

# Exonerated?

*Citizen Review Committee clings to wrong version of policy before voting to clear police bureau in Klug case*

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Matthew Klug was justifiably frustrated, and you could hear it in his voice as he pleaded with the Citizen Review Committee, again and again, to look at the evidence he'd brought to his appeal hearing May 4.

The committee before him that evening is an arm of the Independent Police Review (IPR), staffed by volunteers, that oversees appeal hearings when a complainant disagrees with the findings of an investigation into their complaint against the Portland Police Bureau.

It's their job to objectively listen to both the bureau and the appellant, and then either agree with bureau findings or challenge them.

It was more than a year ago that the IPR first received Klug's complaint against police for repeatedly using a Taser on him after he was involved in a road rage incident while riding his bicycle in Northwest Portland.

After multiple delays, his case seemed to be finally nearing its conclusion.

At his first appeal hearing, it was determined the police bureau's internal affairs' investigation was incomplete – investigators didn't talk to any of the witnesses who said, on the scene, that they thought the Taser was unnecessary. It was sent back for further investigation.

Then at Klug's second appeal hearing on April 20, no one from the police department showed up – the bureau cited safety concerns following a CRC meeting where an audience member threw water at a CRC member on March 30. The appeal hearing was rescheduled.

Now, Klug was back before the committee again, dressed to impress in a black suit and tie, with a pile of supporting documents in hand. The investigation was now complete and members of the police department were present, as the CRC had officially compelled them to be there.

Before the committee voted in agreement with police bureau findings to exonerate the two sergeants, Klug repeatedly told its members they were going to be basing their decision on the wrong set of rules governing Taser use.

The directive for stun guns has changed numerous times over the years, and it was important that the committee was referring to the version of the rules that was in effect on the day the incident occurred.

But they weren't.

The version committee members had in their possession – provided by the police bureau – was not dated, but the version Klug had brought with him – and provided the IPR with in advance – was.

His was also signed by former Police Chief Mike Reese and contained the dates that the

rules were effective, which he told the committee emphatically several times as he waived it before them, asking that they simply look at it to see for themselves.

When a Police Bureau lieutenant offered to list off the dates the rules had been revised – which would have indicated Klug had the correct version – acting committee chair Julie Ramos said no.

Rather than taking a moment to compare Klug's document with the document in the committee's packets, the committee relied on a representative for the defendant, the police bureau, who told them they had the right directive, but did not offer any proof or documentation to substantiate the claim.

Instead, the representative from the police said Klug must have the wrong version because he was listing numbers that weren't a part of the directive in 2014.

"It's not a mathematical equation, it's dates," exclaimed an agitated Klug.

"We have the ones that were in place at that point in time. We're going to move on," said Ramos.

As it turns out, Klug had the correct version of the directive all along, and it was the committee who was looking at the wrong version.

"It seemed like there was more interest in getting to the end of the meeting than doing due diligence," said Portland Copwatch's Dan Handelman, who was at the hearing and tried to make a point of order – which is allowed under CRC rules – by reading a city code to the committee that states it may take into consideration the evidence Klug was futilely attempting to present.

But the committee cut Handelman off before he could finish reading the rule.

While the committee was referring to the wrong version, it's unlikely that having the correct version would have ultimately made any difference in its conclusion.

"It doesn't matter whether it changes anything," said Handelman. "What matters is that they were using the wrong one and they insisted that they were using the right one, and they refused to look at his."

Handelman said the volunteer committee members are likely burned out – they're meeting twice as often as directed in order to speed up appeals, and many are young professionals with full-time jobs, whereas in the past, many members were retirees with more time to review what can be 200-page case files.

Handelman cried foul after Klug's appeal hearing, and sent an email to committee members and the IPR, stating, "It appears that the entire review of this incident was done using the wrong Directive, and that the CRC received bad instructions from City personnel once again. ... We are writing now to interrupt the transmission of CRC's votes from last night before they are forwarded to

