

Minutes
Citizen Review Committee
February 6, 2013

Date Approved: March 6, 2013

Meeting Location: Room C, Portland Building, 1120 SW 4th Ave. Portland, Oregon

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, Rodney Paris, Dr. Rochelle Silver, Steve Yarosh

City staff: Mary-Beth Baptista, Director, Independent Police Review (IPR); Linly Rees, Deputy City Attorney; Chad Stover (Mayor's Office)

Appeal Process Advisor (APA): Robert Ueland

Portland Police Bureau: Captain Dave Famous, Professional Standards Division; Lieutenant Larry Graham, Internal Affairs (IA); Captain Kelli Sheffer, North Precinct; Lieutenant John Scruggs, North Precinct

Community and Media: Dan Handelman (Portland Copwatch and Flying Focus Video), Debbie Aiona (League of Women Voters), Regina Hannon (Portland Copwatch), Henry Herring, Michael Callahan, Steve Minor, Cheryl Maynard, Stephen Maynard, James Maynard, Barbara Ross, Ann Brayfield, Carolyn Lee, Valerie D. Scott-Cardenas; Denis Theriault (Portland Mercury)

Minutes of 1/9/13 CRC Meeting

A motion was made by Chair Troy to approve the minutes of the 1/9/13 CRC meeting. The motion passed unanimously.

Director's Report (Director Baptista)

(See attached.)

Chair's Report (Chair Troy)

Chair Troy's activities for the month included the following: reviewed the supplemental investigation related to tonight's appeal; engaged in CRC recruitment activities among diverse groups; commented along with Mr. Bigham and Dr. Silver on the demotion of Lieutenant Wyatt; worked with IPR to schedule case file reviews for upcoming appeals; reviewed draft CRC minutes before distribution to CRC members. Chair Troy also

announced that Mr. Bigham has agreed to extend his time on CRC until new members are selected.

Appeal Hearing #2011-C-0060/2012-X-0003

Chair Troy stated that tonight's appeal hearing is a continuance of a hearing that took place on 6/6/12 on the case involving "Craig."

All CRC members verified that they had reviewed the entire IA and IPR files, including the supplemental investigation. Mr. Paris, who was not able to attend the original hearing, also listened to the recording of that hearing.

Chair Troy introduced the participants for the appeal hearing: Ms. Cheryl Maynard and Mr. Steve Minor (Appellants) and Mr. Ueland (APA). Officer A was not present for the hearing. Lieutenant Scruggs of North Precinct was present to represent the precinct commander.

Chair Troy described the appeal process.

Mr. Paris and Dr. Silver presented the CRC appeal summary and a summary of the supplemental investigation.

Ms. Maynard made the following statement:

"I would first like to thank this committee for your many hours of work and investigation. I'm very grateful that you gave such careful and serious consideration to this complaint. In addition, I would like to re-emphasize what was written in my statement of June 6th, that the officer in question did not give enough time to a nonaggressive approach in his arrest of my brother, Craig Maynard. The physical and emotional trauma inflicted upon my brother was unnecessary and avoidable, and the violent actions had tragic results. Regardless of his culpability, what happened to him was wrong. I hope that the Portland Police Department would not only consider but implement better training and greater supervision, especially in their encounters with the mentally ill. Again I thank this committee for all your efforts, for allowing our voices to be heard, and for insisting that our complaint not be ignored or otherwise dismissed. You are an impressive group of citizens, and I thank you."

Mr. Minor seconded Ms. Maynard's comments and added the following comment: "I just want to remind people that the original report that was filed... there was no indication by any witnesses C and D in this report. It's interesting that witnesses A and B, who were outside the bar, their testimony did make it into that report, in that they weren't at all indicating any culpability on the part of the officer, whereas the witness testimony C and D didn't make it into the police report, and that was the testimony that indicated that he was indeed culpable. I thought that was pretty interesting. I just want to remind people that that's the case. That he appeared to – they both appeared to leave out that testimony, and I think that's unfortunate." Mr. Minor also stated that it was his understanding that when the complaint was re-investigated, the witnesses

would be asked whether or not they thought that Craig was trying to flee, because that was apparently what the officer thought, and that was why he took him down.”

