



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, April 5, 2017 (meetings are typically held the first Wednesday of each month)

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

Location: **Lovejoy room, Portland City Hall**. 1221 SW 4th Ave. Portland, OR 97204

Present: Kristin Malone, Julie Falk, Marisea Rivera, Neil Simon, Roberto Rivera, Julie Ramos, Kiosha Ford, Michael Luna, Andrea Chiller, Rachel Mortimer, Jeff Bell, Mike Fort, Larry Graham, Doug Brown, Dan Handelman, Regina Hannon, Katie Houle, Ted and Kalei Luyben, Daniel Schwartz, Pamela Fitzsimmons, Herschel Soles, David Bui, David Kif Davis

AGENDA

5:30 pm—5:35 pm Introductions and Welcome (CRC Chair Kristin Malone)
Approved of December 7, 2016, January 4, 2017, and March 1, 2017 Meeting Minutes

5:35 pm – 5:45 pm Director's Report (IPR Assistant Program Manager Rachel Mortimer)

5:45 pm—5:55 pm Chair's Report (CRC Chair Kristin Malone)

- Chair Malone and Vice Chair Ramos met with Mayor Wheeler on March 20. Mayor agreed to meet with the CRC members every other month.
- Chair Malone and Ms. Rivera also met with Commissioner Fish.
- Chair Malone attended League of Women voters meeting on gun safety.
- Chair Malone and Vice Chair Ramos received calls from the press regarding Chief Marshman.
- Chair Malone and Vice Chair Ramos had a conversation with IPR about code changes.
- Chair Malone attended Race Talks at Franklin High School.
- Chair Malone will attend a meeting of the Interfaith Peace and Action Collaborative at North Precinct.

5:55 pm—7:55 pm **Case File Review/Appeal Hearing:** 2016-C-0090/ 2017-X-0002

Appellant stated that he was filming a homeless camp cleanup when a sergeant approached him and told him he would have to film on the sidewalk because of the inmate cleanup crew. Appellant alleged Sergeant A was unprofessional when he grabbed Appellant's arm to escort him to the sidewalk. Appellant also alleged Sergeant A unlawfully told him to move to the sidewalk away from the cleanup area.

- Chair Malone informed the committee and the public about the case file review hearing procedure.
- Assistant Program Manager Mortimer provided IPR's part of the investigation:
 - IPR received the complaint on March 23, 2016
 - IPR completed the investigation and sent it over to IA June 13, 2016.
 - IA started their investigation April 28, 2016 and completed June 13, 2016.
- Captain Bell provided IA's part of the investigation:
 - IA made a contact with the Appellant and was able to interview him.
 - There were number of videos provided by the Appellant.
 - IA Investigator was also able to interview a witness Officer, and Sergeant A.
- Public comments:
 - Mr. Handelman made a comment that the inmate work crew didn't get interviewed.

