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 3, 2020 (meetings are typically held the first Wednesday of each month)

Time: 4:00 pm * *Please Note: agenda times are approximate*

Location: Virtual Meeting

Present: Candace Avalos, Jihane Nami, Sylvan Fraser, Vadim Mozyrsky, Julie Falk, Taylor Snell, Shaina Pomerantz, Art Nakamura, Cliff Bacigalupi, Ross Caldwell, Dan Handelman, Debbie Aiona, Rochelle Silver, Yume Delegato,

AGENDA

5:30 pm—5:35 pm Introductions and Welcome (CRC Chair Candace Avalos)
(Approved of August 5, 2020 meeting minutes)

5:35 pm—5:40 pm Director's Report (IPR Director Ross Caldwell)

5:40 pm—5:45 pm Chair's Report (CRC Chair Candace Avalos)

- Chair Avalos and Vice Chair Mozyrsky has been attending multiple meetings:
  - Council offices Chief of staff meeting
  - TAC, PCCEP, Mayor meeting
- Chair Avalos would like to have a meeting with IPR Director and the Auditor

5:45 pm—6:45 pm **Appeal Hearing 2019-C-0128/ 2020-X-0001**
Appellant alleged an unidentified Officer used inappropriate force when taking the Appellant into custody

- Chair Avalos asked Mr. Nguyen if the Appellant had an APA or submitted a statement?
  - No, the Appellant was provided that option, but he did not request an APA or submitted a statement
- Deputy Director Walton-Macaulay provided a summary of the case:
  - The case was sent back to IA for an additional investigation.
  - IA requested additional records from OHSU
  - IA also did an additional interview with the complainant which told the investigator his shoulder was injured during the arrest
  - There were medical records from both AMR, on scene CERT medic, and from the jail.
- Chair Avalos asked Deputy Director Walton-Macaulay in general what would happen if the officer is unidentified
  - We are required to make findings even if we are unable to identify an officer. In this case we were unable to find an officer who put the handcuff on the complainant. We would make a finding and then recommended discipline
- Chair Avalos, Mx. Fraser, Ms. Falk about multiple things that were missing from the case file. One is the X-ray back in 2017 that was referenced multiple times in the case file. The medical record from a clinic nurse noted that the 2017 X ray shows some injuries. Couple other things that are not in the file were his 2016 orthopedics' medical records, and the records of his medical evaluation by the jail intake nurse
- Deputy Director Walton-Macaulay made a comment she understands the Committee's challenges of evaluating the case with those missing information. During the medical record request, these never showed up
- Mr. Snell asked The Committee if they were to challenge the finding, would the Committee need to provide an alternate finding as well?
- Ms. Falk made a comment yes, the Committee will need to recommend a finding

- Mr. Snell made a comment the appellant's statement saying he was injured, and his complaint wasn't controverted by any of the officers. The finding should be Not Sustained
- Director Caldwell made a comment IA looked into the medical records when the case was sent back for an additional investigation
- Captain Bacigalupi made a comment IA investigator Rick Smith submitted a medical record request with consent from the Appellant, and received some records from OHSU
- Ms. Nami reminded everyone to not mention the Appellant's name
- Commander Nakamura made some comments regarding to the case:
    - SERT was called out to this incident. After every incident, a Sergeant was required to write an after-action report and debrief all the involved officers
    - Officers launched CS gas into the shed
    - Suspect walked out of the shed and surrendered. Officers took him into custody without a use of force. An after-action report was written
    - Portland Fire was on scene to assess the suspect for injuries. There were no injuries. A SERT team medic, AMR medic, and the jail nurse also assessed the suspect and documented no injuries.
- Chair Avalos asked Commander Nakamura if the CS gas being deployed was part of the use of force? Was its part of the arrest?
    - Yes, it was document in the after-action report. The tear gas was used to force the Appellant out of the shed
- Chair Avalos asked Commander Nakamura regarding the mentioning of the Appellant was really high during one of the interviews. She is wondering if the medic would document that? Is there a requirement to document that?
    - It only helps when the person is over intoxicated and unable to care for them self. The Detective mentioned the Appellant was high because he was trying to explain the Appellant's state of mind at the time and why he committed the crimes'
- Ms. Falk, and Chair Avalos asked Commander Nakamura they would like to know the rationale finding of Unfounded versus Not Sustained
    - Based on the documentations of all the people who were presented at the incident including 3 medical staff
- Mx. Fraser asked Commander Nakamura how the additional investigation solidified the Unfounded findings
    - It provided no new information or report. The investigator re-interviewed the Appellant. The statement from the Appellant was exactly the same
- Ms. Nami asked Commander Nakamura regarding to the Multnomah county jail classification report referencing to "dorm 15" in the jail report, was it a medical dorm?
    - I do not work in the jail, so I don't know their dormitory
- Chair Avalos asked Commander Nakamura about the reference to the Appellant having a sling in the report. She is wondering if someone who is really high can feel the pain from injuries
    - The report stated when the Appellant arrived at the jail, the medical staff put his arm in a sling and housed him in a medical unit
- Mx. Fraser made a comment to Commander Nakamura the Appellant stated during his interview at booking he complaint of a shoulder pain with the jail nurse and a sling was put on. It was clear that the sling being put on during the booking process. Was there any documentation from the jail of the Appellant's medical evaluation? In the report it clearly showed that the Appellant was cleared by medical
    - If there was an injury the jail would've notified us. The jail put the Appellant in medical unit could be because he claimed that he is diabetic.
- Ms. Falk asked Commander Nakamura of the spectrum of the injuries?
    - I've personally been called by the jail of a suspect having an abrasion. It is the jail policy to notify us and we would come and take the suspect to get medical treatment
- Chair Avalos asked Commander Nakamura where would they take the person to?
    - We usually transport them to Portland Adventist. Depend on the injuries, we can also have fire and medical meet us in front
- Mx. Fraser made a comment to Commander Nakamura that he cannot conclude policy was followed when there's no evident to back it up.