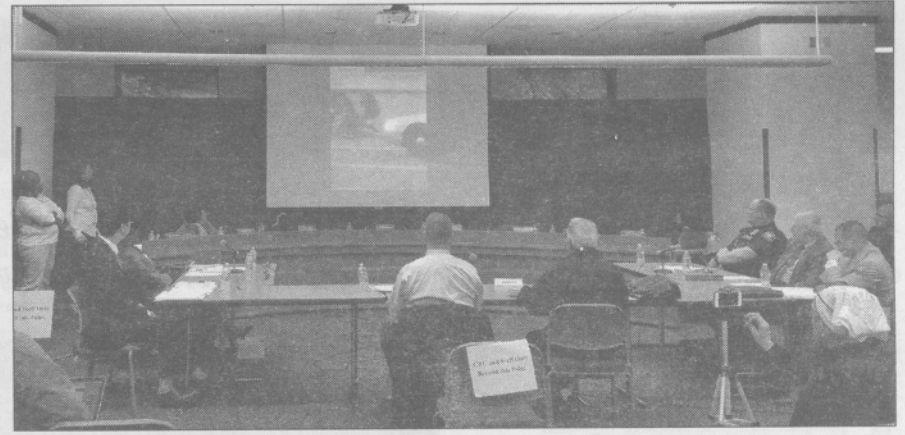


PHOTO BY EMILY GREEN

Members of the Independent Police Review Board, the Citizen Review Committee and police watch the video of Matthew Klug's Sept. 17, 2014, Tasing and arrest at a May 4 hearing.

the Bureau based on faulty information."

Two days later, Klug received a letter from IPR stating: "We have been informed by the Portland Police Bureau that the incorrect directive was used," and "Police Bureau Internal Affairs will be sending the investigative case file back for the findings process for review."

Klug will have to go before the committee for a fourth time when his appeal hearing is rescheduled.

Klug's ordeal began on Sept. 17, 2014. It was two years after the U.S. Department of Justice found Portland police had a "pattern and practice" of using excessive force, including unjustified stun gun use, against people with mental illness.

Because Klug has a traumatic brain injury, epilepsy and a diagnosed mental illness, his case begs notice.

It illuminated multiple system pitfalls in the city's handling of citizen complaints against the police bureau as it inched its way through investigations, reviews, an appeal and an additional investigation, as reported by Street Roots in December – and now an invalid decision by the Citizen Review Committee based on bad information.

Throughout the complaint process, he's maintained he was riding his bicycle south on Northwest 19th Avenue when a car "zipped up behind" him in the bike lane and struck his tire on that autumn afternoon in 2014.

A road-rage-fueled confrontation between Klug and the motorist ensued a few blocks later, and a police sergeant several cars back in traffic heard the motorist yelling for help, according to the police report the sergeant filed.

The sergeant said he pulled up alongside the motorist, and she told him Klug had punched her windows while circling her vehicle. The report indicated she was crying and very upset.

The police sergeant found Klug several blocks away from the motorist and he pulled him over. He described the look on Klug's face as "pure anger." The sergeant's report indicated that Klug repeatedly yelled, "Why are you stopping me?" and that after he was told it was regarding the incident with the motorist, Klug shouted, "She hit me. Why are you stopping me?"

The report noted Klug was uncooperative, and his continuous movements and angry yelling led the sergeant to believe Klug might harm him – an assertion the CRC decided was reasonable.

The sergeant later told investigators that at one point, when he reached for his weapon, removing the cover for easy access, he recalled thinking "this behavior of Klug's

was so abnormal and so seriously concerning to me."

He also said it never occurred to him Klug might be displaying mental health symptoms. At the appeal hearing, a police bureau representative said the sergeant had undergone crisis training, but he didn't know if that training had occurred before or after the incident involving Klug – a seemingly relevant piece of missing information.

If the sergeant had thought the incident might be mental health related and had called the bureau's crisis unit instead of calling for backup, the unit would have likely arrived on the scene within about 5 to 10 minutes, depending on where in Portland they were dispatched from, according to the police bureau.

The two officers that arrived as backup also noted in their reports that Klug's behavior was erratic, aggressive and uncooperative.

The police struggled to get Klug into handcuffs, as Klug continued to kick, yell and try to wriggle out of their grip, according to police reports.

Klug said he was scared because when the officers approached him, they were holding their weapons.

An officer stunned Klug with a Taser twice directly, and then a third time through two prongs that had been deployed and attached to Klug's back.

The Citizen Review Committee discovered Klug was stunned a fourth time, but the bureau said it was likely an accidental deployment of the Taser, which drew concern from committee members.

According to witness statements taken on the scene and during a follow-up investigation, Klug was exhibiting behavior that led witnesses to believe he was in the throes of a mental health crisis immediately before Portland police deployed the Taser multiple times.

It was stated in the appeal summary that the citizen witness who captured a video of the incident indicated, "it seemed that he was an individual with mental health issues or serious social behavior issues."

The motorist declined to press any charges against Klug. However, prosecutors charged him with menacing, disorderly conduct, interfering with a peace officer, resisting arrest, attempted assault of a public safety officer and attempted escape.

All the charges were later dropped in exchange for Klug dismissing the \$5 million lawsuit he filed against the city, alleging police used a Taser on him multiple times without probable cause.