



# CITIZEN REVIEW COMMITTEE MEETING

## *Community Oversight of Portland Police Bureau*

City of Portland / City Auditor  
Independent Police Review (IPR)  
Citizen Review Committee (CRC)

Date: Wednesday, May 3, 2017 (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 5<sup>th</sup> Ave. Portland, OR 97204

Present: Kristin Malone, Julie Falk, Roberto Rivera, Jim Young, Vanessa Yarie, Michael Luna, Andrea Chiller, Michael Luna, Marisea Rivera, Jeff Bell, Stephanie Lourenco, Dan Simon, Constantin Severe, Dan Handelman, Regina Hannon, Daniel Schwartz, Debbie Aiona, Carol Cushman, Ted and Kalei Luyben, Herschel Soles, David Kif-Davis, Katie Houle

On the phone: Neil Simon, Joseph Geissler

## AGENDA

5:30 pm—5:35 pm Introductions and Welcome (CRC Chair Kristin Malone)  
Approved of April 5, 2017 meeting minutes.

5:35 pm – 5:45 pm Director's Report (IPR Director Constantin Severe)

- Chair Malone asked Director Severe if the Police Bureau provided any timeline on the policy that they will be developing in responding to the Brady Review?
  - It will take 90 days for the Bureau to create a tracking mechanism. Creating a policy will take longer, but I believe there's a commitment to create a draft within a short amount of time.
- Mr. Rivera asked Director Severe if the Police Bureau develops policy or directive?
  - PPB has what they called as directives is pretty much their administrative rules. They all basically the same set of words to describe the Bureau's administrative rules.

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

- Chair Malone joined Director Severe and the Auditor at interfaith Peace & Action Collaborative's event at North Precinct on April 14.
- Chair Malone did some prepping for the CRC retreat which happened on April 22.
- Chair Malone and Vice Chair Ramos attended a COCL/COAB discussion at Maranatha Church on April 25.

5:55 pm—7:55 pm **Case File Review/Appeal Hearing:** 2015-C-0365/ 2016-X-0006

Appellant was arrested at Portland City Hall on 11/25/2015. He alleged that the officers A, B and C used pain compliance techniques though he believed he was not resisting arrest. Appellant also alleged Sergeant D applied handcuffs improperly when taking him into custody.

- Director Severe provided IPR overview of the investigation:
  - November 25, 2015 officers were dispatched to a disturbance. Appellant was in the council chamber filming the Subject.
  - Appellant was asked to leave the Chambers, but he refused to do so. At one point, the Appellant was trying to walk past Witness 1 who is a security officer and was taken to the ground.
  - Officer A and Sergeant B handcuffed the Appellant and escorted him out of City Hall.
  - The case involved 4 allegations.
- The Appellant who identified himself as David Kif-Davis provided his summary of the incident:
  - He recognized Officer C who had a history of targeting activists so he wanted to stay in the Chambers to document the incident for safety of the Subject.

- Witness 1 tackled the Appellant to the ground.
- He was permanently excluded from City Hall from this incident.
- He was in compliance with officer's orders, but they kept using pain compliance technique on him.
- The police are using this as a soft torture technique.
- The handcuffs were also too tight.
- Captain Bell provided IA overview of the investigation:
  - IA Investigator reviewed audio from the police radio and videos from the incident.
  - IA also interviewed witnesses and the Appellant.
  - IA wasn't able to interview couple witnesses and at the Case File Review, CRC made a request for IPR to interview those witnesses.
- Lt. Lourenco provided RU manager explanation of the findings:
  - Regarding to the handcuffing allegations when Officer A and Sergeant B went into the Council Chambers, the Appellant had already been taken down to the ground. The investigation focus on the handcuffing and getting into a police car.
  - Officers did not use any force that was unnecessary. The only manipulation was when Sergeant B taking the camera out of the Appellant's hand and set it down.
  - Sergeant A pull the Appellant arms behind his back, handcuffs were applied while he was still on the ground and the Appellant was stood up.
  - One of the officers noted the Appellant complaining about the handcuffs while they were by the car so he checks the handcuffs to make sure they are not too tight.
  - The Appellant refused medical services
  - Pictures of his wrists were taken while he was in the back of the patrol car. There were no redness, or marking.
- Director Severe made a comment IPR was able to interview 2 witnesses and they both stated that they did not to a great extend observed the Appellant's interaction with the officers. The information then being provided to Lt. Lourenco, and she did not believe those information did not justify her changing the findings.
- Mr. Young asked Lt. Lourenco if she thinks officers used pain compliance technique? How was the use of force in this case justified?
  - No. The only potential time for the use of pain compliance technique in this case was when the Appellant was being roll over and his arms were being folded back. Everything that happened was within policy. As soon as the handcuffs were on there's no more manipulation of the wrist at all. The Witnesses and Officers talked about how he was handled by his upper arms. The only time the wrists would feel uncomfortable is in the back of a police car with handcuffs on.
- Mr. Young asked the Appellant if he can explain what each officer did that makes him think they used pain compliance technique?
  - I am not sure who handcuffing me because they were behind me. Pain compliance was used while they were handcuffing me. They are bending my wrists all the way to the car.
- Mr. Rivera asked Lt. Lourenco if she made her decision on the findings based on the surveillance video or from her experience as a police officer?
  - It was the combination of experience, the surveillance videos and testimony from several witnesses. When you are twisting the wrists, while a person being handcuffed in some painful manner, I would expect to find marks. What the witnesses said were consistent with the evidence that I've found.
- Mr. Rivera asked Lt. Lourenco the technique that officers use to pick someone up after that person had already been handcuffed?
  - They physically lifted the Appellant up by his arms and held on to his upper arms while walking him out. Everyone that was there at the time were able to observe the process. One of the security guards even made a comment on how gentle it was. They were able to do this because the Appellant wasn't resisting.
- Chair Malone asked the Appellant if his complaint about the pain compliance technique was the part when the officer walking him from the Council Chambers to the car?
  - Yes, and then they left me in the back of the car for 40 minutes.
- Chair Malone asked Lt. Lourenco when would be appropriate to use pain compliance technique?
  - It is appropriate bend the wrists to put someone to put someone in handcuffs. In this instance, since the Appellant was on the ground, officers were able to hold on to his forearm so one of the handcuffs can be

