



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, May 4, 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, Michael Luna, Julie Falk, Mae Pfeil, Bridget Donegan, Kiosha Ford, Roberto Rivera, Vanessa Yarie Sarah Westbrook, Bob Day, Mike Frome, Robert Magill, Herschel and Celeste Soles, Michael Meo, Carol Cushman, Regina Hannon, Doug Brown, Pamela Fitzimmons, Adrian Brown, Debbie Aiona, Nancy Newell, Matt Klug, Marcia Suttenger, Crystal Elinski

AGENDA

5:30 pm—5:45 pm Introductions and Welcome (CRC Chair Julie Ramos)
Approved of February 25th, March 2nd, and March 30th Meeting Minutes

5:45 pm—6:00 pm Director's Report (IPR Assistant Director Anika Bent-Albert)

- IPR Community Outreach Coordinator Irene Konev met with several community leaders to promote the CRC volunteer recruitment, the Iraqi Society of Oregon, Central City Concern, Ahishta Turkish Community Center, Urban League, and Crime Victims Advocacy Program
- IPR is holding a CRC volunteer recruitment information session on May 17th from 5:30 to 7:00 pm in the Auditor's Conference Room

6:00 pm—6:15 pm Chair's Report (CRC Chair Julie Ramos)

- Chair Malone will give a Chair's report at the next meeting

6:15 pm—6:45 pm Vote on new meeting Ground Rules and Protocol Changes
(CRC Vice Chair Julie Ramos)

- Ms. Donegan made a comment that the word "distracting" can be interpret
- Mr. Luna made a suggestion to add more explanation to the word "distracting"
- Committee will delay the vote on the Ground Rules and Protocol Changes to the next meeting
- IPR staff made presentations to IRCO Refugee and Immigrant Family Strengthening Program, Human Solutions, and IPR director Constantin Severe spoke on KBOO Radio to promote the CRC recruitment, and bring greater awareness of IPR.
- Public comments:
 - Ms. Aiona made a comment that she and other submitted comments on the Protocol Changes
 - Mr. Handelman made several comments
 - The Ground Rules didn't look like it was changed base on public testimony
 - There used to be a tracking list job that the Recorder used to do to keep track on things to follow up on
 - Mr. Kif Davis made several comments:
 - This meeting should be broadcast online
 - Officer's names should be showing in the case file summary
- Ms. Pfeil made a suggestion for the Executive Committee meeting listed in the Protocol Changes should be specify that the meeting is open to public

- Vice Chair Ramos nominated Ms. Pfeil for the Chair of Outreach Workgroup meeting. This was seconded by Ms. Donegan
 - Ms. Donegan: YES
 - Mr. Rivera: YES
 - Mr. Luna: YES
 - Ms. Pfeil: YES
 - Vice Chair Ramos: YES
 - Ms. Ford: YES
 - Ms. Yarie: YES
 - Ms. Falk: YES

6:45 pm—7:45 pm **Appeal Hearing: 2015-C-0104/ 2015-X-0002**

Appellant alleged that Sergeant A and Officer B used inappropriate force while taking him into custody.

