Police Review Board Cases with Final Outcomes
Publication: August 2020

Board Date: [redacted] Case # Case #1

Case referred to the PRB by the branch asssistant chief who controverted the recommended findings of Not Sutained made by IA, IPR, and the RU manager, to Sustained.

Discpline imposed by Deputy Chief Davis.

Final Decision LOR

Discipline Guide Category: B (Presumptive)

Board Date: [redacted] Case # Case #2

Employee 3

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Discipline imposed by Chief Resch.

Final Decision LOR

Discipline Guide Category: C (Mitigated)

Board Date: [redacted] Case # Case #2

Employee 2

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Discipline imposed by Chief Resch.

Final Decision LOR

Discipline Guide Category: C (Mitigated)

Board Date: [redacted] Case # Case #2

Employee 1

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Discipline imposed by Chief Resch.

Final Decision One Workday SWOP

Discipline Guide Category: C (Presumptive, 2nd Violation)

Police Review Board Cases with Final Outcomes
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Board Date: [redacted] Case # Case #3

Employee 6

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Board Date: [redacted] Case # Case #3

Employee 3

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision LOR

Discipline Guide Category: B (Presumptive)

Board Date: [redacted] Case # Case #3

Employee 8

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Police Review Board Cases with Final Outcomes
Publication: August 2020

Board Date: [redacted] Case # Case #3

Employee 5

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Board Date: [redacted] Case # Case #3

Employee 1

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Board Date: [redacted] Case # Case #3

Employee 12

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

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Board Date: [redacted] Case # Case #3

Employee 4

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision One Workday SWOP

Discipline Guide Category: B (Presumptive, 2nd Violation)

Board Date: [redacted] Case # Case #3

Employee 7

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Board Date: [redacted] Case # Case #3

Employee 9

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

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Board Date: [redacted] Case # Case #3

Employee 11

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Board Date: [redacted] Case # Case #3

Employee 2

During the initial review of this case, only allegation #7 (Employee #4) was referred to the PRB by the RU manager, IA, and IPR, based upon the recommendation that the conduct relevant to the other involved members named in the other allegations was defind under Category B (Mitigated and Presumptive) with no PRB referral.

The branch assistant chief controverted the recommended Discipline Guide category to Category C, found the conduct was also in violation of Directive 310.70, and referred the case to the PRB for additional review.

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Board Date: [redacted] Case # Case #4

This case was not initially referred to the PRB by the RU manager, IPR, or IA. The orignal recommendation for corrective action was command counseling under Category A of the Bureau's Discipline Guide.

The branch assistant chief found the conduct was defined under Category C and referred the case to the PRB for review.

Corrective action imposed by Chief Resch. Conduct found to be a minor procedural violation of Directive 315.30.

Final Decision CC

Discipline Guide Category: A (Presumptive)

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Board Date: [redacted] Case # Case #5

Allegations 1, 3, and 9, recommended as Not Sustained by the RU manager; all other allegations found Sustained. Case referred to the PRB by the RU manager. IPR and IA concurred with the recommended findings and the referral to the PRB.

The branch assistant chief controverted the recommended findings of Not Sustained for Allegations 1, 3, and 9, to Sustained, and also referred the case to the PRB.

At the conclusion of the review of this case, Chief Resch found the allegations related to untruthfulness were found Not Sustained, for the reason that there was not enough evidence to show the employee was intentionally untruthful or misleading.

Discipline imposed by Chief Resch.

Final Decision Three Workweek SWOP

Discipline Guide Category: F (Mitigated)

Board Date: [redacted] Case # Case #6

Discipline imposed by Chief Resch.

Final Decision LOR

Discipline Guide Category: B (Presumptive)

Board Date: [redacted] Case # Case #7

Employee 1

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Discipline imposed by Deputy Chief Davis.

Final Decision LOR

Discipline Guide Category: C (Mitigated)

Board Date: [redacted] Case # Case #7

Employee 2

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Discipline imposed by Chief Resch.

Final Decision LOR

Discipline Guide Category: C (Mitigated)

Police Review Board Cases with Final Outcomes
Publication: August 2020

Board Date: [redacted] Case # Case #7

Employee 4

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Final Decision Retired

Discipline Guide Category: C (Presumptive)

Board Date: [redacted] Case # Case #7

Employee 3

This case was referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Discipline imposed by Chief Resch.

Final Decision One Workday SWOP

Discipline Guide Category: C (Presumptive)

Board Date: [redacted] Case # Case #8

Case referred to the PRB as a result of a controverted finding. Initial findings recommended by the RU manager designee for Allegations 1-3 were Not Sustained. IA agreed with the Not Sustained findings. IPR and the branch assistant chief controverted the finding for Allegation 1 to Sustained.

Discipline imposed by Chief Resch.

Final Decision One Workweek SWOP

Discipline Guide Category: C (2nd Violation, Aggravated)

Board Date: [redacted] Case # Case #9

The RU manger recommended a finding of Sustained for the allegation. IA and the branch assistant chief agreed with the recommended finding of Sustained. The case was not initially referred to the PRB by the RU manager, IA, or the branch assistant chief. IPR controverted the recommended finding to Exonerated.

Discipline imposed by Chief Resch. Allegation found to be a violation of Directive 310.00 and defined under Category A (Aggravated) of the Bureau's Discipline Guide.

Final Decision LOR

Discipline Guide Category: A (Aggravated)

Board Date: [redacted] Case # Case #10

Corrective action imposed by Chief Resch.

Final Decision CC

Discipline Guide Category: B (Mitigated)

Police Review Board Cases with Final Outcomes
Publication: August 2020

Board Date: [redacted] Case # Case #11

Case referred to the PRB by the RU manager. IPR, IA, and the branch assistant chief agreed with the recommendation.

Discipline imposed by Chief Resch.

Final Decision One Workday SWOP

Discipline Guide Category: A (3rd Violation)

Board Date: [redacted] Case # Case #12

PRB review required under City Code 3.20.140(B)(1)(c)(1).

Deputy Chief Davis concurred with the PRB's recommended findings.

Final Decision All Actions found In Policy

Discipline Guide Category: N/A

Board Date: [redacted] Case # Case #13

PRB review required under City Code 3.20.140(B)(1)(c)(1).

Deputy Chief Davis concurred with the PRB's recommended findings.

Final Decision All actions found In Policy
with a Debriefing attached
to Area of Review #1

Discipline Guide Category: N/A

Board Date: [redacted] Case # Case #14

Chief Resch concurred with the PRB's recommended findings.

Final Decision All Actions found In Policy

Discipline Guide Category: N/A

DATE: [redacted]

TO: Christopher Paillé
Review Board Coordinator

FROM: Tracy M. Smith
Police Review Board Facilitator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

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

IA Case Number: Case #1

Employee: Employee 1

Summary of Alleged Complaint:

Employee 1 went to the location to pick up some items Employee 2 informed Employee 1 that the items weren't yet received. According to Employee 2, Employee 1 became upset, raised their voice, and was discourteous and unprofessional.

Allegation 1: Employee 1 was unprofessional in their interaction with Employee 2 on date, 2018. (CONDUCT)

Recommended Findings: **Sustained - Three members**
Not Sustained with Debrief - Two members

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

Majority Opinion:
Three board members recommended a Sustained finding for conduct that did not meet the requirements of Directive 310.00 Professional Conduct and Courtesy. Further, the three board members offered these as distinct and separate parts of the Directive which made it clear its intent was to have its members act in a "courteous and considerate" manner. One board member said Employee 1 “tone, tenor of speech, and body language” demonstrated a violation of the Directive 310.00. Another board member thought that Directive 310.00 itself said all members should be treated with dignity and respect—this included a courtesy component. Another board member said it was clear that Employee 2 and Employee 3 viewed Employee 1 interaction with them as negative. It was disconcerting that Employee 1 wasn’t aware of their verbal and body language.

Minority Opinion:
Two members recommended a finding of Not Sustained with a debriefing. They believed Employee 1 didn't violate any policy or procedure as it related to the Directive 310.00 Professional Conduct and Courtesy. The Directive stated that bureau members must "engage and interact with individuals in a professional and courteous manner that emphasizes respect for all individuals and cultures." Both Employee 2 and Employee 3 said Employee 1 didn't use profanity or any terms they deemed offensive regarding "race, gender, nationality, sexual orientation, physical or mental disability, ethnic or religious group, age, or any protected status." Employee 2 also said Employee 1 didn't yell, but they did raise their voice, causing Employee 2 to feel intimidated. One member said Employee 1 needed to understand the "power dynamic," but a directive wasn't violated.

Recommendations: Corrective Actions/Discipline

Sustained/Letter of Reprimand – Three members

Majority Opinion:
Three members recommended a Sustained finding related to Allegation #1, Category B, with a Letter of Reprimand. The three members expressed it was alarming that Employee 1 "cannot detect and correct their behavior" when getting frustrated in situations. Employee 1 actions were intense enough to cause an employee in another room to feel uncomfortable. One member expressed that "professionalism conduct includes tone and facial expressions." It was a concern that Employee 1 was unable to recognize their behavior. The three members believed there was a preponderance of evidence Employee 1 violated Directive 310.00.

Minority Opinion:
Two members recommended a finding of Not Sustained with a Debrief related to Allegation #1. Their belief was people can get frustrated and sometimes don't realize how their emotions are expressed on their face, tone of voice, and how it was viewed by others. The two members believed Employee 1 needed to be made aware of the power dynamic between sworn and non-sworn employees. In addition, they should be able to control their emotions, including being mindful of how they expressed their emotions.

Additional Corrective Action Recommended

The board recommended Employee 1 attend communication training.

Other Recommendations
The board recommended Internal Affairs become aware of its line of questioning related to probing the feelings and perceptions of witnesses.

Policy
The board unanimously recommended the Portland Police Bureau revise the language in Directive 310.00 Conduct and Courtesy. Specifically, amend it for clarity and bring greater awareness related to non-sworn employees, including the public.

DATE: [redacted]

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

TO: Christopher Paille
Police Review Board Coordinator

FROM: Allison Brown, JLA Public Involvement
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: Case #2

Employees: **Employee 1**
Employee 2
Employee 3

Summary of Alleged Complaint:

On date, 2018, Employee 2 located a stolen vehicle and Employee 1 and Employee 3 responded to assist E 2 Employee 1 and Employee 3 were positioned behind Employee 2 and the stolen vehicle and Employee 1 attempted to initiate a box-in of the stolen vehicle. The stolen vehicle evaded the intervention technique and began to elude the officers. Employee 1 attempted to conduct a Pursuit Intervention Technique (PIT) on the vehicle and E 1's attempts were unsuccessful. Employee 1, Employee 2, and Employee 3 engaged in a brief pursuit of the stolen vehicle and were told by Employee 4 to terminate the pursuit. The pursuit continued until the suspect vehicle ran a red light and crashed into another vehicle.

Allegation 1: Employee 1 engaged in an unauthorized vehicle pursuit. (PROCEDURE)

Recommended Finding: **Employee 1 – Sustained (Unanimous)**

Applicable Directive: **630.05 – Vehicle Interventions and Pursuits**

Opinion:

Board members agreed that Employee 1 was aware of the directives that officers not engage in pursuit of stolen vehicles, but continued pursuit of the vehicle following the unsuccessful box in.

Allegation 2: Employee 2 engaged in an unauthorized vehicle pursuit. (PROCEDURE)

Recommended Finding: **Employee 2 – Sustained (Unanimous)**

Applicable Directives: **630.05 – Vehicle Interventions and Pursuits**

Opinion:

Board members found that Employee 2 recognized that it was an unauthorized

pursuit, but engaged and continued in pursuing the stolen vehicle.