There was no one present to make a statement on behalf of Officer A.

Neither Captain Famous nor Lieutenant Graham had anything to add regarding the supplemental investigation.

Lieutenant Scruggs presented an explanation of the Command Staff findings. He said that when the results of the supplemental investigation were provided to him, he went back and reviewed case in its entirety. He stated that because of the discrepancies in testimony, he was not able to prove one way or the other whether or not Craig was trying to leave. He summarized his findings as follows: “Based on all the information I have here, I can only conclude that we cannot prove that the force was excessive.”

CRC Questions:

Mr. Bissonnette [to Lieutenant Scruggs]: “You made a reference to topics you covered in the debriefing, one with the notebook and then... I heard you kind of allude to some other things you might cover in that. I wondered if you could list those...”

Lieutenant Scruggs: “... I’m not supposed to cover what I covered in the debrief, but I think that any circumstance we’re involved in, there are things we can learn from. I think it’s good to go over an event, even if everything goes right, and do a debrief.... We can always do better, and I think we need to keep that in mind....”

There followed a discussion of the policy directing officers to use the least amount of force necessary.

Dr. Silver: “I really appreciate you saying that in coming to your findings you looked through the whole case, not just the supplemental; and I think that’s really important in the situation and that, because we heard this case earlier..., we’re not mentioning some of the things that were mentioned at that appeals hearing meeting. And I think it’s important, because in the yellow book and other places we always see the phrase ‘totality of the circumstances,’ and I think that’s pertinent in all cases, particularly in this situation.

“So I’d just like to review a couple of things, because what I hear you focusing on tonight is that the issue became whether Craig was going to leave or not, and we have established – we have three or four different witnesses, and they all saw different things, so who knows if he was going to leave or not? But we do know, from Officer A’s own words..., that he said, ‘I’m going to do more today than I usually do because it’s been quiet, and there hasn’t been much action. And then he had a car stopped because the person may have been talking on the cell phone..., and that didn’t work out, and that’s when he was blocking the bike lane, and when Craig drove around it, he made a comment like ‘Nice parking job, asshole,’ or whatever he said. Not a very nice comment, but... and whether Officer A heard that or not, who knows? But then Officer

A decides to follow Craig because he doesn't have a light on the back of his bike. Now I never did look this up, but I don't think that's a crime. I think it's a violation or some minor thing.

“So then when he approaches Craig – this is where I get into the escalation, de-escalation issue. He could say – he admitted that he thought Craig was probably mentally ill. He said that in his testimony. He said that he thought he was probably drinking. So he knows he's talking to an impaired individual, and he could have – to de-escalate the whole situation – he could have said, ‘Craig’ or ‘Mr. Maynard,’ it's late, it's a holiday, you're driving without a light. Let me follow you home. I know you only live a couple blocks from here. Let me make sure you get home, and I never want to see you drive without a light on your bike again.’ Something like that. Something in pursuit of the goal of to protect and serve. But he didn't do that. He set up, in my mind, a confrontational issue. ‘You didn't stop.’ ‘I didn't have to stop.’ Take off your backpack.’ I don't have to take off my backpack.’ And then they got into a thing which resulted in the officer using whatever force he used to take Mr. Maynard to the ground. I think the whole thing was totally avoidable by good de-escalation techniques. There was not a crime. There was a traffic violation. It was a minor traffic violation. The whole thing could have happened differently, so I don't know that we should be focusing on whether he was astride the bike, whether he was trying to leave or not. And even if he walked, so what? I mean, nobody's getting hurt. I mean, maybe he could get run over, and that would be tragic too, but I just think the whole thing was handled badly.”

Lieutenant Scruggs responded to Dr. Silver's comments. He stated that in reviewing this case he tried to do justice to Craig's family and friends, and he tried to do the best job he could possibly do in looking at the facts of this case.

