



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 7, 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: Kristin Malone, Neil Simon, Kiosha Ford, Andy Chiller, Julie Falk, Anika Bent-Albert, Dan Simon, Jeff Bell, Erica Hurley, Michael Marshman, Larry Graham, Andy Shearer, Daniel Schwartz, Katie Houle, Debbie Aiona, Carol Cushman, Matt Klug, Pamela Fitzimmons, Laura Orr, Eric Terrell, Regina Hannon, Dan Handelman

AGENDA

5:30 pm—5:40 pm Introductions and Welcome (CRC Chair Kristin Malone)
(Approved of November 2 Minutes)

- Approval of the October 26 minutes will be moved to the January's CRC meeting since majority of the Committee members present tonight were not at the October 26's meeting.

5:40 pm – 5:55 pm Director's Report (IPR Assistant Director Anika Bent-Albert)

- Mr. Simon asked Assistant Director Bent-Albert about the recent Officer-involved shooting and inquired when will it be showing up on IPR Director's Report.
 - The shooting will appear on the report when the case is actually given a case number and assigned to an Investigator.

5:55 pm – 6:10 pm Chair's Report (CRC Chair Kristin Malone)

- Chair Malone and Vice Chair Ramos attended several stakeholder workgroup meetings.
- The Stakeholder Workgroup discussed: Having an appeal panel of 7 with a quorum of 5. The workgroup did not reach a consensus on whether public comment should occur before or after the vote, but there was general agreement that public comment should be allowed at appeal hearings.
- Final Stakeholder Workgroup report will be available for the public and City Council.
- The Stakeholder Workgroup recommended to extend the Workgroup to discuss other topics.

6:10 pm—7:10 pm **Conference Hearing: 2015-C-0104/ 2015-X-0002**

Per City Code 3.21.160 and Protocol 5.03: At a conference hearing, the Police Bureau Command staff will have the opportunity to advise the Committee of any concerns or disagreements they might have with respect to the Committee's prior recommendations. IPR will have the opportunity to discuss any opinions or concerns about the disagreement between the Committee and the Police Bureau.

- Chief Marshman provided his explanation on his decision regarding to allegation 2:
 - After reviewing the report and video Chief Marshman believed there was still active aggression by the Appellant based on the movement of the Appellant's legs, which nearly toss the officer off while he and other officers were trying to take the Appellant into custody on the ground.
 - Regarding to the Committee's concerns on the 6th cycle of Taser deployed, Chief Marshman stated that the new Taser system that the Bureau is currently using is the X2, which had 2 cartridges loaded into it. To fire a 2nd round of the Taser, there's a button on top of the trigger that the officer would have to press. When the Officer "indexes" his finger while holding the X2 Taser, the place where the finger would rest is right on that

button, which would make it easy to accidentally tap the button. If that happened, there's a potential for the electricity to go down the wire. The only way to know how many hundredths of a second that electricity was sent down the wire would have been to send the wire back to the manufacturer. The Bureau did not do that and is now unable to do that.

- Another issue is the button making contact with clothing. Just because there's an activation, it does not correlate to the effectiveness of the Taser.
- In the old model of the Taser, a user could pull the trigger and hold it down for 6 seconds or more, which would automatically registered as a 2nd cycle. Officers are required to justify each and every cycle.
- There are reasons we do not want to deploy the Taser for more than 5 seconds. The Bureau is getting all new batteries for this system where it will prevent the Taser from going off for more than 5 seconds. This will prevent officers from inadvertently holding down and starting into that second cycle. The Bureau will start training officers on this in February of 2017.
- The involved Officer in this case was just testing out the equipment at the time since the Bureau is buying over a million dollars worth of equipment. Because of that, we wanted to field test it to make sure that it is a good replacement.
- Chair Malone made a comment that a key issue for her is with the Officer using the Taser on the Appellant without a justification. The record indicates that the Officer did not know or intend to begin the 6th cycle which appeared on the Taser report, and could not have offered a justification.
- Ms. Falk made a comment that it seems like the Bureau thinks the Officer is found to be not out of policy since he was using a new Taser and he was testing it for the Bureau. Chief Marshman's reasoning appears to suggest that if the the Officer was experienced with this Taser then he would've been found out of policy.
- Chief Marshman made a comment the Bureau will see if they can better train officers, since on one weapon, finger indexing is a safety thing , but on another weapon it can be problematic. In this situation, the button was inadvertently pressed, but it was such a small amount that the Appellant might not have even felt it.
- Ms. Ford made a comment the Taser deployment was actually a direct skin contact on the Appellant's leg, even though the button was pressed for a short period of time, the current was still running.
- Chair Malone made asked Chief Marshman if the same situation were to happen today would that be an inappropriate use of force?
 - Chief Marchman responded that he would not view it as appropriate. He said he would also have to look into whether it should qualify as a use of force or negligence allegation. He expressed concern about the ramifications of being found out of policy on a force allegation.
- Ms. Ford made a comment that the Bureau should be testing equipment in a training environment, not on the street
- Ms. Falk made a comment that the allegation in this case is that the Officer used inappropriate force when taking the appellant into custody.
- Chief Marshman made a comment the Officer did not know that he hit the button.
- Mr. Simon made a comment it is really tough to see aggression when someone was in that kind of position. The tipping point for him was the 6th discharge even if it was accidental.
- Chair Malone made a comment that the discharge, while it may have been simply accidental on the officer's party, had an actual consequence for the Appellant. This was an accidentally discharge on a person and it is problematic.
- Ms. Falk asked Chief Marshman whether the Bureau would've chosen a different Taser if the Taser gone through a more meticulous vetting process.
 - Chief Marshman responded that he did not believe a different Taser would have been selected. He said that when he took over the role as Chief, he had them do additional research that's when he identified the battery issue.
- Public Comment was taken:
 - Mr. Klug made some comments:
 - The female Officer at the scene was a Crisis Intervention Officer. Was the male Officer who tased him also a Crisis Intervention Officer?
 - This case should be referred to the DA's office since the Officer violated state law.
 - He was tased 19 days after the DOJ Settlement Agreement was signed.
 - Mr. Handelman comments:
 - If there is only one button, with two functions, how does the Taser know when to launch a second set of probes or discharge electricity out of the exsiting wires?