One member noted that any officer can terminate the pursuit according to policy. Another member asked if in a pursuit there is a primary officer that has the responsibility to terminate a pursuit. A member responded that it is the responsibility of any officer to terminate a pursuit if they have information or see something that indicates that the pursuit is unsafe.

Allegation 3: Employee 3 engaged in an unauthorized vehicle pursuit. (PROCEDURE)

Recommended Finding: **Employee 3 – Sustained (Unanimous)**

Applicable Directive: **630.05 – Vehicle Interventions and Pursuits**

Opinion:

Board members found that Employee 3 was aware that the pursuit was unauthorized, but engaged in the pursuit of the stolen vehicle.

It was noted that Employee 3 felt that E 3's engagement in the pursuit was necessary due to concerns of safety for Employee 1 and Employee 2.

Allegation 4: Employee 1 failed to follow the order of Employee 4 to terminate the pursuit. (CONDUCT)

Recommended Finding: **Employee 1 – Sustained (Unanimous)**

Applicable Directive: **315.00 – Laws, Rules, and Orders**
630.05 – Vehicle Interventions and Pursuits

Opinion:

Board members reviewed and discussed the video recording of the incident from E 3's car to determine how long Employee 1 continued pursuit following the termination order. It was determined that Employee 1 continued pursuit for approx. 12-13 seconds following the termination order. Board members found that Employee 1 failed to follow the order to terminate the pursuit despite hearing the order come on the radio.

Allegation 5: Employee 2 failed to follow the order of Employee 4 to terminate the pursuit. (CONDUCT)

Recommended Finding: **Employee 2 – Sustained (Unanimous)**

Applicable Directive: **315.00 – Laws, Rules, and Orders**
630.05 – Vehicle Interventions and Pursuits

Opinion:

Board members found that despite Employee 2's involvement resting heavily on Employee 1's decision to remain in pursuit, Employee 2 did not follow the order from E 2's direct supervisor to terminate the pursuit. It was noted that Employee 2's reasoning for remaining in engaged in the pursuit was motivated by concern for Employee 1's safety.

Allegation 6: Employee 3 failed to follow the order of Employee 4 to terminate the pursuit. (CONDUCT)

Recommended Finding: **Employee 3 – Sustained (Unanimous)**

Applicable Directive: **315.00 – Laws, Rules, and Orders**
630.05 – Vehicle Interventions and Pursuits

Opinion:

Board members found that while Employee 3 did turn off E 3's lights and slow down following the termination order, E 3 did not verbally acknowledge the order and completely disengage in the pursuit. It was noted that Employee 3 expressed that E 3 was concerned for the safety of Employee 1 and Employee 2 if E 3 had stopped completely.

Allegation 7: Employee 1 failed to appropriately manage a vehicle pursuit. (PROCEDURE)

Recommended Finding: **Employee 1 – Sustained (Unanimous)**

Applicable Directive: **630.05 – Vehicle Interventions and Pursuits**
315.30 – Satisfactory Performance

Opinion:

Board members found that Employee 1 failed to communicate with Employee 2 and Employee 3 other than for the attempted box-in and failed to properly manage the pursuit of the stolen vehicle. Additionally, board members noted that in E 1's interview Employee 1 noted E 1's experience as a factor in E 1's decision to lead the charge of the pursuit, but still did not recognize that it was an unauthorized pursuit or properly manage the pursuit.

Allegation 8: Employee 2 failed to appropriately manage a vehicle pursuit. (PROCEDURE)

Recommended Finding: **Employee 2 – Sustained (Unanimous)**

Applicable Directive: **630.05 – Vehicle Interventions and Pursuits**
315.30 – Satisfactory Performance

Opinion:

Board members found that Employee 2 did not make efforts to appropriately manage the pursuit following Employee 1's decision to initiate the pursuit. It was noted that Employee 2 explained that E 2 had never managed a pursuit prior and this factored into E 2 giving control to Employee 1.

Allegation 9: Employee 3 failed to appropriately manage a vehicle pursuit. (PROCEDURE)

Recommended Finding: **Employee 3 – Sustained (Unanimous)**

Applicable Directive: **630.05 – Vehicle Interventions and Pursuits**
315.30 – Satisfactory Performance

Opinion:

Board members found that despite Employee 3 considering terminating the pursuit, E 3 continued to engage under the belief that Employee 1 may perform a successful PIT maneuver and therefore failed to appropriately manage the pursuit by not terminating the pursuit. Additionally, board members found that Employee 3 recognized that E 3 was engaged in an unauthorized pursuit, but did not want to disengage due to concerns of safety for Employee 1 and Employee 2. It was noted that Employee 3 believed that Employee 1 and Employee 2 were managing the pursuit.

A board member noted that it was the responsibility of the involved officers, including Employee 3, to get on the radio and ask if there were additional factors to support pursuit of the vehicle beyond it being stolen. Another board member added that the failed box-in started the pursuit and that there was plenty of opportunity for the involved officers to terminate the pursuit or determine whether there were additional reasons for pursuit of the vehicle.

A board member asked if because Employee 3 was unaware of whether there were additional charges or cause for pursuit, and therefore didn't know if the pursuit was out of policy, E 3 was obligated to terminate the pursuit. A board member responded that in Employee 3's interview E 3 said E 3 knew the pursuit was not in policy. Another board member added that Employee 3 could have asked if there were additional charges other than it being a stolen car, and that E 3 didn't follow E 3's correct instinct to check on the reasons for pursuit.

A board member noted that Employee 3 was put in a common and difficult position.

Recommendations: Corrective Actions/Discipline

Employee 1

Majority Opinion:
One Workday SWOP – Three members

Three members believed Category C best described Employee 1's misconduct. Based on the facts presented, it was in their opinion that Allegation 4 was the most serious allegation and that Employee 1's behavior involved a risk to public safety with a significant deviation from policy resulting in a vehicle crash.

Minority Opinion:
Two Workdays SWOP – Two members

Two members believed Category C best described Employee 1's misconduct. Based on the facts presented, it was in their opinion that Allegation 4 was the most serious allegation and that Employee 1's behavior involved a risk to public safety with a significant deviation from policy resulting in a vehicle crash. The two board members felt that Employee 1's actions caused Employee 2 and Employee 3 to become involved in an unauthorized pursuit and therefore was an aggravating factor in making their recommendation.

Employee 2

Opinion:
LOR – Unanimous

Board members believed Category C best described Employee 2's misconduct. Based on the facts provided, it was their opinion that Employee 2's behavior involved a risk to public safety with a significant deviation from policy resulting in a vehicle crash. Board members felt that Allegation 5 was the most serious allegation, noting that despite believing that Employee 2 did not hear the termination order, it is E 2's responsibility to ensure E 2's radio is on and in working order. Board members believed that because Employee 2 did not initiate the unauthorized pursuit and because Employee 1's actions dictated a lot of E 2's decisions the corrective action was mitigated.

Employee 3

Opinion:
LOR – Unanimous

Board members believed Category C best described Employee 3's misconduct. Based on the facts provided, it was their opinion that Employee 3's behavior involved a risk to public safety with a significant deviation from policy resulting in a vehicle crash. Board members felt that Allegation 6 was the most serious allegation, noting that Employee 3 failed to acknowledge the termination order. Board members believed that because Employee 3 did not initiate the unauthorized pursuit, Employee 1's actions dictated a lot of E 3's decisions, and because E 3 did react to the termination order by turning off E 3's lights and slowing down the corrective action was mitigated.

Additional Corrective Action Recommended

N/A

Other Recommendations

Training

Board members unanimously recommended that the Training Division refresh supervisors on stop and pursuit preparation and management of information sharing. Additionally, board members recommended reinforcing pursuit policy to all officers on how to manage and share information prior to a pursuit.

Policy

Board members unanimously recommended that the policy language in the pursuit directive regarding box-ins be reviewed in consultation with the Training Division to allow for preemptive box-ins. A board member noted that box-ins provide the opportunity to capture a person in a stolen car and avoid pursuit. The example given was if a stolen car is sitting in a parking lot and officers were to maneuver their cars in a way that prevented the person from moving the stolen car that is technically a box-in, but would effectively avoid engaging in a vehicle pursuit.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: Date the memo is submitted to the RBC

TO: Christopher Paille

FROM: Tracy M. Smith
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: Case #3

Employees:
Employee 1
Employee 2
Employee 3
Employee 4
Employee 5
Employee 6
Employee 7
Employee 8
Employee 9
Employee 10 (Employee 10 not subject to review by PRB)
Employee 11
Employee 12

Summary of Alleged Complaint:

Employee A wrote a report regarding their response to a traffic crash fatality.

Employee A returned to work after their weekend and learned that a picture of a narrative portion of their police report was being circulated amongst employees via text messaging.

Allegation 1: Employee 6 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 6 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. One member said they were not in accordance with established protocols. Another member said the dissemination of information was not in accordance with official business.

Three members did not sustain Directive 310.00 due to a lack of preponderance of the evidence. One member said Employee 6 did not intentionally violate the policy because they only sent the text to their work partner. Further, the three

members said Professional Conduct was more appropriately addressed under Directive 310.70.

One member found Directive 310.00 applicable because Employee 6's behavior was unprofessional and discourteous. Their behavior did not exemplify the highest standard of law enforcement. Their behavior could unduly affect Bureau operations and erode public trust. The board member said Employee 6's actions resulted in unprofessional conversations about their peer.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 6's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 2: Employee 3 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 3 disseminating information, a picture of a police report (section of), using their personal cell phone to send a text to six employees and to one individual at another agency. Members said Employee 3 did not maintain the confidentiality of the Bureau by sharing the information outside of the Bureau. Thus, it was not in accordance with official business. Potentially, their actions could bring criticism to and discredit the Bureau.

Three members reached a sustained finding under Directive 310.00, stating Employee 3's conduct was unprofessional and discourteous. Their behavior did not exemplify the highest standard of law enforcement. Their actions could potentially discredit the Bureau. Employee 3's behavior was inappropriate given the text was sent to seven employees, one outside of the Bureau.

One member did not find Directive 310.00 applicable and believed Allegation #2 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 3's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 3: Employee 8 inappropriately disseminated information from a police report.

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 8 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. One member said this was not in accordance with established protocols. Another member said the dissemination of information was not only inappropriate but also sending a picture of the report section created unprofessional conversations about peers. Another member said disseminating the information was for personal reasons and not in accordance with Bureau business.

Four members did not find Directive 310.00 applicable and believed Allegation #3 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 8's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 4: Employee 5 inappropriately disseminated information from a police report.

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 5 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. One member said this was not in accordance with established protocols. Another member said the dissemination of information was not only inappropriate but also sending a picture of the report section created unprofessional conversations about peers. Another member said disseminating the information was for personal reasons and not in accordance with Bureau business.

Four members did not find Directive 310.00 applicable and believed Allegation #4 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 5's action of using their cell phone was an

"established cultural practice" within the bureau.

Allegation 5: Employee 1 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 1 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. Further, Employee 1 was one of two individuals that initiated sending the text. Their actions did not maintain Bureau confidentiality. Another member said the dissemination of information was not in accordance with official business. Their behavior was not in accordance with established protocols. Another member said the dissemination of information was not only inappropriate but also sending a picture of the report section was egregious.

Three members did not find Directive 310.00 applicable and believed Allegation #5 was addressed under Directive 310.70.

