



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor
Charles Lovell, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000

Integrity • Compassion • Accountability • Respect • Excellence • Service

Executive Summary Directives 0315.00 Laws, Rules, and Orders

Introduction

The Portland Police Bureau initiated its review of Directive 0315.00, Laws, Rules, and Orders in early 2021. The Bureau posted the directive for First Universal Review in May of 2021 to seek public comments on the directive. The Bureau posted a revised version of the directive for public comment in August of 2021, to seek public comments on the proposed changes.

The Directive was reviewed as part of compliance with the Settlement Agreement with the United States Department of Justice. A small number of changes were made to improve the clarity of the directive.

Public Comments

The Bureau received few comments during both Universal Review and public comment periods. All comments are included later within this document.

One commenter suggested changing language around discipline in the acknowledgment of directives. While the commenter raised valid concerns about workload and time provided to members to become familiar with directives, the existing language is both required by the settlement agreement and needed in cases where members are negligent or otherwise willfully out of compliance.

Another commentator raised several suggestions, the first being about a lack of clarity on legal education and training for officers. Legal training and education is an important area and it is already mandated by state standards to be part of officers' annual training. As such it is already provided during annual refresher training. Language was added to the directive to reflect this.

The commentator also suggested that the directive require members to notify the Bureau when cited for a traffic infraction, as described in Section 6.1. The purpose of this section is to require notification of any legal issues that may impact a member's legal standing as a police officer to take appropriate action. Traffic infractions do not in and of themselves implicate a police certification, and so notifications are not required.

Lastly this commentor suggested changes to section 6.1 related to Communication Restriction Orders, to prevent confusion regarding when reports should be made. A definition of Communication Restriction Orders was added to the Directive to clarify the matter.

Another commentor disagreed with Section 4.2 indicating Collective Labor Agreements supersede City Human Resources Administrative Rules, suggesting that this enabled members to violate the law, specifically citing uses of deadly force. Human Resources Administrative Rules are the equivalent of any employer's employee manual, and do not have the force of law. Further, State and Federal Labor Law require that if an issue is subject to collective bargaining, the labor agreement is the controlling authority. The same is true for all unionized city employees regardless of their union or the Bureau they work for.

The Bureau's Revised Policy

The revised policy only made small changes, including adding a definition for Communication Restriction Orders, and explanation of how legal training is provided, and several edits for clarity.

The Bureau welcomes further feedback on this policy during its next review.

This directive goes into effect on August 4th 2023. Published on July 5th 2023.

315.00 Laws, Rules, and Orders

Refer:

- City of Portland Human Resources Administrative Rules
- Human Resources Administrative Rule 1.01, Duties and Authority of the Director of Human Resources
- DIR 0010.00, Directives Manual
- DIR 0330.00, Internal Affairs, Complaint Intake, and Processing

Definitions:

- **Communication Restriction Order:** An order issued during an investigation that prohibits indirect or direct communications among the involved member(s) and witness member(s) regarding the facts of the case. This restriction will be given in writing and will be lifted in writing.
- **Directive:** A Portland Police Bureau official document that addresses both the policy and procedural sections for a specific topic.
- **Human Resources Administrative Rules (HRARs):** City of Portland standards that help ensure compliance with applicable laws and regulations and mandate or constrain employee action. The Director of the Bureau of Human Resources is responsible for the development and revision of all HRARs. The City Council or, when designated, the Chief Administrative Officer (CAO) has the final authority to approve and adopt all rules.
- **Orders:** Written and/or verbal direction from any PPB member above the recipient's rank or above the recipient in the chain of command.

Policy:

1. In order to further develop and maintain its legitimacy and to continually build its credibility with the public and within the Bureau, the Portland Police Bureau (PPB) recognizes that correct and impartial enforcement of the law demands that Bureau members understand, comply with, and be held accountable to those same laws that apply to other members of the community. Furthermore, Bureau members also have a responsibility to understand and comply with applicable City rules and Bureau orders and directives. This policy establishes the expectation of the Bureau regarding member compliance with all laws and applicable rules, directives, and orders.

Procedure:

1. Members shall acquire and maintain a thorough knowledge of city, state, and federal law, including elements constituting criminal acts and fundamental rules of evidence, through ongoing training and legal updates.
2. Members shall not commit any act or fail to perform any act constituting a violation of any applicable laws, rules, and orders, whether stated in these directives or elsewhere.
3. Bureau Directives.