applied. The Sergeant did hold on to one of his wrists as he is being rolled over and held on to that until they got the other handcuff on.

- Ms. Falk asked Lt. Lourenco if she would find it to be out of policy if pain compliance was being used in this situation?
  - If they being used maliciously. Pain compliance technique is being used to put a person under control. The Appellant was under control and his behavior wasn't warranted it.
- Chair Malone asked Lt. Lourenco what is the difference between a control hold and a pain compliance?
  - The difference is when you trying to stand someone up, you use pain compliance to get them to stand up and maintain control.
- Ms. Ford made a comment to Lt. Lourenco that it is possible that the Appellant could've experienced pain compliance while being stood up.
  - I am sure he felt uncomfortable, but no one was manipulating the appellant's wrists at that time.
- Ms. Ford asked Lt. Lourenco if she could find it to be not sustained since there's part of the video that she could not see?
  - The only opportunity where pain compliance is being used is when the Appellant was being rolled over and it was done according to Bureau's police and the training that the Sergeant had had.
- Ms. Falk asked Lt. Lourenco if pain compliance could be used while he was being walked to the patrol car?
  - According to the witnesses the Sergeant held the Appellant by his arm
- Ms. Ford raised a concern that the witnesses were all G4S Security Officers.
- Lt. Lourenco made a comment that photos were taken of the Appellant's wrists while he is in the patrol car and they did not show any visible mark.
- Ms. Chiller asked Lt. Lourenco if it is possible when Sergeant B using the wrist lock technique to get the handcuffs would not result in an injury that is not visible? The wrist lock could be a pain compliance technique?
  - No because it was just rolling him over behind his back. The handcuffs were not on at that time. It could be painful, but it is within policy
- Ms. Rivera ask Lt. Lourenco if people feel some pain or discomfort while being arrested?
  - No its depends on the person. Some people are more sensitive than other.
- Chair Malone made a comment she finds there's enough evidence to support the findings.
- Ms. Ford made a comment the area of concern for the Appellant was the one where no one can see so she questions how the RU Manager can come to a conclusion of Exonerated versus Not Sustained.
- Chair Malone made a comment the photos taken of the Appellant wrists are relevant.
- Ms. Chiller made a comment the it is unfortunate that video did not show the handcuffing part. It is also concerning that all of the witness testimonies are city employees. What compelling is that they are all consistent. Based on the standard of review it is reasonable to find the officer to be Exonerated.
- Mr. Handelman made some comments:
  - It would be helpful for people to see the videos of the incident.
  - If there's no evidence to show the interaction between the Appellant and the officer while being walked to the car then the finding should be Not Sustained.
  - CRC should take the symbolic vote based on the preponderance of evidence
- Mr. Soles made a comment it would be easy for police inflict pain without causing any evidence since they are trained to do it.
- Mr. West made a comment control hold and pain compliance are the same thing.
- Mr. Troy, the Appellant APA made a comment Bureau's policy stated that they must use reasonable force based on the circumstance. From the Appellant's perspective, the wrists bending part of his arrest was very uncomfortable. It was used beyond the time after the Appellant had already been handcuffed and he was not resisting.
- Appellant provided some rebuttal comments:
  - The ambulance company is colluding with the police. Officer A is a liar by saying that the Appellant refused medical services.
  - He was wondering if the Committee reviewed the audio from the police car?
  - If the Committee accepts these findings, then they are accepting lies from police and supporting the police torturing people with mental illness.
  - He still has nerve damages from being tortured when he was younger.
- Mr. Young asked City Attorney can the Committee considers new information provided by the Appellant at this hearing?
  - New evidence being brought to the CRC at the hearing cannot be considered, but it can be considered as part of the Appellant's statement at the hearing.
- Mr. Young asked the Committee if the Appellant's statement about the wrists bending technique was used while escorting him to the car part of the case file that the RU Manager reviewed? He did not recall this information being available to the RU Manager.