One member found Directive 310.00 applicable and believed Employee 1's behavior was unprofessional and discourteous. Their behavior did not exemplify the highest standard of law enforcement. Their behavior could unduly affect Bureau operations and erode public trust. Employee 1 should be held to a higher standard because they were one of two individuals that initiated sending the text.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 1 transmitted the text to two employees, one of which was their spouse. The member further stated Employee 1 believed they were in accordance with procedure by sending a text using their personal phone, not their Bureau issued phone.

Allegation 6: Employee 12 inappropriately disseminated information from a police report.

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 12 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. One member said this was not in

accordance with established protocols. Another member said the dissemination of information was not in accordance with official business.

Three members did not sustain Directive 310.00. Three members said Allegation #6 was addressed under Directive 310.70.

One member sustained Directive 310.00 because Employee 12's behavior was unprofessional and discourteous. Their behavior did not exemplify the highest standard of law enforcement. Their behavior could unduly affect Bureau operations and erode public trust. One member said Employee 12's actions disrespected and disparaged Employee A.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 12's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 7: Employee 4 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Three members reached a sustained finding under Directives 310.70 and 310.00 as a result of Employee 4 disseminating information, a picture of a police report (section of), using their personal cell phone to send a text to nine employees some of which worked at external agencies. Members said Employee 4 did not maintain the confidentiality of the Bureau by sharing the information outside of the Bureau. Thus, it was not in accordance with official business. Potentially, their actions could bring criticism to and discredit the Bureau.

The three members found Employee 4's conduct was unprofessional and discourteous and believed their behavior did not exemplify the highest standard of law enforcement. Their actions could potentially discredit the Bureau. Employee 4's behavior was egregious given the text was sent to nine employees, some outside of the Bureau.

One member did not find Directive 310.00 applicable and believed Allegation #7 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 4's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 8: Employee 7 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 7 disseminating information, a picture of a police report (section of), using their personal cell phone to send a text to three internal employees. Members said Employee 7 did not maintain the confidentiality of the Bureau by sharing the information with employees. Thus, it was not in accordance with official business. Potentially, their actions could bring criticism to and discredit the Bureau. The four members did not sustain the allegation under Directive 310.00 and believed Allegation #8 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 7's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 9: Employee 9 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 9 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. One member said this was not in accordance with established protocols. Another member said the dissemination of information was not only inappropriate but also sending a picture of the report section was egregious. Another member said the dissemination of information was not in accordance with official business.

Three of the four members also found Directive 310.00 applicable believing Employee 9's behavior was unprofessional and discourteous. Their behavior did not exemplify the highest standard of law enforcement. Their behavior could unduly affect Bureau operations and erode public trust. One member said Employee 9's actions disrespected and disparaged Employee A.

One member did not find Directive 310.00 applicable and believed Allegation #9 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 9's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 10: Employee 11 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directives 310.70 as a result of Employee 11 disseminating information, a picture of a police report (section of) using their personal cell phone to send a text. One member said this was not in accordance with established protocols. Another member said the dissemination of information was not only inappropriate but also sending a picture of the report section was unprofessional. Another member said the dissemination of information was not in accordance with official business.

Three board members did not find Directive 310.00 applicable and believed Allegation #10 was addressed under Directive 310.70.

One board member found Directive 310.00 applicable and believed Employee 11's behavior was unprofessional and discourteous. Their behavior did not exemplify the highest standard of law enforcement. Their behavior could unduly affect Bureau operations and erode public trust. The board member said Employee 11's actions disrespected and disparaged Employee A.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 11's action of using their cell phone was an "established cultural practice" within the bureau.

Allegation 11: Employee 2 inappropriately disseminated information from a police report. (PROCEDURE)

Recommended Finding: **Sustained – Four members**
Not Sustained with a Debriefing – One member

Applicable Directives: **310.70 - Dissemination of Information**
310.00 - Professional Conduct and Courtesy

Majority Opinion:
Four members reached a sustained finding under Directive 310.70 as a result of Employee 2 disseminating information, a picture of a police report (section of)

using their personal cell phone to send a text. One member said this was not in accordance with established protocols. Another member said the dissemination of information was not in accordance with official business.

The four board members did not sustain Directive 310.00. Four members said Allegation #11 was addressed under Directive 310.70.

Minority Opinion:
One member believed neither Directive 310.70 nor Directive 310.00 was applicable because Employee 2 used their personal cell phone to conduct Bureau business. The text was used for training purposes and it was not copied from the Criminal Justice Information Services (CJIS). However, the member recommended Employee 2 receives a debriefing related to Directive 310.70.

Recommendations: Corrective Actions/Discipline

Employee 6: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Presumptive), for conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other employees, agencies, or the public. Their actions potentially contributed to a destructive "employee culture." However, it was mitigated given the minimal number of people they forwarded the text to and their work history.

Employee 3: Letter of Reprimand

Rationale:

Four members believed the misconduct was defined under Category B (Presumptive), for conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other employees, agencies, or the public. The text was sent to multiple employees, transmitted outside the bureau, and it was undetermined whether or not the individuals forwarded the text.

Employee 8: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Mitigated), for minimal involvement and minimal transmission of the text.

Employee 5: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Mitigated), due to Employee 5's minimal involvement in forwarding the text, sending the text as a training inquiry, and reviewing their work history.

Employee 1: Letter of Reprimand

Rationale:

Four members believed the misconduct was defined under Category B (Presumptive), given they initiated the text and did not maintain confidentiality. However, they only transmitted the text to one person and did not transmit it outside of the Bureau.

Employee 12: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Mitigated), due to their minimal involvement in forwarding the text and sending it to two people.

Employee 4: One Day SWOP

Rationale:

Four members believed the misconduct was defined under Category B (Aggravated), a One Day SWOP, for conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other employees, agencies, or the public. The text was widely disseminated, inside and outside, of the Bureau, and it was undetermined whether or not the individuals forwarded the text.

Employee 7: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Mitigated), lowered from Presumptive, due to Employee 7's minimal involvement in forwarding the text.

Employee 9: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Mitigated). There were mitigating circumstances given the minimal number of people the text was forwarded to and Employee 9's complementary work history.

Employee 11: Command Counseling – Three Members
Letter of Reprimand – One Member

Rationale:

Majority Opinion: Three members believed the misconduct was defined under Category B (Mitigated), lowered from Presumptive, due to minimal transmission, text used for training purposes in roll call, and limited to spousal communication.

Minority Opinion: One member believed the misconduct was defined under Category B (Presumptive), given Employee 11 being one of the two individuals that initiated the text. Also, they had an extensive work history with the Bureau and therefore should have been aware of the policy.

Employee 2: Command Counseling

Rationale:

Four members believed the misconduct was defined under Category B (Mitigated). Employee 2 shared the text with an employee on a shift, but there were no other transmissions. They also used the text for discussion and training purposes at roll call.

Training

The Board unanimously recommended that the Training Division provide training on the use of personal cell phones and the dissemination of information after the Policy department reviews Directive 310.70 and Policy 640.02. Members further recommended training cover the use of personal and bureau cell phones and use of social media.

Policy

The members unanimously recommended the Policy Unit review Directive 310.70 and compare to Policy 640.02 Photography and Digital Imaging. Specific but not limited to "…Members will not use personal cameras and/or media unless in an emergency situation and no bureau cameras are available. ..."

One member stated there needs to be clarification and/or specificity related to Directive 310.00 regarding the policy of sharing communication between married employees.

DATE: [redacted]

TO: Christopher Paillé
Review Board Coordinator

FROM: Tracy M. Smith
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

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

IA Case Number: Case #4

Employee: **Employee 1**

Summary of Alleged Complaint:

On [redacted], a "Patriot Prayer" rally was held under permit in the general vicinity of Waterfront Park.

Personnel assigned to the Field Arrest Team noticed several protestors behind the RRT skirmish line and became concerned that they could be outflanked. The personnel took action to have the protestors leave the area.

It was determined later that force data collection reports were not written as required.

Allegation 1 related to an allegation of inappropriate force was found *Exonerated* by the Office of Independent Police Review during the administrative review process. Internal Affairs, the branch assistant chief, and the RU manager concurred with the finding of *Exonerated*.

Allegation 2: Employee 1 failed to document a force incident involving Individual 1 during a protest event on [redacted]. (PROCEDURE)

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **1010.00 – Use of Force**
315.30 – Satisfactory Performance

Majority Opinion:
Five members reached a sustained finding under Directives 1010.00 and 315.30 as a result of Employee 1 failing to document a force incident involving Individual 1 during a protest event on [redacted].

One member stated Employee 1 was unaware that a push with their baton was a use of force and fell under Directive 1010.00. However, another member stated everyone in the Bureau was required to read the directive online and electronically sign it.

Two members said they were alarmed that Employee 1 didn't file any report, including any documentation. In the era of high public scrutiny, this could erode

the transparency of the Bureau in the eyes of the public.

Another member said there were updates regarding the use of force related to a push with the baton. Employee 1 may not have purposefully neglected to file a report, but the member felt a report should have been written.

Recommendations:

Corrective Actions/Discipline

Letter of Reprimand – Three Members
Command Counseling – Two Members

Majority Opinion:
Three members believed that for Allegation #2, Category C, (Mitigated), Letter of Reprimand, best described Employee 1's conduct. Employee 1's behavior may have had a negative impact on the operations or professional image of the Bureau. Further, their behavior reflected a minor deviation from the use of physical force policy. Another member said not filing a use of force report could hurt the Bureau and its relationship with the public.

One member found it difficult to believe that any police intervention didn't merit a police report. "I'm troubled there was no documentation." Employee 1 should have known to file a report.

Minority Opinion:
Two members believed that for Allegation #2, Category A, (Presumptive), Command Counseling, best described Employee 1's conduct. One member said Employee 1's failure to file a report had a minimal impact and not a prolonged or negative impact on the Bureau and its operations. Also, their overall use of force was within policy while providing safety to the Rapid Response Team (RRT). Employee 1's failure to write a police report didn't taint the outcome and their actions were within the law.

Another member stated that today is a different mindset compared to 20 years ago. Employee 1 wasn't aware of the training and this resulted in their failure to write a report. However, they would have written a report had it been brought to their attention.

Additional Corrective Action Recommended

No other recommendations.

Other Recommendations

Training

The Board unanimously recommended that the Training Division provide use of force training to all employees, not only operations. The specific training should include crowd management and crowd control. Additionally, the Crowd Management Incident Commander should use a script to remind personnel what to

cover under crowd management and crowd control.

Policy

The board unanimously recommended that the Bureau's Discipline Guide be reviewed immediately by a workgroup to ensure examples specified in Categories A – D are relevant to the current directives including the Use of Force directive.

DATE: [redacted]

TO: Christopher Paille
Police Review Board Coordinator

FROM: Adrienne DeDona
Police Review Board Facilitator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

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

IA Case Number: Case #5

Employees: **Employee 1**

Summary of Alleged Complaint:

On date, [redacted], Employee 1 responded to a call type with a named suspect. It was learned that the named suspect had recently been released from Division custody on another call type. Employee 1 contacted Division regarding the case. Employee A directed Employee 1 to complete the report and email it to the sergeant as soon as it was completed. Employee 1 asked Employee B to hold over the report and was advised Unit Division make that decision. Employee 1 told Employee B that the Unit sergeant said it was ok to hold over the report.

