Portland Police Bureau

Police Review Board:

Summaries and Reports

June 15, 2014 and December 25, 2014

Released: January 2015

Portland Police Bureau
1111 SW 2nd Ave.
Portland OR 97204

The Police Review Board is an advisory body and makes recommendations as to findings and proposed officer discipline to the Chief of Police. The board may make recommendations to the chief regarding the adequacy and completeness of an investigation and may also make policy or training recommendations.

A Police Review Board is composed of five voting (V) members and four or more advisory (A) members: one community member (V), one peer member (V), the assistant branch chief who is the supervisor of the involved member (V), the Director of IPR (or designee) (V), a commander or captain who is the supervisor of the involved member (V), the Professional Standards Division Captain (A), a representative of the Bureau of Human Resources (A), a representative of the City Attorney's Office (A), the Review Board Coordinator (A), the Policy Director for the Mayor's Office (A), the Training Division Captain (or designee) (A), and the assistant chiefs who are not the supervisors of the involved member (A).

When an incident reviewed by the board involves an officer involved shooting, an instance when physical injury caused by an officer requires hospitalization, an in-custody death, or a less lethal incident where the recommended finding is "out of policy", one additional citizen member drawn from the pool of current Citizen Review Committee members, and one additional peer member, serve on the board for a total of seven voting members.

The attached Police Review Board findings memos and summaries are provided in accordance with City Charter Chapter 3.20.140 - Police Review Board and include cases that closed during the time period June 15, 2014 and December 25, 2014.

The board memos provided with this release are for boards that occurred during a span of time which includes both the previous and amended versions of City Charter Chapter 3.20.140 (amended by Ordinance Nos. 183995 and 186416, effective February 7, 2014). The summary reports are provided to deliver relevant information in a uniform format and include:

- Allegation(s) heard by the Board.
- A factual summary of the case.
- Summary of the Board's discussion.
- Record of the Board's vote, including recommended findings and discipline.
- Training and policy recommendations, including whether the recommendations were accepted by the Chief.
- The final decision of the Chief or Commissioner in Charge.

Prior to a hearing by the Police Review Board, investigations are reviewed by the Office of Independent Police Review, the Police Bureau Professional Standards Division, the Police Bureau manager of the involved member, and the Police Bureau Assistant Chief who oversees the assigned branch of the involved member.

Case #	2012-B-0039
Summary	Employee 1 engaged in a pattern of unsatisfactory performance and did so contrary to an order given to via a letter of expectation by a former captain and division lieutenant.
Allegation 1	Employee 1 failed to dispatch on-call Child Abuse Team detectives to the hospital when informed by [medical program] that a child was admitted with serious physical injuries.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinions	The board unanimously agreed the MDT protocol was not followed when training had been previously provided. Employee 1's actions were in violation of directive 640.30, which resulted in the inability to file charges.
Allegation 2	Employee 1 was dismissive toward staff and doctors at [medical program].
Recommended finding Allegation 2	Board members said Employee 1 actions could have been misinterpreted and there could have been implicit bias toward law enforcement. Employee 1 appeared to act dismissively because of the amount of time which passed before assigning detectives in two cases. However, it could not be determined.
Allegation 3	Employee 1 failed to follow a Letter of Expectations that was issued on May 2, 2012.
Recommended findings for Allegation 3	Sustained (Unanimous)
	Board members said the Letter of Expectations centered around judgment and decision-making. Employee 1 clearly failed to follow the letter.
Recommended disciplines	80 SWOP (3), Demotion (1), 80 SWOP w/Demotion (1)
Opinions	**Majority opinion:** Three members recommended 80 hours SWOP based on comparators. One member expressed demotion would also be appropriate but would exceed the comparators. **Minority opinions:** One board member recommended demotion because Employee 1 failed to follow clear expectations and established protocols. One board member recommended demotion and 80 hours SWOP and expressed that Employee 1 does not deserve current rank based on demonstrated lack of moral character and poor decision-making.
Final disciplinary outcome	Employee resigned.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Case #	2013-B-0003
Summary	Employee 2 told Employee 3 that, approximately 18 months prior, Employee 1 inappropriately touched Employee 2. Employee 3 reported this incident to Employee 4 by memorandum.
Allegation 1	Employee 1 inappropriately touched Employee 2.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	Board members said that while there were no witnesses to corroborate the inappropriate touching, Employee 1 had shown to be not credible by giving false statements. In contrast, Employee 2's statement did appear credible based on motivations and the consistent accounts of others with whom Emplyee 2 spoke. Employee 2 is a longtime loyal employee who had no reason to be untruthful.
Allegation 2	Employee 1 was untruthful during and Internal Affairs interview.
Recommended finding Allegation 2	Sustained (Unanimous)
Opinion	The board unanimously found there was clear and convincing evidence Employee 1 was untruthful during the investigation, in violation of directive 310.50. Several witnesses, both sworn and unsworn employees, said they had seen Employee 1 engage in the inappropriate behavior.
Allegation 3	On multiple occasions, Employee 1 [engaged in inappropriate behavior/conduct].
Recommended finding for Allegation 2	Sustained (Unanimous)
Opinion	The board unanimously found overwhelming evidence Employee 1 violated directive 310.00 and HRAR 2.02.
Recommended discipline	Termination (Unanimous)
Opinion	Board members unanimously agreed to recommend termination based on Employee 1's failure to be truthful during the Internal Affairs investigation. Members agreed the evidence was clear and convincing and the Bureau cannot function without truthfulness.
Final disciplinary outcome	Employee resigned.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: 12/13/2013

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin, EnviroIssues
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Wednesday, December 4, 2013, to review the following cases:

IAD Case Number: **2012-B-____**

Employee: **Employee #1**

Case Summary: Employee #1 engaged in a pattern of unsatisfactory performance and did so contrary to an order given to [redacted] via a letter of expectation by a former captain and division lieutenant.

Allegation #1: *Employee #1 failed to dispatch on-call Child Abuse Team detectives to the hospital when informed by [redacted] that a child was admitted with serious physical injuries.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **640.30 – Child Abuse Investigations**

Majority Opinion:
The board unanimously agreed the MDT protocol was not followed when training had been previously provided. Employee #1's actions were in violation of directive 640.30, which resulted in the inability to file charges.

Minority Opinion:
N/A

Allegation #2: *Employee #1 was dismissive toward staff and doctors at [redacted]*

Recommended Finding: **Unproven with debrief / Five members**
Applicable Directive: **310.00 – Conduct, Professional**

Majority Opinion:
Board members said Employee #1 actions could have been misinterpreted and there could have been implicit bias toward law enforcement. Employee #1 appeared to act dismissively because of the amount of time which passed before [redacted] assigned detectives in two cases. However, it could not be determined.

Minority Opinion:
N/A

Allegation #3: *Employee #1 failed to follow a Letter of Expectations that was issued on May 2, 2012,*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **315.30 – Unsatisfactory Performance**

Majority Opinion:
Board members said the Letter of Expectations centered around judgment and decision-making. Employee #1 clearly failed to follow the letter.

Minority Opinion:
N/A

IAD Case Number: **2013-B-____**

Employee: **Employee #1**

Case Summary: Employee #2 told Employee #3 on February 12, 2013, that approximately 18 months prior, Employee #1 inappropriate touching of employee 2 inappropriate touching of employee 2 Employee #3 reported this incident to Employee #4 by memorandum.

Allegation #1: *Employee #1 inappropriately touched Employee #2.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **344.00 – Prohibited Discrimination; HRAR 2.02 – Prohibition Against Workplace Harassment, Discrimination and Retaliation**

Majority Opinion:
Board members said that while there were no witnesses to corroborate the inappropriate touching, Employee #1 had shown pronoun was not credible by giving false statements. In contrast, Employee #2's statement did appear credible based on pronoun motivations and the consistent accounts of others with whom pronoun spoke. Employee #2 is a longtime loyal employee who had no reason to be untruthful.

Minority Opinion:
N/A

Allegation #2: *Employee #1 was untruthful during pronoun nternal Affairs interview on June 18, 2013,*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **310.50 – Truthfulness**

Majority Opinion:
The board unanimously found there was clear and convincing evidence Employee #1 was untruthful during the investigation, in violation of directive 310.50. Several witnesses, both sworn and unsworn employees,

said they had seen Employee #1 [redacted]

Minority Opinion:
N/A

Allegation #3: *On multiple occasions, Employee #1* [redacted] *at the* [redacted] *while* [redacted]

Recommended Finding: **Sustained / Five members**
Applicable Directive: **310.00 – Conduct Professional; HRAR 2.02 – Prohibition Against Workplace Harassment, Discrimination and Retaliation**

Majority Opinion:
The board unanimously found overwhelming evidence Employee #1 violated directive 310.00 and HRAR 2.02.

Minority Opinion:
N/A

Recommendations: Corrective Action/Discipline

The board chose to discuss corrective action/discipline recommendations on each of the sustained allegations separately and not on the totality of the allegations.

IAD Case # 2012-B-____

80 hours SWOP / Three board members
Demotion / One board member
80 hours SWOP and demotion / One board member

2012-B-____ Majority Opinion:
Three members recommended 80 hours SWOP based on comparators. One member expressed demotion would also be appropriate but would exceed the comparators.

2012-B-____ Minority Opinions:
One board member recommended demotion because Employee #1 failed to follow clear expectations and established protocols.

One board member recommended demotion and 80 hours SWOP and expressed that Employee #1 does not deserve [redacted] current rank based on [redacted] demonstrated lack of moral character and poor decision-making.

IAD Case # 2013-B-____

Termination - Unanimous

2013-B-____ Majority Opinion
Board members unanimously agreed to recommend termination based on Employee #1's failure to be truthful during internal affairs investigation. Members agreed the evidence was clear and convincing and the Bureau cannot function without truthfulness.

2013-B-____ Minority Opinion:
N/A

No other recommendations.

