



# 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, October 7, 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: Vadim Mozyrsky, Andy Chiller, Jihane Nami, Shaina Pomerantz, Taylor Snell, Julie Falk, Ross Caldwell, Dana Walton-Macaulay, Christopher Gjovik, Jami Resch, TJ Browning, Dan Handelman, Debbie Aiona,

## AGENDA

5:30 pm—5:35 pm Introductions and Welcome (CRC Acting Chair Vadim Mozyrsky)

(Approved of September 2, 2020 meeting minutes)

- Ms. Pomerantz suggested to approve the minutes from last month. She was present at the last meeting but wasn't included in the list of present members. She is also a member of the Outreach Workgroup.
- Auditor new rules, chat was not being used for the public during the meeting, chat option only for hosts-cohosts/panelists. Panelists introduced themselves, which included IPR staff City Attorney, PPB members, CRC and the APA member TJ Browning. Vice-chair explained that chat will be disabled, and public will raise their hands during the meeting to be called on to speak.
- IPR director announced that if anyone needed special accommodation, this would be honored.
- Rules were read for the meeting, asking for verbal comments, during the appeal chat-box will be closed, during public comment raised hand function will be used.
- It was announced that the meeting was recorded.

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

- Staff training on Result Based Accountability training for all Auditor staff.
- Update on OIR Report

○ 5:40 pm—5:45 pm Chair's Report (CRC Acting Chair Vadim Mozyrsky)

- Current state of CRC is to have everyone attend CRC meetings to keep quorum; waiting to see what happens in November. Ms. Avalos's position is to move forward with the CRC recruitment no matter the outcome of the November ballot measure.
- Mr. Mozyrsky and Ms. Avalos met with Mayor on September 21<sup>st</sup>. Discussed recent ban on CS gas, and 19 Point Plan – points are in process.
- Ms. Pomerantz had a question to share with the Mayor about reports of ballot drop off box and how to report people with firearms and how this could be addressed in Portland.
- Mr. Mozyrsky, Ms. Avalos met TAC, PCCEP and chairs of organizations to see how to move things forward, some items are not in compliance with DOJ Settlement Agreement.
- Mr. Mozyrsky talked about OIR report and fall budget bump.
- No updates on meetings with IPR, Auditor and other elected officials
- Ms. Avalos will send out doodle poll to talk about new changes to police accountability.

Director Caldwell:

- Director Caldwell talked about high workload on investigations and getting videos of protests. Protests ongoing and cases continue to raise. Not able to meet timelines as resources were not supplied.
- He also talked about IPR being down staff positions and that Irene and David will help with CRC.
- Director addressed the CRC recruitment and that we will wait to see how the ballot measure goes, how the enabling resolutions goes forward.
- Chief Lavelle accepted CRC recommendations from the last appeal – person who was in custody case.
- CRC asked if there was a hiring freeze and Caldwell said the freeze was over, people overburdened.
- Mr. Mozyrsky asked if how long the process will take to move into the next phase after ballot measure, police oversight and Caldwell said it was hard to tell, but it has been talked about publicly about 18 to 24 months, but he does not know more.

5:45 pm—7:45 pm **Case File Review/Appeal Hearing 2019-C-0215/ 2020-X-0002**

Appellant made multiple allegations including: Commander A failed to follow appropriate protocols when overseeing investigations in Internal Affairs, Commander A engaged in discrimination and retaliation when he did not provide equitable treatment of complaints involving the Appellant, Captain B failed to follow appropriate procedures by failing to provide timely disposition notification for a case and Captain B engaged in discrimination and retaliation when he did not provide equitable treatment of complaints involving the Appellant

- Mr. Mozyrsky summarized the case:
  - There are four allegations and four findings:
  - Allegation One - Commander A failed to follow appropriate protocols when overseeing investigations under Internal Affairs (IA) Directive 330.00 IA complaint intake and processing. The finding was exonerated.
  - Allegation Two – Commander A engaged in discrimination and retaliation when he did not provide equitable treatment of complaints involving Liani Reyna under Conduct Directive 310.20 Discrimination, Harassment and Retaliation prohibited as well as HRAR 2.02 Prohibition Against Workplace Harassment Discrimination and Retaliation. The finding was unfounded.
  - Allegation Three – Commander B failed to follow procedures by failing to provide timely disposition notification for complaint 2017-B- 0023 falls under Procedure Directive 330.00 IA Complaint Intake and Processing. The finding was exonerated.
  - Allegation Four – Captain B engaged in discrimination and retaliation when he did not provide equitable treatment of complaints involving Liani Reyna under Conduct Directive 310.20 Discrimination Harassment and Retaliation Prohibited as well as HRAR 2.02 Prohibition Against Workplace Harassment Discrimination and Retaliation. Finding was unfounded.
- Mr. Mozyrsky asked if any CRC member has not reviewed the file. Ms. Pomerantz said she did not review the file. She was advised she could not participate in this case file; welcomed to observe only and ask questions but abstain from voting.
- Director Caldwell gave case file summary:
  - Amanda Lamb reviewed the cases but could not attend this meeting, she sends her apologies.
  - Appellant Ms. Reyna is retired PPB sergeant and. In a complaint, dated Aug 20, 2019, she alleged misconduct regarding case handling decisions, regarding procedures and protocols undertaken by Commander A and Captain B who both worked in PPB’s IA Unit. The appellant characterized Commander A and Captain B’s actions as failing to follow proper procedures. Additionally, cartelized that procedural case handling as a demonstration of discrimination and retaliation against her. The 7, 9, 2019 complaint document that the appellant sent in references previous IA cases that involved the appellant as either the involved member or the complainant. This includes at least five separate cases from 2016, 2017 and 2018. These cases all involve Officer C, that officer is the appellants’ former spouse. The appellant alleges that the cases for which Office

C was the complaining witness, she is alleging that those cases receive preferential treatment from IA compared to cases for which the appellant was the complaining witness.

- All the above cases were reviewed as background information for this investigation and were provided as reference material for CRC members.
- Following an intake investigation, this matter was assigned for full administrative investigation at Independent Police Review (IPR) and it was only regarding the allegations against the Commander and Captain at IA. In that complaint from July 9<sup>th</sup> 2019 appellant also made several accusations regarding Officer C and Officer D. These accusations were either found to not represent violations of directives or found to have been previously investigated. Because of that no additional allegations against officers C or Officer D were incorporated into this investigation.
- IPR Investigator assigned to this case reviewed reports and other documents from a list of related cases as well as internal PPB emails and interviewed the appellant and involved members.
- One other note, the applicable version of the Directive 330 which has to do with IA and the complaint intake process, for this investigation is the third revision – that was the one effective at the time, and it has changed since then.

Mr. Mozyrsky asked if IA would like to make comments about the case file.

Lt. Gjovik responded, not at this time.

- Ms. Chiller had a couple of questions. In the interview with the appellant, there was a question about directives that applied to the conduct and timing of the change of the directive, the appellant made reference not only to the Directive 330.030 and that the DOJ Settlement Agreement mandated certain notifications to individuals involved in the complaint and that Ms. Chiller never saw that followed up on after her interview. Did anybody check into that section of the Settlement Agreement she cited and if that provided any other additional notification requirements that would have supported her contention that she should have received notification; She talked about it and it is found on pg. 6 line 262.
- This question was asked of IA and they deferred the question to IPR as it was an IPR investigation.
- Lt. Gjovik replied that it as an IPR investigation.
- Director Caldwell: It was investigated and that was the directive that was in place at the time, spells out in the investigation file how that was to be applied. It was researched by IPR investigator.
- Assistant Chief Resch: It was mentioned in the Settlement Agreement at the current version Directive 330 which when modified references the current version. If it's reference in the Settlement Agreement, it would have been that past version not the current version.
- Director Caldwell: DOJ Settlement Agreement said abide by that directive, and that directive changed over time.
- Ms. Chiller: Appellant's allegations was substance of the investigation that she made a report of behavior by Officer C one of the aspects of that report was possible perjury in a court proceeding and in the case file the commanders decision was not to pursue investigation of that possible false statement or untruthfulness of officer C who was not going to be investigated and that in this investigation they were not going to examine that decision. The question is why not? Were procedures followed, if investigated the decision to follow one line of investigation but not the other seems to be relevant.
- Director Caldwell: There are several previous cases that were part of this case and subsequent cases, not available to reference to this case. Part if this is the complaint came in July 9<sup>th</sup> 2019, dealing with things during this time, it becomes a labyrinth, they relate to things that happened back in time and cases since, cases investigated in 2019 and 2020, that reference things that happened in 2016 and 207. There have been significant investigations dealing with truthfulness allegations by Officer C, and there have been criminal

investigation dealing with accusations of perjury regarding Officer C. It's difficult to talk about without getting into some of those other cases, but there has been much investigation has taken place about that subject. Some have been sent out to other law enforcement agencies and the DA offices in other counties to review. A lot of work the CRC are not seeing.