On the morning of date, [redacted], Employee A and the assigned investigator, Employee C, discovered Employee 1 had not completed the report. Employee C contacted Employee 1's supervisor to inquire about the report. Employee 1 called Employee C and stated Employee 1 was completing follow up on the case. Employee C directed Employee 1 to discontinue the follow-up and to complete and submit the report. Employee 1 completed follow-up, was again ordered to complete the report, and eventually submitted a report. The report submitted required extensive editing, for which Employee 1 did not initially comply. The report was submitted and approved approximately 24 hours after Employee 1's initial contact with Division

Allegation 1: Employee 1 was untruthful when Employee 1 told Employee B that the Unit sergeant had given Employee 1 permission to hold over writing a report until the next day. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

Applicable Directive: **310.50 - Truthfulness**

Majority Opinion:

Four of the board members agreed that Employee 1 was untruthful when Employee 1 told Employee B that Employee A had given E1 permission to hold over writing the report until the next day. The initial finding for Allegation 1 provided by two RU Manager reviewers prior to the Police Review Board was Not sustained. One board member provided a controverted finding of Not Sustained to Sustained. One board member said they didn't trust the veracity of Employee 1's statement about the hold over because Employee 1 told one rank Employee 1 did not have the suspect's name, but within five minutes told another rank that Employee 1 did. Employee 1's credibility was therefore in question.

Minority Opinion:

One board member believed that the gathered evidence was inadequate to fully understand Employee 1's protected info, and access to Employee 1's record type was needed before the board member could make an informed decision; the board member therefore abstained from voting on this and all nine allegations.

Allegation 2: Employee 1 failed to complete a report by the end of Employee 1's shift. (PROCEDURE)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

Applicable Directive: **900.00 – General Reporting Guidelines**

Majority Opinion:

Four of the board members agreed that Employee 1 failed to complete the report by the end of Employee 1's shift. They believed that the investigation clearly showed that Employee 1 did not complete the report until the following shift. Employee A took contemporaneous notes that outlined Employee A's conversation with Employee 1, and the Board gave more weight to Employee A's recollection of the conversation than Employee 1's recollection.

Allegation 3: Employee 1 failed to transmit a copy of Employee 1's type report to the division and unit detail by the end of Employee 1's shift. (PROCEDURE)

Recommended Finding: **Employee 1**
Sustained (2)

Not Sustained (2)
Abstained (1)

Applicable Directive: **640.10 – Crime Scene Procedures**

Opinion:

The board members were split on the findings of Allegation 3. The initial finding for Allegation 3 provided by two RU Manager reviewers prior to the Police Review Board was Not sustained. One board member controverted the finding of Not Sustained to Sustained.

Board members discussed the intent of Directive 640.10 which states: "All type reports should be faxed to the unit Detail prior to going off duty," specifically regarding intent of the word "should."

Two board members believed the directive was clear in requiring that a report be submitted prior to going off duty, and therefore found the allegation was Sustained. Additionally, the two board members noted that Employee 1 failed to follow a direct order to submit the report. One board member expressed the belief that the word "should" was a past tense form of "shall," which is a clear directive.

Two board members believed that the policy language was unclear and that the use of the word "should" was permissive, interpreting the policy as "should have," rather than "must" complete the report, but that it was not a clear directive. One board member added that Employee 1 asked for permission to hold over the report and believed that Employee 1 had permission to do so; therefore, these two board members recommended a finding of Not Sustained.

Allegation 4: Employee 1 failed to promptly follow the order of Employee A to complete a type report. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

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

Majority Opinion:

Four board members agreed that Employee 1 did not promptly follow Employee A's order to complete a type report. Board members agreed that it was clear from the interview with Employee A that Employee 1 was told multiple times to write the report, and that Employee 1 still did not file

the report promptly.

Allegation 5: Employee 1 failed to promptly follow the order of Employee C to complete a type report. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

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

Majority Opinion:

Four board members agreed that Employee 1 failed to promptly follow Employee C's order to complete a type report. One board member stated that Employee C gave Employee 1 specific instructions on the day after the incident to stop doing follow-up work and write the report. Employee C had said that the rank had expected the report to be completed by the time Employee A arrived that morning. Employee 1 did not complete it as instructed. Employee A called Employee C again and asked about the report.

One board member noted that the position of rank is supervisory, but it is important to recognize that a rank has a superior role to a rank during investigations.

Allegation 6: Employee 1 failed to promptly follow the order of Employee C to cease follow-up investigative work on a type case. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

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

Majority Opinion:

Four board members found that Employee 1 did not promptly follow Employee C's order to stop doing follow-up work on the case. The Board felt that the rationale used in Allegation 5 could be applied to Allegation 6 as well.

Allegation 7: Employee 1 failed to coordinate Employee 1's investigative effort with the Division Division. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:

Four board members found that Employee 1 did not coordinate Employee 1's investigative effort with the Division Division. The RU Manager stated that Employee 1 failed to complete the report and send it to the Division Moreover, Employee 1 continued to do things Employee 1 was told not to, such as trying to get a written statement from the victim as well as obtain video evidence. Employee 1's conduct displayed a failure to coordinate with the Division Division. Board members concurred that there was ample evidence that Employee 1 was not working in a coordinated fashion with the Division

Allegation 8: Employee 1 was untruthful when Employee 1 told Employee D there was not a named suspect in a call type. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

Applicable Directive: **310.50 - Truthfulness**

Majority Opinion:

Four board members agreed with the initial finding that Employee 1 was untruthful when Employee 1 told Employee D that there was not a named suspect in the call type The investigation showed that Employee 1 told Employee D that Employee 1 did not have a named suspect. This conversation was witnessed by Employee E. However, just prior to that conversation, Employee 1 had entered the suspect's name in CAD. One board member emphasized that there was only a five-minute window between Employee 1 claiming to Employee D that Employee 1 didn't know the suspect's name and Employee 1 telling another rank that Employee 1 did have the suspect's name. Employee 1's lack of truthfulness was therefore evident.

Allegation 9: Employee 1 was untruthful during the Internal Affairs interview on date, 2018 when Employee 1 claimed Employee 1 could not recall specific instructions from supervisors due to protected info. (CONDUCT)

Recommended Finding: **Employee 1**
Sustained (4)
Abstained (1)

Applicable Directive: **310.50 - Truthfulness**

Majority Opinion:

Four board members found that Employee 1 was untruthful when Employee 1 claimed Employee 1 could not recall instructions from supervisors. The initial finding for Allegation 3 provided by two RU Manager reviewers prior to the Police Review Board was Not sustained. One board member controverted the recommended finding of Not Sustained to Sustained.

One board member stated Employee 1's behavior showed that Employee 1's protected info did not impact Employee 1's behavior on date, 2018 but only afterward when Employee 1 recalled the events of that day. The board member believed that the fact that Employee 1 told one rank one thing and another sergeant the opposite, within the span of five minutes, does not indicate protected info but an excuse to keep working on the case.

The majority of the board members believed that there was a preponderance of evidence that Employee 1 had misrepresented Employee 1's ability to remember events. For example, there were specific events from that day that Employee 1 recalled, yet Employee 1 could not recall conversations with supervisors. One board member added that there appeared to be a pattern to Employee 1's lack of recollection. Moreover, one board member stated there were a number of times when Employee 1 undermined Employee 1's self during the course of the interviews.

The majority also agreed that Employee 1's protected info results showed that Employee 1's protected info were within the protected info protected info These results contradicted Employee 1's assertion that Employee 1's prior protected info left Employee 1 with protected info. The Board gave more weight to the protected info.

Recommendations: Corrective Actions/Discipline

Opinion:

Four board members agreed that Category F best described Employee 1's misconduct. Based on the facts presented, they believed that the

Untruthfulness allegations (Allegations 1, 8, 9) were the most serious allegations. They recommended Termination at the presumptive level of discipline.

One board member abstained for the reasons stated previously.

Other Recommendations

Policy

The Board unanimously recommended a comprehensive review of the language in the directives, particularly regarding of the usage of the word "should" versus the word "shall." They believed it was important for the Bureau to identify and clarify common usage words that could create a perception of ambiguity and rather provide a clear directive.

Note: One board member believed that more effort was needed when gathering relevant information, such as record type; if pertinent information, such as record type, was not provided for the case, there should be an explanation about why it was not included.

DATE: [redacted]

TO: Christopher Paille
Police Review Board Coordinator

FROM: Allison Brown, JLA Public Involvement, Inc.
Police Review Board Facilitator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

SUBJ: Police Review Board Recommended Corrective Action

CONFIDENTIAL

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

IA Case Number: Case #6

Employee: **Employee 1**

Summary:

On [redacted], the Citizen Review Committee (CRC) decided a Sustained finding should have been made as to the below noted allegation.

The Chief
~~You~~ disagreed with the CRC's recommended finding of *Sustained* and the case was referred to City Council as required by City Code.

On May 16, 2019, City Council voted 3-1 to overturn your finding of *Not Sustained* and found Allegation #8 *Sustained*.

This case was referred to the Police Review Board on [redacted]. The Police Review Board was directed to make only a corrective action/disciplinary recommendation.

Allegation 8: Employee 1 issued a citation to a suspect in retaliation for exercising legal rights. (CONDUCT)

Recommended Finding: **Sustained - 3 Members of City Council**
Not Sustained – 1 Member of City Council

Applicable Directive: **310.20 – Retaliation Prohibited**

Recommendations: Corrective Actions/Discipline

Minority Opinion: Command Counseling – 2 Members

Two (2) board members believed Category B Mitigated best described Employee 1's conduct. The stated rationale for the level of Mitigated ranged from the understanding that Employee 1 did not intend retaliation, because of Employee 1's exemplary service over the past 11 years, Employee 1's many commendations, the personal experiences a board member had working with Employee 1, and the number of people who disagreed with the sustained finding of this allegation when it was first reviewed.

Minority Opinion: Letter of Reprimand – 1 Member

One (1) board member believed Category B Presumptive best described Employee 1's conduct. The rationale provided was that Employee 1 should have explained to the suspect why Employee 1 was writing the suspect a citation. This could have helped clarify for the suspect that it was not an act of retaliation, as the suspect was exercising their legal rights of taking videos of officers, but instead because Employee 1 had asked the suspect repeatedly to get out of the street and away from the police vehicle, and they would not comply with Employee 1's orders.

Minority Opinion: Two Workdays SWOP – 1 Member

One (1) board member believed Category E Mitigated best described Employee 1's conduct. The rationale provided noted the importance for the integrity of the process to match the Sustained ruling of the allegation of retaliation with the corresponding Discipline Guide category, but at the Mitigated level considering Employee 1's employment history, the number of commendations Employee 1 has received, Employee 1's discretion used during the incident, and Employee 1's issuance of a legitimate citation.

Minority Opinion: Departure from the Discipline Guide – 1 Member

One (1) board member stated that the Discipline Guide is an advisory document and a supplement to the existing City and Bureau policies, and therefore disciplinary action is not mandatory. In this case, the board member felt that it was not appropriate or ethical to recommend discipline for Employee 1 because the board member felt that Employee 1 did nothing wrong.

None of the board members believed Employee 1's behavior was an example of misconduct. They believed Employee 1 was justified in issuing the citation to the suspect. They did not believe it was done in retaliation.

Other Recommendations

Training

The Board recommended three training items:
1) A debrief should be conducted with an officer after an incident like this to improve their performance.
2) Training should be done with officers on the interpretation of the retaliation directive, 310.20.
3) Training should be done with officers on strategies for mitigating a suspect's behavior and communication tools to mitigate impacts on public trust.

