DATE: February 16, 2012

TO: Christopher Paille
Review Board Coordinator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator, Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, February 15, 2012 to review the following case:

IAD Case Number: Internal Affairs Case #
Employee:

Allegation #1

Employee *A misrepresented his location to* Supervisor *when he was at* Location *located at SE Division and 165th AV.*
Finding: **Sustained / Five members**
Violation of Directive 310.50 – Truthfulness

Majority Opinion:
The board agreed that Employee A's intent when communicating with his supervising officer Supervisor was deceit or with the intention to mislead. The board noted that in 2009, Employee A had been put on a work plan and had received a letter of expectation, both specifically requiring that he stay in district and conduct no personal business during his workday. The board felt that his response to how he got to his current location was not true; rather than being in the location enroute to the call he had gotten the Stark call. He was over 80 blocks out of his district attending to personal business. One member noted that he did not clarify his actual location at the time of the call until ten minutes later, and then only in response to Supervisor follow up bluff regarding GPS information.

Allegation #2

Employee *A was untruthful in his response to* Supervisor *when he was asked why he was out of his assigned district.*
Finding: **Sustained / Five members**
Violation of Directive 310.50 – Truthfulness

Majority Opinion:
The board noted that the 2009 work plan and letter of expectation provided the motivation for Employee A's deceptive response to Supervisor s direct question as to why he was so far outside of his district. The board felt that Employee A used the word "snoopin" in an effort to falsely indicate that he was engaged in police activity rather than shopping at Location The board agreed that when a

police officer uses the verb "snooping" in reference to on-duty activities, a reasonable person would assume something involving the officer's direct attention to police responsibilities. One member noted that Employee A would not have wanted to admit that he was shopping, since there is a specific directive prohibiting shopping while on duty.

Allegation #3

Employee *A left his assigned district to shop at* Location
Finding: **Sustained / Five members**
Violation of Directive 311.00 – Duty Required

Majority Opinion:
The board believed that Employee A's purpose at Location was to shop for a television. They felt that the officers spent a significant amount of time in the store learning about the products and found that the officers' primary purpose was personal business, specifically shopping.

Recommendation:

Discipline

Termination – Four members
300 SWOP – One member

Four members of the board expressed significant concern over Employee A's ability to work effectively as a police officer, since his obfuscations compromised his professional credibility. These members felt there was clear and convincing evidence of his intent to deceive and wanted to send the appropriate message to the officer and the rest of the force concerning the primacy of implicit trust as a standard of police work.

Based on the board's discussion of the 2001 Empl. Name case, one member had concerns about the possibility of a termination being overturned in arbitration. For this reason, this member suggested a 300 hour suspension.

Other:
All members of the board recommend that Employee C, the other Employee involved, receive either command counseling or some other official support to ensure that he understands the PPB directives the police officer's responsibility to stay in district and conduct no personal business while on duty.

The board unanimously recommends that the Portland Police Bureau standardize the language within its work plans and performance expectation letters so that it is clear and specific that failure to meet the expectations as outlined in the documents can result in a

disciplinary action.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: February 20, 2013

TO: Christopher Paille
Review Board Coordinator

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Recommended Findings

The Police Review Board met on Wednesday, February 20, 2013, to review the following case:

IAD Case Number: Internal Affairs Case #

Involved Members:
Employee 1
Employee 2
Employee 3
Employee 4
Employee 5

Area of Review #1: *Tactical Planning:*

Recommended Finding:
Employee 1– **In Policy-Unanimous**

Applicable Directive:
Directive 1010.10 – Deadly Physical Force

Opinion:
The Board found that the tactical planning that initiated this police response was exemplary from beginning to end: the involved members considered foot traffic, backdrop, and set an intention to keep the suspect in place. The Board noted that contingency plans were developed, including using armor to block the suspect's egress from the site. Further, the decision making was collaborative with . Employee 1 bouncing ideas off other supervisory personnel before determining the tactical plan.

Area of Review #2: *The application of deadly force:*

Recommended Findings:
Employee 2 – **In Policy-Unanimous**
Employee 3 – **In Policy-Unanimous**
Employee 4– **In Policy-Unanimous**
Employee 5– **In Policy-Unanimous**

Applicable Directive:
Directive 1010.10 – Deadly Physical Force

Opinion:
The Board believed that the use of physical force in this instance was consistent with PPB policy and training. One member noted that all the members had a similar view of the suspect and were aware of the suspect's previous actions and that each member reacted to the situation as presented by the suspect. The Board considered the suspect's suicidal intention to have the police kill him and found that the members had no other reasonable response to the situation other than to effect an arrest through the application of potentially deadly force. The Board unanimously agreed that the event was well run and well planned and the result was dictated by the suspect's threat to the community.