- Ms. Chiller wondered if the complaint was followed up on by the Commander about possible directive violation, the concern was that the appellant would not have avenue to challenge that decision. One component was investigated, one was decided not to be investigated. That decisions at that point would be relevant as to whether the Commander followed up appropriately on the complaint.
- Director Caldwell: Many complaints were investigated, overlapped in time and had to do with the same people, for example this complaint was made in July, 2019, investigation took a month and a half, findings got completed in March 2020, appeal received in April 2020. It took so long because of allegations of official misconduct; this case sits on a shelf as it goes for review criminal allegations. That's happening with a lot of other cases and when this case gets reviewed, and goes to RU manager, which will be everything you have in your file. That is what we can give to the CRC. Because subsequent cases got decided later, we cannot then incorporate things that did not go to the RU manager and give that to you. In part our system prevents you from having access to all this stuff, and I don't know that I have a great answer for what to do about that. We are fortunate to have Fallon here from the City Attorney's Office to help us out; give guidance.
- Mr. Snell asked about allegations two and four and if there was threat of retaliation. On September 27<sup>th</sup> interview with the appellant, pg. 9 of the transcript.
- Assistant Chief Resch said the investigation was done by IPR Investigator and there was an HR representative in that investigation for possible 2.02 violation, there was no interview of the PPA representative.
- Director Caldwell asked if there has ever been a time when the PPA President gets pulled in as a witness because they say something in the context of the member being interviewed; they are able to opine, act as an advocate, but I don't know if they ever become part of the case?
- Mr. Gjovik said in his experience he has not seen that.
- Ms. Fallon said that as a procedural matter if an investigator was investigated for misconduct, because they are not police members, that investigation would be done separately by BHR and that does not follow the same procedures for appeal that police officer misconduct would, so in the case that that occurred, that would not be part of this case file, that would be part of a different agency of the City and not subject to the same appeal process. With regard to interviewing the PPA, I believe it was Daryl Turner who is no longer a City employee, absent subpoenaing him, we cannot compel him to talk to us. Procedurally it is different to interview the Union Representative and to investigate investigators; procedurally speaking.
- Mr. Taylor said he could see that and was what stood out to him in regards of the completeness of the file, and that the allegations are of two different people, and the specific threat of retaliation. Mr. Taylor was hoping to see some statement from them to inform what happened there. Retaliation seemed to be the core of this complaint.
- Mr. Chiller wondered about the investigation where civilians are called to provide their view of events. If there was evidence that they reached out to Mr. Turner and he said I don't want to talk to you, that is one thing, but if it was not an avenue, they pursued then maybe that should be pursued.
- Ms. Falk said she thought about it too, and was wondering why they weren't interviewed and thought it wasn't evidence that retaliation occurred, it was that the idea was put forth that retaliation could potentially occur, therefore it may be less a fact-finding mission because that person did not observe retaliation.

- Ms. Fallon clarified that this is a complicated appeal. What CRC are tasked with are the specific allegations against Commander A and Captain B. That transcript about the investigator, that she could be retaliated against, those would be allegations against different people, not Commander A or Captain B. There is a lot in that, but we need to focus on the completeness of the investigation as to the allegations against the Captain and Commander.
- Ms. Falk and Mr. Mozyrsky agreed that that was how they read it that the PPA representative thought that if certain topics were broached that there might be retaliation but did not take it as the PPA representative thought there was possible retaliation.
- Director Caldwell pointed out that the PPA representative is there as an advocate and using IPR subpoena power to bring him in throws a lot of strange things into a case. His role is not to be there as an impartial witness, he is there as an advocate, as a Union representative. Given the role the Police Union plays in this process, it would not be productive to bring him.
- Ms. Pomerantz asked about a BOLI claim and an EEOC claim and was wondering if in addition to this there were any other open investigations?
- Director Caldwell said he was not aware of that and that it would not be in the case file or go to the RU Manager.
- **Public Comment:**
  - Ms. Liani Reyna complimented CRC members Ms. Chiller and Mr. Snell, as they stated the same concerns Ms. Reyna had in this case. Ms. Reyna has gone through the files and asked IPR for the referral document cited by the (then) Captain not sure if A or B, but at that point they were a captain. The citation for the 2017 B case 002 listed all these documents but could not find them anywhere in this file. They were pertaining to a memo that he wrote, a lengthy memo and there is one short paragraph, third paragraph down two sentences: there are no allegations of truthfulness. That is all that is said. Having the same concern that Ms. Chiller mentioned about what happened to the truthfulness complaint, they are not in here anywhere. So Ms. Reyna doesn't know why the (then) Captain said there is no allegation of truthfulness, because the complainant keeps stressing that she did make that complaint. What Ms. Reyna goes back to is the threat of retaliation. She might be reading it different then the Acting Chair. But they stepped out of the room or they stepped away, the Union, going off memory you know how big this is so if Ms. Reyna is wrong, correct immediately. But they stepped out of the room, came back into the room and told not to talk about truthfulness, or she could be subject to retaliation. You can take that as interpretation of the Acting Chair. But Ms. Reyna could also see it as the interpretation of CRC member Mr. Snell. It's up to interpretation. Those two things bother her greatly. The threat of retaliating, Daryl Turner was not interviewed, and where are these referral documents sited at bottom of that memo where the (then) Captain clearly states there is no truthfulness allegation. Someone decided that it is the involved member in this complaint. They are doing the citation and those documents are not available. This has been bugging Ms. Reyna who had a long conversation with Mr. Caldwell today and he did his best to explain it and Ms. Reyna don't know if she is just not understanding it, but her discomfort is not going away with any of the answers given. She think this is not a complete file.
  - Ms. Falk asked if this is not a complete file because the allegations were not captured and therefore weren't sufficiently investigated?
  - Ms. Reyna said, yes that's part of it because the complainant believes that truthfulness and she will tell you if misinterpreted what she said. The truthfulness was not investigated as a method of retaliation. And she is complaining of retaliation and one of the officers she is complaining about wrote the memo that said citing these documents that are not in the file anywhere, that there is no truthfulness allegation. Ms. Reyna honestly don't know if these documents would show something one way or another, but she can't find them, and they are cited at the bottom; Ms. Reyna thinks there's eight of them and the (then) Captain's memo. This is so difficult but she's trying to make it as clear as she can. She not arguing the case, she just saying that's her

discomfort level and it encourages her that two other CRC members had same questions and hasn't heard the answer.

- Ms. Falk, wondered about a statement made that the truthfulness allegation was not investigated because it was not part of something to do with the workplace issues, but was rather part of this court hearing and was not able to be investigated in this way.
- Ms. Chiller said she remembered reading it and not understanding why. In reading the reference material it sounded like there were these things and we focused on these, but not addressing a reason why, that it is not part of this investigation or an HR matter.
- Ms. Falk, it was more like because it was it occurred in this trial.
- Ms. Nami said it was part of the reference files, not the investigation being appealed.
- Ms. Chiller said that the truthfulness directive is so critical because of the Brady list, that the truthfulness allegation is not limited to their duties, that the alleged perjury took place in a separate court proceeding but if an officer made a false statement that it should be followed up and investigated because of the ramifications of credibility and termination of an officer.
- Ms. Falk said remember the complainant making that argument saying that this is could become public and reference the case that we reviewed.
- Mr. Mozyrsky touched base on if this is where the case should have been or if there is more to look into IPR which would be the second half of the appeal. Are you saying that there was an allegation that was made that was not investigated? Or that there are records missing?
- Ms. Reyna responded that the Captain at the time stated in his interview department memo that it was not being investigated because it was not an allegation. At the bottom of that memo are eight citations, exhibits listed, and Ms. Reyna cannot find those anywhere; doesn't know which file it was. She distinctly remembers seeing a court reporters page of a transcript of the evidence of the truthfulness allegation. She don't know if these exhibits will tell us one thing or another, but they were there at the bottom of the memo page from the Captain in the third paragraph says there is not truthfulness allegation they're not going to investigate. Ms. Reyna is assuming those exhibits that aren't anywhere in this file that she can see. The eight cited at the bottom would maybe shed some light on decision making. She don't know; couldn't find them the last two days looking for them.
- Mr. Mozyrsky said we have two allegations, one in respect to Captain A and the timeliness of the disposition of the notification which I believe we are not discussing here. The other one was whether Captain B engaged in discrimination and retaliation when he did not provide equitable treatment of complaints.
- Ms. Reyna said she don't know, is not trying to muddy up an incredibly muddy process, but because both members of the CRC brought it up, she is going to raise it.
- Assistant Chief Resch explained in this memo, what it's referring to is the truthfulness made by the appellant would be criminal in nature. So those cases are sent away from PPB to someone else to investigate whether or not that was criminal or not and if the determination is made that it's not criminal, then we would say there is not truthfulness allegation. That's why you see in the Captain's at that time's memo. The allegation of truthfulness was related to a criminal matter when that is determined by an outside agency, so we don't have a truthfulness allegation any longer. Hopefully that helps.
- Ms. Reyna said criminal would be prudery which has a higher threshold than the directive states as truthfulness. She is getting into this a lot more than she is comfortable with. Perjury, which is criminal which has a much higher threshold, she can understand sending it out to see if it is criminal, but the fact that it's not criminal would not affect whether it violated the truthfulness.
- Assistant Chief Resch said that she could not speak to the nature of if it was determined to not be. This group doesn't have all the information.
- Mr. Mozyrsky said that the difficulty here is that there are a lot of different pieces and they are being investigated differently. Some complaints are referencing other complaints, but trying to tie it back to if something was looked into, wasn't looked into in an equitable fashion, or was there retaliation, but that is not what's at stake here, it's how it was presented to us at this point.
  - Mr. Handelman said if somebody says they are going to retaliate against someone, that's coercion, that should have been investigated as a matter of coercion rather than retaliation or in addition to. So just because a retaliation never took place, they coerced the appellant to not pursuing her complaint. That is coercion and that is a violation of policy. I also agree with the discussion that just because something