Case #	2013-B-0017
Summary	Employee 1, working uniform patrol, self-dispatched on a burglary call. Employee 1 was on the call for approximately 90 minutes while a priority call was being dispatched in Employee 1's district. Employee 1 wrote a very short report regarding the burglary incident. GPS indicated Employee 1's patrol car was at a different location for the duration of the burglary call.
Allegation 1	Employee 1 took a burglary call by phone, without responding to the scene, and took an unreasonable amount of time to complete the investigation and report.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	PRB members believed Employee 1 did not follow clear bureau standards in: 1) Assessing the burglary call on the scene with complainant, instead spent approximately 90 minutes on the call; 2) Community service expected from the public was not exemplified (mistreatment of the public); 3) Police report was substandard.
Recommended discipline	160 SWOP (1), 80 SWOP (4)
Opinion	**Majority opinion:** The majority of the board found Employee 1 has never taken ownership of past behaviors leading to suspensions. The police report reflects that a hot call came in while on the burglary call in which Employee 1 took out-of-play and responsibility (for approximately 90 minutes), not displaying district integrity. It is noted that the complaint came from peers. Employee 1 is cited in the report for preparing for a meeting while on the call. Employee 1 makes poor judgment calls which impacts work product. Employee 1's work pattern does not meet performance objectives. **Minority opinion:** One member believed Employee 1 would not change in following outlined written directives with 80 hours suspension without pay. Employee 1 has previously received discipline and has expressed no change in behavior. Employee 1 also expresses disrespect for human beings.
Final disciplinary outcome	Eighty (80) hour suspension without pay.
Reason discipline outside recommended range	No applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: December 23, 2013

TO: Christopher Reese
Review Board Coordinator

FROM: Juanita Walton
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

The Police Review Board met on Wednesday, December 18, 2013, to review the following case:

IAD Case Number: **Internal Case Number**

Employee: **Employee**

Case Summary: Employee, working uniform patrol, self-dispatched on a burglary call at [redacted] NE Halsey Street. [redacted] was on the call for approximately 90 minutes while a priority call was being dispatched in [redacted]s district. [redacted] wrote a very short report regarding the burglary incident. GPS records indicate tha[redacted] car was at SE 52nd Ave and Stark Street for the duration of the call.

Allegation #1: Employee took a burglary call by phone without responding to the scene and took an unreasonable amount of time to complete the investigation and report.

Recommended Finding: **Sustained /Unanimous**
Applicable Directive: **315.30 – Unsatisfactory Performance**

Opinion:
Board members believed that Employee did not follow clear Bureau standards in: 1)Assessing the burglary call on the scene with complainant, instead spent approximately 90 minutes on the call 2)Community service expected from the public was not exemplified (mistreatment of the public) 3)Police report was substandard.

Recommendations: <u>Corrective Action/Discipline</u>

160 hours Suspension without pay-One member
80 hours Suspension without pay-Four members

Please note: Extensive discussion took place to determine the above recommendations. Although the board cannot recommend Last Chance Agreement, discussion took place as to whether Employee was "fit" for the Bureau.

Majority Opinion:
The majority of the board found that Employee has never taken ownership of past behaviors leading to [redacted] suspensions. The police report reflects that a

hot call came in while on the burglary call in which Employee took pronoun out-of-play and responsibility (for approximately 90 minutes), not displaying district integrity. It is noted that the complaint came from peers. pronoun is cited in the report for preparing for a meeting - identifying info while on the call. pronoun makes poor judgment calls which impacts work product. pronoun work pattern does not meet performance objectives.

Minority Opinion:
One member believed Employee would not change in following outlined written directives with 80 hours suspension without pay. Employee has previously received discipline and has expressed no change in behavior. pronoun expresses disrespect for human beings.

The board recommended Employee receive 80 hours suspension without pay.

No other recommendations.

Case #	2013-B-0007
Summary	Employee 1 made ongoing offensive, sexual and derogatory comments regarding women. Employee 1 acted unprofessionally when he shared with employees objectionable details about personal life.
Allegation 1	Over a period of several months, Employee 1 made ongoing offensive, sexual, and derogatory comments regarding women in the presence of others.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	PRB members unanimously found Employee 1 engaged in a pattern of behavior over a series of months in violation of the directive and HRAR 2.02. Employee 1 admitted making alleged comments in some instances. In four other instances, Employee 1 could not recall specifics but witnesses said the statements occurred.
Allegation 2	Employee 1 acted unprofessionally when Employee 1 shared with officers objectionable details about personal life.
Recommended finding Allegation 2	Sustained (Unanimous)
Opinion	The PRB said the comments were made in an inappropriate, public setting where children were present and could have overheard the objectionable statements. Two of three employees specifically recalled hearing the statements and were offended by them. Employee 1 admitted to an incident that occurred in Employee 1's personal life, but was using the story as a teaching moment. The PRB failed to see the value of the story for teaching purposes in the setting and manner in which it was told.
Recommended disciplines	40 Suspension without Pay [SWOP] (3 members), 20 SWOP (1 member), Demotion (1 member)
Opinion	Three board members recommended 40 hours SWOP based on comparators and the impact Employee 1's use of offensive language had on others. The members said 40 hours was appropriate based on Employee 1s' rank and the need to lead by example. One member said 40 hours SWOP seemed severe, but recommended it. One board member recommended 20 hours SWOP based on Employee 1's actions. A lesser suspension was recommended because of Employee 1's long history of good performance in the community. The inappropriate actions were seen as isolated to a three month period. One board member recommended demotion due to a concern with Employee 1's ability to act appropriately as a supervisor. The member said there could be a potential liability to the Bureau with Employee 1 serving in a leadership capacity
Final disciplinary outcome	Forty hour suspension without pay.
Reason discipline outside recommended range	Not outside range.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

DATE: February 12, 2014

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin, EnviroIssues
Police Review Board Facilitator

SUBJ: Police Review Board Recommendations

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

The Police Review Board met on Wednesday, Jan. 29, 2014, to review the following case:

IA Case Number: **Internal Case Number**
Employee: **Employee #1**

Case Summary: On numerous dates, Employee #1 allegedly made sexual and derogatory comments about women in the presence of other officers.

Allegation #1 *Over a period of several months, Employee #1 made ongoing offensive, sexual, and derogatory comments regarding women in the presence of others.*

Recommended Finding: **Sustained / Unanimous**

Applicable Directive: 310.00 – Conduct, Professional; HRAR 2.02 prohibited against work place harassment discrimination and retaliation

Majority Opinion:
Board members unanimously found Employee #1 engaged in a pattern of behavior over a series of months in violation of the directive and HRAR 2.02. In four instances, Employee #1 agreed pronoun had made comments consistent with the allegations. In four other instances, Employee #1 could not recall specifics, but more than one witness said the statements occurred.

Allegation #2 *Employee #1 acted unprofessionally when pronoun shared with officers objectionable details about pronoun personal life.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: 310.00 – Conduct, Professional

Majority Opinion:
The Board said the comments were made in an inappropriate, public identifying info setting where children were present and could have over heard the objectionable statements. Two of the three identifying info

who specifically recall hearing the statements were offended by them. Employee #1 admits pronoun old of an incident that occurred in pronoun personal life, but pronoun was using the story as a teaching moment. The Board failed to see the value of the story for teaching purposes in the setting and manner in which it was told.

Recommendations: <u>Corrective Action / Discipline</u>

40 hours SWOP – Three members
20 hours SWOP – One member
Demotion – One member

Three board members recommended 40 hours SWOP based on comparators and Employee #1's impact on others with pronoun offensive language. The members said 40 hours was appropriate based on pronoun rank and the need to lead by example. One member said 40 hours SWOP seemed severe, but recommended it.

One board member recommended 20 hours SWOP based on pronoun actions. A lesser suspension was recommended because of Employee #1's long history of good performance in the community. The inappropriate actions were seen as isolated to a three month period.

One board member recommended demotion due to a concern with pronoun ability to act appropriately as a supervising officer. The member said there could be a potential liability to the Bureau with Employee #1 serving in a leadership capacity.

No other recommendations.

Case #	13-B-0019
Summary	Employee 1 [inappropriately touched] Employee 2 while they were standing near Employee 2's desk. Employee 1 asked Employee 2 if Employee 2 had heard that Employee 3 had been placed on administrative leave. Employee 1 remarked that it was [expletive]. Employee 2 responded that Employee 2 wasn't permitted to talk about Employee 3's situation.
Allegation 1	Employee 1 inappropriately touched Employee 2.
Recommended findings Allegation 1	Sustained (3), Unproven (1), Unproven with Debriefing (1)
Opinions	**Majority opinion:** Employee 1 admitted to performing a gesture but denied touching Employee 2. There was no admission on Employee 1's part that Employee 1 touched Employee 2. However, the majority believed the touching occurred based on a preponderance of the evidence and found Employee 2's statements credible. **Minority opinion:** One board member felt that there were no witnesses to confirm the physical contact in question violated policy. One board member felt it was relevant that Employee 2 had asked 2-3 times to see the joke and that context matters.
Allegation 2	Employee 1 ridiculed Employee 2 for making a complaint about another Bureau member.
Recommended findings Allegation 2	Unproven with Debriefing (4), Unproven (1)
Opinions	**Majority opinion:** No one could corroborate the exchange between Employees 1 & 2 in which Employee 1 inquired about another employee and allegedly used profanity. **Minority opinion:** One board member felt that Employee 1 was genuinely asking about another employee.
Allegation 3	Employee 1 was untruthful during Internal Affairs interview.
Recommended findings Allegation 3	Sustained (Unanimous)
Opinion	Employee 1 admitted in second interview that Employee 1 had been untruthful in first interview. Board members determined that Employee 1 had made the decision to be untruthful for four months.
Recommended discipline	Termination (4), 300 SWOP with Last Chance Agreement (1)
Opinions	**Majority opinion:** Four board members emphasized that there is a higher standard for police, and any allegation of untruthfulness carries great weight. With a sustained finding of Untruthfulness, Employee 1 can no longer be called as a witness, ostensibly preventing Employee 1 from doing job. **Minority opinion:** One board member felt that strong discipline (300 hour suspension) was required but that this was a mistake, not a lie, and shouldn't end a career.
Final disciplinary outcome	Employee resigned.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

DATE: February 6, 2014

TO: Christopher Paille
Review Board Coordinator

FROM: Mark Fulop
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on Wednesday, February 5, 2014, to review the following case:

IAD Case Number: **2013-B-0019**

Employee: **Employee 1**

Allegation #1: *Employee 1 inappropriately touched Employee 2 at [redacted] desk.*

Recommended Finding: **Sustained/ 3 Board Members**
Unproven/ 1 Board Member
Unproven w/debriefing / 1 Board Member

Applicable Directives: **310.00 – Conduct, Professional**
HRAR 2.02 – Prohibition Against Workplace Harassment, Discrimination and Retaliation

Majority Opinion:
Employee 1 admitted to performing the gesture referred to as a [redacted] denied touching Employee 2. There was no admission on Employee 1's part that [redacted] ouched Employee 2. However, the majority believed the touching occurred based on a preponderance of the evidence and found Employee 2's statements credible.