DATE: [redacted]

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

TO: Christopher Paillé
Review Board Coordinator

FROM: Tracy M. Smith, Facilitator
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 #: Case #7

Employees: Employee 1
Employee 2
Employee 3
Employee 4

Summary of Alleged Complaint:

Prisoner 1 was transported to the Precinct by unidentified employees and placed in a holding cell after being taken into custody by Precinct employees. A short time later, Employee 3 noted that Prisoner 1 had slipped their handcuffs off and attached their shoelaces to a pipe on the wall. Employee 3 did not remove the shoelaces as they thought it would only escalate the chances of using force on Prisoner 1. A short time later, Prisoner 1 was discovered in the holding cell by Employee 5 and Employee 6 with the shoelaces tied around their neck.

Allegation 1: Employee 1 failed to remove nonessential property of Prisoner 1 before placing them in the Precinct holding cell. (PROCEDURE)

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **315.30 – Satisfactory Performance**
870.25 – Temporary Holding Rooms

Majority Opinion:
Five members recommended a finding of Sustained, stating Employee 1 failed to remove nonessential property of Prisoner 1 before placing them in the Precinct holding cell. Five members agreed that Directive 870.25 stated "remove the shoes" when a prisoner is placed in the holding cell. One member stated there are signs at the Precinct, where the employees work, specifying what needs to be removed and placed into lockers. Furthermore, the members agreed that Directive 315.30 requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives.

Minority Opinion:
None

Allegation 2: Employee 2 failed to remove nonessential property of Prisoner 1 before placing them in the Precinct holding cell. (PROCEDURE)

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **315.30 – Satisfactory Performance**
870.25 – Temporary Holding Rooms

Majority Opinion:
Five members recommended a finding of Sustained, stating Employee 2 failed to remove nonessential property of Prisoner 1 before placing them in the Precinct holding cell. Five members agreed that Directive 870.25 stated "remove the shoes" when a prisoner is placed in the holding cell. One member stated there are signs at the Precinct, where the employees work, specifying what needs to be removed and placed into lockers. Further, the members agreed that Directive 315.30 requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives.

Minority Opinion:
None

Allegation 3: Allegation #3 not subject to review by the Police Review Board.

Finding – Exonerated

Allegation 4: Employee 3 failed to take action when they recognized there was contraband inside the holding cell. (PROCEDURE)

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **315.30 – Satisfactory Performance**
870.25 – Temporary Holding Rooms

Majority Opinion:
Employee 3 failed to take action when they recognized there was contraband in the holding cell. They acknowledged seeing Prisoner 1 tie a shoelace to the metal pole in the holding cell. Employee 3 had a conversation with Prisoner 1 about the shoelace. Employee 3 didn't view the shoelaces as a means to cause harm, but they acknowledged they should have taken action to remove them and did not. The members agreed Employee 3 had an obligation to be familiarized with Directive 870.25 and apply it to this situation. Furthermore, the members agreed that Directive 315.30 requires Employee 3 to understand their job responsibilities along with the knowledge of applicable Bureau directives.

Minority Opinion:
None

Allegation 5: Employee 3 failed to complete an after action report in a satisfactory manner. (PROCEDURE)

Recommended Finding: **Sustained – Five Members**
Not Sustained, 1010.00 – Five Members

Applicable Directives: **315.30 – Satisfactory Performance**
1010.00 – Use of Force
315.00 – Laws, Rules, and Orders

Majority Opinion:
Five members recommended a finding of Sustained related to Directives 315.00 and 315.30, stating Employee 3 didn't complete the after action report in a satisfactory manner. While the majority of information contained in Employee 3's after action report was adequate, they shouldn't have completed the after action report when they became a witness to Prisoner 1 with the shoelaces in the holding cell and failed to take action, violating Directive 870.25. Instead, the after action report should have been forwarded to Employee 4 or an uninvolved supervisor. Furthermore, Employee 3 failed to address in the after action report how Prisoner 1 was able to enter the holding cell with "non-essential clothing such as belts, shoes and jewelry," according to Directive 870.25.

Employee 3 also violated Directive 315.30 that states "members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures)."

Board members found Directive 1010.00 not applicable. The five members believed Directive 1010.00 didn't apply because there wasn't a "threat or overt act of an assault" as a result of the shoelaces in the holding cell. Directive 1010.00 didn't apply to the after action process since it was halted and sent to Internal Affairs for review.

Minority Opinion:
None

Allegation 6: Employee 4 failed to complete an after action reports in a satisfactory manner. (PROCEDURE)

Recommended Finding: **Sustained – Five Members**
Not Sustained, 1010.00 – Five Members

Applicable Directives: **315.30 – Satisfactory Performance**
1010.00 – Use of Force
315.00 – Laws, Rules, and Orders

Majority Opinion:
Five members recommended a finding of Sustained related to Directives 315.00 and 315.30, stating there was a shift when Employee 3 witnessed Prisoner 1 with the shoelace in the holding cell and failed to take action; thus, becoming an involved member for violating Directive 870.25. At that point, it would have been best practice to not have Employee 3 complete the after action report from that point forward.

Either Employee 4 or an uninvolved supervisor should have completed it. Employee 3 failed to identify and address how the incident materialized from the moment that Prisoner 1 was allowed to enter the holding cell with "non-essential clothing such as belts, shoes and jewelry," Directive 870.25. Employee 4 had an obligation to be familiarized with this Directive and apply it to this situation and did not. One member stated Employee 4 had a higher responsibility to act and did not "conform to the work standards established for the rank, grade, and position." The after action report was poorly written and didn't reflect the appropriate "job-related skills to properly perform the duties and responsibilities" of their position.

Employee 4 was also required, as outlined in Directive 315.30, to "maintain competency and knowledge of Bureau directives (including Standard Operating Procedures)." One member stated Employee 4 had a higher responsibility to act and did not "conform to the work standards established for the rank, grade, and position." The after action report was poorly written and didn't reflect the appropriate "job-related skills to properly perform the duties and responsibilities" of their position.

Board members found Directive 1010.00 not applicable. The five members believed Directive 1010.00 didn't apply because there wasn't a "threat or overt act of an assault" as a result of the shoelaces in the holding cell. Directive 1010.00 didn't apply to the after action process since it was halted and sent to Internal Affairs for review.

Minority Opinion:
None

Recommendations

Corrective Actions/Discipline

Employee 1: LOR – Five Members

Rationale:

The five members believed the misconduct was defined under Category C (Mitigated), for conduct that involves a risk to prisoner and officer safety. They also believed Employee 1's wrongdoing stemmed from a lack of communication related to directives, inadequate training, and a need for the holding cell policy to be revised.

Employee 2: LOR – Five Members

Rationale:

The five members believed the misconduct was defined under Category C (Mitigated), for conduct that involves a risk to prisoner and officer safety. They also believed Employee 2's wrongdoing stemmed from a lack of communication related to directives, inadequate training, and a need for the holding cell policy to be revised.

Employee 3: One Day SWOP – Four Members
LOR – One Member

Rationale:

Four members believed the misconduct was defined under Category C (Presumptive), for conduct that involves a risk to prisoner and officer safety. Also, Employee 3 had more involvement than the employees. They saw the shoelaces in the holding cell, took a picture, but they didn't remove them. Employee 3 had a higher responsibility to act given their rank.

Minority Rationale:

The five members believed the misconduct was defined under Category C (Mitigated), for his failure to recognize the sergeant shouldn't be involved in the writing of the after action report due to the sergeant's involvement, and didn't "do an adequate critique" or adequate review of the sergeant's after action report.

Employee 4: LOR – Five Members

Rationale:

The five members believed the misconduct was defined under Category C (Mitigated), for conduct that involves directing a subordinate to erroneously complete a report. Employee 4 didn't "do an adequate critique" of Employee 3's after action report. Employee 3 shouldn't have written the after action report because they were involved in the misconduct.

Other Recommendations

Training

Bureau wide training of Directive 870.25 through the Learning Management System with accompanying training video.

Training for analysis and writing in the after action process.

Policy

Individual Standard Operating Procedures be replaced with a universal directive covering all holding cells.

Consistent placards be placed at all holding cells throughout the Bureau.

Printed Directive book.

DATE: [redacted]

TO: Christopher Paille
Police Review Board Coordinator

FROM: Adrienne DeDona, JLA Public Involvement
Police Review Board Facilitator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

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

IA Case Number: Case #8

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 failed to take a historical child abuse report.

Allegation 1: Employee 1 failed to write a report involving the complainant's childhood abuse. (PROCEDURE)

Recommended Finding: Employee 1 - Sustained
(Unanimous)

Applicable Directive: **640.30 – Child Abuse Investigations**
315.30 – Satisfactory Performance

Majority Opinion:
The Board unanimously agreed that there was a preponderance of evidence Employee 1 failed to write a report involving the complainant's childhood abuse. The Board believed that Employee 1 had a clear understanding that the complainant intended to report previous childhood abuse since Employee 1 gave the complainant a business card and explained the complainant needed to report the previous child abuse to the Sex Crimes Unit. The complainant subsequently called Employee 1 and explained how the complainant couldn't successfully reach the Sex Crimes Detective to report PRN abuse. The board gave weight to the complainant's testimony during which the complainant stated they had wanted to make a police report when they talked to Employee 1 over the phone. One board member found the complainant's testimony more credible because there were several events where Employee 1 stated they could not recall during their interview. Some members of the Board felt that, because a minor was involved, it was even more imperative that a report be written.

Minority Opinion:
None

Recommendations:

Corrective Actions/Discipline

Majority Opinion:

One workweek SWOP – Four members

The majority of the Board believed Category C at the aggravated level best described Employee 1's conduct. Employee 1 had received a similar corrective action for conduct related to a domestic violence incident less than two years prior. Moreover, the Board believed this conduct exhibited a risk to public safety and the safety of minors due to the potential or actual risk of injury to the child involved.

Minority Opinion:

Two Workdays SWOP – One member

One board member believed Category B at the aggravated level best described Employee 1's conduct. This member did not believe that Employee 1's conduct necessarily posed a risk to public safety; however, they believed Employee 1's previous violation for similar conduct regarding response to a domestic violence incident and failure to complete reports to be an aggravating factor.

Additional Corrective Action Recommended

Board members expressed concern that Employee 1 had not changed their behavior even after several corrective actions for similar conduct over the past several years, and recommended Employee 1 be temporarily assigned to the Child Abuse Team so that Employee 1 could gain more empathy for the lived experiences of abused children, with a report writing component as additional training.

Other Recommendations

Policy

The board discussed the policy language within the directive 640.30 related to child abuse investigations and responding member's responsibilities to write a report. Members felt that although Employee 1 clearly violated the directive as written by failing to write a report that would have resulted in an investigation, the policy could be reviewed for improvements to more closely align with statutory language that requires a mandatory written report when there is "reasonable cause to believe" abuse has been committed.

DATE: [redacted]

TO: Christopher Paille
Police Review Board Coordinator

FROM: Adrienne DeDona, JLA Public Involvement
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

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

IA Case Number: Case #9

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 circumvented equipment maintenance procedures and used E 1's position to gain special treatment with a city vendor.