doesn't meet the legal threshold of being criminal untruthfulness, that doesn't mean administratively the office didn't violate the policy. Just because it was dismissed criminally doesn't mean it should be dismissed administratively. In terms of the questions about EEOC and the BOLI complaints, you are already talking about some court transcripts that already made their way in here. There have been plenty of cases in the past where court transcripts got brought up as part of the investigation. Maybe he misunderstood Chief Resch, he thought she said Daryl Turner is not part of the police bureau or maybe she said he wasn't acting in his capacity as an officer during the case. He just looked online he is still part of the PPB according to the state database. Paragraphs 138 to 140 of the DOJ Agreement giving timely notice to the complainants about the outcome of their case; it's the IPR's responsibility, timeliness could have some ramifications per DOJ Agreement. This is the second time an officer is appealing a finding that wasn't sustained and the first time that the officer wasn't the subject of the complaint is appealing to the CRC. It is the second appeal this year that the case file summary doesn't have any summary of the interviews of the officer who were involved and the summary of the complainant interviews; it's very limiting for public. The report was released this morning not much time to review it. It would be helpful if people used their titles instead of their last names in this meeting. As well discrimination is a bureau directive not just an HR issue. An officer could be violating both HR rule and PPB directive.

- Mr. Mozyrsky moved to accept the case file as complete.
- Ms. Chiller asked a question about Mr. Handelman's comment about the DOJ Agreement, in paragraph 140 says "City shall insure that IPR provides each complainant a tracking number, informs each complainant of the complaint classification assignment and outcome". This is for City Attorney or IA, does this does not apply to officer-initiated complaints, is that solely supposed to give notice to citizen complainants. Is this why it was not implemented into the directives? I would like an interpretation of how paragraph 140 would apply to this case.
- Lt. Gjovik said that back when these cases were investigated, these directives were specifically talked about notification to community members and that did not internal Bureau complainants.
- Director Caldwell said there are B cases and C cases in this case.
- Mr. Snell asked if the complainant refiled specifying retaliation, would that complaint be readily dismissed because it had already been investigated?
- Director Caldwell said that if it had been investigated, and it does not have to be limited to this case, if not investigated somewhere else then we would say yes, that we already investigated that, we are not going to investigate again absent new evidence.
- Ms. Falk said that it used to be that complainants did not approve allegations, is that correct?
- Director Caldwell responded that IPR write up initial allegations, and there is a follow up interview, that can lead to additional allegations, but IPR decides what the main issues are. Could be a hundred allegations, but IPR find there is not a violation of a directive, then it's not worth investigating. Or if another allegation encompasses that better we go with what the major stuff is. IPR try to get the spirit of it, major points; big allegations.
- Ms. Pomerantz said that when she looked at the BOLI complaint, under BOLI documents there were over a dozen allegations. What stands out to her is the protected class to the complainant, it's a concern.
- Ms. Falk said that the questions of discrimination were lightly touched and asked "did you discriminate? Yes or no"?
- Ms. Fallon reiterated that there were many ongoing investigations simultaneously with the one that is before the CRC. There have been many investigations regarding the information received from the appellant, they are just not in this case file as they don't pertain to the allegations at issue.
- Ms. Falk said that this is a complicated case and CRC just have no way of knowing.
- Director Caldwell followed up on Ms. Fallon, said that just because there were 10 allegations made, on what came in in July 2019 does not mean that those same allegations were not made in other cases and were not appropriately dealt with in those cases. Unfortunately, this is something that does not work with the process as it was designed, because it limits in what can be given to CRC. But that does not mean that the same allegations were made repeatedly, and have been investigated, broken out in many ways and CRC get a piece of that.
- Mr. Falk unenthusiastically seconded Vadim's motion.
- **Vote:**
- Ms. Chiller: No. Concerned about discrimination. Not enough information.
- Ms. Nami: Yes. Investigated, complete.
- Mr. Snell: Yes. Evidence we have is complete.

- Mr. Mozyrsky the motion has passed, and we proceed to the second part of the appeal. CRC have three options, can affirm the findings, challenge the finding, or refer the case back to IPR for further investigation.

### Summary by IPR:

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- Director Caldwell overview of timeline: Allegations of criminal misconduct had its own investigation done. Will answer any questions.
- Appeal Process Advisor Ms. Browning presentation:
- Appellant is a retired PPB officer; she is going to present her case:
- Mr. Reyna, “I have been a PPB officer and sergeant for over 25 years. This appeal is complicated involving multiple IAD and IPR case numbers, dates, documents and details. In reviewing past cases I have caught IAD personnel fabricating and manipulating facts and withholding exonerating testimony by making findings before all witnesses that have been interviewed. PPB policies and protocols are not always followed by command level employees, and the outcomes of IAD investigations are subjective and sometime intentionally manipulated.
  - Allegations: Commander A Captain B did not follow policies, procedures or protocols when investigating complaints by myself and by my ex-wife who also is a PPB officer. The allegations before you are that Commander A and Captain B engaged in discrimination and retaliation when they did not provide equitable treatment of complaints involving me.
  - Ask yourself these questions: Why did Commander A and Captain B investigate my off-duty conduct but refused to investigate the off-duty conduct of my ex-wife?
  - Why did Commander A and Captain B handle the intake processing and disposition of IAD investigation of me and my ex-wife differently?
  - Why did IPR determine that Commander A and Captain B failed to follow appropriate PPB protocols and procedures, but decided that failure was consistent with Bureau policy?
  - Please consider additional allegations that Commander A and Captain B failed to follow PPB policy on laws, rules and orders and the PPB policy on unsatisfactory performance.
  - I am going to describe events leading up to allegations against Commander A and Captain B by discussing elements of complaints filed over the last several years.
  - The first IAD complaint was initiated by my ex-wife number IAD 2016 B0050. This complaint involved a number of allegations against me stemming from reports of my ex-wife to her supervisor regarding my off duty parental communication
  - On January 31, 2016, my ex-wife made a complaint against me to her sergeant about my off-duty communications regarding our parenting matters. She disclosed to him she was in a new romantic relationship with a married PPB officer. The sergeant wrote a memo and sent it up his chain of command. As a result, the information about my ex-wife’s personal relationship with a co-worker was disseminated throughout the PPB command staff. Sometime later rumors swirled through the Bureau that my ex-wife was having an affair with a married man.
  - On December 23, 2016, my ex-wife made another complaint against me to the same sergeant regarding more off-duty communications. The sergeant wrote another memo documenting my ex-wife’s complaint and sent his memo to the IAD for investigation, the case was named IAD 2016 B0050. Per PPB policy 330 IA Intake Complaint and Processing my ex-wife and her sergeant followed PPB protocols for initiating and IA complaint against me. The policy states the following:
  - Members may file a complaint against another Bureau member. The member may report the alleged misconduct to anyone in or out of the chain of command. Individuals receiving the complaint shall forward the information directly to IA.
  - On January 5, 2017 my supervisor Captain Crebs informed me that I was under investigation. Captain Crebs was instructed by Commander A to issue me a list of expectations where I was required to follow several policies including requirement to only use on-duty time to work-related duties and to avoid sharing disparaging or false information about other employees. Captain Crebs identified my ex-wife as the person who made the complaint against me. IAD conducted an investigation into the allegations where I was interviewed, and multiple witnesses were interviewed on behalf of my ex-wife. IAD investigators asked leading questions of my ex-wife and her witnesses. IAD investigators dismissed and did not consider testimony of my witnesses.