Area of Review #3: *Post-shooting Procedure*

Recommended Finding:

Employee 1– **In Policy-Unanimous**
Employee 4 – **In Policy-Unanimous**

Applicable Directive:
Directive 1010.10 – Deadly Physical Force

Opinion:
The Board found that the post-shooting response was an example of well thought out policing. One member noted that when the suspect was down, the members approached to assume custody and noticed that he was eyeing the discarded weapon; to remove any further threat to the members or the suspect, one of the s took control of the weapon. Further, the Board agreed that the members responded to the suspect's immediate medical needs by notifying relevant medical personnel and delivering first aid at the scene and, as soon as possible, relieved the involved members from their responsibilities as dictated by PPB policy.

Recommendations:

Training Case Study
Board members concurred that the police response to this critical incident demonstrated many of the factors associated with exemplary police action and should be used as a positive case study in training. The Board particularly noted the thought processes before, during and after the response to the threat and the phenomenal leadership assumed by Employee 1 in the tactical planning and response.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: March 21, 2013

TO: Christopher Paille
Review Board Coordinator

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Recommended Findings

The Police Review Board met on Wednesday, March 20, 2013, to review the following case:

IAD Case Number: Internal Affairs Case #

Involved Members:
Employee 1
Employee 2
Employee 3
Employee 4
Employee 5
Employee 6
Employee 7
Employee 8

Area of Review #1: *The Application of Deadly Force:*

Recommended Findings:
Employee 1 – **In Policy** / seven members
Employee 2 – **In Policy** / seven members

Applicable Directive:
Directive 1010.10 – Deadly Physical Force

Opinion:
The Board found that the use of deadly physical force in this event complied with PPB policy directives and training expectations. One member noted that the response to the critical event began with Employee 1 and Employee 2 establishing a plan and successfully executing the plan. The involved members set an intention to communicate with the suspect to resolve the suicidal crisis and preserve his life. The Board noted that the police action was going very well until Named Individual changed his tone and began to speak of shooting a police officer. When the suspect pointed a weapon at the police members, the threat of injury or death of one or both of the members was real. The Board found that the deadly force response was reasonable in the face of the threat posed by Named Individual

Area of Review #2: *The operational planning and actions prior to contact:*

Recommended Findings:
Employee 3 – **In Policy** / seven members
Employee 1 – **In Policy** / seven members
Employee 2 – **In Policy** / seven members
Employee 4 – **In Policy** / seven members
Employee 5 – **In Policy** / seven members
Employee 6 – **In Policy** / seven members
Employee 7 – **In Policy** / seven members

Applicable Directive:
Directive 024.00 – Community Police Purpose
Directive 310.00 – Conduct, Professional

Opinion:
The Board believed that the use of pre-contact planning and actions in this instance were consistent with PPB policy and training. One member noted that the pertinent police roles were divided up and cover officers were established. The suspect was approached reasonably and the physical environment carefully considered. Further, the involved officers were aware of the suspect's suicidal state and the potential presence of a weapon and that each member collaborated with the rest, effectively following the command structure and responding to the changing situation as necessary. The Board considered the suspect's suicidal intention to have the police kill him and found that the involved members had no other reasonable response to the situation other than to effect an arrest. The Board unanimously agreed that the event was well run and well planned in response to the suspect's threat to himself, the PPB members and the community.

Area of Review #3: *Post-shooting Procedure*

Recommended Findings:
Employee 8 – **In Policy** / seven members
Employee 3 – **In Policy** / seven members
Employee 1 – **In Policy** / seven members
Employee 2 – **In Policy** / seven members
Employee 4 – **In Policy** / seven members
Employee 5 – **In Policy** / seven members
Employee 6 – **In Policy** / seven members
Employee 7 – **In Policy** / seven members

Applicable Directive:
Directive 1010.10 – Deadly Physical Force
Directive 630.50 -- Emergency Medical Aid

Opinion:
The Board found that the post-shooting actions were all within policy and training. Board members noted that Employee 2 cleared his weapon immediately after it malfunctioned and quickly returned to his offensive position in response to the immediate threat of deadly force from the suspect's weapon. One member noted that after the shooting the involved members were unable to see the suspect because he had dropped behind a concrete structure of the parking deck; this situation made it impossible to render aid because the threat of danger had shifted from potential to reasonable. The Board noted that tactical resources were immediately called and relevant units were activated. A member said that it was clear that Employee 1 set the tone for the remainder of the event with a calm radio report and maintained his supervisory role until it was safe and reasonable to release responsibilities.

