

***Please Note:** This is a working draft of Directive 0310.50, Truthfulness. The PPB has not implemented any portion of this draft. Submit your comments using the “Provide Feedback Here” link located at the end of the directive.

A redline copy of the updated directive is included in this attachment.

0310.50 Truthfulness

Refer:

- ORS 133.402
- Or Laws 2021, Ch 487

Definitions:

- Custodial Interview: An interview in which the person questioned is in custody and is required to be advised of the person’s constitutional rights.

Policy:

1. Police legitimacy and community trust in the Portland Police Bureau require truthfulness and transparency. The Bureau is committed to holding its members accountable for being honest and truthful in all statements and actions taken relating to their duties as members of the Bureau.

Procedure:

1. No member shall knowingly or willfully be dishonest or untruthful in giving a statement or testimony, in creating a report, in any official oral or written communication, or in giving any statement about actions taken that relate to the member’s own or another member’s employment or position. Being dishonest or untruthful includes knowingly or willfully: making false statements, falsifying work-related records or official documents, omitting material facts or material information, or answering questions or providing information in a manner that is incomplete, evasive, deceptive, or misleading.
 - 1.1. These requirements apply to any report, investigations, or communication concerning Bureau business, including, but not limited to, oral communications, written reports, transmissions to the Bureau of Emergency Communications, testimony in legal proceedings and communications to members via radio, telephone, pager, e-mail, text, or mobile data computer (MDC).
2. Members shall not intentionally make any false statements to justify a criminal or traffic charge, or seek to unlawfully influence the outcome of any investigation.
3. Members shall not intentionally use false information to elicit a statement from a juvenile during a custodial interview.
4. Members shall respond fully and truthfully to questions relating to their employment or position, or to the employment or position of another member, regardless of whether such information is requested during a formal investigation or during the course of business.

*Please Note: This is a working draft of Directive 0310.50, Truthfulness. The PPB has not implemented any portion of this draft. Submit your comments using the “Provide Feedback Here” link located at the end of the directive.

A redline copy of the updated directive is included in this attachment.

5. A limited exception to the standards in this directive exists when the member reasonably believes that deception is necessary due to:
 - 5.1. A member’s undercover assignment; or
 - 5.2. Exigent circumstances such as the imminent loss of evidence or an imminent and articulable threat to any person’s safety.

6. Any use of deception under the above limited exception must be:
 - 6.1. For a specific and legitimate law enforcement purpose;
 - 6.2. Temporary, unless related to a long-term undercover assignment; and
 - 6.3. Documented in a police report.

[Provide Feedback Here](#)

DRAFT

0310.50 Truthfulness

Refer:

- ORS 133.402
- Or Laws 2021, Ch 487

Definitions:

- Custodial Interview: An interview in which the person questioned is in custody and is required to be advised of the person's constitutional rights.

Policy:

~~Truthfulness is a pillar upon which the Portland Police Bureau's~~

1. Police legitimacy and community ~~credibility are built. The integrity of police service is rooted~~trust in ~~honesty and the Portland Police Bureau require~~ truthfulness- and transparency. The Bureau is committed to holding its members accountable for being honest and truthful in all statements ~~made~~ and actions taken ~~which relate~~relating to their duties as members of the ~~Police~~ Bureau.

Procedure:

1. No member shall knowingly or willfully be dishonest or untruthful in giving a statement or testimony, in creating a report, in any official oral or written communication, or in giving any statement about actions taken that relate to the member's own or another member's employment or position. Being dishonest or untruthful includes knowingly or willfully: making false statements, falsifying work-related records or official documents, omitting material facts or material information, or answering questions or providing information in a manner that is incomplete, evasive, deceptive, or misleading.
 - 1.1. These requirements apply to any report, investigations, or communication concerning Bureau business, including, but not limited to, oral communications, written reports, transmissions to the Bureau of Emergency Communications, testimony in legal proceedings and communications to members via radio, telephone, pager, e-mail, text, or mobile data computer (MDC).
2. Members shall not ~~knowingly or willfully~~intentionally make any false statements to justify a criminal or traffic charge, or seek to unlawfully influence the outcome of any investigation.
3. ~~Members are obligated under this directive to~~shall not intentionally use false information to elicit a statement from a juvenile during a custodial interview.
- ~~3.4.~~Members shall respond fully and truthfully to questions ~~about any action taken that relates~~relating to ~~the member's~~their employment or position, or to the employment or position of another member, regardless of whether such information is requested during a formal investigation or during the course of business.

4.5. A limited exception to the standards in this directive exists when the member reasonably believes that deception: ~~(i) is necessary due to the nature of a member's assignment, such as an undercover assignment; (ii) is necessary to acquire information for a criminal investigation; or (iii) to protect the member or others from an articulable threat.~~ The use of deception in these circumstances must be for a specific and legitimate law enforcement purpose and must be temporary in nature. is necessary due to:

5.1. A member's undercover assignment; or

5.2. Exigent circumstances such as the imminent loss of evidence or an imminent and articulable threat to any person's safety.