Minority Opinion:
One board member felt that there were no witnesses to confirm the physical contact in question violated policy.

One board member felt it was relevant that Employee 2 had asked 2-3 times to see the joke and that context matters.

Allegation #2: *Employee 1 ridiculed Employee 2 for making a complaint about another Bureau member.*

Recommended Finding: **Unproven w/debriefing / 4 Board Members**
Unproven / 1 Board Member

Applicable Directives: **310.20 – Retaliation Prohibited**
HRAR 2.02 – Prohibition Against Workplace Harassment, Discrimination and Retaliation

Majority Opinion:
No one could corroborate the exchange between Employees 1& 2 in which

Employee 1 inquired about another employee and allegedly used profanity.

Minority Opinion:
One board member felt that Employee 1 was genuinely asking about another employee.

Allegation #3: *Employee 1 was untruthful during [redacted] Internal Affairs interview on July 24, 2013.*

Recommended Finding: **Sustained / Unanimous**

Applicable Directives: **310.50 – Truthfulness**

Opinion:
Employee 1 admitted in [redacted] second interview that [redacted] had been untruthful in [redacted] first interview. Board members determined that Employee 1 had made the decision to be untruthful for four months.

Recommendations: Corrective Action/Discipline

Termination / 4 Board Members
300 SWOP w/Last Chance Agreement / 1 Board Member

Majority Opinion:
Four board members emphasized that there is a higher standard for police, and any allegation of untruthfulness carries great weight. With a sustained finding of Untruthfulness, Employee 1 can no longer be called as a witness, ostensibly preventing [redacted] from doing [redacted] job.

Minority Opinion:
One board member felt that strong discipline (300 hour suspension) was required but that this was a mistake, not a lie, and shouldn't end a [redacted] career.

No other recommendations.

Case #	2013-C-0017
Summary	Employees 1 and 2 were off duty with their families when they had contact with a male subject on the street. The man made a motion like he was racking a round into a shotgun and aimed the imaginary weapon in the direction of their group and said that he was going to kill them. The group passed the man and went into a local business. While the rest of the group waited in line inside the business, Employee 1 left the business and walked up the street. He eventually encountered the man and the man ran away. Employee 1 returned to the business with the rest of the group. A short time later, the man leaned inside the business and Employee 1 contacted him at the door. There was a struggle at the door, and then man left and walked down the street. Employees 1 and 2 followed the man and Employee 2 knocked the man to the ground. Both employees struggled to detain the man until on-duty officers arrived.
Allegation 1	Employee 1 took inappropriate off-duty police action when Employee 1 pursued and arrested Person 1.
Recommended findings Allegation 1	Sustained (4 members), Unproven with Debriefing (1)
Opinions	**Majority opinion:** Employee 1 did not need to exit the business, they were in a safe location, there were plenty of witnesses, and they had access to 911. The off-duty Employees 1 & 2 were unprepared to take independent action to take Person 1 into custody. **Minority opinion:** One board member felt that there was no evidence that Employee 1 had failed to consider the factors that would have made an off-duty independent action appropriate. This was a perceived person, not property, crime and so off-duty intervention was appropriate. Also, Employee 1 did not make a decision to arrest, Employee 1 made a decision to assist Employee 2.
Allegation 2	Employee 2 took inappropriate off-duty police action when Employee 2 pursued and arrested Person 1
Recommended findings Allegation 2	Sustained (4 members), Unproven with Debriefing (1)
Opinions	**Majority opinion**: Employee 2 did not need to exit the business, they were in a safe location, there were plenty of witnesses, and they had access to 911. The off-duty Employees 1 & 2 were unprepared to take independent action to take Person 1 into custody. **Minority opinion:** Employee 2 perceived an assault against Employee 1, giving Employee 2 probable cause to exit the business to assist Employee 1.
Allegation 3	Employee 1 used inappropriate force to arrest Person 1.
Recommended findings Allegation 3	Sustained (4 members), Exonerated (1)

Opinions	**Majority opinion:** Force is only to be used when and to the extent reasonably necessary. First, officers are instructed to use de-escalation tools and consider totality of circumstances. There is a discrepancy about what happened at the doorway of the business and the use of force. The majority of the board members felt that there was nothing in the facts that rose to the level necessary for an off-duty officer to take independent action or use of force. **Minority opinion:** After Person 1 had been physically subdued by Employee 2, Employee 1 assisted Employee 2 in maintaining control over Person 1, and in keeping the crowd at bay as the patrol officers arrived.
Allegation 4	Employee 2 used inappropriate force to arrest Person 1.
Recommended finding for Allegation 4	Sustained (Unanimous)
Opinion	Even if the takedown of Person 1 was appropriate, and the initial shove was appropriate, two of the punches took place after Employee 1 had control over Person 1's other arm, indicating that those two punches did not meet the Graham Standard, even if this current standard is different than the one officers were originally trained on and spent most of their career complying with. The policy changed in 2008 and officers must comply with current standards.
Recommended disciplines	Employee 1: 20 SWOP (4), None (1). Employee 2: 20 SWOP (4), LOR with retraining (1)
Opinions	**Majority opinion:** These were two very experienced officers who had worked together for a long time, with deep knowledge of the part of town where the incident occurred. Board members know and respect these officers and their service as part of the Bureau. But the entire evening in question seemed to be fraught with peril and poor decision-making. Based on comparators, this recommendation seemed reasonable. **Minority opinion:** Employee 2 did not intend to engage in physical fight with Person 1, rather Employee 2 intervened to assist after perceiving an assault against Employee 1.
Final disciplinary outcome	Twenty hour suspension without pay (Employee 1 and 2)
Reason discipline outside recommended range	Not outside range.
Other recommendations	Note to record.
Status of recommendations	Note to record included in recommended findings memo to chief.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: February 6, 2014

TO: Christopher Paille
Review Board Coordinator

FROM: Mark Fulop
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Wednesday, February 5, 2014, to review the following case:

IAD Case Number: **2013-C-0017**

Employees: **Employee 1**
Employee 2

Allegation #1: *Employee 1 took inappropriate off-duty police action when pronoun pursued and arrested Person 1.*

Recommended Finding: **Sustained / 4 Board Members**
Unproven w/debriefing / 1 Board Member

Applicable Directive: **311.30 – Off Duty Responsibilities of Officers**

Majority Opinion:
Employee 1 did not need to exit location name - identifying info, they were in a safe location, there were plenty of witnesses, and access to 911. The off-duty Employees 1 & 2 were unprepared to take independent action to take Person 1 into custody.

Minority Opinion:
One board member felt that there was no evidence that Employee 1 had failed to consider the factors that would have made an off-duty independent action appropriate. This was a perceived person, not property, crime and so off-duty intervention was appropriate. Also, Employee 1 did not make a decision to arrest pronoun made a decision to assist Employee 2.

Allegation #2: *Employee 2 took inappropriate off-duty police action when pronoun pursued and arrested Person 1.*

Recommended Finding: **Sustained / 4 Board Members**
Unproven w/debriefing / 1 Board Member

Applicable Directives: **311.30 – Off Duty Responsibilities of Officers**

Majority Opinion:
Employee 2 did not need to exit location name - identifying info they were in a safe location, there were plenty of witnesses, and access to 911. The off-duty Employees 1 & 2 were unprepared to take independent action to take Person 1 into custody.

Minority Opinion:
Employee 2 perceived that [redacted] was witnessing an assault against Employee 1, giving [redacted] probable cause to exit the [redacted] to assist Employee 1.

Allegation #3: *Employee 1 used inappropriate force to arrest Person 1.*

Recommended Finding: **Sustained / 4 Board Members**
Exonerated / 1 Board Member

Applicable Directive: **1010.20 – Physical Force**

Majority Opinion:
Force is only to be used when and to the extent reasonably necessary. First, officers are instructed to use de-escalation tools and consider totality of circumstances. There is a discrepancy about what happened at the doorway of the [redacted] and the use of force. The majority of the board members felt that there was nothing in the facts that rose to the level necessary for an off-duty officer to take independent action or use of force.

Minority Opinion:
After Person 1 had been physically subdued by Employee 2, Employee 1 assisted Employee 2 in maintaining control over Person 1, and in keeping the crowd at bay as the patrol officers arrived.

Allegation #4: *Employee 2 used inappropriate force to arrest Person 1.*

Recommended Finding: **Sustained / Unanimous**
Applicable Directive: **1010.20 – Physical Force**

Opinion:
Even if the take down of Person 1 was appropriate, and the initial shove was appropriate, two of the punches took place after Employee 1 had control over Person 1's other arm, indicating that those two punches did not meet the Graham Standard, even if this current standard is different than the one officers were originally trained on and spent most of their career complying with. The policy changed in 2008 and officers must comply with current standards.

Recommendations: <u>Corrective Action/Discipline</u>

Employee 1:
20 SWOP – 4 Board Members
No Discipline – 1 Board Member

Majority Opinion:
These were two very experienced officers who had worked together for a long time, with deep knowledge of the part of town where the incident occurred. Board members know and respect these officers and their service as part of the Bureau. But the entire evening in question seemed to be fraught with peril and poor decision-making. Based on comparators, this

recommendation seemed reasonable.

Minority Opinion:
Employee 1 has no history of bad decisions and that should be considered in this decision. Recommended re-training under the Graham standard and debriefing.

Employee 2:
20 SWOP – 4 Board Members
LOR w/retraining on Graham Standard – 1 Board Member

Majority Opinion:
Again, these were two very experienced officers who had worked together for a long time, with deep knowledge of the part of town where the incident occurred. Board members know and respect these officers and their service as part of the Bureau. But the entire evening in question seemed to be fraught with peril and poor decision-making. Based on comparators, this recommendation seemed reasonable.

