

Portland Police Bureau

Police Review Board:

Summaries and Reports

December 26, 2014 and June 22, 2015

Released July 2015



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



CITY OF PORTLAND, OREGON



Bureau of Police

1111 S.W. 2nd Avenue • Portland, OR 97204

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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 December 26, 2014-June 22, 2015.

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.

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Case #	2013-B-0054
Summary	Administrative review into the use of deadly force
Area of review 1	The Application of Deadly Force
Recommended finding Area of Review 1	Employee 1/In Policy with Debriefing (Unanimous)
Area of Review 2	Operational Planning an Supervision
Recommended finding Area of Review 2	Employee 2/Out of Policy (Unanimous) - Lack of communication during pursuit
	Employee 3/In Policy with Debriefing (Unanimous)
	Employee 4/In Policy with Debriefing (Unanimous)
	Employee 5/In Policy with Debriefing (Unanimous)
Recommended corrective action/discipline	Employee 2/Command Counseling (5 members), Letter of Reprimand (2 members)
Final corrective action outcome	Command Counseling
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	Policy development
Status of recommendations	Accepted/Assigned to Assistant Chief Robert Day

DATE: January 16, 2015
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, January 7, 2015, to review case 2013-B-0054.

IA Case Number: **2013-B-0054**

Employees: **Employee #1
Employee #2
Employee #3
Employee #4
Employee #5**

Case Summary: The administrative review of the circumstances surrounding the ramming of a suspect vehicle: On December 18, 2013, North Precinct officers responded to assist Vancouver, WA police officers who were engaged in a traffic pursuit on I-5 southbound into Oregon. Information was broadcast that the driver of the pursued vehicle was a kidnap and homicide suspect. Officers took over the pursuit from Vancouver PD, and eventually ended the pursuit by ramming the suspect vehicle.

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

Employee: **Employee #1**

Recommended Finding: **In Policy with Debrief / Seven members**
Applicable Directive: **1010.10 – Deadly Physical Force**

Majority Opinion:

The Board unanimously recommended a finding of In Policy with a Debrief. Members agreed that Employee #1's actions met the criteria for the application of Deadly Physical Force. Based on the actions of the driver, a homicide and kidnapping suspect who was observed driving 60-80 mph and swerving in the direction of other vehicles, it was reasonable that Employee #1 believed there was an immediate threat of death or serious injury to police officers or others. The Board recommended a debrief because of Employee #1's use of vague terminology of "take him out" to gain supervisor approval to deploy a Pursuit Intervention Technique. In addition, Employee #1's post-pursuit actions to apprehend the suspect by breaking a window were not consistent with training.

Minority Opinion:
N/A

Area of Review #2: *Operational Planning and Supervision*

Employee: **Employee #2**

Recommended Finding: **Out of Policy / Seven members**
Applicable Directive: **630.05 – Vehicle Pursuits**

Majority Opinion:

The Review Board unanimously recommended a finding of Out of Policy for Employee #2's management of the pursuit due to lack of clear communication. Employee #2 did not clearly communicate Employee #2's role when Employee #2 joined the call, nor did Employee #2 initially provide clear guidance to Employee #1. The communication led other supervisors on duty to conclude that Employee #2 was supervising the response, even though Employee #3 would have been the assumed lead based on the incident location and the sector supervision model employed in the precinct. However, one member noted, the sectors are not ironclad. As a supervisor, Employee #2 should have known Employee #2's communication would carry weight in a chaotic and dynamic situation.

Minority Opinion:
N/A

Employee: **Employee #3**

Recommended Finding: **In Policy with Debrief / Seven members**
Applicable Directive: **630.05 – Vehicle Pursuits**

Majority Opinion:

Members unanimously recommended a finding of In Policy with a Debrief related to the actions of Employee #3 during the vehicle pursuit. Members said no policy was violated, but a debrief is necessary to discuss expectations of supervision and communication in a precinct that uses a sector supervision model. Based on the incident location, Employee #3 would have been the assumed lead. Employee #3 was in the room with Employee #2 and Employee #4 when the call came in, but none of the three sergeants identified roles and responsibilities for the response. One member was concerned about Employee #3's silence during the response and said a debrief would be useful to discuss effective communication.

Minority Opinion:
N/A

Employee: **Employee #4**

Recommended Finding: **In Policy with Debrief / Seven members**
Applicable Directive: **630.05 – Vehicle Pursuits**

Majority Opinion:

The Board recommended unanimously that Employee #4's actions were

within policy, but that a debrief was necessary to discuss communications within the precinct. Employee #4 was in the room with Employee #2 and Employee #3 when the call came in, but none of the three sergeants identified roles and responsibilities for the response.

Minority Opinion:
N/A

Employee:

Employee #5

Recommended Finding: **In Policy / Seven members**
Applicable Directive: **630.05 – Vehicle Pursuits**

Majority Opinion:
Members unanimously recommended a finding of In Policy for Employee #5's action related to supervision of the pursuit. Members said Employee #5 provided clear direction, was continually assessing the situation and requested additional resources. Employee #5 considered terminating the pursuit, but the suspect, with his arrest warrants and pursuit behavior, indicated he was a danger to the City and needed to be taken into custody.

Minority Opinion:
N/A

Recommendations:

Corrective Action/Discipline

Employee: **Employee #2**

CC – Five members
LOR – Two members

Majority Opinion:
Five members of the Board recommended discipline category B and corrective action of Command Counseling for Employee #2. Board members said more clear guidance could have been provided by leadership related to expected communication, roles and responsibilities between on-duty sergeants who are using a sector supervisory model. The members agreed that this lack of clear guidance was a mitigating factor and recommended a lesser corrective action than the presumed.

Minority Opinion 1:
Two members recommended discipline category B and corrective action of a Letter of Reprimand. The two members said lack of clear expectations for communications was not sufficient to reduce the presumed corrective action of a Letter of Reprimand because Employee #2 is a supervisor.

Other Recommendations

The Board also unanimously recommended that the Operations Branch develop a Standard Operating Procedure for geographic responsibilities of

sergeants within precincts.

Rationale:

Board members said precincts using sector-based supervision need clarity about communication required to lead and assist with calls to prevent gaps in supervisory direction similar to what occurred in this case. While this pursuit ended without injury, such a communication gap could have resulted in a poor outcome. Other precincts are considering this supervisory model and an SOP will be helpful to provide a level of consistency across the City.

Case #	2013-B-0018
Summary	Out of policy pursuit
Allegation 1	Employee inappropriately re-engaged in a previously terminated pursuit and did not provide sufficient updates over the radio.
Recommended finding Allegation 1	Sustained (Unanimous)
Recommended discipline	Letter of Reprimand (4 members), Ten hour suspension without pay (1 member)
Final disciplinary outcome	Letter of Reprimand
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None
Case #	2013-C-0130
Summary	Foot pursuit and use of force
Allegation 1	Employee use force in a manner not consistent with bureau policy.
Recommended findings Allegation 1	Sustained (3), Exonerated with a Debriefing (2)
Recommended discipline	Letter of Expectation (4), Letter of Reprimand (1)
Final disciplinary outcome	Ten hour suspension without pay w/Letter of Expectation
Reason discipline outside recommended range	The severity of the officer's action in striking a seated suspect in the face even though a second officer was present to help control the suspect.
Other recommendations	None

DATE: January 24, 2014
TO: Christopher Paille
Review Board Coordinator
FROM: Juanita Walton
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

The Police Review Board met on Wednesday, January 15, 2014, to review the following case:

IAD Case Number: **2013-B-0018**

Employee: **Employee 1**

Case Summary: Bureau officers were engaged in a traffic pursuit which was eventually terminated by the acting sergeant. Employee 1 saw the vehicle a short time later and re-engaged in a pursuit with the vehicle. During the second pursuit, Employee 1 had a head-on collision with another officer's vehicle.

