



CITIZEN REVIEW COMMITTEE MEETING

Community Oversight of Portland Police Bureau

City of Portland / City Auditor
Independent Police Review (IPR)
Citizen Review Committee (CRC)

Minutes

Date: Wednesday, December 2, 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: Mae Wilson, Michael Luna, Angelo Turner, Julie Falk, Bridget Donegan, Julie Ramos, Kiosha Ford, Roberto Rivera, Derek Rodrigues, Constantin Severe, Judy Prosper, Casey Bieberich, Erin Playman, Anika Bent-Albert, Mary Hull-Caballero, Steve, Jeffrey Entwisle Sr., Adrian Brown, Laura Vanderlyn

Absent: Vanessa Yarie, Jim Young

AGENDA

5:30 pm—5:45 pm Introductions and Welcome (CRC Chair Mae Wilson)
Approval of November 4, 2015 Meeting Minutes

- The Committee will vote to approve the minutes at the next CRC meeting

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

- On November 18th, new CRC member Michael Luna was appointed by Portland City Council to serve a three-year term. Luna will be appointed to the CRC to fill a position vacated by David Green
- IPR Community Outreach Coordinator Irene Konev attended and networked at Say Hey, The Pitch, and at the Fix-it Fair which took place at Parkrose High School. She also met staff of Oregon Humanities. IPR intern Keela Johnson and Konev met with Latino Network staff to plan a community dialogue. IPR Investigator Casey Bieberich, Konev and IPR Intern Freda Ceaser made presentations to the students of Jefferson High School, as part of an ongoing plan to engage with the youth of Portland.
- Community Feedback:
 - High school students seek ways to engage with police to build positive community and police relations.
 - Students request more outreach from IPR to inform them about the commendation/complaint process.
- Ms. Donegan asked Director Severe what independent investigations are?
 - We have a protocol in place on cases that IPR takes special interest in. Cases involving desperate treatment or cases involving a Captain or higher. Some cases, IA would refer to us because they think we would be better handled. The Hip Hop Review was a police review not an independent investigation
- Mr. Rivera asked Director Severe regarding House Bill 2002 if there's a system in place for these kind of complaints? What law enforcement agency does this apply to?
 - Oregon has different jurisdictions and they all have different policies on bias based, profiling type of complaints. LECC will be the gateway for people to file a complaint regarding racial profiling. The organization is housed on PSU campus. People can also file a complaint with IPR. This bill applies to all Oregon law enforcement agencies

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

- Chair Wilson asked Director Severe if IPR had posted the NACOLE Conference information on the website?
 - None of these materials belong to us so we will have to reach out to NACOLE to ask them for permission to post the materials
- Chair Wilson and Vice Chair Donegan are stepping down as Chair and Vice Chair of the Committee. She felt like this is a good time for leadership change by creating an executive committee to create a cohesive team to share responsibilities

- This is a good time to do more outreach work and engage in building relationship with the Police Bureau, community members, IPR, and the City. In the current leadership structure, the Chair is too focusing on the group that is the most vocal, which leave other groups under the radar
- Last but not least, the most important thing for the Committee to focus on is these meetings since there are no other place in the City of Portland where a Committee takes a deep dive into these complex issues
- Mr. Rivera asked Chair Wilson if she has a “structural outline” on how she would like the new CRC leadership to be like?
 - I don’t have an outline, but I do have ideas and insight information on being in this position. We all need to look at things differently
- Ms. Malone thanked the Chair for her work on the Committee
- Ms. Falk asked Chair Wilson if we bound by policy or protocols related to the creation of an executive committee being an elected committee
 - The Code requires a Chair and Vice Chair. There’s no mention of Co-Chair and I believe that is it possible. If we decided to have an executive committee, we will still be bounded to public meeting law
 - Director Severe confirmed Chair Wilson’s interpretation that there’s no barrier for the CRC to form an executive committee
- City Attorney Judy Prosper reminded the Committee that an “executive committee” should be less than 5 people
- Ms. Malone asked Chair Wilson if there’s a document that describe the Chair and Vice Chair responsibilities?
 - I don’t have a formal framework but my recommendation is we distribute among 4 people executive committee in a formal way. We can talk more about this within the next month

6:15 pm—8:15 pm

Case File Review/ Appeal Hearing: 2014-C-0347/ 2015-X-0004

On November 29th, 2014, one of several demonstrations occurred in response to the grand jury decision in Ferguson, Missouri. Protesters gathered and traveled through several Downtown Portland locations, including SW 3rd Avenue between Main and Madison, eventually to SW 6th and Morrison and SW 2nd and Main Street. At SW 2nd and Main Street, the PPB Sound Truck informed protestors that they were all under arrest. Some protestors were taken into custody and the remaining people were dispersed from the location.