- Mr. Davis made a comment that Sergeant A attacked him several times in the past. He made a complaint with IPR about Sergeant A before, but IPR did a poor job on investigating that case.
- Vice Chair Ramos made a motion to move the case to the appeal hearing. This was seconded by Ms. Ford.
 - Chair Malone: YES
 - Ms. Rivera: YES
 - Mr. Luna: YES
 - Ms. Chiller: YES
 - Mr. Simon: YES
 - Ms. Ford: YES
 - Vice Chair Ramos: YES
 - MR. Rivera: YES
 - Ms. Falk: YES
- Assistant Program Manager made a quick summary of the case:
 - IPR received the complaint, did a brief interview, attempted to receive the video and then referred the case to IA
- The Appellant made some comments regarding his case:
 - Appellant was filming the inmate cleanup of the homeless camp. Sergeant A went out of his way and forcefully grabbed the appellant's arm and dragged him out. This is the 3rd time Sergeant A attacked him.
 - Appellant has been beaten up by other Portland police officers.
 - He has targeted by the police since 2003 when he started filming the police.
 - A staff member from Commissioner Fish's office obtained a stalking order against him to prevent him from attending city council.
 - He would like the CRC to show the video of him being grabbed to the public.
- Captain Graham, the RU Manager provided explanation on the findings:
 - Sergeant A and Officer B knew the Appellant from before.
 - Regarding the first allegation, Sergeant A did a light grab control technique on the Appellant and walked him to the bike path.
 - Appellant even admitted that it was a light grab.
 - Regarding to the second allegation, the Appellant was allowed to be in the area where he can film everything.
- Ms. Ford asked Chair Malone if the Committee would like to show the videos to the public.
 - Chair Malone responded that the videos are part of the confidential case file. In one of the videos, the Officer's name is also being called out several times so the CRC does not have the authority to show it to the public
- Vice Chair Ramos made a comment there were many videos submitted with this case.
- Ms. Ford made raised several concerns:
 - Sergeant A approached the Appellant for no reason since no one complained about him being there.
 - There's no designated filming area.
- Ms. Falk made a comment that she did not see any video of Sergeant A's previous encounter with the Appellant.
- Public comments:
 - Ms. Hannon was wondering why there's no APA for the Appellant
 - Mr. Handelman made several comments:
 - He wanted to make sure the Committee had seen all the videos provided by the Appellant.
 - People who are filming the police are trained to ask the police to give them a reason why they want them to move. The question is whether the Officer gave the Appellant a lawful order.
 - Regarding the unwanted touching, a community member would have been charged with assault if they touched an officer. The officer should be found to be out of policy for the touching
 - Mr. Lightning made a comment it is inappropriate to touch anyone at any time. The Appellant was treated unfairly.
 - Ms. Newell made a comment the Appellant has always behaved professionally while filming the police.
 - Mr. West made a comment that police grabbing people can be awfully hard sometimes. The police are trying to block media from filming.
- Chair Malone asked Captain Bell to confirm IA received all the videos that were submitted by the Appellant.

- Captain Bell responded that IA provided CRC with all of the videos that Appellant delivered to IA.
- Ms. Falk asked Captain Bell why IA did not keep the retaliation allegation that was initially brought up by the Appellant.
- Assistant Program Manager Mortimer made a comment the Appellant did not request an APA for this case. The retaliation allegation was originally sent over to Internal Affairs from IPR. In the course of the investigation, they were able to determine that the Sergeant wasn't aware of the previous complaints made by the Appellant so they declined that allegation.
- Chair Malone asked Assistant Program Manager Mortimer to explain the process of an allegation being declined.
 - Ms. Mortimer responded that it means that the allegation didn't go for findings. The outcome is basically the same as the way IPR dismisses cases.
- Ms. Ford asked Assistant Program Manager Mortimer whether a retaliation allegation can only be supported if there has been a formal complaint.
 - Ms. Mortimer said that since the Sergeant didn't know about the complaints against him in the past, he didn't have anything to retaliate about.
- Chair Malone, Mr. Rivera, and Ms. Falk each commented that the retaliation concern related to past negative interactions between the Appellant and Sergeant A, which contributed to the way Sergeant A dealt with the Appellant when he saw him again.
- Assistant Program Manager Mortimer said that the Bureau considered retaliation in this case in terms of whether Sergeant A grabbed or moved the Appellant as a payback for the Appellant filing a complaint.
- Captain Bell said that there was another complaint by the Appellant about Sergeant A, but it turned out to be another Officer. So Sergeant A would not have known that the Appellant had filed a complaint against Sergeant A in the past.
- Ms. Falk asked Captain Bell if IPR saw the video interaction between the Appellant and the involved Sergeant.
 - Captain Bell said that the Appellant provided the video after the investigation was referred to IA.
- Several Committee members raised concerns about the Appellant is being retaliated against and that allegation is missing in this case.
- Mr. Simon stated his view that the Committee should be focusing on the allegations being presented.
- Captain Bell acknowledged that the Bureau has sustained allegations against an Officer for retaliation in an unrelated case. In this case, the interaction between the involved Sergeant and the Appellant falls more under unprofessional conduct. In terms of employment law aspect, the Bureau has to look at this from a technical perspective.
- Several Committee members raised the issue of the Appellant being recognized and treated in a certain way, but his concerns were not addressed in the two allegations that were ultimately investigated.
- Appellant made some rebuttal comments:
 - This is obviously a case of retaliation.
 - The police are lying about and slandering copwatchers.
 - He has always been the first person to be sent to jail at protests.
 - Activists and journalists started wearing ski masks to protect themselves against the police.
 - The Bureau's definition of retaliation doesn't match the definition in the dictionary.
- Mr. Simon made a motion to affirm the finding of exonerated on allegation 1. This was seconded by Vice Chair Ramos
 - Chair Malone: YES, no excessive force by the Sergeant. The action is consistent with Bureau's policy, and CRC's previous interpretations of the control hold technique.
 - Ms. Rivera: NO, the Sergeant didn't give the Appellant a verbal warning before initiating physical contact.
 - Mr. Luna: NO, the Sergeant acted unprofessional by refusing to let go of the Appellant
 - Ms. Chiller: YES, based on the standard of review
 - Mr. Simon: YES, Officer acted within policy
 - Ms. Ford: Abstained, because the investigation did not provide enough information
 - Vice Chair Ramos: YES, based on the standard of review
 - Mr. Rivera: Abstained, because the investigation did not provide enough information
 - Ms. Falk: Abstained, because the investigation did not provide enough information
- Deputy City Attorney Lauren King advised the Committee that based on Robert's rules an abstention in this case is not a vote. Therefore, the Committee does not have a majority vote one way or another.