- During the investigation, information came to light where there were many other witnesses who could have provided exonerating testimony, but none of those witnesses were interviewed.
- On November 15, 2017 Captain B issued my ex-wife a formal disposition letter on City of Portland letterhead notifying her on the outcome of the investigation.
- On December 14, 2017 Captain Crebs gave me a letter dated September 15, 2017 informing me the outcome of the investigation. The Chief of Police had proposed to issue me discipline for my off-duty parenting communication falsely accusing me of spreading incorrect information cited PPB policy 315 Laws Rules and Orders stating whether on-duty or off-duty I was required to follow laws rules and orders. The Chief of Police specifically wrote his letter, understand the police may regulate your off-duty conduct. Your off-duty conduct does not have to be criminal in nature for the Bureau to become involved. As a result, demonstrate professionalism and maturity in dealing with professional and personal matters that overlap. After receiving this document, the IAD case remained open for the next ten months.
- For this investigation, allegations one and two were substantiated. Commander A failed to follow appropriate protocols when overseeing IA investigations. Commander A did not conduct a thorough investigation because he did not interview all witnesses who had relevant information. This requirement is covered under PPB Policy Laws Rules and Orders IAD SOP number 20 and PPB Satisfactory Performance Policy. Commander A did not issue a letter of expectations to my ex-wife to follow the same bureau policies which I was told to follow. Specifically, her requirement to use on-duty and off-duty time only for work related duties and to avoid sharing disparaging and false information about other employees. This behavior is evidence of discrimination and disparate treatment.  
 You have a second IA investigation in your file. It is my first IA complaint identified as IAD 2017 B0023. This complaint was about allegations of truthfulness failure to follow court orders and menacing. During the investigation of the prior IAD case, my ex-wife gave official court testimony in a child custody lawsuit that she was not responsible for me being investigated by IAD. Based upon my interview in that case, I knew the allegations made against me could have only come from one source. As parents to a minor child my ex-wife and I routinely communicate with each other concerns about our daughter. Allegations against me occurred when my ex-wife gave her sergeant my private emails, private texts and when she disclosed confidential communications which had occurred in private therapy sessions. IAD questioned me in these private matters. No other person in the department had access to my private emails, texts and private therapy records. After realizing what had happened, I reviewed my ex-wife's court testimony and realized she made false statements of testimony in every filing submitted to the court. This is a violation of the PPB 310 Conduct and PPB 310.50 Truthfulness Policies. In addition to giving false testimony to a court, my ex-wife had been actively harassing me and was violating court orders signed by a judge. All of these were violations of the Conduct Policy and Violations of the PPB Laws Rules and Orders policy.  
 On April 20, 2017 I initiated a complaint against my ex-wife by reporting the misconduct to my supervisor Captain Crebs. I gave Captain Crebs physical evidence to support the allegation and Captain Crebs said he would forward the evidence to Commander A. Shortly after, I received a notice of PPA interview and was offered to bring in Union representation.  
 On May 11, 2017, I arrived for my interview with PPA president Daryl Turner. The investigation was identified as case number 2017 B0023. After reviewing the allegation worksheet filled out by Commander A, Turner and I immediately noticed my ex-wife was not being investigated for truthfulness. President Turner met with IAD investigator Berry Rena to discuss the issue. President Turner reported back to me that Commander A gave Investigator Rena strict marching orders not to discuss any allegations of truthfulness. President Turner told me if I brought up any truthfulness issues, I would be retaliated against. The threat of retaliation had a chilling effect on me. During the interview I reported acts of misconduct involving menacing, concerns for my safety and violations of court orders. After the interview I never heard back from IAD and I never received formal disposition on City letterhead explaining the outcome of the investigation. In fact, as we sit here today, I still have not received that formal notice despite asking for it multiple times.
- This investigation supports the allegations on number one, number two number three and number four. Why did Commander A refuse to investigate truthfulness? Criminal investigations are irrespective of Bureau investigations. As was stated earlier by you folks, there is a much higher threshold for

investigating crimes vs investigating police misconduct. Commander A is required by Bureau policy to investigate allegations of serious misconduct, he is required to follow all Bureau laws rules and orders and IAD SOP when performing his duties. I submitted physical evidence of untruthfulness to Commander A via Captain Crebs. What happened to that evidence? There was no criminal investigation. My allegations were not forwarded to the law enforcement agency or the DA.

- Why was I being threatened with retaliation if I spoke about truthfulness in my interview? In contrast Commander A investigated all allegations my ex-wife made against me. This proves the allegation of discrimination and retaliation in not providing equitable treatment.
- At the conclusion of this IAD investigation, why did Captain B fail to provide me with a formal notice of disposition describing the outcome of my complaint and why does he refuse to provide that notice now? Captain B provided a letter of disposition to my ex-wife on her prior complaint even when she insisted in court testimony, she was not responsible for it. This behavior proves the allegation of discrimination because Captain B's conduct is inequitable. I disagree with Assistant Chief Jaime Resch the DOJ Agreement specifically requires the disposition letter irrespective of the version or policies and I think Mr. Handelman addressed that.
- A third IAD investigation in your files is my ex-wife's second complaint against me identified as IAD 2017 B0033. In that complaint my ex-wife alleged retaliation.
- On July 31, 2017 my ex-wife made new allegations against me, accusing me of retaliation. This time my ex-wife called Commander A directly to report her complaint.
- On August 1, 2017 Commander A commenced another investigation against me identified as IAD 2017 B0033. Commander A instructed IA investigator Casey Rovanelli to obtain my private email from my ex-wife and interview her. My ex-wife was interviewed twice, on August 15<sup>th</sup> and August 21, 2017. Prior to the interviews my ex-wife was informed she could bring Union representation, she was interviewed by IA investigators Stacy Rovanelli and Lewis Perez who read into the record my ex-wife's collective bargaining agreement stating my ex-wife received advance notice waiver forms. At the conclusion of this investigation, Captain B again issued my ex-wife a formal notice of disposition on official City letterhead explaining the outcome of the investigation. The letter was dated November 15, 2017. The handling of this IA investigation proves allegations number one, two, three and number four. The handling of this investigation demonstrated that Commander A and Captain B followed PPB policy, laws, rules and orders, IAD SOPs and the collective bargaining agreement with respect to the rights of my ex-wife. The investigation further demonstrated that Captain B was quick to provide my ex-wife with an official notice of disposition on her complaints even though even though my ex-wife has repeated given court testimony she was not responsible for the initiation of either complaint.
- A fourth complaint in your files is identified as IAD 2018 B 0033. This complaint was about my ex-wife's continued harassment of me, and new allegations of misconduct involving a child.
- On May 23, 2018 I emailed Captain B inquiring about the status of my first complaint. I informed Captain B my ex-wife's conduct had not stopped and she was engaged in more misconduct including serious allegations involving a child. Captain B told me he closed the first complaint and provided no explanation for doing so. Captain B told me he would open a new complaint and numbered it IAD 2018 B0033. The IA investigator assigned to the case James Gowan did not follow appropriate PPB policies, IAD SOP Number 21 or the turns and rights bargaining agreement. In contrast to my ex-wife, I did not receive a PPA notice of interview from Captain B. I was not told I could have Union representation present for my interview. Instead, Gown sent me an informal email notifying me of an interview with IAD on June 5, 2018. I brought a Union representative to the interview anyway. IAD investigators James Gowen, Stacy Rovanelli and BHR business partner Rebecca McKetney attended the interview. Investigator Gowen did not read my collective bargaining rights into the record and BHR business partner McKetney proceeded to coerce my testimony while threatening me with discipline with up to and including discharge. During the interview I reported allegations I believed constituted domestic violence and harassment and I identified additional victims and witnesses of this misconduct. My disclosures required action. There are specific Bureau protocols and policies in place identified as PPB 825-10 Member Involved Domestic Violence. Business partner McKetney recognized the severity of the allegations and forwarded domestic violence documents to my City email.
- On August 31, 2018 IAD Lieutenant Amanda McMillan sent me a formal notice of disposition on official City letterhead advising me this complaint was being administratively closed without further

investigation. The handling of this IAD investigation proves allegations of one, two and four and new charges. The evidence shows Commander A and Captain B did not follow Bureau procedures, protocols and PPA collective bargaining rights when overseeing this investigation. Commander A did not conduct a complete and thorough investigation into the allegations of serious misconduct, and he failed to take mandatory action as outlined in PPB policy. Commander A did not have all victims and witnesses interviewed per PPB policy laws, rules and orders and IAD SOP 20. Captain B did not ensure this investigation would be conducted consistent with the PPA collective bargaining agreement, PPB policies, laws, rules and orders and IAD SOP Number 21.