- Director severe provided a brief summary of the complaint:
 - This complaint was about protest stemmed from the Ferguson’s grand jury decision of the death of Michael Brown on November 29. There was a “die-in” by protestors at the intersection SW 2nd and Main St. Several protestors came to IPR the next day and filed a complaint for about this
 - PPB command gave rapid response team a go ahead to conduct a “box-in” maneuver. Protestor called the technique as “kettling”
 - IPR opened this investigation as an independent investigation since there were a lot of community concerns regarding the incident. IPR assigned Investigator Bieberich and Playman for this investigation
 - There were another case that dealt with the flash bang’s incident on 6th and Morrison
- Investigator Bieberich provided her and Investigator Playman’s investigation into the incident:
 - IPR collected surveillance videos, police reports, after action reports of the incident
 - IPR also interviewed several PPB officers to determine why and how the decision was made to arrest several protestors, and if there’s a specific number of arrests the Bureaus wanted to make
 - The “kettling” technique had never been used by PPB before
 - In the investigation report, IPR tried to break up interviews and materials in different categories to make it easier to look at
 - Investigation also covered announcement came from PPB sound truck
- Director Severe responded to several questions asked by the CRC while reviewing the case file

- Regarding to question about the DA office. The DA issued a “no complaint” order. There wasn’t any further charges to the individuals who were arrested that night
- There were several questions about the incident on 6th and Morrison where an individual jumped on top of a police car. This incident wasn’t related to the appeal tonight
- Question about chemical agent being used. The only thing IPR found was the use pepper spray at the incident on 6th and Morrison and there wasn’t a complaint about it
- Chair Wilson asked Director Severe to why certain things were parts of the investigation and some were not
 - The allegations form the basis of the investigation. In this particular case, the two involved officers were alleged to have ordered the arrest of the protestors. We looked into who were those people that got arrested, whether if it constitutionality valid. What is the rationale of the arrest of the protestors? Was it a lawful basis based on the understanding of the officers and other people who might played a role in the arrested? And looking into applicable Oregon laws. IPR looked into the flashbang incident as a separate case
 - Regarding the question about people moved to the center of the street to be arrested. Several Bureau members who were interviewed said the Rapid Response Team came onto the street and surrounded the protestors at that intersection and separate out the individuals that were on the street
 - Regarding question about Bureau members taking picture, if CRC would like IPR look into the issue then we can certainly looking into that
 - Regarding question about City ordinance about sidewalk and permit use on whether it is in compliance with the 1st amendment. This provision hasn’t be litigated so I don’t want to make a pronouncement regarding its constitutionality
 - Regarding question about the permit cost. It cost \$25 to get a permit for a special event
 - Kettling or box-in technique is a PPB crowd control technique
 - Regarding question of the different between a riot and a protest. Oregon law defines a riot as “A person commits the crime of riot if while participating with five or more other persons the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm”. In this situation none of the protestor has been charged with causing a riot
- Ms. Ramos asked Director Severe since the allegations were about the arrest and there are 3 different reasons given for the arrest
 - IPR is facts gatherer not fact finder. It was the RU manager who made the decision on whether the PPB officers were outside of the Bureau’s policy. In this case both of the officers are accused of ordering the arrest the protestors which were not constitutionally. The justification given by the involved officers. The RU manager reviewing the case have to look into whether the statement supported by the evidence
- Ms. Malone asked Investigator Bieberich was there a reason why the 10 person arrest quota seems significant?
 - This is an event where there were more than one person who make the decision to give order to officers to make arrests. We looked into why the order was given to rapid responding team sergeant to make arrests. What evidence was there to lead the commander to make the decision? In almost all cases the causes stated in the report was interfering with police officer or disorderly conduct so we looked into how it was determined? We also looked into individuals involved in picking out who to arrest
- Ms. Falk asked Director Severe to provide guidance where to put the District Attorney finding and recommendation in terms of the Committee’s thinking about this case since she also weighed in on the incident?
 - What the CRC role is to determine whether Captain Parman’s decision is supported by the evidence
- Ms. Ford asked Director Severe it seems like there are multiple reasons for the arrest. Why wasn’t there more investigations to look into different reasons for the arrest? There was one person who tried to leave the scene and they also got arrested
 - It was the commander who made the decision to order the arrests. The folks in the street were the ones who committed the disorderly conduct. The reason why we phrased the allegations the way we did because a lot of people who came to our office complained about that particular incident. Almost all of them felt like the City violated their First amendment rights

