



Police Review Board Public Reports

On August 13, 2010 the Portland City Council replaced Ordinance 183657 with amended Ordinance 183995 establishing a Police Review Board, 3.20.140. The new Board process has a Public Reports component. Section I of the Ordinance requires published public reports twice annually. These memorandums are being posted on the Police Bureau's web site to comply with the Ordinance.

- I. Public reports. As often as deemed necessary by the Board, but at least twice each calendar year, the Board shall publish public reports summarizing its statements of findings and a summary of any training and/or investigation issues or concerns. The reports shall keep confidential and not include involved officers' names, the names of witnesses, or the name of any complainants. The reports shall be written by the Board facilitator. The reports may not be released before a final decision, including discipline if any, is made by the Chief or Commissioner in Charge.

CASE SUMMARY

We have attached this summary on this particular case because the Facilitator Findings and Recommendations memorandum does not provide enough context for the reader to understand the general outline of events.

We have not provided summaries for all of the Facilitators Findings and Recommendations memorandums because they discuss the incidents adequately so that the reader is generally informed about the summary of incident. This summary pertains to the case reviewed on January 5, 2011 involving 4 allegations.

On December 2, 2008, Officers responded to a call at in the 200 block of SE 160th Avenue to check the welfare of mentally ill subject. The subject called BOEC several times that morning. Portland Police officers responded to the location at approximately 4:45 a.m. Officers cleared the call advising the subjects "crisis" was over and that he agreed he would contact Cascadia Health later that day.

At approximately 9:30 a.m. a caller to BOEC stated that the subject was "schizo, screaming, threatening, and breaking doors" at the residence. After arriving at the residence, officers requested Project Respond. Project Respond sent two people to the address and determined that the subject should be taken into custody for a Director's Hold and requested the assistance of the officers.

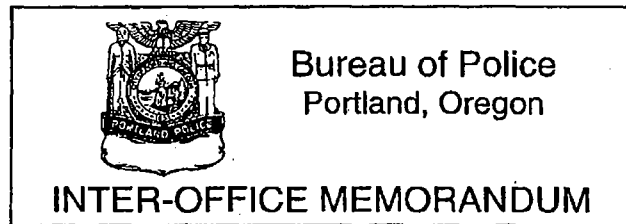
As officers attempted to put handcuffs on the subject he resisted them. The officers were able to get one handcuff on before the subject began to struggle against them. The subject aggressively resisted their attempts to take him into custody. One of the officers was bit by the subject on two occasions, once in the inner thigh and again on his testicle.

The officer struck the subject numerous times in the head during the struggle. It is alleged that one of the officers used a TASER 7 to 10 times while attempting to subdue the subject. After securing the subject, it is alleged that one of the officers kicked the subject in the head. The subject was transported by ambulance to an area hospital.

This investigation began with an email complaint from Cascadia Behavioral Healthcare to IPR stemming from a complaint made by Project Respond regarding the officer's actions with the subject.

A criminal investigation was completed by Portland Police detectives. The criminal investigation was reviewed by the Districts Attorneys Office who declined to prosecute the officer based on insufficient evidence. The incident was then investigated by Internal Affairs.

DATE: January 21, 2011
TO: Christopher Paille
Review Board Coordinator
FROM: Steve Hanamura, Rangineh Azimzadeh
Police Review Board Facilitator and Assistant
SUBJ: Police Review Board Findings and Recommendations



CONFIDENTIAL

The Police Review Board met on Wednesday, January 5, 2011, to review the following case:

IAD Case Number: 2008-C-Redacted
Employee: Officer A #xxxxx and Officer B #xxxx

Allegation #1 *Officer A struck Citizen A four times in the head with his fist.*

Finding: **Unproven / One member**
Exonerated / Four members

Majority Opinion:

Four board members agreed Officer A did punch Citizen A in the head with his fist. However, the majority of the board found there was a lack of clarity in the intention behind the punches in terms of whether they were defensive or offensive.

Minority Opinion:

One board member believed there was not enough evidence to determine whether Officer A did in fact strike Citizen A with his fist.

