



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, March 30, 2016 (meetings are typically held the first Wednesday of each month)

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

Location: Auditorium, Portland Building. 1120 SW 5th Ave. Portland, OR 97204

*Please note that this is a special CRC meeting

Present: Kiosha Ford, Jim Young, Kristin Malone, Julie Ramos, Michael Luna, Roberto Rivera, Julie Falk, Derek Rodrigues, Constantin Severe, Mark Kruger, George Burke, Judy Prosper, Donna Henderson, Ellen Osoinach, Mark Amberg, Michael Meo, Jeff Bissonnette, Robert West, Mike Blue Hair, Myrlaviani River, Elena River, Joe Walsh, Nancy Newell, Steve Eastwisle, David Davis, Debbie Aiona, Linda Fitzgerald, Carol Cushman, Tatiana Elejalde, Charles Johnson

AGENDA

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

5:45 pm—7:45 pm **Case File Review/Appeal Hearing: 2015-C-0325/ 2016-X-0004**

A community member filed a complaint stating that Officer A grabbed the lens of his camera while he was filming outside of Central Precinct.

- Director Severe made some comments regarding the case:
 - IA received this complaint October 23, 2015. The appellant notified Assistant Chief Crebs at a community meeting
 - On October 20, the Involved Officer was leaving Central Precinct's garage and there was an interaction between the involved officer and the appellant outside the garage
 - IA Completed the investigation December 2, 2015. The findings were made by the Drugs and Vice Division, to which the involved officer is assigned.
 - IPR and IA controverted the findings. A Police Review Board on this case was held on January 20, 2016
 - On February 1, IPR used its authority under City Code to expedite the appeal to the CRC.
 - On February 11, the appellant also put in his own notice to appeal with the CRC.
- Mr. Rivera asked Captain Rodrigues why the investigation didn't include consideration of rules or laws that enable people to film the police.
 - There's no state law that prohibits people from filming in public
- City Attorney Judy Prosper made a comment that state law allows people to film the police unless it interferes with the officer performance on his or her duty
- Ms. Falk noted that the appellant's video of his interaction with Officer A wasn't included in the case file
- Public comments:
 - Mr. Meo made a comment that the RU Manager's legitimacy on this case is questionable
 - Mr. Mike Blue Hair asked Captain Rodrigues if IA looked into the recordings made by several cameras above where the incident happened
 - IA looked for the footage in those cameras and they couldn't find anything
 - Mr. Walsh also expressed concerns that the video wasn't included in the file and the investigation wasn't thorough
 - Unnamed community member made a comment that the Bureau doesn't seem to treat the Committee with equal representation
 - Mr. Handelman comments:
 - Laws, Rules, and Orders should be the Directive in this case

- Thanked IPR Director for releasing the memo regarding referring the case to the CRC
 - Mr. Turner, PPA President, urged the Committee to look at the video footage in the case file not the one on youtube. He also made a comment that the case was expedited to the CRC in the wrong manner, and that the CRC should not hear the appeal.
 - Various community members made negative comments concerning Captain Kruger.
- Mr. Young raised a concern about Mr. Turner’s comment about the case being expedited in the wrong manner
- City Attorney Judy Prosper made a comment that the Appellant did file an appeal request in a timely manner
- Mr. Rivera made a suggestion to send the case back to add an additional allegation regarding the Officer violated Oregon’s statute on filming in the public. He has concerns on whether the Officer was aware of the Oregon’s statute allowing people to film the police
- Captain Rodrigues made a comment that the investigation was focusing primary on the conduct on whether the Officer was being professional
- Chair Malone made a comment that the question on whether the Officer grabbed the camera did get investigated
- Director Severe made a comment that the CRC has the ability to send the case back, but whether to craft an additional allegation is up to IPR or IA
- Vice Chair Ramos agreed with Chair Malone that the main issue in this case was investigated
- Ms. Falk asked whether the finding in this case would be different if the Officer pushed the appellant instead of grabbing the camera?
- Chair Malone made a suggestion to move forward with the appeal since the issue of grabbing versus pushing would not change the investigation
- Mr. Rivera made a motion to move the case to the appeal hearing. This was Seconded by Mr. Young
 - Mr. Rivera: YES
 - Mr. Young: YES
 - Ms. Ford: YES
 - Chair Malone: YES
 - Vice Chair Ramos: YES
 - Mr. Luna: YES
- Mr. Young noted for the record that he and Vice Chair Ramos attended a COAB Accountability Subcommittee meeting where one of the agenda items was the presentation from folks who are filming the police. Mr. Young and Vice Chair Ramos left before the start of that presentation due to conflict of interest
- Director Severe presented IPR’s side of the investigation:
 - Incident occurred on October 20, 2015 between 9:30 – 10 AM
 - Officer A was leaving Central Precinct garage, saw the appellant filming, left his vehicle, and extended his arm toward the video camera
 - Appellant stated that the officer came toward him aggressively, grabbed his camera, and tried to take the video camera away from him
 - The involved Officer said he was coming out of the garage carefully to watch for pedestrians on the street. As he exited the garage, he thought he heard someone yelling at him. He was concerned that he might have hit someone so he stopped the car and got out of his vehicle. He saw the Appellant holding a camera. The involved Officer asked the Appellant several times if there’s some way he can help him. At some point he recognized the Appellant and got back to his vehicle and left.
 - The involved Officer believes that the Appellant was trying to incite some sort of altercation.
 - The involved Officer did not recall grabbing the camera, but he did recall blocking the camera from coming to his face several times
 - Captain Rodrigues and Director Severe both controverted the finding of Not Sustained. The case was then referred to the Police Review Board. The Board voted 4-1 for the finding of Not Sustained
 - Director Severe submitted a memo referring the case to the CRC
 - Appellant also put in his notice that he would like to appeal the case on February 11
- Mr. Bissonnette made a comment that the Appellant agreed to disclose his name as Robert West
- Mr. West provided his comments regarding the case:
 - Mr. West did not try to draw the Officer’s attention. He was just standing and filming outside Central Precinct

