

Police Review Board Cases with Final Outcomes

Publication: March 2020

Board Date	Case #	Final Outcome	Additional Information
[REDACTED]	Case #1	Two Workday SWOP	<p>Case referred to PRB by RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Chief Outlaw agreed with the Police Review Board's recommendations.</p> <p>Conduct defined under Category C (Presumptive, 2nd Violation in 3 years) of the Bureau's Discipline Guide.</p>
[REDACTED]	Case #2	One Workweek SWOP	<p>Case referred to PRB by RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Chief Outlaw agreed with the Police Review Board's recommended finding and the identified Discipline Guide category.</p> <p>Conduct defined under Category E (Mitigated).</p>
[REDACTED]	Case #3	LOR	<p>Case referred to PRB by RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Chief Outlaw agreed with the Police Review Board's recommendations, with the exception of Allegation 3 (found Not Sustained).</p> <p>Conduct defined under Category C (Mitigated) of the Bureau's Discipline Guide.</p>
[REDACTED]	Case #4	None	<p>Case referred to PRB as required by City Code 3.20.140(B)(1)(a). IPR controverted the recommended finding of Exonerated for Allegation 5, though a definitive alternate finding was not provided by IPR.</p> <p>Deputy Chief Davis agreed with the Police Review Board majority's recommended finding of Exonerated and added a debriefing.</p>
[REDACTED]	Case #5	CC	<p>Case referred to PRB as required by City Code 3.20.140(B)(1)(a). The branch assistant chief, IA, and IPR controverted the RU manager's finding for Allegation 2.</p> <p>Chief Outlaw agreed with the Police Review Board majority's recommendations.</p> <p>Conduct defined under Category B (Mitigated) of the Bureau's Discipline Guide.</p>

Police Review Board Cases with Final Outcomes

Publication: March 2020

Board Date	Case #	Final Outcome	Additional Information
	Case #6	All Actions In Policy	Chief Outlaw agreed with the Police Review Board's recommended findings.
	Case #7	Exonerated	Then Deputy Chief Resch agreed with the Police Review Board majority's recommended findings of Exonerated.
	Case #8	CC	Then Deputy Chief Resch agreed with the Police Review Board's recommendations. Conduct defined under Category A (Mitigated) of the Bureau's Discipline Guide.

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



CONFIDENTIAL

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

IA Case Number: [REDACTED] Case #1

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 responded to a threats call involving a firearm on [REDACTED] Date [REDACTED]. The subject of the call was identified as the respondent on a Restraining Order that prohibited him from possessing or purchasing a firearm. Although the subject was found in possession of a firearm, Employee 1 did not make a mandatory arrest of the subject or write a report concerning the call until [REDACTED] two days later [REDACTED].

Allegation 1: Employee 1 failed to make the mandatory arrest of Subject 1 for his violation of a restraining order on [REDACTED] date [REDACTED] when probable cause was established. (PROCEDURE)

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

Applicable Directive: **825.00 – Domestic Violence, Arrests and Restraining Orders**
315.00 – Laws, Rules, and Orders

Opinion:

Board members agreed that Employee 1 found a firearm on Subject 1 upon arrival and failed to make the arrest despite knowing that there was a Restraining Order against Subject 1. Board members recognized Employee 1's reasoning for not making the arrest was because the petitioner was not present and felt that [REDACTED] resolved the call by seizing the firearm. Two board members noted that it was concerning that Employee 1 did not make the arrest because the majority of restraining orders are issued with a prohibition of firearms and that the fact that there was a Restraining Order against Subject 1 and he was in possession of a firearm should have raised an automatic red flag. Board members noted that Subject 1 was not the owner of the firearm, but that per the directive, possession of a firearm is still prohibited in the Restraining Order.

Allegation 2: Employee 1 failed to complete a report prior to the end of [redacted] shift related to case # [redacted] on [redacted] date [redacted]. (PROCEDURE)

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

Applicable Directive: **900.00 – General Reporting**

Opinion:

Board members agreed that the directive specifically states the requirement to write a report before going off shift, and that Employee 1 did not get approval from a sergeant to hold over [redacted] report. Board members recognized that Employee 1 admitted [redacted] planned on completing the report the following day, but that [redacted] called in sick and did not let a sergeant know that [redacted] had not completed the report. A board member noted that because the property that was seized during this event was a firearm, it's concerning that Employee 1 planned on waiting to complete a report.

Recommendations: Corrective Actions/Discipline

Opinion:

Two Workdays SWOP – Unanimous

Based on the facts presented, it was in the Board's opinion that Allegation 1 was the most serious allegation with a failure to adhere to ORS mandated arrest. Board members agreed that the misconduct is defined under Category C (Presumptive) of the Bureau's Discipline Guide. Board members also considered the employee's prior history of discipline and determined this to be a second violation in three years' time which increased the level of recommended discipline to a two day suspension without pay.