Allegation #1: *Employee 1 inappropriately reengaged in a previously terminated pursuit and did not provide sufficient updates over the radio.*

Recommended Finding: **Sustained / Unanimous**
Applicable Directive: **630.05 – Vehicle Pursuits**

Majority Opinion:
Five members believed Employee 1 did not communicate reengagement as stated in policy. No situation of awareness (radio call, lights or sirens) was communicated to other officers who deployed spike stripes, causing the head-on collision. Impulse control is in question regarding Employee 1's behavior.

IAD Case Number: **2013-C-0130**

Case Summary: Subject 1 was arrested for an outstanding warrant and furnishing false information. Subject 1 broke free and ran from Employee 2 during the inventory search. There was a brief foot pursuit that ended in the backyard of a neighboring duplex. Employee 2 threatened to use Taser on Subject 1 who was pushing his body against a fence and trying to get his cuffs in front of him. Employee 2 then moved in to place Subject 1 on the ground. Employee 1 moved in at the same time and struck Subject 1 once in the face with a closed fist knocking loose a tooth. The officers were then able to pull Subject 1 hands behind his back.

Allegation #1: *Employee 1 used force in a manner not consistent with Police Bureau policy.*

Recommended Finding: **Sustained three members/Exonerated with debriefing two members.**

Applicable Directive: **1010.20 – Physical Force**

Majority Opinion:

Three members believed that Employee 1's behavior was out of policy and the punch to the face was invasive. There was a lack of communication on the part of Employee 1 presenting a liability to officers and citizens.

Minority Opinion: Two members believed that Employee 1's behavior was borderline in/out of policy.

Recommendations:

Corrective Action/Discipline

PURSUIT

Letter of Reprimand/Four members

10 hours Suspension/One member

PHYSICAL FORCE

Letter of expectation/Four members

Letter of reprimand/One member

Please note: Lengthy discussion took place as to whether both cases should have separate recommendations or the same because of the type of "behavior" and "impulse control" theme in both cases. Therefore the above recommendations reflect both cases.

Majority Opinion:

Five members believed that Employee 1 displayed a lack of communication to [redacted] peers and impulsiveness overrode [redacted] judgment in both cases. Employee 1 was given notice two weeks after [redacted] case of Physical Force that it would be presented to the review board and two months later [redacted] had another case with a similar theme.

The board recommended Employee 1 display a change of behavior, stopping to think of others to keep [redacted] out of similar incidents in the future.

No other recommendations.

Case #	2014-B-0038
Summary	Allegation: Supervisor failed to document incident involving two employees
Allegation 1	Employee did not take immediate action or properly document their knowledge upon learning of an incident involving alleged prohibited discrimination.
Recommended findings Allegation 1	Unproven with Debriefing (4), Exonerated with Debriefing (1)
Recommended discipline	No recommendation made
Final disciplinary outcome	None
Reason discipline outside recommended range	Not applicable
Other recommendations	Three part policy recommendation
Status of recommendations	Accepted/Assigned to Assistant Chief Kevin Modica

DATE: February 17, 2015
TO: Larry O'Dea
Chief of Police
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, February 4, 2015, to review the following case:

IA Case Number: **Internal Case Number**

Employee: **Employee**

Case Summary: In early July, Employee became aware of a potential incident of prohibited harassment between a [REDACTED] and a [REDACTED] assigned to the [REDACTED]. Employee spoke to Supervisor on August 22, 2014, who documented the concerns in a memo on that day.

Allegation #1: *Employee did not take immediate action or properly document their knowledge upon learning of an incident involving alleged prohibited discrimination.*

Recommended Finding: Unproven w/Debrief/4 Members
Exonerated w/Debrief/1 Member

Applicable Directives: 344.00 – Prohibited Discrimination (A-B
2009 version)

Majority Opinion: Directive 344.00 is a PPB Directive, which applies to all PPB Employees. The language of the Directive pre-dates the current 13-agency taskforce structure of the [REDACTED] and could not have fully contemplated the specific interplay of multiple agencies' command and supervisory SOPs when the [REDACTED] inter-agency MOUs were subsequently created.

The result is that there are conflicting interpretations of Directive 344.00, its broader policy intent, and the scope of its specific provisions. The City of Portland's BHR reviewed this case, and decided not to pursue further investigation. Without greater clarity around specific command and supervisory requirements, particularly in scenarios where a City of Portland Employee is not a victim or a firsthand witness, the allegation could not be proven. While unproven, the importance of immediately addressing and properly documenting prohibited harassment is a top priority within the culture of the PPB, and 4 Members felt that a debriefing was appropriate.

Minority Opinion: One Member felt that, while there is a need for a specific SOP to govern command and supervisory aspects of the inter-agency relationships that comprise the [REDACTED] Employee

satisfied their responsibilities under Directive 344.00 as written. Beyond the technical requirements and application of Directive 344.00, the potential for conflicting interpretations exists. Due to the importance of addressing and documenting prohibited harassment properly and consistently, the Member felt that a debriefing was appropriate.

Recommendations: Corrective Action/Discipline

None.

Additional Recommendation

A formal 3-part policy recommendation to modify the current Directive and procedures/Unanimous Recommendation.

Opinion: The unanimous 3-part policy recommendation includes: 1) Reconsider the intent of Directive 344.00 and revise the language of the Directive to provide greater clarity on command and supervisory notification requirements related to the directive; 2) Share the SOP that has been created by the [REDACTED] Division on this topic with all PPB Divisions working with outside agencies; and 3) Discuss reporting and accountability language in the inter-agency MOUs between the PPB and other jurisdictions, which are currently being renegotiated. At the next meeting of the committee drafting the new MOU, discuss the need to establish clearer procedures.