- There wasn't a car blocking the entrance/exit of Central Precinct garage like the Officer said
- He sounded like he was laughing in the video, but he was mad
- The Officer actually broke the camera lens by grabbing it
- Mr. Luna asked Mr. West what was his purpose of filming outside Central Precinct
 - I film all police interaction to keep them accountable for what they do. My intent is to just film and not cause a problem. I get to know the vehicle and license plate so I can follow them when I see them on the street
- Mr. Young asked Mr. West why did he filmed the particular vehicle and if he recognized the Officer in the vehicle?
 - I was filming all vehicles coming out of the garage that are not police car. I recognized the driver when the Officer got out of the car, but not when he was inside
- Mr. Rivera asked Mr. West about where he posts the videos and if he films the police every day?
 - Mr. West stated that he has a youtube channel and goes out and films the police. He stated that all the Officers that he had talked to told him that he has the right to film. He films the police for 3 hours a day. He takes special interest in the unmarked cars with a normal license plate
- Ms. Falk asked Mr. West if anyone came up to him and grabbed his lens before and how long he has been doing this
 - Mr. West stated that he has had citizens come up to me like that before but never a police officer until now. He stated that he has been doing this for almost 3 years now
- PPA President Daryl Turner made some comments on behalf of the involved Officer
 - The Investigation was done thoroughly by IA. The finding from Captain Kruger and Commander Burke was fair
 - The involved Officer wasn't speeding and he was really careful getting out of the garage since it was a difficult place to get out of
 - The Officer's act of putting his hand up right on the lens is a natural reaction when something is being pointed at your face
 - Once he saw the camera, and who it was, he turned around and walked away. He wasn't being aggressive. It was just a simple interaction and a normal person would probably react the same way
- Mr. Young asked Mr. Turner if the Officer was being professional by grabbing the lens
 - The Officer puts his hand up to protect himself. It's a natural reaction when someone is doing that.
- Mr. Rivera asked Mr. Turner if the Officer coming toward the camera or if the camera was coming toward the Officer. What kind of training do Officers receive when something is being pointed toward them?
 - Mr. Turner responded that once the Officer started walking toward it, the camera started coming toward him as well. Mr. Turner stated that different Officers react differently during different situations.
- Mr. Rivera made a comment that the Officer is supposed to assessing the surroundings before he reacts. The video shows that the Officer went straight to camera with his hand and grabbed the camera.
- Captain Kruger made some comments regarding his findings:
 - The citizen absolutely had the right to film the police
 - The Officer made it clear in the interview that he heard someone yelling so he stopped the car to investigate because he was afraid that he might've hit someone
 - The entire relevant part of this incident lasted for 12 seconds. The camera turns on after the Officer had stopped his vehicle
 - During the IA interview, the Officer said he felt like his personal space was invaded when Mr. West pointed the camera at him.
 - Based on Captain Kruger's frame-by-frame analysis there's no evidence that the Officer grabbed the camera at any time
 - The Officer had one second to make the determination of what was confronting him
 - The question is was the Officer's behavior was reasonable under the specific circumstances that existed in this case
 - The question is: Was the Officer's behavior reasonable under this specific circumstance. The Officer did not engage in any kind verbal altercation with Mr. West. He stopped, made a sudden encounter. He realized what was going on and changed the direction immediately and move on with his business

