



# 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 5, 2018 (meetings are typically held the first Wednesday of each month)

Time: 5:00 pm \* *Please Note: agenda times are approximate*

Location: **Lovejoy Room, Portland City Hall**. 1221 SW 4<sup>th</sup> Ave. Portland, OR 97204

Present: Daniel Schwartz, Candace Avalos, Hillary Houck, Michael Luna, Julie Falk, Vadim Mozyrsky, Neil Simon, Albert Lee, Andrea Chiller, Jihane Nami, Constantin Severe, Eric Berry, Andrew Pease, Regina Hannon, Alex Zielinsky, Dan Handelman, Carol Cushman, Famela Fitzsimmons, Debbie Aiona, Christopher Kuttruff, Kenneth Kreuzer

## AGENDA

5:30 pm—5:35 pm Introductions and Welcome (CRC Chair Kristin Malone)  
(Approved of August 1, 2018 meeting minutes)

5:35 pm – 5:40 pm Director’s Report (IPR Director Constantin Severe)

5:40 pm – 5:45 pm Chair’s Report (CRC Chair Kristin Malone)

- Chair Malone met with Nicole Grant from the Mayor’s Office regarding the proposed changes to the standard of review. Ms. Grant made a suggestion to delay the changes to the standard of review for a year. The reasoning was that in a year, the DOJ settlement agreement would be over, and collective bargaining with the Portland Police Association will become. Chair Malone pushed back and reminded Ms. Grant about the history of this proposal.
- Chair Malone and Vice Chair Avalos will be meeting with Mayor Wheeler on September 17.

5:45 pm – 7:45 pm **Case File Review/ Appeal Hearing:** 2017-C-0264/ 2018-X-0004

Appellant alleged Officer A used inappropriate force when he pushed the Appellant to the ground during a protest. Appellant also alleged Officer A failed to provide direction to move back prior to their interaction.

- Director Severe provided a summary of the case:
  - IPR conducted the investigation on this case due to the nature of the case being a crowd control related use of force.
  - IPR received the complaint shortly after 9.10.17 protest organized by the Patriot Prayer. Case was assigned to Investigator Pease.
  - Investigator Pease interviewed the Appellant, two civilian witnesses and all involved officers.
  - The Appellant was a legal observer with the National Lawyer Guild tasked to observe the protest.
  - There were two different factions at this protest. The Police Bureau’s Rapid Response Team Charlie Squad was tasked to keep the opposing sides separated.
  - The Appellant alleged he was inappropriately pushed by Officer A and he didn’t have time to move prior to being pushed.
  - The incident happened on SW 3<sup>rd</sup> and Salmon. The involved officers were in the process of taking a person into custody. The Appellant was videotaping the arrest.
  - The Appellant was accidentally bumped by someone which caused him to step on a police bicycle. At that point, Officer A got up, pushed the Appellant and said “move back”

- The Appellant described in his original complaint with IPR that he received some injuries and had sought help for that.
- IPR was able to talk to one civilian witness, but not the other.
- In the case file, there are two videos related to the incident.
- Ms. Chiller asked Director Severe about the reference to some other videos in the investigative report.
  - We included the two best videos that best show the interaction. In this case, there aren't any factual dispute on what happened. Officer A did push the Appellant. The question is whether the push was within the Bureau's policy.
- Ms. Falk asked Director Severe if the CRC review the same videos as the RU Manager?
  - Yes. IPR is trying to be mindful on the number videos being duplicative. We've had issues in the past where the CRC did not see all the videos that were provided to the RU Manager. One of the corrective actions IPR took was making sure that the CRC sees whatever video that was provided to the RU Manager.
- Lt. Bacigalupi provided IA summary of the case:
  - IA received the case from IPR and sent it out to Lt. Clark who is the RU Manager of this case for recommended findings.
- Mr. Simon made a comment it was nice to see the incident from the 2 different angles.
- Ms. Falk made a comment she was curious to know what the Appellant thought about the completeness of the witnesses' interviews.
- Ms. Browning, the Appellant's APA made a comment the Appellant had concerns about the number of witnesses that got interviewed.
  