Chair Troy: “In fairness to Lieutenant Scruggs, I think at the last hearing [he] did a description of no lights and ran a red light and didn't pull over, then used the loudspeaker, and I recall him giving a detailed explanation of the things that would lead to more questions in the officer's mind....”

Dr. Silver: “One of the things that you said just a little while ago is that the officer doesn't look at the person as a person but looks at them as a violation. Is that what you said?”

Lieutenant Scruggs: “I don't remember saying that... I think I said he looks for violations. I don't think that...”

Dr. Silver: “Okay. You know, it's true that these events happen – that Craig didn't have the light, that he went through a light, that he didn't stop right away, that he made an un signaled turn. But when Officer A encountered him, and they spoke, Officer A could see that he was speaking to a very impaired individual. And I don't know where that gets into the officer's decision-making.”

Lieutenant Scruggs: “I don't recall him saying ‘a very impaired person.’ I recall the officer saying it was a possibility..., but in the end, he had probable cause to make an

arrest, and it appears Mr. Maynard starts to ride away. I mean, that's all I can look at. I can't prove that. And that's where this use of force event went...."

Dr. Silver: "So between the time that this event occurred and now, there has been this DOJ investigation, and I know that the City and the police force didn't claim any culpability, but the DOJ investigation I believe thought that the Portland Police need some work in dealing with the mentally ill, okay? So did you consider that at all in your re-review of this matter?"

Lieutenant Scruggs responded that he has read the DOJ agreement several times, and he acknowledged that there is a dedication in the Portland Police Bureau to improve upon what they are doing, but he could not consider things from the DOJ agreement in reviewing this case.

Chair Troy thanked Lieutenant Graham for the manner in which he conducted the supplemental investigation of this case. He noted that Lieutenant Graham chose to re-interview Officer A even though CRC had not specifically requested this. Chair Troy asked Lieutenant Graham why he had made the decision to this. Lieutenant Graham replied, "It was the right thing."

CRC Discussion:

Dr. Silver: "I think I sort of said what I think, and I repeat, I think the situation was not handled well. I don't think any force should have been used, so I think it is excessive force."

Mr. Yarosh: "I don't want to leave that as the last word, because I don't agree with that. I think what we have is a lot of Monday morning quarterbacking and looking for flaws in something that happened rapidly. I thought the lieutenant summed up the facts really well. In an uncertain environment at eleven thirty at night, with an individual that smelled of alcohol and had already... told [the officer] through his own words and through his own conduct over and over that he was not going to comply, he was not going to follow the orders. The officer tried to get him to comply, and then the individual, in this uncertain environment, in a pretty uncertain part of town, at eleven thirty at night, made a move to leave after all of that. And the officer took him down and arrested him. It's an unfortunate outcome in a lot of ways. It's unfortunate that his elbow was dislocated. It's unfortunate that he was personally affected very deeply by this. And I feel bad for him, but I can't let that substitute for what the officer was facing in those seconds, at that moment, in that environment. And that's why I would move, when it's time to make a motion, to affirm the findings of the Bureau as Unproven with Debriefing.

Mr. Bissonnette: "I think that's pretty much where I am, to affirm the finding. I'll have some comments on the debriefing. I also have some comments on the disposition letter before we vote; but I did too want to echo the thanks to IA and to Lieutenant Graham for the additional investigation, and thank you for going the extra mile. It was the right question..., and I guess that leads me to sort of acknowledge the officer in absentia for

basically saying, 'Yeah, I did say that. Here's what I meant.' ... I'm glad he asked the officer, and I'm glad the officer had the opportunity to be honest and explain what he meant. So thanks for doing that extra mile, and again, thank you to the officer for that."

Chair Troy [to Mr. Yarosh]: "Steve, I just have a question for you. It sounded to me, based upon your statement, that instead of moving to affirm the Bureau's finding, it almost sounded like you're moving to challenge and asking them to overturn it from Unproven to Exonerated."

Mr. Yarosh: "No, I'm not doing that."