Minority Opinion:
Employee 2 did not intend to engage in physical fight with Person 1, rather [redacted] intervened to assist after perceiving an assault against Employee 1.

Other

Board members requested a notation for the record that this incident took place more than a year ago, and under the previous protocol it was recommended that both criminal and administrative parts of investigations should happen consecutively. The new process is that when an investigation crosses over to IAD, the criminal and administrative investigations are conducted concurrently, rather than needing to wait until the criminal investigation is concluded before starting the administrative investigation. Thus, if the same incident had occurred today, the timing of the administrative investigation would have been handled differently.

Case #	2013-B-0042
Summary	Employee 1 asked Employee 2 to run someone in system. Employee 2 was concerned about the reason for the check and informed Supervisor 1 about concerns. Supervisor 1 spoke to Employee 1 about the check, and Employee 1 said the check was for spouse.
Allegation 1	Employee 1 lied to another employee about true purpose when Employee 1 asked another employee to conduct a background credit check.
Recommended findings Allegation 1	Sustained (3), Unproven with Debriefing (2)
Opinion	**Majority opinion:** Board members reviewed all investigative materials in this case including Employee 1's tenure at the Police Bureau with no prior incidents. Based on the facts presented, and the generally held public trust value and importance placed on a police officer acting with truthfulness at all times, PRB members struggled to reach unanimous finding on this allegation. Three of five members found by preponderance of the evidence that the officer "knowingly and willfully departed from the truth" by fabricating a rationale when asked another officer to conduct a credit check on a third party private citizen. By majority vote, applying a preponderance of the evidence standard the Board sustained a finding of untruthfulness under Directive 310.50. **Minority opinion:** Two members felt the relative degree of ambiguity in both employee's recounting of events, combined with Employee 1's prompt truthfulness during the investigation, could reasonably lead to a finding of Unproven with a Debriefing.
Allegation 2	Employee 1 asked another officer to use a bureau account to conduct a credit check for personal reasons.
Recommended findings Allegation 2	Sustained (Unanimous)
Opinions	By a preponderance of the evidence the PRB unanimously Sustained findings of a violation of every applicable directive and rule, 1226.0, 310.70, HR 4.09, and HR 4.08.
Recommended discipline	Termination (3), 40 SWOP (1), 10 SWOP (1)

Opinions	**Majority opinion:** Three members who reached the finding of Sustained voted for termination, expressing the shared belief that a police officer carries a heightened duty of truthfulness in all instances, especially when in a position to manage sensitive information, as Employee 1 did. Members who recommended termination did so using the preponderance of the evidence standard, applicable in all PRB reviews. However, they suggested that if a clear-and-convincing evidence standard were applied (as in termination proceedings), their recommendation would shift to suspension with an unproven finding for the truthfulness allegation. If this were the case, the three members would recommend an 80 hours SWOP. Members expressed doubt for whether an officer who accesses protected information for personal use is fit to return to a where would have continued access to sensitive personnel information. Managers provided assurances that Employee 1 would not return to the same division. **Minority opinion:** The minority opinion is specific to the two members who did not recommend a sustained finding of untruthfulness. One member recommended a 40-hour suspension, noting that while application of a clear and convincing standard would most likely result in a suspension, he felt a forty-hour suspension is sufficient discipline. One member recommended a 10-hour suspension, noting the officer's long tenure with the Police Bureau and historically clean record warranted a short suspension combined with a firmly worded debriefing letter.
Final disciplinary outcome	80 SWOP
Reason discipline outside recommended range	Allegation of untruthfulness unproven using a clear and convincing evidence standard.
Other recommendations	Strongly worded debriefing.
Status of recommendations	Completed.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: February 24, 2014

TO: Christopher Paille
Coordinator Police Review Board

FROM: Dena Marshall, Marshall Mediation
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Thursday, February 19, 2014, to review the following case:

IAD Case Number: **Internal Case Number**

Employee: **Employee 1**

Case Summary: On October 14, 2013, Employee 1 asked Employee 2 to run someone in identifying info Employee 2 was concerned about the reason for the check, and pronoun informed Supervisor 1 about pronoun concerns. Supervisor 1 spoke to Employee 1 about the check, and Employee 1 said that the check was for pronoun identifying info

Allegation #1: *Employee 1 lied to another officer about pronoun true purpose when pronoun asked another PPB officer to conduct a background credit check.* (CONDUCT)

Recommended Finding: **Sustained – three members**
Unproven with a debriefing- two members
Applicable Directive: **310.50 - Truthfulness**

Majority Opinion:
Board members reviewed all investigative materials in this case including Employee 1's identifying info enure at the Police Bureau with no prior incidents. Based on the facts presented, and the generally held public trust value and importance placed on a police officer acting with truthfulness at all times, Board members struggled to reach unanimous finding on this allegation. Three of five members found by preponderance of the evidence that the officer "knowingly and willfully departed from the truth" by fabricating a rationale when pronoun asked another officer to conduct a credit check on a third party private citizen. By majority vote, applying a preponderance of the evidence standard the Board *sustained* a finding of untruthfulness under Directive 310.50.

Minority Opinion:
Two members felt the relative degree of ambiguity in both Employee's recounting of events, combined with Employee 1's prompt truthfulness during the investigation, could reasonably lead to a finding of *Unproven with a Debriefing.*

Allegation #2: *Employee 1 asked another officer to use a Bureau account to conduct a credit check for personal reasons.* (CONDUCT)

Recommended Finding: **Sustained – five members**
Applicable Directive(s): **1226.0 – Computer Technology**

310.70 – Dissemination of Information
HR 409 – Use of City Resources
HR 408 – Information Technology

Majority Opinion:
By a preponderance of the evidence the Board unanimously *Sustained* findings of a violation of every applicable directive and rule, 1226.0, 310.70, HR 409, and HR 408.

Minority Opinion:
There was no minority opinion in this finding.

Recommendations: Corrective Action/Discipline

The Board recommended the following discipline:

Termination – Three members
40 SWOP – One member
10 SWOP – One member

Majority Opinion:
Three members who reached the finding of Sustained voted for termination, expressing the shared belief that a police officer carries a heightened duty of truthfulness in all instances, especially when in a position to manage sensitive identifying info information, as Employee 1 did. Members who recommended termination did so using the preponderance of the evidence standard, applicable in all PRB reviews. However, they suggested that if a clear-and-convincing evidence standard were applied (as in termination proceedings), their recommendation would shift to suspension with an unproven finding for the truthfulness allegation. If this were the case, the three members would recommend an 80 hours SWOP.

Members expressed doubt for whether an Officer who accesses protected identifying info information for personal use is fit to return to a identifying info where would have continued access to sensitive personnel information. identifying info managers provided assurances that the Employee would not be returned to a identifying info within the Bureau.

Minority Opinion:
The minority opinion is specific to the two members who did not recommend a sustained finding of untruthfulness. One member recommended a 40-hour suspension, noting that while application of a clear and convincing standard would most likely result in a suspension, he felt a forty-hour suspension is sufficient discipline. One member recommended a 10-hour suspension, noting the officer's long tenure with the Police Bureau and historically clean record warranted a short suspension combined with a firmly worded debriefing letter.

Two members voted to deliver a strongly worded Debriefing Letter to Employee 1, with particular emphasis on (1) the inappropriateness of using City resources

for personal use, (2) the need to be fully forthcoming with Bureau members on all questions, and (3) the severity of an act of untruthfulness. Board members defer to the Police Chief for a final recommendation on the most appropriate corrective action.

Training

The Board did not recommend training on the issues presented here.

Additional recommendations

There were no additional recommendations.

END

Case #	2013-C-0360
Summary	Employee 1 failed to provide adequate service to a visitor at the front desk.
Allegation 1	Employee 1 was unwilling to list to Citizen 1
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	Employee 1 followed protocol in initially requesting information from Citizen 1 about whom was there to see and where was going. However, as the interaction went on, Employee 1 did not meet the expected standard of courtesy when dealing with the public. Rather than listening to Citizen 1, Employee 1 engaged in a circular pattern of questioning that created additional frustration. Employee 2 that was present moved away from the interaction because Employee 2 felt uncomfortable with the tone of what was being said.
Allegation 1	Employee failed to assist Citizen with access to [location].
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	Once engaged in a circular loop of questioning, Employee 1 failed to deescalate the situation by providing service to Citizen 1 (i.e. calling people on the floor was going to visit, assisting in gathering the needed information), even though the six-minute video of the encounter shows there was ample time to do so.
Recommended disciplines	20 SWOP (4), 40 SWOP (1)
Opinions	**Majority Opinion:** Four of the five voting members concurred using Category B of the new Discipline Guide, taking into account: the violation's possible negative impact on the Bureau, previous violations in the previous two years, and multiple sustained violations of different policies. **Minority Opinion:** One voting member recommended a 40 hour SWOP using the Category B matrix, but also taking into consideration additional aggravating factors, including prior discipline and admonitions.
Final disciplinary outcome	40 SWOP
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: April 1, 2014

TO: Mike Reese
Chief of Police

FROM: Mark Fulop
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Wednesday, March 26, 2014, to review the following case:

IAD Case Number: **2013-C-0360**

Employee: **Employee**

Allegation #1: *Employee was unwilling to listen to Citizen*

Recommended Finding: Sustained/Unanimous

Opinion: Employee followed protocol in initially requesting information from Citizen about whom was there to see and where was going. However, as the interaction went on, Employee did not meet the expected standard of courtesy when dealing with the public. Rather than listening to Citizen, Employee engaged in a circular pattern of questioning that created additional frustration. Another employee that was present moved away from the interaction because felt uncomfortable with the tone of what was being said.

Applicable Directives: 310.40 Courtesy

Allegation #2: *Employee failed to assist Citizen with access to* location identifier

Recommended Finding: Sustained/Unanimous

Opinion: Once engaged in a circular loop of questioning, Employee failed to de-escalate the situation by providing service to Citizen (i.e. calling people on the floor was going to visit, assisting in gathering the needed information), even though the six-minute video of the encounter shows there was ample time to do so.

