



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 6, 2014 (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

Attendance: CRC: Jeff Bissonnette, David Green, David Denecke, Jean Tuller, Bridget Donegan, Roberto Rivera, Jim Young IPR: Constantin Severe, IA/PPB: Dave Famous, Matt Wagenknecht, Bob Day, City Attorney: Glenn Fullilove, Media: Denis Theriault, Dan Handelman, Eric Terrell, Joel Lopez(NLG), Debbie Aiona, Regina Hannon, Michael Meo, Ted & Kalei Luyben, Carol Landsman, Daniel Ward

Absent: Jamie Troy, Rodney Paris, Mae Wilson

AGENDA

5:30 pm—5:45 pm Introductions and Welcome (CRC Vice Chair David Denecke)
[Approved of July, 2014 Meeting Minutes](#)

5:45 pm—6:00 pm Director's Report (IPR Director Constantin Severe)

- [CRC application is currently available online](#)
- [Director Severe attended the Human Rights Commission and the CPRC meetings](#)
- [CRC/IPR Race Talks Forum happened yesterday. The next one will be on Tuesday August 12 at Kennedy School](#)
- [Met with international delegation from Italy to talk about the U.S justice system, and police accountability](#)
- [Police Bureau published new Police Review Board report. CRC members will start rotating on the PRB on a regular basis](#)
- [Slavic community reported good relationship with the Portland Police Bureau due to the work of the Slavic Advisory Council](#)
- [Community members reported diminishing faith in the City due to the recent Oregonian's articles regarding the settlement with Captain Kruger](#)
- [IPR caseload is currently at 22 which is a decrease over the last several weeks](#)
- [There are currently 3 open officers involved shooting cases](#)
- [Ms. Donegan asked how many CRC members IPR currently recruiting for?](#)
 - [IPR is currently looking for 5 positions and 3 of which are expiring terms of current CRC members](#)
- [Ms. Tuller asked about IPR involvement with Captain Kruger's settlement](#)
 - [No IPR was not involved in the settlement, this was the feedback Irene Konev received from the community](#)

6:00 pm—6:15 pm Chair's Report (CRC Vice Chair David Denecke)

- [Chair Paris was unable to attend the meeting](#)

6:30 pm—7:30 pm Appeal Hearing: Appeal 2013-C-0305/2014-X-0002
Case Summary

Appellant states that Officer A placed himself in a position where the use of force became necessary. Appellant also states that Officer A used inappropriate

force toward him.