- Ms. Rivera made a comment the Appellant's did stated during his interview that pain compliance being used all the way through City Hall on page 6.
- Ms. Ford made a comment she had a problem with allegation 1 and 2, but not 3 and 4 about the inappropriate force used on the Appellant since paramedic did arrive to check on the Appellant. The video did not show a whole lot so there's not enough evidence to come to a conclusion.
- Several Committee had a discussion on whether or not the Officer used pain compliance on the Appellant by bending his wrists while walking him out to the car.
- Chair Malone reminded the Committee that they are getting into the hypothetical field on whether the officer did or did not. The Committee have to look at the statement from the witnesses saying that there was no bending of the wrists.
- Regarding to allegation 1, Mr. Luna made a motion to affirmed Bureau's findings of Exonerated. This was seconded by Ms. Chiller:
  - Mr. Young: YES, the use the bend wrists technique is within Bureau's policy
  - Ms. Falk: YES, based on the standard of review
  - Ms. Ford: NO, lack of evidence, conflicting statements, there seems to be confusion in the decision making of the RU Manager.
  - Ms. Chiller: YES, based on witnesses' statement and the photos taken
  - Ms. Rivera: YES, based on the standard of review
  - Chair Malone: YES, all the witness's statements were consistent
  - Mr. Rivera: YES, based on the video evidence.
  - Ms. Yarie: YES, based on the standard of review
  - Mr. Simon: YES, based on the standard of review
  - Mr. Luna: YES, based on witness testimony
- The Committee took a symbolic vote using the standard of preponderance of evidence instead of the standard of review:
  - Mr. Young: Unfounded
  - Ms. Falk: Exonerated
  - Ms. Ford: Not Sustained
  - Ms. Chiller: Not Sustained
  - Ms. Rivera: Not Sustained
  - Chair Malone: Not Sustained
  - Mr. Rivera: Not Sustained
  - Ms. Yarie: Not Sustained
  - Mr. Simon: Exonerated
  - Mr. Luna: Not Sustained
- Regarding to allegation 2, Ms. Chiller made a motion to affirmed Bureau's findings of Exonerated. This was seconded by Ms. Yarie:
  - Mr. Young: YES, based the standard of review
  - Ms. Falk: YES, based on the standard of review
  - Ms. Ford: NO, for the same reason as allegation 1
  - Ms. Chiller: YES, based on the standard of review
  - Ms. Rivera: YES, based on the standard of review
  - Chair Malone: YES, witnesses' testimony and photos taken
  - Mr. Rivera: YES, based on the standard of review
  - Ms. Yarie: YES, based on the standard of review
  - Mr. Simon: YES, based on the standard of review
  - Mr. Luna: YES, based on witnesses testimony
- The Committee took a symbolic vote using a different standard of preponderance of evidence instead of the standard of review:
  - Mr. Young: Unfounded
  - Ms. Falk: Exonerated
  - Ms. Ford: Not Sustained
  - Ms. Chiller: Not Sustained
  - Ms. Rivera: Exonerated
  - Chair Malone: Not Sustained
  - Mr. Rivera: Not Sustained
  - Ms. Yarie: Not Sustained
  - Mr. Simon: Exonerated
  - Mr. Luna: Not Sustained
- Regarding to allegation 3, Ms. Falk made a motion to affirmed the Bureau's finding of Exonerated. This was seconded by Mr. Rivera:

