additional witness testimony who were not interviewed by IPR?
 - Director Severe made a point that the Committee can certainly hear witness testimony or communication from community members. If CRC is considering the testimony of the witness who hasn't been interviewed by IPR then the case will need to go back for additional investigation. CRC have

to rely on evidence already produced during the investigation and by command staff to decide on the findings

- Ms. Ford would like to hear the additional witnesses comments regarding the case now before making the decision to go forward with the appeal
- Ms. Falk asked the appellant of his level of satisfaction regarding allegations formation on his case?
 - The majority of the allegations were fine. The allegation regarding the flashlight, my original allegation was that the officer “use force and push witness 1”, but then the allegation I received later stated that officer “use force to move the flashlight”. I asked IPR regarding this allegation and they told me it was changed based on other witness testimony my concern is this was not my complaint
- Mr. Handelman made several comments:
 - The ordinance states that the Committee “may receive oral or written statement volunteered by the complainant or the Committee member, or any officer or involved or any citizen”
 - He is troubled by the change of the appellant’s allegations
 - He is wondering why IPR only interviewed 2 witnesses and not others? This seems like a good case to send back for additional investigation
- City Attorney clarified that CRC can hear any testimony from community member regarding the case but the issue is that the Committee cannot considers the testimony as evidence in the case
- The appellant made a comment that he invited the witnesses to the appeal under the impression that they can speak during the appeal session and not during the public comment session
- Ms. Hardesty made some comments regarding the case:
 - She is wondering why IPR did not interview her since she was also at the march
 - She is confused about what her role at the appeal tonight
- Ms. Donegan made a comment that Ms. Hardesty should tell the Committee what she saw during the march to help the Committee making sure that they have everything they need to go forward with an appeal or send the case back for additional investigation
- Ms. Hardesty gave her testimony of the incident:
 - There were several community members wearing reflective vests to help direct traffic
- Ms. Ramos asked Director Severe if IPR would go out to look for witness of the incident or rely on the complainant to provide the witness names
 - In this case, since there was a march, we were able to get a video from one of the witnesses. The complainant was uncomfortable with providing us witness names at first but later he did provided us with the name of two witnesses. We then interviewed both of those witnesses
- Ms. Malone is troubled by how only 2 witnesses were interviewed, but she concerned that by sending the case back and ask IPR to interview more witnesses might not feasible since IPR might not able to identify more witnesses and they might not want to talk to IPR
- Ms. Rivera is inclined to send the case back and interview the people who were in front and facing the police
- Mr. Young suggested the Committee moving forward with the appeal hearing, listen to the testimony, identify follow up issues and then send the case back
- Ms. Donegan also supported Mr. Young proposal to go forward with the appeal based on the information the Committee had reviewed from the case

- Mr. Young made the motion to move forward with the appeal hearing. This was seconded by Mr. Turner
 - Mr. Turner: Yes
 - Ms. Donegan: Yes
 - Ms. Falk: Yes
 - Chair Wilson: Yes
 - Ms. Ramos: Yes
 - Mr. Young: Yes
 - Ms. Malone: Yes
 - Mr. Rivera: Yes
 - Mr. Green: Abstained
- Director Severe made a brief summary the appeal:
 - The appellant filed a complaint with IPR on December 20 regarding police interaction with the march

