



CITY OF PORTLAND, OREGON



Bureau of Police

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Directive 315.30, Satisfactory Performance Executive Summary

Introduction

At the conclusion of its 2011 investigation, the Department of Justice (DOJ) identified several directives that pertain to crisis intervention, force and force reporting, member accountability, and training. Because of its relevance to member conduct and accountability, the DOJ directed the Bureau to revise Directive 315.30, Satisfactory Performance, to better reflect the relevant provisions of the 2012 DOJ Settlement Agreement. The Policy Development Team worked closely with the DOJ, Compliance Officer/Community Liaison (COCL), the Director of the Independent Police Review (IPR) and the City Attorney's Office to update the directive.

Public Comments

The Bureau received limited feedback during both universal review and public comment periods. Most responders were concerned that language in the policy regarding a member's use of force over the course of their career would preclude the Bureau from imposing discipline for individual incidents of excessive force. Additionally, one commenter also expressed some apprehension about the proposed consolidation of three Bureau directives.

Member Use of Force

Although Directive 315.30, Satisfactory Performance, includes language regarding member use of force, nothing in the directive nullifies or otherwise invalidates the constitutional force standard or other force performance requirements that are set forth in Directive 1010.00, Use of Force. That directive governs the use of force and establishes the reporting and review requirements of each incident of force. If, over the course of their review of a force incident, a supervisor determines that any use of force appears to violate policy, the Bureau will ensure that an investigation of the incident occurs and that, when appropriate, corrective action is taken and documented.

Consolidating Directives

The revised directive incorporates critical elements of Directives 311.00, Duty Required; 312.00, Request for Assistance; and 631.30, Assisting Motorists. The Bureau received feedback expressing concern about the consolidation and incorporation of these directives. Specifically, the commenter suggested that the merging of the directives would in some way diminish the importance or applicability of each individual directive.

Directive 315.30, Satisfactory Performance, establishes the expectation that all members willingly perform their duties competently, appropriately, cooperatively, and in a manner that meets defined work standards. There is a common thread that connects the directives that are being incorporated into Directive 315.30, Satisfactory Performance, as they specifically relate to member performance on a

fundamental level—reporting for duty, taking appropriate police action when requested or required, and providing assistance to community members, when necessary. It is these commonalities and the Bureau’s ultimate objective of providing clear and efficient guidance to its members that led to the decision to combine the directives.

We thank every individual who took the time to provide feedback on this directive. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

The Bureau’s Revised Policy

In addition to combining and integrating Directives 311.00, Duty Required; 312.00, Request for Assistance; and 631.30, Assisting Motorists, the revised directive also includes minor changes that resulted from recommendations made by the public, the COCL, and the DOJ. The purpose of the second section of the directive is to establish the Bureau’s goals and values with regard to the use of force and to tie that expectation to members’ career performance standard. Recognizing that some of the original language in Section 2 of the directive may imply that the Bureau expects its members to approach an incident with the aim of applying force (“...the Bureau requires that members be capable of, and apply, effective force when necessary.”), the Policy Development Team removed that language. It is not the intent of this, or any other, directive to encourage the use of force; however, the Bureau recognizes that in upholding its commitment and duty to protecting human life and maintaining civil order, there may arise an occasion that necessitates the use of force. In those circumstances, the Bureau requires that members use only the objectively reasonable force necessary to perform their duties and reduce the threat encountered.

The Bureau believes that the revised directive provides clearer guidance to its members; however, any suggestions to further improve this policy are welcome during its next review.

Directive 315.30, Satisfactory Performance, will go into effect on February 28, 2018.

Published on 2/1/18

315.30, Satisfactory Performance

Refer:

- DIR 210.21, Leaves from Service
- DIR 300.00, Statement of Ethical Conduct
- DIR 310.00, Professional Conduct and Courtesy
- DIR 315.00, Laws, Rules, and Orders
- DIR 334.00, Performance Deficiencies
- DIR 1010.00, Use of Force

Policy:

1. 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. 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.