- If you recall, I previously walked you through the steps of how PPB policy IAD SOP and collective bargaining agreements were adhered to for my ex-wife on her second IA complaint against me. Commander A and Captain B did not meet PPB policy Satisfactory Performance.
- A fifth IAD investigation I'm discussing was not provided to you. It is an investigation initiated by Captain B identified as IPR 2019.
- Ms. Fallon interrupted that this case was not to be discussed and keep it to the file the CRC were provided.
- Ms. Reyna said there is evidence in this case and I'm going to discuss it. This case is allegations I filed in a tort claim notice. I did not initiate this complaint, but I was compelled under the authority of the Captain B and forced over my objections and over the objections of the PPA to attend and IPR/IAD interview after filing a tort claim notice against the City. The interview occurred on May 7, 2019. PPA President Daryl Turner testified that in his 20 years as an executive Board member of Portland Police Association, not once has a person who has filed a civil tort claim been compelled to make statements in an IPR/IA investigation of this sort. President Turner further stated it was his belief that this is a fishing expedition by the City of Portland to get information for their tort claim and he believed IAD was violating my rights under the PPA contract and this was unusual and unorthodox and unethical. PPA Turner further raised concerns that I would be retaliated against for my testimony. During this interview PPA Turner and I reported that my ex-wife had been engaging in on-duty misconduct regarding her misuse of Bureau resources, and specifically her misuse regarding time. Despite disclosing on-duty misconduct, my ex-wife was not investigated or held accountable. This investigating proves the violation of allegation one, two and four. Captain A failed to initiate an investigation into the misuse of Bureau resources by my ex-wife as disclosed by President Turner. As you recall earlier in my presentation, Commander A required that I not misuse Bureau resources, why wasn't my ex-wife not being held to the same standard? This is evidence of disparate treatment. Captain A violated PPB policy Discrimination, Harassment and Retaliation when he compelled me to testify over my objections regarding a civil tort claim notice.
- A sixth IAD investigation which was not provided to you is my third complaint.
- Ms. Fallon interrupted and objected about speaking on case files that the CRC don't have in front of them.
- Ms. Rayna said she was going to introduce evidence that this case was not appropriately handled. You have already moved past the opportunity to complete it so I'm going to talk, thank you.
- On June 8, 2019, I reported to my lieutenant an incident where my ex-wife was continuing to violate a judge-signed court order. This time regarding parenting time. Violation of court ordered parent time violates constitutes contempt of court. I don't think anyone observing this Zoom conference believes it is appropriate for a Portland police office whether on-duty or off-duty to disobey court orders. PPB policy specifically states that officers on-duty or off-duty are required to follow all laws rules and orders. Violating a court order is a violation of the PPB conduct policy 310.00. My lieutenant instructed me to call local law enforcement, and she notified her chain of command of the issue. The on-duty and off-duty misconduct of my ex-wife and the disparate treatment and handling of our complaints created a hostile work environment. My ability to work for the Portland Police Bureau was negatively affected. I was compelled to retire from the PPB and accordingly provided written notification to do so.
- On June 12, 2019 my administrative supervisor published a Bureau-wide email announcing my retirement and inviting everyone to attend the ceremony. Within 15 minutes of sending this email, my ex-wife called the Police, Fire Disability and Retirement fund to access my confidential financial records. My ex-wife has never been entitled to alimony or my pension. Why did she call FPBR, for what purpose? As a result of the June 8<sup>th</sup> and June 12<sup>th</sup> off-duty and on-duty misconduct, of my ex-wife, I filed a complaint with the IPR the case was named IAD 2019 B0039. I filed several supplemental emails to that

complaint raising allegations against my ex-wife for violations of a Conduct Policy, violations of Bureau Resource Policy, violations of laws, rules and orders policy and violations of Truthfulness Policy. This investigation substantiates allegations one two and four and other policy violations. Commander A and Captain B only investigated my ex-wife for two of those policy violations. Commander A and Captain B failed to interview all witnesses, which I had named and listed in my correspondence. Commander A and Captain B failed their duty to conduct complete and thorough investigation into all allegations made which is a violation of PPB laws rules and orders IAD SOPs Unsatisfactory Performance Policy.

- In my supplemental email I made complaints against my ex-wife's PPB boyfriend who while on duty behaved unprofessional toward me, who while on duty made untruthful testimony, who while off-duty harassed me and my daughter in public, who while off-duty behaved inappropriately toward my eight-year old daughter and who while off-duty had threatened me and my family. I identified violations of the PPB Conduct Policy, violations of the laws rules and orders policy and violations of the human resources rule 5.10. I identified and provided contact information of witnesses to this conduct. Commander A and Captain B never conducted a thorough and complete investigation into those allegations, and none of my witnesses were ever interviewed.
- As you recall Commander A required me to follow all Bureau policies whether on-duty or off-duty and he investigated me for perceived violations of those policies. Commander A chose not to investigate other officers on-duty and off-duty misconduct. IPR alleges my ex-wife's boyfriend has already been investigated. I have never been issued a notice of disposition from Captain B regarding the outcome of my complaints which were mentioned in the IAD 2016 B 0050 case. The listed IAD complaints I just discussed led to the allegations in this matter.
- On September 19 and October 11, 2019, I filed complaints with IPR describing allegations of misconduct in the handling of the IAD investigations of me and my ex-wife and of discrimination and disparate treatment committed by Commander A and Captain B. I methodically cited City and Bureau policies, Oregon State Law and I gave concrete examples of physical evidence of how IA investigators and command level employees violated those policies. As a result of these complaints, the PPB Family Services Division detectives investigated some of my allegations against my ex-wife. PPB detectives told me they wished my complaint had been passed onto them when it was first reported in 2018. PPB Detective Division followed all policies and protocols when handling their investigation. I noted this was in stark contrast to the blatant disregard to Bureau policies procedures and protocols by Commander A and Captain B. The Bureau never investigated the last of my complaints irrespective of the criminal investigation.
- I heard some of you folks mention that there was a criminal investigation that had been forwarded to outside law enforcement agencies. Irrespective of the criminal investigation, there should have been a Bureau investigation, because as was pointed out, the threshold is different for Bureau investigations. Director Ross Caldwell told me IPR would not do a Bureau investigation. And I don't understand why.
- At the conclusion of this series of investigations, that you have before you, IPR determined that Commander A and Captain B both failed to follow appropriate protocols and procedures but they were exonerated because their actions were within the guidelines the Bureau policy and procedure. This makes absolutely no sense. The failure to follow appropriate protocols and procedures is a violation of the PPB Laws, Rules and Orders Policy and a violation of the PPB Satisfactory Performance Policy. I was accused and held accountable during my career for failing to follow appropriate protocols and procedures. Why wasn't my conduct determined to be within the Bureau guidelines of policy and procedure. Why are Commander A and Captain B not being held accountable to the same standards of conduct? The evidence in these investigations is overwhelming. Commander A engaged in disparate treatment of cases involving me and cases involving my ex-wife. The evidence is overwhelming that Captain B engaged in disparate treatment of cases involving me and cases involving my ex-wife. Throughout all these investigations, my ex-wife repeatedly denies any responsibility for the initiation of IAD investigations against me in her court testimony. If this were true, why did Commander A investigate me? If this were true, why did Captain B illegally disseminate materials and documents concerning a personnel investigation of a public safety officer in violation of Oregon State Law, specifically ORS 192.345 section 12 and ORS 181A.830 Section 5. I am asking this group to hold Commander A and Captain B accountable for their conduct. The IPR is wrong that my ex-wife and her boyfriend did not violate Bureau policy. This presentation and documenters you have prove they not

only have violated policies, but they were held to a completely different set of standards. You asked a lot of great questions and I think I have the answers, so if you want to please revisit your questions, fire away.

- Mr. Mozyrsky thanked Ms. Reyna and opened the floor to either IA or Command Staff, Assistant Chief Resch to provide any kind of comments.
- Assistant Chief Resch asked everyone in the call today to keep in mind that we heard the appellant that there are numerous complaints that have been made and investigated by PPB, IPR, BHR and outside agencies and tonight we are only hearing one side of those complaints and asked CRC to keep that in mind. That we are here to discuss only allegations made in 2019-C-0215.
- Mr. Mozyrsky asked if Director Caldwell would like to make any comments.
- Director Caldwell said it is a lot to respond to and would take questions. He agreed with what Assistant Chief Resch said that there are a lot of allegations, IPR went beyond the scope of what we are supposed to talk about in this meeting. It's true that PPB directives wrap around most aspects of a police officer's life and there is good reason for that. If an officer is breaking the law in some context, it's important to hold them accountable to a higher standard than we hold other people due to the power that they have. At the same time a lot of these things are also very difficult to investigate via the investigative methods that we have because they are more related to personal life stuff than they are to professional life stuff. There is a blurry line there that gets crossed back and forth in a lot of these cases. It's a lot and it's complicated.
- Mr. Mozyrsky agreed that we open these up to a lot other cases and allegations made. The appellant has been waiting a long time and should have the ability to lay out her case. There are two sides to a story and will try to keep a balanced view of what was presented today.

**Questions:**

- Ms. Falk said she understands where the appellant is coming from. Allegation one and three exonerated, when it is failing to follow appropriate protocols. She did not understand a finding like that could be exonerated. They are contradictory. Exonerated means act occurred but was lawful and in policy, but directive says they failed to follow appropriate policy. She could not square those two things and asked for an explanation.
- Ms. Fallon said this is an artifact of our four finding system, the problems we get to are sometimes at the end of the investigation about how allegations were written and how we attach our four findings. Sustained, not sustained unfounded and exonerated. There is a possibility to attach the most correct finding to an allegation that may not quite square with how the allegation is written. The CRC can suggest to the Chief a different finding that may be fits scope of the allegation more appropriately. Sometimes is hard for fact finders to square our four findings system against how allegations are written.
- Director Caldwell agreed with Ms. Fallon. That IPR runs into this a lot. To say something happened but it was within policy is often problematic and can come down to the specific wording of the allegations. When IPR investigators write up allegations there are a lot of ways to write them. sometimes you adjust them a little to try to capture the spirit of what's being said. In a better system we would have two options: Sustained or not sustained, but that is my personal opinion.
- Ms. Falk said that here, it says lawful and within policy to violate directives. That doesn't make any sense in allegations one and three. Failed to follow appropriate procedures.
- Assistant Chief Resch replied that they follow appropriate protocols and procedures, did what they were supposed to do, it's not like it's unfounded, they did follow the procedures. Otherwise we would have to say they didn't follow the appropriate policies and procedures. So, they did follow it and it was exonerated.
- Director Caldwell said, they almost make sense in almost in relation to each other. For the third one that Captain B failed to follow appropriate procedures by failing to follow a disposition notification; in his my understanding the way exonerated works there is that, he could have not provided that notification, but that that is not a violation of a directive. It's different than unfounded. That the notification was not sent but that's not a violation of the directive.
- Ms. Falk said that from a community perspective, when you have an allegation that says that an officer failed to follow appropriate protocols and it is said that that is exonerated, it sends a confusing message.