Case #	2014-B-0015
Summary	Administrative review into the use of deadly force
Area of review 1	The Application of Deadly Force
Recommended finding Area of Review 1	Employee 1/In Policy (Unanimous)
	Employee 2/In Policy (Unanimous)
Area of Review 2	Operational Planning a Supervision
Recommended findings Area of Review 2	Employee 1/In Policy (Unanimous)
	Employee 2/In Policy (Unanimous)
	Employee 3/In Policy (Unanimous)
Area of Review 3	Post Shooting Procedures
Recommended Findings Area of Review 3	Employee 4/In Policy (Unanimous)
	Employee 5/In Policy (Unanimous)
Area of Review 4	The Application of Police Canine as Physical Force
Recommended Findings Area of Review 4	Employee 1/In Policy (Unanimous)
Recommended corrective action/discipline	No recommendation made
Final corrective action/discipline outcome	None
Reason discipline outside recommended range	Not applicable
Other recommendations	Continued training for areas noted (1-3)
Status of recommendations	All accepted/Assigned to Captain Bryan Parman

DATE: February 24, 2015
TO: Lawrence P O'Dea III
Chief of Police
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, February 11, 2015, to review the following case:

IA Case Number: **2014-B-0015 (Use of Deadly Force Review PPB Case #14-30862)**

Employee: **Employee 1
Employee 2
Employee 3
Employee 4
Employee 5**

Case Summary: Administrative review of the circumstances surrounding the officer involved shooting at SW Capitol Highway and SW Lobelia Street on April 16, 2014 involving Employee 1 and Employee 2.

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

Recommended Finding: (Employee 1) In Policy/Unanimous
Applicable Directives: Directive 1010.00 (Use of Force)

Opinion: Officers may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious injury. Members unanimously believed that Employee 1's actions met this standard, and were In Policy.

Recommended Finding: (Employee 2) In Policy/Unanimous
Applicable Directives: Directive 1010.00 (Use of Force)

Opinion: Officers may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious injury. Members unanimously believed that Employee 2's actions met this standard, and were In Policy.

Area of Review #2: *Operational Planning and Supervision*

Recommended Finding: (Employee 1) In Policy/Unanimous
Applicable Directives: Directive 630.05 — Vehicle Pursuits
630.15 — Foot Pursuits

Opinion: Members unanimously believed that Employee 1's actions were In Policy. All planning met required criteria, and the totality of the

circumstances were reviewed to weigh the risks of what needed to be accomplished. Employee 1 communicated that [REDACTED] wanted officers to prepare the perimeter and K9 1 was used as a preventive measure in the foot pursuit in lieu of a traditional foot apprehension strategy.

Recommended Finding: (Employee 2) In Policy/Unanimous
Applicable Directives: Directive 630.05 — Vehicle Pursuits
630.15 — Foot Pursuits

Opinion: Members unanimously believed that Employee 2's actions were In Policy. All planning met required criteria, and the totality of the circumstances were reviewed to weigh the risks of what needed to be accomplished. K9 1 was deployed as a tool, after Employee 1 had communicated with officers to prepare the perimeter. Employee 2's decision to cover Employee 1 while K9 1 was deployed was consistent with training.

Recommended Finding: (Employee 3) In Policy/Unanimous
Applicable Directives: Directive 630.05 — Vehicle Pursuits
630.15 — Foot Pursuits

Opinion: Members unanimously believed that Employee 3's actions were In Policy. Employee 3 was the primary in the vehicle pursuit, then at the crash scene. [REDACTED] helped pre-plan, reviewed the tactical plan, and went over the plan again so everyone understood. [REDACTED] provided good supervision and managed the crash scene with two suspects, even with another scene in close proximity.

Area of Review #3: *Post-Shooting Procedures*

Recommended Finding: (Employee 4) In Policy/Unanimous
Applicable Directives: 1010.10 — Use of Deadly Force
630.50 — Emergency medical Aid

Opinion: Members unanimously believed that Employee 4's actions were In Policy. Suspect was taken into custody by SERT, which had a medic with them, 1.5 miles from the original scene. Suspect was seen by medics within seconds of being taken into custody, and they determined suspect was stable enough to stay on the scene while continuing to be monitored.

Recommended Finding: (Employee 5) In Policy/Unanimous
Applicable Directives: 1010.10 — Use of Deadly Force
630.50 — Emergency Medical Aid

Opinion: Members unanimously believed that Employee 5's actions were In Policy. Employee 5 came upon the crash scene with Employee 3, saw two other suspects, and went to help Employee 1 with a tourniquet. Other Officers arrived, [REDACTED] assessed two vehicles for cover as Employee 1 was

being treated with third tourniquet. Employee 5 stepped back, saw that Employee 2 was involved, contacted [REDACTED] and confirmed [REDACTED] was okay. Employee 5 communicated with Employee 3 and created a voice plan for managing the two scenes, when medics could come in, and when Employee 1 could be evacuated.

Area of Review #4: *The Application of Police Canine as Physical Force*

Recommended Finding: (Employee 1) In Policy/Unanimous
Applicable Directives: 1010.20 — Physical Force

Opinion: Members unanimously believed that Employee 1’s actions were In Policy. Employee 1 communicated that [REDACTED] wanted officers to prepare the perimeter and K9 1 was used as a preventive measure in the foot pursuit in lieu of a traditional foot apprehension strategy. The animal was a tool to be used at the direction of the officer. Employee 1 set up for the perimeter and application of the K9. [REDACTED] knew [REDACTED] had to get out of the vehicle and then helped K9 1 acquire sight of the suspect as [REDACTED] gave suspect a verbal warning that K9 1 was being deployed, consistent with Directive 1010.20 and SOP #3.

Recommendations:

Members Unanimously affirmed Training Division Recommendations regarding: 1) continuing to facilitate K9 training with Officers; 2) the Training Division continues to include K9s in scenario-based training; and 3) the Training Division continues to incorporate and instill elements of critical incident management into all core curriculum (including crucial roles and use of tourniquets).

Case #	2014-B-0039
Summary	Administrative review into the use of deadly force
Area of review 1	The application of deadly force/Employee 1
Recommended finding Area of Review 1	Employee 1/In Policy (Unanimous)
Area of Review 2	Operational Planning and Supervision
Recommended findings Area of Review 2	Employee 2/In Policy (Unanimous)
	Employee 3/In Policy (Unanimous)
Area of Review 3	Post Shooting Procedures
Recommended Findings Area of Review 3	Employee 2/In Policy (Unanimous)
	Employee 3/In Policy (Unanimous)
	Employee 4/In Policy (Unanimous)
	Employee 5/In Policy (Unanimous)
Recommended corrective action/discipline	No recommendation made
Final corrective action/discipline outcome	None
Reason discipline outside recommended range	Not applicable
Other recommendations	(1) CIC involvement; (2) SERT role; (3) Directives evaluations; (4) SERT involvement; (5) continued instruction on body's responses
Status of recommendations	(1) Accepted/Assigned to Captain Bryan Parman; (2) Accepted/Assigned to Assistant Chief Robert Day; (3) Accepted/Assigned to Captain Bryan Parman (4) Accepted/Assigned to Assistant Chief Robert Day; (5) Accepted/Assigned to Captain Bryan Parman

DATE: February 24, 2015
TO: Lawrence P. O'Dea III
Chief of Police
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

IA Case Number: **2014-B-0039** (Use of Deadly Force Review PPB Case #14-71376)

Employee: Employee 1
Employee 2
Employee 3
Employee 4
Employee 5

Case Summary: This is an internal review of an officer involved use of deadly force. Administrative investigation into the circumstances surrounding the officer involved shooting on I-84 near NE 112th Ave on September 1, 2014 involving Employee 1.