- Assistant Director Bent-Albert made some comments regarding the case:
 - The complaint was referred to IPR through the City's Risk Management office, Tort Review Board
 - Due to the nature of the allegation IPR asked to IA opened the case for full administrative investigation on April 28, 2015
- Appellant provide his recollection on the case:
 - Officer C apologized for what had happened while the Appellant was still in the back of the patrol car
 - Witness A declined to press charges at the scene and that information was never communicated to him or his defense attorney
 - He was prosecuted twice
 - Officers pulled him over while he was riding his bicycle and started drawing weapons on him. He raised his hands and complied with the orders to turn around and that was when the witness' video started recording
 - He reached into his pockets to pull out his key and wallet and threw them on the ground
 - The Officers pushed him to the wall and did not try to handcuff him or tell him that he was under arrest
 - One of the Officers violated Directive 1051 by pointing tasers at his face and head
 - Directive 1051 states you are supposed to check and see if the taser is still effective after being used 2 times. According to the taser log, it was discharged 6 times
 - He would like to know why he had to compromised and surrendered the lawsuit without all the evidence being presented to him and his defense attorney
- Investigator Magill provided IA investigation of the case:
 - Per request by the CRC, IA made efforts to interview the additional witness.
 - IA was able to obtain written statement from a private investigator hired by City Attorney to conduct interview with the same witnesses.
 - IA was unable to make contact and interview with the female victim who was riding the original car
 - IA also was able to obtain additional taser report from PPB Training Division
- Lt. Frome provide the RU his explanation for his findings:
 - Regarding to allegation1, Sergeant A stated during the interview that he used force on the Appellant because he was being aggressive when Sergeant A tried to make contact with him. The Appellant repeatedly putting his hands in his pockets. Sergeant A laid his hands on the Appellant and pushed him against the wall and attempting to take the Appellant into custody. Based on the evidence, Sergeant A used reasonable force
 - Regarding to allegation 2, Office B stated that he first dry stunned the Appellant while he was standing against the wall because he was trying to resist being handcuffed. The first dry

stunned appeared on the taser log as 3 deployments was because the finger probably slip off and on the dry stun button during the 5 seconds. Once on the ground, the Appellant continued to resist Officer B decided to deploy the taser again and then follow up with another deployment via probes into the Appellant back. The final taser application probably happened when the Appellant was on the ground in handcuffs. Officer B stated he wasn't aware that he deployed the taser. This is an accidental deployment of taser resulted from the Officer "indexing" the taser

- Officer Erik Daniels from PPB Training Division went through the highlighted part of the taser log and provided explanation to the Committee on what information the log provides
- Vice Chair Ramos asked Officer Daniels based on the log, the contact was made twice?
 - It doesn't register contact with a person, it only registers when the trigger was pulled
- Ms. Pfeil made a comment about the taser X2 trigger can be pushed, but doesn't necessary will deploy the probes.
 - It only register the input user gives it. The log is not for being used independently as record, instead, it is being used in conjunction with other evidence
- Ms. Falk asked Officer Daniels if the X2 is still being used by PPB?
 - We've been using model X26 since 2005. We purchased 10 X2 and X26P and identified some test users to test them in the field and they've been on the road since May, 2014. There's a Committee that look into the test finding of all these test equipment
- Ms. Ford ask Officer Daniels if there's a concern in regards to when the safety is off and the button is accidentally pushed. If the Officer accidentally indexed, and the person is close by, would they be tased?
 - I've had a conversation with one of the engineer who designed the taser about how I didn't like the design of the button. It had not been an issue with other agencies. There's no perfect tool. If the wires are being contacted with the person. Other than that, it would have to be a directly touching the person
- Officer Daniels made a comment the X2 model was designed to have immediate backup shot. This is one of the reasons why the Bureau originally not looking at the X2 until they actually change the software so it be manually tell it to select a new cartridge to make it more safe and preventing accidentally discharge
- Ms. Donegan asked Officer Daniels if Officers are trained to index the taser?
 - It is fairly natural for people to indexing their finger. The "arc" button in the X2 model is designed to be easily accessed by both left and right side. Officers are always trained to keep their finger straight as a safety
- Assistant Chief Day made several comments:
 - It is priority of the Bureau to have more use of the safety instead of the button
 - The Committee was the one who sent the case back for the particular review of the taser log
 - The Training Division is being asked go back and review all the taser logs to see if there's a similar type situation
 - The 3rd application of taser did occurred and is shown in the video
 - There's no indication or reaction by anyone that show the 4th application
- Vice Chair asked Officer Daniels about the 36 seconds at the end of the log
 - The device was armed for that long after the safety has been switched off
- Ms. Donegan asked Investigator Magill if the Directive 1051 on the use of taser was the Directive that IA looked at in this case?
 - Yes the Directive in the case file is 1051
- Public comments:
 - Mr. West express some concerns on how a taser can just go off whenever an officer put his finger on it. Police should not have a taser that can easily goes off like that
 - Ms. Newell made a comment about a case that she witnessed a case of a young man that was accused of resisting arrested which is similar to this case. The police is supposed to tell someone that they are under arrest
 - Mr. Meo made a comment that a bicyclist should've not been stopped and arrested