Chair Troy: "In terms of my looking at this case and the thoughts that I had reading the additional investigation, I agree with everyone's assessment. I think Mr. Minor, and as Lieutenant Scruggs pointed out, that there are multiple witnesses to this event, and they have different – it's hard to know. I don't know if his bike was between his legs, i.e., astride. I don't know if he was between the bike and the curb. I don't know if the bike was down. There's three different stories about that. I think it was a quick event. It was a dark evening; and it was a detail that didn't seem important, probably, to some of the observers at the time, so it didn't stick in their memory, and that seems completely reasonable to me.

"But I think the last time we were here and talking about this, when we were looking at the totality of the circumstances, and whether or not the takedown, the initial use of force, was warranted was hung on whether or not you believed Craig was making whatever motion to exit the scene, like get on his bike or start pedaling his bike and leave, which would not have been allowed, whether it was clear to him that he wasn't allowed to do that. And I don't know, and I don't know how the Bureau would know either.

"The way the car was parked from the interaction between the officer and Craig and the witnesses across the street – the car was kind of blocking their view some, and so that made it difficult for them – I think the civilian witnesses also admitted they had come back from a bar and were under the influence of some alcohol.... That was a factor that the Bureau considered; and the further investigation didn't really clarify that. I'm not suggesting that it could have. So we're still stuck there, but what really bugs me and why I think the committee really wanted the additional investigation was this very clear statement that Craig had in his writing about stating to the officer, 'You broke my arm on purpose,' and the officer saying to another officer, 'Yeah, I did.'"

"And what we've learned from the additional investigation is, well, the other officers who were at the scene do not recall that exchange, that the officer involved admits that he said, 'Yes, I did.' He indicates that he didn't say that it was on purpose, and he didn't intend it to mean what Craig took it as, but rather he was saying over and over again, 'I'm just letting you know, yeah, I'm the one that had this interaction with you, and you're complaining about this. And Craig's not around for us to ask any further, but I can certainly see how individuals involved in that confrontation would have very different perspectives on that.

“So I am really glad that we were able to get that piece of information from the officer, because I think it adds at least clarity to – there’s no dispute that he made a statement about that. I guess the question is, how he intended that statement, and we now at least have his answer to that question, and that impacts my vote on this case. There was quite a bit of discussion leading to the additional investigation, and I am glad that the committee stuck to their guns and was able to persevere and get the additional investigation done, because I frankly feel like I’m in a much better position to make my decision now than I was when we were here in June, and I think that I’m satisfied with the Bureau’s investigation and their findings in this case....”

Public Comments:

Mr. Handelman: Provided a critique of the proceedings and stated that he joined with CRC in thanking Internal Affairs for doing the additional investigation.

Mr. Herring wondered why the officer did not approach Mr. Maynard and inform him that he was going to cite him for making three traffic violations, and that might have been the end of the matter. He said, “What consistently seems to happen is that, rather than using a direct and straightforward approach, in which people who are stopped by the police are informed, and the police take what would be a reasoned action, in the totality of circumstances of traffic violations, these situations become violent. And I would urge the CRC to try to see if they can find ways to at least inform and let the Police Department know that this kind of behavior toward the public is unacceptable.

An unidentified person stated that she did not want to question the officer’s motive, but in terms of policy, it is sad that a stop for a traffic violation disintegrates into a power struggle.

Rebuttal Comments:

Mr. Michael Callahan: “I just wanted to follow up on a couple things. I think there was something about the timeline, when Craig first went by the police car to when he was on the ground. And I think that’s a part of that escalation question. It was so quick.... It was a matter of seconds.... It seems pretty clear that he could have done something besides what he did, and I’m kind of flabbergasted a little bit in that the Officer A isn’t here, and I feel like, Lieutenant, you didn’t really – somehow I guess you can’t – it’s top secret or something about the debriefing, but Mr. Bissonnette asked you about what else there was in the debriefing.... I mean, if there’s anything that we could try to get this is a lesson for the next time it happens, that why can’t Officer A be here, or maybe some other officers, to learn.... And how come you can’t tell us what the debriefing was about...? ... I just hope that there’s a lesson that can kind of transport from here over to here – over to the Bureau, where learning is taking place, where this doesn’t have to happen every time, that somebody goes by and says something to you. Maybe you heard it and maybe you didn’t. Maybe you heard it and you reacted, and already your adrenaline’s up, but just de-escalate and try to understand the situation that you don’t have to use excessive force....”

