



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, August 2, 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 5th Ave. Portland, OR 97204

Present: Neil Simon, Roberto Rivera, Julie Falk, Kiosha Ford, Julie Ramos, Marisea Rivera, Andrea Chiller, Michael Luna, Jeff Bell, Craig Morgan, Eric Terrell, Dan Simon, Doug Brown, Daniel Schwartz, Dan Handelman, Hershel Soles, Brandie DelaHoz, Adam Millon.

AGENDA

5:30 pm—5:40 pm Introductions and Welcome (CRC Vice Chair Julie Ramos)
(Approved of June 7, 2017 meeting minutes)

5:40 pm – 5:50 pm Director's Report (IPR Assistant Program Manager Rachel Mortimer)

5:50 pm—7:50 pm **Case File Review/Appeal Hearing:** 2016-C-0061/ 2017-X-0004
Appellant was arrested for robbing a US Bank. Appellant alleged Officer A used excessive force while taking him into custody.

- Captain Bell provided a summary of the IA investigation:
 - This investigation was initiated via a tort claim with the City of Portland.
 - The IA Investigator was able to interview the witnesses in the case. The Investigator attempted to interview the Appellant, but the Appellant declined the interview and stated that that he needs to consult with his attorney.
 - After the case is completed, the Appellant was informed of the findings of his complaint, and he filed an appeal because he was not interviewed on the case.
 - IA Investigator then interviewed him at length regarding his version of the event. The case was sent back for findings and the findings were not changed.
- Mr. Simon asked Captain Bell if the Bureau investigates all tort claims?
 - Both IPR and IA review all the tort claims. If there's anything that alleged a use of force then either IA or IPR will open an investigation.
- Mr. Rivera asked Captain Bell several questions:
 - the Appellant is left handed or right handed?
 - I don't have that information.
 - Was there a search for possible weapon in the path that the Appellant ran?
 - I don't know.
 - Does the bank have an onsite armed security guard?
 - This part was not looked at as part of the investigation.
 - Officers are trained to punch as a form of distraction?
 - Punching is something that is taught in training. Punching as a distraction was taught like that at one point, but we don't teach that anymore.

- Mr. Rivera asked Lt. Morgan if it was part of the training for officers not to deploy taser when it is raining outside?
 - Normally, a rainy day should not be an issue. In this case, standing on a large tub of water, there's a concern for creating secondary injury.
- Public Comments:
 - Mr. Handelman raised a question if the Appellant's criminal trial transcript was reviewed.
- Vice Chair Ramos asked Captain Bell to summarize the materials that were provided to the Committee?
 - All the criminal reports, transcripts of all the interviews, IA investigative reports, Appellant's medical records.
- Ms. Falk made a motion to move forward with the appeal hearing. This was seconded by Ms. Ford:
 - Mr. Simon: YES
 - Mr. Rivera: YES
 - Ms. Falk: YES
 - Ms. Ford: YES
 - Vice Chair Ramos: YES
 - Ms. Rivera: YES
 - Ms. Chiller: YES
 - Mr. Luna: YES
- Vice Chair Ramos asked Assistant Program Mortimer if she can summarize IPR's summary of the investigation
 - My summary would be the same as IA summary.
- Mr. Terrell, the Appellant's APA asked Captain Bell if the IA interview with the Appellant was an in person or phone interview?
 - It was a phone interview.
- Ms. Falk asked Lt. Morgan how did he come to the findings of Not Sustained versus Exonerated?
 - It was solely based on the definition of exonerated. To say Exonerated basically mean I am ok with the officer's using excessive force.
- Lt. Morgan Provided his explanation for his findings:
 - Officer A acknowledged punching the Appellant to get his left hand out from under his body.
 - After IA received medical records, and was able to do an interview with the Appellant, I re-visited the findings and went over all the materials.
 - The Appellant acknowledged during his interview that he was running, going over fence, and ended up on ground on top of a big pool of water. He also acknowledges that he had his left hand underneath his body.
 - The Appellant's medical records show a superficial abscess on the lip. Records did not show eyes being swollen, extensive bruising, or not being able to walk.
 - The Appellant first indicated that he was punched so many times, but he later clarified to be just a couple punches.
- Ms. Chiller asked Lt. Morgan why didn't he not add a debriefing in the finding?
 - The use of term "distraction" was a unfortunate antiquated use of a term. Officer A rationale and thought process of delivering the force was appropriate under current training and policy.
- Mr. Simon asked Lt. Morgan is punching a suspect still allowed as a part of trying to detain a suspect?
 - Punching a suspect is allowed under certain circumstance like when a person is resisting.
- Mr. Simon asked Lt. Morgan if there's a thought that the Appellant was armed, would officers create a bigger perimeter?
 - Police officer's job is to protect the community. Backing off on someone who is armed doesn't really work in a big picture. The initial call that it was a robbery with a weapon there were some updates.
- Mr. Simon asked Mr. Terrell, then Appellant's APA if there any further conclusion that would support the mark under the eye could occur under falling or it was from being punched by the officer?
 - Definitely, I don't know. I assume if the Appellant was here, he would've said that the mark was resulted from being punched.
- Mr. Rivera made a comment if the Committee were going to challenge the allegation, the Committee should add a debriefing since punching someone in the back of the head can cause someone to have a traumatic injury.

