



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: Thursday, February 25, 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

***Please note that this is a special CRC meeting.**

Present: Kristin Malone, Angelo Turner, Vanessa Yarie, Mae Wilson, Julie L. Ramos, Michael Luna, Roberto Rivera, Chief Larry O’Dea, Captain Derek Rodrigues, Captain Brian Parman, Constantin Severe, Dan Handelman, Regina Hannon, Carol Cushman, Maxine Bernstein, Berenis Peregrino-Galvez, Michael Withey, David Kif Davis

AGENDA

5:30 pm—5:45 pm Introductions and Welcome (CRC Chair Kristin Malone)

5:45 pm—6:45 pm **Conference 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.

- Chief O’Dea explained his reasons for disagreeing with the Committee challenge on changing the 2 allegations to sustained:
 - It seems there are several concerns regarding the constitutionality of the box-in tactic and the use of the tactic to arrest protestors
 - It seems like there are several concerns of the constitutional use of the box-in technique. These concerns are appropriately addressed by sending the case back to IPR for structuring additional allegations
 - The Committee should have a robust discussion about this incident and framing the concerns in a matter that IPR could create specific allegations to address the concerns
 - If the question is on policy concerns then recommendations should be made to the Bureau. Constitutional questions can be addressed to the City Attorney assigned to the CRC
 - It isn’t proper or ethical for the Bureau to sustain these allegations since there’s not supporting evidence
- Chair Malone made a comment that her main concern is that the bureau crafted allegations that were not interpreted in a way that related to the conduct directed at the appellant. She was detained, but not processed and booked. The whole investigation was focused on the 10 people who were arrested and did not include the appellant
- Mr. Rivera made a comment for the Committee to start an Ad Hoc workgroup to look into the constitutionality of the kettling tactic
- Chair Malone made a comment that even though the kettling technique is an approved tactic, the question is whether it was appropriate to employ the tactic under the circumstances
- Mr. Rivera raised an issue that kettling might be intended to criminalize protestors
- Vice Chair Ramos made a comment that her biggest concern was allegations were not applied to the appellant. She likes the idea of recrafting the allegations so it would better fit with the appellant’s concerns
- Ms. Wilson asked Captain Parman to explain why and how the Bureau uses the kettling tactic

- This is a tactic that the Bureau rarely uses. The primary purpose is to isolate a crowd to detain them for the purpose of making arrest or to disperse a crowd
- This typically happens after the Bureau has already used other methods to disperse a crowd
- Mr. Rivera made a comment that Sergeant A stated in the interview that he just following orders. It was Commander B that ordered the kettling
- Chair Malone made a comment that the Committee’s main issue is more about the kettling tactic
- Mr. Turner made a comment that he sees both side of the situation and he hopes that there’s a way to de-escalate these kind of things and find a common ground. The allegations were very clear and “sustained” would not be the correct finding. The appellant wanted her story heard and to challenge the legality of her being detained
- Chair Malone made a comment that if there’s a discussion about sending the case back, she would like the Bureau to look at the issue of an the appellant being “arrested,” under the legal definition of the term, even though she was not booked at the station
- Chief O’Dea made a comment that he would support sending the case back for the allegations to be reframed
- Public Comments:
 - Mr.Callahan made several comments:
 - He was standing with several reporters from various news agencies and was told that they were all “under arrest”
 - When a uniformed police officer tells you that you are “under arrest” then you are under arrest
 - He was watching when Commander B gave out the order
 - Ms. Cushman’s comments:
 - IPR looked at a complaint from a woman who was one of a hundred of people who were “arrested”
 - The feeling of being “arrested” should be addressed
 - Mr. Handelman’s comments:
 - The purpose of kettling is to disperse a crowd, but there’s no way for people to get out
 - The charges against 10 people were dropped
 - “Nuremberg principle” - if you are ordered to do something unlawful, you don’t have to follow the order
 - Regarding the significance of the fact that the protest happened outside Central Precinct, the Bureau did not raise that as an issue, and the CRC should not introduce it into the discussion
 - Ms. Raiford’s comments:
 - The language from the original complaint was changed to exonerate the officers
 - The constitutionality of the arrest should be looked at and should be referred to a federal judge who deals with constitutional law
 - Mr. Kif Davis’s comments:
 - He can assist with tracking down those people who were arrested
 - The Mayor is trying to exclude activists from City Hall. There’s a huge war against journalists and cop watchers
 - Kettling tactic should be used for riots only. We should have a further discussion into this tactic
 - Unnamed community member’s comments:
 - Her son was arrested for helping an injured person during the Last Thursday event
 - Her daughter was also arrested by the police
 - People who are protesting for equal rights are getting thrown into jail
 - She would like justice for everyone who was arrested
- Mr. Rivera asked Director Severe if a person can file a complaint regarding the constitutionality of the arrest
 - If someone is not happy about a government’s action they can file a tort claim saying that their rights were violated. The allegations we created are an attempt for us to cover everyone’s concerns. Every person we talked to felt that they were arrested.
- Mr. Luna asked Director Severe whether it seems like constitutionality aspects of this incident are pursued the federal process

- If CRC would like to take a deeper dive into this issue, they should create a workgroup and look at it from a policy perspective
- Mr. Luna asked Director Severe if IPR would need more specific direction from the CRC if the Committee decided to send the case back
 - If CRC is sending a case back to IPR, the CRC needs to be specific and make sure that the misconduct is covered by a PPB directive. If CRC would like IPR to look at this issue in a policy level, that is something IPR can do as well or the CRC itself can do that
- Mr. Luna urged the Committee to look into the box-in tactic. Mr. Turner also supported the idea
- Mr. Rivera asked whether, if the Committee decided to sustain the allegation for Commander B, under section 6, this would apply to all officers involved in the kettling
- Chair Malone made a comment that her understanding is that any other officers involved in the kettling won't be subject to this finding. The only allegations we can consider are the ones in front of us.
- Mr. Rivera made comment that Sergeant A stated that he was only "following orders" so the allegation related to him should be "unfounded"
- Director Severe made a comment that Sergeant A was part of the command structure that ordered the arrests
- Chair Malone made a comment that she is pleased to hear that the Bureau is open to the allegations being reframed and she is inclined to send the case back for an additional investigation
- Mr. Turner made a motion to send the case back for an additional investigation to craft allegations that are more specific to the appellant. This was seconded by Chair Malone
 - Mr. Rivera: YES
 - Mr. Luna: YES
 - Vice Chair -Ramos: YES
 - Ms. Wilson: YES
 - Chair Malone: YES
 - Ms. Yarie: YES
 - Mr. Turner: YES
- Ms. Wilson made a comment that we need to take a deeper look at the citizen review system to see how it can evolve to be responsive to different situation. The system is not currently built to handle systemic issues.
- Director Severe made a comment that systemic policy work can be done through IPR or CRC workgroup
- Public Comment:
 - Ms. Hannon made a comment that she supports the idea of looking into the box-in tactic
 - Mr. Handelman's comments:
 - City Council expressed concerns about the box-in tactic a while ago, but nothing has been done to address it
 - There's a directive that talks about officers can't just say they are "following orders"
 - Sergeant A's comments were in the case summary, but it was only 3 lines
 - The disposition letter should be made public with names redacted

6:45 pm—7:05 pm Public comment and wrap-up comments by CRC members

TBA Adjournment

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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.*