- IPR interviewed 5 individuals 3 community members and two officers
- During the interview, the appellant reported seeing the interaction between Sergeant A walked up to witness 2 and push her. Witness 2 said don't push her. Sergeant A responded by saying he did not push her
- Witness 1 stated he saw witness 2 shining the flashlight at the sergeant and he moved it out of her hand and Sergeant A made contact with witness 2 to move the flashlight away. He also saw witness 2 asking Sergeant A for some kind of identification
- Witness 1 was able to provide a video evidence of the interaction
- Witness 2 described herself as a traffic marshal while wearing a reflective vest. She said Sergeant A took the flashlight from her and made contact with her body. She asked Sergeant A for his business card several times, but he walked away
- Witness 2 remembered only seeing two officers involved in this march. One was on a motorcycle
- Sergeant A confirmed he and Sergeant B were at this march. They came up with a plan at the Allen temple where Sergeant A is in front while Sergeant B at the rear
- Sergeant A felt like the appellant didn't do anything to get the people out of the street so he decided to contact witness 2 because she was wearing a reflective vest. He described witness 2 was being verbally hostile and shined the flashlight at his face so he moved the flashlight away. He described it as a sweeping motion. He did not made contact with her body. He didn't think the sweeping motion was a use of force
- He described witness 2 as being uncooperative and had a loud aggressive tone. He felt that it would be better if he walk away
- Sergeant A recalled giving his business card to a male and did not recalled of anyone else asking for his card
- Sergeant B stated he did not have much contact with the marchers. He described at some point a motorcycle officer blocked traffic on MLK. When the march got to Skidmore and I5, people were on the street blocking traffic
- Appellant made some comments regarding his case:
 - Sergeant A came up to him and asked about the route they will be taking. He then drove ahead and blocking the intersection
 - He walked over to the officer to ask for help with directing traffic but they told him that the march doesn't have a permit and they don't have to help
 - He saw Sergeant A put his hand on witness 2 chest and pushed her back
 - Sergeant A gave him his business card after repeatedly asked
 - Regarding to the 1st allegation, the march was "unpermitted" but not "illegal. The legality is protected by the constitution and as well as PPB's directive. It is a responsible for PPB to protect the constitution of free speech
 - There was also no direction given by the officer
 - Ms. Falk asked if he mention about being spoken to rudely by officer when he first filed a complaint with IPR?
 - I did raised that issue but I did not want to pursue it because I didn't want to get into the argument he said- he said
 - Mr. Turner asked if the appellant if they planned to obtain the permit at the beginning?
 - I wasn't the organizer of the march, but I did organized some aspects of it. Permit or not I cannot speak to, but in my opinion, even though it is unpermitted, its still should be protected
 - Regarding to allegation 2, the main concern is Sergeant A provided support from the beginning of the march, but at some point he stopped providing support. Why would he not continue to help out even when he was asked to?
 - Regarding to allegation 3 on refusal to provide name and badge number. PPB directive required officers to provide those information
 - The refusal to provide business to witness 2 should've been also documented as required by PPB directive
 - Regarding to allegation 3, PPB directive on use of force defined use of force as a "physical coercion use to affect, direct, or influent an individual" and this case his action did affected witness 2. He also made impact with her body

- Witness 2 identified herself as Teresa Raiford made a comment regarding the march:
 - She reacted hostile at Sergeant A because he touch her body
 - She was busy redirecting traffic and did not see when Sergeant A when he approached her
 - She asked Sergeant A repeatedly for his business card and the Sergeant responded by saying “ you are not getting it”
 - Sergeant A did brought up the point that the March was illegal and Ms. Raiford asked her to leave and he did
- Ms Falk asked Director Severe why Investigator Playman did not ask Sergeant B specifically if witness 2 asked for his name and badge? He was asked specifically if the appellant received a business card, but not about witness 2.
 - The Sergeant did not recall anyone else asking for his card. He was asked whether if anyone else asked him for his business card and that. Witness 2 was never given a business card. We initially made the allegation based on what the appellant told us. Based on talking to the appellant and witnesses, we decided to change the allegation. I felt the most confident with the allegation that Sergeant A did not handle the situation appropriately
- Mr. Rivera asked Ms. Raiford if her flashlight was on the whole time? Were there other people who also carrying a flash light? Were you carrying the flashlight at the chest level?
 - Yes it was on, I was helping with the safety patrol. There was other people who carried flashlights as well since it was given out by the organizer. I was carrying the flashlight at traffic level because I am taller than the cars that gone by
- Ms. Falk made a point regarding allegation 3, it did not specified whether the officer information was given to Ms. Raiford or the appellant
- The appellant clarified that his original complaint allegation 3 wording might be confusing. His original complaint was that the officer did not provide his business card to Ms. Raiford
- Mr. Young asked the appellant if he heard multiple times that Ms. Raiford asked the officer for his card?
 - Yes I did
- Captain Sheffer provided the RU explanation on regarding to allegation 2:
 - Unpermitted march is required to stay on the sidewalk at all time. In this case sergeant A tried to talk to one of the marchers to find out where they are going but did not get a respond. Sergeant A asked the appellant if he could use his megaphone to get people out of the street. The officers did everything they could to help the march moved from point A to point B even though they didn’t have to. Once the officers escort the marchers to their destination they also asked the marchers to moved out of the roadway and into the grassy area
- Chair Wilson asked Captain Sheffer if it is the officers’ responsibility to work with the crowd and move them out of the road way?
 - Yes they did. According to the investigation Sergeant A did made contact with the appellant for help announcing to the crowd to move out of the roadway. He did not get the assistance and at some point, he recognized the person with a safety vest. The vest was an indication to us that the person was there to help with the march
- Ms. Malone asked Captain Sheffer about the “illegal” aspect of the march?
 - The march itself is not illegal, but this group did not have a permit so the legal issue here is that they are not allowed to be on the street
- Ms. Ramos asked Captain Sheffer what the officers responsibility after they had asked the crowd to move off the street and they refused to do so?
 - Based on the information, the officers didn’t think that the whole crowd was hostile. Once the officers did back up a little, the crowd did get off the roadway
- Ms. Malone made a comment that it seems beneficial if the officers would’ve stayed and try to keep the cars from hitting the marchers
- Ms. Donegan raised a concern that even though they tried to move people and asked organizer to help move people out of the roadway, the officers did not try and take steps to help direct traffic