Recommendations:

Debriefing / Thirteen Members

The Board recommends that the training division conduct a debriefing of this incident with Bureau members in an in-service patrol tactics setting.

Control of Information Released to Media / Thirteen Members

The Board recommends that the pertinent details concerning a Use of Deadly Physical Force investigation should not be released by the PPB until the involved members have been interviewed by the Internal Affairs investigators. Board members noted that consistency in the release of information is an important element in developing the trust of the community in the integrity of the PPB, and a general policy will provide this effect. Further, the Board agreed that in the rare case that release of information is a reasonable PPB action, this should be a unanimous decision of those present at the Chief's briefing of the incident.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: September 24, 2012

TO: Chief Michael Reese
Chief of Police

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 19, 2012, to review the following case:

IAD Case Number: Internal Affairs Case #
Employees: Employee **A**
Employee **F**

Allegation #1 Employee *A was unprofessional ~~and used profanity~~ during an argument with* Employee *F and in a subsequent conversation with* Supervisor

The Board amended the allegation, with one abstention, removing the element of profanity because the documentation did not support profanity within the argument with Employee F.

Finding: **Sustained / Three members**
Unproven / One member
Abstained / One member
Violation of Directive 310.00 – Conduct, Professional

Majority Opinion:
The Board reviewed the information in the file and determined that the work space in which Employee A and Employee F argued was open to the earshot of numerous PPB employees. While the Board agreed that members should have the ability to disagree with one another and settle disagreements within the work environment, the directives require that these disagreements be handled with courtesy and respect. One member noted that although the evidence in support of the first part of the allegation, concerning the argument with Employee F, could not be upheld, the second part of the allegation was clearly supported by the evidence. The majority of the Board believed that Employee A's attempt to "vent" in Supervisor M's office was inappropriate due to the expletive filled language that Employee A expressed in front of a third party.

Minority Opinion:
One member of the Board agreed that the first part of the allegation was clearly without evidentiary support, due to the inconclusive responses from employee interviews. Although this member agreed that the

conversation in Supervisor office was clearly inappropriate, the wording of the allegation precluded this member's agreement on the sustained finding.

Allegation #2 Employee *F was unprofessional ~~and used profanity~~ during an argument with* Employee *A.*

The board unanimously amended the allegation, removing the element of profanity because the documentation did not support profanity within the argument with Employee F.

Finding: **Sustained / Three members**
Unproven / One member
Unproven with a debriefing / One member
Violation of Directive 310.00 – Conduct, Professional

Majority Opinion:
The majority of the Board was convinced that Employee F responded in an unprofessional manner to Employee A when she asked for assistance. One member noted that a fellow employee stated in an interview that the discord between Employee A and Employee F was so commonplace it was necessary to "tune it out" in order to effectively work in the unit. The Board agreed that Employee F and A had signed a written agreement to change the inappropriate interactions between them, and found that this argument fell within that agreement.

Two members of the Board could not find the allegation worthy of sustaining, noting that the interview evidence provided by other employees had not been specific enough to rise to the level of unprofessional behavior.

Allegation #3 Employee *A made inappropriate and unprofessional comments to* Employee *G.*

Finding: **Sustained / Five members**
Violation of Directives 310.00 – Conduct, Professional; 315.30 -- Unsatisfactory Performance

The Board unanimously agreed to add **Violation of Directive 344.00 – Prohibited Discrimination.**

Majority Opinion:
The Board believed that Employee A's comments to Employee G were further evidence of discriminatory and harassing language toward protected classes of individuals. The Board unanimously agreed that the offensive language does not necessarily need to be directed at a particular individual or group to be found out of compliance, but that the use of such discriminatory language is a violation of the PPB directives intended to provide a fair and equitable work environment for all employees.

Recommendations: Discipline

Employee A:
20 SWOP – Three Members
40 SWOP – One Member
Termination – One Member

In considering recommendations for discipline of Employee A, the Board combined three current Police Review Board cases: #IAD Internal Affairs Case #, #IAD Internal Affairs Case #, and #IAD Internal Affairs Case # Of particular importance to the majority of the Board was the unfortunate history of the dynamics of the work environment. The majority of the Board felt that Employee A has made a good faith effort to improve her communication skills and has taken responsibility for her part in the strained relationships that characterize the work environment within her unit.

One member noted that Employee A's comments on multiple occasions referenced the identities of many protected classes and that she had not heeded either the PPB training she received or the written agreement she had with the Bureau to reign in inappropriate comments within the workplace.

One member felt that Employee A hasn't demonstrated the aptitude to interact with others in a professional and appropriate manner, and this member believed that the expectations of the PPB should preclude her continued employment.