Applicable Directives: 312.00 Requests for Assistance

Recommendations: Corrective Action/Discipline

20 Hour SWOP

Majority Opinion: Four of the five voting members concurred using Category B of the new Discipline Guide, taking into account: the violation's possible negative impact on the Bureau, previous violations in the previous two years, and multiple sustained violations of different policies.

Minority Opinion: One voting member recommended a 40 hour SWOP using the

Category B matrix, but also taking into consideration additional aggravating factors, including prior discipline and admonitions.

Additional Comment

While the facts of this case resulted in the sustained findings and recommendation, one member raised concerns over the appropriateness of Employee's assignment in a customer service capacity, and asked whether there may be a better fit for elsewhere in the organization.

Case #	2013-B-0048
Summary	Employee 1 visited girlfriend while was on duty. While they talked on the front porch, someone punctured a tire on the police car. Employee 1 chased after and arrested a subject for the vandalism. The subject was an acquaintance of Employee 1's girlfriend's spouse During proceedings prior to the subject's criminal trial, the spouse made allegations of misconduct and potential criminal behavior about Employee 1. During a criminal investigation, detectives learned that Employee 1 had run girlfriend, spouse, and the subject on several different occasions in PPDS.
Allegation 1	Employee 1 accessed information in PPDS for personal reasons.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	Board members unanimously found Employee 1 accessed PPDS for personal reasons in violation of the directive by running the records of girlfriend and estranged spouse on multiple occasions, by own admission.
Recommended discipline	Letter of Reprimand (Unanimous)
Opinion	Board members unanimously recommended the violation falls under Category B of the Portland Police Bureau Discipline Guide because Employee 1's actions may have a negative impact on the professional image of the Portland Police Bureau. Board members unanimously recommended corrective action of a Letter of Reprimand based on Employee 1's history.
Final disciplinary outcome	Letter of Reprimand
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: May 22, 2014

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin, EnviroIssues
Police Review Board Facilitator

SUBJ: Police Review Board Findings and Recommendations

The Police Review Board met on Wednesday, May 21, 2014, to review the following case:

IAD Case Number: **Internal Case Number**
Employee: **Employee #1**

Case Summary: Employee #1 visited [redacted] girlfriend at [redacted] house while [redacted] was on duty. While they talked on the front porch, someone punctured a tire on [redacted] police car. Employee #1 chased after and arrested a subject for the vandalism. The subject was an acquaintance of Employee #1's girlfriend's [redacted] and during proceedings prior to the subject's criminal trial, the [redacted] made allegations of misconduct and potential criminal behavior about Employee #1. During a criminal investigation, detectives learned that Employee #1 had run [redacted] girlfriend, [redacted] [redacted] and the subject on several different occasions in PPDS.

Allegation #1 *Employee #1 accessed information in PPDS for personal reasons.*

Finding: **Sustained / Unanimous**

Applicable Directive: **1226.00 – Computer Technology**

Majority Opinion:
Board members unanimously found Employee #1 accessed PPDS for personal reasons in violation of the directive by running the records of [redacted] girlfriend and [redacted] estranged [redacted] on multiple occasions, by [redacted] own admission.

Recommendations: <u>Corrective Action / Discipline</u>

LOR – Unanimous

Board members unanimously recommended the violation falls under Category B of the Portland Police Bureau Discipline Guide because Employee #1's actions may have a negative impact on the professional image of the Portland Police Bureau. Board members unanimously recommended corrective action of a Letter of Reprimand based on Employee #1's history which includes [redacted]

employee corrective action history information

Other

No other recommendations.

Case #	2014-B-0007
Summary	Employee 1 submitted urine for a random drug test and the result came back positive for steroids.
Allegation 1	Employee 1 tested positive for steroids in violation of Bureau policy.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	The Board reviewed the specific facts and context of the case, and upon careful review of the information presented, sustained the findings for Allegation 1 by unanimous vote.
Recommended discipline	Termination (Unanimous)
Opinion	As of March 2014, the Police Review Board refers to a Bureau Discipline Guide, in order to promote and provide consistency in disciplinary actions and improving accountability, among other things. Referring to the Discipline Guide board members reached unanimous agreement that Employee 1's conduct fell within Category F "Any violation of law, rule or policy, which: could result in death or serious bodily injury; or constitutes a willful disregard of PPB values; or involves any act that demonstrates a serious lack of integrity, ethics or character related to an officer's fitness to hold the position of police officer; or involves misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or failing to maintain certification mandated by law." The Discipline Guide provides for Termination upon reaching a finding of presumptive violation. A positive test result of steroids would lead to a presumptive violation within this context. Understanding that Employee 1 resigned from the Bureau, by unanimous opinion, the board recommended termination, were Employee 1 still employed at the Bureau.
Final disciplinary outcome	Employee resigned prior to PRB.
Reason discipline outside recommended range	Not applicable.
Other recommendations	Board members discussed the updated substance abuse policy with regards to Directive 316.10. Considering a growing interest among Bureau staff to consolidate policy updates into an accessible format for efficient use, the Board recommends to the Chief of Policy to review Directive 316.10 to incorporate substance abuse policy into the directives, and to include specific terminology such as "pro-hormone" and "incumbent on the Officer to know what is inside the bottle."
Status of recommendations	Accepted and assigned to Police Personnel. Closed/declined following response from Personnel.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: July 2, 2014

TO: Christopher Paille
Coordinator Police Review Board

FROM: Dena Marshall, Marshall Mediation
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Wednesday, June 25, 2014, to review the following case:

IAD Case Number: **Internal Case Number**

Employee: **Employee 1**

Case Summary: Employee 1 submitted urine for a random drug test on February 11, 2014. The result came back positive for steroids.

Allegation #1: *Employee 1 tested positive for steroids in violation of Bureau policy.*

Recommended Finding: **Sustained**
Applicable Directive: **316.10 – Drug/Controlled Substance Use**

Unanimous Opinion:
The Board reviewed the specific facts and context of the case, and upon careful review of the information presented, sustained the findings for Allegation #1 by unanimous vote.

Minority Opinion:
The board sustained the findings by unanimous vote; no minority opinion was offered.

Recommendations: Corrective Action/Discipline

As of March 2014, the Police Review Board refers to a Bureau Discipline Guide, in order to promote and provide consistency in disciplinary actions and improving accountability, among other things. Referring to the Discipline Guide board members reached unanimous agreement that Employee 1's conduct fell within Category F "Any violation of law, rule or policy, which: could result in death or serious bodily injury; or constitutes a willful disregard of PPB values; or involves any act that demonstrates a serious lack of integrity, ethics or character related to an officer's fitness to hold the position of police officer; or involves misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or failing to maintain certification mandated by law."

The Discipline Guide provides for Termination upon reaching a finding of presumptive violation. A positive test result of steroids would lead to a presumptive violation within this context.

Understanding that Employee 1 had resigned from the Bureau on April 23, 2014, by unanimous opinion, the board recommended termination, were Employee 1 still employed at the Bureau.

The board further recommended a policy change.

Policy

Board members discussed the updated substance abuse policy with regards to Directive 316.10. Considering a growing interest among Bureau staff to consolidate policy updates into an accessible format for efficient use, the Board recommends to the Chief of Policy to review Directive 316.10 to incorporate substance abuse policy into the directives, and to include specific terminology such as "pro-hormone" and "incumbent on the Officer to know what is inside the bottle."

There are no further recommendations.

Case #	2013-C-0340
Summary	Witnesses 1, 2, and 3 observed Employee 1 take a man into custody. While Employee 1 was attempting to pull back the man's arm, Witnesses 1, 2, and 3 heard a loud noise, like a bone breaking, and believed too much force was utilized during the arrest.
Allegation 1	Employee 1 used inappropriate force when taking Subject 1 into custody.
Recommended finding Allegation 1	Exonerated (6), Unproven (1)
Opinions	**Majority opinion:** PRB members said they found Employee 1's report and statements credible. The officer's report and statements were consistent with statements made by the original caller, witnesses and the intake video at Multnomah County jail. The members said that Employee 1 applied PPB training appropriately, in that Employee 1 applied the lowest level of force following a verbal request and then moved to a higher level of force because of the resistance exhibited by Subject 1 during the arrest. **Minority opinion:** One member recommended a finding of unproven based on variances between the comments made by eyewitnesses and Employee 1's written report and Employee 1's interview with the Internal Affairs investigator. During discussion, the member said that Employee 1's comments appeared credible, but they had to be balanced with the witnesses comments.
Allegation 2	Employee 1 failed to follow Post Use of Force Procedures when taking Subject 1 into custody.
Recommended findings Allegation 2	Exonerated with Debriefing (5), Sustained (2)
Opinion	**Majority opinion:** Five members recommended a finding of exonerated with a debrief based on the statements and report by Employee 1 and the jail intake video which supported Employee 1's observations. They said Employee 1 took reasonable steps to determine whether an injury had occurred, identified the potential for injury and documented the resulting actions in the incident report. The members said Employee 1 and acted appropriately given that Subject 1 was responsive and Employee 1 did not believe Subject 1 had been injured. They noted that Multnomah County jail personnel in the video also did not perceive an injury had occurred. The members recommended a debrief because the incident can be used as a learning tool, with one member saying that if an officer hears a "pop" then it's better to be safe than sorry. **Minority opinion:** Two members recommended a finding of sustained because there was reason to believe that a physical injury had occurred based on Employee 1's hearing a "pop" when Subject 1 was put in a San Kajo control hold. They said the directive is clear that EMS should have been called. During discussion, one member said that Employee 1 relied on Employee 1's own opinion that an injury had not occurred based on feeling Subject 1's arm and asking him if he needed medical attention. However, given the level of Subject 1's intoxication, he was incapable of taking care of himself and it is PPB's role to take care of Portland's citizens.
Allegation 3	Employee 1 failed to complete a Force Data Collection Report for applying a control hold that caused injury.

