

# Police Review Board Case Outcomes and Stipulated Discipline\*

## Publication: March 2023

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Police Review Board Force

Case # 1

Final Decision: Letter of Reprimand

Decision made by: Chief Charles Lovell

Discipline Guide Category: Category C (Mitigated)

Recommendation 1 Status: Accepted with amendment.

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Police Review Board Force

Case # 2

Final Decision: Command Counseling

Decision made by: Chief Charles Lovell

Discipline Guide Category: Category C (Mitigated)

Recommendation 1 Status: N/A.

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Police Review Board Performance or Conduct

Final Decision: Command Counseling

Case # 3

Decision made by: Deputy Chief Michael Frome

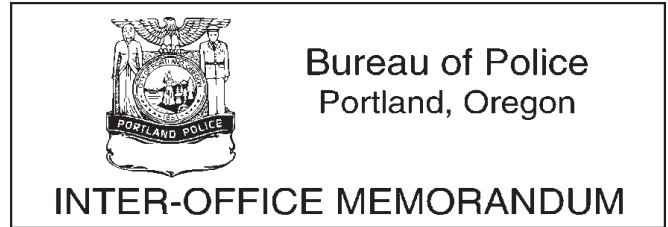
Discipline Guide Category: Category B (Mitigated)

Recommendation 1 Status: Accepted.

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\* None to report.

DATE: [REDACTED]  
TO: Christopher Paille  
Police Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings



**CONFIDENTIAL**

The Police Review Board met on [REDACTED] to review the following case:

IA Case Number: [REDACTED] Case #1

Employee: **Employee 1**

Summary of Alleged Complaint:

The complainant was walking with people who had been ordered to disperse from the area of N. Mississippi Avenue when Employee 1, approached the complainant and forcibly pushed the complainant in the upper torso using their 40mm launcher. The complainant was knocked off the complainant's feet, fell onto the asphalt pavement, and sustained an injury.

Case referred to the Police Review Board under City Code 3.20.140(B)(1)(a). The RU manager recommended a finding of *Exonerated*. The branch assistant chief agreed with the RU manger's recommended finding. The IA captain and IPR recommended the controverted finding *Sustained*.

Allegation 1: Employee 1 used inappropriate force when pushing the complainant. (FORCE)

Recommended Findings: **Exonerated – 4 members**  
**Sustained – 2 members**  
**Not Sustained – 1 member**

Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:

Four members of the Board recommended a finding of exonerated because they believed the preponderance of evidence proved that Employee 1's conduct was within policy.

These board members reasoned that numerous sound truck warnings were given--after the protest was determined to be an unlawful assembly--and the complainant had many opportunities to leave the area but chose not to. Moreover, they reasoned that the complainant had clearly been actively aggressive minutes before the use of force incident, as the complainant was posturing, with balled fists, as if the complainant would engage in a fight with another officer. Although these actions provided probable cause for an arrest, Employee 1 deescalated the situation by issuing a warning that Employee 1 would use pepper spray if the complainant advanced further; Employee 1 also issued instructions for the complainant to leave the area. These four board members further noted that other members of the RRT had discussed this specific individual and the threat this individual had posed

earlier that night. Additionally, these board members noted there were documented reports of individuals in the crowd that night attempting to flank police lines in order to get behind the lines and attack officers. There had already been a significant injury to an officer that night and Employee 1 had had projectiles thrown at Employee 1. Based on these circumstances, they believed it was reasonable for Employee 1 to assume that the complainant might have intended harm when the complainant re-entered the street.

One member noted that Employee 1 had satisfied all five elements of Directive 1010.00: de-escalation, authorized use of force, warning issuance, prohibited use of force and the Graham Standard.

One member noted that officers on the scene could have arrested the complainant earlier in the night due to the complainant's active aggression towards another officer, but they decided not to because they realized such an arrest could have been a flash point for the crowd.

One member pointed out that part of Employee 1's role that night was to protect the other officers, and Employee 1 fulfilled that duty by keeping the complainant, who was actively aggressive just minutes prior, out of the street and away from the line.

One member noted that Employee 1 employed the lowest level of force by pushing the complainant.

All four members of the Board's majority concurred that Employee 1 had taken adequate de-escalation measures and that Employee 1's push was justified based on the totality of the circumstances and was within policy. They believed Employee 1 made a reasonable split-second decision to push the complainant in order to remove the complainant from behind the police line. Although they found the complainant's resulting knee injury an unfortunate effect of the push, they believed Employee 1 was within policy to push the complainant because the complainant had displayed active aggression only a few minutes prior and it was reasonable for Employee 1 to believe the complainant might present a threat.