- Mr. Luna made a motion to challenge allegation 1 finding of exonerated and recommend a finding of Sustained. This was seconded by Ms. Rivera:
 - Chair Malone: NO, the Sergeant acted within policy
 - Ms. Rivera: YES, not enough warning given by the Sergeant to the Appellant
 - Mr. Luna: YES, the Sergeant had time to ask the Appellant to move instead of grabbing him like that
 - Ms. Chiller: NO, Sergeant A acted within policy
 - Mr. Simon: NO, it was a light squeeze, Sergeant A acted within policy
 - Ms. Ford: YES, not enough evidence to determine the Sergeant's action is appropriate
 - Vice Chair Ramos: NO, the Sergeant acted within policy.
 - Mr. Rivera: YES, Sergeant A should've given a verbal warning.
 - Ms. Falk: YES, not enough evidence to determine the Sergeant's action is appropriate and within policy
- Mr. Luna made a motion to Affirm the Bureau's finding on allegation 2. This was seconded by Ms. Rivera
 - Chair Malone: YES, based on the standard of review, the order to move was within policy
 - Ms. Rivera: YES, based on the standard of review
 - Mr. Luna: YES, based on the standard of review
 - Ms. Chiller: YES, based on the standard of review
 - Mr. Simon: YES, based on the standard of review
 - Ms. Ford: NO, based on retaliation concerns
 - Vice Chair Ramos: YES, based on the standard of review
 - Mr. Rivera: YES, based on the standard of review.
 - Ms. Falk: Abstained, not enough information being provided.
- Chair Malone advised the Appellant he will be notified if the Chief agrees or disagrees with the Committee's challenge