- Mr. Luna asked Captain Kruger about the issue of getting out of the parking garage. Is there anything in police training on what officers should do in this specific circumstance?
 - Captain Kruger responded that this event occurred in a very compacted time frame and happened in close quarters. The Officer simply put his hand up and screened it, realized what it was and then disengaged.
- Captain Rodrigues made a comment that he watched the video multiple times, and he disagreed with the rationale of the RU Manager that Mr. West was the aggressor and the camera was being put in the Officer's face
- Ms. Falk asked Commander Burke to describe the kind of debrief that the Officer will receive.
 - Commander Burke stated that he watched the video several times and the video did not definitely show whether the Officer grabbed the camera, that's why he concurred with the finding of Not Sustained. Commander Burke's recommendation for the debriefing is to explain to the Officer that there are other ways this can be dealt with. Regarding the cameras being placed outside the Justice Center, those cameras are being managed by the county and the bureau has no control over them.
- Ms. Ford asked Commander Burke whether he could tell if the camera being grabbed while watching the video.
 - Commander Burke stated that he has seen people struggle over things and when that happened you can really see the struggle. There's no "jerkiness" in the camera. Commander Burke could not say definitely if there was a struggle
- Commander Burke made a comment that this is an undercover officer and his identity is very important. This could be a complete interference with the officer's ability to perform his job
- Mr. Rivera raised a point that in the police report, the Officer made a reference to Mr. West pointing a camera at him, while in the IA interview, he said he didn't know that's it was camera. Also, the frame by frame's analysis was not provided to the CRC members. He also raised a question on whether the filming law would apply for an undercover officer as well.
- Captain Kruger made a comment that the Officer wrote the police report after he found out that it was a camera
- Commander Burke made a comment that the issue of filming undercover officer should be addressed by City Attorney. There's some exception in the law based on the performance and duties of an officer
- Judy Prosper made a comment that the law Commander Burke referred to was not active at the time of the incident. There's a general right to film matters of public interest. Some circuits have said filming the police is a matter of public interest. We have to look into the totality of circumstances
- Captain Kruger made a comment the Bureau policy is to not release pictures of undercover officers, however, if those officers are in a place where they are being filmed then they are being filmed
- Ms. Falk asked Captain Kruger if he had looked into the Officer's tone of voice.
 - Captain Kruger stated that he did not see any issue with the verbal interaction. The officer did chuckle and laugh, but he did not say anything that was inappropriate
- Mr. Young asked Captain Rodrigues why would it be unprofessional if an officer grabbed a lens of a person.
 - Captain Rodrigues stated that he doesn't think that is how officers should conduct themselves
- Mr. Young asked Captain Kruger if he can tell if Mr. West was yelling at the Officer. Also, does the video show Mr. West putting the camera on the Officer's face?
 - Captain Kruger stated that we don't know what Mr. West was doing prior the camera being turned on. Captain Kruger's view of the video is that the camera was going toward the face of the Officer.
- Mr. Young asked Director Severe what facts are present that would allow a reasonable person like Mr. West to determine that this Officer was performing a law enforcement action.
 - Director Severe stated that he is looking at the allegation. Based on the allegation, the involved Officer acted unprofessionally toward Mr. West
- Captain Rodrigues made a comment that it doesn't matter whether Mr. West was filming or not. We were looking at the Officer's conduct in the video.
- Mr. Young asked Captain Kruger if he made the finding before or after he did video frame-by-frame analysis
 - Captain Kruger responded that it was done while he was doing his finding
- Captain Rodrigues made a comment that the frame-by-frame analysis wasn't part of IA's administrative investigation
- Director Severe made a comment that the IA investigation did cover all the basis including the inquiry on the cameras outside the Justice Center. He gave his opinion that the video evidence in this case is pretty much a tie-breaker.