- Unnamed community member made a comment that accidentally discharge a weapon is a crime. A highly technologically advance taser does in fact can record changes in the delivery of voltage when it passes through human flesh. The insinuation that an arc of electricity traveling in a speed of light while somehow administer less voltage if you hold the button down for a less amount of time is nonsense
- Mr. Lightning made a comment that he is wondering what made the Officer feels the need to use the taser since there were 3 officers there. He was also wondering if the taser maker also have issues with that particular model
- Unnamed community made a comment that this is either a training or equipment issues. If the Officer caused an accidental discharge, that person should not be allowed to carry weapon
- Mr. Handelman comments:
 - Taser is not recommend to be used on people with epilepsy. The appellant was unarmed
 - The deployment of the probes happened less than 10 feet and is ineffective since the probes supposed to spread out
 - The question of whether it was accidentally discharged or finger slipped off the button are all speculative
 - Use of force Directive said officers are supposed to use as less force as necessary
- Mr. Davis made a comment it seems to be excessive force being used against community member
- The Appellant made some rebuttal comments:
 - He would be very interested to know on whether if there's actually a "warning arc"
 - According to his research, City Council authorized the purchase of the taser X26P not the X2
 - He would like to know when did the Committee learned about Witness A declined to press charges
 - Mr. Rivera made a comment the Committee learned about this when they received the case file
 - Witness A said he was upset, but in fact, he was scared because the Officer started to unholster his weapon
 - No one ever attempted to handcuff him.
 - Directive 1051 specified officers are not supposed tase him when he is on the ground. Officers are not supposed to head, face or sensitive areas
 - He was never transport to the hospital as Directive demanded. No pictures were taken of his injuries
 - Neither of the Sergeants file a report to Training Division if there's any unintentional/ inadvertently discharges of a weapon. Only Witness Officer C did filed a report
 - He asked the Committee challenge both allegations and sustain the allegation on the excessive use of force
- City Attorney made a comment for the Committee to look at Directive being used in the case file
- Assistant Director Bent-Albert urged the Committee to consider the information that was reviewed by the RU Manager
- Ms. Donegan asked Captain Rodrigues if there's any doubt that the Committee have the wrong Directive
 - No
- There are some back and forth discussions on whether which side have the right Directive during the incident
- Ms. Ford express concerns that Sergeant A did not attempt to deescalated the situation. He should've made effort to de-escalate or contact the crisis unit. The use of taser is unnecessary since the Appellant was being tackled by 3 people and his hands were behind his back. There's no training in place to prevent the officer from accidentally discharge the taser when their finger bumped into the button
- Assistant Director Bent-Albert made a comment that in the after action report the Sergeant did mention that the Appellant was unable to be photographed due to his behavior