- Mr. Young: YES, based the standard of review
- Ms. Falk: YES, based the standard of review
- Ms. Ford: YES, based the standard of review
- Ms. Chiller: YES, based the standard of review
- Ms. Rivera: YES, based the standard of review
- Chair Malone: YES, witnesses' testimony and photos taken
- Mr. Rivera: YES, based the standard of review
- Ms. Yarie: YES, based on the standard of review
- Mr. Simon: YES, based the standard of review
- Mr. Luna: YES, based on witnesses' testimony
- The Committee took a symbolic vote using a different standard of preponderance of evidence instead of the standard of review:
  - Mr. Young: Exonerated
  - Ms. Falk: Exonerated
  - Ms. Ford: Exonerated
  - Ms. Chiller: Exonerated
  - Ms. Rivera: Exonerated
  - Chair Malone: Exonerated
  - Mr. Rivera: Exonerated
  - Ms. Yarie: Exonerated
  - Mr. Simon: Exonerated
  - Mr. Luna: Exonerated
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- Regarding to allegation 4, Ms. Yarie made a motion to affirmed the Bureau's finding of Exonerated. This was seconded by Chair Malone
  - Mr. Young: YES, based the standard of review
  - Ms. Falk: YES, based the standard of review
  - Ms. Ford: YES, based the standard of review
  - Ms. Chiller: YES, based the standard of review
  - Ms. Rivera: YES, based the standard of review
  - Chair Malone: YES, based the standard of review
  - Mr. Rivera: YES, based the standard of review
  - Ms. Yarie: YES, based the standard of review
  - Mr. Simon: YES, based the standard of review
  - Mr. Luna: YES, based the standard of review
- The Committee took a symbolic vote using a different standard of preponderance of evidence instead of the standard of review:
  - Mr. Young: Exonerated
  - Ms. Falk: Exonerated
  - Ms. Ford: Exonerated
  - Ms. Chiller: Exonerated
  - Ms. Rivera: Exonerated
  - Chair Malone: Exonerated
  - Mr. Rivera: Exonerated
  - Ms. Yarie: Exonerated
  - Mr. Simon: Exonerated
  - Mr. Luna: Exonerated
- Mr. Rivera made a comment if the Appellant works for a major news station, he would've not been treated the way he was treated.
- Mr. Luna made a comment the excuse for security to ask the Appellant to leave was because he is affecting the Subject 's behaviors, but the Subject was in his own world so he might not even aware of the Appellant filming him.
- Chair Malone made a comment she was advised by the City to clear the room if things escalate at meeting to allow tension to dissipate. Regarding to the incident in this case, the order to clear the room wasn't being pushed very hard. The conflict started when G4S security officers determined that the Appellant was getting to close to the arresting process. This sounds like a G4S question.
- Ms. Chiller raised a concern that a technique can be a control hold and pain compliance and it would be up to an officer's intention. Relying on proving the officer's intends creates a lot of ambiguity and subjectivity. Create some clarities between control hold and pain compliance would avoid future problems

7:55 pm—8:00 pm Break

8:00 pm—8:35 pm New Business/Old Business

8:35 pm—9:00 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

- The workgroup will continue its efforts of conducting outreach to organizations that they had identified. The focus of the conversation will be making sure these community stakeholders understand the need of the Committee in terms of changing the standard of review.
- Mr. Luna will be stepping down from this workgroup.

### 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: Bridget Donegan / Members: Vanessa Yarie, 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 will happen on May 11 in a downtown location
- Mr. Rivera and Mr. Young are trying to schedule a meeting with Commissioner Saltzman to discuss changing the appeal process. The meeting will take place after Policy and Protocol workgroup meeting.

### 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

- The workgroup will have its first meeting on June 7 at 4 PM inside City Hall. One of the goal is for people to share their experience while attending protest.
- The Workgroup is looking for more members to join.

- Ms. Falk asked Director Severe if IPR received any complaints from the May Day’s protest?
  - Yes
- Mr. Rivera asked Mr. Luna if the purpose of this Workgroup is to gathering community inputs?
  - The first meeting is to determine objectives of the Workgroup. One of those objectives is to continue monitoring the Bureau’s new crowd control Directive.
- Mr. Denecke made a suggestion to look into the Bureau’s implementations of the recommendations by this Workgroup that was previously presented to City Council.

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

- The draft of recommendations was given to the Bureau, but due to change in the Chief and DOJ position, everything is at a standstill. Chief Marshman ensured Mr. Denecke that there will be a universal review of the draft recommendations.

9:00 pm—9:15 pm Public comment and wrap-up comments by CRC members

- Ms. Aiona made some comments:
  - thanked Chair Malone for sticking through a difficult meeting.
  - Regarding to workgroup’s meeting notice. It is great to receive the notice early so people can plan in advance.
  - CRC might want to consider asking someone from Training Division to come in and demonstrate the difference between a control hold and pain compliance.
  - CRC should have a discussion on the Brady’s review.
- Mr. Handelman made some comments:
  - Flying focus documentary is now online.
  - There’s also a video of Ms. Hannon being pushed down the sidewalk by riot police.
  - It would be helpful to hear the final vote counts at the end of an appeal.
  - Not Sustained was the appropriate finding for this case since what happened between city hall and police car was only witnessed by the police officer and the Appellant.
  - Regarding to IPR strategic plan. Copwatch found out about this through a newspaper. IPR should give more advance notice if they want more inputs from the public

8:45 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](http://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.**