    - I agree with you 100% on the medical records at the jail had they conducted a full body exam then there wouldn't issue. I just made my finding based on what was written in the report. I assume the officers and sergeant were followed policy
- Chair Avalos. And Mx Fraser made a comment they found Commander's Nakamura reasonings troubling because he assumed that the officers followed policy since no use of force report was done
- Commander Nakamura made a comment the on-scene fire paramedic did a full body exam of the Appellant
- Chair Avalos, Mr. Snell, and, Mx. Fraser made a comment they are leaning toward the finding of Not Sustained since no one seems to know who arrested the Appellant. No description from the officers on what happened. There also seems to be missing evidence
- Ms. Nami made a comment she felt a reasonable person can come to the conclusion of Unfounded based on looking at the evidence being presented in the case
- Commander Nakamura made a comment 17 officers 2 sergeants who witnessed the custody all said there was no use of force. AMR and a fire medic on scene also exam the Appellant. Also, the complaint came in 2 years after the incident
- Mr. Mozyrsky made comment he doesn't see any evidence to corroborate the Appellant's claim of force was used on him. The only thing he see in the case file is the MRI showing ***osteoporosis***, but it could've happened after the Appellant was taking into custody
- Ms. Falk made a comment the argument is not whether it happened, but there's not enough evidence to say that it was Unfounded
- Mx. Fraser made a comment that it is not that there's not enough evidence it just that those medical records referenced in the file are not available. There are several medical records missing that were referenced in the case file.
- Ms. Nami made a comment the only medical record of the incident when the Appellant got arrested was from the fire medic any other medical references in the file could be from injuries unrelated to the arrest
- Ms. Snell made a comment based on officers' interviews, and the Appellant account of what happened, it seems like if the officers were to follow policy, two of them would've arrested the Appellant and each holding his arm. The Appellant in his interview, he was talking about the Officer who was holding his right arm. He would be more persuasive to lean toward Unfounded if one officer would admit they are the person who arrested the Appellant
- Mx. Fraser asked Deputy Director Walton-Macaulay if the tort claim the Appellant mentioned came up with any additional information?
    - The tort claim was filed with the City and that's why we opened a use of force investigation
- Public comments:
    - Mr. Handelman made a comment he agreed at worst this should be Not Sustained. It is not reasonable to say that without all the possible evidence— including who handcuffed the appellant and how— that you can say unfounded
    - Ms. Christensen urged the committee to vote for Not Sustained. She agreed with Mx. Fraser's argument
    - Marcelle made a comment she had a hard time trusting the investigation when the officer presenting the findings is clearly biased and arguing in favor of the officers involved.
    - Suzanne made a comment it doesn't sounds like the system isn't setup for an appeal to be successful
    - Ms. Silver made a comment the RU manager is not being a reasonable person as he said he ASSUMES the officers follow policy. The silence of 17 police officers doesn't make anything true
    - Mr. Kuttruff asked who determine if the officer cannot be identify
        - Captain Bacigalupi made a comment the investigator in charge of the case
- Ms. Falk made a motion to challenge the finding of Unfounded and recommending Not Sustained. This was seconded by Mr. Snell:
    - Mr. Mozyrsky: NO, there's no evidence to corroborate the Appellant's statement
    - Mr. Snell: YES, there's not enough evidence to find the Appellant's statement was Unfounded
    - Chair Avalos: YES
    - Ms. Nami: NO, the after-action report did describe what happened
    - Ms. Falk: YES, this is a situation where there's some evidence, but wasn't completely clear what happened.
    - Mx. Fraser: YES, there were multiple missing evidences
- Committee voted 4-2 to challenge the finding of Unfounded and recommend Not Sustained

- The meeting ended at 8 PM due to a loss of a quorum. Ms. Falk and Mr. Mozyrsky had to leave

6:45 pm–7:00 pm New/Old Business

7:30 pm—7:45 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 & Policy 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: Vadim Mozyrsky, Shaina Pomerantz, and Julie Falk
IPR staff: Irene Konev, Community Outreach Coordinator

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: Hilary Houck, and Jihane Nami

3. 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: Andy Chiller

4. Use of Force Workgroup (5 min.)
MISSION STATEMENT: The Use of Force Workgroup examines Portland Police Bureau use of force policies, directives, training and implementation in order to recommend and support any needed change in Portland Police Bureau use of force.
Chair: / Members: Andy Chiller, and Sylvan Fraser

7:45 pm—8:00 pm Public comment and wrap-up comments by CRC members

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.*