- Ms. Chiller asked the appellant how many witnesses did he provided to IPR?
  - I provided 4 names and phone numbers.
- Lead Investigator Berry made a comment he did the initial intake interview and the Appellant provided the names and contact info of 2 witnesses.
- Investigator Pease made a comment 4 witnesses sounds right, he wasn't able to interview one witness.
- Director Severe made a comment IPR can compel police officers to be interviewed, but don't general force civilians to be interviewed.
- Ms. Falk asked Director Severe about the timeline of the witnesses being interviewed. It seems that there were number of months between all the witness's interviews.
  - That is correct. There were other cases that IPR received that required the investigator to focus on.
- Mr. Schwartz said to Director Severe it seems that there's a need to interview the witnesses as soon as possible.
  - I don't disagree with that, but there were number of protest cases where we had to prioritize those cases. We only had 5 investigators during that time and there were cases involved PPB command staff that we had to prioritize.
- Mr. Schwartz asked Director Severe if IPR were properly staffed, the interviews would've happened sooner?
  - Yes. Since this case, City Council had provided us with additional staffing resources. For a good period of last year, we were underwater with crowd control related protest cases. For a good amount of 2017 IPR stopped conducting administrative investigation of any cases and referred them to Internal Affairs because we were so backed up.
- Mr. Kreuzer, the attorney for the Appellant noted that in his complaint form, the Appellant wrote the names and contact info of 4 witnesses. Also, during the interview with Lead Investigator Berry, the Appellant provided the names of 2 NLG observers. IPR could've easily contacted the NLG and interviews those witnesses.
- Ms. Falk and Ms. Chiller made a comment they were concerned that not all the witnesses were interviewed.
- Director Severe made a comment if this case would be sent back, IPR will try and interview all the witnesses. There's no guarantee that IPR can interview those witnesses.
- Ms. Falk made a comment in the past, the Committee had sent back a case where the witness was a homeless person who was very hard to track down. It seems like in this case, the witnesses can be easily contacted.
- Mr. Schwartz made a comment he is concerned that the witnesses might not remember the incident that happened a year ago. Given video evidence provided to the Committee, there's enough information to make a finding.

- Ms. Chiller made a comment she felt that the case is complete enough to the point where the Committee can move forward with the appeal hearing.
- Mr. Lee made a comment the video is not very clear.
- Director Severe commented that a significant factor in sending this case back for additional investigation goes to the issue of the witness availability. The Committee should inquire of the Appellant, what would he prefer? Is the Appellant able to guarantee that if the Committee sent this case back for additional investigation that his witnesses would make themselves available to be interviewed.
- Mr. Kreuzer made a comment the Appellant is more concerned about the number of videos that was provided to the Committee. The Appellant provided 3 videos.
- Public comments:
  - Mr. Handelman commented that if other witnesses should be interviewed to see if they heard the officer gave sufficient warning before pushing the Appellant. The Committee should've watched all the videos provided to IPR.
  - Unnamed community member made a comment the witnesses that IPR didn't interview are trained NLG legal observers and they do take detail notes of the incident.
  - Ms. Moneymaker made a comment in the past hearing, Chair Malone asked the Appellant whether they would prefer the case being sent back. That seem helpful.
- Mr. Schwartz asked Director Severe of how many witnesses contact info was provided to IPR?
  - My understand is 4. There were two NLG observers, but we only had their first name and no contact info.
- Acting Chair Avalos asked the Appellant if he would like the Committee to send the case back?
  - My concern is that whether the Committee seen all the videos that I've submitted. I submitted a total of 3 videos. I would be ok with moving forward with the appeal if the Committee had seen all of the videos.
- Mr. Simon asked Director Severe about what does the two other videos that the Appellant submitted show?
  - They both show the push. They are basically just snippets of the wider event.
- Ms. Chiller asked investigator Pease about Facebook livestream video that one of the witnesses referred to his interview.
  - I wasn't able to access that.
- Mr. Kreuzer made a comment regarding the three videos submitted to IPR, video 3 was the Facebook livestream video. Video 1 provided a better perspective on Officer's A facial expression and what he was looking at.
- Mr. Luna and Mr. Schwartz made a comment that they have enough information based on reading the case file.
- Mr. Schwartz made a motion to move forward with the appeal. This was seconded by Mr. Luna
  - Ms. Falk: NO
  - Mr. Luna: YES
  - Mr. Simon: YES
  - Acting Chair Avalos: NO
  - Mr. Schwartz: YES
  - Mr. Mozyrsky: YES
  - Ms. Chiller: NO
  - Mr. Lee: NO
  - Ms. Houck: NO
  - Ms. Nami: YES
- The Committee voted 5 to 5 on the motion to move the case forward to an appeal hearing. Motion failed.
- Mr. Lee made a motion to send the case back to IPR to interview the additional witnesses and videos. This was seconded by Ms. Falk:
  - Ms. Falk: YES, the additional witnesses should be interviewed.
  - Mr. Luna: NO, there's enough evidence in the record.
  - Mr. Simon: YES, looking forward to see if IPR able to find out more information on the witnesses
  - Acting Chair Avalos: YES
  - Mr. Schwartz: NO
  - Mr. Mozyrsky: NO, there's enough evidence in the record.
  - Ms. Chiller: YES, if the Appellant thinks the additional witnesses interviews could make a different

- Mr. Lee: YES
- Ms. Houck: YES
- Ms. Nami: NO, there's enough evidence in the record.
- The Committee voted 6 to 4 to send the case back to IPR for an additional investigation.
- Ms. Chiller said to Director Severe that one of the witnesses mentioned stated he had notes and his recollection would be refreshed if he looks at his note. If IPR is reaching out to additional witnesses anyways, then that person should be interviewed too.
  - Yes.
- Several Committee members made a comment to Director Severe that Officer B should be interviewed as well.
  - Yes.
- Ms. Chiller asked Director Severe if Officer A wrote a report.
  - Yes, he did.