Employee F:
LOR – Three Members
The three members felt that Employee F had signed an agreement and did not uphold it as promised.

DATE: September 24, 2012

TO: Christopher Paille
Review Board Coordinator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 19, 2012, to review the following case:

IAD Case Number: Internal Affairs Case #
Employee: Employee **A**

Allegation #1 *On November 13, 2011* Employee *A made unwanted and unprofessional comments to* Employee *B.*

Finding: **Sustained / Five members**
Violation of Directives 310.00 –Conduct, Professional; 315.30 – Unsatisfactory Performance; 344.00 – Prohibited Discrimination ; (BHR Rule 2.02)

The Board added **Violation of Directive 315.00 – Laws, Rules and Orders,** noting that the rule in reference is BHR Rule 2.02.

Majority Opinion:
The Board found that Employee A's behavior did in fact occur, and did in fact embarrass Employee B and did, in fact, reference a protected class. Noting that the directives are meant to protect everyone from conduct at the workplace that undermines the employee's status based on personal identity, the Board felt that Employee A's behavior constituted discrimination and harassment of Employee B as a young man. The Board felt that attention to appropriate and precise language is clearly expected of members of the PPB, as directed by the Manual of Policy and Procedure.

Allegation #2 *On November 12, 2011* Employee *A made unwanted and unprofessional comments to* Employee *B .*

Finding: **Sustained / Five Members**
Violation of Directives 310.00 – Conduct, Professional; 315.30 – Unsatisfactory Performance; 344.00 Prohibited Discrimination; (BHR Rule 2.02)

The Board added **Violation of Directive 315.00 – Laws, Rules and Orders,** noting that the rule in reference is BHR Rule 2.02.

Majority Opinion:
The Board considered all the evidence in the case file, including the HR investigation, and determined that Employee A's behavior violated both the spirit and the letter of the directives in question. One member stated that it is reasonable to assume that the "remark" comment was perceived as gender bias and was sexual in nature. The Board felt the comment in reference to remark was clearly directed to Employee B's race. The Board agreed that the Employee A's references to Employee B constituted both sexual and racial discrimination, as well as discourteous behavior toward a fellow PPB member.

Recommendations: Discipline

20 SWOP – Three Members
40 SWOP – One Member
Termination – One Member

In considering recommendations for discipline, the Board combined three current Police Review Board cases: #Internal Affairs Case # #Internal Affairs Case # -, and #IAD Internal Affairs Case # Of particular importance to the majority of the Board was the unfortunate history of the dynamics of the work environment. The majority of the Board felt that Employee A has made a good faith effort to improve her communication skills and has taken responsibility for her part in the strained relationships that characterize the work environment within her unit.

One member noted that Employee A's comments on multiple occasions referenced the identities of many protected classes and that she had not heeded either the PPB training she received or the written agreement she had with the Bureau to reign in inappropriate comments within the workplace.

One member felt that Employee A hasn't demonstrated the aptitude to interact with others in a professional and appropriate manner, and this member believed that the expectations of the PPB should preclude her continued employment.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: September 24, 2012

TO: Christopher Paille
Review Board Coordinator

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 19, 2012, to review the following case:

IAD Case Number: Internal Affairs Case #
Employee: Employee

Allegation #1

Employee A referred to Employee C as Employ Z's "remark 1", the "remark 2" remark 2 and compared her to the remark 3.

Finding: **Sustained / Five members**
Violation of Directives 344.00 –Prohibited Discrimination;
310.40 – Courtesy

Majority Opinion:
The Board discussed the three alleged references and found that Employee A had used racially offensive language in reference to Employee C. The Board excluded the remark 3 reference from the finding because the members believed that the comment was vague and not directed specifically toward Employee C. The members agreed that ethnic references can be measured most appropriately by the general perception of those within earshot; intent to be offensive is not a necessary condition to find a violation of these directives. While recognizing that the work environment was less than optimal, the Board believed that Employee A's comments demonstrated a lack of cultural sensitivity within the workplace, and her language rose to a level of discriminatory and discourteous behavior.

Allegation #2

Employee A pressured Employee C to change her written report to Internal Affairs regarding IA Case Number Internal Affairs Case #

Finding: **Unproven / Five Members**
Violation of Directive 310.20 – Retaliation Prohibited

Majority Opinion:
The Board found insufficient evidence that Employee A had applied undue pressure on Employee C to change her IA report. One member noted that Employee A had requested an addendum rather than a modification to the

information. The Board agreed that there was not enough information to yield a sustained finding on this allegation.