#### Minority Opinion:

Two board members found the allegation sustained. They believed there was no evidence that the complainant was displaying active aggression at the time that Employee 1 used force.

Based on the video footage that was captured from different angles, they believed the evidence showed the complainant was slowly walking into the street looking at the complainant's cell phone, at the time of the incident, but not displaying active aggression; they did not believe the Graham Standard level of threat was apparent.

One board member noted that, based on the evidence, the complainant was displaying behavior that could possibly be considered passive resistance but believed that even that low level of resistance was questionable, based on the evidence. This board member stated the Graham Standard requires only the

amount of force reasonably needed to maintain control. This board member asserted the push was beyond a reasonable amount of force, under the circumstances, because it was so forceful that it knocked down the complainant and caused the complainant injury. This board member acknowledged that Directive 1010.00 was not written for protest events and that it was difficult for officers to remain in compliance with the directive during protest events.

One board member found the allegation not sustained. Based on the totality of the circumstances, the board member reasoned that the RRT had made prior attempts at de-escalation, in accordance with Directive 1010.00, and believed that Employee 1 could reasonably have perceived the complainant to be an immediate threat at the time Employee 1 used force.

**Recommendations:** Corrective Actions/Discipline

Majority Opinion:

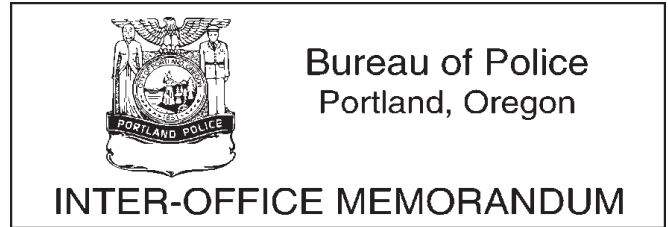
LOR – Two members

The two board members with sustained findings believed Category C at the mitigated level best described Employee 1’s actions. Based on the facts presented, it was their opinion that Employee 1’s behavior was a minor deviation from the use of physical force policy. They believed there were several mitigating factors, such as Employee 1’s remarkable record, how difficult the climate was for officers during the nightly protest events, and that Employee 1 did not intend to injure the complainant.

Other Recommendations

Some members recommend that in consideration of the revisions to Directive 1010.00, the Bureau should seek guidance from the City Attorney’s office in providing clarity around the definition of the term “immediate threat,” particularly as it relates to violent demonstrations. This may include providing examples based on current case law to ensure the directive is consistent with the law.

DATE: [REDACTED]  
TO: Christopher Paille  
Police Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings



**CONFIDENTIAL**

The Police Review Board met on Wednesday, [REDACTED] to review the following case:

IA Case Number: [REDACTED] Case #2

Employee: **Employee 1**

Summary of Alleged Complaint:

On [REDACTED], Employee 1 deployed numerous FN303 munitions on protestors at N. Lombard Street and N. Denver Avenue. At a subsequent civil hearing, a judge ruled that Employee 1 violated the temporary restraining order (TRO) in *Don't Shoot Portland et. al vs. City of Portland* and Portland Police Bureau Directive 1010.00 – Use of Force.

Case referred to the Police Review Board under City Code 3.20.140 (B)(1)(a). IPR controverted the RU manager's recommended findings of *Exonerated* for Allegations 1 and 3, and controverted the RU manager's recommended findings of *Not Sustained* for Allegations 2 and 4, IPR recommended findings of *Sustained* for Allegations 1-4.

Allegation 1: Employee 1 inappropriately deployed 5 rounds of less lethal impact munitions at unidentified protesters. (FORCE)

Recommended Finding: **Sustained – 4 members**  
**Exonerated – 3 members**

Applicable Directives: **1010.00 – Use of Force**  
**635.10 – Crowd Management/Crowd Control**

Majority Opinion:

Four board members found Allegation 1 sustained because they believed the involved protestors were not exhibiting active aggression and were slowly backing up and exhibiting passive resistance when Employee 1 deployed the less lethal impact munitions.

Two of the board members who had sustained findings stated that the video showed the crowd of protestors slowly walking backwards and complying.

One member noted that after Employee 1 grabbed the banner from the protestors, the situation became more chaotic. The member reasoned that Employee 1 created this chaotic situation due to Employee 1's incorrect assumption that the crowd was going to use the banner as a weapon and engaged the crowd in a tug of war

with the banner before Employee 1 used force.

One board member considered Employee 1's actions reasonable and noted that Employee 1 could have reasonably believed the protestors could have posed an immediate threat to the safety of the officers or others, per the Graham Standard. Nonetheless, this board member found the allegation sustained because Judge Hernandez ruled PPB had misinterpreted active aggression.