Allegation 1: Employee 1 was unprofessional with Complainant 1 by leveraging E 1's position to gain special treatment. (CONDUCT)

Recommended Finding: **Sustained (2)**
Exonerated (2)
Not sustained (1)

Applicable Directive: **300.00 – Statement of Ethical Conduct**
310.00 – Professional Conduct and Courtesy

Opinions:

(Sustained) Two board members felt the allegation was sustained for a violation of Directive 310.00, noting that the equipment that are assigned to the Division Division do not belong to an individual employee, and found Employee 1 was unprofessional in Employee 1's tone with Complainant 1. Complainant 1 and Complainant 2 felt Employee 1's behavior was "off-putting." In regards to Directive 300.00 a board member felt that, due to Employee 1 having a equipment assigned to Employee 1, Employee 1 was potentially concerned about procuring a equipment based on Employee 1's own benefit. They felt that Employee 1 saw the benefit of getting a brand new equipment despite other equipment being available through the division. A board member noted that Employee 1 seemed to receive mixed messages about the process of procuring a equipment which resulted in Employee 1's contact with Complainant 1 and Complainant 2, and that the perception of Complainant 1 was that Employee 1 was trying to leverage the Bureau's business in order to get a equipment. This board member added that despite Employee 1's intention, the perception brought discredit to the Bureau in the

eyes of equipment provider. The two board members did not believe Employee 1 was attempting to use Employee 1's position for personal gain and did not find Directive 310.00 applicable.

(Exonerated) Two board members felt Employee 1 did not leverage Employee 1's position to gain special treatment and found no evidence to show that Employee 1 was acting on behalf of Employee 1's own personal loss or benefit. The two board members believe Employee 1 was acting to benefit the City. Additionally, it was noted that the interviews did not appear to support that Complainant 1 felt manipulated or extorted, but rather Complainant 1's discomfort stemmed from the situation being something Complainant 1 had not dealt with before and out of concern that it was a scam. A board member noted that Employee 1 did not make any gain or loss statements related to the equipment provider business. Another board member noted that Employee 1 followed the chain of command Employee 1 was given and spoke with Employee 1's supervisor, and that it appeared that any violation would be against unit specific policies, which don't apply to officers.

Minority Opinion:

(Not sustained) One board member felt the allegation was not sustained because there was not a preponderance of evidence to show Employee 1 leveraged Employee 1's position to gain special treatment, and believed the circumstances around the allegation were due to procedural issues rather than the conduct of Employee 1. Additionally, this board member also found Directive 300.00 was not applicable in that there was no evidence to show Employee 1 was attempting to use Employee 1's position for personal gain.

Recommendations:

Corrective Actions/Discipline

Majority Opinion:

No corrective action necessary.

Minority Opinion:

CC – Two members

Two members believed Category A best described Employee 1's misconduct. Based on the facts presented, it was in their opinion that Employee 1's conduct had minimal negative impact on the operations or professional image of the Bureau. Board members saw this as Employee 1's first violation in one year, and that the violation is presumptive.

Other Recommendations

Board members recommended that there be a review of the current equipment policy to address issues related to chain of command and unit, and that the Division Division should have a designated resource, whether they use other divisions' resource based on capacity, or whether they have their own resource.

DATE: [redacted]

TO: Christopher Paillé
Review Board Coordinator

FROM: Tracy M. Smith, Inhance LLC
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

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

IA Case Number: Case #10

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 responded to a call type at Location Employee 1 made contact with witnesses who were deceptive regarding the whereabouts of the suspect. Employee 1 warned the witnesses they would be arrested for Interfering with a Peace Officer (IPO) if they were not truthful regarding the suspect's whereabouts. After discovering the suspect driver was in the vehicle with the two witnesses, Employee 1 arrested the suspect driver and the witnesses.

Command staff reviewed the case and noted that Employee 1 did not have probable cause to arrest the witnesses for IPO and referred the case to Internal Affairs (IA).

The Responsibility Unit (RU) manager referred the case to the Police Review Board. Independent Police Review Division (IPR), IA, and the branch assistant chief concurred with the recommendation.

Allegation 1: **Employee 1 arrested Person 1 for Interfering with a Peace Officer without probable cause. (PROCEDURE)**

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **315.30 – Satisfactory Performance**
315.00 – Laws, Rules, and Orders

Majority Opinion:
The Board unanimously found Employee 1 arrested Person 1 for Interfering with a Peace Officer without probable cause. Employee 1 failed to familiarize themselves with ORS 162.247 in its entirety prior to arresting Person 1. Oregon Revised Statute (ORS) 162.247, Annotations, Notes of Decision states, "Speech alone does not constitute acting in manner that prevents or attempts to prevent peace officer from performing duty. State v. Lam, 176 Or App 149, 29 P3d 1206 (2001)". One member said ORS 162.247 requires an intentional act. In the State of Oregon, a police officer is prohibited from coercing a person to engage in an interview or to be truthful with them. Directive 315.30 - Satisfactory Performance states, "The Portland Police Bureau requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives, city ordinances, and state and federal laws to perform their duties and functions within a law enforcement agency." Furthermore, Directive 315.30 states, "Members shall maintain sufficient competency and knowledge of Bureau directives

(including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions." Directive 315.00 - Laws, Rules, and Orders states, "Members shall acquire and maintain a thorough knowledge of city, state, and federal law, including elements constituting criminal acts and fundamental rules of evidence."

Board members found Employee 1 acted with intentions they believed to be accurate and not out of spite or retaliation. Another member stated the allegations were plainly worded and it was not difficult to determine Employee 1 made the arrest without probable cause, but found Employee 1 did not act maliciously. Employee 1 referenced their 2017 Pocket Guide to Oregon Criminal Laws prior to making the arrest. However, the 2017 Pocket Guide to Oregon Criminal Laws did not contain updated case law, State v. Lam. One member stated Employee 1 had limited resources at the time of the enforcement.

Minority Opinion:
None.

Allegation 2: **Employee 1 arrested Person 2 for Interfering with a Peace Officer without probable cause. (PROCEDURE)**

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **315.30 – Satisfactory Performance**
315.00 – Laws, Rules, and Orders

Majority Opinion:
The Board unanimously found Employee 1 arrested Person 2 for Interfering with a Peace Officer without probable cause. Employee 1 failed to familiarize themselves with ORS 162.247 in its entirety prior to arresting Person 2. Oregon Revised Statute (ORS) 162.247, Annotations, Notes of Decision states, "Speech alone does not constitute acting in manner that prevents or attempts to prevent peace officer from performing duty. State v. Lam, 176 Or App 149, 29 P3d 1206 (2001)". One member said ORS 162.247 requires an intentional act. In the State of Oregon, a police officer is prohibited from coercing a person to engage in an interview or to be truthful with them. Directive 315.30 - Satisfactory Performance policy states, "The Portland Police Bureau requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives, city ordinances, and state and federal laws to perform their duties and functions within a law enforcement agency." Furthermore, Directive 315.30 states, "Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions." Directive 315.00 - Laws, Rules, and Orders states, "Members shall acquire and maintain a thorough knowledge of city, state, and federal law, including elements constituting criminal acts and fundamental rules of evidence."

Board members found Employee 1 acted with intentions they believed to be accurate and not out of spite or retaliation. Another member stated the allegations were plainly worded and it was not difficult to determine Employee 1 made the arrest without probable cause, but found Employee 1 did not act maliciously Employee 1 referenced their 2017 Pocket Guide to Oregon Criminal Laws prior to making the arrest. However, the 2017 Pocket Guide to Oregon Criminal Laws did not contain updated case law, State v. Lam. One member stated Employee 1 had limited resources at the time of the enforcement.

Minority Opinion:
None.

Recommendations:

Corrective Actions/Discipline

Command Counseling – Four Members

Majority Opinion:
Board members discussed issues around legal updates and the difficulties around maintaining an awareness of constantly changing legal opinions and law. Board members found Employee 1's actions were not intentional in making the arrest. Four members believed the misconduct was defined under Category B (Presumptive, 2nd Violation), and recommended Command Counseling because the four Board members believed there should be an equitable application of discipline to not cause disparate treatment of Employee 1. Employee 1's actions were consistent with training; they consulted their 2017 Pocket Guide to Oregon Criminal Laws, but it did not contain case law. Employee 1 had 11 Letters of Commendation in their personnel file. Their previous employee work history, corrective and disciplinary actions, were not similar or the same conduct as specified in Allegation 1.

Minority Opinion:
Letter of Reprimand – One Member

One member believed the misconduct was defined under Category B, One Day SWOP (Mitigated), and recommended a Letter of Reprimand. Employee 1 did not have probable cause and they should have known they did not have probable cause. While their past work history, corrective and disciplinary actions, should be considered, their 11 Letters of Commendation were mitigating factors.

Additional Corrective Action Recommended

None.

Other Recommendations

Training

The Training Division identify a more comprehensive portable resource for officers.

DATE: [redacted]

TO: Christopher Paille
Police Review Board Coordinator

FROM: Adrienne DeDona
Police Review Board Facilitator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

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

IA Case Number: Case #11

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 was involved in a third preventable vehicular accident on date [redacted]

Case referred to the Police Review Board by the RU manager. IA, IPR, and the branch assistant agreed with the recommendation.

Allegation 1: Employee 1 failed to operate Employee 1's patrol vehicle in a satisfactory matter when Employee 1 was involved in three preventable accidents between date [redacted] and date [redacted]. (CONDUCT)

Recommended Finding: **Sustained (Unanimous)**

Applicable Directive: **315.30 – Satisfactory Performance**

Opinion:

Employee 1 was driving a marked patrol car and responding to a call for service. Employee 1 was looking down at Employee 1's MDC which caused Employee 1 to look away from the road for a period of time long enough that Employee 1 was unable to fully stop at a stop sign when Employee 1 looked up. Employee 1's vehicle came to a stop within the intersection and was hit by another vehicle.

Board members agreed that given this was Employee 1's third preventable patrol vehicle incident within the span of one year, the allegation was sustained. Board members noted that all three incidents were found to be out of policy.

Board members agreed that Employee 1 did not comply with Directive 315.30 - Satisfactory Performance in that Employee 1 was involved in three preventable motor vehicle crashes within a one-year time frame, and therefore did not demonstrate the maintenance of sufficient competency and job-related skills to properly perform the duties and responsibilities of Employee 1's position as it relates to driving responses, as required by Directive 315.30.

Recommendations:

Corrective Actions/Discipline

Opinion:

One Workday SWOP – Unanimous

Board member believed Category A best described Employee 1's misconduct. Based on the facts presented, it was their opinion that Employee 1's behavior involved a minor deviation from policy resulting in a vehicle crash and had or may have a minimal negative impact on operations or professional image of the Bureau. Board members noted that it was the third violation in one year and that there were not mitigating or aggravating factors.

Additional Corrective Action Recommended

The Board recommended that Employee 1 be required to ride with a senior officer to help Employee 1 better prioritize decisions and learn decision-making skills while driving a patrol vehicle. The Board noted that Employee 1 is a relatively new officer, and that Employee 1 should get the opportunity to improve Employee 1's driving. Some board member suggested that Employee 1 receive mandatory vehicle operations training, but it was noted that Employee 1 will be receiving PVO training in a month, which will include being behind the wheel and pinpointing driving problems.

Training

A board member suggested that officers receive mandatory training when they have a mechanical skill violation.

DATE: [redacted]

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

TO: Christopher Paillé
Review Board Coordinator

FROM: Bridger Wineman
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: Case #12

Employees: Employee 1
Employee 2
Employee 3
Employee 4
Employee 5
Employee 6

Incident Summary:
Administrative investigation into the circumstance surrounding the officer involved shooting at 1331 Northwest Lovejoy Street on June 9, 2019.

Area of review #1: The Application of Deadly Force. (FORCE)

Employee: **Employee #1**

Recommended Finding: **In Policy – Seven members**

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

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 1 reasonably believed there was an immediate threat of serious injury or death to a member of the public. Employee 1 did not believe there were any other force options left at the time deadly force was used and followed all other relevant provisions of the Use of Force directive.