- Director Caldwell said it does the same on use of force cases. Previous police chiefs have talked about this and it is something that is ripe for change. It does confuse the issue, but it is what we are stuck with now.
- Ms. Browning, the Appeal Process Advisor spoke said that this is a complicated case; difficult to track, cross reference, voluminous, needed constant cross referencing. It was acknowledged in places by IAD, by the complainant, by officer B, C, D, all of them. This is a dissolution of a long-term relationship, and child custody battle. Unique, is that the two going through dissolution are police officers, their significant new others, are police officers, their friends are police officers and in police officer culture. If you boil it down to a relationship dissolution, a couple of things stand out. The complainant is a Bureau-wide whistleblower. She had a huge case, she's had problems ever since being a whistleblower, so she comes into this with that reputation, and Ms. Browning thought that reputation influenced this investigation. Much HR, City Attorney involvement and the City Attorney is doing their job protecting the City from liability. Ms. Reyna had several impediments in filing these complaints and comes at it with a history of battling the Bureau. The other thing that influences this is that several places in the record, the now commander, has said on the record several times that he is friends with the complainant's ex-partner. Ms. Browning questions why the commander was involved in this case when he's was friends with the one of the people. One of the partners of the dissolving relationship was treated differently that the other partner, and it was the complainant who was treated differently; there was disparate treatment, intentional or not, cultural or not, friendships or not, protecting the City from a lawsuit or not, it's not clear, but at the very least has an appearance of impropriety. That one IAD should not have been involved in this case. Bottom line, were they treated differently? Retaliation is tough but been threatened several times and a hard one to prove. Who was treated how and the thumb was on the scale of justice and it was not in the complainant's favor.
- Mr. Mozyrsky said his understanding of the directive of discrimination has to have disparate treatment and also based on a protected class and raised two points: whether disparate treatment occurs every time something is not investigated and two what is the link here between a protected class and the allegation of disparate treatment?
- Ms. Browning said that the protected class is so skimmed over that it is hard to do judgement on that. Eight people were interviewed in one of these cases in 3.15.17 but it wasn't about any of the people she complained about at IAD, yet they were above the interviewer in rank. In the interviews, questions were asked of witnesses about the complainants protected class, and there is no proof of any kind. The protected class was an influence in this. Ms. Browning felt uncomfortable and believed there was disparate treatment. Witnesses were not chosen or followed up on.
- Ms. Chiller said there was not following up on differences in treatment of the two; officer and the complainant. CRC are in a position where they don't have enough information to say her protected class had anything to do with it, and that it has a lot more do with the lack of an investigation. There was a refusal to follow up on an investigation into the truthfulness allegation. Officer A was asked a question, had received any communication from the police department that references in any way as a complainant? Response was no. This was dated from a deposition 2012 2018 in a court proceeding in 2018, and there is a chart of complaints, one was initiated in 2017 and said that Officer A was the complainant. Even in the limited information in this file, it seems the office perjured herself and I must question whether Commander A followed policies and protocols by not following up on that investigation? There is no information in the file that would justify that. It is hard to understand why, absent some type of retaliation or other improper reason that was not follow up on.
- Lt. Gjovik clarified that if someone goes to their supervisor and talks about behavior, that does not mean they are trying to file a complaint. Supervisor is compelled by directive if they hear something to report it as a violation, and that goes to IA. IA must put a complainant to that case. By default, that complainant is the person that came up with person that made that original statement to their supervisor. An example was given.
- Ms. Chiller referred to a chart case number 2017 B0033, date opened August 1, 2017. It seemed that complainant was informed with declination letter.
- Lt. Gjovik explained the process of getting declined notice, and that just because they don't want to be a complainant, doesn't mean that they don't get the decline notice.

- Ms. Chiller said there was a plausible allegation that Office A was not truthful in court testimony that she never received anything saying she was a complainant. Ms. Chiller felt she did not get the full information in the file.
- Ms. Reyna clarified that in the 2017 B0033 case, there is evidence that her ex-wife called Commander A directly to make the complaint about retaliation and told Mr. Reyna that she called to complain about retaliation. The ex-wife initiated the complaint, and Commander A didn't just overhear it that is the exact process for making the complaint. That is the same process Ms. Reyna used to make a complaint; Ms. Reyna told her captain, and gave evidence, per policy that is how an IA complaint starts. Ms. Reyna explained to complaint process and supervisor responsibility when complaints are made.
- **Community Comments:**
- Mr. Handelman wasn't sure if the appellant filed appeals of other cases, if so, it may have been best to hear them all together or hold this over until they come through the system; they sound connected. He pointed out that in addition to being a member of the LGBTQ community, Ms. Reyna is a Latina. Not sure if that is part of her discrimination allegation or not, but that could be looked at how people of color are treated within the Bureau. Ms. Browning brought up important history. Don't use this in this case, but Ms. Reyna was the first woman to be brought to the Emergency Response Team, where they were doing sexualized hazing rituals, Ms. Reyna filed a complaint about and ended up being disciplined for participating in those rituals, instead of being held up as a model officer for holding officers accountable for misconduct. She was on scene at the Aaron Campbell shooting as sergeant, got called away and then was disciplined, even though the commander gave her direction. Officer who fired the shot got disciplined and had his discipline overturned. Ms. Browning brought up that IA asked all the people who were investigated if the ex-partner had been going out with a woman instead of a man, if that would have made a difference. That does seem to tread on discriminatory questions. This case is disturbing, not sure what could be done with this case.
- Ms. Falk asked that if this case was sent back at this point?
- Ms. Fallon explained that CRC have three recommendations: Further investigation by IAD or IPR, recommendation that the finding is supported by the evidence, or the finding is not supported by the evidence. These are the three things available to you.
- Ms. Falk asked if it was possible to wait until other cases come to appeal.
- Director Caldwell said it is not a possibility in this situation. There are a lot of other cases, a lot of what you have been talking about has been investigated in other cases, and if you send it back for additional investigation, there will not be additional information. If you decide to send it for more information, it would have to be very specific.
- Ms. Pomerantz commented that with disparate treatment, and that overall, this is very uncomfortable set of circumstances for co-workers, partners a child was involved. If the appellant is a woman of color, she's a woman, she represents as queer identified and how many employees identify as that? If we are going to say we don't typically have these cases, how many employees do we have that identify in this way that would allow us to have these kinds of cases. Pointing out the fact that the appellant is a known whistle blower, there is history, this all does not sit well.
- Ms. Reyna responded to Mr. Handelman's comment that she is Latina, that her ex-partner and the boyfriend Commander A and Captain B are all white. She absolutely believes race is a factor. Her whole life she grew up with racism, experienced as a child, going through college, and PPB. Her race has been mentioned in the past. She believes that is what is happening here.
- Ms. Falk said she would not want to make decision based on the information in front of the CRC only to have another case come in a month or a year and having to make a decision with new information.
- Mr. Mozyrsky asked how long would the CRC wait and how do CRC know how cases could relate?
- Ms. Falk said that other people know better.
- Mr. Caldwell said that it is not possible to wait and if there was potential to wait then IPR would have held until that was an option.
- Ms. Browning said that if case is sent back, it will be investigated by the same system, add more complexity. She also understood what the IPR Director is saying. Is debriefing an option? It used to be. Moving forward with a debriefing may address problems. The behavior should be addressed and corrected.
- Ms. Reyna commented to Director Caldwell and asked about open cases.