Recommendations: Discipline

20 SWOP – Three Members
40 SWOP – One Member
Termination – One Member

In considering recommendations for discipline, the Board combined three current Police Review Board cases: #Internal Affairs Case # Internal Affairs Case # and #Internal Affairs Case # Of particular importance to the majority of the Board was the unfortunate history of the dynamics of the work environment. The majority of the Board felt that Employee A has made a good faith effort to improve her communication skills and has taken responsibility for her part in the strained relationships between the employees within the unit.

One member noted that Employee A's comments referenced the identities of many protected classes and that she had not heeded either the PPB training she received or the written agreement she had with the Bureau to reign in inappropriate comments within the workplace.

One member felt that Employee A hasn't demonstrated the aptitude to interact with others in a professional and appropriate manner, and this member believed that the expectations of the PPB should preclude her continued employment.

DATE: September 24, 2012

TO: Christopher Paille
Review Board Coordinator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 19, 2012, to review the following case:

IAD Case Number: Internal Affairs Case #
Employee: Employee
Allegation #1 *While off duty,* Employee *A operated a motor vehicle while under the influence of alcohol.*

Finding: **Sustained / Five members**
Violation of Directives 315.00 –Laws, Rules and Orders; 310.00 – Conduct, Professional

Majority Opinion:
The Board unanimously found that the evidence of the case, including applicable police reports, blood draw results, and the member's admission, leads to an irrefutable conclusion on this allegation.

Allegation #2 *While off duty,* Employee *A attempted to elude a pursuing* County Name *County Sheriff's Deputy.*

Finding: **Unproven with a debriefing / Five Members**
Violation of Directives 310.00 – Conduct, Professional, 315.00 – Laws, Rules and Orders

Majority Opinion:
The Board agreed that the investigation of the PPB provided reasonable doubt as to the strength of this allegation. One member noted that the report found the distance of the purported attempt to elude was very short, challenging the acceleration necessary to reach the high speeds cited in the County Name County Sheriff's incident report.

Allegation #3 *While off duty,* Employee *A used his official position as a police officer to gain an advantage in a personal conflict.*

Finding: **Sustained/ Three Members**
Unproven with a debriefing / Two Members
Violation of Directive 313.00 – Misuse of official position or identification

Majority Opinion:
The Board discussed this allegation at length, noting that Employee A's motives for identifying himself as a police officer were likely complex. The entire Board agreed that Employee A's motive surely included the desire to deescalate the tone of the interaction with the Deputy, and likely included the desire to assure the Deputy that neither Employee nor Emp Fmly Mmbr were a threat to his safety. The majority, however, found that upon seeing Emp Fmly Mmbr being detained by the Deputy, Employee A wanted to "reset" the situation and influence the deputy's handling of Emp Fmly Mmbr The majority of the Board thought that this was a definite attempt to use his status to obtain a more favorable outcome for Emp Fmly Mmbr While the entire Board understood Employee A's action, the majority thought it a clear violation of both the spirit and the letter of the directive. One member noted that though this is not a gross violation of the directive, it is important for police officers to understand that this expectation of entitlement of preferential treatment due to professional status is not acceptable within the PPB.

Minority Opinion:
Two members of the Board believed that reassurance of officer safety was the likely reason Employee A identified himself as a police officer and they agreed that there was no evidence that his action was an attempt to gain advantage from his status as a police officer.

Allegation # 4

While off duty, Employee A was uncooperative and discourteous to an on-duty law enforcement official attempting to perform a lawful enforcement function.

Finding: **Sustained / Five Members**
Violation of Directive 310.00 – Conduct, Professional

Majority Opinion:
The Board found that the evidence, including Employee A's personal statement, supported the sustained finding that comments Employee A made to the Deputy were inappropriate. A member noted that the young Deputy called upon additional police support during the arrest, and this fact supports the conclusion that the Deputy believed that Employee A was not behaving in a cooperative and courteous manner.

Allegation #5 *While off duty, Employee A drove recklessly in violation of Oregon Law.*

Finding: **Sustained / Five Members**
Violation of Directive 315.00 – Laws, Rules and Orders

Majority Opinion:
The plea agreement to the charge led the Board to a sustained finding on this allegation.

Recommendation: Discipline

80 SWOP – Five Members
The board unanimously agreed that these charges were significantly more than the typical DUI charges, which generally receive 40 SWOP. The 80 SWOP seemed sufficient due to the fact that he already paid severe consequences through the court system.