- 50,000 volts of electricity is very painful, people who've been tased said they never want to get tased again.
 - Ms. Houle made a comment based on the recent survey done, Officers seem to not interested in complying with the DOJ Settlement Agreement.
- Chair Malone made the motion to continue with the Committee's previous motion to challenge the Bureau's finding on allegation 2 and recommend a finding of Sustained. This was seconded by Ms. Ford.
 - Mr. Simon: YES.
 - Ms. Falk: YES.
 - Ms. Ford: YES.
 - Chair Malone: YES.
 - Ms. Chiller: Abstained.

7:10 pm – 7:15 pm Break

7:15 pm—7:40 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. Following up with appellants and others community requests will supplement current work group tasks. Additionally, outreach committee members will serve as point for ongoing communications with IPR, the City, the Bureau, community members and/or act as the face of CRC.

Chair: / Members: Michael Luna, Neil Simon, and Julie R. Ramos

IPR staff: Irene Konev, Community Outreach Coordinator

- Mr. Simon would like Workgroup members to join Bureau members at various community outreach events.
- Workgroup members will meet to talk about which organizations each Workgroup member would like to reach out to.

2. 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: / Members: Vanessa Yarie, Bridget Donegan, and Jeff Bissonnette

3. Policy and Protocols (5 min.)

MISSION STATEMENT: The Policy and Protocols Workgroup examines CRC jurisdiction and the standard of review and recommends action to the CRC. Additionally, the workgroup will review community letters/input on policy issues and police bureau issues and present findings to full CRC.

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

- The Workgroup met today and had a discussion on the Auditor’s proposed Charter Changes
- The Workgroup would like to invite the Auditor to a CRC meeting to discuss the possibility of including the CRC in the Charter Changes.
- The Workgroup also would like to discuss changing the Standard of Review with the Auditor.
- City Council will vote on the Charter Changes on January 28.
- The Workgroup also talked about appeal panels and the possibility of having PRB members serve on CRC appeal panels.
- Mr. Handelman made a comment he supported the idea of including the CRC in the Charter Changes to ensure the existence of the Committee. The Council’s discussion on these Charter Changes is set for January 10.
- Ms. Orr made a comment that changing the Standard of Review and Charter Changes are separate issues. She also said that as a PRB member she is not opposed to serving on CRC Appeal panels.
- Mr. Simon made a motion to invite the Auditor to the January’s CRC meeting. This was second by Chair Malone:
 - Mr. Simon: YES.
 - Ms. Falk: YES.
 - Ms. Ford: YES.
 - Chair Malone: YES.
 - Ms. Chiller: YES.

4. Crowd Control Workgroup (5 min.)

MISSION STATEMENT: The Crowd Control Workgroup examines existing crowd control policies, training, and tactics of the Portland Police Bureau, reviews crowd control best practices, legal standards and other information, and makes appropriate recommendations.

Chair: /Members: Michael Luna

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: Rochelle Silver, James Young

7:40 pm —8:00 pm Public comment and wrap-up comments by CRC members

- Ms. Hannon urged the Committee to get the Crowd Control Workgroup up and running.
- Mr. Handelman comments:
 - The Training Advisory Council did not recommend the Crowd Control training to the Bureau so CRC should push on that.
 - IPR has not produced a Quarterly Report since 2015.
 - The Policy and Protocols Workgroup discussion summary should be made available at the January 4 CRC meeting.
 - Ms. Aiona urged IPR to add more information into the Director’s Report to include more information about community feedback.

7:30 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).

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.*