Minority Opinion:
N/A

Area of review #2: The Application of Less Lethal Force. (FORCE)

Employee: **Employee 2**

Recommended Finding: **In policy – Seven members**

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

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 2's use of less lethal force was reasonable to prevent a crime and protect a member of the public against harm, and complied with all other requirements of the directive.

Minority Opinion:
N/A

Area of review #3: Operational Planning and Supervision. (PROCEDURE)

Employee: **Employee 3**

Recommended Finding: **In policy – Six members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 3 displayed satisfactory performance by monitoring and responding to the situation, maintaining situational awareness, asking for appropriate updates when airtime permitted, evaluating public safety and taking appropriate action as required by the directive.

Minority opinion:
N/A

Area of review #4: Post Shooting Procedure. (PROCEDURE)

Employee: **Employee 4**

Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures; 630.50 – Emergency Medical Aid; 640.10 – Crime Scene Procedures**

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 4 accomplished all required tasks in timely manner.

Minority Opinion:
N/A

Employee: **Employee 3**

Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death**

Reporting and Investigation Procedures; 630.50 – Emergency Medical Aid; 640.10 – Crime Scene Procedures

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 3 accomplished all required tasks in timely manner.

Minority Opinion:
N/A

Employee: **Employee 5**

Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures; 630.50 – Emergency Medical Aid; 640.10 – Crime Scene Procedures**

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 5 accomplished all required tasks in timely manner.

Minority Opinion:
N/A

Employee: **Employee 6**

Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures; 630.50 – Emergency Medical Aid; 640.10 – Crime Scene Procedures**

Majority Opinion:
Board members unanimously agreed, based on a preponderance of evidence, Employee 6 accomplished all required tasks in timely manner.

Minority Opinion:
N/A

Recommendations:

Corrective Actions/Discipline
N/A

Other Recommendations

No other recommendations

DATE: [redacted]

TO: Christopher Paille
Police Review Board Coordinator

FROM: Adrienne DeDona, JLA Public Involvement Inc.
Police Review Board Facilitator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

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

IA Case Number: Case #13

Employees: Employee 1
Employee 2
Employee 3
Employee 4
Employee 5

Incident Summary:

The Administrative investigation into the circumstance surrounding the officer involved shooting at 141 NE 147th Avenue #31 on January 2, 2019.

Area of review #1: The Application of Deadly Force. (FORCE)

Recommended Finding: **Employee 5 -- In Policy with Debriefing (Unanimous)**

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

Majority Opinion:

The board unanimously agreed with the RU Manager's assessment that Employee 5 was within policy when they used deadly force against the suspect. Employee 5 was confronted by the suspect coming at them, a fellow officer, and another community member with a long kitchen knife at a quick pace, with the intent to inflict serious injury or death. They believed that Employee 5 responded appropriately to the situation by repeatedly commanding the suspect to stop. The suspect did not slow down, however, but continued walking towards them rapidly, saying, "I'm going to kill him."

One Board member questioned why Employee 5 didn't allow the apartment door to close on the suspect rather than fire a round at the suspect. The IA investigator read the interview transcript which indicated Employee 5 saw the spring-loaded door was in the process of closing; but based on the suspect's rate of pursuit, calculated that the suspect would reach the door and be upon them before the door could swing shut. Therefore, the board unanimously found that a clear threat was present and Employee 5 was within policy to protect self and others. They agreed that Employee 5 should have a debriefing on the topic of taking physical custody of a suspect after being involved in a use of deadly force incident and the value of

waiting for back up to take a suspect into custody whenever possible.

Area of review #2: Operational Planning and Supervision. (PROCEDURE)

Recommended Finding: **Employee 1 -- In Policy (Unanimous)**

Applicable Directives: **315.30 – Satisfactory Performance**

Majority Opinion:

The Board unanimously agreed that Employee 1 performed their duties in a manner that was necessary, given the circumstances, and found their performance to be within policy. The rationale provided was that Employee 1 took incident command from Employee 2, ensured that an inner and outer perimeter was established, and separated witnesses and involved officers for investigation.

Recommended Finding: **Employee 2 -- In Policy (Unanimous)**

Applicable Directives: **315.30 – Satisfactory Performance**

Majority Opinion:

The Board unanimously agreed that Employee 2 performed their duties in a manner that was necessary, given the circumstances, and found their performance to be within policy. The rationale provided included that Employee 2 took incident command upon arrival to the scene, immediately requested medical support--which Employee 2 later cancelled due to the lack of injuries incurred--and ensured the involved officers were safe. Employee 2 then made the appropriate notifications.

Area of review #3: Post Shooting Procedures. (PROCEDURE)

Recommended Finding: **Employee 1 – In Policy (Unanimous)**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 – Emergency Medical Aid

Majority Opinion:

The Board unanimously agreed that Employee 1 performed the post shooting procedures in a manner that was necessary and found their performance to be within policy. The Board's rationale was that Employee 1 reviewed the 1010.10 checklist, made the required notifications, and observed the suspect carefully to confirm that they were not injured.

Recommended Finding: **Employee 3 -- In Policy (Unanimous)**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 – Emergency Medical Aid

Majority Opinion:

The Board unanimously agreed that Employee 3 performed the post shooting procedures in a manner that was necessary and found their performance to be within policy. The Board's rationale was that Employee 3, along with Employee 4, stabilized the scene by checking the apartment in which the incident had occurred for additional suspects or victims. Employee 3 remained on the scene and briefed the East Precinct supervisors after they arrived to take over as incident command.

Recommended Finding: **Employee 4 -- In Policy (Unanimous)**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 – Emergency Medical Aid

Majority Opinion:

The Board unanimously agreed that Employee 4 performed the post shooting procedures in a manner that was necessary and found their performance to be within policy. Employee 4 and Employee 3 stabilized the scene by checking the apartment in which the incident had occurred for additional suspects or victims. Employee 4 remained on the scene and briefed the East Precinct supervisors after they arrived to take over as Incident Command.

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Recommended Finding: **Employee 2 -- In Policy (Unanimous)**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 – Emergency Medical Aid

Majority Opinion:

The Board unanimously agreed that Employee 2 performed the post shooting procedures in a manner that was necessary and found their performance to be within policy. The Board's rationale was that Employee 2 separated witnesses and involved officers, obtained a public safety statement from a civilian witness, ensured a crime scene log was started, and established the inner and outer perimeters of the crime scene.

Recommendations:

Other Recommendations

Training

The Board recommended that the Training Division review the protocol of when it is appropriate to cancel a medical emergency response during an incident, even when a suspect appears to be uninjured.

DATE: [redacted]

TO: Christopher Paillé
Review Board Coordinator

FROM: Tracy M. Smith, Inhance LLC
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on [redacted], and reviewed the following case:

IA Case Number: Case #14

Employees: Employee 1
Employee 2
Employee 3
Employee 4
Employee 5
Employee 6
Employee 7

Incident Summary:

Administrative investigation into the circumstance surrounding the officer involved shooting at SE Ash Street and SE 122nd Avenue on July 30, 2019.

Mandatory administrative review required under City Code 3.20.140(B)(1)(c)(1).

Area of review #1: The Application of Deadly Force. (FORCE)

Recommended Finding: **Employee 1 – In Policy – Seven Members**

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

Majority Opinion:
Seven members recommended a finding of In Policy on the Application of Deadly Force. The deadly force used by Employee 1 was reasonable and justified when applied to Directive 1010.00, in relevant part, Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs. It was reported Person 1 confronted people with a knife and eventually put it in their right front pants pocket. Members described Person 1 as angry, animated, agitated and behaving erratically.

The Portland Police Bureau (Bureau) De-escalation procedure, 1.1., Members shall use disengagement and de-escalation techniques, when time and circumstances reasonably permit, and Members shall take proactive steps to eliminate the immediacy of the threat, establish control and minimize the need for force. De-escalation procedure, 1.1.1., De-escalation techniques include, in part, 1) using verbal techniques to calm an agitated subject and promote rational

decision making; 2) allowing the subject appropriate time to respond to direction. Members used de-escalation techniques in an attempt to reduce the necessity of force to resolve the confrontation with Person 1. Members gave them space, spoke to them calmly, gave them specific instructions, and gave them enough time to process that information. Employee 8 spoke to Person 1, hands-free, in an attempt to make Person 1 feel at ease. These de-escalation techniques were unsuccessful.

Employee 1 was on the scene of this entire call. When Employee 1 confronted Person 1 in the breezeway, Person 1 began pulling something from their right front pants pocket. Members ordered Person 1 to show them their hands, but again they refused and continued pulling at their pocket. Employee 1 saw a "change in color" come out of Person's 1 pocket that they believed was the knife reported earlier in the call. Two members on the scene also observed Person 1's knife. Employee 1 fired their weapon to protect members near them.

Employee 1 was confronted by Person 1 who was willing to use a weapon that could cause death or serious physical injury against them, other members, or citizens unable to get out of harm's way. Under the totality of circumstances, Employee 1's use of deadly force was In Policy.

Minority Opinion:
None.

Area of review #2: The Application of Less Lethal Force. (FORCE)

Recommended Finding: **Employee 2 - In Policy – Six Members**

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

Majority Opinion:
Six members recommended a finding of In Policy on the Application of Use of Force. Directive 1010.00, 3. Warning Issuance, 3.2., Prior to using a less lethal weapon, members shall, when feasible, warn or announce to other members their intent to use the tool, in an attempt to avoid sympathetic fire. Directive 1010.00, 6. Less Lethal Force, 6.1., Less lethal force provides members with additional tactics or options for managing encounters with confrontational or resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury. Person 1 walked towards members as they tried to pull something from the right side of their waist area. Employee 2 believed Person 1 was pulling out a knife that was reportedly used earlier to confront people. Employee 2 shot Person 1 with a less lethal round. The less lethal force used by Employee 2 was reasonable and justified when applied to the Graham Standard and Directive 1010.00.

Minority Opinion:
None.

Recommended Finding: **Employee 3 – In Policy – Seven Members**

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

Majority Opinion:
Seven members recommended a finding of In Policy on the Application of Use of Force. Directive 1010.00, 3. Warning Issuance, 3.2., Prior to using a less lethal weapon, members shall, when feasible, warn or announce to other members their intent to use the tool, in an attempt to avoid sympathetic fire. Directive 1010.00, 6. Less Lethal Force, 6.1., Less lethal force provides members with additional tactics or options for managing encounters with confrontational or resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury. Person 1 walked down a heavily populated sidewalk as they waved an ax at a citizen when Employee 3 fired a less lethal round at them. A higher level of force was within policy under Directive 1010.00, 8. Deadly Force, but Employee 3 used a less lethal option. The less lethal force used by Employee 3 was reasonable and justified when applied to the Graham Standard and Directive 1010.00.

Minority Opinion:
None.

Area of review #3: Operational Planning and Supervision (PROCEDURE)

Recommended Finding: **Employee 4 – In Policy – Six Members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:
Six members recommended a finding of In Policy on Operational Planning and Supervision. Directive 315.30, in relevant parts, Procedure, 1. Member Responsibilities, 1.1., Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions. Procedure 1.2., Members shall perform their duties in a manner that meets the following standards of efficiency and service in order to carry out the functions and objectives of the Bureau. Employee 4 arrived on the scene after the shots were fired. Employee 4 was aware that Employee 1 was the likely involved member when they saw them being walked out of the scene. Employee 4 posted members at the crime scene where there was potential evidence.