Additional Corrective Action Recommended

A board member suggested that Employee 1 would benefit from remedial training on restraining orders, either through an advanced awareness class or family training. Another board member felt that having an experienced officer in those trainings can have a negative impact on the new trainees.

DATE: [REDACTED]
TO: Christopher Paille
Review Board Coordinator
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 #2

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 shared confidential personnel information with Employee 2, disobeyed orders from commanding officers.

Allegation 1: Employee 1 disobeyed an order from Employee 3 when [REDACTED] Employee 1 shared information relating to a personnel matter with Employee 2. (CONDUCT)

Recommended Finding: **Sustained – Five members**

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

Majority Opinion:

Five members reached a sustained finding under Directives 315.00 and 315.30 as a result of Employee 1 sharing confidential personnel information with Employee 2 and disobeyed an order from their commanding officer.

One member stated Employee 1 was given an order not to share confidential information and they intentionally ignored the order. This member cited Directive 315.00, 5.1, "Members shall promptly obey any lawful written or verbal order of a supervisor. This will include orders relayed from a supervisor by a member of the same or lesser rank." Further, this member cited Directive 315.30, 1.2, stating "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." Another member said, "I agree and it's straight forward." There are times when information can and can't be shared; supervisors need to

know the difference.

One member stated Employee 1 may not have agreed with Employee 3, however, they were given an order to keep the information confidential. If Employee 1 didn't agree with the order, they could have pursued other avenues in the Bureau as opposed to sharing the confidential information with Employee 2. Similarly, another member maintained it was unfortunate Employee 1 didn't "trust the system" to share their concerns within other avenues.

Another member asserted Employee 1 laid out the facts in their interview and admitted they disobeyed Employee 3's order. Therefore, sustaining the allegation was straight forward."

Recommendations:

Corrective Actions/Discipline

Demotion - Four members

Two Work Week SWOP - One Member

Majority Opinion:

Four members believed that for Allegation #1, Category E best described Employee 1's conduct and recommended demotion (Aggravated) as the level of discipline. Employee 1 intentionally disobeyed an order by sharing confidential information. One member said Employee 1 didn't demonstrate a "crisis of conscious." They misused their authority. Further, their behavior was unethical and could pose an adverse impact on the professionalism of the Bureau.

Members said it would be difficult to trust Employee 1 in the future. Similarly, members believed it would be difficult for them to rebuild trust with their peers. Another member said, "how could a unit function if there's no trust." One member stated confidentiality must be upheld to maintain the "sanctity" of documents written by Internal Affairs. Also, it was a "privilege to be entrusted with confidential information." This could potentially result in witnesses not coming forward if confidentiality wasn't upheld.

Members believed Employee 1 didn't accept responsibility for their actions or acknowledge they disobeyed their commander's order. Another member said Employee 1 showed a "complete disregard" for taking responsibility for their behavior. One member said Employee 1 failed to recognize their actions and its impact on the Bureau.

Members also held that Employee 1 took no steps to clarify the information they shared. One member said Employee 1 could have asked other employees what to do with the information they received. Further, they could have pursued other avenues to express their concerns. Again, this resulted in their misuse of authority and unethical behavior.

Minority Opinion:

One member believed that for Allegation #1, Category E best described Employee 1's conduct and recommended a Two Work Week SWOP (Presumptive), as the level of discipline. This member agreed with the majority opinion but disagreed with the recommendation of demotion, stating Employee 1 didn't have a work history of prior discipline.

Other Recommendations

No other recommendations.

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



CONFIDENTIAL

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

IA Case Number: [REDACTED] Case #3

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 failed to appropriately document [REDACTED] response to a report of a restraining order violation and was discourteous to the complainant.

Allegation 1: Employee 1 failed to write a report on [REDACTED] response to a restraining order violation call. (PROCEDURE)

Recommended Finding: **Sustained (Unanimous)**

Applicable Directives: **825.00 – Domestic Violence, Arrests and Restraining Orders**
315.00 – Laws, Rules, and Orders

Opinion:

Board members agreed that Employee 1 should have written a report and therefore sustained the allegation. A board member noted that despite Employee 2 serving significantly fewer years than Employee 1, [REDACTED] noted that [REDACTED] would have written a report, and assumed that Employee 1 would do so. Additionally, this board member said it seemed odd that Employee 1 did not follow up with the respondent following the complaint from the petitioner. Another board member agreed, stating that given the petitioner's dissatisfaction, doing a check in with the respondent may have helped clear things up. A board member responded, that not only would it have helped clear things up, but it is a requirement, and added that typically if someone is agitated the officer should write a report.

