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FACT FINDING REPORT

City of Portland/Complaints of Captain Mark Kruger

BACKGROUND

I was retained through the office of the Portland City Attorney to perform an investigation into two complaints filed by Portland Police Bureau (PPB) Captain Mark Kruger. However, because the complaints were partly related to actions and advice of some in the City Attorney's office, I worked through Anna Kanwit, the City's Human Resources Director, to access witnesses and documents.¹

I interviewed 14 witnesses: Kruger, Constantin Severe (Director of the Independent Police Review or IPR), Mary Hull Caballero (City Auditor and Severe's supervisor), Mark Amberg, Judy Prosper and Ellen Osoinach (all attorneys with the City Attorney's Office), Chief Mike Marshman,² Captain Mike Crebs, Assistant Chiefs George Burke and Donna Henderson,³ former Chief Larry O'Dea,⁴ Captain Derek Rodrigues (all of the PPB), Christopher Paille (a PPB employee and Coordinator of the Police Review Board or PRB), and Ann Pressentin (a contract facilitator for the City).⁵

This case arose out of correspondence between Severe and Kruger relative to an officer's disciplinary process which culminated in a Citizen's Review Committee meeting at which Kruger was subjected to disrespectful behavior by members of the audience. One of the IPR's roles is to oversee and report on PPB accountability. Currently, complaints against PPB officers are investigated by either Internal Affairs (IA) or the IPR, but factual findings are made by the officer's captain. IA and IPR have an opportunity to disagree with the captain's findings. If there is disagreement, the case is heard by a Police Review Board (PRB). Either the complainant or the officer may appeal from the PRB to the CRC meeting, which is a public meeting before members of the CRC who are citizen volunteers.

The citizen complaint underlying Kruger's complaints was made by Robert West, a citizen who makes it a practice to videotape members of law enforcement. West had an interaction with Officer Groshong in which Groshong put his hand up to West's camera. West claimed that Groshong grabbed his camera. Kruger disagreed that Groshong grabbed the camera and did not sustain

¹ Mark Amberg of the City Attorney's Office sent an email informing some City employees that I had been retained by the City.

² Marshman was the Strategic Services Division Captain at the time of the interview.

³ Henderson has since retired.

⁴ O'Dea has since retired.

⁵ I was unable to interview Kristin Malone, Chair of the Citizen's Review Committee.

West's complaint. Interactions between Kruger, Severe and [REDACTED] during the course of this complaint process are the subject of Kruger's complaint.

ALLEGATIONS

Kruger filed two complaints. In the first, filed March 4, 2016 (Exhibit 1), he alleged:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- B. Severe has treated Kruger discourteously, offensively or engaged in conduct unbecoming or engaged in bullying that demeans, humiliates or intimidates him.
 - 1. Continuous and systematic effort through his written statements related to the IAD #2015-C-0325 (Groshong), specifically:
 - a) Severe wrote a memo on December 17, 2015 in which Severe called Kruger's statement that the incident should not have been investigated "corrosive."
 - b) Severe's 2-1-16 memo said Kruger was "hostile and combative" at the PRB, among other things.
 - 2. Severe placed these comments into the public record with the purpose of undermining Kruger's professional position, mischaracterizing his role, intimidating him, subjecting him to humiliation
- C. [REDACTED] Severe [REDACTED] brought [REDACTED] views to the attention of the DOJ in an attempt to intimidate him, mischaracterize his role.
- D. IPR wants RU to "rubber stamp" their views

After a March 30, 2016 Citizen's review Committee meeting, Kruger filed a second complaint on April 3, 2016 (Exhibit 2). In that complaint he alleged:

- A. Kruger and PPA president Daryl Turner were subject to degrading and humiliating insults.
- B. No city official took steps to prevent or mitigate the behavior and he could not excuse himself from it.

[REDACTED]

- C. Severe did nothing [and] Hull Caballero who was the senior city official present with authority over the CRC process but did nothing.
- D. The City did not follow up right away on Kruger's first complaint.

SUMMARY

1. [REDACTED]
2. Kruger's allegations against Severe are substantiated in part and unsubstantiated in part.
3. Kruger's allegations concerning the manner in which he was treated at the CRC are substantiated.
4. City officials who were present at the CRC did not have the power to usurp the Chair's authority and the Chair did not believe she had the power to exclude unruly audience members, leading to increasingly poor behavior throughout the CRC meeting. After reviewing video tape of the meeting and listening to witness descriptions, I conclude that no employee should have been subjected to the treatment endured by those present, particularly Kruger, towards whom the vitriol was especially disrespectful. There are several factors which explain what happened:
 - a. First, the City had been enjoined on December 31, 2015 from prospectively excluding individuals who disrupted public meetings. Rightly or wrongly, at the time of the March 30, 2016 CRC meeting, the City Attorney's Office was unsure about how exactly that injunction should be interpreted and gave conservative advice about the ability to exclude individuals from City meetings. Between the date of the injunction up to and including the March 30, 2016 CRC meeting, there were no exclusions from City meetings for this reason. The Chair of the CRC, Kristen Malone, was advised immediately before the meeting that she did not have the right to exclude audience members from the meeting.
 - b. Second, every person I interviewed who was present at the CRC meeting on March 30, 2016 was personally dismayed by the behavior of many of the citizens present. Citizens were loudly interrupting, wandering the aisles, yelling insults, calling derogatory names at both Kruger and the police union president Daryl Turner and singing loudly. The meeting culminated with one of them throwing a glass of water into the face of one of the CRC members, Robert Young.⁶ Every person I interviewed stated that although there has been some unruly behavior from time to time in the past at CRC meetings, the March 30, 2016 meeting was far worse. Those interviewed stated that they had no personal control over the meeting, or in the case of Malone, had been admonished not to exclude those behaving in this manner.
 - c. Third, because the March 30, 2016 meeting was so much worse in terms of citizen behavior as compared to previous meetings, I believe that those who could have done something different did not consider alternatives, perhaps out of shock or not knowing that they could

⁶ There was a separate criminal case against this individual.

have taken action. For example, Henderson and Burke were present with Kruger and could have told him to leave the meeting. Malone could have adjourned the meeting. However, they did not think of doing this at the time, and it is difficult to fault them due to the nature of the behavior experienced at this meeting.