Recommended findings Allegation 3	Exonerated (5), Sustained (2)
Opinion	**Majority opinion:** Five members recommended a finding of exonerated saying that allegation 2 and allegation 3 are linked. They said the same rationale applies: Because Employee 1 had taken appropriate steps when bringing Subject 1 into custody and had determined an injury had not occurred, he was not required to complete the Force Data Collection Report. **Minority opinion:** Two members recommended a finding of sustained because allegations 2 and 3 are linked and the same rationale applies. When Employee 1 heard a "pop" as Subject 1 was put into a control hold, Employee 1 should have been put on notice that medical attention was warranted and a report completed.
Recommended disciplines	Command Counseling (2 members), No discipline (5)
Opinion	The two members of the PRB who recommended sustained findings on two allegations also recommended command counseling. They said the incident falls into discipline category B from the Portland Police Bureau Discipline Guide: "Conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other officers, agencies or the public." The members said there were significant mitigating factors, including the steps Employee 1 took to determine whether an injury had occurred and Employee 1's lack of previous disciplinary action. They said there was no malevolence or maliciousness with Employee 1's actions.
Final disciplinary outcome	No discipline.
Reason discipline outside recommended range	Not applicable.
Other recommendations	1) ThePRB recommended the Chief of Police reach out to Multnomah County to revisit the decision to have sound with the jail intake video. 2) The PRB recommended that the PPB deploy the use of body cameras by some police officers.
Status of recommendations	1) Accepted and assigned to Investigations Branch A/C. 2) Accepted and assgined to Services Branch A/C. In process.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: July 8, 2014

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, Jul. 2, 2014, to review the following case:

IA Case Number: **Internal Case Number**

Employee: **Employee #1**

Case Summary: Witness #1, Witness #2, and Witness #3 observed Employee #1 take a man into custody. While Employee #1 was attempting to pull back the man's arm, Witness #1, Witness #2, and Witness #3 heard a loud noise, like a bone breaking, and believe too much force was utilized during the arrest.

Allegation #1 *Employee #1 used inappropriate force when taking Subject #1 into custody.*

Recommended Finding: **Exonerated / Six members**
Unproven / One member

Applicable Directive: (FORCE) 1010.20, Physical Force

Majority Opinion:
Six members of the Review Board recommended a finding of exonerated. The members said they found Employee #1's report and statements credible. The officer's report and statements were consistent with statements made by the original caller, witnesses and the intake video at Multnomah County jail. The members said that Employee #1 applied PPB training appropriately, in that he applied the lowest level of force following a verbal request and then moved to a higher level of force because of the resistance exhibited by Subject #1 during the arrest.

Minority Opinion:
One member recommended a finding of unproven based on variances between the comments made by eye witnesses and Employee #1's written report and Employee #1's interview with the internal affairs investigator. During discussion, the member said that Employee #1's comments appeared credible, but they had to be balanced with the

witnesses' comments.

Allegation #2

Employee #1 failed to follow Post Use of Force Procedures when taking Subject #1 into custody.

Recommended Finding: **Exonerated with a debriefing / Five members**
Sustained / Two members

Applicable Directive: (PROCEDURE) 1010.20 Post Use of Force Medical Attention.

Majority Opinion:
Five members recommended a finding of exonerated with a debrief based on the statements and report by Employee #1 and the jail intake video which supported Employee #1's observations. They said Employee #1 took reasonable steps to determine whether an injury had occurred, identified the potential for injury and documented the resulting actions in the incident report. The members said Employee #1 and acted appropriately given that Subject #1 was responsive and Employee #1 did not believe Subject #1 had been injured. They noted that Multnomah County jail personnel in the video also did not perceive an injury had occurred. The members recommended a debrief because the incident can be used as a learning tool, with one member saying that if an officer hears a "pop" then it's better to be safe than sorry.

Minority Opinion:
Two members recommended a finding of sustained because there was reason to believe that a physical injury had occurred based on Employee #1's hearing a "pop" when Subject #1 was put in a san kajo control hold. They said the directive is clear that EMS should have been called. During discussion, one member said that Employee #1 relied on [redacted] own opinion that an injury had not occurred based on feeling Subject #1's arm and asking him if he needed medical attention. However, given the level of Subject #1's intoxication, he was incapable of taking care of himself and it is PPB's role to take care of Portland's citizens.

Allegation #3

Employee #1 failed to complete a Force Data Collection Report for applying a control hold that caused injury.

Recommended Finding: **Exonerated / Five members**
Sustained / Two members

Applicable Directive: (PROCEDURE) 1010.20 – Duty to Report

and Notification and Reporting.

Majority Opinion:
Five members recommended a finding of exonerated saying that allegation 2 and allegation 3 are linked. They said the same rationale applies: Because Employee #1 had taken appropriate steps when bringing Subject #1 into custody and had determined an injury had not occurred, he was not required to complete the Force Data Collection Report.

Minority Opinion:
Two members recommended a finding of sustained because allegations 2 and 3 are linked and the same rationale applies. When Employee #1 heard a "pop" as Subject #1 was put into a control hold, the officer should have been put on notice that medical attention was warranted and a report completed.

Recommendations:

Corrective Action / Discipline

Command Counseling – Two members

The two members of the Review Board who recommended sustained findings on two allegations also recommended command counseling. They said the incident falls into discipline category B from the Portland Police Bureau Discipline Guide: "Conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other officers, agencies or the public." The members said there were significant mitigating factors, including the steps Employee #1 took to determine whether an injury had occurred and [redacted] lack of previous disciplinary action. They said there was no malevolence or maliciousness with Employee #1's actions.

Other:

Two other recommendations were recommended by the Board:

1) The Review Board recommended that the Portland Chief of Police reach out to Multnomah County to revisit the decision to have sound with the jail intake video.

Vote: Unanimous

Rationale: The Review Board said the intake videos previously had sound but it was removed some years ago due to quality issues. The members said this case is not the first where sound would be useful.

Members agreed that video sound would be helpful during Review Board proceedings.

2) The Review Board recommended that the PPB deploy the use of body cameras by some police officers.

Vote: Unanimous

Rationale: Similar to the intake videos, the Review Board members said body cams would be helpful for Review Board and other review proceedings. They acknowledged that use of body cams does require additional budget.

Case #	2014-B-0005
Summary	Employee 1, while driving off-duty, was observed by Employee 2 to be speeding and driving recklessly on SE Division in Portland. During the contact Employee 2 was able to ascertain that Employee 1 was under the influence of intoxicants. Employee 1 failed a sobriety test and after taking a Breathalyzer test had a reading of .015 that confirmed that was driving under the influence of alcohol and was arrested. Employee 1 stated to Employee 2 and Employee 3 that had ingested 6 to 8 shots of Pendleton and 3 beers.
Allegation 1	While off duty Employee 1 was driving under the influence of intoxicants and arrested.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	The PRB determined that Employee 1 had been observed by Employee 2 speeding and driving erratically while off duty. The Board concluded that Employee 1 failed a sobriety test and took a Breathalyzer test that confirmed was driving while intoxicated and was arrested.
Recommended disciplines	One workweek SWOP (4), Two workweeks SWOP (1)
Opinion	**Majority opinion:** The board considered Employee 1's history of discipline and the Portland Police Bureau Discipline Guide and recommended a one week suspension without pay (discipline guide category E Presumptive). The board took into account Employee 1's remorse for, and willingness to take responsibility for, Employee 1's conduct. The Board concluded that the proposed leave without pay is an appropriate discipline for Employee 1's conduct. Minority opinion: One board member recommended that Employee 1 receive a two-week suspension without pay (discipline guide category E Presumptive). The member believed that Employee 1 knew the legal consequences of conduct, that endangered lives and that was not acting as a proper role model. Due to the seriousness of Employee 1's conduct the member concluded that a two-week suspension without pay was a more appropriated discipline.
Final disciplinary outcome	One workweek SWOP
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

DATE: July 18, 2014

TO: Mike Reese
Chief of Police

FROM: Michael Greenfield, Marshall Mediation
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on Wednesday, July 16, 2014 to review the following case:

IAD Case Number: **Internal Case Number**

Employee: **Employee 1**

Case Summary: Date - Identifying Info Employee 1, while driving off-duty, was observed by Employee 2 to be speeding and driving recklessly on SE Division in Portland. During the contact Employee 2 was able to ascertain that Employee 1 was under the influence of intoxicants. Employee 1 failed a sobriety test and after taking a Breathalyzer test had a reading of .015 that confirmed that was driving under the influence of alcohol and was arrested. Employee 1 stated to Employee 2 and Employee 3 that pronoun had ingested 6 to 8 shots of Pendleton and 3 beers.

Allegation #1: *While off duty Employee 1 was driving under the influence of intoxicants and arrested.*

Recommended Finding: **Sustained / Unanimous**
Applicable Directives: **310.00 – Conduct Professional.**
315.30 – Laws, Rules and Orders

Majority Opinion:
The Board determined that Employee 1 had been observed by Employee 2 speeding and driving erratically while off duty. The Board concluded that Employee 1 failed a sobriety test and took a Breathalyzer test that confirmed pronoun was driving while intoxicated and was arrested.

Recommendations: Corrective Action/Discipline

One workweek suspension without pay – 4 members
Two workweek suspension without pay – 1 member

Majority Opinion:
The board considered Employee 1's history of discipline and the Portland Police Bureau Discipline Guide and recommended a one week suspension without pay (discipline guide category E Presumptive). The board took into

account Employee 1's remorse for, and willingness to take responsibility for, conduct. The Board concluded that the proposed leave without pay is an appropriate discipline for Employee 1's conduct.

Minority Opinion:
One board member recommended that Employee 1 receive a two-week suspension without pay (discipline guide category E Presumptive). The member believed that Employee 1 knew the legal consequences of conduct, that endangered lives and that was not acting as a proper role model. Due to the seriousness of Employee 1's conduct the member concluded that a two-week suspension without pay was a more appropriated discipline.