- Captain Famous provided IA's outline of the investigation:
 - Research was conducted through the Portland Police Data System in attempt to locate additional contact information. This was proven unsuccessful
 - IA managed to interview the PPI officers and other involved witnesses
- Acting Captain Wagenknecht provided explanation on the findings of the two allegations:
 - Regarding allegation 2, preponderance of evidence show that the Appellant was not punched or kneed in the back by Officer A
 - Regarding allegation 3, Officer A was justified to use pepper spray based on the Directive 1010.20. Officer A stated that he used pepper spray twice against the Appellant because he saw the Appellant had pushed another Officer and wanted to the Appellant to back off. Officer A then deployed pepper spray against the female because he thought she was trying to "unarrest" the Appellant
- Director Severe mentioned that IPR made multiple attempts to locate the Appellant between the case file review and tonight's hearing:
 - The Appellant came into IPR office On July 9 and was informed about the appeal hearing date and the APA and NLG options. He requested to have both APA and NLG assisting in his appeal.
 - IPR staff David Nguyen located the Appellant on the morning of July 15 and he was given his APA contact info. He stated that he would try and return at 1:30 pm to meet with his APA who was at IPR office to review the case file, but he failed to show up to meet with the APA
 - David Nguyen and Eric Nomura also went out on numerous occasions in attempt to locate the Appellant but both were unable to make contact
- Mr. Bissonnette questions:
 - Does the fact that Officer A's perception that the Appellant acted aggressively toward other officers while in reality it wasn't exactly how Officer A perceived it. Does it make any difference when it comes to command staff decision on the findings?
 - A/C Captain Wagenknecht: Based on the totality of the circumstances, there were a lot of yelling and the crowd being upset and pushing against the officers justified the use of pepper spray
 - Regarding to the use of pepper spray. The Directive 1040.00 states that the use of pepper spray for the distance of more than 4 feet but based on the video and officer's description it was between 3 and 4 feet. Does that played a role in the finding's decision?
 - A/C Captain Wagenknecht: Looking at the video, the distance between the officer and the Appellant is reasonable for the Officer to use pepper spray
 - Looking at the totality of the situation, Mr. Bissonnette having trouble separating the between the first allegation and the third allegation. He was wondering what command staff's thoughts are on this issue.
 - A/C Captain Wagenknecht: We have to separate the two incidents. Just because the Appellant did not like what Officer A did to the dog doesn't give him the right to push or assault
 - What Officer A perceived didn't happened. The appellant didn't assault the Officer B. If the situation had been perceived correctly, does pushing the hand away enough to precipitate pepper spray?
 - A/C Captain Wagenknecht: Whether if it was a push or an assault, or an attempt to break the line and get to Officer A. it is a justified use of pepper spray to stop that from happening
- Ms. Tuller asked what is an "arm bar"?:
 - A/C Captain Wagenknecht: When you twisting the arms and lock elbows to force the person down onto the floor
- Mr. Young question asked how was it a justified act for the officer to pepper spray Appellant's girlfriend since she stated in her interview that she did not receive any verbal warnings before being sprayed? In the video she was just trying to pull the Appellant away
 - A/C Captain Wagenknecht: Officer A justified that in his interview. He was trying to arrest the Appellant and he thought the girlfriend interfered with the arrest. It is difficult to communicate in a situation like that to communicate to the girlfriend that the Appellant is being arrested

- Mr. Green would like to know A/C Wagenknecht's thought on how Officer A could've given verbal warning to the Appellant's girlfriend
 - A/C Captain Wagenknecht: It is kind of speculation at this point since the Officer is not here
- Mr. Rivera's questions:
 - Why didn't senior officer ask officer A to back out and leave the scene after he was bitten by the dog?
 - A/C Captain Wagenknecht: The other officers were probably too busy trying to contain the backlash from the grabbing of the dog
 - Can a person be sent to jail for not providing ID?
 - A/C Captain Wagenknecht: An Officer can make an arrest to identify someone
- Mr. Denecke's questions:
 - Regarding Directive 1040.00 regarding pepper spray what is the Officer required to do before deploying pepper spray? Should there have been a verbal warning?
 - A/C Captain Wagenknecht: What it said in the Directive is given a verbal warning when "practical". When the Officer is able to have an opportunity to give a verbal warning he/she should give out the warning. In this particular case, when the Officer started using the pepper spray, the pushing part had already happened
 - In this case, how does IA evaluate how an officer use the least force as necessary?
 - A/C Captain Wagenknecht: As long as the Officer can demonstrate by that he constantly evaluating the situation and the resources available to him and what would work and what wouldn't work for him. Pepper spray in this situation is much more acceptable than using a baton
 - Was it appropriate when Officer A threatened to arrest the Appellant if he didn't provide an ID?
 - A/C Captain Wagenknecht: The Officer can reason with a person by offering the person an option. They can either show the ID or go to jail to get fingerprinted and be identified that way.
 - Mr. Rivera asked if anyone was cited for violating sidewalk ordinance.
 - A/C Captain Wagenknecht: No but two people were arrested
- Ms. Donegan asked why did command staff come to the decision of exonerated instead of Unproven in regarding to allegation 2
 - A/C Captain Wagenknecht: Based on the evidence, it is most likely did not occur
- Several members of the Committee were troubled that Officer A deployed pepper spray twice toward the Appellant and the girlfriend. The Officer could've given verbal warnings for the Appellant or the girlfriend to back away
 - A/C Captain Wagenknecht: Pepper spray is a good deterrent to stop people from doing whatever that they are doing – whether if they are trying to break into a line of Police Officers or "unarrest" someone
- Commander Day made several comments:
 - He does not support intimidation by the Officer
 - He would like the officers to inform people the possibility that they could be taken to jail
 - He agreed with Officer A's action of using the pepper spray based on the circumstance of the situation
 - He agreed that this situation could've been handled better, which is why they found sustained for allegation one
- Public comments:
 - Mr. Lopez from the National Lawyers Guild explained that he chose not to not speak on behalf of the Appellant since they were not able to meet up. He was only speaking on his own behalf.
 - Based on the video, the appellant did say that his girlfriend and another person were also pepper sprayed
 - The use of force directive, under policy 4.8 and 4.9, said that Police values confrontation with less force
 - Under the handling of animal Directive said that police should defer to Multnomah County animals control and let them secure the animal
 - Ms. Landsman concerned that the Officer thinks pepper spray is the least violent tool. In fact, de-escalation through talking is the least violent tool. She thought it was disturbing when Officer A thought the girlfriend was trying to "unarrest" the Appellant when Officer A had not begun the process of arresting him