- Captain Kruger made a comment that Director Severe and Captain Rodrigues’s rationale for the finding in this case to be Sustained pretty much boiled down to the fact that they did not like the officer’s behavior. In Captain Kruger’s opinion, that is not a standard. That is a sentiment. The standard is reasonableness. Captain Kruger stated that that exactly where his finding has gone in terms of the Officer’s behavior which he concluded is reasonable under the limited circumstances in this case
- Ms. Ford made a comment that she agreed with Ms. Falk that the Officer wasn’t being professional to Mr. West based on PPB’s Directive on policy and procedure
- Mr. Young made a comment to look at this case from the police’s perspective. The Officer went up blocking the camera, recognized Mr. West, and then walked away.
- Mr. Luna urged the Committee to look at the professionalism of the Officer and stated that he was not sure the Officer acted professionally in case
- Mr. Rivera made a comment that based on the Officer’s police report, he did recognize that it was a camera and it is obvious he went toward the camera to stop the filming. He should’ve taken some time to analyze the situation when getting out of the car and taken a different approach
- Ms. Falk asked Director Severe what standard IPR and IA use when reviewing these cases
 - Director Severe responded that they use the “preponderance the evidence” standard.
- Chair Malone made a comment that evidence was so clear to her that the Officer did grab the camera and that what he did was unprofessional
- Ms. Ramos made a comment that it wasn’t clear to her who was advancing toward whom
- Ms. Ford made a comment that if the Officer didn’t know who Mr. West was, things could’ve ended differently. Ms. Falk and Mr. Rivera also agreed with this comment
- Chair Malone asked the Committee to apply the standard of review to determine if they would like to challenge the finding
- Public comments:
 - Mr. Walsh made a comment that the evidence in the video made it clear that the Officer grabbed Mr. West’s camera.
 - Mr. Meo made a comment that the Officer did grab the camera
 - Mr. Mike Blue Hair made a comment that if this had happened to an officer then people would’ve been arrested
 - An unnamed community member made a comment that the involved Officer made multiple micro-aggressions toward Mr. West
 - Lightning made a comment that based on the action of the video, the Officer moved toward the camera and acted in a unprofessional manner
 - Mr. Handelman’s comments:
 - It took 12 seconds to kill Tamir Rice in Cleveland
 - Captain Kruger’s reference to a dictionary definition of the word “grab” is not reasonable
 - Its not a reasonable for the CRC members not to have received the frame-by-frame analysis
 - If the Committee decides not to challenge the case, they should take a second vote for the record, to indicate what finding they might have made if they had a different standard of review
 - Various community members made negative comments concerning Captain Kruger.
- Mr. West made his rebuttal comments:
 - If he had something in his hand and stepped aggressively toward an officer, he would’ve been shot
 - The Officer had no right to get close to him and grab his camera since it did not present any kind of threat to him
 - At no time did he lunge toward the Officer
 - Activists who film the police are constantly being harassed
 - If he puts his hand on an officer then that is a felony assault
 - Training needs to happen so officers do not grab the camera like that
- Mr. Young asked Captain Kruger whether, if he believed the grabbing took place, that would be unprofessional.
 - Captain Kruger responded, “Yes.”
- Mr. Young asked Commander Burke whether, if grabbing had taken place, it would be unprofessional ?

- Commander Burke stated that that wasn't the fact scenario he was looking at. We have to look at it in the totality of the circumstances. It wasn't clear if the grabbing took place. There were enough questions in his mind and that was what he used to make my decision
- Ms. Falk asked Captain Kruger if anyone else saw the frame-by-frame analysis.
 - Captain Kruger said it was shown at the PRB meeting
- Captain Rodrigues made a comment that it would've made no difference in his finding
- Chair Malone made a comment that she doesn't think the professional standard should be set by the police
- Ms. Ford made a motion to challenge the finding to Sustained. This was seconded by Mr. Rivera
 - Mr. Young: NO, based on the standard of review
 - Ms. Falk: YES, the Officer did not strive to have the highest professional conduct according to Directive 310
 - Mr. Rivera: YES, it is really obvious that the Officer grabbed the camera with his left hand. Also, the Officer did recognize it was a camera as he was walking toward Mr. West
 - Vice Chair Ramos: NO, based standard of review
 - Chair Malone: YES, based on the evidence, the Officer's action was unprofessional
 - Mr. Luna: YES, there was reasonable time and space for the Officer to make a different decision instead of grabbing the camera. People should be careful and responsible on what they film and putt on youtube
 - Ms. Ford: YES, the camera was grabbed and is in violation of professional conduct

7:45 pm—8:15 pm Public comment and wrap-up comments by CRC members

- Mr. Meo urged the Committee to ignore the language the police uses to determine officer's misconduct
- Mr. Lightning made a comment if the Officer felt threatened, he should not have gotten out of the vehicle
- Mr. Handelman's comments:
 - The debriefing part wasn't included in the case summary
 - If we are going to be transparent why have undercover officers
 - Narrowing allegations to couple of words seem silly
- Mr. Johnson made negative personal comments concerning Captain Kruger and Mr. Young.
- Mr. Johnson threw a cup of water on to Mr. Young.
- Chair Malone adjourned the meeting.

8:30 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).

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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.***