- d. Fourth, whether because of Kruger's complaint or because others agreed that the behavior at the March 30, 2016 meeting was not acceptable, the CRC has had new ground rules put in place to which former Chief O'Dea agreed.⁷

FINDINGS AND CONCLUSIONS

I. Factual Background

A. Department of Justice Settlement Agreement

The City of Portland's PPB has been working with the US Department of Justice (DOJ) for several years because of a settlement agreement (SA) which requires certain actions from the City and the PPB. Constantin Severe, who is the Director of the Independent Police Review and responsible for police accountability to the community, has many responsibilities under the SA, including improving public perception of the accountability of his office and the PPB.⁸ The SA specifically provides:

"This Agreement further requires that the City and PPB put in place more effective systems of oversight and self-correction that will identify and correct problems before they develop into patterns or practices of unconstitutional conduct and/or erode community trust.

"This Agreement further identifies measures, to be met within fixed periods of time, that will assist the Parties and the community in determining whether: (1) the City has changed its procedures and taken the actions listed in this agreement; (2) community trust in PPB has increased; and (3) the improvements will be sustainable".⁹

Severe and his department have made changes and proposed more changes to increase police accountability. Based on my interviews with Severe, he strongly believes in providing transparency and accountability to the community.

B. Groshong-West Interaction

On October 20, 2015, Robert West, a citizen, had an interaction with Officer Groshong at the Police Parking Garage on Second Avenue (Exhibit 4).¹⁰ On October 21, 2015, West attended a community meeting which Assistant Chief Mike Crebs and Jonas Geissler of the DOJ also attended, and West played his video of the interaction for Crebs (Exhibit 5).

⁷ After this meeting, former Chief O'Dea stated he would not allow his employees to attend CRC meetings until he could be assured of their safety and a respectful working environment (Exhibit 3).

⁸ <http://www.portlandoregon.gov/ipr/26646?>

⁹ https://www.justice.gov/sites/default/files/crt/legacy/2013/11/13/ppb_proposedsettle_12-17-12.pdf

¹⁰ <https://www.youtube.com/watch?v=KGnULIBkqOk>.

Crebs told me his initial reaction was to wonder if Officer Groshong might have committed a crime.¹¹ Crebs made a video of West's video by taping it on his cell phone and shared the video and the incident with Captain Derek Rodrigues of PPB Professional Standards the next morning. Together, Crebs and Rodrigues called Severe to talk to him about the West-Groshong interaction. Severe was able to find a video of the interaction on line and after discussion, it was agreed that Professional Standards would investigate the case as a non-use of force.

The matter was investigated and the factual findings and allegation were submitted to Groshong's Responsible Unit (RU) manager, the Captain of the Drugs and Vice Division (DVD), Captain Mark Kruger (Exhibit 6). Kruger wrote a findings memo (Exhibit 7) and Acting Assistant Chief George Burke concurred with Kruger's findings (Exhibit 8). The PPB process on citizen complaints such as these is that the Professional Standards Captain and the Director of the IPR (Severe and Rodrigues) both have a chance to read the RU manager's findings memo and decide if they agree with it. In this case, both Severe and Rodrigues did not agree with Kruger's finding and both decided to "controvert" meaning that they disagreed. Both wrote memos explaining their reasoning (Exhibits 9 and 10). When an RU manager's findings memo is controverted, the case is sent to the PRB.

II. Kruger's Findings Memo dated December 9, 2015

The specific allegation against Groshong was: "Officer Scott Groshong acted unprofessionally when he grabbed the lens of Mr. West's video camera" (Exhibit 7, page 2). The RU manager's job in writing a findings memo is to determine whether the evidence supports the allegation as framed by Internal Affairs (IA). Chief Marshman, who was then Captain of the Strategic Services Division and the PPB's primary contact with the DOJ on implementing the SA, told me that an RU manager is required to evaluate the evidence of a case against the allegation as framed by IA. Marshman pointed out that it is possible to ask IA to reframe the allegation, but it is not possible write a findings memo that holds an officer accountable for a "lesser included" violation while not finding the officer accountable for the actual allegation.

Kruger recommended a finding of not sustained in response to West's complaint (Exhibit 7). The last line of Kruger's findings memo states:

"Officer Groshong even goes to the trouble of writing a report, which, in the conjunction with a review of the video, *should have resulted in the rejection of this complaint in the first instance*" (Exhibit 7, page 3) (emphasis supplied).

Kruger believed the video footage plainly showed that the camera had not been "grabbed" as alleged in the IA investigation but at most had been blocked by Groshong's hand. Kruger credited Groshong's explanation that he put his hand up to block the camera when West pushed it in his face. As a result, Kruger believed that the allegation should not be sustained. Kruger further reasoned that there should not have been an investigation of the allegation as framed by the

¹¹ It was ultimately determined that the interaction was not criminal. Furthermore, although Crebs initially thought this interaction was a use of force, Severe and Rodrigues determined that it was not.

complainant because he believed the video showed no “grab” of the lens. Burke concurred that Groshong did not grab the camera or initiate physical contact with West (Exhibit 8).

Crebs, on seeing the same video, initially believed that Groshong might have committed a crime. There were others aside from Burke who agreed with Kruger¹² throughout this case and there were others who did not agree with him. In other words, reasonable people (including Kruger) viewed the same evidence quite differently.

Burke, who concurred in Kruger’s findings memo, told me he did not register the last sentence when reviewing Kruger’s findings memo: he simply didn’t notice it (Exhibit 7, page 3). Burke told me that if he had noticed this sentence, he would have told Kruger to remove it. Burke explained that this complaint came in originally as a use of force complaint and the PPB cannot simply refuse to ignore such a complaint. Burke said that Kruger was not aware of the original characterization of the complaint.

Burke was standing in for former Assistant Chief Donna Henderson who was on vacation and to whom Kruger reported at the time. Henderson told me the same thing Burke did: that if she had seen the comment about not investigating West’s complaint, she would have told Kruger to take it out of his findings memo. She said that the PPB cannot refuse to investigate courtesy complaints.

O’Dea agreed with both Burke and Henderson that the final comment in Kruger’s memo should not have been made. O’Dea told me that he instructed Henderson to counsel Kruger to make it clear that courtesy complaints would not be declined.¹³ O’Dea said he didn’t want a captain thinking that this kind of complaint shouldn’t be investigated.