Allegation 2: Employee 1 was discourteous to the petitioner. (COURTESY)

Recommended Finding: **Sustained (Unanimous)**

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

Opinion:

Board members agreed that despite Employee 1’s belief that ■ was not discourteous, the petitioner felt like Employee 1 made him feel like ■ complaint was wrong, which was backed up by Employee 2’s perspective that Employee 1 should not be talking to the complainant in the tone ■ used.

A board member expressed their struggle with the inconsistency of the petitioner’s statements, specifically regarding ■ actions and ■ recollection of Employee 1 stating ■ would or would not write a report. The board member agreed that Employee 1’s behavior was not excusable, but felt that the petitioner needed to be redirected at certain points, as ■ was clearly unhappy because Employee 1 was not arresting the respondent. A board member responded that when considering the directive, it’s important to understand that people not only put weight on words, but also how words are delivered.

A board member noted that Employee 2’s statement that Employee 1 was “short” was what made them feel the allegation was sustained, as well as Employee 1’s comments about the petitioner frequently calling the cops.

Another board member noted the part of the directive that states that an officer should be considerate of the public for their welfare, and that by responding to the petitioner expressing feeling unsafe in the way ■ did, Employee 1 did not uphold this part of the directive.

Allegation 3: Employee 1 failed to make a mandatory arrest on a restraining order violation. (PROCEDURE)

Recommended Finding: **Sustained (Unanimous)**

Applicable Directive: **825.00 – Domestic Violence, Arrests, and Restraining Orders**
315.00 – Laws, Rules, and Orders

Opinion:

Board members agreed that not only did Employee 1 not arrest the respondent per the directive, ■ did not even try, and therefore felt the allegation was sustained. A board member noted that the expectation is for an officer to at least attempt to make an arrest in these situations, and that Employee 1 should have tried to make contact with the respondent. Additionally, the board member expressed the belief that an officer would have known there was a violation of the restraining order and probable cause for an arrest. Another board member added that if Employee 1

had spent even a little more time making contact with the respondent, not even to make an arrest, but to address the complaint, it would have been beneficial.

Allegation 4: Employee 1 failed to obtain pertinent information on a restraining order violation call. (CONDUCT)

Recommended Finding: **Sustained (Unanimous)**

Applicable Directive: **315.30 – Satisfactory Performance**

Opinion:

Board members agreed that Employee 1 did not perform the proper investigation into the restraining order and therefore felt the allegation was sustained. It was noted that Employee 1 seemed to focus specifically on the 10ft limit, and despite contacting Multnomah County for a confirmation of the restraining order and getting a physical copy from the petitioner upon arrival, this narrow focus on the 10ft rule had an impact that kept Employee 1 from following the procedures properly. In addition, it was noted that had Employee 1 engaged the respondent ■ would have had enough information to enforce the violation of the restraining order.

A board member noted that had Employee 1 taken more time ■ could have avoided allegations 1 and 3. Another board member responded that they felt Employee 1 had enough information to meet the criteria for an arrest, but made the decision not to, and that ■ should have known the policy. A board member agreed with this, and added that while the Bureau has gone through significant policy changes, the process for restraining orders has gone unchanged, and that Employee 1's lack of effort and ability to recognize the pattern was troubling. A board member added that it's an officer's duty to err on the side of caution and that it was also a mandatory arrest.

Recommendations: Corrective Actions/Discipline

Opinion:
LOR – Unanimous

The Board agreed that Category C best described Employee 1's misconduct. Based on the facts presented, it was in their opinion that Allegation 3 was the most serious allegation and that Employee 1's behavior involved a risk to public safety and a significant deviation from policy with the failure to make an ORS mandated arrest. Board members believed that Employee 1's good record and length of time with the bureau, reputation, and work with the Training Division as mitigating factors in making their decision. Additionally, the Board recommended that the LOR include an option to attend resiliency training, as laid out in the Additional Corrective Action below.

Additional Corrective Action Recommended

Board members felt that Employee 1 would benefit from being offered specified training based on [redacted] time on the force to help correct rather than punish [redacted] behavior, and felt it should include wellness and resiliency training.

Other Recommendations

Board members recommended that the Bureau consider adapting the discipline guide to offer corrective actions that are not solely punitive, but designed for training.

Board members recommended formalizing a resiliency training program for officers.

Policy Recommendations

Board member suggested considering updates to the policy on protective orders to include language about the different types, other than those that are domestic violence based.