- The allegation was that the officer failed to provide assistance, but they did escorted the march to their destination even though they did not have to
- Ms. Rivera asked Captain Sheffer a hypothetical question on what the police would do if people standing on the street after a football game? Would the police walk away?
 - This is a completely different scenario and I can't answer that because the scenario does not have the same variables as this case
- Captain Davis spoke on behalf of Lt. Graham who is the RU manager for allegation 1:
 - The way Sergeant B approach this march was reasonable since this was a unpermitted/unplanned march
 - He tried to get the people to move out of the way and was met with hostility and by back out and walk away from the march helped de-escalating the situation
- Captain Sheffer provided her explanation for allegation 3:
 - If it is an unsafe situation, the officer do not have to provide their business card. In this case the Sergeant ultimately did provide his business card to the appellant
- Ms. Falk asked Captain Sheffer what information did she looked at when making the decision on this allegation?
 - I looked at if the card was given and he did provided the business card
- Ms. Donegan ask Captain Sheffer if she considered witness 2 asked for the card first?
 - I did not look into who did he provided to. I looked into whether if he provided it or not
- Ms. Falk made a point to Captain Sheffer that just because the Sergeant gave the card to the appellant doesn't mean he also gave it to witness 2 even though they were both at the same place
 - In your process, I would assume that at some point we can have this issue looked up differently
- Captain Sheffer provided her explanation for allegation 4:
 - Based on both of the sergeants and the witness interview, pushing someone flashlight out of the way is not considered a use of force under PPB directive since the use of force is defined as "mechanical intervention as it applies to a physical resistant"
- Ms. Donegan read the definition of "unfounded": The allegation was false or devoid of fact or there was not a credible basis for a possible violation of policy or procedure.
- Ms. Ramos asked Captain Sheffer if she had considered the finding of "not sustained"?
 - My process of thinking on the finding was what constitutes a use of force? That was why I came up with the "unfounded" finding. With regards to "not sustained" that finding is also possible
- Ms. Donegan asked Captain Sheffer to address the issue of the appellant raised regarding the use of force as a "physical coercion use to affect, direct, or influence an individual". Pushing a flashlight out of the way could be considered as a use of force
 - In this circumstance, both sides talked about the witness moving the flashlight back and forth. Whether it was intentional or not, he had nothing in mind except to move the flashlight out of the way. That is when I determined that particular kind of action did not felt under the use of force
- Mr. Young made a comment to Captain Sheffer that the act of moving someone hand out of the way justify or not is a use of force
 - This is why we talking about our directive definition of what a use of force is, a mechanical intervention is applied against a physical resistant
- Mr. Turner ask Captain Sheffer what would constitute a use of force vs excessive force?
 - We are talking someone pushing someone away that is different than someone putting an object in your face. An excessive use of force more force than necessary
 - Captain Rodrigues made a comment based on this scenario, if the complaint is that the officer pushed Ms. Raiford then that would be an excessive use of force
- Ms. Malone expressed concerns about definition of the use of force
 - Captain Sheffer: Everyone has different definition of what a use of force is. Based on our directive his action was a defensive motion by pushing the flashlight away
- Public comments:
 - Mr. Handelman comments:
 - He would like to advice the community members to write down their original complaint to keep as record
 - The march was about Fergusson and all the people who killed by police brutality