7:55 pm—8:00 pm Break

8:00 pm—8:30 pm New Business

1) CRC elections

- Chair Malone was nominated to be re-elected as Chair of the Committee.
 - Ms. Rivera: YES
 - Mr. Luna: YES
 - Ms. Chiller: YES
 - Mr. Simon: YES
 - Ms. Ford: YES
 - Vice Chair Ramos: YES
 - MR. Rivera: YES
 - Ms. Falk: YES
- Julie Ramos was nominated to be re-elected as Vice Chair.
 - Ms. Rivera: YES
 - Mr. Luna: YES
 - Ms. Chiller: YES
 - Mr. Simon: YES
 - Ms. Ford: YES
 - Vice Chair Ramos: YES
 - MR. Rivera: YES
 - Ms. Falk: YES
- Ms. Ford was nominated to be the Recorder
 - Ms. Rivera: YES
 - Mr. Luna: YES
 - Ms. Chiller: YES
 - Mr. Simon: YES

- Ms. Ford: YES
- Vice Chair Ramos: YES
- MR. Rivera: YES
- Ms. Falk: YES

2) IPR Code Changes

- Assistant Program Manager made a comment the Committee had seen different version of the proposed code changes and this is the final version that IPR submitted.
- Vice Chair Ramos expressed frustration that the proposed code changes had already been submitted to Council, and the stakeholder workgroup proposals were not reflected in the changes.
- Chair Malone made a comment that a lot of the changes were part of the draft that was released back in September. The issue of CRC quorum, panels size, and public comments were part of stakeholder workgroup discussion. It was clear at the end of the stakeholder workgroup meeting that the workgroup wanted the City to only move forward on the issues that were discussed.
- Ms. Falk made a comment she wasn't a part of the stakeholder workgroup so she doesn't really understand the core of the changes and she would like to get more information from IPR.
- Chair Malone asked Assistant Program Manager about the changes in the supervisory investigation.
 - Ms. Mortimer stated that the new procedure replaces what have been known as a Service Improvement Opportunities (SIOs). Low level courtesy cases will be handled by the officer's direct supervisor.
- Captain Bell made a comment this is not a huge change. Both IPR and IA have to agree on referring the case to the supervisors. This allows the Sergeant to discuss with his/her officer the customer service impacts.
- Assistant Program Mortimer made a comment that IPR would like to lower the dismissal rate and get more resolution for people.
- Public comments:
 - Mr. Schwartz made a comment he would support the Committee sending a statement to City Council
 - Ms. Cushman encouraged the Committee members to testify in front of City Council
 - Mr. Handelman made several comments:
 - The proposed changes didn't address the proposal to increase the membership and break the Committee down into appeal panels.
 - Public comments should be taken before the vote. City Attorney should remind the Committee to consider evidence that they have in front of them before voting.
 - Ms. Hannon agreed that there should be public comments before the case file review and appeal hearing.
 - Ms. Luyben made said that she felt the City is lacking integrity by making decisions behind closed doors. Each Committee member should state a reason why they come to their conclusion when they vote.
- The Committee unanimously voted to oppose the eliminate of public comments before the vote at the case file review and appeal hearing. Ms. Falk will be drafting a letter summarizing the Committee's position on this issue.
 - Ms. Rivera: YES
 - Mr. Luna: YES
 - Ms. Chiller: YES
 - Mr. Simon: YES
 - Ms. Ford: YES
 - Vice Chair Ramos: YES
 - MR. Rivera: YES
 - Ms. Falk: YES

8:30 pm—8:35 pm Old business

1)CRC retreat agenda

- Chair Malone asked if anyone would like to add more agenda items onto the agenda, to email her.

- Mr. Luna would like to add a discussion regarding outreach to different organizations and IPR’s strategic plan.

9:00 pm—9:30 pm Public comment and wrap-up comments by CRC members

- Mr. Soles said that he felt like the City is ignoring the Committee.
- Mr. Handelman made several comments:
 - He urged the Committee to allow the public to be at the discussion with former CRC members at the CRC retreat.
 - He would like to be able to film the face of the Appellant at appeal hearings.
 - He is working on a documentary about Mr. Klug’s case.

9:30 pm

Adjournment

To better serve you, a request for an interpreter or assisted listening device for the hearing impaired or for other accommodations for persons with disabilities should be made three (3) days 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/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.***