Minority Opinion:

Three board members believed the allegation was exonerated because Employee 1's conduct was compliant with directive 1010.00 and Employee 1 was doing what Employee 1 was trained to do when Employee 1 deployed the less lethal impact munitions. These three board members agreed that Employee 1 made an objectively reasonable, split-second decision to use force based on the totality of circumstances.

These board members believed that from Employee 1's perspective, it was reasonable to view the crowd as exhibiting active aggression.

One board member stated that the protests had been going on for one month at that point, and police officers had experienced a lot of violence directed towards police officers in previous protest events.

One board member stated that the TRO had been declared only four days before the incident, but the only training Employee 1 had received regarding the new policy was an email and an announcement over the radio on the evening of the incident. There had been no scenario-based training yet, and it didn't take place until four months later.

Allegation 2:

Employee 1 violated the terms of the Temporary Restraining Order in *Don't Shoot Portland, et. al vs. City of Portland* by inappropriately deploying 5 rounds of less lethal impact munitions at unidentified protestors. (CONDUCT)

Recommended Finding:     **Sustained -- 4 members**  
  **Not sustained -- 2 members**  
  **Exonerated – 1 member**

Applicable Directive:     **315.00 – Laws, Rules, and Orders**

Majority Opinion:

Four board members found the allegation sustained and believed this was a cause-and-effect situation: because they found Allegation 1 sustained, believing that Employee 1 inappropriately used force, it naturally followed that Allegation 2 was also sustained.

One member noted that they believed Employee 1 performed exactly as Employee 1 was trained to do, and Employee 1's actions were reasonable; however, the member voted to sustain because Judge Hernandez ruled Employee 1 violated the TRO.

Minority Opinion: Two board members found the allegation not sustained. They believed this allegation to be a cause-and-effect situation: because they found Allegation 1 exonerated and believed Employee 1 did not inappropriately use force, then Allegation 2 must therefore follow as not sustained.

One member noted that although Judge Hernandez had issued a TRO a few days prior to the incident, Employee 1 was in line with the use of force policy. This member believed Employee 1 reasonably believed that Employee 1 was using an appropriate use of less lethal force to stop an aggressive crowd.

One board member found the allegation exonerated because they believed a preponderance of evidence showed Employee 1's conduct was reasonable and within policy.

Allegation 3: Employee 1 inappropriately deployed 10 rounds of less lethal munitions at unidentified protesters. (FORCE)

Recommended Finding: **Sustained – 4 members**  
**Exonerated – 3 members**

Applicable Directives: **1010.00 – Use of Force**  
**635.10 – Crowd Management/Crowd Control**

Majority Opinion:  
Four board members believed that Employee 1 inappropriately deployed the less lethal munitions because Employee 1 believed the crowd was not displaying active aggression. They believed the video footage clearly showed that the crowd gestured to pick the person on roller skates up of the ground rather than attempt to unarrest them. These board members felt no immediate threat was evident.

One board member noted that Employee 1's conduct was reasonable and in compliance with the former training Employee 1 had received on active aggression and believed that Employee 1's actions were reasonable. However, because Judge Hernandez ruling provided a different interpretation of active aggression the finding was sustained.

Minority Opinion:  
Three board members found the allegation exonerated. They believed it was reasonable for Employee 1 to assume that other officers were attempting to arrest the person on roller skates and for Employee 1 to perceive that the crowd was showing active aggression by pulling the person on roller skates back into the crowd to unarrest them.

Allegation 4: Employee 1 violated the terms of the Temporary Restraining Order in *Don't Shoot Portland, et. al vs. City of Portland* by inappropriately deploying 10 rounds of less lethal impact munitions at unidentified protesters. (CONDUCT)

Recommended Finding: **Sustained – 4 members**  
**Not sustained – 2 members**  
**Exonerated – 1 member**

Applicable Directive: **315.00 – Laws, Rules, and Orders**

Majority Opinion:

Four board members found the allegation sustained and believed this was a cause-and-effect situation: because they found Allegation 3 sustained, believing that Employee 1 inappropriately used force, it naturally followed that Allegation 4 would also be sustained.

One member noted that they believed Employee 1 performed exactly as Employee 1 was trained to do, and Employee 1's actions were reasonable. However, because Judge Hernandez's ruling provided a different interpretation of active aggression, the finding was sustained.

Minority Opinion:

Two board members found the allegation not sustained. They believed this allegation to be a cause-and-effect situation: because they found Allegation 3 exonerated and believed Employee 1 did not inappropriately use force, then Allegation 4 must therefore follow as not sustained.