- Mr. Rivera asked Lt. Frome the Officer mentioned in his interview that he wasn't thinking that the appellant has mental health issues
 - I believe Officer B and his partner trained in dealing with mental health crisis. I don't know the date that they receive the training. As far as how fast a crisis intervention officer to arrive, it could take 5-10 minutes depend on where they are
- Mr. Rivera asked the Appellant what was the purpose of him reaching into his pockets and tossing things up in the air?
 - I went into my pockets and threw my wallet and keys out of my short shorts because they were focusing on something
- Ms. Pfeil asked Lt. Frome if there's any kind of procedure for when more backup officers show up, everyone step back and have a discussion on the situation?
 - Generally the first person on scene is in charge of the situation. In this case, Sergeant A was the first person there. Officer B and Officer C arrived as cover. At that point there's no more discussion since Sergeant A had already decided to put this person on handcuffs
- Ms. Ford asked the Appellant about Sergeant A recollection of the Appellant putting his bike in front as a shield and then walking around the bike to approach the Sergeant
 - I disagree with that. If you look at the video, I pulled over on the curve and he came up so me so aggressively I had to pull the bike up onto the sidewalk so the car wont strike me. I did not stand infront of the bike, the video shows that I was beside the bike
- Mr. Rivera asked Lt. Frome about Citizen 1 if he is a security guard?
 - He security officer for Portland Patrol and is not a sworn officer
- Ms. Donegan made a comment that Sergeant A's statement was consistent with the Appellant and he wasn't the one who tased the Appellant. Based on the reasonable standard, he should be exonerated
- Mr. Rivera and Ms. Pfeil made a comment about adding the debriefing into allegation 1
- Ms. Pfeil made a motion to challenge the finding to Exonerated with Debriefing. The "debriefing" should be focusing in the area of de-escalation. This was seconded by Ms. Ford
 - Mr. Rivera: YES, Sergeant A should've made efforts to de-escalate the situation
 - Mr. Luna: YES, the debriefing should discuss other possible options that could've occurred
 - Ms. Falk: YES, debrief the Sergeant on what other options he could've done
 - Vice Chair Ramos: YES, it did not appears that the Appellant invaded the Sergeant's personal space
 - Ms. Pfeil: YES, de-escalating tactic should've happened
 - Ms. Donegan: YES, , the Sergeant should not upholstering his gun
 - Ms. Yarie: YES, more training on de-escalating tactics for officers
 - Ms. Ford: YES, the Sergeant should not upholstering his gun
- Mr. Luna asked Officer Daniels about Officer B decision to take one hand off the Appellant while trying to restrain him to grab the taser
 - The advantage of the taser when used properly is that it can effectively incapacitate someone ability to fight and end the struggle as possible
- Mr. Luna asked the Appellant how many times had he been tased
 - I had probes removed from my back, and that was a 5 second tase. The one prior to that was in the back of my left knee
- Ms. Falk asked Lt. Frome on what the debriefing is going to be?
 - Concern about the number of taser being used, the issue of indexing of the finger, and whatever recommend by the Committee
- Mr. Rivera ask the Appellant if he heard the warning from Officer B before being tased and why didn't he cooperate?
 - I don't recall Officer B given the warning before being tased. I did cooperate and had my hands up, everything happened very quickly
- Ms. Donegan made a motion to affirm the finding of Exonerate with Debriefing. This was seconded by Ms. Falk
 - Mr. Rivera: YES, the Bureau should do a full analysis on the accidentally discharge of the taser
 - Mr. Luna: YES, training should be looking into how to prevent accidentally discharge
 - Ms. Falk: YES, based on the standard of review

- Vice Chair Ramos: YES, Officer acted within policy
- Ms. Pfeil: YES, based on the standard of review
- Ms. Donegan: YES, the video showed that the Appellant kicked on of the officers
- Ms. Yarie: YES, Officer B used appropriate force
- Ms. Ford: NO, the use of taser escalated the situation. This situation could've been handled without the use of taser
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- The community had a discussion on the policy of the Standard of Review preponderance of evidence Vs. reasonable standard and agreed that the Policy Workgroup will be discussing about this

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

- Public comments:
 - Mr. West made a comment that no one should be tase while they are in handcuffs. If someone accidentally tased a person then it is an assault
 - Mr. Meo made a comment that the Committee should not follow the Standard of Review
 - Mr. Soles made a comment that the police is being allowed to torture the Appellant through tasing him
 - Several unnamed community member made a comment that it was unprofessional for Bureau members leaving before the end of the meeting. The accidental deployment of the taser is inappropriate
 - Mr. Handelman comments:
 - Appellant can bring whatever they want. It's the Committee's decision to whether to including it into the decision making
 - Committee could've ask for an exemption to send the case back
 - The Committee should've taken the symbolic vote and should not traumatize the Appellant by asking questions that are accusatory
 - The most recent OIS is going through debriefing and did not go through PRB. The Committee should ask IPR Director why did the case not go through the PRB
 - Ms. Aiona made several comments:
 - Thanked the Committee for talking to the microphone
 - She is concerned that the Committee wasn't aware of the public comments regarding changes in the protocol
 - She urged the Committee to have a tracking list on issues that are currently ongoing
 - Mr. Davis made a comment the Committee should not interrogate the Appellant like criminal trial

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.***