In other words, Burke, Henderson and O’Dea all agreed that Kruger should not have opined that the West complaint shouldn’t have been investigated.¹⁴ No one gave Kruger this feedback at the time he wrote the memo or prior to the PRB on January 20, 2016.

I agree that Kruger should not have opined that a citizen’s complaint should not have been investigated in his findings memo. The findings memo is the wrong venue for such a sentiment and the comment indicates a lack of awareness of the wider context of police accountability.

III. Controvert Memos

A. Rodrigues’ Controvert Memo

Rodrigues did not concur with Kruger and decided to controvert his findings. Rodrigues wrote a memo on December 17, 2015, in which he explained:

¹² Those who did agree with Kruger’s view of the video evidence disagreed with the statement that IA/IPR should not have investigated the complaint in the first instance.

¹³ O’Dea told me that he instructed Henderson to make an entry to this effect in Kruger’s EIS (an internal PPB documentation system) but according to Anna Kanwit, no such entry was made. I note that at the time, O’Dea was on leave and both he and Henderson were retiring so it is possible this was forgotten due to other events which eclipsed it.

¹⁴ Crebs and Marshman also indicated their belief that such a statement does not belong in a findings memo.

“My account of the video conflicts with Captain Kruger, A/C Burke and Officer Groshong in that it appears to me that Officer not only walks towards Mr. West, but extends his left arm out, then either grabs, attempts to grab, blocks or in some other manner, covers up the lens [sic] of the camera as was evidenced by the video almost entirely blocked out by Officer Groshong’s hand, until he pulled back a little which was evidenced by the picture reappearing” (Exhibit 9).

B. Severe’s Controvert Memo

Severe also viewed the video evidence differently than Kruger did and believed that Groshong approached West rapidly and not the other way around. Severe reasoned:

“Mr. West when he was videotaping outside of Central Precinct was on a sidewalk open to the public, engaged in activity protected by both the Federal and State Constitutions. Officer Groshong initiated contact with the complainant and attempted to prevent Mr. West from videotaping him with no support or legal justification that I can find in either in [sic] the directives or in state law. It is my belief that this episode, if it were known to the wider public, would in fact diminish the Police Bureau’s standing with the populace” (Exhibit 10, page 2).¹⁵

Severe also objected to Kruger’s opinion that the video evidence along with Groshong’s report should have resulted in West’s complaint being rejected without the necessity of an investigation. Severe wrote:

“An additional matter is Captain Kruger’s inappropriate comment stating that this complaint should not have been investigated by Internal Affairs. Given Captain Kruger’s high rank and position as the head of a critical unit within the Bureau, his editorializing on the appropriateness of the opening of an Internal Affairs investigation that he was later assigned to write the findings is *corrosive* and sets an unfortunate precedent. If other members of command staff engage in such behavior it has the potential to undermine the Police Bureau’s efforts to hold its members accountable and further weaken the public’s trust” (Exhibit 10, page 2) (emphasis supplied).

Severe objected to Kruger stating that IA should not have investigated a citizen complaint. Severe told me he wrote this paragraph and used the word “corrosive” because it is his duty and role to provide accountability to the public. Severe believed that a captain opining that an investigation should not take place was wholly improper. Severe strongly believes in his role to provide police accountability to the public and viewed Kruger’s statement as minimizing the officer’s behavior. Severe also believed that the PPB command staff approved Kruger’s statement because Burke concurred in the findings memo and allowed it to be issued.

Following Severe’s controvert memo, no discussions took place between Severe and Kruger or others at PPB either to find out more about why Severe objected so strongly to Kruger’s findings

¹⁵ Severe also noted that he would recommend that the allegation against Groshong be modified at the Police Review Board meeting.

memo. Furthermore, no one spoke to Kruger about his opinion in the findings memo that the investigation should not have taken place.

I find that Severe objected to Kruger's comment that the matter shouldn't have been investigated and reacted by calling it "corrosive." Severe also assumed that PPB command staff agreed with Kruger's opinion. I view Kruger's comment and Severe's response as roughly equivalent to each other in the sense that the comment should not have been made and Severe objected and reacted to it directly.

IV. PRB January 20, 2016

A. Function and Role of PRB

According to City Code 3.20.140, the PRB is an advisory body to the Chief of Police. The PRB makes recommendations about findings and proposed officer discipline to the Chief. The PRB is composed of voting members and advisory members. The five voting members are a citizen, a peer officer, the IPR Director, the RU manager and the Assistant Branch Chief of the involved officer. In this case, the voting members were a citizen, a peer officer, Kruger, Burke and Severe. A number of others attended either to observe or as advisory members, including Crebs, Rodrigues and City Attorney Mark Amberg.

The PRB is facilitated by a non-employee contractor with experience in facilitating meetings; in this case, the facilitator was Ann Presentin.

B. Confidentiality of PRB facts, discussions and deliberations

The City Code directs the PPB and IPR to develop a Bureau Directive establishing confidentiality provisions for the PRB. PPB Directive 336.00 (which was last revised in 2014 during Severe's tenure as IPR Director) provides that the facilitator of the PRB "shall maintain strict confidentiality of all case file information and *Police Review Board discussions and deliberations*" (Exhibit 11, page 4) (emphasis supplied).

In addition, PPB Directive 336.00 provides:

"12.1 Information regarding case files and Police Review Board discussions and deliberations is strictly confidential.

"12.2 All individuals involved in the Police Review Board process shall strictly maintain the confidentiality of all case file information and Police Review Board discussions and deliberations and shall only discuss case file information and Police Review Board discussions and deliberations as necessary for purposes of the Police Review Board process or as otherwise authorized in accordance with their position with the City (Exhibit 11, page 5).

These PPB directive provisions provide for confidentiality with respect to all information, discussions and deliberations of the PRB unless otherwise authorized by a City employee's position with the City. There is no specific written exception for the IPR director to dispense with this directive.

Christopher Paille, the PRB coordinator, told me that everything associated with the PRB is confidential, including what is said during the meeting, presentations, deliberations and even the demeanor of the people involved. Paille provides a check list and handouts to the participants to orient them to the process. Paille provided me with a copy of these materials, which includes a statement of the Review Board process (Exhibit 12). This process statement includes a welcome and explains the PRB purpose and rules - which are read aloud (Exhibit 12, page 3). The facilitator script on the board purpose and rules provides:

“1. All information and discussions are confidential and will only be discussed amongst participants of the particular review” (Exhibit 12, page 3) (emphasis in original).

