



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, January 6, 2016 (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: Julie Ramos, Kristin Malone, Bridget Donegan, Jim Young, Mae Wilson, Angelo Turner, Vanessa Yarie, Kiosha Ford, Constantin Severe, Judy Prosper, Lt. Erica Hurley, Captain Brian Parman, Dan Handelman, Debbie Aiona, Barbara Ross, Michael Meo, Kaylei and Ted Luyben

AGENDA

5:30 pm—5:45 pm Introductions and Welcome (CRC Chair Mae Wilson)
Approved November 4 and December 2, 2015 Meeting Minutes

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

- IPR hired complaint investigators Ramsey AlQaisi and Deirdre Perez in the last month. Mr. AlQaisi is a former investigator with the City of New York Civilian Review Board and a graduate of the State University of New York at Purchase. Ms. Perez has a Master's Degree in Public Affairs from the University of Texas and is a fluent Spanish speaker.
- IPR Community Outreach Coordinator Irene Konev attended and networked at Portland Business Alliance, and participated in the Human Trafficking Task Force meeting. She met with the coordinators of the Ahiska Turkish Community Center, and attended the Slavic Advisory Council three - year anniversary celebration. Konev and IPR Assistant Director Anika Bent -Albert attended and networked at the Human Rights Commission Emily G. Gottfried Awards Luncheon. IPR intern Keela Johnson and Konev presented to the staff of Africa House, and IPR Intern Freda Ceaser continued her engagement with the students of Jefferson High School.

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

6:15 pm—8:15 pm **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 quick summary of the incident:
 - November 29th. The appellant is part of a group of protestors who were detained at the intersection of 2nd and Main in Downtown Portland, a few blocks from here. A group of demonstrators were surrounded by officers and were told that they were not free to leave
 - The allegations that CRC is reviewing tonight are that Sergeant A ordered arrests of protestors which were not constitutionally valid which is directive 315 which is a conduct directive and that Commander B ordered

the arrest of protestors which were not constitutionally valid. Same directive. Same area of review. At the point where the police officers conducted what was later called the box-in, there were about 100-150 demonstrators at that intersection based on community member interviews and officer interviews

- The die-in occurred roughly around 10:45 p.m. where many of the protestors laid in the northern section of 2nd and Main to protest police brutality and also in memory of Michael Brown, which his death and the Grand Jury's decision in Ferguson was really kind of caused a lot of demonstrations around that week in 2014
- IPR's investigator Casey Bieberich and Erin Playman Investigators assigned to this case. There were 17 civilian witnesses and 3-4 Portland Police Bureau officers interviewed, numerous police reports collected, and we gathered some video evidence. Some of it IPR used subpoena power to get from office buildings, the federal building, Multnomah County Detention Center. We received some video from the Forensic Evidence Division, and as well as Channel 12 and Channels 6 and 8 and then some video from community members
- Several protestors who were interviewed by IPR said that they felt that they were not free to leave. Several also stated to us that they did not know why they were detained or arrested
- Another issue that was brought up during this investigation was the box-in maneuver, also described as a kettle or kettling by several community members who contacted IPR. The Rapid Response Team closed in from all four sides on the protestors who were on the street
- Mr. Turner asked Director Severe if the protest happened right outside PPB Central Precinct?
 - That's is correct
- Mr. Turner asked Director Severe if laying in the street is unlawful?
 - Yes it is a misdemeanor in the State of Oregon – it's a class E misdemeanor
- Ms. Holloway provided her side of the incident:
 - The march started around 7:00 PM. And peaceful until the police officers cut the protestor off at numerous bridges threatening that if they went on to the bridge that they would be met with force. So to avoid confrontation with the police officers, the protestors continued away from where they were blocking off and went back at one point on 6th and, I don't remember what street it was
 - The Protestors were attacked with flashbang and pepper spray
 - The protestors who were on the street got "kettled" by the police. At no point people were able to leave even when they wanted to leave
- They were not warned multiple times to get out of the street. They were warned to get out of the street when they were told that they are being arrested. The only other time that the appellant heard the sound system used that night was telling people not to get on bridges
- The appellant heard couple people asked the police for medical. An elderly woman asked if she could get water because of her blood pressure. All of these requests were ignored
- Chair Wilson asked the appellant of the actual process of her being arrested
 - I was told that I was under arrest. I had no safe way to remove myself from the situation. I was held close to an hour with no questions asked
- Mr. Bissonnette made a comment that the appellant was not one of the 10 that were arrested
- Mr. Young asked Mr. Bissonnette if it is the contention of the appellant that her arrest were unconstitutional and why?
 - The allegations were very specific, but it didn't ultimately affect the appellant because she was never arrested
- The appellant made a comment that she felt like her first amendment was violated as soon as she was told that she was not allowed to engage in a peaceful demonstration
- Ms. Ramos asked the appellant if she was held for about 45 minutes?
 - The protest wrapped up right about 10:30 -10:45 and it was closed to midnight by the time I was released
- Ms. Ford asked the appellant if the officers asked for her name and other information?