Allegation #2 *Officer A kicked Citizen A once in the head with his foot.*

Finding: **Unproven / Three members**
Sustained / Two members
Violation of Directive 1010.20 – Physical Force

Majority Opinion:

Three board members determined that, given the facts, it was unproven whether the kick was intentional. One board member noted that while there was no question whether the kick occurred, there was still question as to whether the kick was intentional.

Minority Opinion:

Two board members believed that the kick did occur, that it was intentional, and therefore voted to sustain the allegation. One board member noted that there were two unbiased witnesses that saw the kick take place and whose accounts were consistent. This same

member also noted that even if Officer A kicking Citizen A was a reflex/natural reaction to being bitten in the genitals, his reaction was nonetheless unprofessional and against policy.

Recommendations: Discipline

80 SWOP – One member
Undetermined SWOP – One member (*This member noted that the recommendation was just short of termination and deferred to the Chief to determine the appropriate amount of time for suspension.*)

Allegation #3

Officer A or Officer B tased Citizen A seven to ten times.

Finding 3A: *For use of force:*

Exonerated / Unanimous

Finding 3B: *Number of times Citizen A was tased:*

Unproven / Unanimous

Opinion:

Board members unanimously concluded that Officer A or Officer B did use a taser on Citizen A; however, they also concluded that the number of times Citizen A was tased could not be proven because the instrument that reports the taser's use was harmed as a result of the struggle between the officers and Citizen A.

Allegation #4

Officer A was untruthful in his IAD interview regarding kicking Citizen A in the head.

Finding: **Unproven / Three members**

Sustained / Two members

Violation of Directive 310.50 – Truthfulness

Majority Opinion:

Three board members concluded it was unproven that Officer A was untruthful in his IAD interview. One board member noted that it was unlikely that Officer A would kick Citizen A in front of witnesses.

Minority Opinion:

Two board members felt that Officer A was untruthful in his IAD interview. One board member noted that it was a disconcerting argument that Officer A wouldn't kick a citizen just because people were present. Another board member noted that there were two unbiased witnesses that saw the kick take place and whose accounts were consistent. This member believed that the accounts were accurate and that the kick did occur indicating that Officer A was not truthful about the incident in his IAD interview.

Recommendations:

Discipline

Termination – Two members

Allegation #5

Officer B was untruthful in her IAD interview regarding her statement about her knowledge and observations about Citizen A being kicked in the head by Officer A.

**Finding: Unproven / Four members
Sustained / One member**

Violation of Directive 310.50 – Truthfulness

Majority Opinion:

Four board members concluded that it was unproven whether Officer B actually witnessed the kick given her physical position (i.e. pinning Citizen A to the ground) in relation to Office A at the time of the alleged kick.

Minority Opinion:

One board member noted that Officer B's interviews were inconsistent and that half way through her first interview she rather randomly introduced the concept of Officer A "tripping" over Citizen A. The member further noted that based on the transcripts from the second interview, Officer B appeared to be conflicted about what she saw.

Recommendations: Discipline

80 SWOP – One member

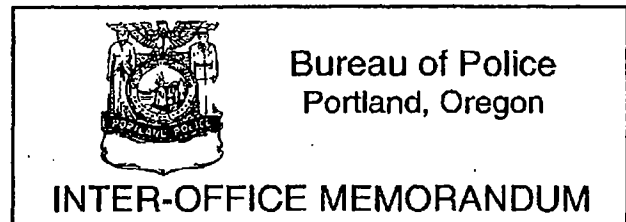
One board member recommended eighty hours of suspension but noted that this recommendation should not be considered as setting a precedent for future cases. Moreover, this member stated that in almost any other case, termination would be recommended but due to the Officer B's extensive tenure with the Bureau and her lack of record of past corrective action, suspension was recommended instead.

Other

One board member noted that the framing of allegations needs to be better clarified in the future. A member of the advisory board noted that a new system that includes more detail has already been implemented.

One board member stated it would be helpful to have a greater degree of leeway in allowing officers to be able to admit their mistakes without the threat of termination of employment – especially in cases involving officers with previously clean records and tenure.