Paille also personally discusses PRB rules including confidentiality with all PRB members. In other words, by City Code, Police Bureau Directive, PRB policy, individual discussion with Paille and by virtue of the facilitator reading the rules out loud during the PRB meeting itself, it is made clear to all PRB participants that all facts, discussions and deliberations of the PRB are confidential.

C. Witness Perceptions of Kruger's Behavior and Demeanor

1. Severe's Perception

Following this PRB meeting, Severe wrote a memo describing Kruger's demeanor and actions in the PRB and published this memo on the IPR website (Exhibit 13). In this memo, Severe provided his rationale for appealing the PRB decision (discussed separately below). In addition, Severe criticized Kruger's demeanor and behavior in the PRB:

“* * * I was disappointed by the tone of the Police Review Board session in this case. The involved member's superior officer Captain Mark Kruger behaved in a manner akin to defense counsel for the officer as opposed to a neutral fact-finder. Even more disturbing was Captain Kruger's description of the Internal Affairs investigation as “pettifogging” and not worthy of an administrative investigation. Captain Kruger's behavior at the Police Review Board was hostile and combative. Captain Kruger was disrespectful to Internal Affairs and openly disdainful towards IPR.

“* * * [describing Crebs actions and the Internal Affairs investigation].

“Unfortunately, that admirable spirit of inquiry and self-examination dissipated with Captain Kruger's findings and continued into the Police Review Board session. * * *” (Exhibit 13, pages 1-2).

Severe told me he viewed Kruger's behavior and demeanor was “unprecedented” at the PRB. Severe said that Kruger was blunt and dismissive of the IA investigation. Severe recalled that Kruger mentioned Severe's comment in his controvert memo in which he used the word “corrosive” and said that the investigation itself was “corrosive.” Severe said that if a sergeant or an officer had done what Kruger had done, there would have been another investigation because

Severe believed Kruger's conduct was unprofessional while engaging in his duties.¹⁶ Severe said that the only person who spoke up at PRB was Rodrigues despite some members of the command staff being present.

2. Other Witnesses' Perceptions of Kruger's behavior and demeanor.

No other witness at the PRB thought Kruger's behavior exceeded the bounds of professionalism. Some witnesses thought he was professional, articulate, focused and appropriate without conditions. Other witnesses thought he verged on being personal at times towards Severe; or in the words of the facilitator, was somewhat "cocky". However, no one thought he crossed the line of being unprofessional or inappropriate during the PRB. According to the witnesses:

- Mark Amberg of the City Attorney's Office was present at the PRB. Amberg did not believe Kruger was unprofessional. Amberg said that the purpose of the PRB is to have a robust discussion. He said Kruger was straightforward and articulate and behaved like most RU managers would behave.
- Burke was present at the PRB. Burke said that Kruger was detailed and well-prepared to discuss each of the points in the case. Burke believed that Kruger was too personal towards Severe and directed too much of his argument towards Severe. Burke said that Kruger wasn't out of line or unprofessional, but that he detracted somewhat from the purpose of the PRB by inserting what appeared to be his own personal issue into the proceeding. Burke described it as Kruger "defending his honor." Burke said that Kruger spent too much time addressing Severe's controvert memo in his presentation, trying to prove Severe wrong instead of focusing on the facts of the case. Burke said he later told Kruger that he would not have approached the PRB in the way Kruger did.
- Mike Crebs was present at the PRB. He said that Kruger was fully prepared to convey his view to the PRB members and persuade them that he was correct. Crebs said that if he were going to a PRB and Kruger was there to oppose him on a finding, Crebs would make sure that he was fully prepared and had a grasp of all the details because Kruger does his job thoroughly. As Crebs put it, if you are going against Kruger in a PRB, "you better be prepared." Crebs wasn't persuaded by Kruger's arguments, however, because Crebs believed Groshong should never have gotten out of the car in the first place. Crebs said he was disappointed by the lack of presentation on the part of both Severe and Rodrigues. Crebs said they did not seem prepared and did not say much in support of their controvert memos. Crebs said that the PRB is a mini-hearing and those making presentations are expected to know the facts and argue their view points. Crebs found nothing unprofessional in Kruger's demeanor or presentation.

¹⁶ I note that City Code 3.21.070 D provides IPR with broad powers to initiate administrative complaints against any sworn officer or supervisor of a sworn officer. <http://www.portlandoregon.gov/citycode/article/479661>. I read this provision to entitle Severe to initiate an investigation against Kruger if Severe believed Kruger was unprofessional in performing his duties at the PRB.

- Henderson was present at the PRB. She said that Kruger was matter of fact, organized and laid out his case point by point. She said this is how Kruger approaches things generally.
- Paille was present at the PRB. Paille said that he had an impression that he was watching an argument in a court of law and that usually the RU managers just state the facts. Paille thought Kruger was more emphatic than is typical, but as Paille doesn't work with Kruger closely, he did not know if this was his typical demeanor. Paille said that it was clear that Kruger is impassioned about leadership and values his team. Paille said that another thing that was slightly different about this PRB was that the documents in the case (referring to Kruger's findings memo and Severe's controvert memo - Exhibits 7 and 10) had a slightly unprofessional tone. However, at the PRB, he did not believe that Kruger was unprofessional; in fact, he believed everyone remained professional. Paille did not perceive that Kruger referred to Rodrigues, IA or Severe in a disrespectful or dismissive manner.
- Ann Pressentin was the PRB facilitator in the Groshong case. She said that this PRB was fairly typical. Pressentin has facilitated other PRBs where Kruger was a presenter. She said that Kruger takes them seriously, speaks clearly and is prepared. She said that Severe is also clear and prepared. Pressentin recalled that Kruger used the word "pettifogging" and was making the argument that the allegation didn't rise to the level of being reviewed by the PRB. She said she hasn't heard that from other RU managers before, but that Kruger was not being dismissive or disrespectful. She said she noted that Kruger and Severe didn't seem "warm and fuzzy" and weren't making eye contact, but that there was nothing disrespectful happening between them. Pressentin said Kruger was not hostile or combative, but that he was confident, unyielding and perhaps a bit "cocky."
- Rodrigues was present at the PRB. Rodrigues felt that Kruger was disrespectful of the PRB process because he veered off the facts of the case to refer to Severe and Severe's controvert memo. Rodrigues said that the RU manager's job is to give the rationale for the recommended findings in a succinct way, but that Kruger was going on for quite a while talking about things that were unrelated to the West-Groshong interaction. Rodrigues did not believe that Kruger was personally disrespectful of anyone but said Kruger did "take a couple of jabs" at Severe and refer to him by name in his presentation.

A note taker took notes of the discussion at the PRB (Exhibit 14). According to the notes, the citizen member of the PRB, Kate Von Ter Stegge said "there seemed to be some kind of internal Bureau conflict being expressed in the discussion of this case. She said it was important to her to focus on the video" (Exhibit 14, page 4).¹⁷

¹⁷ According to those notes, Kruger said Severe described the interaction between Groshong and West as "corrosive" (Exhibit 14, page 3). However, if this is true, it is a misunderstanding. Severe was not describing the interaction between Groshong and West as "corrosive." Severe thought Kruger's opinion that the case should not be investigated was "corrosive."

Based on the above witness descriptions and notes of the PRB, it appears that all witnesses thought Kruger's presentation and demeanor were professional, but Paille, Burke, Pressentin and Rodrigues thought some of his presentation was slightly atypical for a PRB particularly with respect to his points about Severe's controvert memo and the use of the words "corrosive" and "pettifogging". The citizen member of the PRB also appears to have noticed that there was some sort of conflict brewing based on the notes (Exhibit 14). Although Kruger was professional, he also reacted to Severe's comment in the controvert memo which mentioned the word "corrosive." However, this aspect of Kruger's presentation was subtle enough that Amberg, Henderson and Crebs didn't notice anything.

I find that Kruger's behavior and demeanor were professional in the PRB. I also find that he veered into defending himself from what he perceived as a personal attack and also into proving Severe wrong; in other words, Kruger's presentation included some elements of personalizing without crossing the line of becoming unprofessional or being out of bounds.

I find that Severe's perceptions of Kruger's behavior and demeanor at the PRB were not substantiated by the witnesses. Severe over-reacted to those elements of personalization within Kruger's presentation which were not viewed by anyone other than Severe as unprofessional.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]¹⁸

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

VI. The Appeal from the PRB

A. The IPR Director has no Standing to Appeal from the PRB

At the PRB, Kruger, the officer, the citizen and Burke all voted not to sustain the allegation (Exhibit 14, page 5). Severe voted to sustain and recommended Command Counseling (Exhibit 14, page 5).

¹⁸ O'Dea spoke to Henderson, Amberg and a couple of other people.

[REDACTED]

On January 27, 2016, Pressentin wrote a memo to then Chief O'Dea informing him of the PRB Recommended Findings (Exhibit 15).

Severe appealed the PRB recommended finding of not sustained on February 1, 2016 (Exhibit 13). Severe indicated in the appeal that he had the authority to do so under City Code 3.20.140 (G) (3).

City Code 3.20.140 (G) describes the process to appeal PRB recommendations:

"1. As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the *complainant* or *involved officer* may have the opportunity to appeal the recommended findings to the Citizen Review Committee.

"* * *

"3. The Director of IPR, the Chief of Police, or Commissioner in Charge may *request an expedited hearing* by the Citizen Review Committee *of an appeal* when deemed necessary due to the nature of the underlying complaint" (emphasis supplied).

City Code 3.20.140 (G) (1) and (3) provide only that the Director of the IPR has the right to request an expedited hearing of an appeal which has already been made by either the involved officer or the complainant. Robert West, the complainant, made his appeal on February 11, 2016 within the time frame allowed for making an appeal pursuant to City Code 3.21.140 (B) (Exhibit 16). West's appeal cured the defect of Severe lacking standing to appeal.

B. Publication of Severe's Description of PRB Deliberations and Discussions

Severe wrote his February 1, 2016 appeal and published it on the IPR website. As noted above, this appeal specifically included a description of Severe's perceptions about Kruger's presentation at the PRB which are confidential by City Code and PPB Directive. Kruger learned that this document had been written and made public when he received a call from the Portland Tribune about the content of Severe's memo which resulted in a newspaper article in March 2016 (Exhibit 17).

Severe told me that he believed he was justified in making his comments about the PRB discussions public because he believed, as IPR Director, that it was in the public interest to release the information. Severe explained that the Auditor is trying to make IPR more transparent. He noted that IPR has an obligation to report on police accountability, something they haven't always done in the past. He said that when incidents are made public and it becomes known that IPR was aware of the situation and did nothing, IPR has been heavily criticized for not having said something at the time. In other words, Severe believed that PPB Directive 336.00 authorizes him to discuss the PRB in accordance with his position as IPR Director (Exhibit 11, page 5).

The Auditor recalled that Severe wanted the Citizen's Review Committee to be aware of Kruger's conduct at the PRB. The Auditor also indicated that she believed that Kruger's behavior at the PRB was different from the facts of the West-Groshong case. She did not appear to be aware of the provision in the PPB Directive holding all PRB deliberations and discussions confidential.

However, the CRC would not be able to consider unsupported allegations about Kruger in a PRB appeal memo in the Groshong case. The only way the CRC would be able to consider Severe's

allegations about Kruger were if Severe opened an investigation into Kruger's conduct. If Severe truly believed that Kruger's behavior had crossed the line of unprofessional conduct, he has broad authority to open an investigation on Kruger directly which would have been a more direct response to Kruger's alleged unprofessionalism than making criticisms of him in an appeal memo (Exhibit 13).¹⁹

I believe Severe has a sincere and genuine belief in the importance of transparency and safeguarding the community. However, I find that Severe's comments about Kruger in the appeal memo were unsubstantiated, made in reaction to perceived personal slights and not for the purpose of promoting police accountability. I find that Severe must have been aware that publishing those comments about Kruger would lead to some sort of negative attention for Kruger given the past media attention on Kruger of which Severe was aware. I find that there was no justification for publishing those comments because they derived solely from confidential PRB deliberations and discussions and were not required or authorized by Severe's position with the City.

Kruger alleges that Severe published these comments to undermine Kruger's professional position, mischaracterize his role, intimidate him and humiliate him. With respect to Kruger's professional position, I find that his reputation for integrity, honesty and competence is high and continues to be intact with witnesses within both the Bureau and City Attorney's Office.

I do not believe that Severe made these comments in retaliation for Kruger's difference of opinion at the PRB. The seeds of this conflict were sown with Kruger's opinion about not investigating the complaint and Severe's return salvo calling that opinion "corrosive." This conflict arose from both parties personalizing each other's actions. However, Kruger did not make his views public.

G. Involvement of the DOJ in the Groshong case

When Kruger received Severe's emailed appeal memo dated February 1, 2016 (Exhibit 13), he forwarded the memo to his supervisor, Donna Henderson, on February 2, 2016 (Exhibit 18). Kruger copied Severe, Burke and Rodrigues on this email. The email stated Kruger's opinion that Severe had no standing to appeal from the PRB. Kruger's email also reacted to the personal aspects of Severe's appeal memo:

"After reading Severe's memo to Capt. Rodrigues I am left with the clear personal impression that IPR is most interested in rubber stamped approval by RU commanders of IPR rational and decision making and not interested in a vigorous review of the actual facts present in the case. I am also left with the clear impression that Severe is attempting to intimidate me as a division commander from carrying out my rightful duties related to the good order and discipline of members under my command. I find this intolerable. The crux of this case centers on the reasonableness of Officer Groshong's behavior, and I think the vote of 4 to 1 against Severe at the PRB speaks for itself. I request that you take this matter up with the Chief at your earliest possible convince [sic]. I am more than happy to

¹⁹ Severe said he had the full support of his supervisor to publish the appeal memo, and I believe that the Auditor does support him. However, the Auditor was not aware of the confidentiality provisions relevant to PRB discussions at the time the memo was published.

provide further detail to the Chief if needed. A most important point to consider in this case is that when reason leaves the discussion regarding bureau discipline, we risk in substantial measure the loss of engagement by our rank and file. That is an engagement that we cannot afford to lose, and such a loss will affect the city of Portland in a real and very tangible fashion in terms of livability and community safety. Reason must prevail in disciplinary proceedings if we are to be successful in delivering effective public safety services. I will respect the Chief's final decision regarding this case, not the preemption of the case by IPR" (Exhibit 18).

After Severe received a copy of Kruger's February 2, 2016 email, he contacted Jonas Geissler of the DOJ, one of the chief DOJ attorneys involved in monitoring the SA with the City of Portland. Severe forwarded Geissler a copy of his controvert memo and his appeal memo in the Groshong case on February 3, 2016 (Exhibits 10 and 13; Exhibit 18).²⁰

Severe explained to me that he was concerned about the content of Kruger's email of February 2, 2016 and was disturbed that Kruger felt Severe was trying to intimidate Kruger. Severe explained that he (Severe) is a black male, a child of immigrants and he is aware of "Kruger's history" and was concerned that Kruger seemed very emotional in his February 2, 2016 email (Exhibit 18).²¹ Severe believed that Kruger's email - especially with Severe being copied on it - was inappropriate and lacking in discretion. Severe explained that he was worried that Kruger would attempt to confront him personally and so he wanted Geissler at the DOJ to be aware of the situation.

Part of Severe's job is to liaise with the DOJ and he cannot be faulted for communicating with the DOJ. However, I believe that Severe overlooked the fact that Kruger was reacting in his February 2 email to critical comments Severe made about Kruger in Severe's February 1, 2016 appeal memo (Exhibits 13 and 18). As noted in detail in this report, both Kruger and Severe have reacted to each other's statements throughout the Groshong case.

According to Marshman, the PPB liaison with the DOJ prior to being selected as Chief, it is highly unusual to have the DOJ interested in an ongoing case for which the discipline has not been finalized because the facts and reasoning can be taken out of context. Marshman said that disciplinary cases should be driven by process and accountability, rather than reviewing only some particular cases before the decisions were final.

I find that Severe involved the DOJ not because he hoped to harm Kruger or intimidate him but because Severe felt personally intimidated by Kruger. I do not believe there was ever an actual personal danger to Severe. Rather, Severe and Kruger had been involved in mounting interpersonal conflict throughout the Groshong case.

²⁰ After Severe sent his controvert and appeal memos (Exhibits 10 and 13) to Geissler, Geissler attempted to interview Kruger, but the interview did not occur.

²¹ Severe was referring to past newspaper accounts which labeled Kruger a Nazi.

VII. March 30, 2016 CRC Meeting

A. Meetings in Advance of the CRC Meeting

Once Severe's February 1, 2016 appeal memo became public (Exhibit 13), O'Dea told me he met with Ellen Osoinach and Mark Amberg because he was concerned about the possibility that citizens with an inclination to disrupt public meetings might attend the CRC meeting specifically to target Kruger, who would attend to provide his reasoning not to sustain the allegations against Groshong.

Amberg recalled some discussion about the possibility of disruption at the CRC. Amberg also recalled being concerned about the CRC staying within its parameters of review and not becoming involved in any interpersonal conflict between Severe and Kruger.

Osoinach also recalled meeting in advance of the CRC meeting. She recalled that there was concern about whether individuals would be more disruptive since the complainant, Robert West, was part of a group of people who regularly film police and regularly appear at public meetings and are often disruptive. In other words, there was concern that this group of citizens would possibly be more disruptive since the complainant was "one of their own."

B. Walsh v. City of Portland

On December 31, 2015, Judge Simon granted Plaintiff Joseph Walsh's petition for injunctive relief against the City, finding that City Code 3.15.020B.5.b (allowing prospective exclusion) was unconstitutional. This injunction resulted in some confusion for the City of Portland about how it should be interpreted. For a period of time, the City Attorney's office took a very conservative view of the opinion and gave advice that exclusions could not be effected. According to the Auditor and Judy Prosper of the City Attorney's Office, the CRC Chair, Kristin Malone, was advised immediately prior to the March 30, 2016 meeting that she should not exclude audience members.

Linda Law of the City Attorney's Office confirmed that between the date of Judge Simon's injunction and the March 30, 2016 CRC meeting, no exclusions were issued pursuant to the City Code 3.15.020.B's administrative exclusion authority. Law noted that some individuals may have been asked to leave a building and if they did not may have been charged with criminal trespass (Exhibit 19).