- Motorcycle officers could've use the their vehicle to block both end of the march and keep the traffic going around them
- Appellant rebuttal comments:
 - Regarding to allegation 2 in the respond that he received from IA the legality of the march was because it was not permitted
 - The officer did not make an effort to disperse the crowd. They asked him to help disperse the crowd and made it my responsibility. The motorcycles has a PA system which they could've used
 - They did provide some assistance at the beginning, but they did not provide a specific assistance at a specific moment when it was specifically asked of them
 - The statement that he received stated that the whole crowd was hostile
 - The allegation said they "failed to provide assistance", but his original complaint was did they not help when the marchers specifically asked for help
 - A person with a badge carry with them laws and directives
 - Definition of use of force is a physical coercion use to affect, direct, or influence an individual as well as "other things"
- NLG Advocate made a comment that the appellant only get to see the case file summary with the allegations and directives a week before this appeal. This kind of put the appellant in a disadvantage
- Ms. Raiford made several comments
 - She did not see the Sergeant coming that's why she did not resist
 - She doesn't understand why the officer thought she was being hostile to him. She asked the officers for support in an unsafe situation since there were a lot of children and they were at a very dark interaction. They refused to help and left the scene
 - She would like to know why did the officer approached her in the first place while there were others who wear reflective vest? When he approached her never once he asked her if there's anything he can do to help out with the march
- Chair Wilson would like to form a workgroup to look into allegation's forming issues
- Director Severe made a comment that there's no perfect encapsulation on what the incident was. IPR had gone back between broad and specific allegations, but each approach has it pros and cons
- Ms. Ramos made the motion to challenge the finding to Not Sustained on allegation 4. This was seconded by Mr. Turner
 - Mr. Turner: Yes
 - Ms. Donegan: No, I agreed with Ms. Malone evidence proved that unnecessary force was used
 - Ms. Falk: Yes
 - Chair Wilson: Yes
 - Ms. Ramos: Yes
 - Mr. Young: Yes
 - Ms. Malone: No, The finding should be Sustained
 - Mr. Rivera: Yes
- Ms. Ramos made the motion to Affirmed on allegation 3. This was seconded by Mr. Turner
 - Mr. Turner: Yes
 - Ms. Donegan: Yes
 - Ms. Falk: No, the allegation is problematic. If immediately was not a violation then why was it written on the allegation?
 - Chair Wilson: Yes, based on the allegation is written
 - Ms. Ramos: Yes
 - Mr. Young: Yes
 - Ms. Malone: No
 - Mr. Rivera: Yes, given the circumstance they were facing, the action was appropriate
- Ms. Falk made the motion to Affirmed the finding with Debriefing on allegation 2. This was seconded by Ms. Ramos
 - Mr. Turner: Yes

- Ms. Donegan: Yes, based on the standard of review
 - Ms. Falk: Yes
 - Chair Wilson: Yes
 - Ms. Ramos: Yes, it would be great if they help direct traffic
 - Mr. Young: Yes, in this case, officers have no legal obligation to help direct traffic, but they should've
 - Ms. Malone: Yes,
 - Mr. Rivera: Yes, the Sergeant made the right decision to leave
- Ms. Donegan made the motion to Affirmed the finding with Debriefing on allegation 1. This was seconded by Ms. Falk
 - Mr. Turner: No
 - Ms. Donegan: Yes
 - Ms. Falk: Yes
 - Chair Wilson: Yes
 - Ms. Ramos: Yes
 - Mr. Young: Yes
 - Ms. Malone: Yes
 - Mr. Rivera: Yes
 - Director Severe asked the Committee to elaborate regarding their allegation formation concerns in writing. This will help with the whole process
 - Ms. Falk asked Director Severe what will happen at the officer's debriefing process?
 - Debriefing to the officer is based on the feedback by the Committee like the officers would've done more than the directive required them to
 - Appellant comments on the vote:
 - The allegations should've been more specific and it did not reflect his complaint
 - Chair Wilson would like to meet with the appellant to discuss process improvements

10:00 pm—10:30 pm Public comment and wrap-up comments by CRC members

- Ms. Luyben thanked everyone who stayed throughout this whole meeting to go through this whole process
- Mr. Pugh made a comment that the Committee should make sure people are respectful to each other at the meeting
- Mr. Handelman comments:
 - The permitting process is not simple the police will tell you what street you can and cannot go
 - The disposition letter should be made available to the police
 - Both management and the involved officers are clearly bias against the march
 - The NACOLE info should be made available on the web
 - City has been in a discussion on an overall oversight process and the CRC should be involved in this
- Chair Wilson made the decision to skip the rest of the agenda due to lengthy appeal hearing

10:45 pm Adjournment

A request for an interpreter or assisted listening device for the hearing impaired or for other accommodations for persons with disabilities should be made prior to the meeting—please call the IPR main line 823-0146 (or TYY 503-823-6868).

Visit the website for more information regarding the Independent Police Review division, Citizen Review Committee, protocols, CRC meeting schedules, and approved minutes: www.portlandoregon.gov/auditor/ipr.

CRC Members:

- 1. If you know you will not be able to attend a CRC meeting or that you will be missing a significant amount of a meeting, please call or e-mail IPR in advance so that the CRC Chair may be made aware of your expected absence.**

2. After this meeting, please return your folder so IPR staff can use it for document distribution at the next CRC meeting.

**Note: agenda item(s) as well as the meeting date, time, or location may be subject to change.*