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

Recommended Finding: (Employee 1) In Policy/Unanimous
Applicable Directives: Directive 1010.00 (Use of Force)

Opinion: Members unanimously believed that both shots fired by Employee 1 were fired In Policy. Training Division Analysis determined that Employee 1's actions were generally acceptable but created identifiable risks. Employee 1 was mindful of the multiple risks present when [redacted] fired [redacted] weapon, and [redacted] was focused on the immediate and deadly threat to the safety of other officers and public citizens posed by the suspect's actions. Employee 1 had probable cause to react as [redacted] did under the circumstances. [redacted] was the only one with the opportunity to do so, [redacted] assessed the risks and [redacted] perception of the backstop was reasonable, and [redacted] knew officers were present in the direction toward which the suspect's weapon was aimed. There was no indication that the suspect was struck by [redacted] first shot, and [redacted] second shot was fired when a second window through the trees became available. Employee 1 applied the same risk assessment related to backdrop and assessing that other officers were still at risk from the suspect's pointed gun.

Area of Review #2: *Operational Planning and Supervision*

Recommended Finding: (Employee 2) In Policy/Unanimous
Applicable Directives: Directive 630.15 — Foot Pursuits
315.30 — (Satisfactory Performance)

Opinion: Members unanimously found Employee 2's actions In Policy. When Employee 2 arrived on the scene, [redacted] took command of the scene

on Fremont and coordinated well with other units present. When shots were fired, [redacted] focused on containment of the suspect for the safety of officers and citizens in the area. Training Division Analysis determined that Employee 2 actions demonstrated sound and effective tactics.

Recommended Finding: (Employee 3) In Policy/Unanimous
Applicable Directives: Directive 630.15 — Foot Pursuits
315.30 — (Satisfactory Performance)

Opinion: Members unanimously found the actions of Employee 3 In Policy. Employee 3 was first to respond to the radio broadcast of a man with a gun in an area on the border of North and East Portland districts. As Employee 3 was en route to the scene, [redacted] continued to listen to the radio for updates, which provided rapidly developing descriptions of the area(s) for containment, changing positions, and threatening actions by the suspect. While [redacted] did not provide structure en route, [redacted] was aware of the evolving situation and mindful of its intensity and mobile nature. There is no policy requiring staging. Employee 3 arrived at the scene informed and prepared to provide leadership and direct action to implement the plan that had been shaped over dispatch as the situation escalated. Training Division Analysis determined that Employee 3' actions demonstrated sound and effective tactics.

Area of Review #3: *Post-Shooting Procedures*

Recommended Finding: (Employee 2) In Policy/Unanimous
Applicable Directives: 1010.00 — Use of Force
630.50 — Emergency medical Aid
720.00 — SERT and HNT Use

Opinion: Members unanimously believed that Employee 2's actions were In Policy. After the shooting, the suspect was lying on the ground but still moving around within reach of his gun. Officers could not safely approach immediately, as the suspect was still an active threat. Once the suspect was taken into custody, which was done without the use of additional force, aid was rendered immediately. Training Division Analysis determined that Employee 2's actions demonstrated sound and effective tactics.

Recommended Finding: (Employee 3) In Policy/Unanimous
Applicable Directives: 1010.00 — Use of Force
630.50 — Emergency medical Aid
720.00 — SERT and HNT Use

Opinion: Members unanimously believed that Employee 3' actions were In Policy. After the shooting, the suspect was lying on the ground but still moving around within reach of his gun. Officers could not safely approach immediately, as the suspect was still an active threat. Once the

suspect was taken into custody, which was done without the use of additional force, aid was rendered immediately. Training Division Analysis determined that Employee 3's actions demonstrated sound and effective tactics.

Recommended Finding: (Employee 4) In Policy/Unanimous
Applicable Directives: 1010.00 — Use of Force
630.50 — Emergency medical Aid
720.00 — SERT and HNT Use

Opinion: Members unanimously believed that Employee 4's actions were In Policy. After the shooting, the suspect was lying on the ground but still moving around within reach of his gun. Officers could not safely approach immediately, as the suspect was still an active threat. Once the suspect was taken into custody, which was done without the use of additional force, aid was rendered immediately. Training Division Analysis determined that Employee 4's actions demonstrated sound and effective tactics.

Recommended Finding: (Employee 5) In Policy/Unanimous
Applicable Directives: 1010.00 — Use of Force
630.50 — Emergency medical Aid
720.00 — SERT and HNT Use

Opinion: Members unanimously believed that Employee 5's actions were In Policy. After the shooting, the suspect was lying on the ground but still moving around within reach of his gun. Officers could not safely approach immediately, as the suspect was still an active threat. Once the suspect was taken into custody, which was done without the use of additional force, aid was rendered immediately. Training Division Analysis determined that Employee 5's actions demonstrated sound and effective tactics.

Recommendations:

Members unanimously voted to affirm Training Division recommendations regarding: 1) the role of CIC involvement; 2) review of SERT's role; 3) evaluation of Directive 1020.00 governing supervisory requirements for slugs and shotgun carry load; 4) evaluate Directive 720.00 to consider change requiring mandatory SERT response in all officer involved shootings; and 5) continue instruction on the body's natural response to stress in shooting situations.

Additional Discussion:

A board member questioned why Employee 6's supervisory role was not considered during the review. Board members believed it appropriate that the person in the CIC command role be included in future analysis, but in this instance, felt comfortable saying Employee 6's actions were appropriate. Board members also questioned whether it necessary to include SERT actions in this particular review and/or in future reviews where SERT serves only in a supporting role.

Case #	2013-C-0335
Summary	Inappropriate off duty action
Allegation 1	Employee took action off duty that was unnecessary under the circumstances.
Recommended finding Allegation 1	Sustained (4), Unproven with Debriefing (1)
Allegation 2	Employee failed to report off duty police action in a timely manner.
Recommended finding Allegation 2	Sustained (Unanimous)
Allegation 3	Employee used profanity.
Recommended finding Allegation 3	Unproven (Unanimous)
Recommended discipline	Ten hour suspension without pay (4), Command Counseling (1)
Final disciplinary outcome	Ten hour suspension without pay
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None

DATE: June 16, 2014
TO: Christopher Paille
Police Review Board Coordinator
FROM: Michael Greenfield, Marshall Mediation
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, May 28, 2014 to review the following case:

IAD Case Number: **Internal Case Number**

Employee: **Employee 1**

Case Summary: At a [redacted] High School football game Employee 1 intervened in an argument between Citizen 1 and Citizen 2 by restraining Citizen 2 after Citizen 2 had reached for and briefly held Citizen 1 by the arm. Following the incident Employee 1 told Citizen 2 that [redacted] was a police officer and that Citizen 2 should leave Citizen 1 alone. Citizen 2 reported that Employee 1 used profanity. Employee 1 reported the incident to Employees 2 and 3 who were at the football game. Employee 1 did not submit a written report until twelve days after the incident occurred. The Employees 2 and 3 wrote an internal memo to Employee 4.