Mr. Steve Minor commented that it appeared to him that both civilian witnesses did indicate either that the officer used excessive force physically or by the fact that he didn't attempt to de-escalate. He thanked CRC for pursuing additional investigation.

Lieutenant Scruggs assured Craig's family and friends that if there lessons to be learned, the Police Bureau looks at those and take them into account and try to adapt them to their training. He agreed to meet with them and to speak with Officer A about anything that they personally would like discussed with him.

Ms. Rees read the standard of review: "You are to determine whether the recommended finding, in this case, Unproven with Debriefing, is supported by the evidence. Under City Code, a finding is supported by the evidence when a reasonable person could make the finding in light of the evidence, whether or not the reviewing body agrees with the finding."

Mr. Bissonnette made a motion to affirm the Police Bureau's finding of Unproven with a Debriefing. Mr. Denecke seconded the motion.

Dr. Silver: "I'm going to pass for now."

Mr. Paris: "I'm going to vote aye on the motion for a lot of the reasons that have already been discussed. I think it's just unclear, there's just too many differing opinions on what happened. I think it would have been an Exonerated finding, I might have challenged that. I think an Unproven finding – I think a reasonable person could come to that conclusion. I thank the Lieutenant for probably having the best explanation of what was the rationale and thought process behind the finding that we've heard.... So for all those reasons, I vote aye."

Mr. Bissonnette: "Very briefly, for the record – I didn't make this part of the motion, but I just would ask the Lieutenant, in terms of the debrief – I'm glad your considering more than just the notes. I would ask that you note that you had a trained witness that had done law enforcement within a military context and had at least some questions. And so, as part of the discussion, even if you can't come to the conclusion that everything was done right here, that some of the things we've talked about in terms of various options for de-escalation, explaining actions and reasons again, not telegraphing but just saying, 'Look, I'm not going to search in your backpack, but I do need to remove it,' may have moved things along. May not, but again, going to a little bit more explanation. I'll note that answering, 'Yes, I did,' to 'You broke my arm,' is very different from, 'Yes, I'm the officer who unintentionally hurt you,' and so the only cautionary note I'd say there again, as appreciative as I am of the officer's honesty, is just to be more clear with the intended words, and also you considered the totality of the circumstances beyond what we've talked about here. Craig didn't stop. He should've. He didn't. But he wasn't fleeing. He didn't veer off. He didn't pick up speed. He kind of kept going and was going home. That I think is part of it, and then also, too – I noted this in the last part of the hearing – about the disposition letter, where there was some discussion about a different finding and a disposition letter written for a different finding, but the

finding was changed, but the disposition letter didn't, so I would ask both IA and IPR to take a look at writing a disposition letter that raises some of these issues and gives better explanation as to a finding of Unproven and to maybe talk a little bit about the debriefing that the officer might get. With that, I'll vote aye."

Chair Troy: "I've already tipped my hat on my explanation for my vote this evening, so I'm going to vote aye."

Mr. Bigham: "I agree with Jamie's analysis. Do I think the officer could have approached this whole situation differently? Yeah, I do. I honestly do, but I'm not – in my mind, it's still unproven, so I'll vote aye."

Mr. Denecke: "I will vote aye, also. I do think that the timeline is important here, and the obvious intent of the officer to make an arrest. And you talk about minutes. It was, I believe, ten seconds from the time he got out of his car to the time he took him to the ground. I think that's what the timeline was that we learned. And I think it was too abrupt, and it could have been done differently, but I certainly can't say that a reasonable person couldn't come to the conclusion that it was unfounded. So I'll vote aye."