- Mr. Meo This is a clear case of police officer's brutality. He asked the Committee to challenge the findings
- Ms. Hannon this whole situation shows how the homeless are being treated here in Portland. She was also very concerned that Police Officer can threaten people to show their IDs or go to jail
- Mr. Handelman with Portland Copwatch made several comments:
 - Is it worth the confrontation with a group of people who are just trying to sleep underneath a bridge?
 - It would be a good way to de-escalate the situation if the sergeant in charge told Officer A to step out and leave the scene
- City Attorney, Glenn Fullilove advised the committee to look at each allegation separately. Whether the finding is supported by the evidence and a reasonable person would come to the same decision
- Director Severe advised the Committee to look at both IA and IPR materials related to the case and see whether the accumulated evidence supported the RU findings
- Mr. Young complimented IA for correcting the allegation so that it applies to other people who were affected by the pepper spray. He thought the girlfriend did the right thing by pulling the Appellant back. He would like to challenge allegation 3 for the reason that there's no fact to support the Officer decision to spray the girlfriend. A reasonable person cannot justify the girlfriend being sprayed. The finding should be changed from Exonerated to Sustained
- Mr. Bissonnette agreed with Mr. Young that the girlfriend was just trying to pull the Appellant away and stop him from being aggressive toward the Officer. If the Allegation is more specific toward the Appellant, he would be more inclined to agree with the finding, but in this case it applied to all of the people affected by the pepper spray
- Mr. Rivera agreed with the Bureau's finding on allegation 2 and struggled with allegation 3 finding of exonerated since the Office did not need to use the pepper spray against the Appellant and his girlfriend
- Ms. Donegan agreed with Mr. Bissonnette and Mr. Young on how Officer A shouldn't pepper sprayed the girlfriend
- Mr. Denecke also agreed with everyone else, but he proposed changing the finding to unproven. He saw Officer A put his knee on the back of the Appellant but it wasn't a knee strike
- Mr. Green agreed with the finding on allegation 2 leaning toward finding the sustained for the reason being the Officer used the pepper spray against the girlfriend. The Officer should've taken some time and assess the situation better
- Ms. Tuller agreed with the Bureau finding on allegation 2 and she agreed with Mr. Young's comments on allegation 3
- Mr. Bissonnette made the motion on allegation 2 to **Affirm** the finding. This was seconded by Mr. Young
 - Mr. Bissonnette: Yes, no evidence to contrary otherwise
 - Ms. Donegan: Yes, no evidence to contrary otherwise
 - Mr. Denecke: Yes, no evidence to contrary otherwise
 - Mr. Green: Yes, no evidence to contrary otherwise
 - Mr. Young: Yes, no evidence to contrary otherwise
 - Ms. Tuller: Yes, no evidence to contrary otherwise
 - Mr. Rivera: Yes, no evidence to contrary otherwise
- Mr. Young made a motion to challenge allegation 3, Officer A used inappropriate force when deploying pepper spray from **Exonerated** to **Sustained**. This was seconded by Mr. Bissonnette
 - Mr. Bissonnette: Yes Officer A shouldn't pepper spray the Appellant girlfriend
 - Ms. Donegan: Yes a reasonable person would find it sustained under the circumstances
 - Mr. Denecke: No sustained is not a proper finding
 - Mr. Green: Yes, a reasonable person would find it sustained
 - Mr. Young: Yes, The use of pepper spray on the girlfriend is not justify based on the evidence provided
 - Ms. Tuller: Yes, a reasonable person would find it sustained
 - Mr. Rivera: Yes, it was unreasonable to pepper spray the girlfriend

- Captain Famous asked the CRC to provide more explanation on why they decided to challenge allegation 3 so it would better assist the Chief with his decision making
- Director Severe will draft a letter to the Chief and will circulate the letter to CRC members

7:30 pm—7:35 pm Break

7:35 pm—7:50 pm New Business

- Captain Famous informed the Committee that the revision of the juvenile custody directive is near its completion. The revision is currently under review by the City Attorney and the Chief's office
- The Bureau is separating Juvenile components into a separate section. Juvenile custody directive will draw distinctions between 12 years or older and 12 or younger. Taking custody of a juvenile should be based on a rare occurrence where the juvenile posing a substantial threat
- Other layers of accountabilities including notifying a supervisor and consultation with Multnomah County
- Currently, there are 30 directives under review. New directive up for revision will be posted on the first day of the month and end at the night of the 30th
- The Bureau is in the process of improving their website to better support the new Directives' project. Public can sign up to be notified as soon as a new directive is up for revision under the "Universal Review" tab
- There are also some discussions on reviewing the Bureau's finding languages to add new language like "unfounded"

7:50 pm—8:05 pm Old Business

8:05 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. 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: Rodney Paris / Members: David Denecke and Jamie Troy

IPR Staff: Derek Reinke, Senior Management Analyst

2. Outreach Workgroup (5 min.)

MISSION STATEMENT: The Outreach Workgroup, in coordination with the IPR Outreach Coordinator, identifies and continually conducts consistent outreach to neighborhood associations, community organizations, and business groups to make the general public aware of the existence of the Citizen Review Committee and its role in police oversight.

Members: Jeff Bissonnette, Jamie Troy, Mae Wilson, and Bridget Donegan

IPR staff: Irene Konev, Community Outreach Coordinator

- Met on July 21 to finalize to get things ready for the Race Talks Forums

- Race Talks at Jefferson had to be moved to a different location
- 5 CRC members showed up along with 15-16 community members
- Next Race Talks Forum is next Tuesday at McMenamins Kennedy School

3. Recruitment, Retention and Promotion (Portland Police Bureau) (5 min.)

MISSION STATEMENT: The Recruitment, Retention and Promotion Workgroup examines existing policies and practices of the Portland Police Bureau in recruiting, retaining and promoting its members, and formulates policy recommendations where needed.

Chair: Vacant/ Members: Teresa Baldwin, and James Young

IPR staff: Anika Bent-Albert, Assistant Director

4. 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: Jeff Bissonnette / Members: Teresa Baldwin, Jean Tuller, and Rodney Paris

IPR staff: Derek Reinke, Senior Management Analyst

- Mr. Bissonnette will bring back a report on the Workgroup in September

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: James Young, and David Green

IPR Staff: Derek Reinke, Senior Management Analyst

- Met with new Director of OHSU public safety yesterday who shared with the Workgroup the department's new policy on use of force
- OHSU will send Mr. Reinke their new Use of Force Directives and he will distribute them to the rest of the Workgroup members via email

8:25 pm—8:45 pm Public comment and wrap-up comments by CRC members

- Mr. Handelman's comments:
 - Nobody really discussed witness A to E from Portland Patrol
 - Last night Race Talks format was not very well done. The videos had nothing to do with the questions
 - No mention of the percentage of recruitment of people of color at the Race Talks
 - If would be great if the CRC member sitting on the PRB give a brief report on what it is like sitting on the board
- Ms. Aiona would like to thank Captain Famous for making it easier for people to give feedbacks and for considering making change to the finding

9:00 pm

Adjournment

A request for an interpreter or assisted listening device for the hearing impaired or for other accommodations for persons with disabilities should be made 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/auditor/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.***