DATE: [REDACTED]
TO: Christopher Paille
Police Review Board Coordinator
FROM: Jeanne Lawson, 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 #4

Employee: **Employee 1**

Summary of Alleged Complaint:

Complainant 1 and Complainant 2 called the Independent Police Review (IPR) to make a complaint against the officers who arrested Subject 1, on [REDACTED]. Complainant 1 and Complainant 2 alleged that officers used an inappropriate amount of force on Subject 1, and that the officers failed to address their concerns while out at the scene.

Allegation 5: Employee 1 used inappropriate force on Subject 1. (FORCE)

Recommended Finding: **Exonerated (5)**
Not sustained (1)
Sustained (1)

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

Majority Opinion:

Four of the board members agreed that Employee 1's use of force was appropriate given the circumstances and found the allegation exonerated. Board members found the officer did not violate policy based upon the requirements in Directive 1010.00 and in consideration of training doctrine. Board members believed the officer used force until [REDACTED] and [REDACTED] fellow officer gained control of the suspect. As soon as the suspect was under control, when the officers had gained control of [REDACTED] arms and legs and brought him to the ground, Employee 1 stopped applying force. The board members stated that they believed events happened quickly, and Employee 1 followed the Graham standard. They pointed out that the suspect had already attacked one security guard earlier that night and had assaulted one police officer and attempted to attack another police officer during the incident, causing [REDACTED] to fall. Subject 1 had refused to surrender to the officers on the scene. The suspect had a known criminal record and was behaving dangerously in a public place. Furthermore, they noted that Employee 1 had tried to use a taser but that it had no effect.

Two board members noted that although the suspect had put [REDACTED] hands over [REDACTED] head during the incident, [REDACTED] gave no indication that [REDACTED] was complying or giving up the fight; they noted that, given the suspect's continued refusal to submit, it

was reasonable for Employee 1 to assume that if they stopped using force, Subject 1 would return to attacking the officers. Therefore, Employee 1 was within policy when [REDACTED] continued to strike the suspect in order to subdue [REDACTED]

One board member stated that the video captured only the end of the prolonged fight, and if one were to simply view the video without understanding the context of the entire incident, the punches would look pretty bad and like an excessive use of force. But based on the totality of circumstances, Employee 1 was objectively reasonable and [REDACTED] actions were necessary.

Another board member suggested that from a citizen's perspective, the video might leave one concerned about the level of force applied. The justification for the use of strikes wasn't clearly articulated in the written report. The Training Division advisory board member provided clarity around training doctrine, which the board member found informative. The board member noted that it would be helpful if written reports contained a clearer description of an involved member's justification for his/her actions.

Two board members recommended a debrief for Employee 1 because they believed it important for [REDACTED] to be mindful of the public perception of [REDACTED] actions and to understand the issues that the PRB raised around better articulating [REDACTED] actions. One board member, however, believed a debrief was in order so that Employee 1 could view the video frame by frame with a supervisor and discuss whether, based on this, [REDACTED] might handle the situation any differently in the future. The other two board members did not recommend a debrief.

Minority Opinions:

One board member found the allegation Sustained because they did not see Employee 1 decrease [REDACTED] use of force even as the subject's resistance decreased; therefore, they believed Employee 1's action violated policy because [REDACTED] didn't consider whether [REDACTED] should decrease [REDACTED] use of force with [REDACTED] subsequent punches.

One board member found the allegation Not sustained because they did not believe there was sufficient evidence to show Employee 1's use of force violated policy. Although the video made the suspect's position look nonconfrontational, the member believed that the suspect did not give any indication that [REDACTED] intention had changed to a resistive state, despite the weakened position; [REDACTED] had not given up, and [REDACTED] might have harmed the officers or the public.

Recommendations: Corrective Actions/Discipline

Majority Opinion:

No corrective action necessary.

Minority Opinion:

Command Counseling – One member

One member believed Category B best described Employee 1's misconduct. Based on the facts presented, it was their opinion Employee 1's conduct may have a negative impact on the professional image of the PPB. They believed it was mitigated based on Employee 1's background of no prior history of discipline and commendations.

Other Recommendations

No other recommendations.

DATE: [REDACTED]
TO: Christopher Paillé
Review Board Coordinator
FROM: Tracy M. Smith, Inhance LLC
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 #5

Employee: Employee 1

Summary of Alleged Complaint:

Employee 1 made a traffic stop from which the vehicle passenger fled. Employee 1 pursued the passenger and a physical confrontation ensued. During the confrontation, the passenger resisted arrest and attempted to grab Employee 1's firearm. Employee 1 and their cover employee punched Person 1 repeatedly in the face in order to take them into custody.

Allegation 1: (Allegation related to force found **Exonerated with/Debriefing** and not subject to review by the Police Review Board.)