6. Any use of deception under the above limited exception must be:

6.1. For a specific and legitimate law enforcement purpose;

6.2. Temporary, unless related to a long-term undercover assignment; and

6.3. Documented in a police report.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, May 18, 2021 12:08:22 AM
Last Modified: Tuesday, May 18, 2021 12:09:36 AM
Time Spent: 00:01:14

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Q1

Please provide feedback for this directive

According to former Sergeant Erin Smith most cops lie to Portlanders so why even have this policy when a supervisor admitted cops violate it and never get held accountable

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name	Cops Lie
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#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, May 18, 2021 12:24:29 AM
Last Modified: Tuesday, May 18, 2021 12:26:37 AM
Time Spent: 00:02:08

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Q1

Please provide feedback for this directive

This directive should include the police commissioner.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, May 20, 2021 4:18:08 PM
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Q1

Please provide feedback for this directive

What are the consequences? This policy means nothing without accountability.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name	Miles
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#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, May 22, 2021 4:45:38 PM
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Q1

Please provide feedback for this directive

Procedure 4: The exceptions to the expectation of truthfulness are too broad for comfort. Community understanding that the police can lie and deceive, for almost any law enforcement reason, is a core contributing factor in poor police-community relations. While there may be situations where deception is acceptable (e.g. to prevent an imminent threat to life), the returns on deception are otherwise not worth the cost to the relationship with the community.

I suggest the following changes to make the exception more targeted:

- If an assignment is fundamentally rooted in deception (e.g. undercover assignment), that should be clearly documented along with parameters - scope of assignment, duration, and expectations around what kinds of deception are acceptable and to what ends. The ergonomics of the process should make it clear that deception is an exceptional case and not something to be taken lightly. Perhaps it could be thought of as an internal licensing process; bureau issues a license to engage in deception, and that license has a defined scope and expiration date.
 - I'd also like to see a review process, similar to what is done after a use of force event; the goal of that review should be to ensure that any deception was within bounds and identify any need for training or procedural review. Emphasis should be on assessing the costs and benefits of the deception, with the recognition that deception fundamentally degrades the police-community relationship.
 - For criminal investigations, there should be a very clear articulation of what is acceptable and what isn't. At minimum, deception should never be used against minors, people with diminished mental capacity, or people perceived to have mental illness.
 - The police should never lie about the law, citizen rights, or citizen responsibilities. Perhaps this is clarified in other policies, but as I read procedure 4, I could see an officer lying to a stopped citizen suggesting that they'll be in big trouble if they don't consent to a search. Alternatively I could see an officer making a promise of lighter punishment to gain consent for a search, even if an officer can't guarantee that. This creates a structural inequity, as certain populations may be more likely to understand their legal rights than others.
 - My personal preference is to say that deception for purposes of criminal investigation is never acceptable. Other jurisdictions have outlawed deception during investigations, with apparently positive results. See <https://www.gregvarnerlaw.com/its-time-for-police-to-stop-lying-to-suspects/>. There may be potential for a PR 'win' for the bureau if this policy is changed and communicated well.
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Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Nathan Castle**

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, May 28, 2021 3:09:06 PM
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Q1

Please provide feedback for this directive

COMMENTS ON INTELLIGENCE, CONDUCT, AND REPORTING DIRECTIVES MAY 2021

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Portland Copwatch (PCW) has included below our comments on the Directives posted for review in late May . We begin with the new Directive on Criminal Intelligence Files (660.00), which thankfully was posted with a 30 day timeline. The other seven policies listed, which only have a 15 day turnaround time, were previously posted in December 2018 (reporting) and February 2019 (conduct). We note below where the Bureau made changes and, more often, where they did not.

When Directives are re-posted, it would be helpful to include a link to the previous Executive Summary file to aid people's understanding of previous changes, previous recommendations, and reasons the Bureau gave for not accepting some changes.

We still urge the Bureau to add letters to section headings (Refer, Definitions, Policy, Procedure) to avoid the problem that there are multiple sections with the same numbers, and to add numbers to each of the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

DIRECTIVE 310.50 TRUTHFULNESS ("Truthiness.")

Lying is Lying: We continue to object to the wiggle room given to officers to lie. That said, Section 4 of Directive 310.50 has been improved a little bit. Previously, officers could lie "to protect the safety of members or others," but the word "safety" was deleted and "from an articulable threat" is added. This narrows somewhat the broadly subjective question of officer/community safety. The previously proposed language requiring that there be an "objectively reasonable belief" to lie in this circumstance was changed to give the officer the subjective ability to "reasonably believe that deception is necessary." Portland Copwatch expressed support for the objective language and opposes this subjective version.

Missing Words: If the Directive continues to be framed as it exists, it should be noted that the first two circumstances for lying, enumerated as (i) and (ii), say the officer must believe deception "is necessary due to the nature of the assignment," and "is necessary to acquire information for a criminal investigation." The third reason, about articulable threats, doesn't follow the opening clause and technically reads "deception to protect the member or others..."

CONCLUSION

We thank the Bureau for seeking for community input, and the few instances we noted here where our substantive comments were incorporated into policies. Often, previous responses have only been to minor grammatical or typographical errors we found. There are many ways to provide public safety without society's current over-reliance on police. But so long as there are police, our goal is to see that the Bureau is free from corruption, brutality and racism.

Thank you for your time

--dan handelman and other members of

--Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch
