

Minutes
Citizen Review Committee
September 5, 2012

Date Approved: October 3, 2012

Meeting Location: Lovejoy Room, 2nd Floor, Portland City Hall

Chair Troy called the meeting to order at 5:30 pm.

Introductions and Welcome

Citizen Review Committee (CRC) Members Present: Jamie Troy (Chair); Michael Bigham (Vice-chair), Jeff Bissonnette (Recorder), David Denecke, K.A. Lalsingh, Rodney Paris, Andre Pruitt, Dr. Rochelle Silver, Steve Yarosh

City staff: Mary-Beth Baptista, Director, Independent Police Review (IPR); Linly Rees, Deputy City Attorney

Appeal Process Advisor (APA): Sherelle Owens

Attorney for Appellant: Benjamin Haile

Portland Police Bureau: Captain Dave Famous, Professional Standards Division; Lieutenant Larry Graham, Internal Affairs (IA)

Community and Media: Dan Handelman, Portland Copwatch and Flying Focus Video; Debbie Aiona (League of Women Voters); Shasta Leming (Right to Dream Too); Mark Hubbell (Right to Dream Too); Jamal Williams; Philip Oyofa; Ann Brayfield; Henry Herring

Minutes of the 8/1/12, 5/30/12, and 6/6/12 CRC Meetings

A motion was made by Mr. Denecke and seconded by Ms. Lalsingh to approve the minutes of the 8/1/12 CRC meeting. The motion passed 7-0 with an abstention from Dr. Silver.

After a minor correction noted by Dr. Silver, a motion was made by Chair Troy and seconded by Mr. Denecke to approve the minutes of the 8/1/12 CRC meeting. The motion passed 7-0 with an abstention from Mr. Paris.

At the request of Ms. Lalsingh, approval of minutes of the 6/6/12 was deferred to the next CRC meeting.

Case File Review of Case #2011-C-0270 (CRC Appeal #2012-X-0004)

Chair Troy introduced the Case File Review. The appellant was not present for the case file review, but was available by speaker phone. The appellant's attorney, Mr. Benjamin Haile, and APA Sherelle Owens were present.

Director Baptista presented a case summary, including allegations and findings.

Lieutenant Graham summarized the IA investigation, which was conducted by IA Investigator Renna. He explained that after the original allegation about the officer improperly entering into the appellant's house to arrest her was sustained, IA reopened the investigation to examine the amount of force that was used by the officer. Due to the additional investigation and delays in obtaining medical releases, the investigation went approximately three weeks past the due date for completion.

In response to a question that had been asked by Mr. Yarosh at the time he reviewed the case file about which tort claims are reviewed by IPR, Director Baptista replied that IPR reviews all tort claims involving the Police Bureau except for those that involve auto accidents. In response to some CRC members' concerns about possible leading questions during IA interviews, it was clarified that those questions were asked by the police union representative and not by the IA investigator.

In response to a question from Chair Troy about whether IA was aware of any additional medical documentation, Lieutenant Graham responded that IA Investigator Renna had contacted the appellant during his investigation to confirm that there were no additional medical records.

Mr. Haile then stated that he has recently become aware that there are additional medical records as well as a video recording demonstrating the appellant's injury. Mr. Haile also mentioned that he has also recently been informed that two neighbors of the appellant may have witnessed her arrest, and he would like them to be interviewed.

Ms. Owens asked the appellant if she had sought medical attention in the jail for a shoulder injury or told any of the employees in the jail about a shoulder injury. Chair Troy confirmed that all the medical records from the jail were in the case file.

Chair Troy: "I'm in a slightly awkward position, because I understood that we were completed with our investigation and an appeal had then been filed and we're having a case file review to look into that. And now I'm hearing Mr. Haile requesting additional information be considered by IA. I heard Lieutenant Graham indicating a willingness by IA to consider that information and perhaps reopen the investigation in light of that new information."

Lieutenant Graham: "Right now I consider the investigation is closed. It is finished. Like any investigation, if people provide more information or additional evidence, we'll look into it and evaluate if it's needed to go back and add anything that's substantive or something that needs to be... we will. But, I mean, it's finished as of this point."

At this point Director Baptista advised CRC that it is their decision, based on the new information that has been provided, whether or not to recommend that the investigation be reopened.

Dr. Silver made a motion to ask the appellant's attorney to provide IA with the additional information so that IA may evaluate it. Mr. Pruitt seconded the motion.

At the request of Mr. Yarosh, Mr. Haile was asked that the additional information be itemized. Mr. Haile replied: "I think the list would be additional medical records that the appellant has indicated exist tonight; two, would be a video recording that the appellant made indicating the injury and how it affects her; and three, would be interviews of two neighbors who live across the street and apparently witnessed the arrest."

Director Baptista asked the appellant what was the approximate date of the additional medical records that had not been provided to IA. The appellant estimated the date as no later than November of last year.

Chair Troy summarized the motion as follows: "The motion on the table is a request for additional investigation wherein IA accepts the additional medical documentation and video that Mr. Haile indicates he can get to them and considers whether or not they wish to interview two additional recently identified eyewitnesses."

Mr. Yarosh asked when the video was made. Mr. Haile replied that he believes it was made relatively recently.

Mr. Yarosh and Ms. Lalsingh expressed concerns that medical records and a video produced several months after the alleged injury would not be helpful for further investigation.

Chair Troy suggested that Dr. Silver's motion be broken down.

Dr. Silver withdrew her original motion and made the following motion "First, I would recommend that the appellant's attorney provide IA with the names and any other identifying information of two eyewitnesses to the incident, for IA to contact these people and pursue getting some information." Mr. Denecke seconded the motion. After public comment, the motion was voted on and passed by a vote of 7-2.

Yes: Bissonnette, Denecke, Lalsingh, Paris, Pruitt, Silver, Yarosh

No: Bigham, Troy

Dr. Silver made the following motion: "I make a motion that we do not prejudge what medical records can tell us or IA and that we ask that the appellant's attorney provide IA with all the information pertaining to the situation at hand – medical records, video – and that that information be evaluated by IA, IPR, and perhaps us, and we move forward." Mr. Pruitt seconded the motion.

The motion was voted on and failed to pass by a vote of 4 yes, 5 no.

Yes: Bissonnette, Denecke, Pruitt, Silver
No: Bigham, Lalsingh, Paris, Troy, Yarosh

Mr. Bissonnette made a motion that the appellant's attorney provide the existing medical records to IA for evaluation. Mr. Denecke seconded the motion.

The motion was voted on and failed to pass by a vote of 4 yes, 5 no.

Yes: Bissonnette, Denecke, Pruitt, Silver
No: Bigham, Lalsingh, Paris, Troy, Yarosh

Chair Troy asked IPR and IA to let CRC know in due course if additional investigation will be done. At that time CRC will consider either an appeal hearing or an additional case file review.

Director's Report

(See attached)

Chair's Report

Chair Troy said that the meeting with Mayor Adams to discuss the impasse on a previous appeal has been rescheduled.

Chair Troy has met with individual members of CRC to discuss workgroup activities.

Chair Troy has had several repeated requests for applying pressure on IPR to respond to a letter they received earlier this year related to whether or not there is an option to appeal a matter that came before the Police Review Board that involved an officer-involved shooting. He said he has discussed this matter with Director Baptista, and she has written a letter in response to the attorney who sent the letter. Chair Troy believes it would be premature for CRC to weigh in on this at this time.

Chair Troy has also received repeat requests from a concerned community member to look at the IPR dismissal process, and he has given this person a couple of different options for workgroups that he can take his concerns to, including the Crowd Control Workgroup and the Recurring Audit Workgroup.

Chair Troy also attended a community event sponsored by the Crowd Control Workgroup and reviewed the case file for tonight's case file review.

Old Business

None.

New Business

Mr. Pruitt said he would like for some consideration to be given to how CRC as a board reviews cases and presents, because he feels at times people speak in an intimidating way that makes CRC members feel like they have been shut down. Director Baptista suggested the possible use of IPR mediators to address these concerns.

Workgroup Updates

Crowd Control Workgroup (Mr. Paris): met last week in the Miracle Club in Northeast Portland. Fifteen to twenty community members gave input on experiences they have had with protests and crowd control issues. The next meeting is scheduled for 9/12/12 from 12:30 p.m. to 1:30 p.m. at Chair Troy's law office.

Outreach Workgroup (Mr. Pruitt and Dr. Silver): The workgroup met today 9/5/12. The workgroup is in the process of working with Race Talks on a community event planned for November. The next meeting is scheduled for 10/3/12 at 4:00 p.m. in the Commonwealth Building.

Recruitment, Retention, and Promotion Workgroup (Mr. Yarosh): The workgroup meets on the second Friday of each month. The workgroup last met on 8/17/12, and they continued with their current project, which is to look at existing studies that have sought to determine if there is any correlation between demographic factors of age, education level, experience, and gender of an officer and the statistical likelihood of engaging in misconduct. The next meeting is scheduled for 9/21/12 at 10:00 a.m. in the Auditor's Conference Room.

Recurring Audit Workgroup (Mr. Bissonnette): The workgroup has completed its review of IPR dismissals, and data is being entered. The next topic for review will be investigations.

Use of Deadly Force Workgroup (Mr. Denecke): The workgroup last met on 8/29/12 and had a presentation by a labor law attorney about the role of the arbitration process and collective bargaining agreement in use of deadly force cases. The next meeting is scheduled for 10/31/12 with the PPB Training Division, at which time they will receive a presentation on use of deadly force and malpractice management. The location for this training has not yet been determined. At the next regular meeting of the workgroup, the mission statement will be completed for presentation to the full CRC.

Public Comments

Mr. Handelman: asked that CRC members remember to explain their votes so that the public may better understand their reasoning; appreciated Lieutenant Graham's openness to conducting additional investigation; questioned why IPR Assistant Manager Mortimer did a ride-along with the Gang Enforcement Team, since two of these officers were involved in a shooting that is the subject of a possible appeal; would like to see a

flow chart outlining what happens with investigations of deadly force; expressed concern that the outreach program be turned into a forum about community policing rather than police accountability.

Henry Herring: Agreed with Mr. Handelman that it would be helpful if CRC members explain their votes.

Jamal Williams: Questioned how any of an officer's subsequent actions could be exonerated if he has been found to in violation of policy by entering someone's house; observed that CRC members need to respect the dignity of other members when a motion is made that they do not agree with; would like to see CRC meetings and workgroup meetings made more available for and advertised more toward the African American community.

Wrap-up Comments

Mr. Bigham gave notice to Director Baptista and Chair Troy that he will be leaving CRC after the February meeting.

Adjournment

Chair Troy adjourned the meeting at 7:45 p.m.