C. March 30, 2016 CRC Meeting

Witnesses who attended this CRC meeting described audience behavior which shocked and appalled them. As Kruger explained to me, as a member of the police, he expects negative treatment from the public from time to time. However, in a professional business setting, where a citizen committee was attempting to evaluate an officer's conduct, he expected basic respect for the process and the people involved.

I watched the video of the meeting, and I have watched several other videos which were posted online of things occurring before or during breaks in the meeting (Exhibit 20). These videos show that a small group of individuals at the March 30, 2016 CRC meeting were utterly disrespectful to the CRC process. The CRC was attempting to make a determination about an officer's performance in an atmosphere of yelling, singing, insults, audience members wandering around and standing offensively close to other audience members while videotaping them. In addition,

particular individuals were singled out for vile treatment, specifically Kruger. The meeting culminated in one of the audience members throwing a glass of water into the face of one of the CRC members.

In reviewing the video of the entire meeting (which was a video taken apparently by one of the audience members who may have been engaging in some of this conduct and did not include footage of anything that happened during the breaks), I noted the following:²²

Time stamp in video (Exh. 20)	Description
@ 4:00 [minutes]	During public comment, an individual stated that Kruger “worships at a Nazi shrine.”
@ 6:50	During public comment, an individual uses the term, “bullshit stuff” and no comment is made by anyone that this is inappropriate language for a public meeting. During his public comment, he becomes more and more irate and begins screaming.
@ 11:04	An individual who spoke after Daryl Turner mentioned that he was speaking after someone who is an advocate for “thuggery”
@ 50:30	Audience members yelling at Daryl Turner until 51:40 when a break was taken. The yelling appears to continue.
@ 54:50	Audience member calls “you lying prick”
@ 1:03:00	Unintelligible audience interruption
@ 1:07:20	Kruger is attempting to present his case while audience member begins to sing “Deutschland”. Malone says they will take a break. Kruger asks to continue and asks her to manage this “undignified spectacle.”
@ 1:19:42	Audience outburst while Burke is speaking
@ 1:21:05	Audience outburst while Burke is speaking
@ 1:54:40	During public comment, audience member personally attacks Kruger.

There were other videos of behavior that occurred during breaks, including someone filming Kruger while another person sings “Edelweiss” nearby; another person standing close to Kruger and filming him while speaking to Henderson and when Henderson stepped in front of Kruger to shield him the

²² It is possible that other things were done which did not appear in this video or that not all interruptions were audible on this video.

filmer dropped the camera to focus on her chest; and numerous videos of these individuals filming each other while they state their opinions.²³

In addition, the witnesses to a person told me that this CRC meeting was the worst they had ever attended in terms of audience behavior. For example:

- Prosper said that in terms of the vitriol and invective being hurled at Kruger and the CRC, the March 30, 2016 CRC meeting set a new low. Prosper said that the individuals who engage in this sort of behavior do so to try to goad people to get a reaction, but what they were doing to Kruger was especially personally insulting.
- Amberg described this CRC meeting as “a mess” with out-of-control audience members. Amberg said he has seen public meetings where people have been loud, vociferous and profane but this one was to a much greater degree and the disruptions were occurring while the CRC was trying to conduct its meeting.
- Burke described the CRC meeting as the most unprofessional public meeting environment he had ever been in. Burke said that he thought it would be perhaps worse than other meetings but did not imagine that it would be as bad as it was.
- Henderson said that the atmosphere at the CRC meeting was “horrid” and described some of the audience members as running around the room, shoving cameras at others while they filmed them, yelling and calling Kruger a Nazi.
- Rodrigues described the meeting as a “circus” and said that the behavior was out of control. Rodrigues said that the behavior was inappropriate and disrespectful but that Kruger never flinched or answered back to anyone.
- Severe described the audience behavior at the meeting as “disgusting” and “far beyond the pale” in terms of the personal comments aimed at Kruger and Turner.

Former Chief O’Dea wrote a letter to Severe the following day expressing his concerns about the March 30, 2016 CRC meeting (Exhibit 3). O’Dea described the meeting as subjecting his command staff, PPA’s labor representative and the CRC itself to intimidation, harassment and fear for their safety. O’Dea characterized the behavior at the meeting as involving “name calling, ridicule, disruption, and physical assault or [creating] fear of assault” (Exhibit 3, page 2).

²³ Many of these references apparently drew from past newspaper articles which framed Kruger in a negative light.

D. Reasons for the Bad Behavior

Prosper thought that one of the reasons behavior was particularly bad at the CRC meeting could have been that the current Chair, Malone, runs a meeting with more focus on the rules than the past chair did, so people might have been reacting against tighter boundaries. Amberg told me that the CRC meeting on March 30, 2016 was held in an auditorium which would have made it difficult from a practical perspective to enforce good behavior because there was more room for the audience members to move around.

O'Dea told me that he believed that because of Severe's February 1, 2016 appeal memo which particularly criticized Kruger (Exhibit 13), he believed that Kruger's name alone would draw some people in who would like to have a chance to attack him due to past negative publicity. Amberg agreed that Kruger is a "bit of a target" for this reason. Finally, the fact that the complainant, Robert West, is a friend and compatriot of others who view themselves as advocates and spend time filming the police would naturally draw in others who are like minded to the meeting.

All of the above, in addition to the Simon injunction and the belief that no exclusions were possible created a perfect storm in which particularly bad behavior occurred and those with the power to do something did not believe they had the power to exclude disrespectful citizens.

E. Alternatives to What Occurred

The two most obvious things that could have been done with the after the fact knowledge of how the entire meeting went would have been to adjourn the meeting or for Kruger to leave. Kruger's direct supervisor Donna Henderson was there as was Acting Assistant Chief Burke. Burke told me that he should have told Kruger to leave, but did not think of it at the time.

With respect to allowing Kruger to leave, I believe his superiors simply didn't think of doing this because they were all focused on getting through the hearing and hoping that the behavior at the meeting would improve. The behavior did not improve, but I am reluctant to fault individuals who have Kruger's best interests at heart for not having done more because it is not apparent to me that anyone would have made a different decision.