One board member found the allegation exonerated because they believed a preponderance of evidence showed Employee 1's conduct was reasonable and within policy.

**Recommendations:**

Corrective Actions/Discipline

One day SWOP – 2 members

One board member believed that Category C (presumptive, first violation in three years) was the most appropriate corrective action. This board member also noted mitigating factors, such as the identified training issues, but landed on a one day SWOP.

One board member believed that Category C (mitigated, second violation in three years) was the most appropriate corrective action due to the multiple sustained allegations. This member believed the violation was mitigated, based on the discrepancy in training that had occurred.

Two day SWOP – 1 member

One board member believed that Category C (presumptive, second violation in three years) was the appropriate corrective action based upon the multiple sustained findings.



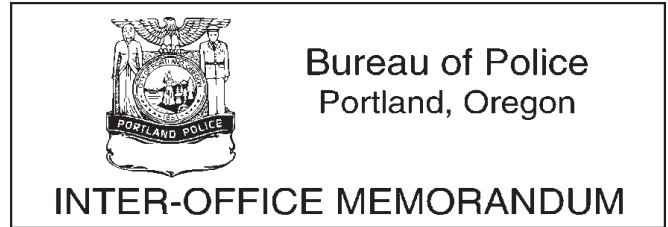
LOR – 1 member

One board member believed that Category C (presumptive, mitigated) was the most appropriate corrective action. This member did not compound the other sustained findings in this case. This board member believed Employee 1 was following the previous training they had received and identified this as a mitigating factor.

Other Recommendations

No other recommendations.

DATE: [REDACTED]  
TO: Christopher Paille  
Police Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings



**CONFIDENTIAL**

The Police Review Board met on Wednesday, [REDACTED] to review the following case:

IA Case Number: [REDACTED] Case #3

Employee: **Employee 1**

Summary of Alleged Complaint:

On [REDACTED], the Oregon Secretary of State Elections Division communicated to Employee 1 its determination that Employee 1 violated Oregon ORS 260.432(2) by promoting the recall and opposing the candidacy of Multnomah County District Attorney Mike Schmidt during two Lents Neighborhood Livability Association (LNLA) meetings. Specifically, the Elections Division alleged Employee 1 advocated the recall of District Attorney Schmidt when an attendee asked, "How do we recall [DA Schmidt]?" and Employee 1 answered, "Sure, sure recall him." The Elections Division further alleged Employee 1 opposed the election of DA Schmidt by stating, "When the vote comes up again, you have to vote 'no.'"

Case referred to the Police Review Board under City Code 3.20.140(b)(1)(e). The IPR Director referred the case to the PRB.

Allegation 1 found not sustained and not subject to review by the Police Review Board.

Allegation 2: Employee 1 violated ORS 260.432(2) when speaking at community meetings on [REDACTED]. (CONDUCT)

Recommended Findings: **Sustained – 4**

Applicable Directive: **310.00 – Laws, Rules, and Orders**

Majority Opinion:

The Board found the allegation sustained because Administrative Law Judge Rackstraw concluded that Employee 1's comment violated the statute by opposing District Attorney Mike Schmidt's candidacy, based on the statutory definition of "candidate" at that time. Employee 1 didn't appeal the decision and instead paid the fine. The court's decision was final, and the Board believed the allegation therefore must be sustained.

**Recommendations:** Corrective Actions/Discipline

Command Counseling – Four members

The Board believed Category B best described Employee 1's misconduct, because it was conduct that may have a negative impact on the bureau. They found Command Counseling was the most appropriate corrective action due to the following mitigating factors: Employee 1's many commendations over the course of an impressive career of 28 years, Employee 1's lack of previous disciplinary actions, and because the definition of "candidate" is very broad and vague, and it is difficult to know if someone is officially a candidate unless one checks with the county election agency. Moreover, they believed Employee 1 wasn't aware that District Attorney Mike Schmidt was a candidate at the time of the neighborhood meetings, and Employee 1 didn't intend to oppose his candidacy.

### Training

The Board unanimously recommended that the bureau give members, especially those in a position of authority and higher visibility, a training refresher from the City Attorney's office during an in-service prior to election time to educate members on the definition of "candidate" and what types of political activities are allowed while on or off duty. The Board also recommended that the Training Division send out an LMS read memo to include a clear definition of terms and policies. An LMS read memo would get out quickly and efficiently track completion.

# Police Review Board Case Outcomes and Stipulated Discipline\*

Publication: March 2023 Updated

## 1 POLICE REVIEW BOARD FORCE

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Final Decision: One Workday Suspension Without Pay

Decision made by: Mayor Ted Wheeler and Chief Charles Lovell

Discipline Category D (mitigated)

Recommendation 1: Accepted

Recommendation 2: Declined. Deputy Chief Frome noted the City is in the process of hiring an outside consultant to review 2020 protests and PPB Response.