- 3.1. Members are required to know and act in accordance with all PPB directives.
 - 3.1.1. Members shall electronically sign a statement acknowledging that they have received, read, and had an opportunity to ask questions about the new or revised directives within 30 calendar days of the Chief's approval and prior to enactment, except as provided in Directive 0010.00, Directives Manual. When PPB deems appropriate, members shall also successfully complete a knowledge check assessment within that same timeframe.
 - 3.1.1.1. Timely acknowledgment of new or revised directives is an important job duty. Members who fail to acknowledge new or revised directives within the prescribed timeline may be subject to corrective action and/or discipline.
 - 3.1.1.2. Supervisors shall ensure that members have electronically signed and acknowledged directives within the designated timeframe.
 - 3.1.2. Members must know and comprehend standards as established within Bureau communications mediums issued by the Chief or the member's Responsibility Unit Manager (e.g., orders, bulletins, tips and techniques, memoranda, etc.). Upon returning to duty, members shall read all communications issued during their absence.
 - 3.1.3. Members having any question or uncertainty about any directive, standard, law, rule, or order will immediately seek clarification via the chain of command.
4. Compliance with City of Portland HRARs.
 - 4.1. As employees of the City of Portland, all Bureau members, sworn and non-sworn, are subject to all City of Portland HRARs. Therefore, members are expected to know and comply with all HRARs.
 - 4.1.1. Additionally, members shall be required to read and electronically acknowledge all critical HRARs, as defined by the Bureau of Human Resources.
 - 4.2. If there is a conflict between a citywide HRAR and a collective bargaining agreement, the collective bargaining agreement prevails.
5. Bureau Orders.
 - 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.
 - 5.1.1. Members who are given an otherwise proper order that is in conflict with a previous order shall respectfully inform the supervisor issuing the new order of the conflict. When informed of the conflict, the supervisor shall determine the appropriate course of action and notify the member accordingly. Under these circumstances, the responsibility for resolving the conflict shall be upon the supervisor issuing the new order, and members shall follow the supervisor's resolved direction and shall not be held responsible for deviation from the previous order.
 - 5.1.2. If in doubt as to the legality of an order, members shall request the issuing supervisor to clarify the order or confer with higher authority. Members shall not obey any order that a reasonable officer would believe is clearly unlawful.
6. Notification Requirement.

6.1. Members shall ensure that their direct supervisor or, if unavailable, an on-duty supervisor is notified as soon as practical when cited for a violation of law or regulation, other than a traffic infraction, when arrested for a criminal offense, if their driver's license is suspended, if they become subject of or violate a restraining order, if they become aware they are a suspect in a law enforcement investigation, or if they become the subject of a Department of Public Safety Standards and Training investigation, suspension, or revocation proceeding. This notification must occur within 24 hours, unless a method of communication is not available or the member is incapacitated. In notifying a supervisor, members are not violating any Communication Restriction Order that may be in place.

7. Bureau Chain of Command.

7.1. Unless authority has been delegated otherwise, the chain of command is the established order of authority for members of the Bureau. The Chief of Police is responsible for the placement of non-sworn members within the chain of command. The chain of command for sworn members, in descending order, is:

7.1.1. The Chief of Police,

7.1.2. Deputy Chief,

7.1.3. Assistant Chief,

7.1.4. Commanders,

7.1.5. Captain/Non-sworn Division Manager,

7.1.6. Lieutenant/Non-sworn Administrative Supervisor (I or II),

7.1.7. Sergeant,

7.1.8. Detective/Criminalists,

7.1.9. Police Officer.

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7.1.6. Lieutenant/Non-sworn Administrative Supervisor (I or II),

7.1.7. Sergeant,

7.1.8. Detective/Criminalists,

7.1.9. Police Officer.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Sunday, August 29, 2021 3:46:13 PM
Last Modified: Sunday, August 29, 2021 3:46:39 PM
Time Spent: 00:00:25

Page 1

Q1

Please provide feedback for this directive

0315.00 Directive Feedback (2UR)

COMMENTS ON PROFILING, BYSTANDER, CONDUCT AND WEAPONS DIRECTIVES AUGUST 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:

It is strange commenting on Bureau policies in the wake of the fifth Portland Police shooting of 2021, meaning that in the first eight months of this year shootings are up by 250% over 2020. However, in the interest of getting the comments in before the August 31 deadline, below are Portland Copwatch's comments on the ten Directives posted for review in August (<http://www.portlandoregon.gov/police/59757>). We were pleased to see at least one substantive change made that responded to an earlier comment on the Bias Based Policing Directive, one or two other positive changes, and a few other edits which did not go far enough, along with the usual slew of suggestions we made which were roundly ignored.

We have noted before that asking community members, particularly those of us who are volunteers, to review so many policy proposals in a 30 day window is not always manageable. This work was made easier for us because we have made comments on all ten Directives previously.