- No, they never asked me directly
- Ms. Ford asked Mr. Bissonnette if he helped the appellant with the allegation when she first came into IPR office to file a complaint
 - No
- Ms. Ford asked the appellant if she felt like she was under arrest?
 - Yes, I felt like the entire crowd was under arrest. It seems like being being arrested small numbers at a time so I was pretty sure I was going to jail until it got my turn and they told me I was free to go
- City Attorney made a comment that CRC may not identify individuals in cases that come before the Committee
- Mr. Bissonnette made a comment that the appellant is ok with her name being used
- Witness 1 identify her self as Teresa Raiford and made several comments:
 - She helped organize the rally and that the police is aware that they were having a march
 - People were trying to leave after the die-in but they were told by the police they have to back onto the street. The group of people who were on the street included elderly people and medias. No one were allow to leave
- Chair Wilson asked Lt. Hurley to provide IA side of the investigation
 - This is a IPR independent investigation, after the case is completed, it was sent over to Captain Parman for findings
- Captain Parman provided his explanation for the findings:
 - I focused on what was the direction that was given by the sergeant and the commander in this case. what I found in the record is that both the commander and the sergeant in this case delegated the decision to make arrests down to line officers and line sergeants, and the direction that was given was to make arrests based on probable cause with a constitutionally valid direction given to officers
- Mr. Turner asked Captain Parman if he think the decision to arrest the 10 protestors was lawful?
 - Yes. I find also violation in the direction to an officer to make an arrest if they believe they have probable cause
- Ms. Donegan asked Captain Parman if he looked at the mass arrest of people who were at the intersection as to whether it was constitutional?
 - There was constructive custody of the folks in the intersection, but given that no one was identifies and no one was processed, I didn't consider those as arrests as part of making my finding
- Ms. Ramos asked Captain what is a probable cause? How the 10 protestors was chosen to be arrested out of the crowd of people?
 - Probable cause is a legal standard. It means more likely than not. Probable cause can come from my own observation where I can make arrest based on my probable cause, or I can be told by another law enforcement officer that there is probable cause to arrest that person and make transfers. I can make an arrest based on another officer saying they believe there is probable cause to make an arrest.
 - Regarding the decision to make the arrests, I cannot speak to that because I don't know what the individual decision making is. I know what's articulated in the police reports. I know that the district attorney who was at the scene stated that they believed there was probable cause for all of the arrests were made; however, to win at trial, we have a much higher standard to prove beyond a reasonable doubt
- Ms. Malone asked Captain Parman about when would something changed from "Constructive Custody" to an arrest?
 - The term Constructive Custody and Detention to be interchangeable. They were detained. They were not free to leave. And so in that sense, they were detained, and ultimately, my belief was because they weren't identified, because they weren't processed through the jail, that they weren't arrested.
- Ms. Ford ask Captain Parman about the difference between reasonable suspicions and probably cause?
 - What the courts have determined is there is – reasonable suspicion is something less than probable cause. You have to have specific, articulate facts that lead you to reasonably conclude that a crime is

either being committed or has been committed. So that becomes a legal term, a reasonable suspicion. And I would say quite frankly that is very often a point of debate in a lot of criminal cases that start out as an investigation

- Chair Wilson asked Captain Parman what is the Bureau policy on detainment in regard to how long someone is detained?
 - People can be detained so long as it is reasonably needed to conduct the investigation. In this case, what the courts would look at was the length of detention reasonable for the police to accomplish its investigation into criminal activity
- Ms. Ford asked Captain Parman if reasonable suspicion/detention common during a protest?
 - I don't know it is common during a protest but this was the first time the Bureau use the box-in technique
- Ms. Ramos asked Captain Parman what is the general policy if the individual being detained have particular needs?
 - This fall under the general conduct directive. Each case would be different, and it's up to the officer there at the scene to make that determination based on their request, where they're at in their investigation, what still needs to be accomplished
- Mr. Young asked Captain Parman. There was a statement made by the appellant. "We were only told to leave the street after we were boxed in, effectively under arrest" Is that a correct statement based on your knowledge of this file? Were they told to leave prior to being boxed in where they actually couldn't leave?
 - I believe the appellant is credible, and that's her version of events. In the investigation, there were several of the officers, and it said in reports as well that during this march. It was a relatively long demonstration that starts at 6:00 and makes it courses throughout Downtown. At several different points, there is notice given by the officers that the protestors are supposed to be on the sidewalk. That was the evidence that we gathered during our investigation. But from the demonstrators' point of view, from what Ms. Holloway said and other demonstrators said that they did not hear that. But several of the police officers that we talked to and several of the police reports that we reviewed said that they had given the demonstrators warnings.
- Ms. Young asked Director Severe for offences like disorderly conduct, blocking a street, is there a requirement under either federal law or Oregon law that the person's involved be warned to leave the street prior to be subject to arrest?
 - To my knowledge, no
- Ms. Malone asked Director Severe at the time that the order was given to arrest people based on probable cause, were the officers already lined up to box or did that happen due to some discretion later and that's how the arrests came to pass?
 - Lieutenant D, in the report, he wrote that interaction for this incident. And the decision was made after the die-in had occurred for several minutes that they were going to take people into custody. And at that point, RT was given the sign to commence with the box in.
- Ms. Ford asked Captain Parman how did the officers figure out if the appellant is actually just protesting and doing the die-in versus the person who just happened to walk out of Starbucks and is observing the crowd if they're coming in from each direction?
 - The direction was given that the officers were supposed to make their arrest based on probable cause which means the officer making the arrest can articulate that they had observed that person committing a crime. That's how the officers differentiated between yes there are all these folks in the street, but the officers who were making arrests were directed to do so when they had observed or were told, "That person was in the street, make the arrest."
- Mr. Young, Ms. Ford, Ms. Malone, Chair Wilson all expressed concerns that the allegations do not fit the appellant's complaint and the case should be sent back for additional investigation. IPR's allegations are too vague and the crafting process needs to be changed to better reflect the complainant complaint
- Public comments:
 - Ms. Ross's comments:

- It doesn't appear that any of the protestors were posing a threat to anyone else. There was not an immediate threat of danger or harm to anyone. And it does not appear from the testimony that the protestors got adequate warning orders to disperse, to stop
 - It also doesn't appear that the protestors were given clear directions
 - We need our police force to protect the public and keep people safe, not to entrap them and show
 - Mr. Handelman comments:
 - The only officers interviewed were commanding officers not the line officers
 - This case should be sent back for additional investigation into the line officers
 - The Police blocked the traffic themselves for 45 minutes
 - Kettling can be surrounded by 3 side. The police says you need to disperse but there's no way you can disperse
 - Ms. Aiona made a comment the issue of allegation formation has been coming up again and again for a long time
 - Ms. Kaylei made a comments:
 - On the 25th of November, the AMA coalition also had a demonstration. It was also unpermitted, but for that demonstration, the chief of police was personally on hand and so was Assistant Chief Crebs with a completely different outcome
 - The mayor should have been in this room listening to this tonight. The commander should have been here too, probably the entire command staff, should have been listening to the frustration that is going on here because, because everybody needs to get the point that the reason the Department of Justice is here doing this very expensive reform project is because of the Constitution of the United States. It has to become real for everybody
- Mr. Turner asked Director Severe if the appellant is the organizer of the case and if the March is unpermitted
 - To my knowledge, No
- Ms. Holloway made her final rebuttal comments:
 - When an officer come to you and tell you that you are under arrest then you are under arrest. She was considered as being under arrested
 - The video shows that the protestors were in complete civil
 - Her friend alerted her via text message officers are getting ready to move in long before they actually did. there were no lawful order given before they were approached
 - She felt that she was considered under arrest when she was told by armed officers walking toward her with what she assumed were zip ties, to detain everybody in the group
- The Committee members discussed two options to go forward on this case. Mr. Young suggested sending the case back for additional investigation so the allegations can be reworded to better aligned with the appellant's complaint. Ms. Donegan suggested to challenge the case
- Mr Young made the motion to send the case back for additional investigation focusing on the actual appellant's complaint. This was seconded by Mr. Turner
 - Ms. Malone: NO
 - Ms. Donegan: NO
 - Mr. Young: YES
 - Chair Wilson: NO
 - Mr. Turner: YES
 - Ms. Yarie: NO
 - Ms. Ford: NO
 - Ms. Ramos: NO

- Ms. Donegan made the motion to challenge the findings to SUSTAINED. This was seconded by Ms. Malone
 - Ms. Malone: YES
 - Ms. Donegan: YES
 - Mr. Young: NO
 - Chair Wilson: YES
 - Mr. Turner: NO
 - Ms. Yarie: YES
 - Ms. Ford: YES
 - Ms. Ramos: NO

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: Vacant / Members: Mae Wilson, 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

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

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

IPR Staff: Derek Reinke, Senior Management Analyst

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

- Ms. Raiford asked if there was something in your bylaws and maybe resolution documents that would help to, like, for instances like this where there's a question on constitutionality and process if there's something you can look into in your charter that would basically see if then you need to, like, table it and then go to a different authority in order to make decisions going forward so you don't further violate someone's due process opportunity because she is thinking now from the time that the filing happened until now and even the time that they've processed have not done the tort claim that any due process for justice might be denied because of those delays, and those are some of the things that keep coming up when we come in here
- Ms. Luyben comments:
 - The Mayor should have been setting the tone for how all of these demonstrations were going to be handled by the police, and the Mayor apparently failed to make it clear that these demonstrations were really about the first amendment of the United States Constitution and the duty of the police would be to facilitate and offer hospitality, safety, and security for all persons.
 - We really are trying to help the police get the kind of direction that they need and the responsibility really is on the Mayor.
- Mr. Meo would like to thank the Committee members for challenging the findings
- Mr. Handelman comments:
 - He would like to know, for instance, who ordered the kettling because if the order was to arrest and somebody made the decision to do the kettling then that person might have been the one to be investigated.
 - It was great that the Committee mentioned the idea an advocate at the time that the complainant filed your complaint
- Ms. Aiona made a comment that the Committee should look into the Crowd Control Workgroup report from a year ago

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.***