## 2 POLICE REVIEW BOARD CONDUCT OR PERFORMANCE

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Final Decision: One Workday Suspension Without Pay

Decision made by: Mayor Ted Wheeler and Chief Charles Lovell

Discipline Category B (aggravated) Recommendations: none

## 3 POLICE REVIEW BOARD FORCE

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Final Decision: One Workday Suspension Without Pay

Decision made by: Mayor Ted Wheeler and Chief Charles Lovell

Discipline Category D (mitigated) Recommendations: none

## 4 POLICE REVIEW BOARD CONDUCT OR PERFORMANCE

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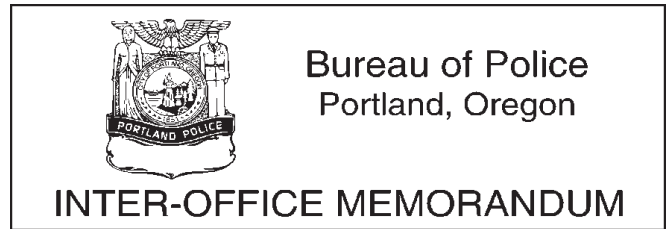
Final Decision: 100-hour Suspension Without Pay

Decision made by: Mayor Ted Wheeler and Chief Charles Lovell Discipline

Category E (aggravated) Recommendation: Accepted

\*NONE TO REPORT

DATE: [REDACTED]  
TO: Christopher Paille  
Police Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings



**CONFIDENTIAL**

The Police Review Board met on Wednesday, [REDACTED] 2022 to review the following case:

IA Case Number: [REDACTED]

Employee: **Employee 1**

Summary of Alleged Complaint:

The Independent Police Review (IPR) was notified of a tort claim notice filed by an attorney on behalf of the complainant. The tort claim asserted the complainant was attending a protest on [REDACTED] 2020, when Employee 1 used inappropriate force on the complainant.

Case referred to the Police Review Board under City Code 3.20.140(B)(1)(a). The RU manager recommended a finding of *Not Sustained* for Allegation 1. The IA captain, IPR, and the branch A/C recommended a controverted finding of *Sustained* for Allegation 1.

Allegation 1: Employee 1 inappropriately fired 40mm munitions at the leg(s) of the complainant.

Recommended Findings: **Not sustained with debrief – 3 members**  
**Not sustained – 1 member**  
**Sustained – 2 members**

Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:

Three members of the Board recommended a finding of not sustained with debrief because they believed the complainant was demonstrating active aggression and Employee 1 was reasonable in Employee 1's decision to deploy a 40mm less lethal round to protect Employee 1, the public and other officers.

These members noted that Employee 1's role on the RRT that night was to have a broad perspective of the riot event and protect line officers. They reasoned the complainant had involved and reinvolved themselves in riot activities that night, including attempts to make unarrests, which was clearly a display of active aggression.

These board members believed it was reasonable for Employee 1 to assume the complainant was going to reengage with Employee 2 who had taken the complainant's guitar from the complainant earlier that night because the complainant was approaching Employee 2 from behind.

One member read the definition of “active aggression” from Directive 1010.10 and said they thought it was reasonable for Employee 1 to believe that the threat of an assault was present, along with the ability to carry out the threat and that Employee 1 believed an assault or injury to a person could have happened, because the complainant posed an immediate threat, unless intervention occurred.

All three members agreed that, although Employee 1’s split-second decision to fire the nonlethal round occurred simultaneously, as the complainant began moving away, it was reasonable for Employee 1 to view the complainant as a threat during those two seconds. Furthermore, one member stated, it is inappropriate to use 20/20 hindsight to analyze an officer’s quick decision-making process in the moment.

These three members recommended a debrief so Employee 1 could review Directive 1010.00 as it is currently written. The debrief could also include discussing the importance of reassessing an active aggression situation during a riot event and taking in the whole scene, regardless of what happened previously during the event, to reaffirm that a subject is indeed still displaying active aggression before firing a nonlethal round.

**Minority Opinion:**

One member recommended not sustained. This member believed it was reasonable for Employee 1 to ascertain the complainant was actively aggressive and to make the split-second decision to deploy a 40mm less lethal round to protect Employee 1, the public and other officers. The member stated that, according to Directive 1010.00, Section 5.2, use of force is also evaluated under the totality of the circumstances. This member further noted that the complainant had shown active aggression during the entire incident.