Allegation 2: Employee 1 inappropriately engaged in a foot pursuit of Person 1 on [REDACTED] Date 2019. (CONDUCT)

Recommended Finding: **Sustained – Three Members**
Not Sustained with a Debrief – Two Members

Applicable Directive: **630.15 – Foot Pursuits**
315.30 – Satisfactory Performance

Majority Opinion:

Three members recommended a finding of Sustained stating, Employee 1 inappropriately engaged in a foot pursuit of Person 1. The members stated the foot pursuit posed a risk to Person 2, leaving them alone with the driver of the stopped vehicle. One member stated, "Employee 1 did not make the safety of Person 2 an overriding consideration." Furthermore, the "benefit did not outweigh the risks." Another member stated there was adequate evidence that Employee 1 engaged in an out of policy foot pursuit due to the preponderance of the evidence standard.

Minority Opinion:

Two members recommended a finding of Not Sustained with a Debrief, stating Employee 1 did not inappropriately engage in a foot pursuit of Person 1. One member stated Employee 1 did not violate the nine Foot Pursuit Restrictions specified in Directive 630.15. Employee 1 did not believe they were placing them self or the public in undue danger by attempting to take the passenger into custody.

One member stated Foot Pursuits in General, Directive 630.15, "...and the public shall be the overriding consideration in determining whether a foot pursuit will be initiated or continued" was in conflict with the Training Division's lesson plan on foot pursuits, stating foot pursuits should be the "totality of the circumstances." One member recommended the Directive and training policy "need to be congruent."

The debriefing was recommended based on the tenure of Employee 1 and two members found them in compliance with Directive 630.15, but the after action found them out of compliance. As employees gain more experience, they gain a better understanding of the range of options available to them, the ability to quickly sort through the options, and pick the best one. Even when an employee's actions are compliant with the Directives it does not mean they have chosen the best course of action. Additionally, one member recommended Employee 1 articulate their Risk/Benefit Analysis leading to the foot pursuit and discuss other options in the future.

Recommendations:

Corrective Actions/Discipline

Command Counseling - Three Members

Majority Opinion:

Three members recommended a Sustained finding related to Allegation #2, Category B, Mitigated, with Command Counseling. The three members believed Employee 1's decision to engage in a foot pursuit posed a risk to Person 2. One member stated this had a negative impact on Bureau operations. Additionally, Employee 1 had only been an employee for two years, they did not have a negative work history, and they had five commendations in their personnel file.

Minority Opinion:

None

Additional Corrective Action Recommended

None

Other Recommendations

Training

The Training Division's foot pursuit lesson plan should be consistent with Foot Pursuits in General, Directive 630.15.

Policy

Review Directive 630.15 to determine the standard of review, Foot Pursuits In General or Foot Pursuit Restrictions.

DATE: [REDACTED]
TO: Christopher Paille
Police Review Board Coordinator
FROM: Jeanne Lawson, JLA Public Involvement, Inc.
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

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

IA Case Number: [REDACTED] Case #6

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

Incident Summary:

Administrative investigation and review into the circumstance surrounding the officer involved shooting at 13136 SE Center Street on April 29, 2019.

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

Area of review #1: Recommended Finding: **Employee 1 – In Policy
(Unanimous)**

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

Opinion:

Employee 1 and Employee 2 used deadly force to stop Person 1 who they identified as an active threat to Person 2. Employee 1 and Employee 2 observed multiple victims as they approached and upon entering the residence, and found Person 1 holding Person 2 at knife point on the bed in a barricaded bedroom with [REDACTED] infant. Employee 1 and Employee 2 were able to remove the infant prior to confronting Person 1. Employee 1 and Employee 2 gave Person 1 commands to drop the knife, Person 1 did not comply. Following the unsuccessful use of less lethal rounds by Employee 3, Employee 1 used Employee 1's training to attempt to deescalate the situation. Person 1 was not compliant, and Employee 1 and Employee 2 made the decision to use deadly force when they identified the opportunity to stop the threat.

Board members agreed that Employee 1's use of force was within policy and was necessary to preserve Person 2's life and stop the threat. Board members noted that they appreciated Employee 1's approach to analyzing the incident

prior to Employee 1's use of deadly force. Board members also noted that the way in which Person 1's actions were described as holding Person 2 with a knife "in a stabbing motion" reinforced the validity of the decision to use deadly force.

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

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

Opinion:

Board members agreed that Employee 2's use of force was within policy and was necessary to preserve Person 2's life and stop the threat, and that the same reasons used in reviewing Employee 1 applied as rationale for their finding.