DATE: May 23, 2011
TO: Christopher Paille
Review Board Coordinator
FROM: Joe Hertzberg, Sherri Vacarella
Police Review Board Facilitator and Assistant
SUBJ: Police Review Board Findings and Recommendations



CONFIDENTIAL

The Police Review Board met on Wednesday, May 18, 2011, to review the following case:

IAD Case Number: **10-23336**

Finding: **Within policy / Unanimous
Directive 10.10.10 – Use of Deadly Force**

Analysis:

Board members agreed that Officer A used deadly physical force to protect himself and others from what he reasonably believed to be an immediate threat of death or serious injury from Subject A. The board heard comprehensive evidence presented by the Homicide Division, Internal Affairs Division, the Training Department, and the Precinct Commander which it believed demonstrated that all the standards of the policy had been met. There was discussion concerning the fact that even though Officer A was not originally aware of the aggressive nature of Subject A's behavior, Officer A assessed the situation quickly and responded to the potentially homicidal/suicidal call with reasonable police action. The board believed that the officer's response to the incident showed quick decision-making based on critical analysis of the situation and that he responded with appropriate tactical strategies.

Recommendations:

Training

Board members expressed appreciation that lessons learned from this case have already been incorporated in training.

The board agreed that mental health issues were a likely factor in this case. Members expressed a desire for the Chief's Office to investigate how and when review of some cases by a mental health professional might provide valuable information to improve police response to mentally unstable citizens.

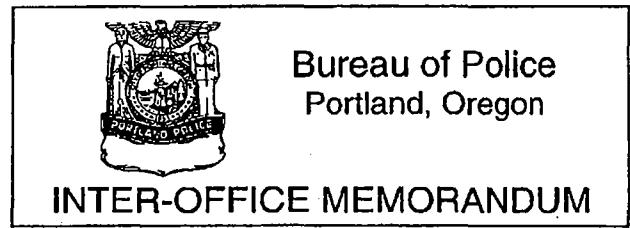
Other – Presentation Format

Board members agreed that they would like presentations in Use of Deadly Force cases to be as concise as possible. Several suggested that they would like to limit redundancy in presentations, with presenters focusing on their unique perspective. While they recognized that some overlap is necessary to adequately present the case, they felt that coordinating presentations would streamline the process and make it more efficient. One member strongly recommended that presentations be limited to the evidence.

Other – Timeline of Investigation-Review Process

The board discussed the length of time it takes to investigate and review Use of Deadly Force cases and bring them to the Police Review Board. They urged that the timeline be compressed as much as possible.

DATE: May 12, 2011
TO: Christopher Paille
Police Review Board Coordinator
FROM: Frances Portillo, Rangineh Azimzadeh
Police Review Board Facilitator and Assistant
SUBJ: Police Review Board Findings and Recommendations



CONFIDENTIAL

The Police Review Board met on Wednesday, May 4, 2011 to review the following case:

IAD Case Number: **IAD #2010-B-**^{Redacted}
Employee: **Officer A #XXXXX**
Sergeant C #XXXXX

Allegation #1 *That Officer A verbally used racial epithets willfully or negligently uttered against or directed at person(s) of a protected Class.*

Finding: **Unproven / One member**
Unproven with a Debriefing / Four members
Violation of Directives 310.00 – Conduct, 315.30 – Unsatisfactory Performance, and 344.00 – Prohibited Discrimination.

Allegation #2 *That Officer A failed to conduct himself in a professional manner, allegedly making oral statements which could impair or diminish the orderly and effective operations of the Bureau.*

Finding: **Unproven / One member**
Unproven with a Debriefing / Four members
Violation of Directives 310.00 – Conduct, 315.30 – Unsatisfactory Performance, and 344.00 – Prohibited Discrimination.

Majority Opinion:
The majority of the board found Officer A's explanation for the incident to be troubling as well as inarticulate, which made it difficult for them to properly assess what was actually said during the incident. Moreover, the lack of clear articulation months later by Recruit Officer B also made it difficult for the board to determine whether or not a racial epithet was used and therefore whether or not Officer A conducted himself in a professional manner.

Most board members felt it was clear the incident created some level of discomfort because it was addressed on two separate occasions by Recruit Officer B. A few board members questioned whether Officer A should continue as a Field Training Officer in the future.