7:45 pm – 8:00 pm New/Old CRC Business

- Chair Malone and Vice Chair Avalos met a while ago regarding status of all the workgroups. She will be sending out a survey to all Committee members to see how people feel about the survey.

8:00 pm—8:25 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 Candace Avalos

IPR staff: Irene Konev, Community Outreach Coordinator

- Mr. Simon, Mr. Lee and Chair Malone met with Commissioner Saltzman regarding the propose changes to the standard of review. The Commissioner brought up the DOJ settlement agreement as a reason to not go through with the changes now.
- Commissioner Saltzman would like to get some feedback from City Attorney's office regarding this issue.
- Mr. Simon would like to host a community forum after the November election.
- Ms. Falk and Ms. Houck are trying to reach out to Commissioner Eudaly's office but have not heard back from them.

### 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, Daniel Schwartz and Jeff Bissonnette

- Director Severe commented that the data that the workgroup using is outdated since there have been several procedural changes at IPR. Would be great if the workgroup starts over and look at recent cases.

- Ms. Falk asked Director Severe if the workgroup decided on its own what to look at or does it need direction from the whole Committee?
  - Traditionally, the workgroup looks at IPR's accountability process like dismissal cases, service complaints which is a predecessor for supervisory investigation complaints. At this point, the data that the workgroup collected and reviewed is outdated and the workgroup should start over.
- Ms. Chiller asked Director Severe if there is an area IPR would like the workgroup to review?
  - Dismissal/administrative closures cases. The workgroup doesn't need to look at the whole entire year worth of cases. They can just look at a quarter and then produce a report.

### 3. Policy and Protocol (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: Daniel Schwartz / Members: Julie Falk, Andrea Chiller and Kristin Malone

- Committee members are meeting with elected officials regarding the proposed changes.

### 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: Candace Avalos /Members: Andrea Chiller

- Vice Chair Avalos stated that the workgroup will schedule a meeting soon to reassert where the workgroup should go from here.
- Mr. Schwartz asked Director Severe out of the cases currently being investigated, how many of them related to crowd control?
  - IPR is currently investigating seven cases, three of those are crowd control.

### 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, Kristin Malone and James Young

### 8:25 pm —8:40 pm Public comment and wrap-up comments by CRC members

- Ms. Aiona commented she supports Director Severe suggestion for the Recurring Audit Workgroup start fresh. This meeting should also be open to the public.
- Ms. Hannon made a comment it is vital for the crowd control workgroup up and running again to look into PPB's crowd control tactics at protest.
- Ms. Cushman made several comments:
  - She expected to hear about the status of the case that the CRC challenged last month.
  - She enjoyed the workgroup's discussions tonight.
  - She urged the five Committee members who are not in a workgroup to join one.
- Director Severe made a comment the Bureau will provide a respond shortly.
- Mr. Handelman made several comments:
  - He is troubled by the Mayor's office asking the Committee to wait on the propose changes to the standard of review. Even if the PPB is in full compliance it would've taking another full year for the DOJ settlement agreement to be over. In terms of the labor bargaining, the City can start that process now.
  - The crowd control workgroup should hold a community forum based on recent use of force by the police.
  - IPR didn't include the CRC in the quarterly report.
  - IPR Director's report only mentioned 4 open cases instead of 7 like the Director mention. IPR should list the reasonings for cases that IPR is conducting independent investigations on.

- CRC parking lot issues should be posted online.
- IPR should present the annual report at City Council.
- The Committee should ask the Auditor for support regarding the standard of review changes.
- Mr. Simon made a comment that the Auditor will only meet with the committee in a public setting. She refers to Director Severe for her position regarding this issue.
- Director Severe made a comment the Auditor is not preparing to sign off on anything until these 2 requirements are met:
  - The changes will make the accountability process more efficient.
  - DOJ's approval.
- Ms. Falk made a suggestion the Policy and Protocols Workgroup should meet in October
- Mr. Simon made a comment the CRC's standard of review is not part of the settlement agreement, and the changes to this will not affect the settlement agreement.
- Ms. Chiller made a comment she can schedule a meeting with Commissioner Fish and discuss this issue. She will send out an email to the whole Committee to see if anyone would like to join her.

7:45 pm

Adjournment

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*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.*