With respect to the decision not to adjourn the meeting, one factor militating against adjourning the meeting would have been the DOJ SA which requires disciplinary processes to be completed within a certain time frame. Had the meeting been adjourned, the case might not have been heard within the timelines depending on other agenda items coming before the CRC.

Finally, Kruger suggests that the Auditor, the City Attorney or some other City Official could have done something to ensure that the behavior would cease. However, once the CRC is in session only the Chair, Kristen Malone, had authority over the CRC meeting. Hull Caballero, Severe and every City Attorney interviewed explained that only the CRC Chair has control over the CRC meeting; no City employee (or elected official) would have the power to usurp that authority.

The Auditor told me that she had had a conversation with Malone before the meeting in which she reminded Malone that she could exclude individuals who exhibited unacceptable behavior. However, Hull Caballero later learned that after her conversation with Malone, Malone was advised she should not exclude anyone. During the meeting, Hull Caballero believed that Malone was

choosing not to use exclusion for reasons of her own because Hull Caballero was not aware at the time that Malone had been advised she should not exclude anyone.

I am reluctant to place blame on CRC members who are citizen volunteers. CRC members undergo training which includes training on public records and meetings law, exclusions and other aspects of serving on a volunteer citizen's committee, but the reality is that they are volunteers. The members of the CRC give their time and energy to the City. It would be unfair to fault them for not doing a better job of controlling the meeting when the Chair was attempting to do the best job she could with the tools she believed she had.

Finally, the decision not to exclude audience members was based on legal advice from the City Attorney's Office. Legal advice weighs risk factors which may later turn out to be less important in hindsight but this does not mean that the legal advice was given with any malicious intent. There is no evidence that anyone intended any harm to Kruger, CRC Members or others attending the CRC meeting.

F. CRC Decision

The CRC voted 5-2 to sustain the allegation against Groshong. O'Dea disagreed with that recommendation (Exhibit 21). However, Acting Chief Donna Henderson later agreed with that recommendation (Exhibit 22).

VIII. Aftermath of the March 30, 2016 CRC Meeting

O'Dea refused to allow PPB members to attend the CRC after the March 30 meeting because he did not want his employees subjected to the behavior which Kruger had to endure. However, the Auditor, Severe and former Chief O'Dea soon agreed that procedures put in place would protect City employees (Exhibit 23).

The Auditor has apologized to the CRC for the behavior it was subjected to on March 30, 2016 (Exhibit 24). However, no one has apologized to Kruger (or for that matter, Turner) for what he had to endure in that meeting.

SPECIFIC ALLEGATIONS AND CONCLUSIONS

[REDACTED] With respect to Severe, I have substantiated many of the facts Kruger alleged, but not the motives he attributes to Severe.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
2. Allegation: Severe has treated Kruger discourteously, offensively or engaged in conduct unbecoming or engaged in bullying that demeans, humiliates or intimidates him, specifically:

- a) Allegation: Severe wrote a memo on December 17, 2015 in which Severe called Kruger's statement that the incident should not have been investigated "corrosive."

Conclusion: Severe's December 17, 2015 controvert memo which employs the term "corrosive" was a reaction to Kruger's statement that the Groshong case should have been dismissed in the first instance after reviewing the video and Groshong's memo. Kruger should not have opined that a courtesy complaint should not be investigated. I view Severe's response as an equivalent reaction to Kruger's opinion.

- b) Allegation: Severe's 2-1-16 memo said Kruger was "hostile and combative" at the PRB, among other things.

Conclusion: Severe's negative comments about Kruger in his February 1, 2016 were not based on objective fact but rather on his personal perceptions which were not substantiated by witnesses at the PRB. I believe the memo was an overreaction to Severe's perception that Kruger had personally slighted Severe in the PRB. As noted, witnesses did not support this view, but there were some witnesses who detected an underlying and subtle personalization between Severe and Kruger.

- c) Allegation: Severe placed these comments [from the February 1 appeal memo] into the public record with the purpose of undermining Kruger's professional position, mischaracterizing his role, intimidating him, subjecting him to humiliation

Conclusion: Severe publicized his personal and unsubstantiated comments about Kruger by making his February 1, 2016 CRC appeal memo public. If Severe truly believed that Kruger had engaged in the behavior alleged, he should have opened a professionalism investigation on Kruger. Furthermore, Severe violated the PPB directive and City Code providing that PRB discussions and deliberations are confidential by making them public.

Kruger claims that Severe did this to subject him to humiliation and intimidation. I believe that Severe publicized his memo as part of the interpersonal conflict that he and Kruger had been engaging in. However, Kruger had confined his remarks to PPB correspondence and the PRB presentation. Severe's publication of the appeal memo used his position to place unsubstantiated negative comments about Kruger into the public record.

- d) Allegation [REDACTED] Severe [REDACTED] brought [REDACTED] views to the attention of the DOJ in an attempt to intimidate him and mischaracterize his role.

Conclusion

Severe believed, rightly or wrongly, that Kruger might confront him personally after receiving the February 2, 2016 email (Exhibit 18). Severe took Kruger's email out of the context of Severe's February 1, 2016 memo which criticized Kruger. Severe did not contact the DOJ as a means of attacking Kruger but because he felt intimidated by Kruger.

- e) Allegation: IPR wants RU to "rubber stamp" their views

Conclusion: I do not believe that IPR wants RU to "rubber stamp" their views. Rather, I believe that this situation arose out of personalization of a disagreement over an officer's discipline.

A. Second Complaint

1. Allegation: Kruger and PPA president Daryl Turner were subject to degrading and humiliating insults at the March 30, 2016 CRC meeting.

Conclusion: Substantiated.

2. Allegation: No city official took steps to prevent or mitigate the behavior and he could not excuse himself from it.

Conclusion: It is true that no city official took steps to prevent or mitigate the behavior at the meeting, but it is not true that Kruger could not be excused from it. Burke indicated that he did not think of telling Kruger to leave at the time but that in hindsight he wished he had.

3. Allegations: Severe did nothing [and] Caballero was the senior city official present with authority over the CRC process but did nothing.

Conclusion: Severe, Caballero and City Attorneys were present but did nothing to stop the behavior at the meeting because the CRC Chair was the only person with the authority to do so.

4. Allegation: The City did not follow up right away on Kruger's first complaint.

Conclusion: The City has followed up on both of Kruger's complaints.