DATE: November 14, 2012

TO: Christopher Paille,
Review Board Coordinator

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

FROM: Frances Portillo, Randi Moore
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, November 14, 2012, to review the following case:

IAD Case Number: Internal Affairs Case #
Employee: Employee

Allegation 1: Employee A reported for work with alcohol in his system.
Bureau Substance Abuse Policy
Findings: Sustained – unanimous

Allegation 2: Employee A consumed alcohol while on duty.
Bureau Substance Abuse Policy
Findings: Sustained – unanimous

Analysis: The Board heard an overview of the incident as well as a statement from Employee A. He reported Personal medical information Personal medical information

The Board discussed and agreed to remove both Directive 316.00 – Alcohol Use and BHR 4.01 from the allegations and noted that the allegation should be violation of the Bureau's Substance Abuse Policy.

Recommendation: **Based on the policy as written, the board felt they were compelled to recommend termination. (4 members, abstain 1 member).**

Alternative Recommendation:
Given the unique circumstances of this case, the Board recommends an 80 hour suspension with a Last Chance Agreement and execution of a rehabilitation agreement pursuant to the contract. (Unanimous)

The majority found that there were mitigating circumstances that called

for an exception to the restrictive Bureau Substance Policy.

One member noted that this is a slippery slope to have a policy that recommends termination but to then say unless there are mitigating circumstances. This member concurred reluctantly with the alternative recommendation.

DATE: December 10, 2012

TO: Christopher Paille
Review Board Coordinator

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on Wednesday, December 5, 2012, to review the following case:

IAD Case Number: Internal Affairs Case #

1. **Administrative review into the Application Deadly Force by Employee 1 and 2.**

   Employees: Employee 1
   Employee 2

   Recommended Findings:
   Employee 1 – In-Policy / Seven Members
   Employee 2 – In-Policy / Seven Members

   Directive 1010.10 – Deadly Force

   Discussion:
   The Board found that the use of deadly force by Employees 1 and 2 was in direct response to the subject's application of deadly force. Even though there was information coming about the incident progressed, the Board noted that separate interviews yielded consistencies on critical aspects of the situation; these findings supported the use of deadly force in this case.

2. **Administrative review into the Application of the Use of Cover Fire by Employee 2 and Employee 3**

   Employees: Employee 2
   Employee 3

   Recommended Findings:
   Employee 2 In-Policy / Seven Members
   Employee 3 – In-Policy / Seven Members

   Directive 1010.10 – Deadly Force

   Discussion:

The Board believed that the use of cover fire by Employee 2 and Employee 3 met the standards of the policy. The employees understood that they needed to extract Employee 1 and they maintained this as their primary focus. The Board noted that Employee 3 reminded Employee 2 to administer one round per second and Employee 2 responded appropriately. In addition, the Board realized that Employee 2 found a safe backstop, effectively communicated with Employee 1 before beginning the cover fire, and found appropriate cover for himself. The Board agreed that these actions composed a textbook example of the use of cover fire.

3. Administrative review into the Application of the Critical Incident Supervision by Employees 3, 4, 5.

Employees: Employee 3
Employee 4
Employee 5 **#33878**

Recommended Findings:
Employee 3 In-Policy / Seven Members
Employee 4 – In-Policy / Seven Members
Employee 5 – In-Policy / Seven Members

Directive 1010.10 – Deadly Force

Discussion:

The Board found the supervisory actions of the employees 3, 4, 5 were appropriate in the light of the quickly unfolding situation. The members of the Board unanimously agreed that the circumstances did not permit the desired level of supervisory coordination. The Board noted the suspect's tactical advantage and the compressed time of the incident, and they concluded that the supervisory decisions made by the employees were appropriate given these circumstances.

Recommendations:

Training Case Study

Board members concurred that the police response to this critical incident demonstrated many of the factors associated with police action within a fast moving critical incident and many of the elements would be useful for consideration as a training case study.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: December 10, 2012

TO: Christopher Paille
Review Board Coordinator

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

IAD Case Number: Internal Affairs Case #
Employee: Employee **A**

Allegation #1 Employee *A failed to respond in person to contact the victim of a sexual assault.* **315.30 – Unsatisfactory Performance**

Allegation #2 Employee *A failed to adequately investigate a sexual assault and write a report.* **315.30 – Unsatisfactory Performance**

Note: The Board unanimously approved reframing the three allegations into one. The five members agreed that the underlying issues of allegations #1 and #2 are included in the elements of allegation #3 and the review proceeded with the Board considering only allegation #3.

Allegation #3 Employee *A failed to adequately investigate a sexual assault and write a report.*

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

Majority Opinion:
The Board found that the evidence clearly supported this finding. One member noted that Employee A did not consider the incident a sexual assault, but instead confined potential charges to a misdemeanor charge of harassment. The Board reviewed the details of the incident and found that the victim was incontrovertibly assaulted in a sexual manner. The Board agreed that Employee A's approach demonstrated a very lackadaisical attitude toward the victim and her story and failed to provide the highest standards of police service expected by the PPB. One member noted the responsibility of police officers to investigate all crimes and the Board believed that Employee A had failed to take the appropriate action in this case.