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

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

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

Opinion:

Employee 3 was assigned as the less lethal operator upon arriving on the scene. When Person 1 failed to comply with commands and the infant was removed from the room, Employee 3 recognized that the situation was already authorized for lethal force and communicated to Employee 2 that Employee 3 was going to use Employee 3's less lethal launcher in an effort to gain compliance and provide more time. Employee 3 fired two less lethal rounds. When the less lethal rounds were not effective, Employee 3 did not deploy any additional rounds.

Board members agreed that Employee 3's application of less lethal force was in policy, and that Employee 3's actions were reasonable and justifiable given the totality of the situation. Board members also felt that given the timing and threat to Person 2's life, it was reasonable for Employee 3 to not give warning before deploying the less lethal rounds. Two board members noted that, given the chaotic situation, it was reasonable for one of the less lethal rounds to hit Person 2, and that Employee 3 acknowledged this and apologized to Person 2. The board members noted that the officers did not have a clear shot for deadly force because Person 1 was holding Person 2 as a shield, so they believed less lethal force was justified as an effort to save Person 2's life.

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

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

Applicable Directive: **315.30 – Satisfactory Performance**

Opinion:

Employee 4 arrived on the scene and was aware that Employee 1 and Employee 5 were inside the residence and had located the suspect. Employee 4 managed the scene outside and helped medical personnel safely gain access to the injured victims. After hearing two gunshots, learning that Employee 1 was an involved member, and knowing Employee 5 was inside, Employee 4 assumed the role of Incident Commander. Employee 4 identified, separated, and assigned other officers to stay with the involved and witness members. Additionally, Employee 4 sent medical aid to the suspect, delegated crime scene responsibilities, and made the proper notifications.

Board members agreed that Employee 4's performance was satisfactory based on Directive 315.30, specifically noting that Employee 4 appropriately assessed the situation and assumed the role of Incident Commander.

Recommended Finding: **Employee 5 – In Policy (Unanimous)**

Applicable Directive: **315.30 – Satisfactory Performance**

Opinion:

Employee 5 acknowledged the radio call and broadcasted that arriving officers should not approach the residence alone. Upon learning that there were multiple victims and that the suspect was actively stabbing people, Employee 5 continued to monitor the call and decided to forgo a staging location. Employee 5 began instructing officers to set up containment for those staying in the backyard. When Employee 5 learned of the female hostage inside the home, Employee 5 went to the front of the house and heard the less lethal rounds and proceeded inside the house to assist the officers. Employee 5 located the officers and heard the two gun shots. Employee 5 confirmed that Employee 1 and Employee 2 were okay, and after developing a plan for securing the knife from Person 1, Employee 5 said Employee 5 saw that Employee 2 provided lethal cover while Employee 1 removed the knife from Person 1. Employee 5 directed an officer to accompany medical personnel to assess Person 1. Following the events, Employee 5 directed officers to clear the rest of the house, preserve evidence, and then confirmed that the involved officers were removed from the scene and separated. Employee 5 was then identified as a witness and separated from the scene.

Board members agreed that Employee 5's performance was satisfactory based on Directive 315.30, specifically noting that Employee 5 recognized that this

was a priority call, monitored the situation on air, and went to the call and entered the residence.

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

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

Opinion:

Board members agreed that Employee 4 performed the duties laid out in Directives 1010.10 and 630.50, and felt Employee 4 did an excellent job as Incident Commander by organizing medical assistance, ensuring the scene was static, separating the involved and witness officers, and making the appropriate notifications.

Board members used much of the rationale used for Area of Review #3 for Area of Review #4.

Recommended Finding: **Employee 5 – In Policy (Unanimous)**

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

Majority Opinion:

Board members agreed that Employee 5 adequately performed the duties laid out in Directives 1010.10 and 630.50, specifically noting that Employee 5 was the initial sergeant to step up and take the call, Employee 5 recognized that it was a priority incident, supervised the situation inside the residence, and established the crime scene. Board members felt Employee 5 was successful at checking off the list of tasks before Employee 4 assumed the supervisory role. One board member noted that even though Employee 5 recognized that Employee 5 was a witness officer, Employee 5 knew there were jobs that needed to be accomplished immediately in order to secure the crime scene, and Employee 5 made sure those were being done.

Board members used much of the rationale used for Area of Review #3 for Area of Review #4.

Recommendations: Other Recommendations

No other recommendations.

DATE: [REDACTED]
TO: Christopher Paillé
Review Board Coordinator
FROM: Tracy Smith, Inhance LLC
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 #7

Employee: **Employee 1**
Employee 2

Summary of Alleged Complaint:

Person 1 filed a complaint with Independent Police Review Division (IPR) stating they had been stopped and searched by Portland Police as they waited for a MAX train. Person 1 stated that they were stopped by three Employees while they waited for the MAX and believed they had been racially profiled. Person 1 said the officers instructed them to spread their arms and legs and then searched their belongings. Person 1 said the Employees informed them that they were looking for a black person with a gun and was provided with Employee 1's business card. Person 1 indicated they were concerned they had been stopped because of their race and their belief the Employees were likely aware they were not the suspect they were looking for before they stopped and searched them.