Allegation #1: *Employee 1 took police action off duty that was unnecessary under the circumstances.*

Recommended Finding: **Sustained / 4 members
Unproven with debriefing / One Member**
Applicable Directives: **311.30 – Off Duty Responsibility of Officers.
315.30 – Unsatisfactory Performance**

Majority Opinion:
The board determined that while [redacted] was off duty Employee 1, in response to a low-level confrontation, used unnecessary physical force against Citizen 2. The board concluded that Employee 1 did not have crucial information when [redacted] took the action and had not considered all of the factors needed when taking off-duty action and alternative actions short of physical force [redacted] could have taken.

Minority Opinion:
In a quickly evolving confrontation Employee 1 saw what looked like unwanted physical contact. The Bureau wants Officers to react to these kinds of situations and [redacted] did use a low level of force. The allegation was not definitely proven.

Allegation #2: *Employee 1 failed to report police action off duty in a timely manner,*

Recommended Finding: **Sustained / Unanimous**

Applicable Directives: **910.00 –Field Reporting Handbook
Instructions**

Majority Opinion:

The board concluded Employee 1's written police report was submitted twelve days after the incident, not within four hours of the incident as required by the bureau.

Allegation #3:

Employee 1 used profanity,

Recommended Finding: **Unproven / Unanimous**

Applicable Directives: **310.40 - Courtesy**

Majority Opinion:

The board determined that Citizen 2's statements about Employee 1's use of profanity were not consistent, that there was no third party verification of the use of profanity and that Employee 1 denied using profanity. The board concluded that the allegation of use of profanity was unproven.

Recommendations:

Corrective Action/Discipline

The board recommends one-day suspension without pay – 4 members
Command Counseling – one member

Majority Opinion:

The board reviewed Employee 1's history of discipline and the Portland Police Bureau Discipline Guide. The board concluded that Employee 1's actions were out of proportion to the incident and contrary to bureau directions. The board determined that [redacted] conduct falls under the description in Category C of the Portland Police Bureau Discipline Guide calling for a one-day suspension without pay.

Minority Opinion:

One member recommended that Employee 1 receive command counseling under Category A of the Portland Police Bureau Discipline Guide for failure to prepare a timely written report about the incident.

No other recommendations

Case #	2014-C-0026
Summary	Employee failed to take appropriate action at the scene of a crime
Allegation 1	Employee failed to investigate and write a report about an attempted robbery that was reported on [occasion 1].
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee failed to investigate and write a report about an attempted robbery that was reported on [occasion 2].
Recommended findings Allegation 2	Sustained (Unanimous)
Recommended discipline	One workweek suspension without pay
Final disciplinary outcome	One workweek suspension without pay
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	Policy examination for notebook/CAD entries
Status of recommendations	Accepted/Assigned to Lt. Gorgone, Professional Standards

DATE: July 1, 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 was dispatched on a priority "suspicious" call where Complainant 1, said that an unknown female ran into her house and then back out. Employee 1 cleared the call "G" meaning "unable to locate person or location." Employee 1 later self-dispatched via MDT to a "follow-up" call at Complainant 1's home. [redacted] cleared that call a short time later as a "J" meaning "assignment completed." Complainant 1 later reported this incident to a different officer. Based on the other officer's report, Complainant 1 gave sufficient information for detectives to follow up on her case, identify the suspect, and charge the suspect with a crime.

Allegation #1: *Employee 1 failed to investigate and write a report about an attempted robbery that was reported to [redacted] on 12/ [redacted] /13.*

Recommended Finding: **Sustained**
Applicable Directive: **312.00 – Requests for Assistance; 315.30 – Unsatisfactory Performance**

Unanimous Opinion:
The Board reviewed the specific facts and context of the case, and upon a 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.

Allegation #2: *[redacted] failed to investigate and write a report about an attempted robbery that was reported to [redacted] on 12/ [redacted] /13.*

Recommended Finding: **Sustained**
Applicable Directive: **312.00 – Requests for Assistance; 315.30 – Unsatisfactory Performance**

Unanimous Opinion:

The Board reviewed the specific facts and context of the case, and upon a careful review of the information presented, sustained the findings for Allegation #2 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, and through lively discussion, board members reached unanimous agreement that Employee 1's conduct fell within Category C "Conduct that involves a risk to safety or that has or may have pronounced negative impact on the operations or professional image of a department, or on relationships with other officers, agencies or the public."

Referencing Employee 1's past history of corrective actions in 2012 () and 2013 () the Board determined that actions in December 2013 constituted an "aggravated" second violation in three years. The Discipline Guide provides for a One Workweek Suspension Without Pay (SWOP) within this context.

By unanimous opinion, the board recommended that Employee 1 receive a one workweek SWOP.

The board further recommended a policy change.

Policy

Board members discussed officers' increasingly growing practice of making CAD entries in place of notebook entries, noting the CAD system provides an efficient and easy method of note taking for active officers in the field. Considering the growing reliance upon CAD entries among police officers, the board recommended that the Chief of Police examine the notebook policy as it relates to CAD.

There are no further recommendations.

Case #	2014-B-0001
Summary	Posting of YouTube video and personal use of surveillance video
Allegation 1	Employee made a copy of surveillance video, taken as part of a criminal investigation, for personal use.
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee made a copy of surveillance video, taken as part of a criminal investigation, for personal use.
Recommended findings Allegation 2	Sustained (Unanimous)
Allegation 3	Employee acted in a an unprofessional manner by posting the Ghetto Entertainment video to the Internet.
Recommended findings Allegation 3	Sustained (Unanimous)
Recommended discipline	Two day suspension without pay (2), one day suspension without pay (2), Letter of Reprimand (1)
Final disciplinary outcome	One day suspension without pay
Reason discipline outside recommended range	No applicable/In range
Other recommendations	1. PPB administrative review of social media policies. 2. Training Division instruction reminders on appropriate use of cell phones
Status of recommendations	1. Declined/Covered under existing city and bureau policies. 2. Accepted/Assigned to Training Division, Captain Bryan Parman.

DATE: August 14, 2014
TO: Christopher Paille
Police Review Board Coordinator
FROM: Dena Marshall
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, August 6, 2014, to review the following case:

IA Case Number: **Internal Case Number**

Employee: **Employee 1**

Case Summary: Internal Affairs became aware of a video posted on YouTube, depicting Employee 1 and other officers while at work and during off duty hours, that could diminish the orderly and effective operations of the Police Bureau. In reviewing the YouTube link, it was determined that the video also contains surveillance video that had been seized as evidence in a criminal investigation. In addition it was determined the link contained evidence taken as part of an internal force investigation.

Allegation #1: *Employee 1 made a copy of surveillance video, taken as part of a criminal investigation, for personal use.*

Recommended Finding: **Sustained / Five members**

Applicable Directives: **310.70 – Dissemination of Information
640.02 – Photography and Digital Evidence
H.R.A.R. 4.08 – Information Technologies**

Majority Opinion:

The Board reviewed the specific facts and context of the case, and upon a careful review of the information presented, including Employee 1's admission to the facts, sustained the findings for Allegation #1 by unanimous vote.

Minority Opinion:

There was no minority opinion.

Allegation #2: *Employee 1 made a copy of surveillance video, taken as part of an administrative force investigation, for personal use.*

Recommended Finding: **Sustained / Five members**

Applicable Directives: **310.70 – Dissemination of Information
640.02 – Photography and Digital Evidence
H.R.A.R. 4.08 – Information Technologies**

Majority Opinion:

The Board reviewed the specific facts and context of the case, and upon a careful review of the information presented, including Employee 1's admission to the facts, sustained the findings for Allegation #2 by unanimous vote.