Two members of the Board found the allegation sustained because they did not believe that the complainant was demonstrating active aggression at the time Employee 1 fired the 40mm less lethal round. They believed that the complainant had displayed active aggression earlier in the night but that the complainant was moving towards the sidewalk and away from officers when Employee 1 shot the less lethal round at the complainant. One member stated there was adequate time for Employee 1 to make a different decision other than fire a less lethal round.

One member noted that there are complexities in Directive 1010.00 and the application of it, but this member stated that their job as a board member was to look at the moment in which Employee 1 used force, rather than preceding events, such as the complainant’s behavior earlier in the night, to make their findings.

**Recommendations:**

Corrective Actions/Discipline

**Minority Opinion:**

1 day SWOP

One board member believed Category D at the mitigated level best described

Employee 1's actions. It was their opinion that Employee 1's behavior was a deviation from the use of physical force policy. They believed there were mitigating factors, including Employee 1's lack of discipline history and that it was Employee 1's first violation in five years.

Minority Opinion:

2 day SWOP

One board member believed Category D at the presumptive level best described Employee 1's actions. It was their opinion that Employee 1's behavior was a deviation from the use of physical force policy. Because it was Employee 1's first violation in five years and there were no mitigating or aggravating factors to consider, the discipline guide placed it at a two day SWOP.

Other Recommendations

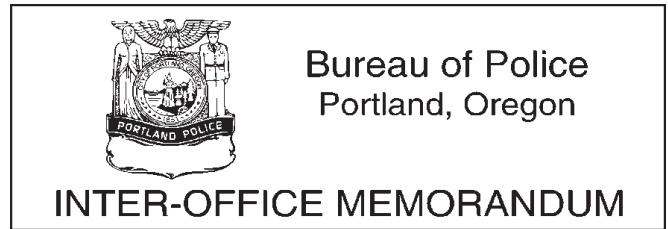
Training

Some members of the board recommended that Incident Commanders receive training to consider the impact of their commands during riot events and to not create circumstances in which officers must use force. The decisions made at the IC level could have an impact on officers down the line.

Other

Some board members recommended that it would be valuable to conduct a "lessons learned" session following these types of major events to create a feedback loop for command staff, officers and the community. Debriefing the details of the event--including the decisions made and the outcomes--could provide closure and build trust.

DATE: [REDACTED], 2022  
TO: Christopher Paille  
Police Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings



**CONFIDENTIAL**

The Police Review Board met on [REDACTED] 2022, to review the following case:

IA Case Number: [REDACTED]

Employee: **Employee 1**

Summary of Alleged Complaint:

Bureau members expressed concerns to a supervisor regarding possible misconduct and policy violations by Employee 1. The concerns related to Employee 1's use of a patrol vehicle while off duty, and the parking of Employee 1's personal vehicle in a Bureau facility without permission.

Case referred to the Police Review Board under City Code 3.20.140(B)(1)(b).

Allegation 1: Employee 1 continues to park Employee 1's personal vehicle in the basement of the parking garage after being instructed not to. (CONDUCT)

Recommended Findings: **Sustained – 5 members**

Applicable Directive: **317.40 – Authorized Use of Bureau Resources**

Majority Opinion:

The majority of the Board found the allegation sustained because Employee 1 admitted that Employee 1 parked Employee 1's personal vehicle in the basement of the central precinct parking garage even though Employee 1 was not authorized to do so.

Allegation 2: Employee 1 drives a patrol vehicle home without authorization. (CONDUCT)

Recommended Findings: **Sustained – 5 members**

Applicable Directive: **317.40 – Authorized Use of Bureau Resources**

Majority Opinion:

The majority of the Board found the allegation sustained because Employee 1 admitted that Employee 1 drove Employee 1's patrol vehicle home multiple times without authorization. The Board reasoned that Employee 1 had gotten into the habit of driving the patrol vehicle home, while Employee 1 was acting as a Lieutenant at various periods, and was authorized to do so in order to save time and get more sleep when working double shifts, but that Employee 1 didn't have permission to drive the patrol vehicle home as a Sergeant.



**Recommendations:** Corrective Actions/Discipline

One Day SWOP – 5 members

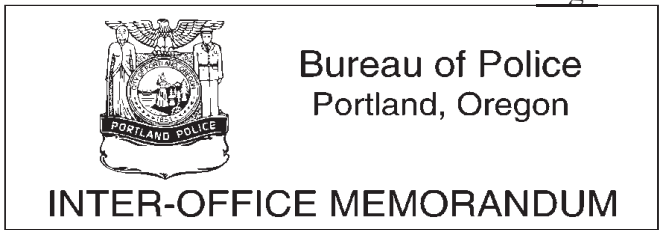
The Board believed that Category B was the most appropriate corrective action because Employee 1’s behavior had a negative impact on operations and the professional image of the Bureau as well as a negative impact on relationships with other officers.