It almost goes without saying at this point but we hope one day the Bureau will add letters to section headings (Definitions, Policy, Procedure) so that there are not multiple sections with the same numbers, and to number the individual Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

DIRECTIVE 315.00 LAWS, RULES AND ORDERS (previous comments May 2021)

The Bureau made no significant changes to this Directive, and continues to ignore that we even have made this comment repeatedly:

Bargaining Unit Shields Officers from Accountability: The Bureau's / City's stated position is that the Portland Police Association's Collective Bargaining Agreement can over-ride Human Resources rules (Section 4.2). The Bureau's Executive Summary from a previous publication of the Directive stated this rule does not allow officers to violate any laws; we disagree. When officers are able to get away with killing people-- including unarmed people-- over and over again, and be reinstated to the job even after being fired, there is a problem. We urge a legal analysis that better reflects whether officers can violate City policies because their contract supposedly allows them to.

CONCLUSION

Once again, we appreciate that the Bureau keeps asking for community comment. We find that often there are anonymous commenters who appear to be police officers raising similar questions to those we pose, which is a good sign. While there are some good steps forward in a few of the August Directives, some changes are not strong enough and many of our common sense ideas are again nowhere to be seen. We wrote before about how the institution of police could be transformed somewhat by the implementation of the Active Bystander policy, but there are still foundational issues that perpetuate racism, violence and unequal application of the law which the Bureau and the City need to address.

Thank you again 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

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, May 17, 2021 9:51:33 AM
Last Modified: Monday, May 17, 2021 9:57:22 AM
Time Spent: 00:05:48

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Q1

Please provide feedback for this directive

3.1.1.1. Timely acknowledgment of new or revised directives is an important job duty. Members who fail to acknowledge new or revised directives within the prescribed timeline may be subject to corrective action and/or discipline.

Regarding this directive I am recommending removing the word discipline as a form of corrective action. It is my experience as a patrol officer that failure to acknowledge new directives is not a matter of willful disregard, but rather a matter of time. It may be true that other bureau members enjoy the comfort of not having to sit in a police car and get to plan their days to their own liking, but working patrol does not always afford members that luxury. I think corrective action is as easy as a conversation.

Q2

Respondent skipped this question

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

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, May 18, 2021 12:35:57 AM
Last Modified: Tuesday, May 18, 2021 12:36:16 AM
Time Spent: 00:00:18

Page 1

Q1

Please provide feedback for this directive

N/A

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: Saturday, May 22, 2021 3:41:59 PM
Last Modified: Saturday, May 22, 2021 3:42:12 PM
Time Spent: 00:00:13

Page 1

Q1

Please provide feedback for this directive

Policy: A small nitpick, but wording in "those same laws that apply to members of the community" suggests that PPB members are not members of the community. I suggest rewriting as "...laws that apply to other members of the community" to emphasize that PPB members (who at the least work in the City of Portland) are also members of the community.

Procedure 1: Perhaps this is addressed elsewhere, but I'm concerned that this procedure does not specify how officers are to acquire and maintain their knowledge of city, state, and federal law. From the directive I don't know how an officer would go about following the procedure and what would count as a failure. I'm also concerned that there isn't clearer guidance on the expectations of the bureau to train officers and make relevant information available; law is extremely complex so it is hard to imagine members being uniformly successful in understanding the law without substantial assistance/guidance from the bureau. See the contrast with procedure 3, which outlines a very clear process to ensure officer understanding of directives

Procedure 6.1: I'm concerned with the exclusion of traffic infractions from reporting requirements. Officers are often operating vehicles, so information about failure to follow traffic laws is directly relevant to job performance, and may be relevant to future investigations related to failure to operate a motor vehicle safely. My expectation is that members are not being cited for traffic violations with such regularity that it presents an undue administrative burden.

Procedure 6.1: I'm unfamiliar with the practical implementation of CROs, but I'm concerned about the introduction of ambiguity/potential uncertainty. Would a more sound procedure involve notifying a supervisor higher in the chain of command, to avoid any potential conflict?

Q2**Respondent skipped this question**

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

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, May 28, 2021 3:12:19 PM
Last Modified: Friday, May 28, 2021 3:12:54 PM
Time Spent: 00:00:34

Page 1

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 315.00 LAWS, RULES AND ORDERS

The Bureau made no changes to this Directive. The Executive Summary did not acknowledge our comment on the policy. Here is that comment again:

Officers Get Away from Accountability with Bargaining Unit Help: Portland Copwatch continues to have concerns that the Bureau's / City's position is that the Portland Police Association's Collective Bargaining Agreement can over-ride Human Resources rules (Section 4.2). The Bureau's Executive Summary from a previous publication of the Directive stated this rule does not allow officers to violate any laws; we disagree. When officers are able to get away with killing people-- including unarmed people-- over and over again, and be reinstated to the job even after being fired, there is a problem.

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
