



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, September 6, 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: Julie Falk, Roberto Rivera, Michael Luna, Marisea Rivera, Neil Simon, Kristin Malone, Jeff Bell, Constantin Severe, Mark Amberg, Herschel Soles, Pamela Fitzsimmons, Debbie Aiona, Dan Handelman, Regina Hannon, Peggy Zebroski, Roger Koppy

AGENDA

5:30 pm—5:40 pm Introductions and Welcome (CRC Chair Kristin Malone)
(Approved of August 2, 2017 meeting minutes)

- Chair Malone stated that she spoke with the Appellant to explain why the appeal hearing tonight was cancelled.
- Director Severe apologized to the Committee for not providing all the materials to the Committee. He also sent an email to the Appellant apologizing to him and informed the Appellant that IPR will notify him of the new Appeal Hearing date.
- Chair Malone asked Director Severe if IPR has a new date for the Appeal Hearing.
 - Director Severe explained that the video that was not included did not get sent over to the RU Manager, therefore the case will be sent back for the RU Manager to review. IPR does not anticipate that it will take that long for the RU Manager to review it, so hopefully IPR will get the case back in a couple weeks.
- Mr. Simon asked Director Severe if the video was the only thing that was missing.
 - Director Severe stated that the video was the only evidence from the original investigation that was not sent to the RU Manager or CRC. In the interim, the Appellant also did make a request to add several more videos to be entered as additional evidence. IPR will be sending those over to the RU Manager as well.
- Mr. Rivera asked Director Severe if the Committee should have reviewed the case file at the meeting tonight and then sent the case back.
 - Director Severe stated that it is well within the CRC mandate to do that. However, given that IPR and CRC became aware last night that the file is incomplete, there was no point having all the involved parties here tonight when we know full well that the case will be sent back.
- Chair Malone made a comment to Director Severe that this is the second time that a piece of video was missing in the case file.
 - Director Severe explained that this is an IPR case that was turned into 7 different cases. One of the things Director Severe is trying to get IPR investigators do is to double and triple check the exhibits list to make sure everything that pertains to the investigation is listed and included.
- Ms. Falk asked Director Severe if she can submit questions when the case comes back to the CRC.
 - Director Severe said that CRC can submit questions until the Friday before the rescheduled appeal.
- Chair Malone asked Director Severe if the Appellant can play a video that is publicly available.
 - Per Director Severe, there is nothing in the protocol that prevents the Appellant from playing the video at a CRC Appeal Hearing. It is up to the Chair's discretion to make sure that it doesn't overwhelm the meeting and is not overly time consuming.
- Mr. Amberg, a Chief Deputy City Attorney, reminded the Committee that they have the option to go into executive session to discuss confidential information where community members are not present.
- Mr. Rivera asked Chair Malone if the missing video is the one that the RU Manager referenced in her analysis?

- Chair Malone responded that the missing video was not referenced in the RU Manager’s analysis. The missing video is one that Investigator AlQaisi referenced in his investigator’s report which was not sent to the RU Manager.

5:40 pm – 6:00 pm Director’s Report (IPR Director Constantin Severe)

- Chair Malone asked Director Severe why IPR was still referring to Service Improvement Opportunities after the recent code changes.
 - Director Severe explained that the code was changed, but before that can be implemented, IPR’s and the Bureau’s administrative rules need to be updated, and supervisors will need to be trained to do the investigations. Having supervisors do the findings will be the most critical change.

6:00 pm – 6:15 pm Chair’s Report (CRC Chair Kristin Malone)

- Chair Malone got married and returned to find out the news about PCCEP and a new police Chief. She requested that further information about these developments be provided to CRC at a future meeting, since CRC was not engaged in either process.

6:15 pm – 6:45 pm Discussion with City Attorney Mark Amberg

- Chair Malone made a comment to Mr. Amberg that the CRC as a group would like to change the current “supported by the evidence” standard to allow the CRC to affirm or challenge findings based on the preponderance of evidence. She would like to know if the Auditor’s Charter Changes might affect the way the Committee brings this issue to City Council.
 - Mr. Amberg said that the Charter Change doesn’t make any difference on how the way ordinances being presented to City Council. The Committee will need to go through the Auditor or any of the Council members to bring the issue in front of City Council for a vote.
- Chair Malone asked Mr. Amberg whether such a change would come into conflict with the DOJ settlement agreement.
 - Mr. Amberg noted that Paragraph 61 of the settlement agreement talks about the definition of supported by the evidence. The definition in the agreement is “whether a reasonable person can make the findings in light of the evidence, whether or not the reviewing body agrees with the findings.” There’s nothing in the agreement that talks about how the CRC shall use this standard of review.
- Director Severe stated that, from the Auditor’s perspective, any changes that are proposed would need to be shown to improve the accountability process. As things currently stand, everyone makes recommendations along the way, but the ultimate decision rests with the police Commissioner. Changing the CRC’s standard of review to preponderance of evidence will possibly add another fact finder into the process. Historically, the DOJ has called our process as “byzantine” and “cumbersome”, so the City would have trouble explaining to DOJ why a duplicative step was being inserted. The Auditor’s Office doesn’t take any position on what the CRC would like to do. CRC is independent from IPR and they have the ability to make their pitch to the elected officials, but if anyone asks the Auditor about her opinion, she would be honest about the needs for the City to follow the DOJ settlement agreement.
- Chair Malone made comment to Director Severe it seems like the City prefers the CRC to be inconsequential.
- Director Severe said that he would be completely in favor of a police commission where community members are able to make a decision on findings and discipline. IPR has gone through 5 code changes since 2010. One of the difficulties is that IPR has to deal with the world it exists. The fact that a police commissioner is the ultimate fact finder and decider on discipline constrains the rest of the process.
- Chair Malone said that, in a process that is essentially a number of bodies advising the police commissioner, it seems strange that no one asking CRC what they actually think.
- Mr. Schwartz said that he interpreted Mr. Amberg’s earlier responses to mean that it doesn’t matter what the Auditor thinks of CRC’s proposed changes since she is not a part of City Council.
 - Mr. Amberg said that Mr. Schwartz may have slightly overstated his position. The basic process of enacting an ordinance or code change is within the City Council’s purview. It is not within the Auditor’s

purview to make the code changes. The Auditor can make recommendations about proposed code changes. But, because IPR is under the jurisdiction of the Auditor, City Council will take seriously the Auditor's opinion about any code changes under her jurisdiction.

- Ms. Falk and Mr. Simon made a comment the current standard of review makes the system less efficient.
- Chair Malone asked Mr. Amberg if the change in the standard of review is affected or hindered by the PPA bargaining agreement.
 - Mr. Amberg said that he does not think the contract specifically addresses this issue. But it is probably bargain able because it arguably has an impact on officer discipline.
- Mr. Simon asked about how the new PCCEP would interact with other oversight bodies.
- Director Severe said that when COAB was around, several CRC members attended the COAB's meeting and kind of built a dialogue with COAB members to prevent duplication of work. Given that CRC has been around for a long time, PCCEP will definitely be interested in working with the CRC.
- Mr. Simon asked Chair Malone if she received any communication from the Mayor's Office regarding the PCCEP.
 - Chair Malone said that she did not. However, a couple months ago she received an assurance from the Mayor's Office that the CRC would be involved in any kind of police oversight conversation. She was disappointed that this promise was not kept.
- Mr. Rivera asked Director Severe if CRC can craft an allegation that may or may not relate to the original allegation without violating the settlement agreement.
 - Director Severe said that CRC being able to craft or add allegations was not part of the settlement agreement. The DOJ settlement agreement provides CRC the power to send the case back, and IA or IPR will be required to do at least one additional investigation. Although CRC is an appellate body, the CRC has from time to time requested that IPR or IA open new allegations. There have been times where we said yes and times we said no.
- Chair Malone made a comment it would be helpful for the Committee be aware of the legal pitfalls while trying to draft code changes.
- Mr. Amberg asked the Committee to put their questions in writing so that the City Attorney can look at them and then respond.
- Public comments:
 - Mr. Handelman made several comments:
 - At the City Council hearing on the PCCEP, Commissioner Fritz asked the City Attorney if they can remove paragraph 61 in the settlement agreement. The City Attorney responded that this could not immediately be done because the Union had helped negotiate this provision and it was part of the agreement. Mr. Handelman couldn't understand how that answer could have been correct since the initial paragraph was put in was before the PPA was a party to the agreement.
 - Mr. Handelman wondered how City Council's standard of review might be changed if CRC's standard were changed.
 - Mr. Handelman reminded CRC that this whole package will be going in front of Judge Simon in November so the Committee needs to act swiftly.
 - Ms. Aiona made a comment she was also at the City Council hearing and it seems like the Mayor is in favor of changing the standard of review.
- Director Severe reiterated that this is not something up to the Auditor. CRC has its own independent mandate. But for the Auditor to support something, it has to be better than the current system. If the CRC is serious about changing the standard of review, the Committee will need to reach out to the DOJ, PPA, and the Mayor's Office.
- Mr. Amberg made a comment that PPA is a party to the settlement agreement. To change any provision of the settlement agreement, then it would require the approval of PPA, the City, the DOJ and ultimately, Judge Simon.
- Ms. Falk asked Director Severe if this problem has ever come up since IPR proposed a lot of code changes?
 - Director Severe said that it had not. His goal as IPR Director is to live up to the provision of paragraph 128 of the settlement agreement which is conducting meaningful independent investigations. When this agreement started, IPR had never done an independent investigation. Last year IPR initiated 29 independent investigations. At the end of the day, the Director's obligation to the City of Portland is to make sure it has an effective oversight agency. Five years ago, IPR was not an effective oversight agency. The Director will let people decide whether if IPR is effective now. Through the efforts of the current

Auditor and IPR staff, the City has the ability to talk to the public if they have an issue, and if they need an outside agency to conduct an investigation, we have the ability to do that.

NACOLE Conference:

- Mr. Rivera will be attending this year's NACOLE Conference in Spokane, Washington. He will be providing the Committee with a summary.
- Director Severe made a comment that this is a very useful conference. The work of police accountability and civilian oversight can often feel very isolated. It is helpful to see the amount of work that different communities have engaged in around police oversight. This includes not just entities like IPR and CRC, but also grassroots organizations that are not connected to any government at all. It has been very interesting to see the growth in that. It is also interesting to see how police accountability has transitioned with the new administration. There will not be a ton of pattern-and-practice investigations by the DOJ's Civil Rights Division. Local jurisdictions and grassroots organizations will have to step up.
- Mr. Schwartz asked Director Severe about the ratio between city employees and volunteer civilians involved in police oversight among attendees at the conference?
 - Director Severe said that it varies. At the better conferences, it's really more volunteer board members than city staffers because most agencies are small, so they cannot afford to send a lot of staffers. Often, the really good NACOLE conferences embrace the city that they are in. For example, the conference in New Orleans featured a lot of people from the community who came and shared their stories about the incident on Danzinger Bridge where police officers shot at people.

PRB Update

- Chair Malone shared her experience about a recent PRB meeting. She felt frustrated that civilian members didn't get treated the same as other members. She noted that all of the presenters directed their presentations to the civilian members only. She also noted that peer members were asking questions of the training division that they clearly knew the answers to, apparently because they wanted to have certain principles explained repeatedly to civilian members. She also recalled that PPA President Turner made an aggressive speech directed to the civilian members. All of this was frustrating and seemed to suggest a belief that the bureau members would find the officers in policy, while the civilian members could not be rational and unbiased. It was also difficult to tolerate because PRB procedure does not allow members to explain their perspectives until the very end, in executive session.
- Mr. Rivera made a comment he had similar feeling when attending a PRB meeting several months ago.

6:45 pm—7:05 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 will send out the outreach list to all committee members as a reminder for people to contact those organizations.

- Mr. Simon made a suggestion to target various high school principals to see if they are interested in having Committee members come in and talk to a group of interested students.

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

- Mr. Schwartz volunteered to be in the Recurring Audit Workgroup.

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

- The Workgroup was waiting to hear back from the City Attorney or the Auditor about the charter changes. Ms. Ford will review the feedback from the Chief Deputy City Attorney at tonight's meeting and schedule a 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 met today and had a discussion about the latest PPB Crowd Control Directive.
- The Workgroup also reviewed complaints made to IPR from the January 20 protest.
- The Workgroup looked at the previous crowd control recommendations to see if they had been addressed in the new Directive.
- Mr. Luna asked Director Severe if most of the protest complaints came from the January 20 protest.
 - Director Severe stated that almost all of the cases from the January 20 protest are completely done. He stated that there were complaints stemming from almost any significant protest over the last year. The largest amount of complaints were from the City Hall protest and the February 20 protest.
- Mr. Luna asked if he can have access complaints from other protests. He asked whether it would be too general for the workgroup to request protest data from the past year?
 - Director Severe said that the workgroup should let KC and himself know. Combining the last six months of last year and first 6 months of this year, IPR had over 20 investigations. For almost all protests nowadays, there are so many videos with them that the file is really large. It would be for the Workgroup to sample a couple of investigations.

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

- Chair Malone joined the Use of Deadly Force Workgroup

7:05 pm —7:30 pm Public comment and wrap-up comments by CRC members

- Ms. Aiona made a comment she really appreciates Chair Malone sharing her experience of attending a PRB hearing. She also hopes the NACOLE recap will be on the agenda next month.
- Ms. Zebroski made a comment that the police are the ones who create violence at protests. Director Severe seems to represent the police point of view.
- Mr. Handelman made several comments:

- If PRB were opened to the public then people would not behave like that.
- Paragraph 41 of the settlement agreement should be taken out since it doesn't allow a person to appeal a use of deadly force case with the CRC.
- PCCEP is supposed to reach out to other oversight groups. There should be a quarterly meeting between all the groups.
- Copwatch went through comments they made in March before the Bureau finalized the Crowd Control Directive. Copwatch referenced 10 out of 12 CRC recommendations and the Bureau addressed 5. Copwatch made 80 recommendations and the Bureau addressed 6 of them.
- The new use of force directive has de-escalation on the first paragraph which was the only recommendation from the Use of Deadly Force Workgroup. The Bureau has a different idea of de-escalation (i.e., reducing the amount of force) than the workgroup (i.e., taking steps to avoid the need to use force).
- Workgroups should start meeting again.

6:45 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.

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.***