IPR controverted the recommended findings for Allegations 1 and 2 from *Exonerated* to *Not Sustained*. Mandatory review under City Code 3.20.140 (B)(1)(a).

Allegation 1: Employee I improperly searched Person 1 on the basis of their race.
(DISPARATE TREATMENT)

Recommended Finding: **Exonerated – Four Members**
Not Sustained – One Member

Applicable Directives: **650.00 – Search, Seizures, and Inventories**
344.05 – Bias-Based Policing/Profiling Prohibited

Majority Opinion:

Four members recommended a finding of Exonerated stating, Employee 1 did not improperly search Person 1 on the basis of their race. The actions of Employee 1 to contact Person 1 and conduct a reasonable suspicion pat down or protective sweep was a reasonable action and would be consistent with Directive 650.00, Search, Seizures, and Inventories. This type of search was listed as an exception under Section 1.1., stating, "With certain exceptions (i.e., consent search, emergency aid, incident to arrest, parole/probation searches, and protective sweeps), most types of searches require probable cause to be valid." Employee 1 established reasonable suspicion to contact Person 1 and to conduct a pat down or protective sweep for a firearm on Person 1. One member said the stop and search,

due to race, had no facts to support that claim. Another member said reasonable suspicion had to be particularized. The search of Person 1 was particularized because they were the only person in the area that matched certain elements of the description. In addition, their proximity in time to the event was a factor. It was reasonable suspicion to determine if they were the person with the gun.

Person 1 was given an explanation as to why the contact occurred both during and after the contact. There was no credible basis for a possible violation of Directive 344.05, Procedure, under Section 2. Permitted Use of Physical Traits and/or Individual Characteristics when Establishing Reasonable Suspicion or Probable Cause, under Subsection 2.1., states, “When executing a stop, detention, search, seizure of property, an arrest or any other police action, the member’s action shall be based on a standard of reasonable suspicion or probable cause. Members must be able to articulate and document specific facts and circumstances that establish reasonable suspicion or probable cause.”

Board members discussed the fact that Person 1 had a reasonable belief, based on their perspective, they were racially profiled. However, the preponderance of evidence proved Employee 1 did not contact Person 1 solely on the basis of their race, or that their reliance on race in stopping Person 1 was based on anything other than its being part of the suspect description. The evidence showed the actions of Employee 1 were reasonable and within policies and procedures.

Minority Opinion:

One member recommended a finding of Not Sustained stating there was not enough evidence to prove Employee 1 did not improperly search Person 1 on the basis of their race.

Directive 344.05, under Section 2.2, Procedure, states, “Members are permitted to consider status characteristics that are protected by law or Bureau policy when acting on a suspect description or information related to an identified or suspected violation of a provision of law.” Section 2.2.1. states, “Members shall only use the listed classification information in combination with other relevant and specific identifying traits or factors (e.g., description of clothing, height, etc.) when searching for a specific individual or group. In these circumstances, status characteristics that are protected by law or Bureau policy should not be the sole factor cited/identified.”

The suspect description included several characteristics that Person 1 did not share. The only clear characteristic the suspect and Person 1 had in common was race. The evidence showed that Employee 1 relied at least heavily if not entirely on protected status characteristics as the basis for stopping and searching Employee 1. The extent to which Employee 1 actually relied on other characteristics is not clear. Therefore, the evidence was insufficient to prove a violation of a policy or procedure.

Allegation 2:

Employee 2 improperly searched Person 1 on the basis of their race.
(DISPARATE TREATMENT)

Recommended Finding: **Exonerated – Four Members**
Not Sustained – One Member

Applicable Directives: **650.00 – Search, Seizures, and Inventories**
344.05 – Bias-Based Policing/Profiling Prohibited

Majority Opinion:

Four members recommended a finding of Exonerated stating, Employee 2 did not improperly search Person 1 on the basis of their race. The actions of Employee 2 to contact Person 1 and conduct a reasonable suspicion pat down or protective sweep was a reasonable action and would be consistent with Directive 650.00, Search, Seizures, and Inventories. This type of search was listed as an exception under Section 1.1., stating, “With certain exceptions (i.e., consent search, emergency aid, incident to arrest, parole/probation searches, and protective sweeps), most types of searches require probable cause to be valid.” Employee 2 established reasonable suspicion to contact Person 1 and to conduct a pat down/protective sweep for a firearm on Person 1. One member said the stop and search, due to race, had no facts to support that claim. Another member said reasonable suspicion had to be particularized. The search of Person 1 was particularized because they were the only person in the area that matched certain elements of the description. In addition, their proximity in time to the event was a factor. It was reasonable suspicion to determine if they were the person with the gun.