All board members recommended a one day SWOP for corrective action because it was the second violation in two years, due to the compounding effect of the two allegations, at the presumptive level because there were both mitigating and aggravating factors involved and those factors cancelled each other out.

The Board believed mitigating factors included Employee 1’s employee history, Employee 1’s many positive commendations, and the fact that Employee 1 is a good leader and a competent supervisor. They believed the aggravating factors were that Employee 1 took advantage of Employee 1’s sometimes-rank as Lieutenant to assume the privilege of taking an unauthorized parking spot, which is at a premium at the central precinct garage, and that Employee 1 should have asked for permission, as a Sergeant, before taking the patrol vehicle home.

Other Recommendations

None



DATE: [REDACTED], 2022  
TO: Christopher Paille  
Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings

**CONFIDENTIAL**

The Police Review Board met on [REDACTED], 2022, to review the following case:

IA Case Number: [REDACTED]

Employee: **Employee 1**

Summary of Alleged Complaint:

The City of Portland received a tort claim notice stating the complainant was clearly marked as a medic and complying with a Portland Police Bureau order to disperse during a demonstration when a PPB officer approached the complainant from behind and pushed the complainant resulting in a fall, injuries and emotional trauma.

This case was referred to the Police Review Board under Portland City Code 3.20.140(B)(1)(c).

Allegation 1: Employee 1 used inappropriate force when Employee 1 pushed the complainant to the ground, causing injury.

(FORCE) Recommended Findings:

**Sustained – 7 members**

Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:

The Board found the allegation sustained because they found no evidence that the community member was displaying active aggression when Employee 1 applied force by pushing the community member with a baton. They believed the video footage as well as the investigative interviews showed that the community member was passively walking by the line and posed no threat to Employee 1 or PPB team members when Employee 1 decided to push the community member, which resulted in the community member falling to the ground. The board members felt Employee 1's conduct and decision-making were not objectively reasonable.

Several board members noted that officers were under a lot of pressure during the riot event that night and understood that Employee 1 and other officers had been targets of violence by members of the crowd, but they nonetheless believed that Employee 1's use of force was not in accordance with Directive 1010.00 under the circumstances.

One board member noted that Employee 1 expressed not knowing who all among the crowd was a threat that night and that Employee 1 felt like they were fighting for their life, but this board member believed these statements were likely applicable to other parts of the evening rather than this instance.

Allegation 2: Employee 1's tactics and decision making, in the use of force against the complainant, were not in accordance with general training guidelines. (PROCEDURE)

Recommended Findings: **Sustained – 7 members**

Applicable Directive: **315.30 - Satisfactory Performance**

Majority Opinion:

The Board found the allegation sustained because they believed there was objective evidence that Employee 1's tactics and decision making failed to meet the requirements outlined in Directive 315.30.

Two board members noted that an officer's use of force can lead to a flashpoint during a protest, which consequently can make a crowd more violent. One member stated that an officer has the latitude to make independent decisions, and if they are instructed to disperse a crowd, for example, they may reason how to appropriately do so.

One board member believed Employee 1's actions were in accordance with training and law, but not in accordance with the requirements of Directive 1010.00.

**Recommendations:**

Corrective Actions/Discipline

All of the board members considered Directive 1010.10 to be the more serious violation between the two allegations, and they all considered these two allegations as one incident in their decision-making process when consulting the discipline guide matrix.

Letter of Reprimand – 1 member

One board member believed Category C best described the violation. This member recommended a Letter of Reprimand due to this being the first violation in 3 years and the variety of mitigating circumstances. The member's rationale for this recommendation was due to Employee 1's conduct being a minor deviation from use of physical force policy and several mitigating factors, including Employee 1's discipline history, many commendations, and the amount of pressure Employee 1 was under, working riot events on consecutive nights.

Command Counseling – 4 members

Three board members believed Category C best described the violation and Command Counseling was the most appropriate corrective action because Employee 1's conduct was a minor deviation from use of physical force policy and the first violation in three years. They believed the corrective action should be further mitigated down to the Command Counseling level due to the many mitigating

factors involved, including the difficult riot scene that the officer endured that night--with deadly force being used against officers--lack of training for crowd control events, and Employee 1's positive employment history.