No other recommendations

Case #	2014-B-0011
Summary	Administrative investigation into the circumstance surrounding the officer involved shooting in the 1300 block of SW Cheltenham St on March 12, 2014, involving Employee 1.
Area of Review 1	The application of deadly force.
Recommended finding Area of Review 1	In Policy (Unanimous)
Opinion	The Review Board unanimously found the actions of Employee 1 In Policy, consistent with the Use of Force directive. Members said Employee 1 took actions before the incident to create a plan to address the reported actions of the suspect, communicated throughout the incident to other enforcement officers, took the behaviors and actions of the suspect into account during the incident, faced an imminent threat to personal safety, was mindful of risk to bystanders and used sound tactics consistent with training when fired upon by the suspect. Review Board members complimented Employee 1's actions.
Area of Review 2	Post shooting procedures (Employees 2 & 3)
Recommended finding Area of Review 2	In Policy (Unanimous), both employees
Opinion	Review Board members unanimously found the post shooting procedures conducted by Employee 2 and Employee 3 In Policy, consistent with directives. Members said they followed the tenets of training, appropriately divided necessary tasks, made and implemented plans not to disturb evidence and exhibited a high degree of professionalism during a chaotic scene.
Recommended discipline	None.
Opinion	Not applicable.
Final disciplinary outcome	Not applicable.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: October 2, 2014

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Wednesday, September 24, 2014, to review the following case:

IA Case Number: **2014-B-0011**

Employees: **Employee #1**
Employee #2
Employee #3

Case Summary: Administrative investigation into the circumstance surrounding the officer involved shooting in the 1300 block of SW Cheltenham St on March 12, 2014, involving Employee #1.

Area of Review #1: *The Application of Deadly Force.*
Employee: **Employee #1**
Recommended Finding: **In Policy / Seven members**
Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:
The Review Board unanimously found the actions of Employee #1 to be In Policy, consistent with the Use of Force directive. Members said Employee #1 took actions before the incident to create a plan to address the reported actions of the suspect, communicated throughout the incident to other enforcement officers, took the behaviors and actions of the suspect into account during the incident, faced an imminent threat to personal safety, was mindful of risk to bystanders and used sound tactics consistent with training when fired upon by the suspect. Review Board members complimented Employee #1's actions.

Minority Opinion:
N/A

Area of Review #2: *Post shooting procedures.*
Employees: **Employee #2**
Employee #3

Recommended Finding: **In Policy / Six members**
Applicable Directive: **1010.00 – Use of Force**
1035.00 – Ballistic Shield
630.50 – Emergency Medical Aid

Majority Opinion:
Review Board members unanimously found the post shooting procedures

conducted by Employee #2 and Employee #3 to be In Policy, consistent with directives. Members said they followed the tenets of training, appropriately divided necessary tasks, made and implemented plans not to disturb evidence and exhibited a high degree of professionalism during a chaotic scene.

Minority Opinion:
N/A

Recommendations: No recommendations.

Case #	2014-C-0071
Summary	Complainant 1 was a passenger on a TriMet bus. Another passenger, carrying boxes and bags, boarded the bus and had a verbal altercation with the driver when he was told he couldn't board the bus with the multiple items. The man boarded the bus and the driver phoned dispatch. The complainant wanted to be a witness when enforcement action was taken against the unidentified passenger. The complainant alleged that one of the two officers dispatched on the call (Employee 1) was rude and failed to provide a business card when asked to do so.
Allegation 1	Employee 1 was rude during interaction with Complainant 1.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	The PRB unanimously recommended a sustained finding because members said it appeared Employee 1 did not want to be bothered with taking responsibility of the situation as a secondary responder, and instead appeared to dismiss the concerns of Complainant 1 and other bus passengers. In Employee 1's Internal Affairs interview, Employee 1 said they told Complainant 1 to contact Central Precinct when Complainant 1 requested contact information. Board members said this was a rude response and Employee 1 did nothing to mitigate the situation.
Allegation 2	Employee 1 failed to provide Complainant 1 with Employee 1's business card upon request.
Recommended findings Allegation 2	Sustained (Unanimous)
Opinions	The PRB unanimously recommended a sustained finding because it was clear from Employee 1's actions that Employee 1 had sufficient time to look for a business card or to write Employee 1's contact information down on a piece of paper. Employee 1 did help transport the bags of the passenger off the bus and delivered the business card of the Multnomah County sheriff's deputy to Complainant 1, who was still on the bus. These actions indicate that safety was not an issue and that Employee1 missed an opportunity to follow the directive.
Recommended discipline	Command Counseling (CC) (Unanimous)
Opinion	The Review Board unanimously said allegations of rudeness and failure to provide a business card were consistent with Discipline Category A and recommended Command Counseling as the corrective action. Members said Employee 1's action in isolation would have minimal negative effects on the operations or professional image of the Police Bureau The PRB said the incident provides a learning opportunity.
Final corrective action outcome	Employee resigned.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Case #	2014-B-0006
Summary	Parking Patrol tagged a car numerous times for parking violations. They were unable to determine the ownership of the car as it did not have plates, had a trip permit with an illegible vehicle identification number (VIN), and the dashboard VIN was covered. The vehicle eventually accrued enough unpaid tickets that Parking Patrol ordered the car towed. While they were in the process of towing the vehicle, Employee 1 drove up while on duty and contacted the Parking Patrol Officer. Employee 1 asked the Parking Patrol officer if Employee 1 could pay the tickets at that time to avoid having the car towed. Eventually, the car was towed and Employee 1 paid the outstanding fines.
Allegation 1	Employee 1 tried to avoid responsibility for parking fines by making Employee1's personal vehicle difficult to identify.
Recommended finding Allegation 1	Sustained (Unanimous)
Opinion	Members found Employee 1's statements inconsistent between interviews as to the chain of events and reasons why Employee 1 did not display license plates. The multiple parking tickets received over several months included statements that the VIN was unreadable. In addition, Employee 1 received more than one parking ticket on a weekend, but Employee 1 still believed street parking was free on Saturdays and Sundays. Members said as a member of the Portland Police Bureau, it is Employee 1's responsibility to know the laws. One member questioned how many times one needs to receive a parking ticket on a weekend to learn it is not free.
Allegation 2	Employee 1 used Employee 1's position as a police officer to try to prevent a Parking Code Enforcement Officer from towing Employee 1's personal vehicle.
Recommended findings Allegation 2	Unproven (3), Exonerated (2)
Opinion	**Majority opinion:** Three members of the PRB recommended a finding of unproven because they said the allegation could not be proven by a preponderance of the evidence. They said statements from the parking code enforcement officer and the tow truck operator indicate that Employee 1 did not try to use Employee 1's position to get special treatment. **Minority opinion:** Two members of the PRB recommended a finding of exonerated because they found Employee 1's actions to be within policy. However, they found the coincidence of events where Employee 1 requested to pay Employee 1's parking fines while on duty to be questionable.
Allegation 3	For approximately one year, Employee 1 regularly operated Employee 1's personal motor vehicle without displaying license plates.
Recommended findings Allegation 3	Sustained (Unanimous)
Opinion	The Board unanimously agreed the facts were clear that Employee 1 knowingly and intentionally drove without license plates for about a year. In Employee 1's Internal Affairs interview, Employee 1 did not provide satisfactory reasoning for failing to display license plates in a timely manner.

Allegation 4	Employee 1 behaved in an unprofessional manner, bringing reproach and discredit upon the Bureau and the City.
Recommended findings Allegation 4	Sustained (Unanimous)
Opinion	PRB members unanimously recommended a sustained finding that Employee 1 behaved unprofessionally. As a police officer, Employee 1 is expected to know laws and regulations and to deliberately not follow them reflects poorly on the Bureau. Board members also noted this case was investigated outside the Portland Police Bureau and other investigators found Employee 1's actions deliberate and troubling. The result of the outside investigation was a news story, which affects the credibility of the Bureau. Because parking is an issue for many officers at Central Precinct, the actions of Employee 1 bring reproach and disrespect internally. Finally, members noted that Employee 1's written statement said Employee 1's actions could have a bad effect. Members said the actions did have a bad effect.
Recommended discipline	Termination (Unanimous)
Opinion	After significant discussion, the PRB unanimously recommended termination for three recommended sustained allegations relating to avoiding responsibility for parking fines, operating a vehicle without displaying license plates and behaving in an unprofessional manner that brings reproach and discredit to the Bureau and City. Three members said the actions of Employee 1 were consistent with Discipline Category E with aggravating factors and two members said Employee 1's actions were consistent with Discipline Category F. The reasons cited for the discipline categories recommendation were similar. Members questioned whether Employee 1 could be trusted in the future as a police officer to appropriately handle larger, more complicated issues than parking fines. For the members who said the discipline category was E, they said the following aggravating factors were present: The case had to be reviewed by the District Attorney's office for criminal wrong-doing, which affects the Bureau's reputation with the DA's office; the news media covered the story, which affects credibility with the community; other organizations were involved with documenting the violations; and ethical issues have not been fully explained or acknowledged by Employee 1. One member noted that Employee 1 undermined Employee 1's ability to do Employee 1's job and be credible in court. One member who recommended discipline category F said officers have a duty to uphold the law and the evidence does not indicate that this incident would not happen again in another situation. Another member who recommended discipline category F said officers must have a high degree of integrity and Employee 1 appears to have poor judgment and an attitude of arrogance and entitlement.
Final disciplinary outcome	Employee resigned.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: September 24, 2014

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on Wednesday, September 17, 2014, to review two cases, 2014-C-0071 and 2014-B-0006.

IA Case Number: **2014-C-0071**

Employee: **Employee #1**

Case Summary: Complainant #1 was a passenger on a TriMet bus. Another passenger, carrying boxes and bags, boarded the bus and had a verbal altercation with the driver when he was told he couldn't board the bus with the multiple items. The man boarded the bus and the driver phoned dispatch. The complainant wanted to be a witness when enforcement action was taken against the unidentified passenger. The complainant alleged that one of the two officers dispatched on the call (Portland Police Bureau Employee #1) was rude and failed to provide a business card when asked to do so.

Allegation #1: *Employee #1 was rude during interaction with Complainant #1.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **310.40 – Courtesy**

Majority Opinion:
The Board unanimously recommended a sustained finding because members said it appeared Employee #1 did not want to be bothered with taking responsibility of the situation as a secondary responder, and instead appeared to dismiss the concerns of Complainant #1 and other bus passengers. In Employee #1's Internal Affairs interview, Employee #1 told Complainant #1 to contact Central Precinct when Complainant #1 requested contact information. Board members said this was a rude response and Employee #1 did nothing to mitigate the situation.