- Mr. Caldwell said he did not say there were open cases.
- Ms. Reyna said she was told there are no open cases, there is nothing else to adjudicate, the only thing that was possibly left open is some tort claim notices and that is not related to this process at all.
- Mr. Caldwell apologized if he was unclear, what he was trying to say was that a lot of what is being discussed here was investigated in other cases, but not saying that those cases are still open and will not be coming in a way that we could join them with this case for one even bigger super appeal; if that was an option IPR would have held off until then.
- Ms. Chiller asked procedural question, if there are other investigations, that are relevant or related to what is in front of the CRC and they are completed, why can't CRC see the information that was covered in those investigations if they are relevant to the allegations that we are looking at here?
- Mr. Caldwell said because a number of those cases were not completed when this was reviewed by the RU manager what CRC are reviewing her is the RU manager's decision. That has to do with a lot of these cases being sent out to other law enforcement agencies, DA offices in other counties: a lot of outside review being done, which made these cases take a very long time. IPR could close things off when they can. Because CRC are reviewing the RU manager's decision and deciding if that was reasonable that is the way that we are limited.
- Ms. Falk asked if when CRC sends it back for more investigation, the RU manager reviews that as well?
- Lt. Gjovik said that is correct.
- Ms. Falk asked if they could change a finding based on that new evidence?
- Director Caldwell agreed that it was a possibility.
- Mr. Mozyrsky proceeded to the votes:
- **Allegation One:** Commander A failed to follow appropriate protocols, when overseeing investigations at IA Directive 333.00. Also, the DOJ Settlement Agreement was referenced. The finding was exonerated.
- Mr. Mozyrsky said that based on the directive at that point in time, the policy was followed, which is what exonerated is. That one seems clear cut than some of the other ones.
- Mr. Mozyrsky moved to uphold that finding.
- Ms. Pomerantz asked Mr. Mozyrsky to elaborate why he came to that conclusion?
- Mr. Mozyrsky said that as he understood it, Ms. Reyna was not notified that the outcome of that particular investigation that it was only community members that could get specific letters informing them of what the finding was and later that policy was changed the policy as it was during that time did not mandate that for officers.
- Ms. Falk asked if there was also a lack of investigation of truthfulness allegation?
- Ms. Chiller said that allegation was written super broad. Allegation one was not written narrowly.
- Ms. Fallon said in allegation one it specifically says procedure in reference to Directive 330
- Mr. Mozyrsky said it seemed like two different issues, one was whether the process of informing the appellant were followed and policies involving that 330 and the Settlement Agreement. The other one was if she was discriminated against which includes disparate treatment and if something was investigate in one instance and not in the other.
- Ms. Pomerantz said, based on options because it's not clear, it feels insufficient to determine what specifically was being done here.
- Ms. Falk wanted to see if it can be sent back to have the allegations improved?
- Ms. Fallon said that is not a specific option given to the CRC. Procedurally sometimes during investigations, allegations do get clarified at times during that process. That is typically left up to the discretion of the investigator with their supervisor. To specifically request that allegations are clarified is not an option available under City Code for CRC.
- Mr. Mozyrsky asked Ms. Falk which policy was not followed here?
- Ms. Falk replied that the allegation is that the Commander failed to follow protocols. To say we exonerate does not make sense.
- Mr. Mozyrsky asked Ms. Falk which policy was not followed that would cause us to go back and ask more questions?
- Ms. Falk said the act here is failing to follow appropriate protocols. That is what the allegation says. To say we exonerate that person for failing to appropriately protocols doesn't make sense. It's the language, and it matters.



- Mr. Mozyrsky asked Ms. Falk did he do something wrong. If the term was used incorrectly, do we want to send it back for them to change a couple of words and we go through this one more time?
- Ms. Nami said that it may have been better to have it be unfounded, given the directive that was in place at the time.
- Ms. Falk said there are two concerns. One did he follow protocols, and if he did follow the protocols, then it would seem to be unfounded. The second question is, did he follow the protocols? There are two things we are pursuing.
- Mr. Mozyrsky said he understood.
- Ms. Chiller said that the directive is 330.00 and not any other subsection even though action discussed was the notification, there is a lot more in that directive.
- Ms. Falk said even 3.3 could be looked at, that goes to the truthfulness.
- Director Caldwell reminded the CRC that there are other cases that they don't see here.
- Ms. Chiller said they cannot decide on information they don't have.
- Ms. Falk asked if the RU manager was in the dark as the CRC are on the other issues?
- Mr. Caldwell said the RU manager had the same to review as the CRC have.
- Ms. Falk asked if they had another file that could have given more information?
- Mr. Caldwell said not that he is aware of.
- Ms. Falk said if they had the information, that would be able to make another decision. It feels like CRC are being told they don't have enough information to make the decision.
- Ms. Chiller said it sounds like the RU manager did not have enough information. She recommended to send it back for more information. CRC and RU manager should have more information.
- Mr. Mozyrsky read the standard, not permitted to challenge the RU managers findings, unless we conclude that a reasonable person in their position, considering the other information available to them in the case file would not have reached the same conclusion. Based on the standard CRC have; CRC would have to assume they acted reasonably.
- Ms. Nami said that if CRC are looking at the policy as broad as it is stated, then she agrees with Ms. Chiller and Ms. Falk that there is potentially this other case that where Commander A would have failed to do proper intake and processing. If it is that broad, then we should be looking at all the information which included that case where the allegation was investigated.
- Mr. Mozyrsky asked for a motion.
- Ms. Pomerantz asked if within the procedural limitations if they have the option to reschedule this and go back and read it more closely, come back and if we have additional questions?
- Mr. Mozyrsky went over options: find that a reasonable person would have made that conclusion, challenge it and send back for additional investigation and would have to be specific in what that investigation would entail.
- Ms. Falk asked if they could not for further investigation, but the results of investigated and relevant cases?
- Mr. Mozyrsky said the standard is what information was available at the time.
- Ms. Falk said sending it back is one the choices.
- Mr. Mozyrsky said the information the CRC have is what the RU manager had at the time.
- Director Caldwell said it is a good point. If CRC wanted to send something back, it needs to be as specific as: were truthfulness allegations investigated separately? It must be specific.
- Ms. Falk is the reason they don't have more of these cases come to appeal is that the appellant was satisfied with the decisions made?
- Mr. Caldwell said CRC can't talk about other cases in that detail.
- Ms. Falk responded that she is asking the appellant.
- Mr. Caldwell said Ms. Falk cannot ask the appellant. CRC need to stay within the rules and already well outside those rules.
- Ms. Chiller said the whole point of this is that we may need more information and could send it back for more information; it's not contrary to the process.
- Ms. Fallon clarified that the question isn't whether CRC sitting here today have enough information, the question is would a reasonable person in the RU manager's shoes at the time the decision was made have had enough information. That is the distinction.

- Ms. Falk said that is why she asked did the RU manager only have exactly what CRC has? If feels like CRC are being told that information is out there, but they don't have it. She confirming that the RU manager didn't have it.
- Director Caldwell said the RU manager did not have access to any other cases. It's possible that they know other cases are ongoing, but he doesn't have the answer to that. The RU manager who reviewed this is retired and not here anymore. He may have known there is a large volume of cases, but it is unknown.
- Ms. Falk said that the RU manager may have had more information than the CRC has.
- Ms. Fallon said no one can't replicate all the things in the RU manager's brain, their years of experience in the Bureau what they know about policies and procedures. The best that can be done is provide all the material the RU manager had.
- Ms. Falk agreed it would have good to have RU manager's line of thinking.
- Ms. Chiller said the investigator could have asked Commander A about were these investigated?
- Mr. Mozyrsky asked to have his motion seconded or to make a new motion. He restated the he made a motion to uphold to uphold the finding, asked if anyone would like to second the motion. Hearing none, he asked if there is any other motion on this first allegation?
- Ms. Chiller made a motion to send it back and get more information specifically investigation into the appellant's complaint about possible truthfulness policy violations by Office A.
- Mr. Mozyrsky asked if CRC send it back what specifically would we be asking them to do?
- Ms. Chiller said that the information that the RU manager, a reasonable person could not look at this record and conclude that policy as set out in 330 was followed. I would like more information whether the truthfulness allegation was investigated and if not the reasons for that decisions and if the decisions afoul of 330.
- Ms. Falk asked Director Caldwell if that was specific enough?
- Director Caldwell said it must be something we can investigate. If the question is were the complainant's truthfulness allegations investigated, that is sufficiently narrow for us to investigate and get you an answer.
- Mr. Mozyrsky said that we will probably get a response that it was not investigated. Is there a second to this motion?
- Ms. Nami seconded the motion.
- **Vote:**
- Ms. Chiller: Yes, need more information on truthfulness allegations
- Ms. Nami: Yes, because of how broadly allegation is worded.
- Mr. Snell: Yes, a reasonable person would have needed more information.
- Ms. Falk: Yes, reasons everyone else gave
- Mr. Mozyrsky: No, he can't see what policy was not followed with what the RU Commander had at the time. The other allegations have more bearing on how the appellant was treated.
- That vote passes and the recommendation is to send it to get an understanding of why the truthfulness allegation was not further investigated, and any clarification on results of what that process was. It will be more succinct in writing later.
- **Next Allegation:** Mr. Mozyrsky read whether Commander A engaged in discrimination and retaliation when he did not provide equitable treatment of complaints involving Ms. Reyna. The finding was: Unfounded.
- Any discussion or motion?
- Mr. Mozyrsky said he would start off, when he asked Ms. Browning was the understating of the issues here with respect to discrimination and disparate treatment. His understanding of how these cases work is that employees can be treated differently, and the questions that were asked there if this would have been a male of female. Trying to get to that disparate treatment based on a protected class. He don't see where Ms. Reyna was treated differently because of a protected class. There were a lot of complaints and he did not see discrimination.
- Ms. Pomerantz disagreed. Since there was limited information on race, whistleblower status, insufficient information to investigate and ensure that it was not an issue. Insufficient inquiry knowing that there was no other similarity situated Latino, women, the fact that all the other actors are white.