Minority Opinion:

One board member attributed Officer A's inarticulate explanation to the tension and pressure that officers often undergo when participating in an IA interview. This board member also felt that the use of racial epithets is often linked a history or pattern of behavior, which Officer A has not previously demonstrated over the course of his 20 years of service.

Allegation #3

Sergeant C failed to take appropriate action upon learning of Officer A's suspected use of racial epithet(s).

Finding: Sustained / Unanimous

Violation of Directive 315.30 – Unsatisfactory Performance as it relates to 344.00 – Prohibited Discrimination.

Allegation #4

Sergeant C failed to write a report or memorandum to his RU manager upon learning of the alleged act(s) of prohibited discrimination.

Finding: Sustained / Unanimous

Violation of Directive 315.30 – Unsatisfactory Performance as it relates to 344.00 – Prohibited Discrimination.

Opinion:

The board sustained the allegations that Sergeant C failed to both take appropriate action and write a report primarily because the Sergeant admitted to his inaction during his IA interview.

Recommendations:

Discipline

Officer C:

LOR – Unanimous

Officer A:

Debrief – Four members

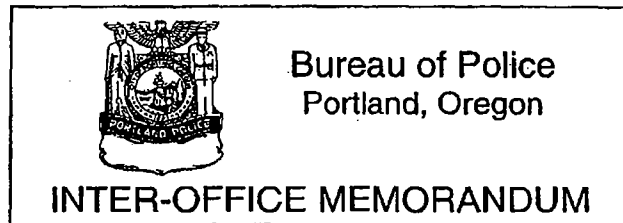
The board recommended that the following points be addressed as part of the debrief:

- Review the Bureau's expectations for the way officers are expected to interact with the community
- Communication, specifically related to how messages that Officer A delivers are received by others
- Consider including Officer B in the debrief process

Other

Training Division should review Officer A to determine his continuation as an FTO.

DATE: February 9, 2011
TO: Christopher Paille
Review Board Coordinator
FROM: Frances Portillo, Rangineh Azimzadeh
Police Review Board Facilitator and Assistant
SUBJ: Police Review Board Findings and Recommendations



CONFIDENTIAL

The Police Review Board met on Wednesday, February 2, 2011 to review the following case:

IAD Case Number: **CRB 2010-^{Redacted}**
Employee: **Officer A #XXXXX**

Allegation #1 *Officer A unsatisfactorily performed his duties as a driver.*

Finding: **Sustained / Unanimous**
Violation of Directive 315.30 – Unsatisfactory Performance

Opinion:

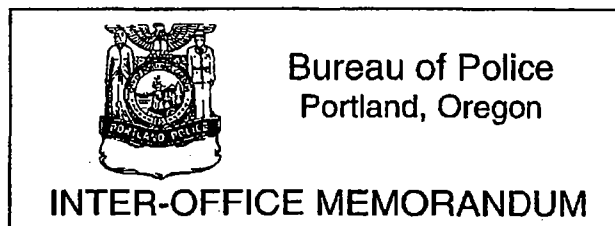
The majority of the board found that the accident Officer A was involved with was preventable and he therefore unsatisfactorily performed his duties as a driver. In determining their finding and recommendation, the board considered that Officer A has been assigned to the road for the past 15 years as well as the fact that his last accident was 5 ½ years ago, which is just outside of the 5 year time increment used to unofficially mark the time in between accidents. One board member also noted that Officer A handled the situation professionally by following proper reporting procedures and using it as a training opportunity for the trainee that was with him at the time.

Recommendations: **Discipline**

10 SWOP – Three members
LOR – Two members

Notes to Review Board Coordinator-IAD Case-2010-~~Redacted~~
Police Review Board- January 12, 2011

DATE: January 26, 2011
TO: Christopher Paille
Review Board Coordinator
FROM: Judith Trotter McAfee
Police Review Board Facilitator
SUBJ: Police Review Board Findings and Recommendations



The Police Review Board met on Wednesday, January 12, 2011, to review the following case:

IAD Case Number: 2010-C-~~Redacted~~

Allegation #1 *Officer A and Officer B racially profiled Citizen A, Citizen B, and Citizen C*
Finding: **Exonerated / Four members**
Unproven/ One member

Majority Opinion:

The board's majority opinion was that these officers are gang enforcement members, and their role is prevention and intervention. They regularly look for clothing or other apparel worn by gang members and for behaviors which might indicate gang relationships.