Recommendations: Discipline

10 SWOP – Three Members
20 SWOP – One Member
LOR – One Member

The majority of the Board recommended 10 SWOP, noting Employee A's history of discipline within the PPB and his current plans for retirement from the PPB.

One member of the Board recommended 20 SWOP, citing the comparables that had been presented during the recommendations phase of the review.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: October 19, 2012

TO: Christopher Paille
Review Board Coordinator

FROM: Frances Portillo, Sherri Vacarella
Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

IAD Case Number: Internal Affairs Case #
Employee: Employee
Allegation #1 Employee *participated in* Speciality Unit *function after being removed from the* Speciality Unit *and while on paid administrative leave.*

Finding: **Sustained / Five members**
Violation of Directives 315.00 – Laws, Rules and Orders, 315.30 – Unsatisfactory Performance

Majority Opinion:
The Board found that Employee had received clear directions based on his work plan, which had been written to specifically get his attention and assist him in improving his performance as an Employee with the PPB. One member noted that the documents detailing the work plan were plainly articulated and concisely prescribed participation in the Speciality Unit The Board noted that Employee Employee signature on the work plan indicated his understanding of the agreement. The Board unanimously agreed that all of the occasions in which he actively participated in the Speciality Unit during his administrative leave were against these written orders.

Recommendations: Discipline

120 SWOP plus Last Chance Agreement – Four Members
120 SWOP – One Member

In lieu of termination, four members of the Board recommended 120 hours SWOP and a last chance agreement. The nature of the misbehavior was explicitly linked to insubordination by two of the members of the Board, and these members wished to send a clear message to Employee concerning the critical importance of a subordinate employee following the directions of supervisors. The majority of the Board agreed that Employee history with Bureau dictates a significant response in order to impress upon him one final time the expectations of the command in regards to this issue.

One member of the Board considered the previous disciplinary actions brought against Employee and the timing of them and felt that the misconduct of the past had been dealt with and should not influence the current recommendation. Although this member found the last chance agreement to be inappropriate given the previous SWOP and work plan, the member agreed with the rest of the Board in recommending 120 SWOP for the misconduct currently in consideration.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: October 19, 2012

TO: Christopher Paille
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Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

CONFIDENTIAL

IAD Case Number: Internal Affairs Case #
Employee: Employee

Allegation #1

On November 29, 2011 Employee *made several sexually suggestive comments to* Employee

Finding: **Sustained / Five members**
Violation of Directives 344.00 – Prohibited discrimination, 310.00 – Conduct, Professional, 310.40 – Courtesy, 315.30 – Unsatisfactory Performance, B.H.R. Rule 2.02

Opinion:
The Board unanimously agreed that Employee A's comments to Employee B demonstrated a lack of respect and dignity that should be accorded to all employees within the PPB work environment. The Board felt that the comment violated the highest standards of conduct expected and denied Employee B an environment free of harassment.

Allegation #2

In October 2011, Employee *A made sexually suggestive remarks directed at* Employee *B.*

Finding: **Sustained / Five members**
Violation of Directives 344.00 – Prohibited discrimination, 310.00 – Conduct, Professional, 310.40 – Courtesy, 315.30 – Unsatisfactory Performance, B.H.R. Rule 2.02

Opinion:
The Board considered the evidence concerning the incident in the location and even though they unanimously agreed that the exact exchange between Employee B and A could not be determined, they agreed that the comments made by Employee A were unprofessional, discourteous and failed the "highest standard of conduct" expectations of the PPB. The Board felt that referring to another employee's body parts in any form would fall into this category

Allegation #3

Sometime in the summer of 2011, Employee *A made sexually suggestive*

comments to Employee *B.*

Finding: **Unproven / Three members**
Unproven with a debrief / Two members
Violation of Directives 344.00 – Prohibited discrimination, 310.00 – Conduct, Professional, 310.40 – Courtesy, 315.30 – Unsatisfactory Performance

Opinion:
The Board unanimously believed that the comment Employee A made about Employee B being "Remark" in Precinct fails to rise to the Board's understanding of the meaning of "sexually suggestive." Two members felt that Employee A should be debriefed on the importance of considering the potential of implications of specific language and the necessity of reflecting on these before making such comments.