- Ms. Falk said there clearly disparate treatment, but CRC don't know why there was disparate treatment, there is insufficient evidence.
- Ms. Fallon said to find disparate treatment or retaliation is a two-part test. One, was their treatment different, and part two is, is it because of protected class? It sounds like what you are saying, part one of the test you find yes, but part two you are saying there wasn't sufficient evidence to show that it was based on protected class. That is what a finding of an unfounded is, it means that there was not sufficient evidence to find a policy violation.
- Ms. Falk said that that is not what unfounded means.
- Ms. Chiller said, not sustained.
- Ms. Fallon you are both correct. She not saying that is what she think it should be, she's just trying to frame up the issue.
- Ms. Chiller talked about the various classes that the appellant falls under, race, gender, sexual orientation, there has also been discussion of whistleblower. There is discrimination and there is retaliation. Does whistleblower come into protected class?
- Ms. Fallon said whistleblower is considered protected class.
- Ms. Falk said that one should be unstained.
- Ms. Chiller said this investigation was not thorough, retaliation and discrimination is very hard to prove. The case is complex, and the transcripts were so much thinner than in other cases that were not as complex, and the case was not address in the right way. At most she would say not sustained with a debrief.
- Ms. Pomerantz said the RU manager is retired, our appellant is well known within PPB, RU manager may have already had knowledge and awareness of the protected class issues. There would be a need for more due diligence.
- Mr. Mozyrsky asked if there may a motion for not sustained with possible debrief.
- Ms. Falk said there is not enough information, it was not reasonable for the RU manager to make that finding. Or there is not enough evidence, so please try to find more evidence.
- Ms. Pomerantz addressed the two-part test. Was the RU manager aware of that two-part test, and did they have sufficient information?
- Ms. Fallon pointed out that the two-part test is in the directive.
- Ms. Falk made a motion to challenge the finding and change to sustained with a debriefing.
- Mr. Mozyrsky seconded the motion.
- **Vote:**
- Ms. Falk: Yes, for reasons discussed. Debriefing is in order.
- Ms. Nami asked if the debrief would be for Commander A?
- Mr. Mozyrsky: Yes, questions asked pertain to some classes and not other classes; debrief is warranted.
- Ms. Nami: Yes, for reasons stated
- Ms. Chiller: No, the investigation was inadequate. No one asked if she was a whistleblower.
- Mr. Snell: Yes, for reasons stated and hyper aware of the discretion in disparate treatment and the complaints were not treated the same.
- **Third Allegation:** Captain B failed to follow proper procedures by being willing to provide timely disposition notification for 2017 B 0023.
- Mr. Snell it was clear that the RU's manager's finding was what a reasonable RU manager would find, exonerated.
- Ms. Chiller seconded.
- **Vote:**
- Mr. Snell: Affirm the finding of exonerated.
- Mr. Mozyrsky: Yes, the policy says what is say and policies are reviewed by Justice Department.
- Ms. Chiller: Yes, for reasons stated.
- Ms. Nami: Yes, was in policy. I struggle with the wording I would have gone with unfounded.
- Ms. Falk: No, acted within Bureau policy. Language matters.
- **Fourth Allegation:** Captain B engaged in discrimination and retaliation when he did not provide equitable treatment of complaints involving the appellant.
- **Finding: Unfounded**
- Ms. Falk made a motion to challenge and change it to Not Sustained with debriefing.

- Ms. Nami seconded.
- **Vote:**
- Mr. Mozyrsky: Yes, a cascade of question as to why individuals were treated differently. Ms. Reyna pointed out many differences. Challenge to not sustained with debrief.
- Ms. Chiller: No, lack of sufficiency of the investigation.
- Ms. Chiller asked procedural question, if CRC can discuss what the debrief should address.
- Mr. Mozyrsky said yes after the vote.
- Ms. Nami: Yes, for reasons stated.
- Ms. Falk: Yes, for reasons outlined by previous people voting yes.
- Mr. Snell: Yes, for reasons stated.
- Mr. Mozyrsky asked Ms. Falk for language for the debrief.
- Ms. Falk, broadly speaking, this investigation was not complete. There were not enough interviews done, not enough investigation done to determine why there was disparate treatment. CRC don't know what the RU manager was thinking, but on issues that are so important to the community such as discrimination based on race, gender, sexual identity merits a lot more investigation. It is insulting, shameful, the limited amount of investigation into those issues for what was in front of the CRC.
- Ms. Pomerantz asked if the RU managers have access to the Equity officers within the PPB and OEHR's or within the City Attorney's Office to ask questions, to seek guidance through this process?
- Ms. Fallon said there is an equity manager at PPB to discuss these types of issues. PPB is actively working on making sure officers know about that resource and encouraging them to reach out. The Attorney's Office is always available to the PPB RU managers when they are looking at these cases, findings, equity, diversity issues.
- Ms. Pomerantz asked if that was available at the time of this investigation?
- Ms. Fallon said she started in August of last year, so speaking from her knowledge, PPB had a diversity manager for a number of years and her office has always here for a long time, a labor attorney assigned to the PPB for those types of discussions.
- Ms. Chiller for the debrief: One is regarding the investigation tied to Commander A and Captain B. Agreed with Ms. Falk, and maybe it should be a meeting with that diversity manger or training about implicit bias, or discussion of it.
- Mr. Mozyrsky said he will capture that language. People might be discriminating without realizing it.
- Ms. Chiller brought up policy point that any disclination case will involve a diversity manager, to have a third party involved in these types of investigations.
- Ms. Nami suggested for Commander A that if they had a personal relationship to try to recuse themselves of the investigation.
- **Mr. Mozyrsky summed up:**
- **Allegation One:** The vote is to send the file back and have another set of eyes on why the lack of truth allegation was not followed up on.
- **Allegation Two:** Not sustained with a debrief, challenge and that goes to the Chief of Police, to see if they agree or disagree with the challenge.
- **Allegation Three:** Upholding exonerated finding.
- **Allegation Four:** Challenge, it goes to the Chief's Office to accept or if the Bureau does not accept the recommendation to have a conference hearing based on recommendations with a notice of the hearing.
- Mr. Mozyrsky addressed the appellant: If the Chief agrees with the challenges of the CRC just had then the case will be closed with respect to that second and fourth allegation. The first allegation will probably have another hearing, based on that when CRC get any additional information that might be forthcoming. This might go two different ways: One, is that the second and fourth allegation, either the Bureau agrees, and the case will be closed. If the Bureau disagrees, Director Caldwell will schedule the case for a hearing before City Council. Ms. Rayna and APA will receive a notice, and with the first one it will probably be another hearing and a notice will be received as well.
- Public comment was discussed, Mr. Mozyrsky opened the floor for public comment on the vote that just took place.
- **Public Comment:**
- Ms. Browning gave deep appreciate for CRC and the City Attorney and said the CRC are rock stars. She appreciated the questions that were asked.

- Mr. Mozyrsky thanked Ms. Browning for her help in this case. He also thanked Ms. Fallon for her help in this complex case.

07:45 pm—8:00 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: Vadim Mozyrsky, Shaina Pomerantz, and Julie Falk

IPR staff: Irene Konev, Community Outreach Coordinator

Policy workgroup did not meet this last month.

##### 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

Ms. Nami said the Recurring Audit workgroup met last week, there was only Ms. Nami and one community member new to CRC at the meeting, not much took place, Ms. Nami explained the work of the CRC.

##### 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

Mr. Snell said there was a meeting and a discussion with Assistant Chief Resch. They talked about crowd control tactics.

##### 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

Mr. Mozyrsky thanked everyone for a long meeting and opened for public comment.

**Public Comment:**

- Mr. Handelman: Regarding the OIR Report, City Ordinance 3.21.070L says IPR and CRC will review the OIR Report. Why is the IPAC hosting the meeting of the OIR Group when it is supposed to be CRC hosting this meeting? Thank you for all staying up so late for this meeting.
- Mr. Mozyrsky said the PCCEP and IPAC should also partner on the OIR Report recommendations. Ms. Pomerantz also recommended partnering with the PPB Equity Advisory group.
- Ms. Aiona: Reiterated what Mr. Handelman said earlier; that a well-done case summary is important. Until Ms. Reyna spoke, Ms. Aiona had no idea of what the case was about; she encouraged improved case summary.
- Mr. Mozyrsky agreed with Ms. Aiona.
- Ms. Reyna thanked the CRC on all their work, appreciated the time, the good points raised, thoughtful consideration and the input.
- Mr. Mozyrsky thank Mr. Reyna and said the Director Caldwell will be in touch with the Chief's Office and Ms. Reyna.

9:45 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.*