Minority Opinion:

There was no minority opinion.

Allegation #3:

Employee 1 acted in an unprofessional manner by posting the [REDACTED] video to the internet.

Recommended Finding:

Sustained / Five members

Applicable Directives:

**310.00 – Conduct, Professional
H.R.A.R. 4.08 – Information Technologies**

Majority Opinion:

The Board reviewed the specific facts and context of the case, and upon a careful review of the information presented, including Employee 1's admission to the facts, sustained the findings for Allegation #3 by unanimous vote.

Minority Opinion:

There was no minority opinion.

Recommendations:

Corrective Action/Discipline

2 day SWOP – Two members
1 day SWOP – Two members
LOR – One member

Majority Opinion:

Two members who voted for a 2 day SWOP believed the discipline should send a clear message that Employee 1's use of video footage taken in a detox facility constituted a serious violation of an individual's right to privacy and confidential health information, and therefore should be considered an aggravating factor in determining the appropriate corrective action.

Two members who voted for a 1 day SWOP believed Employee 1's actions reflected youthful poor judgment, and that Employee 1's ready admission of wrongdoing combined with the fact this was [REDACTED] first offense and [REDACTED] five prior commendations, should be taken into consideration as an appropriate balance of discipline and on-the-job-learning.

Minority Opinion:

One member voted for a LOR, expressing satisfaction in observations that the officer had already received sufficient reprimand from [redacted] superiors, and that the officer's apologetic and contrite demeanor during the investigation warranted a mitigating factor to be considered in determining the appropriate corrective action.

Other recommendations.

Review of Bureau and City policies

The board recommended that the Chief of Police review Bureau technology policies to ensure alignment with City technology policies. The board further recommended that the Chief of Police work with the City Attorney's Office to review all City and Bureau policies related to the use of technology and social media, including the appropriate and authorized use of personal recording devices such as personal cell phones.

The board further recommended that the Training Division include reminders to new officers on the appropriate and authorized use of personal cell phones while on the job.

There were no other recommendations.

Case #	2013-B-0055
Summary	Off duty intoxication requiring medical assistance
Allegation 1	Employee behaved in an unprofessional manner on December 1, 2013.
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee consumed alcohol in violation of a condition of probation.
Recommended finding Allegation 2	Sustained (Unanimous)
Recommended discipline	Termination (Unanimous) (Recommendation in conj. with 2014-C-0001)
Final disciplinary outcome	Employee resigned
Reason discipline outside recommended range	Not applicable
Other recommendations	Bureau explore ongoing approaches to alcohol abuse prevention, training, support services.
Status of recommendations	Accepted/Assigned to Personnel and Training Divisions.



Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: September 10, 2014
TO: Michael Reese
Chief of Police
FROM: Mark Fulop.
Police Review Board Facilitator
SUBJ: Police Review Board Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 10, 2014, to review the following case:

IA Case Number: 2013-B-0055

Involved Member: Employee

Case Summary: Officer 1 of [REDACTED] PD responded on a call of a man passed out and unresponsive in a taxi cab at [REDACTED] PD. The individual who was passed out was identified by [REDACTED] police ID as **Employee**. **Employee** was off-duty and appeared to be extremely intoxicated; [REDACTED] was transported by ambulance to the hospital.

Allegation #1: **Employee** behaved in an unprofessional manner on December 1, 2013.

Recommended Finding: **Sustained/Unanimous**
Applicable Directives: **310.00 – Conduct, Professional**

Opinion:
Third party observations corroborated **Employee** intoxication, which resulted in a high-risk situation and police involvement.

Allegation#2: **Employee** consumed alcohol in violation of a condition of [REDACTED] probation.

Recommended Finding: **Sustained/Unanimous**
Applicable Directives: **315.00 – Laws, Rules and Orders**

Opinion:
Employee was on a 24-month probation for a previous incident. A condition of the probation was a prohibition on the consumption of alcohol. The probation would have expired on May 23, 2014. **Employee** admitted to consuming alcohol on December 1, 2013, which was a violation of [REDACTED] probation.

Recommendations: Corrective Action/Discipline: **Termination/Unanimous**

Opinion: Recommendation reached in conjunction with analysis of Case 2014-C-0001. Given the two separate incidents in a matter of weeks, and applying the discipline guidelines, the members agreed that the Bureau could not continue to employ **Employee**.

Other

It was acknowledged that the Portland Police Bureau has come far in the identification and treatment of problem drinking but that there is still work to be done in assisting employees manage job stress. The committee recommends that the Bureau should explore additional "proactive" and responsive approaches to alcohol abuse prevention, training, and supporting services, as well as ensuring that efforts are ongoing, preventative reinforcement through multiple contacts over time.

Case #	2014-C-0001
Summary	Off duty employee vandalized a vehicle.
Allegation 1	While off duty, employee vandalized a car belonging to a community member.
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee failed to notify a supervisor after being arrested for a criminal offense.
Recommended finding Allegation 2	Unproven (Unanimous)
Allegation 3	Employee failed to report for assigned shift on [date].
Recommended findings for Allegation 3	Sustained (3), Unproven (2)
Allegation 4	Employee consumed alcohol, even though consumption of alcohol was in violation of probation.
Recommended findings for Allegation 4	Sustained (Unanimous)
Recommended disciplines	Termination (Unanimous) (Recommendation in conj. with 2013-B-0055)
Final disciplinary outcome	Employee resigned
Reason discipline outside recommended range	Not applicable
Other recommendations	See (2013-B-0055)
Status of recommendations	See (2013-B-0055)



Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: September 10, 2014
TO: Michael Reese
Chief of Police
FROM: Mark Fulop.
Police Review Board Facilitator
SUBJ: Police Review Board Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 10, 2014, to review the following case:

IA Case Number: 2014-C-0001

Involved Member: Employee

Case Summary: On December [redacted] 2013, at approximately [redacted] hours, witnesses reported seeing **Employee** vandalizing a vehicle at the [redacted] at [redacted]. [redacted] Officers responded to the scene, and after their investigation, **Employee** was arrested for Criminal Mischief II.

Allegation #1: *While off duty, **Employee** vandalized a car belonging to **Community Member 1**.*

Recommended Finding: **Sustained/Unanimous**

Applicable Directives: **315.00 – Laws, Rules and Orders; 310.00 – Conduct, Professional**

Opinion:

Employee admitted to the alleged actions during the investigation.

Allegation#2: ***Employee** failed to notify a supervisor after being arrested for a criminal offense.*

Recommended Finding: **Unproven/Unanimous**

Applicable Directives: **315.00 – Laws, Rules and Orders**

Opinion:

There is some ambiguity in the directive as currently written and members found it unclear whether the time it took **Employee** to notify a supervisor constituted a violation.