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.
 - 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.
 - 1.2.1. Sworn members shall prioritize and respond to requests for police assistance.
 - 1.2.2. When a community member requests police action or makes a complaint or report (by any means), the receiving Bureau member shall obtain all pertinent information in a professional and courteous manner in accordance with Directive 310.00, Professional Conduct and Courtesy.
 - 1.2.3. Members shall work their designated hours, unless exempt by their RU manager or supervisor. Members assigned to a specific detail or post shall remain on duty until relieved by a supervisor.
 - 1.2.4. Members shall conform to the work standards established for the rank, grade, and position to which they are assigned.
 - 1.2.5. Members shall not feign illness or injury, falsely report themselves ill or injured or otherwise deceive or attempt to deceive the Bureau as to the condition of their physical or mental health.
 - 1.2.6. Members shall not leave their assignments for an excessive amount of time and will manage their time reasonably for breaks and lunch. Supervisors will ensure that sufficient members are available to carry out the assigned duties of the precinct or division. Supervisors are also required to ensure that no more than two uniform patrol vehicles are at the same location while on a lunch or break, unless that supervisor approved a greater number to be present.

- 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.
 - 1.2.8. Members shall take appropriate action on the occasion of a crime, disorder, or other condition requiring police action.
 - 1.2.9. Members who come into contact with stranded individuals or motorists in need of assistance (e.g., vehicle towed on freeway) shall offer assistance to the person(s) and make every attempt to facilitate their safe removal from the area without compromising the member's safety.
 - 1.2.10. Members shall report for duty, unless exempt by their supervisor, at the time and place required by assignment or orders. Members are subject to an emergency recall at any time by their supervisor and shall comply when notified to report for duty. (Trial notices processed through the Court Coordinator's office and any work related judicial subpoenas constitute an order to report for duty under this section.)
 - 1.2.11. Members unable to remain awake while on duty shall notify their supervisor, who will determine the appropriate course of action.
 - 1.2.12. Members shall refrain from conducting personal business while on duty. Members will request time off in advance to conduct personal business or seek supervisor approval if it becomes necessary for the member to be out of service for an extended period of time.
- 1.3. Members who do not demonstrate the ability or knowledge necessary to perform their job-related duties shall be evaluated in accordance with Directive 334.00, Performance Deficiencies.
2. Satisfactory performance during confrontation management:
- 2.1. This subsection sets performance standards for decision making during confrontations, and requires that members use sound tactics and good decision making during a confrontation and work diligently toward applying, when practical, less force than the maximum allowed by the constitutional standard and minimizing or avoiding force when possible. This subsection also requires members to develop and display over the course of their practice of law enforcement good confrontation and force management skills.
 - 2.2. The Bureau requires that members be capable of using effective force on behalf of the public, when appropriate, to manage the risks of confrontations.
 - 2.3. It is the intention of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical.
 - 2.4. The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law.
 - 2.5. When managing a confrontation, members must make confrontation management decisions based on available options reasonably calculated to resolve the confrontation safely and effectively, with as little reliance on force as practical.
 - 2.6. In applying this standard to a member's performance, the Bureau shall evaluate the member's decision making from the perspective of the member at the moment the decisions were made.

This confrontation management standard is separate from and does not modify the use-of-force standard in Directive 1010.00. The relevant inquiry for this confrontation management standard is whether the member pursued the Bureau's goal of resolving a confrontation safely and effectively with as little reliance on force as practical and whether there is a valid reasoning in the member's confrontation management decision-making.

- 2.7. Over the course of their practice of law enforcement, members must develop and display the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of force allowed by the constitutional standard.

History:

- Originating Directive Date: 09/06/01
- Last Revision Signed: 01/30/18
 - Effective Date: 02/28/18
- Next Review Date: 08/28/18

Directive 315.30 – Website comments 5/25/17 through 6/24/17 and 9/1/17 - 9/21/17

Date	Individual	Comment
9/20/17		<p>I support the following comments from the AMA coalition: There are no changes being made in this Directive around officer use of force issues. The Coalition has concerns that officers and/or the police association will interpret the guideline of officers handling situations better over the course of their career to mean there will be no punishment for individual actions early in a career. It must be clear that such punishment is an option for excessive force regardless how long one has been on the PPB.</p>
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9/14/17		<p>DIRECTIVE 315.30 SATISFACTORY PERFORMANCE (and 630.31 ASSISTING MOTORISTS / 311.00 DUTY REQUIRED / 312.00 REQUEST FOR ASSISTANCE)</p> <p>As we wrote in 2014, 2015 and June of this year, "we continue to believe that Directive 315.30, taken as a whole, will be used by officers (and their bargaining units) to defend any individual incident of excessive force, saying the officer only has to display less reliance on force throughout his or her career." We continue to urge the Bureau to rewrite the Directive to explicitly say that if an officer uses too much force or makes poor decisions in one serious incident, it could lead to discipline, a concept which has been put into Directive 1010.00's Policy Section 2.</p> <p>We also still want to see the Bureau remove the language in Section 2.1 that says the Bureau "requires" officers to "apply effective force when necessary," so that officers will not face discipline if they choose not to use force. Section 2.2 says force should be applied "when appropriate," which gives more leeway for those officers not resorting to violence, though better language might be "when reasonable and lawful."</p>

Directive 315.30 – Website comments 5/25/17 through 6/24/17 and 9/1/17 - 9/21/17

		<p>That said, the major revisions to the Satisfactory Performance Directive are delving into specifics of those actions officers might take and be found in violation of policy. Many of the items seem to have grown out of cases that were heard by the Police Review Board in recent years, such as leaving their precincts for personal reasons without permission (Sections 1.2.6 and 1.2.12), failing to show up for shift (1.2.10), and feigning illness (1.2.5). Actually, those sections are being lifted from another policy under review, 311.00 "Duty Required." Other sections on responding to requests for assistance (1.2.1) and responding courteously to community requests for help (1.2.2) came from Directive 312.00 Request for Assistance, also under review. There's another section which is duplicative of Directive 630.31 on assisting motorists. Many people may not know the history of that Directive, which came into effect after a civilian filed a complaint and appealed the outcome to the Police Internal Investigations Auditing Committee (PIIAC), the precursor to the Citizen Review Committee. Based on one case and a recommendation from PIIAC, the Bureau adopted 630.31. This can be a good model for future additions to the Directives.</p> <p>That said, while we are all for consolidating Directives so they are not too numerous to memorize, lumping too much in one place may end up trivializing the importance of such policies as the stranded motorist policy. Thus we suggest keeping 630.31 and 311.00, but adding references that violations of those policies will be considered performance issues under 315.30. Then 315.30 can cross-reference 630.31 and 311.00 among reasons an officer could be found out of policy.</p> <p>It is not clear where the remaining Section (1.2.8) came from, but we are not prepared to track it down in all existing Directives at this time. It reads "Members shall take appropriate action on the occasion of a crime, disorder or other condition requiring police action." As with the Directive on Crowd Control, we are concerned about the vague nature of the term "disorder" as an invitation for police to take "appropriate action." We hope this can be better defined.</p>
9/1/17		1.2.13 Members shall complete all required data collection forms (SDC, MHM) in an appropriate and timely manner. Completing these forms before the end of shift is considered timely.
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6/24/17		315.30 Satisfactory Performance

Directive 315.30 – Website comments 5/25/17 through 6/24/17 and 9/1/17 - 9/21/17

		<p>The phrase “with as little reliance on force as practical” should be changed in all instances to “with as little reliance on force as possible.” There are many instances where violence is probably appears practical to resolve a situation, and may even be practical, but should still not be used. This phrasing is seen in 2.3, 2.4, and 2.5. Avoiding injuring people is not an issue about what is convenient, it’s an issue of if it’s absolutely necessary to prevent further harms.</p> <p>This language is extremely permissive for use of force with just about any justification if an officer couldn’t be bothered to implement a better solution. This language allows officers to use force on anyone who doesn’t comply immediately to an officers demands whether they didn’t hear the officer or if they have some sort of disability that prevents swift compliance, or any countless other circumstances where citizens could be subject to force when it is unnecessary.</p> <p>2.4 should also be changed so that it reads “The Bureau places a high value on resolving confrontations, with the least amount of force possible.” The “less force than the maximum that may be allowed by law” language is borderline offensive. The Bureau should be trying to protect all citizens, not inflicting slightly less than the maximum amount of harm on them as allowable by law. Use of force tends to escalate situations, using the minimum amount of force is in everyone’s best interests.</p> <p>The maximum amount of force allowable by law is a high bar set to help deal with select emergencies. Many argue the current maximum allowable force is far too high. Using the maximum, or close to the maximum amount of force allowable is not an admirable benchmark, and the maximum force, or close to it, should actively be avoided.</p> <p>These directives should make clear that the use of force is a last resort, not just something to fall back on because coming up with another solution would take a little more effort.</p>
6/13/17		<p>As we wrote in 2014 and 2015, "we continue to believe that this Directive, taken as a whole, will be used by officers (and their bargaining units) to defend any individual incident of excessive force, saying the officer only has to display less reliance on force throughout his or her career." We urge the Bureau to rewrite the Directive to explicitly say that if an officer uses too much force or makes poor decisions in one serious incident, it could lead to discipline, or better yet to put that provision into Directive 1010.00.</p>

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