Mr. Yarosh: "I'll also vote aye. I would commend you (Lieutenant Scruggs) on being here tonight and your presentation. I think you lent a lot of clarity to this for everybody. I would ask that, as one of the commanders stated in concurrence that part of the debrief cover the technique for cuffing resistance from folks. Maybe that's something that I'd like to chat with you about at some point as well. I vote aye."

Dr. Silver: "I want to say that I believe that our standard of review sucks and that what we're doing here as we do in other appeals is not making any judgment on the particular officer, Officer A. We're making a judgment about whether a reasonable person, like Lieutenant Scruggs, can come to the decision that he came to, and I have no choice but saying, 'Yeah, he could come to it.' I don't like that. I don't like what this is all about this way, but I have no other choice but to say that."

The motion carried 7-0.

Policy discussion

Chair Troy: "I agree with Dr. Silver that I do feel like there was a way to approach this that could have avoided this terrible outcome for Craig. I think that the DOJ investigation just sort of talks to this kind of thing happening so often it's gotten to the attention of the civil rights arm of our government, and I don't necessarily have any answers to what I see as valid points on both sides. I understand that if I was working underneath Lieutenant Scruggs and was trained that if I was going to go hands on and use force, I need to use decisive force so that I'm not injured, so that conflict is resolved quickly, that I'm exercising my authority under the law and doing so decisively. And I don't know how you can argue against that. I think that's correct. But I also think that sort of the judgment in how to look at who you're interacting with and how to decide

when to exercise that versus when to really focus more on de-escalation is a little bit of a disconnect here.... I don't know how to get away from how do you look at noncompliance and then how do you deal with the response to that. And I think we have to do a better job of it somehow. ...”

Mr. Bissonnette: “The only thing that I'd add in terms of the policy and other issues that have been raised at this point is that the committee was pretty committed to additional investigation, and I'd say I regretted that we had to sort of go to the top, if you were, but I believe that was the right decision, and I was prepared to take extreme measures to do that. And I don't think this group does that all that often, and so I think maybe the policy change contained in the DOJ letter will sort of help in terms of, I'd say, clarifies what was an open question or a hanging question in the Code as to what happens, it terms of when there's more investigation that the committee felt was needed, and we don't get it; and I'm hoping that the DOJ approach in terms of spelling some of that out will help, but as we move forward, I think that by and large we, even though all of us have our roles to play, we play them pretty well and as cooperatively as we can. ... I guess I just have a plea that, if the committee, in a fairly unified voice, is saying we really need this, to ask, and I think – again, thanks to Lieutenant Graham's initiative, I do think that we have much more closure and much more information available to us, that we can make a better decision that we all feel pretty comfortable with. ... When we've asked for it once in the case file review and asked for it again after the appeal, we sort of need it, and so I'd just like to ask you to take that in consideration.”

Mr. Denecke: “I want to echo what Dr. Silver said... The scope of our review, to me, is not adequate. We are supposed to be independent, representing the citizens' review of what happened, and yet we're bound by whether the decision makers could reasonably have found, and I would prefer our scope of review was different. I think it would be more effective and represent the City's point of view – the citizens' point of view – if we had a broader scope of review.

“The other thing is, in the training, somehow we have to bridge this disconnect, where the policy that says you're not going to tell a person whether you're going to take them into custody or ask for their backpack, but you know that by doing it that way, you're going to have to become physical with them, and if you're going to become physical with them, you're going to have to use the maximum physical force which is necessary in order to take control of the situation. So it's a vicious cycle, and I think somehow we have to find a way in training to get out of that, and I'm not sure what it is, because I know they're legitimate concerns of the trainers, that officers not be injured, but there are some risks that officers, I think, are going to have to take in order to de-escalate, in order to announce their intentions, and in order to give people a fair chance to comply. And this is one of the situations where perhaps there wasn't an adequate opportunity to comply.”

Mr. Yarosh: “On our standard of review, it is a confined standard. I think this is a case that explains why it's a confined standard, because I think that if we had a broader standard, we would have reached the wrong decision and that by having our hands tied to a deferential standard, that they have to be unreasonable in their decision before we

can overturn it, it keeps us from substituting our lay citizen judgment for the professional knowledge and judgment of a series of police officials who are reviewing what happened. And I don't think that having a broader standard will necessarily lead to better results. I think that it may, in fact, do the opposite.

"On another policy point here, because I believe that, given the totality of circumstances faced by the officer at that moment, the officer did act appropriately, but what we ended up with was a really bad result. An injury and worse. And so I think it's worth asking why. Why would that happen? Why would the officer be acting in an appropriate manner, I think, as Lieutenant Scruggs described, and yet we end up where we are here, with these two hearings and this disastrous outcome. And I think that that's a policy question worth pursuing. And one of the things that that leads me to is thinking back to the Golden Age of television, and I used to love watching the Andy Griffith Show, and one of my favorite characters on that show, and I don't mean any disrespect, was Otis. And I loved the way... Andy Griffith walked around that little small town with no gun and he knew -- 'Oh, it's just Otis. Come on, Otis.' And he knew how to handle it. He know how to handle him. How come? Well, one reason was it was a little town, and we have a little town mentality here, but Portland is an international city, and it's growing and growing. But how can we have both? Is there a way to have both? And I think that's a policy discussion worth pursuing, and I think one of the reasons that what we end up with is a tough result, an unfortunate result with an officer who's acting appropriately, is because that officer didn't know -- he didn't know Mr. Maynard. He didn't know him the way you knew him. He didn't know he was not a danger. He wasn't out of his car regularly in that area, walking the sidewalks, getting to know the people. It wasn't true community policing.... But I think that that is something that I would like to see a deep, a really ongoing policy discussion on -- the way we police as a community."

Mr. Bigham: "...we have a policy that actually isn't that bad, in some respects. But how you translate it into how officers react on the street doesn't follow all the way through. So you have officers reacting very quickly because that's the way they're taught. They're taught to be decisive. They're taught to make that arrest. And they're not taught yet -- I think they need to be -- how to gauge the situation and slow down a little bit. And sometimes you can't. Sometimes you can't slow down. Sometimes you have to get right in there and take care of business. But there's a commitment by the Bureau to use only the force reasonably necessary to effect an arrest, but somehow that get's lost in the translation.... So the question is, how do you translate that commitment on use of force into the training and see how officers use it on the street. I'm not sure how to do that, just saying that it's an issue that hasn't been explored or hasn't been resolved yet, in my mind."

Dr. Silver: "I just want to follow up on what Michael just said. I think that there is a big disconnect between the policies as written, maybe the trainings as given, and what happens on the street and what is referred to by some citizens as the culture of the police. So we can read in the manual about using the least force necessary, and we can read about the totality of the circumstances, but then when we look at situations, it goes really quickly, and somebody gets hurt, and there's a complaint -- at least the matters that we hear. We don't hear about the ones that go well. There are things that

I hear officers on the street say that are disturbing to me, like the expression 'bad guy,' and it's my belief that if an officer looks at themselves one way and everybody else as a bad guy or a potential bad guy, they will treat that person as a bad guy and not as a person. I think that's the mistake that was made in this situation with Craig. He wasn't a 'bad guy,' he wasn't a 'violation,' he wasn't a reflector on the bike. He was a person. And I think that there was time for Officer A to have learned who that person was. There was no hurry. There was no danger. There were no guns. So I believe that there was time, and I certainly believe there has to be more training – not just in the classroom, and not just with role playing, but in the supervision of the person riding around in the car or walking or wherever you are, in the coffee shop – I think that you need to look at other people as people. And that's the police force that I want."

Old Business

Update on Appeal 2012-C-0005/2002-X-0005

Captain Famous stated that IA has received the documents from IPR regarding this appeal and is working on a response now.

Update on 2013 CRC Recruitment

Dr. Silver said that this topic was discussed at length at the Outreach Workgroup meeting today. Irene sent out an email to CRC members, asking if they could participate in the application process sessions she is holding. So far three CRC members have agreed to do this, and Dr. Silver encouraged members who have not done so to sign up for one of those sessions. Chair Troy mentioned that there was also a KBOO radio show about CRC recruitment. One of the problems with recruitment that was pointed out is the significant time commitment required of CRC members.