Minority Opinion:
N/A

Allegation #2: *Employee #1 failed to provide Complainant #1 with Employee #1's business card upon request.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **312.50 - Identification**

Majority Opinion:
The Board unanimously recommended a sustained finding because it was

clear from Employee #1's actions that Employee #1 had sufficient time to look for a business card or to write Employee #1's contact information down on a piece of paper. Employee #1 did help transport the bags of the passenger off the bus and delivered the business card of the Multnomah County sheriff's deputy to Complainant #1, who was still on the bus. These actions indicate that safety was not an issue and that Employee #1 missed an opportunity to follow the directive.

Minority Opinion:
N/A

IA Case Number: **2014-B-0006**

Employee: **Employee #1**

Case Summary: Parking Patrol tagged a car numerous times for parking violations. They were unable to determine the ownership of the car as it did not have plates, had a trip permit with an illegible vehicle identification number (VIN), and the dashboard VIN was covered. The vehicle eventually accrued enough unpaid tickets that Parking Patrol ordered the car towed. While they were in the process of towing the vehicle, Employee #1 drove up while on duty and contacted the Parking Patrol Officer. Employee #1 asked the Parking Patrol Officer if Employee #1 could pay the tickets at that time to avoid having the car towed. Eventually, the car was towed and Employee #1 paid the outstanding fines.

Allegation #1: *Employee #1 tried to avoid responsibility for parking fines by making Employee #1's personal vehicle difficult to identify.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **310.00 – Conduct, Professional**
315.00 – Laws, Rules and Orders

Majority Opinion:
The Board was unanimous in recommending a sustained finding. Members found Employee #1's statements inconsistent between interviews as to the chain of events and reasons why Employee #1 did not displays license plates. The multiple parking tickets received over several months included statements that the VIN was unreadable. In addition, Employee #1 received more than one parking ticket on a weekend, but Employee #1 still believed street parking was free on Saturdays and Sundays. Members said as a member of the Portland Police Bureau, it is Employee #1's responsibility to know the laws. One member questioned how many times one needs to receive a parking ticket on a weekend to learn it is not free.

Minority Opinion:
N/A

Allegation #2: *Employee #1 used Employee #1's position as a police officer to try to prevent a Parking Code Enforcement Officer from towing Employee #1's personal vehicle.*

Recommended Finding: **Unproven / Three members**
Exonerated / Two members
Applicable Directive: **313.00 – Misuse of Official Position or Identification**

Majority Opinion:
Three members of the Review Board recommended a finding of unproven because they said the allegation could not be proven by a preponderance of the evidence. They said statements from the parking code enforcement officer and the tow truck operator indicate that Employee #1 did not try to use Employee #1's position to get special treatment.

Minority Opinion:
Two members of the Review Board recommended a finding of exonerated because they found Employee #1's actions to be within policy. However, they found the coincidence of events where Employee #1 requested to pay Employee #1's parking fines while on duty to be questionable.

Allegation #3: *For approximately one year, Employee #1 regularly operated Employee #1's personal motor vehicle without displaying license plates.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **315.00 – Laws, Rules and Orders**

Majority Opinion:
The Board unanimously agreed the facts were clear that Employee #1 knowingly and intentionally drove without license plates for about a year. In Employee #1's Internal Affairs interview, Employee #1 did not provide satisfactory reasoning for failing to display license plates in a timely manner.

Minority Opinion:
N/A

Allegation #4: *Employee #1 behaved in an unprofessional manner, bringing reproach and discredit upon the Bureau and the City.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **310.00 – Conduct, Professional**

Majority Opinion: Board members unanimously recommended a sustained finding that Employee #1 behaved unprofessionally. As a police officer, Employee #1 is expected to know laws and regulations and to deliberately not follow them reflects poorly on the Bureau. Board members also noted this case was investigated outside the Portland Police Bureau and other investigators found Employee #1's actions deliberate and troubling. The result of the

outside investigation was a news story, which affects the credibility of the Bureau. Because parking is an issue for many officers at Central Precinct, the actions of Employee #1 bring reproach and disrespect internally. Finally, members noted that Employee #1's written statement said Employee #1's actions *could* have a bad effect. Members said the actions *did* have a bad effect.

Minority Opinion:
N/A

Recommendations:

Corrective Action/Discipline

The Review Board decided to address the recommended sustained allegations from the two cases separately.

IA Case #2014-C-0071

CC – Five board members

Majority Opinion:
The Review Board unanimously said allegations of rudeness and failure to provide a business card were consistent with Discipline Category A and recommended Command Counseling as the corrective action. Members said Employee #1's action in isolation would have minimal negative effects on the operations or professional image of the Bureau. The Board said the incident provides a learning opportunity.

Minority Opinion:
N/A

IA Case #2014-B-0006

Termination – Five board members

Majority Opinion:
After significant discussion, the Review Board unanimously recommended termination for three recommended sustained allegations relating to avoiding responsibility for parking fines, operating a vehicle without displaying license plates and behaving in an unprofessional manner that brings reproach and discredit to the Bureau and City. Three members said the actions of Employee #1 were consistent with Discipline Category E with aggravating factors and two members said Employee #1's actions were consistent with Discipline Category F. The reasons cited for the discipline categories recommendation were similar. Members questioned whether Employee #1 could be trusted in the future as a police officer to appropriately handle larger, more complicated issues than parking fines.

For the members who said the discipline category was E, they said the following aggravating factors were present: The case had to be reviewed by the District Attorney's office for criminal wrong-doing, which affects the Bureau's reputation with the DA's office; the news media covered the story, which affects credibility with the community; other organizations were involved with documenting the violations; and ethical issues have not been fully explained or acknowledged by Employee #1. One member noted that Employee #1 undermined Employee #1's ability to do Employee #1's job and be credible in court.

One member who recommended discipline category F said officers have a duty to uphold the law and the evidence does not indicate that this incident would not happen again in another situation. Another member who recommended discipline category F said officers must have a high degree of integrity and Employee #1 appears to have poor judgment and an attitude of arrogance and entitlement.

Minority Opinion:
N/A

No other recommendations.

Case #	2014-B-0025
Summary	Internal review and administrative investigation into the circumstance surrounding the officer involved shooting on the Springwater Corridor Trail, near the 10400 block of SE Foster Road, on June 5, 2014.
Area of Review 1	Application of deadly force.
Recommended finding Area of Review 1	In Policy (Unanimous)
Opinion	The PRB unanimously found Employee 1's use of deadly force to be In Policy because Employee 1 had attempted to de-escalate the situation when the suspect showed signs of paranoia prior to displaying a crowbar in a threatening manner without warning. Employee 1 shifted position because Employee 1 was aware of a person in the backdrop. Employee 1 tripped and fell, which put Employee 1 in a vulnerable position. The suspect clearly communicated intent to cause serious life threatening injury with the suspect's actions. Employee 1 feared Employee 1's life was in immediate jeopardy when Employee 1 fired two shots at the suspect. No additional shots were fired once the suspect retreated and the threat ended.
Areas of Review 2	Post shooting procedures taken by Employee 2 and Employee 3.
Recommended findings Area of Review 2	In Policy (Unanimous) Employees 2 & 3
Opinions	The PRB unanimously found Employee 2's actions after the shooting to be In Policy. Employee 2 took control of the situation by recommending the two officers take cover and called for backup rather than pursuing the suspect. Employee 2 also coordinated the responding officers who arrived on scene prior to the arrival of a supervising sergeant. The PRB unanimously found the actions of Employee 3 to be In Policy. While on the way to the scene, Employee 3 began to take control of the situation. As a result, emergency medical personnel were on scene within minutes. Employee 3 was able to remove Employee 1 and Employee 2 from the custody team, as policy recommends, because there was sufficient assistance by other police bureau personnel.
Recommended discipline	None.
Opinions	Not applicable.
Final disciplinary outcome	None.
Reason discipline outside recommended range	Not applicable.
Other recommendations	None made by PRB.
Status of recommendations	Not applicable.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: December 16, 2014

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

The Police Review Board met on Wednesday, December 3, 2014, to review case 2014-B-0025.

IA Case Number: **2014-B-0025**

Employees: **Employee #1**
Employee #2
Employee #3

Case Summary: Internal review and administrative investigation into the circumstance surrounding the officer involved shooting on the Springwater Corridor Trail, near the 10400 block of SE Foster Road, on June 5, 2014.

Area of Review #1

Application of Deadly Force
Employee: **Employee #1**
Recommended Finding: **In Policy / Seven members**
Applicable directive: **1010.00 – Use of Force**

Majority Opinion:
The Review Board unanimously found Employee #1's use of deadly force to be In Policy because Employee #1 had attempted to de-escalate the situation when the suspect showed signs of paranoia prior to displaying a crowbar in a threatening manner without warning. Employee #1 shifted position because Employee #1 was aware of a person in the backdrop. Employee #1 tripped and fell, which put Employee #1 in a vulnerable position. The suspect clearly communicated intent to cause serious life threatening injury with the suspect's actions. Employee #1 feared Employee #1's life was in immediate jeopardy when Employee #1 fired two shots at the suspect. No additional shots were fired once the suspect retreated and the threat ended.

Minority Opinion:
N/A

Area of Review #2

Post shooting procedures
Employee: **Employee #2**
Recommended Finding: **In Policy / Seven members**
Applicable directives: **1010.00 – Use of Force**
630.50 – Emergency Medical Aid

Majority Opinion:
The Review Board unanimously found the actions of Employee #2 after the shooting to be In Policy. Employee #2 took control of the situation by recommending the two officers take cover and called for backup rather than pursuing the suspect. Employee #2 also coordinated the responding officers

who arrived on scene prior to the arrival of a supervising sergeant.

Minority Opinion:
N/A

Employee:	**Employee #3**
Recommended Finding:	**In Policy / Seven members**
Applicable directives:	**1010.00 – Use of Force**
	630.50 – Emergency Medical Aid

Majority Opinion:
The Board unanimously found the actions of Employee #3 to be In Policy. While in route to the scene, Employee #3 began to take control of the situation. As a result, emergency medical personnel were on scene within minutes. Employee #3 was able to remove Employee #1 and Employee #2 from the custody team, as policy recommends, because there was sufficient assistance by other police bureau personnel.

Minority Opinion:
N/A