Person 1 was given an explanation as to why the contact occurred both during and after the contact. There was no credible basis for a possible violation of Directive 344.05, Procedure, under Section 2. Permitted Use of Physical Traits and/or Individual Characteristics when Establishing Reasonable Suspicion or Probable Cause, under Subsection 2.1., states, “When executing a stop, detention, search, seizure of property, an arrest or any other police action, the member’s action shall be based on a standard of reasonable suspicion or probable cause. Members must be able to articulate and document specific facts and circumstances that establish reasonable suspicion or probable cause.”

Board members discussed the fact that Person 1 had a reasonable belief, based on their perspective, they were racially profiled. However, the preponderance of evidence proved Employee 2 did not contact Person 1 solely on the basis of their race, or that their reliance on race in stopping Person 1 was based on anything other than its being part of the suspect description. The evidence showed the actions of Employee 2 were reasonable and within policies and procedures.

Minority Opinion:

One member recommended a finding of Not Sustained stating there was not enough evidence to prove Employee 2 did not improperly search Person 1 on the basis of their race.

Directive 344.05, under Section 2.2, Procedure, states, “Members are permitted to consider status characteristics that are protected by law or Bureau policy when

acting on a suspect description or information related to an identified or suspected violation of a provision of law.” Section 2.2.1. states, “Members shall only use the listed classification information in combination with other relevant and specific identifying traits or factors (e.g., description of clothing, height, etc.) when searching for a specific individual or group. In these circumstances, status characteristics that are protected by law or Bureau policy should not be the sole factor cited/identified.”

The suspect description included several characteristics that Person 1 did not share. The only clear characteristic the suspect and Person 1 had in common was race. The evidence showed that Employee 2 relied at least heavily if not entirely on protected status characteristics as the basis for stopping and searching Person 1. The extent to which Employee 2 actually relied on other characteristics is not clear. Therefore, the evidence was insufficient to prove a violation of a policy or procedure.

Recommendations:

Corrective Actions/Discipline

None.

Other Recommendations

None.

DATE: [REDACTED]
TO: Christopher Paillé
Review Board Coordinator
FROM: Tracy Smith, Inhance LLC
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 #8

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 was involved in preventable accidents on [REDACTED] Date, [REDACTED] Date and [REDACTED] Date.

Case referred to the Police Review Board (PRB) under City Code 3.20.140 (B)(1)(a). The branch assistant chief and the captain of Internal Affairs (IA) controverted the recommended finding of *Not Sustained* to *Sustained*.

Allegation 1: Employee 1 failed to operate their patrol vehicle in a satisfactory manner when they were involved in three preventable accidents on [REDACTED] Date, [REDACTED] Date, and [REDACTED] Date.

Recommended Finding: **Sustained – Five Members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:

Five members recommended a finding of Sustained, stating Employee 1 failed to operate their patrol vehicle in a satisfactory manner when they were involved in three preventable accidents on [REDACTED] Date, [REDACTED] Date, and 1 [REDACTED] Date. Directive 315.30 states, in relevant part, “The Bureau expects its members to meet the requirements of their position and accomplish their functions in a satisfactory and efficient manner that supports the goals and objectives of the Bureau.” Members agreed Employee 1 had three accidents in a short amount of time and the Collision Review Board (CRB) ruled these accidents were preventable.

Minority Opinion:

None.

Recommendations: Corrective Actions/Discipline

Command Counseling – Five Members

Majority Opinion:

Five members recommended a Sustained finding related to Allegation #1, Category A, Mitigated, with Command Counseling. The mitigating factors

included:

- Number years of employment with the Police Bureau.
- Ten Commendations and Letters of Appreciation.
- Attended In-Service Training.
- Four different vehicle platforms.
- Accident conditions included the short pole height that impacted their visibility to see the pole, rainy weather, responding to a robbery call, and their accidents were not anomalies.
- Ford FIU platform percentages outlined in the 2018-1 In-Service Training Program, pages 44 and 45.
- The lack of timeliness of the investigation would not have an impact on Employee 1's behavior.
- Employee 1 corrected their driving record and did not have additional accidents after 1 Date .
- Corrective action for the two accidents on Date and Date came after the third accident on Date .

Minority Opinion:
None.

Other Recommendations

Recommendation to the Chief

Provide training after the first driving accident.

Policy

Clarify how IA, CRB, and PRB work together to formulate a coordinated policy and process.