The board's majority believed that Officer A and Officer B acted appropriately and within policy by stopping three citizens for questioning, given the totality of the situation: 1) Citizen A was wearing gang-related attire (a blue Kansas City Royal (KC) baseball cap often worn by members of a gang known to frequent that area; 2) Citizens A, B, and C were in an area known and reasonably assumed to be a gang area; and 3) all three citizens were walking down the middle of the street in violation of Oregon pedestrian laws.

All members believed that the officers did not racially profile Citizen A and associates, Citizens B and C.

Minority Opinion:

One member believed that the finding was "unproven" based on how the allegation was stated. It is not Bureau policy to racially profile. In addition, member expressed concern about the allegation as written and voted upon. Member believed a finding of "Exonerated" means a clear, unsustained finding. A finding of "Exonerated/Unproven" could lead to community

misperception and could compromise officers' confidence in doing their job.

Allegation #2

Officer A used unnecessary physical force
Finding: **Exonerated/with debriefing/Unanimous**

The board's discussion considered whether it was reasonable to take Citizen A to the ground, or were there other actions the officer could have taken to alleviate or prevent the situation that developed.

Following considerable board discussion and a demonstration of a take-down, one member recommended a discussion with Officer A on other options that could be taken. Another member specifically recommended that a debriefing should occur with a focus on additional communication or verbal commands which could have taken place while placing the citizen in position for control.

Allegation #3

Officer A unnecessarily kned Citizen A in the head after taking citizen to the ground.
Finding: **Unproven/Unanimous**

One member described take-downs as "messy affairs" which can result in getting scraped up. This member did not believe Officer A intentionally kned citizen A in the head: it was an unintentional result of the take-down. Board members concurred with that explanation.

Allegation #4

Officer C used unnecessary force by drawing a gun.
Finding: **Exonerated/Unanimous**

Citizen A claimed to have heard the sound of a gun being cocked. No guns were drawn or presented by any of the three officers at the scene. The type of gun issued by the Bureau is a specific pistol, carried with one round in the chamber; there would not be a need to cock it (which would have created a noise). It is not known what noise Citizen A could have heard that sounded like a gun being cocked.

Allegation #5

Officer A used profanity

Board Memo to Review Board Coordinator
 IAD Case #2010-C-Redacted

Finding: Sustained/Unanimous
Violation of Directive: 310.00-Conduct

Citizen A alleged that Officer A said, "Shut up prick," or "Shut the fuck up." During the IAD investigation, Officer A stated that he did not recall using profanity. Officer B and Officer C, the two other officers on the scene stated that Officer A had used profanity.

One board member indicated that the use of profanity can get good results in some circumstances, and can be justifiable. One member stated that if profanity was used it should have been documented in the officer's report, according to policy.

Two members, while voting to Sustain, did want to add directives:

640.10-Detectives Responsibilities

640.12-Uniform Member Follow-up-Procedures

640.20-Officer/Detective Investigative Responsibilities

There was considerable board discussion, including a review of the Bureau's policy and procedures manual regarding amending the original directive in Allegation #5: from **310.00-Conduct**, to **310.40-Courtesy**, as well as adding directives.

The reasoning for not changing the original directive was that during the investigation Officer A was not addressed on the alleged use of profanity or if it was appropriate.

It was concluded that the directives which were requested as additions were related to investigation and reports, and the concerns expressed by some board members relating to those issues would be addressed in the board recommendation.

Board discussion concluded with agreement that the original **Directive 310.00** for this allegation would remain, and the omission of the use of profanity in the report would be addressed in the board's recommendation.

Recommendations:

Other

The board recommended Command counseling for Officer A. Officer A should be counseled that such language, even when warranted, must be documented in the incident report.