- Ms. Ford asked Director Severe about the reference in the transcript about an individual in the transcript who jumped onto a patrol vehicle. A lot of people who were interviewed stated that was the incident that escalated the whole situation between the protestors and police officers
 - For IPR's perspective, this is an administration investigation process of the members of Portland Police Bureau. The action of that private individual played a role in the whole event, but as to what happened at 2nd & Main, it did not play a critical role
- Mr. Rivera asked Director Severe if anyone filed a complaint regarding officer confiscated a gun near 2nd and Main incident?
 - That was a separate incident and we did not receive a complaint regarding that incident
- Mr. Turner asked Director Severe if the District Attorney charged any of protestors or police officers?
 - No
- Ms. Ramos asked Director Severe to clarify if other complaints that was mention in the interview transcripts handled in separate cases?
 - It depends. For example, people brought up issue of the use of mount patrol. People do not like the idea of officers using horses in a crowd control situation. That is the Bureau policy and practice is not a misconduct
- Mr. Luna asked Investigator Bieberich was there a physical characteristic that stood out from those 10 individuals who got arrested?
 - The commanders gave order to make arrests, but it was up to individual officers to identify the person and make the arrest. There was no information from the commanders of the incident who individually should be arrested. In the individual police report, there were descriptions of individuals who they observed from earlier
- Chair Wilson asked Investigator Bieberich if someone were to file a complaint that they were targeted then the complaint would be toward that individual officer and not the command structure is that correct?
 - It could be. We did not receive any individual complaint from this incident where a complainant said I was targeted for my political affiliation
- Mr. Rivera asked Investigator Bieberich if officers can write the police report a few days after the incident?
 - This is the question for the Police Bureau. In this particular case, IPR did not interview any one particular officer who them-self put their hands on the individuals that were arrested
- Ms. Ford made a comment about how the allegations are not just about the "box-in" tactic
- Chair Wilson made a comment that this is solely focusing on the commanders who made the decision to order the arrest
- Ms. Ramos asked Director Severe if IPR looked into individual who were arrested during that night to see if their arrests were justified
 - No, the officers acted base on the order of the command structure. The individuals who came to our office complained about that they did not like that they were arrested. Their constitution rights were violated by the Police Bureau
 - There were about 40 people who came to our office on December 1. If the allegation was just against individual officers then a lot of of them would been dismissed because if you look at the police report, some of the officers were taking people in custody is based on probable cause by another who wasn't identified in the police report
 - We want to make sure that people who came to our office were heard. To my knowledge, there had never been a situation where we alleging that folks in commander structure violated the Police Bureau's directive. This is something that we've received a lot of push backs on. The decision to create allegations related to the command structure is ultimately my decision because there wasn't a good way to allege individual officers
- Investigator Bieberich made a comment about identifying individual officers. The Police Bureau members did write individual report who was arrested and who was involved in taking people into custody. So if an individual who got arrested and want to make a complaint regarding the officer that arrested them then we can certainly find out the name of the officer
- Ms. Falk asked Director Severe if the allegation was about the order was unconstitutional or the arrest was unconstitutional?
 - The allegation was about the command's discretion to order officers at the scene to take people into custody
- Public comments session:
 - Ms. Raiford comments:

- Some officers who transported the protestors that got arrested were the officers who posted “I am Darren Wilson” picture on their Facebooks
 - She made contact with DOJ Civil Rights division regarding the constitutional right of the protest
 - She is wondering if other agency involved with investigating the “kettling” incident?
- Unnamed community member comments:
 - If there’s a demonstration is going on, it is the police job is to protect those people and ensure their safety so they can freely exercise their freedom of speech. When the police boxed people in, it only creates more hostile
- Ms. Hannon comments:
 - The Bureau has a long history of crowd control going back to the May Day protest in 2000
 - In the crowded control directive comments submitted to the Bureau last year, Copwatch brought up should give consistent order to the protestors. Copwatch also testified regarding this issue in front of City Council
- Mr. Handelman comments:
 - This summary is of the worst case summary he has ever seen. The summary did not summarize what the allegations are.
 - This is a second protest related appeal in two month. Also the second time IPR took what people said and then created their own allegations
 - He urged the Committee to send back for more investigation to investigate the actual complaints. There was a person on the sidewalk who also got arrested not just the people who were on the street
 - If officers made a wrong decision on the street, they should be investigated as well not just the commanders
 - The protestors would not have given a permit if they tell the police that they will be lying down outside of the police station
- Mr. Meo comments:
 - The police force has been more and more militarized in the last 10 years
 - This case should be sent back for additional investigation into the officers who made the arrest to see if they violated people’s constitutional rights
- An unnamed public member made a comment that a reporter name Denis Theriault also got kettled with the protestors
- Ms. Brown would like to remind the Committee that they are not here to investigating issues and they should be focusing on the allegations and whether the commanders decision were justified
- Ms. Elinski Comments:
 - She was very impressed of all the questions that was asked by the Committee
 - There were 35 people on the street. They lied on the street in silence for 4 minutes and started dispersing to go home. The 3 women who were arrested by the police was forced onto the street
- Chair Wilson made the decision to move the appeal to next month if the Committee decided to go forward with an appeal due to time constraint
- Ms. Ford expressed concerns that the allegations were inaccurate
- Ms. Ramos made a comment that there were a lot of complaints based on the transcript
- Mr. Rivera asked if the Committee has enough knowledge in constitutional law to vote?
- Ms. Donegan made a comment that the Committee do not have to decide whether the action by the protestors constitutional, but rather if the findings for the allegations are supported by the evidence
- Mr. Luna asked Director Severe if we know a specific reason why the Commander made the decision to order the arrest? There were various things going on and it wasn’t clear
 - The totality of circumstance of that night
- City Attorney Judy prosper reminded the Committee to focus on the evidence being provided to make the decision on whether the Bureaus finding is appropriate
- Ms. Ford expressed concerns with the allegations not being too details enough since a lot of things happened that night

- Director Severe made a comment that other allegations were looked at in separate cases. There were a total of 9 other investigations where IPR looked at the use of rubber bullets, flash bangs, and other protests happened after this incident. CRC members are more than welcome to come to IPR office and review these cases and make recommendations to IPR or the Police Bureau. This is something that happened in the past
- Chair Wilson asked Director Severe if there are other investigations pursued similar to the issue of the people who are making decision to order officer to arrest people or the box-in maneuver?
 - No. This is an administrative investigation of a City employee who has collective bargaining rights as well as constitutional rights and we have to frame it around an allegation of some sort of misconduct. The Use of “box-in” maneuver does not violate PPB Directive. This is more of a policy issue
- Chair Wilson asked Director Severe if the use of “box-in” maneuver be considered as an excessive use of force
 - It has to depend on a context. To be considered as a use of force, you have to make physical contact with the individual. There also has to be an applicable use of force
- Ms. Falk made a comment that this is the first time, the Bureau use this technique
- Director Severe made a comment that this is more of a policy issue
- Several CRC members expressed concerns about the other issues that happened to the protestors that night not just the arrest. This is a case that involved so many people and not all of their complaints has been addressed
- Chair Wilson asked Director if the Committee can send a case back to the investigation with additional allegations
 - The CRC has broad discretion to send the case back for additional investigation with a reason. CRC doesn’t have to add allegation at the appeal stage. It is up to IPR to make the decision on whether or not to add additional allegations
- Ms. Malone made a comment that she has enough information on these allegations to move forward with the case. Her concerns is that she doesn’t how many allegations were pulled out of this interview and investigated in separate cases
- Mr. Rivera Made a motion to move forward with the appeal. This was seconded by Mr. Turner
 - Turner: Yes
 - Luna: No
 - Donegan: Yes
 - Falk: Yes
 - Wilson: Yes
 - Malone: Yes
 - Ramos: Yes
 - Ford: No
 - Rivera: Yes
- Ms. Ramos would like to create a workgroup to discuss about allegation’s formation
- Mr. Handelman’s comments:
 - He would like the disposition letter be made public prior to the appeal hearing. It has been done before in the past
 - The IPR Annual report need to be discussed
 - City Attorney should be reading the Standard of Review exactly as how it was written
 - Regarding the recorder position in the Committee; he or she is supposed to say what the vote are at the end of the appeal
- Ms. Aiona would like CRC to setup a workgroup to look into IPR’s annual report
- Ms. Raiford comments:
- She expressed concerns with IPR process of allegation’s formations. She asked the Committee if they received every single piece of evidences that are related to a case?
 - Chair Wilson made a comment that in regarding to the allegation’s formation, this has been a reoccurring theme and the Committee will look into it. Regarding the evidence, in another day, CRC can talk about what type of documents the Committee received before an appeal hearing

8:15 pm—8:30 pm New Business

8:30 pm—8:45 pm Old Business

7:45 pm—8:05 pm Workgroup Updates: Please provide the following information —

- 1) Brief summary of the goals and objectives of your workgroup
- 2) Date of last meeting
- 3) Brief summary of the work done at your last meeting
- 4) Next scheduled meeting
- 5) Main topic to be discussed/addressed at the next meeting
- 6) Any assistance from IPR or CRC needed to achieve your goals

ACTIVE WORKGROUPS

1. Outreach Workgroup (5 min.)

MISSION STATEMENT: The Outreach Workgroup engages the community to raise awareness about the Citizen Review Committee (CRC), gather concerns about police services and accountability, and identify issues for the CRC to address.

Chair: Angelo Turner/ Members: Mae Wilson, David Green, and Julie Ramos
IPR staff: Irene Konev, Community Outreach Coordinator

2. Directive Workgroup (5 min.)

MISSION STATEMENT: The Directive Workgroup reviews bureau directives open for public comment and submits public comment to the bureau.

Chair: Bridget Donegan / Members:
IPR staff: Constantin Severe, IPR Director

- Ms. Donegan reached out to the Metro Public Defender, The Oregon Justice Resource Center, and victim rights advocacy groups to inform them of domestic violence Directives that were up for comments
- She also went to the Multnomah County's Youth Commission meeting where they has a subcommittee that looked into youth violence. She invited them to come to one of the CRC to talk more about their organization

3. Recurring Audit (5 min.)

MISSION STATEMENT: The Recurring Audit Workgroup seeks to improve accountability of IPR and the Portland Police Bureau by reviewing closed cases to ensure procedures, policies and protocols are followed and will recommend improvements, if necessary.

Chair: Mae Wilson / Members: Vanessa Yarie, Jeff Bissonnette
IPR staff: Derek Reinke, Senior Management Analyst

4. Standard of Review (5 min.)

MISSION STATEMENT: The Standard of Review Workgroup examines CRC jurisdiction and the standard of review and recommends action to the CRC

Chair: Julie Falk / Members: Kiosha Ford, Roberto Rivera, Kristin Malone, and James Young

- The workgroup is taking some steps to update a report recommending changing the standard of review
- The workgroup will also look into changing the workgroup's name
- The workgroup will try to meet in January

5. Use of Deadly Force Workgroup (5 min.)

MISSION STATEMENT: The Use of Deadly Force Workgroup examines Portland Police Bureau use of deadly force policies, directives, training and implementation in order to recommend and support any needed change in Portland Police Bureau use of deadly force.

Chair: David Denecke / Members: James Young, and David Green

IPR Staff: Derek Reinke, Senior Management Analyst

8:05 pm—8:35 pm Public comment and wrap-up comments by CRC members

- Mr. Luna asked the Committee about the possibility to change CRC meeting to another day other than Wednesday.
 - Chair Wilson will discuss this via email

9:00 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.***