Mr. Yarosh asked about parking for CRC members. Director Baptista stated that the Auditor has issued a policy on reimbursement of parking fees for CRC members who come downtown on official business.

New Business

Mr. Bissonnette said that the Outreach Workgroup has prepared a summary of public comments from the community forum in November, and Mr. Bissonnette asked that consideration be given to posting an edited version of these notes on the website as a public record of the community forum. He asked that this be included on next month's agenda.

Mr. Bissonnette announced that the first meeting of the Police Bureau's Training Advisory Council is scheduled for tomorrow night. Mr. Bissonnette has been selected for this council, and he will endeavor to link some of CRC's policy discussions to the discussions at the meetings of this group.

Workgroup Updates

Crowd Control Workgroup (Mr. Paris): The workgroup was scheduled to meet this week, but at the last minute the meeting had to be canceled because a member of the Police Bureau who was scheduled to meet with the workgroup was unavailable. Another meeting will be scheduled and announced as soon as possible.

Outreach Workgroup (Dr. Silver): The workgroup met today with Irene Konev. There were three things on the agenda: the public forum comments; CRC recruitment; the next community forum. Dr. Silver asked that other workgroups consider possible themes for the next forum.

Recruitment, Retention, and Promotion Workgroup (Mr. Yarosh): The next meeting is scheduled for Friday, 2/15/13 at 10:00 a.m. in the Auditor's Conference Room. Officer Greg Stewart, a data analyst for the Police Bureau, will be presenting at the next meeting regarding CIT training and whether he has predictors or statistics showing that it is associated with a reduction in the use of force. Sergeant Craig Morgan will also discuss the correlation between recruitment test scores and the likelihood of misconduct. Lieutenant Vince Elmore of North Precinct has asked Mr. Yarosh to extend an invitation to the full CRC for a tour of the North Precinct.

Recurring Audit Workgroup (Mr. Bissonnette): The data collection on IPR dismissals has been completed and will be entered into the analysis spreadsheet. It is hoped that there will be a meeting within the next couple of weeks to review the data and begin writing the report so that work may begin on the investigations review.

Use of Deadly Force Workgroup (Mr. Denecke): The workgroup is awaiting confirmation of a 2/18/13 meeting with the Training Division on training around use of force and deadly force.

Public Comments

Ms. Hannon asked CRC to consider addressing homeless issues in a future public forum.

Mr. Herring discussed the current language in the CRC's standard of review and urged CRC to advocate for the use of more precise language.

Mr. Handelman provided several comments regarding tonight's hearing. He commended Lieutenant Scruggs for offering to meet with Craig's family and friends.

Ms. Brayfield suggested that CRC workgroups take the opportunity with a new administration to have the Director of Public Safety attend some of the workgroup meetings and to let him know what some of the concerns of their group are.

Wrap-up Comments

Chair Troy thanked those who made comments on the standard of review and made the following statement:

“We have done everything we can to make it clear that as a body the CRC disagrees with the standard of review as well. There’s been umpteen times that that’s been brought to the powers that be, and that standard of review is what it is at this moment in time, and there’s no change contemplated for that standard of review under the Department of Justice summary agreement. I am a pragmatist and like to keep moving forward when battles have been lost. So if you want to change the standard of review, you’re preaching to the choir, and you really should talk to the powers that be, because we have gotten nowhere with it, and I don’t find it really particularly productive to talk about that over and over and over again when there’s nothing we can do about it.”

Dr. Silver asked Captain Famous if he would help her to get in touch with the person who runs the retired police officers association so that she can offer them an opportunity to be on CRC.

Mr. Bissonnette announced that the meeting of the Training Advisory Council will be held at the Police Bureau’s new training division office at 14912 NE Airport Way, starting at 6:00 p.m. on 2/7/13.

Mr. Yarosh complemented Chair Troy on the way he handled tonight’s appeal.

Adjournment

Chair Troy adjourned the meeting at 8:16 p.m.