Additionally, two members of the board strongly recommended

Board Memo to Review Board Coordinator
IAD Case #2010-C-Redacted

that as a part of Command counseling with Officer A, there should be specific debriefing on options which could be considered or taken before initiating a take-down.



Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: May 4, 2011
TO: Christopher Paille
Review Board Coordinator
FROM: Judith Trotter McAfee
Police Review Board Facilitator
SUBJ: Police Review Board Findings and Recommendations

The Police Review Board met on Wednesday, April 20, 2011, to review the following case:

CRB Case Number: Redacted

Allegation #1

Officer A did not satisfactorily perform his duties as a driver.

Finding: Sustained/Unanimous

Directive 315.30 – Unsatisfactory Performance as it relates to vehicle operations.

On November 26, 2010, Officer A had completed a traffic stop in the Wal-Mart parking lot on SE 82nd Avenue and took the driver into custody for an outstanding warrant. A second officer (Officer B) arrived on the scene and placed suspect into her patrol car for transport to the MCDC.

In the immediate vicinity of Officer A's stop, a third officer (Officer C) called and asked for cover for a subject stop. Officer A prepared to respond to this call and began to back up. In doing so, he failed to see that his own cover officer (Officer B) had positioned her car behind his after placing suspect in her car. Officer A reported that he did not realize Officer B had not left the scene and her car was still there.

One board member questioned the presence of side mirrors on Officer A's model of car, as well as how much training is given regarding backing up. Several Board members responded that "backing" is a subject always stressed at initial and in-service training. Officer A's incident was considered preventable.

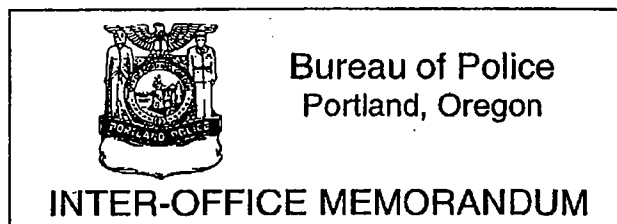
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Recommendation: Discipline
10 SWOP/Unanimous

The Board discussed Bureau practices of progressive discipline and a general "five year rule" that is not a hard rule but rather a general indicator for successive discipline. The first step is usually counseling; the second, a Letter of Reprimand," and the third, time off. Incidents are also judged on other factors. A review of previous steps taken with Officer A followed these general guidelines.

The Board believed that the recommended suspension is justified. Officer A has been with the Police Bureau for about 10 years. Within a little more than five years, Officer A has had three preventable accidents.

DATE: January 21, 2011
TO: Christopher Paille
Review Board Coordinator
FROM: Steve Hanamura, Rangineh Azimzadeh
Police Review Board Facilitator and Assistant
SUBJ: Police Review Board Findings and Recommendations



CONFIDENTIAL

The Police Review Board met on Wednesday, January 5, 2011, to review the following case:

IAD Case Number: **2010-B-Redacted**
Employee: **Officer A #xxxxx**

Allegation #1 *By withholding information Officer A did not fully cooperate with the Internal Affairs Investigation of Redacted*

Finding: **Unproven / One member**
Unproven with debriefing / Three members
Exonerated / One member

NOTE: Commander A changed his original vote from Sustained to Unproven with a debriefing after the statement from the involved member and following discussion.

Majority Opinion:

Four board members concluded it was reasonable to believe that Officer A did not remember the exact phrase that was used for the racial slur when he was questioned about it 33 months after the incident. One board member also noted that the racial slur was not the focus of the original report and therefore the exact phrase was not necessary.

Minority Opinion:

One board member believed that Officer A completed his informational report as outlined by policy.

Allegation #2 *Officer A was not truthful during the internal affairs investigation or appeal process involving IAD case Redacted*

Finding: **Unproven / Two members**
Unproven with debriefing / Three members

Opinion:

All board members concluded that because it was determined to be reasonable that Officer A could not recall the exact phrase of the racial slur 33 months after the incident, it was unproven that he did not fully cooperate by being untruthful during the internal affairs investigation.

Recommendations:

Several board members agreed that emphasis should be made during training that special treatment of officer's children should not be allowed.