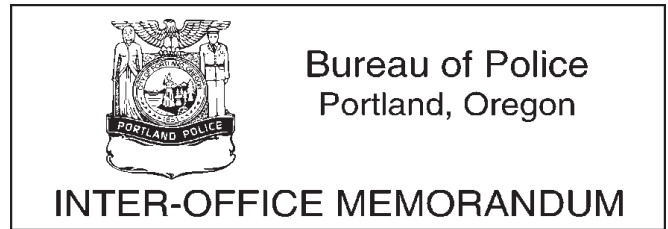
One member noted that if an officer has a use of physical force violation on their record, that is an additional form of punishment because it could negatively impact their ability to seek a promotion in future.

One member believed that Category B at the mitigated level was the most appropriate corrective action because Employee 1's conduct may have a negative impact on operations or the professional image of the PPB. This board member noted the many mitigating factors involved, as well.

One Day SWOP - 2 members

Two board members believed Category D best described the violation and a One Day SWOP was the most appropriate corrective action because Employee 1's conduct was a deviation from the use of physical force policy and the first violation in five years. They noted there were several mitigating factors, including Employee 1's discipline history, many commendations, and the amount of pressure Employee 1 was under, working riot events on consecutive nights.

DATE: [REDACTED], 2022  
TO: Christopher Paille  
Police Review Board Coordinator  
FROM: Adrienne DeDona  
Police Review Board Facilitator  
SUBJ: Police Review Board Recommended Findings



**CONFIDENTIAL**

The Police Review Board met on Wednesday, [REDACTED], 2022 to review the following case:

IA Case Number: [REDACTED]

Employee: Employee 1

Summary of Alleged Complaint:

During the State of Oregon Basic MRT/RRT Course, a PowerPoint presentation was shown with a slide depicting an officer striking a protestor. The picture had a caption in support of using force on “Dirty Hippies” in the form of a mock prayer.

Allegations 1 and 2 were found *Sustained* and Allegation 3 was found *Not Sustained* during the administrative review process and were not subject to review by the Police Review Board. This case referred to the Police Review under City Code 3.20.140(B)(1)(a). The branch assistant chief, IPR director and Internal Affairs captain disagreed with the level of proposed discipline.

Allegation 1: Employee 1 saved and maintained a PowerPoint presentation that contained inappropriate and unprofessional material. (CONDUCT)

Applicable Directive: **310.00 – Professional Conduct and Courtesy**

Allegation 2: Employee 1 added inappropriate and unprofessional material to a PowerPoint presentation for the basic RRT training course. (CONDUCT)

Applicable Directive: **310.00 – Professional Conduct and Courtesy**

Allegation 3: Employee 1 did not submit a lesson plan to the Training Division as required for the 2018 RRT Basic course. (PROCEDURE)

Applicable Directive: **1500.00 - Training**

**Recommendations:** Corrective Actions/Discipline

One Workday SWOP – 2 members

Two board members believed Category C best described Employee 1’s misconduct. It was their opinion Employee 1’s behavior had a pronounced negative impact on the professional image of the bureau and its relationship with the public. It was Employee 1’s first violation in three years, and both board members believed it was at the presumptive level.

One board member believed there were no mitigating factors and no aggravating factors; therefore, the presumptive level was reached. The other board member believed a mitigating factor was that, of the many people who were interviewed, none of them remembered seeing the image during the slideshow, and there was no history of the image being presented beyond that one occasion. This board member believed the other sustained allegation was an aggravating factor and therefore the mitigating and aggravating factors neutralized each other to make it presumptive level.

#### Two Workday SWOP – 1 member

One board member believed Category E best described the Employee 1's misconduct because Employee 1's conduct involved an act that involved unethical behavior or could result in an adverse impact to officers or to the professionalism of the bureau. It was the first violation of its kind in 7 years. The board member believed that many bureau members could have seen this unprofessional image over the years during the trainings and that they might have been subtly influenced to be discriminatory because of it. The board member believed it was mitigated because Employee 1 was trying to bring levity to the heavy subject matter material, and Employee 1 might not have been the only person involved in the incident.

#### 3 Week SWOP – 1 member

One board member believed Category E best described Employee 1's misconduct because Employee 1's conduct involved an act that could result in an adverse impact to the professionalism of the bureau. The board member believed it had already had an adverse impact to the bureau due to the media coverage and public outrage it created. This board member felt the violation was the first of its kind by Employee 1 in 7 years. The board member believed it was at the aggravated level because putting a slide like that in a training slideshow is giving tacit permission to bureau members to engage in behavior that violates the constitutional rights of a protestor (by condoning assaulting them).

#### Other Recommendations

##### Training

One board member recommended incorporating elements of neuroscience as well as emotional impact and awareness training for Portland Police Bureau members during training sessions on crowd control.