Procedure 1.2.7., Members shall coordinate their efforts with other members to ensure the Bureau's objectives and goals are achieved. Members shall aid, assist and protect other members in times of emergency. Employee 4 ensured Person 1 received medical aid and took an Individual First Aid Kit (IFAK) into the scene. Employee 4 was the first member to take control of the incident except when they were debriefing members at which time, they turned it over to Employee 6.

Procedure 1.2.8., Members shall take appropriate action on the occasion of a crime, disorder, or other condition requiring police action. Employee 4 directed members to take pictures of the scene, stand next to items of evidence, and post members to guard the scene. Employee 4 made certain a crime scene log was used and they secured a single entry and exit point to the crime scene.

Minority Opinion:
None.

Recommended Finding: **Employee 5 – In Policy – Six Members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:
Six members recommended a finding of In Policy on Operational Planning and Supervision. Directive 315.30, in relevant parts, Procedure, 1. Member Responsibilities, 1.1., Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions. Procedure 1.2., Members shall perform their duties in a manner that meets the following standards of efficiency and service in order to carry out the functions and objectives of the Bureau. Employee 5 secured the outer perimeter. Employee 5 also directed units to block traffic to ensure member safety and preserve evidence.

Procedure 1.2.7., Members shall coordinate their efforts with other members to ensure the Bureau's objectives and goals are achieved. Members shall aid, assist and protect other members in times of emergency. Employee 5 assisted in separating the involved member and the member witnesses. Employee 5 also ensured members had peer members with them.

Procedure 1.2.8., Members shall take appropriate action on the occasion of a crime, disorder, or other condition requiring police action. Employee 5 ordered Employee 1 to give a public safety statement and documented the answers Employee 1 gave. Employee 5 made all notifications as outlined in Directive 1010.00.

Minority Opinion:
None.

Recommended Finding: **Employee 6 – In Policy – Six Members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:
Six members recommended a finding of In Policy on Operational Planning and Supervision. Directive 315.30, in relevant parts, Procedure, 1. Member Responsibilities, 1.1., Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures),

applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions. Procedure 1.2., Members shall perform their duties in a manner that meets the following standards of efficiency and service in order to carry out the functions and objectives of the Bureau. Employee 6 arrived at the incident after Employee 4 arrived. Employee 6 directed units to block traffic to ensure member safety, preserve evidence, and directed that crime scene tape be put up.

Procedure 1.2.7., Members shall coordinate their efforts with other members to ensure the Bureau's objectives and goals are achieved. Members shall aid, assist and protect other members in times of emergency. Employee 6 identified member witnesses, separated them, ensured members had peer members and gave them an order not to discuss the incident with each other.

Minority Opinion:
None.

Recommended Finding: **Employee 7 – In Policy – Six Members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:
Six members recommended a finding of In Policy on Operational Planning and Supervision. Directive 315.30, in relevant parts, Procedure, 1. Member Responsibilities, 1.1., Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions. Employee 7 responded to the call and coordinated the crime scene with Employee 4, Employee 5, and Employee 6. Employee 7 ensured the crime scene was set up as well as the inner and outer perimeter. Employee 7 made sure the involved member and witness members were separated.

Procedure 1.2.7., Members shall coordinate their efforts with other members to ensure the Bureau's objectives and goals are achieved. Members shall aid, assist and protect other members in times of emergency. Employee 7 ensured the proper notifications were made. Employee 7 stayed on the call to assist the Investigative Branch with their requirements.

Minority Opinion:
None.

Area of review #4: Post Shooting Procedures. (PROCEDURE)

Recommended Finding: **Employee 4 – In Policy – Six Members**

Applicable Directive: **1010.10-Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 - Emergency Medical Aid
640.10 - Crime Scene Procedures

Majority Opinion:
Six members recommended a finding of In Policy on Post Shooting Procedures. Directive 1010.10 states, in relevant Part 1., This policy establishes the specific guidelines and reporting requirements for the reporting and investigation of incidents involving uses of deadly force, death as a result of member use of force, and in-custody deaths. Directive 1010.10 states, in relevant Part 2., The Portland Police Bureau recognizes that a member's use of deadly force or the death of an individual while in police custody requires impartial and timely review. It is the policy of the Bureau that uses of deadly force, death as a result of member use of force, and in-custody deaths, whether on or off duty, be investigated with the utmost thoroughness, professionalism and impartiality to determine whether member actions comport with applicable law and Bureau policies and training. Employee 4 managed the inner perimeter of the scene. Employee 4 also was directed to ensure the crime scenes were handled appropriately, preserve the evidence, separate witness/involved members, and make sure on-scene members were safe from vehicle traffic.

Directive 630.50 states, in relevant part, Members will provide emergency medical aid to ill or injured persons under the following conditions: c. Primary police duties have been accomplished; 1. Any immediate danger has been neutralized; and 3. Any required emergency assistance has been requested by telephone or radio, at the earliest time feasible. Employee 4 ensured Person 1 received medical aid and took an IFAK into the scene.

Directive 640.10 states, in relevant part, The first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times, a specific member will be in charge. It will be his/her duty to: c. Protect human life and property, and render aid; d. Protect the crime scene by ensuring items within the scene are not disturbed. A supervisor may assign a specific scene security officer; e. Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement; f. Exclude all unauthorized persons (all persons who do not have an official duty to perform pertinent to the incident should be kept out of the protected crime scene). Employee 4 assigned members to locate witnesses, bullet strikes, casings and other items of evidence, including video. Employee 4 instructed members to start a crime scene log, replace and separate witness members and ensured the entrance/exit into and out of the shooting scene. Employee 4 ensured they had enough resources to properly handle the scene. Employee 4 efficiently handled the scene they were in charge of until they were

relieved by members.

Minority Opinion:
None.

Recommended Finding: **Employee 5 – In Policy – Six Members**

Applicable Directives: **1010.10-Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 - Emergency Medical Aid
640.10 - Crime Scene Procedures

Majority Opinion:
Directive 640.10 states, in relevant part, The first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times, a specific member will be in charge. It will be his/her duty to: c. Protect human life and property, and render aid; d. Protect the crime scene by ensuring items within the scene are not disturbed. A supervisor may assign a specific scene security officer; e. Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement; f. Exclude all unauthorized persons (all persons who do not have an official duty to perform pertinent to the incident should be kept out of the protected crime scene). Employee 5 handled the outer perimeter. Employee 5 directed units to block traffic to ensure member safety and preserve evidence. Employee 5 directed that crime scene tape be put up and identified witness members and separated them.

Directive 640.10 states, in relevant part, The first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times, a specific member will be in charge. It will be his/her duty to: Protect human life and property, and render aid; Protect the crime scene by ensuring items within the scene are not disturbed. A supervisor may assign a specific scene security officer; Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement. Exclude all unauthorized persons (all persons who do not have an official duty to perform pertinent to the incident should be kept out of the protected crime scene). Employee 5 made certain a crime scene log was used, and they secured a single entry and exit point to the crime scene. Employee 5 ordered Employee 1 to give a public safety statement and documented the answers they gave. Employee 5 made all the notifications as outlined in Directive 1010.00. Employee 5 ensured that they had enough resources to properly handle the scenes. Employee 5 efficiently handled the scenes they were in charge of until relieved by members.

Minority Opinion:
None.

Recommended Findings: **Employee 6 – In Policy – Six Members**

Applicable Directives: **1010.10-Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 - Emergency Medical Aid
640.10 - Crime Scene Procedures

Majority Opinion:
Six members recommended a finding of In Policy on Post Shooting Procedures. Directive 1010.10 states, in relevant Part 1., This policy establishes the specific guidelines and reporting requirements for the reporting and investigation of incidents involving uses of deadly force, death as a result of member use of force, and in-custody deaths. Directive 1010.10 states, in relevant Part 2., The Portland Police Bureau recognizes that a member's use of deadly force or the death of an individual while in police custody requires impartial and timely review. It is the policy of the Bureau that uses of deadly force, death as a result of member use of force, and in-custody deaths, whether on or off duty, be investigated with the utmost thoroughness, professionalism and impartiality so as to determine whether member actions comport with applicable law and Bureau policies and training. Employee 6 directed units to block traffic to ensure member safety and preserve evidence. Employee 6 directed that crime scene tape be put up. Employee 6 identified witness members and separated them.

Directive 640.10 states, in relevant part, The first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times, a specific member will be in charge. It will be his/her duty to: c. Protect human life and property, and render aid; d. Protect the crime scene by ensuring items within the scene are not disturbed. A supervisor may assign a specific scene security officer; e. Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement; f. Exclude all unauthorized persons (all persons who do not have an official duty to perform pertinent to the incident should be kept out of the protected crime scene). Employee 6 ensured they had enough resources to properly handle the scenes. Employee 6 efficiently handled the scenes they were in charge of until relieved by members.

Minority Opinion:
None.

Recommended Finding: **Employee 7 – In Policy – Six Members**

Applicable Directives: **1010.10-Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 - Emergency Medical Aid
640.10 - Crime Scene Procedures

Majority Opinion:
Six members recommended a finding of In Policy on Post Shooting Procedures. Directive 1010.10 states, in relevant Part 1., This policy establishes the specific guidelines and reporting requirements for the reporting and investigation of incidents involving uses of deadly force, death as a result of member use of force, and in-custody deaths. Directive 1010.10 states, in relevant Part 2., The Portland Police Bureau recognizes that a member's use of deadly force or the death of an individual while in police custody requires impartial and timely review. It is the policy of the Bureau that uses of deadly force, death as a result of member use of force, and in-custody deaths, whether on or off duty, be investigated with the utmost thoroughness, professionalism and impartiality so as to determine whether member actions comport with applicable law and Bureau policies and training. Employee 7 coordinated with Employee 4, Employee 6, and Employee 5 to ensure that both crime scenes were handled appropriately, evidence was preserved, witness and involved members were separated, and that on-scene members were safe from vehicle traffic. Employee 7 also briefed Employee 9 and Employee 10 about the details of the incident and what steps were being done to control the scene and preserve evidence. Employee 7 ensured all the other notifications were made.

Directive 640.10 states, in relevant part, The first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times, a specific member will be in charge. It will be his/her duty to: c. Protect human life and property, and render aid; d. Protect the crime scene by ensuring items within the scene are not disturbed. A supervisor may assign a specific scene security officer; e. Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement; f. Exclude all unauthorized persons (all persons who do not have an official duty to perform pertinent to the incident should be kept out of the protected crime scene). Employee 7 ensured that they had enough resources to properly handle the scenes. Employee 7 efficiently handled the scenes they were in charge of until relieved by members.

Minority Opinion:
None.

Recommendations: Training

The Board unanimously agreed with the following recommendations made by the Training Division:

1. Provide a one-day training session for specific members. This class could be conducted three times per year. If a member is currently in this role or has a strong interest in being a specific member, they could attend this class if space is available. The Bureau is relying heavily on members to fill member vacancies. This would provide valuable training to members that may serve in this specific role or as they pursue the path of becoming a member.

2. Provide refresher training through the Learning Management System (LMS) on the Public Safety Statement. The role of the policy is not to require members to get that information from the involved member unless that is the only source available to them.

3. The Public Safety Statement should only be obtained from the involved member if no other sources are available.

4. Employees do not use the term 21-Foot-Rule anymore. The Training Division educates all employees on the Reactionary Gap. In Employee 1's interview, they were asked if they ever heard of the 21-Foot-Rule in training.

Additional

The Training Division provides supervisory LMS training on assuming a specific role. There is an expectation that someone communicates this information over the radio before being briefed and ready to take control of an active tactical situation.