- Ms. Ford asked Lt. Morgan about the delay between the robbery and the time he encountered the officers. It seems like the Appellant's description is different. Also, regarding to the officer's tactic, how punching someone in the face can get people to pull their hands out from underneath their stomach?
 - Regarding to the delay, the Appellant acknowledged to the outfit changing in the car. We did have the tracking device that helps officers on the scene to narrow the search down to a specific area. It is not unusual for officers to have conflicting suspect's descriptions. The suspect matched the consistent description and he also ran from the officers. Regarding to the punching technique. Causing a short non-enduring pain elsewhere can cause someone to re-fixate their mental energy to that other area which in term lower the resistant of the arm.
- Ms. Chiller made a comment to Lt. Morgan it doesn't seems like officers take a lot of effort to get the Appellant's arm out. Holding someone down and punching the person in the face don't make it easier for the person to get his hand out.
 - Officer C during his interview indicated he eased off the left side of the Appellant while holding him down, but the Appellant was still fighting and not putting his left hand out.
- Ms. Falk made a comment to Lt. Morgan that she was struck by the term "distraction". She asked he can clarify if the justification was inappropriate, but the action itself is within policy.
 - I would say the justification was appropriate. The labeling was inappropriate.
- Ms. Falk asked Lt. Morgan what is the training in this kind of situation. It seems like had he had a weapon, it could resolve in a serious circumstance.
- Captain Bell made a comment, the current training for this situation is remove the arm from under the suspect in a controlled manner.
- Ms. Ford made a comment she is concerned that the Appellant did have one arm out with a bag of money for the officers to take, but he was still being punched by the officer. There were also several officers on top of him and there's no way he can escape.
- Lt. Morgan made a comment there's a different in the officer's interpretation and the Appellant's explanation on why his left hand was in the back of his torso. There's not enough evidence based on the preponderance of evidence that it was unreasonable for the officer to interpret the Appellant was still resisting.
- Ms. Chiller made a comment, the Appellant doesn't have a weapon, therefore, he had no reason to resist.
- Vice Chair Ramos made a comment that the officers didn't know if the Appellant had a weapon at the time.
- Ms. Rivera asked Lt. Morgan if photos of officer's hands are taken after this incident?
 - Not on every case.
- Mr. Terrell asked Lt. Morgan several questions:
 - who provided the information if the suspect is armed? Do they have to be in the car to receive that information?
 - The 911 call taker entered information they received from the witness into the system. In theory, every officer to the scene should receive those information as it is coming in. Officers have portable radio so they can receive update via radio as well.
 - Is medical assistant provided when someone is being taken to downtown jail?
 - No medical assistant is not being provided to everyone since a lot of cases, there's no need for medical assistant. In this case, the Sergeant who responded to the scene checked him visually and asked the Appellant if he needs medical assistant. He declined.
- Public comments:
 - Mr. Handelman made several comments:
 - He has not heard the Appellant was engaging in active aggression.
 - The distraction technique became an issue for CRC members in the past. It sounds like they stopped using the term, but didn't stop using the technique.
 - OIR recommends officers stop doing foot pursue since it always ended in a unnecessary use of force.
 - Officer should've been more patience so the Appellant have time to get his arm out.
- Mr. Terrell made a comment from the Appellant's perspective, the excessive force seems to be from being kneed in the side and back. As a result from this, Appellant stated he had to be in a wheelchair for 46 days and he is still using a cane.

- Mr. Rivera made a motion to Challenge the Bureau findings of Not Sustained and change it to Not Sustained with a Debriefing. This was seconded by Ms. Ford:
 - Mr. Simon: YES, it doesn't seem to be an active aggression on the Appellant. The debriefing should be about the new training on to deal with this kind of situation.
 - Mr. Rivera: YES, officer should be debriefing about other ways to apprehend the suspect and reduce possible injuries.
 - Ms. Falk: YES, there seems to be number of issues can be addressed at the debriefing like a better tactic to use in this kind of situation.
 - Ms. Ford: YES, for the reason stated by other members.
 - Vice Chair Ramos: NO, based on the standard and training at the time. The officer didn't violate any directive.
 - Ms. Rivera: NO, this was a split-second decision that the officer had to make.
 - Ms. Chiller: YES, the officer would benefit from the debriefing of the new training.
 - Mr. Luna: NO, officer made a right decision.
- The Committee voted 5-3 to challenge the finding of Not Sustained to Not Sustained with Debriefing.
- Mr. Rivera made a comment the Investigator in this case shouldn't ask an open-ended question and then ends up answering it.
- The Committee took a symbolic vote on the case based on a preponderance of evidence:
 - Mr. Rivera: not sure.
 - Ms. Falk: not sure.
 - Ms. Ford: would vote differently.
 - Vice Chair Ramos: Would vote the same.
 - Ms. Rivera: would vote the same.
 - Ms. Chiller: would vote differently.
 - Mr. Luna: would vote the same.

7:50 pm—7:55 pm Break

7:55 pm—8:20 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: Neil Simon, and Roberto Rivera

IPR staff: Irene Konev, Community Outreach Coordinator

- Mr. Simon went to the Human Rights Commission meeting with IPR Outreach Coordinator Irene Konev. They had a discussion about possibly having a joined meeting.

- Mr. Simon also met with an Iraq American community, catholic charities staff who are involved with other immigrant groups. They had a discussion on how those groups can talk to the CRC about their experience interacting with the police.

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 Julie Ramos, and Kristin Malone

- Ms. Ford sent an email to City Attorney and the Auditor regarding if there will be any changes to the new Auditor's charter changes. The Auditor declined to attend citing CRC is aware of the changes and the Workgroup is still waiting to hear back from City Attorney Mark Amberg.
- Mr. Simon made a suggestion to invite City Auditor and City Attorney to meet with the CRC regarding the Auditor's independence and other issues.
- The Committee had a discussion on how to formally invite the Auditor to CRC meeting. Several members would like to hear from the Auditor if she is willing to support the change in the standard of review if the Committee bring this proposal to City Council.

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

- Assistant Program Manager Mortimer made a comment IPR keeps a log of all incoming calls. IPR has been notifying people whole filed general type of complaints where they cannot identify a specific miss conduct that their complaints will be flagged as a policy concern. These will be forwarded to the Mayor's office.
- Mr. Luna will schedule an appointment to come into IPR to review the data IPR received from community members regarding recent protests.
- Mr. Luna asked Assistant Program Manager Mortimer if IPR can see chain of responses from people on a tweet that IPR posted?
 - Yes.

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

8:20 pm —8:45 pm Public comment and wrap-up comments by CRC members

- Mr. Soles made a comment he was wondering how big the Appellant was. It seems like if a person have to be on a wheelchair with headache then the officers must've used excessive force.

- Ms. Brandie from the Human Rights Commission made a comment her and her fellow Commissioner Adam will be testifying City Council tomorrow to talk about the COAB issues. The Human Rights Commission also will be reaching out to the Q Center to see if they are interested in participating in a community listening session.
- Ms. Chiller made a comment she is also reaching out to the Q Center. CRC and the Human Rights Commission should coordinate on this event.
- Mr. Millon made a comment the goal of the community listening session is to let the community know that the HRC is here to listen.
- Mr. Handelman made several comments:
 - Bureau should provide better training on findings since the description that Lieutenant gave was an exonerated finding.
 - The decision that was made about this case wasn't made a year ago before the training was intact so it's not unreasonable for the Lieutenant to add a debriefing.
 - Regarding to the symbolic vote, it would be helpful if Committee members provide that finding that they would vote for.
 - Copwatch had a meeting with the Mayor regarding the standard of review.
 - The issue of the Auditor's charter changes is how much the Auditor can say if the Committee can go to City Council without her blessing.

8:00 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.***