Allegation#3: ***Employee** failed to report for [redacted] assigned shift on 1/ [redacted] /14.*

Recommended Finding: **Sustained/3Members**

Unproven/2 Members

Applicable Directives: **311.00 – Duty Required**

Majority Opinion:

There are always supervisors on duty. After being released, **Employee** likely had 2-3 hours when [redacted] could have notified someone that

█ would not be reporting for █ shift.

Minority Opinion:

The date of the incident made the circumstances more complicated because January █ was not a typical workday, there were non-regular office assignments, and **Employee's** circumstances prior to release did not give the member confidence that **Employee** failed to meet the duty requirement.

Allegation#4:

Employee consumed alcohol in violation of a condition of █ probation.

Recommended Finding: **Sustained/Unanimous**

Applicable Directives: **315.00 – Laws, Rules and Orders;**

Opinion:

Employee admitted to drinking alcohol, even though █ consumption of alcohol was in violation of █ then current probation.

Recommendations:

Corrective Action/Discipline: **Termination/Unanimous**

Opinion:

Based on the Bureau's discipline guidelines, whether the violation rose to a Category E or F, there were simply too many factors to overcome and the recommendation would be termination for either Category E or F. Given the two separate incidents in a matter of weeks, and applying the discipline guidelines, the members agreed that the Bureau could not continue to employ **Employee**.

Other

It was acknowledged that the Portland Police Bureau has come far in the identification and treatment of problem drinking but that there is still work to be done in assisting employees manage job stress. The committee recommends that the Bureau should explore additional "proactive" and responsive approaches to alcohol abuse prevention, training, and supporting services, as well as ensuring that efforts are ongoing, preventative reinforcement through multiple contacts over time.

Case #	2013-C-0377
Summary	Employee failed to take appropriate action and behaved unprofessionally during the reporting of a sexual assault.
Allegation 1	Employee inadequately communicated with community member 1.
Recommended findings Allegation 1	Sustained (4), Abstained (1)
Allegation 2	Employee inadequately communicated with community member 2.
Recommended finding Allegation 2	Sustained (Unanimous)
Allegation 3	Employee failed to properly respond to a sexual assault report.
Recommended finding for Allegation 3	Sustained (Unanimous)
Allegation 4	Employee failed to perform their duties in accordance with the standards and objectives of the bureau.
Recommended finding for Allegation 4	Sustained (Unanimous)
Allegation 5	Employee misinterpreted ORS 181.575, failed to identify reported action as a crime, and failed to comply with the requirements of sexual assault investigations.
Recommended finding for Allegation 5	Sustained (Unanimous)
Recommended discipline	One workweek suspension without pay (3), One workweek SWOP w/training (1), Two day suspension without pay (1)
Final disciplinary outcome	One workweek suspension without pay
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None



DATE: September 10, 2014
TO: Michael Reese
Chief of Police
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommendations

CONFIDENTIAL

The Police Review Board met on Wednesday, September 10, 2014, to review the following case:

IA Case Number: 2013-C-0377

Involved Member: Employee

Case Summary:

Complainant wanted to report 17-year old was molested by a 16-year old. Complainant took to file a report at East Precinct and alleged Employee interviewed for ten minutes, told could not file a report based on the information provided, there was not enough evidence an actual crime, and was not legally permitted to write a report.

The complainant's later spoke with another officer who determined Employee had written a report. The complainant alleged Employee failed to notify or about writing the report, and made inappropriate remarks during their conversation. The complainant also alleged Employee was rude and unprofessional to on the phone.

Allegation #1: Employee inadequately communicated with Community Member 1.

Recommended Finding: Sustained/4 Members, Abstained/1 Member

Applicable Directives: 310.40 - Courtesy

Note: Additional Directive added, 310.00 - Conduct

Majority Opinion:

Members discussed Employee's use of inflammatory language in communication with Complainant's including comparison of harm to Complainant and that of the 16-year old and characterizing incident as described as a result of "raging hormones". Communication was found damaging and unprofessional, and led to addition of Conduct directive as part of the same allegation and investigation.

Minority Opinion:
One member abstained because they considered Allegations #1 and #2 to be the same allegation.

Allegation #2: *Employee inadequately communicated with Community Member 2.*

Recommended Finding: **Sustained/Unanimous**
Applicable Directives: **310.40 – Courtesy**

Note: Additional Directive added, 310.00 – Conduct

Opinion:
Members discussed **Employee**'s use of inflammatory language, including comparison of harm to Complainant and that of the 16-year old [redacted] and characterizing incident as described as a result of [redacted] "raging hormones". In addition, **Employee** told Complainant that [redacted] did not intend to file a report, and failed to notify [redacted] when [redacted] did subsequently file a report. Communication was found damaging and unprofessional, and led to addition of Conduct directive as part of the same allegation and investigation.

Allegation#3: *Employee failed to properly respond to a sexual assault report.*

Recommended Finding: **Sustained/Unanimous**
Applicable Directives: **312.00 – Request for Assistance**

Opinion:
Complainant was under 18, thus filing a sexual assault report was mandatory. **Employee** had an obligation to write and file a non-biased report that captured the information provided, which [redacted] initially failed to do and indicated that no report was required. Further, **Employee** presented information in the subsequent report that was written that undermined the ability to subsequently press forward with prosecution.

Allegation#4: *Employee failed to perform [redacted] duties in accordance with the standards and objectives of the Bureau.*

Recommended Finding: **Sustained/Unanimous**
Applicable Directives: **315.30 – Unsatisfactory Performance; 640.20 – Sexual Assault Investigation**

Opinion:

Employee's communication effectively blocked Complainant's ability to access the criminal justice system and diminished [redacted] as a [redacted] by [redacted] statements and lack of interest, thus failing to rise to the level of performance expected of officers. **Employee** informed the Complainant that a report would not be filed and coded the interaction as "no report required" at the end of [redacted] shift. Subsequently, when seeking advice from coworkers, **Employee** did submit a report without notifying the Complainant of the report being written.

Allegation#5:

Employee misinterpreted Oregon Revised Statute 181.575, failed to identify reported action as a crime, and failed to comply with the requirements of sexual assault investigations

Recommended Finding: **Sustained/Unanimous**

Applicable Directives: **315.00 – Laws, Rules and Order; 640.20 – Sexual Assault Investigation; 315.30 –Unsatisfactory Performance**

Opinion:

Employee's interpretation of ORS 181.75 was in error as to its correct application. It was discussed that **Employee** continued with [redacted] interpretation even after receiving clarifying information about ORS 181.75 in the context of Bureau training.

Recommendations:

Corrective Action/Discipline

1 Week SWOP/ 3 Members

1 Week SWOP, Additional Training/1 Member

2 Days SWOP/1 Member

Majority Opinion:

3 members concurred with the recommendation of 1 Week SWOP using the Discipline Guidelines, finding that the sustained allegations rose to a Category D with aggravating factors, including: the clarity of the law and policy relating to juveniles; **Employee** has 25 years of experience and extensive training; the incident was not dynamic and there was time to seek advice. No mitigating factors were found.

Minority Opinion:

1 member concurred with the recommendation of 1

Week SWOP, and that the sustained allegations rose to a Category D with aggravating factors, but also recommended additional sensitivity training.