Allegation #4

On November 30, 2011 Employee *A placed a* item *in* Employee *C' mailbox in response to a roll call discussion about slow cover.* Employee *A placed a second* item *in* Employee *C' mailbox on December 1, 2011.*

Finding: **Sustained / Five members**
Violation of Directives 310.20 – Retaliation Prohibited, 310.00 – Conduct, Professional, 315.30 – Unsatisfactory Performance, 344.00 – Prohibited discrimination, B.H.R. Rule 2.02

Majority Opinion:
The Board found that the evidence incontrovertibly supported this finding, due to Employee A's self reporting to his supervisor regarding both incidents. That this action was in retaliation for a request for concern raised by another employee was of significant concern to the Board. One member noted that Employee's choice of a item description product demonstrated an unprofessional attitude toward females within the force as well as a retaliatory intent.

Minority Opinion:
One member believed that Directive 310.20 – Retaliation Prohibited did not apply to this allegation and sustained only on the other three directives.

Recommendations:

Discipline

80 SWOP plus appropriate training – Four Members
40 SWOP plus appropriate training – One Member

The majority of the Board recommended 80 SWOP for the purpose of sending the appropriate message to Employee A that his frequent, on-going comments directed at one female employee would not be tolerated, as this behavior demonstrated a deep disrespect of women. The majority of the Board felt 80 SWOP would facilitate the necessary changes in his behavior. One Board member mentioned that the Bureau is working hard to bring diversity into the ranks and that a culture of respect is expected from all employees. Another member mentioned that the contemporary culture of the PPB is different from times past and the message sent to women in the Bureau is equally important; women are respected as professionals in the PPB and inappropriate behavior, regardless of its intent or its victim's response, will be seriously considered by the command structure.

One member of the Board recommended 40 SWOP, noting that the behavior was very offensive, but after listening to the comparables, aggravating factors and mitigating factors, the more extensive level of discipline might not be sustained through the process, putting the PPB in a difficult defensive position.

The Board unanimously recommended that a training program specifically be designed by PPB Personnel and BHR for the purpose of further educating Employee A on the changes in language and behavior he needs to make. All five members felt that this should be implemented in order to effectively assist Employee A in successfully changing his behavior.

DATE: December 19, 2012

TO: Christopher Paille
Review Board Coordinator

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Police Review Board Facilitator and Assistant

SUBJ: Police Review Board Findings and Recommendations

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

IAD Case Number: Internal Affairs Case #
Employee: Employee

Allegation: Employee *A acted in an unprofessional manner while disciplining his* Extended family member

Finding: **Exonerated with debriefing / Three members**
Sustained / Two members

Violation of Directive 310.00 – Conduct, Professional

Majority Opinion:
All the members of the Board believed that the incident involving Employee A's discipline of his Ext. family member was regrettable. However, three members of the Board found that Employee A's behavior did not rise to the standard of a violation of the professional conduct expected of a member of the PPB. One member specifically cited the follow-up investigation by the Clackamas County District Attorney, noting that the DA had declined to prosecute, specifically writing, "It is not in the interest of justice to criminalize Employee A's behavior in this specific incident." One member reminded the Board that many lawful behaviors might be considered to be unprofessional by various groups within the community, but this would not justify IA investigations in the vast majority of cases. Another member noted that the school and DHS also considered the incident and declined to investigate further. This member stated that the PRB should take its cue from these other concerned bodies.

Minority Opinion:
Two members of the Board sustained the allegation on the basis of the intense physical nature of the response Employee A had to his Ext. family member disrespectful behavior. One member said that while physically disciplining a child is well within Oregon law, Employee A's behavior was not so much discipline, but an emotional reaction in anger and that it reached the level of unprofessional behavior because of its physical intensity. Another member noted that the standard of

evidence considered by the DA is "beyond a reasonable doubt," a higher level of proof being necessary to bring criminal charges. Citing the difference in the evidentiary standards between the judiciary and the PRB, these two members felt that the preponderance of evidence supported the finding of unprofessional behavior in this incident.

Recommendations:

Discipline

40 SWOP and Debrief with Follow-up – Two Members
Debriefing With Follow-up Plan – Three Members

The two sustaining members believed that a period of time off is necessary to impress upon Employee A the serious nature of responding physically when provoked by anger. Both members stated that Employee A has done an admirable job of front line police work for a lengthy period of time and this was an important area of consideration in their recommendation.

The entire Board commended Employee A's willingness to serve on the streets of the city for the last twenty-eight years. All of the members agreed that Employee A needs and deserves further assistance. They acknowledge the EAP work that Employee A has already been doing and wanted to add assurances that the issue had been satisfactorily addressed.

The Board unanimously recommended that Employee A receive a debriefing with Supervisor Names, who are familiar with the circumstances, for the purpose of developing a follow-up plan which addresses Employee A's particular issues. Supervisor Names will determine when the plan has been satisfactorily completed.