Minority Opinion:

1 member believed that **Employee**'s actions deviated from policy, and could have had a profound negative impact on the public image of the Bureau (Category C), but not sure it rose to highest level of conduct unprofessional (Category D). The report was ultimately written and **Employee** would be the one that would need to defend its quality if called to do so. Member's recommendation 2 Days SWOP.

No Additional Recommendations

Case #	2014-C-0071
Summary	Employee was rude and failed to provide business card.
Allegation 1	Employee was rude during interaction with complainant.
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee failed to provide complainant with business card upon request.
Recommended finding Allegation 2	Sustained (Unanimous)
Recommended corrective action	Command Counseling (Unanimous)
Final corrective action	Employee resigned
Reason discipline outside recommended range	Not applicable
Other recommendations	None

Case #	2014-B-0006
Summary	Employee operated personal vehicle without plates and accrued unpaid parking tickets.
Allegation 1	Employee tried to avoid responsibility for parking fines by making personal vehicle difficult to identify.
Recommended findings Allegation 1	Sustained (Unanimous)
Allegation 2	Employee used position as a police officer to try to prevent a Parking Code Enforcement Officer from towing their personal vehicle.
Recommended findings Allegation 2	Unproven (3), Exonerated (2)
Allegation 3	For approximately one year, employee regularly operated their personal motor vehicle without displaying license plates.
Recommended finding Allegation 3	Sustained (Unanimous)
Allegation 4	Employee behaved in an unprofessional manner, brining reproach and discredit Upon the Bureau of Police and the City.
Recommended finding for Allegation 4	Sustained (Unanimous)
Recommended discipline	Termination
Final disciplinary outcome	Employee resigned
Reason discipline outside recommended range	Not applicable
Other recommendations	None

DATE: September 24, 2014
TO: Christopher Paillé
Review Board Coordinator
FROM: Anne Presentin
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 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.

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-0031
Summary	Employee violated Internal Affairs communication restriction order
Allegation 1	Employee violated a communication restriction by contacting and discussion facts of [IA case] with another officer.
Recommended finding Allegation 1	Sustained (Unanimous)
Recommended discipline	Two workweek suspension without pay (3), One workweek suspension without pay (2)
Final disciplinary outcome	Three workweek suspension without pay
Reason discipline outside recommended range	<p>In his initial review of the case, Chief O'Dea found the sustained allegation of the violation of a communications restriction order tantamount to insubordination. The original recommendations for discipline proposed by the Police Review Board were found too lenient given the nature of the allegation. The employee's violation of the communications restriction order exhibited a serious lack of judgement and involved misconduct substantially contrary to the standards of conduct reasonable expected of one whose sworn duty is to uphold the law. The violation was found to create potential harm to the public's faith in the bureau's ability to conduct its internal investigations. The rank and experience of the involved employee were also considered aggravating factors in determining a level of proposed discipline. Termination proposed.</p> <p>Upon meeting with the employee, significant mitigating information was considered and, although the conduct was found to exhibit a serious lack in judgement, it was not found willful or deceitful. The employee accepted responsibility for their behavior and apologized. The employee's numerous contributions to the bureau and the city were also considered as mitigating factors in the decision for final discipline. A 120 hour suspension without pay imposed.</p>
Other recommendations	None

DATE: October 15, 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, October 15, 2014, to review the following case:

IA Case Number: **2014-B-0031**

Employee: **Employee**

Case Summary: On July 14, 2014 at approximately 1150 hours, Employee revealed to Captain Famous that [redacted] had violated a communication restriction [redacted] received on July 3, 2014 in regards to another IA case. Employee revealed that several hours after receiving [redacted] communication restriction [redacted] called and spoke to Officer 1 whom [redacted] knew was to receive a communication restriction when [redacted] came back to work on [redacted] 2014.

Allegation #1: Employee *violated a communication restriction by contacting and discussing facts of IA # [redacted]-B-[redacted] with Officer 1.*

Recommended Finding: Sustained/Unanimous

Applicable Directives: 315.00 – Laws, Rules, and Orders

Opinion: Employee admitted to violating the restriction, claiming in statement that [redacted] was attempting to avoid a drawn out process and wanted to resolve the issue on [redacted] own. Employee acknowledged [redacted] poor judgment in the matter. Employee did self-report [redacted] action, although it was more than a week past the event.

Recommendations: Corrective Action/Discipline

2 Week SWOP/3 Members

1 Week SWOP/2 Members

Majority Opinion: Three members recommended 2 weeks SWOP. Based on the discipline matrix, 2 members determined that Employee's conduct in violating a direct order, aggravated by [redacted] rank and role within the department, placed the action presumptively in Category E, potentially having an adverse impact on the perception of the PPB. Because of the aggravating factors that were used to elevate the action to Category E, those factors were not double counted as aggravating factors in determining corrective action.

The third member recommending 2 weeks SWOP determined that Employee's conduct in violating a direct order fit squarely within

Category E, potentially having an adverse impact on the perception of the PPB. This was then aggravated by Employee's rank and role within the [REDACTED] department, and the appearance of impropriety given [REDACTED] friendship with Officer 1.

Minority Opinion: 2 members recommended 1 week SWOP, determining that [REDACTED] conduct fit within Category D, substantially contrary to the values of the PPB, aggravated by [REDACTED] rank and role within the [REDACTED] [REDACTED] and the appearance of impropriety given [REDACTED] friendship with Officer 1. The fact that Employee self-disclosed may have been a mitigating factor, but the time it took [REDACTED] to do so was ultimately an aggravating factor.

Additional Recommendation

None.

Case #	2013-B-0046
Summary	Employee failed to take appropriate action at the scenes of a welfare check, domestic dispute, a restraining order violation, and an unwanted subject call. (Other allegations not sustained - see below)
Allegation 1	Employee did not arrest a subject when the employee had probable cause the subject was violating a restraining order.
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee did not properly investigate and document a report of a restraining order violation on [date].
Recommended finding Allegation 2	Sustained (Unanimous)
Allegation 3	Employee did not properly investigate and document a report of domestic violence on [date].
Recommended finding Allegation 3	Sustained (Unanimous)
Allegation 4	Employee failed to properly investigate a call of a disturbance on [date].
Recommended finding Allegation 4	Sustained (Unanimous)
Allegation 5	Employee inappropriately used sick time during November and December 2013.
Recommended findings Allegation 5	Exonerated (4), Exonerated with Debriefing (1)
Allegation 6	Employee was untruthful when requesting sick time during November and December 2013.
Recommended finding Allegation 6	Exonerated (Unanimous)
Recommended discipline	Letter of Reprimand (3), One day suspension without pay (2) (recommendations made in conj. with 2014-C-0141.
Final disciplinary outcome	Letter of Reprimand
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None
Case #	2014-C-0141
Summary	Employee failed to make arrest
Allegation 1	Employee did not make a mandatory arrest of a subject who had a violated a restraining order.
Recommended finding Allegation 1	Sustained (Unanimous)
Recommended discipline	Letter of Reprimand (3), One day suspension without pay (2) (recommendations made in conj. with 2013-B-0046.
Final disciplinary outcome	Letter of Reprimand
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None

DATE: October 31, 2014
TO: Christopher Paillé
Review Board Coordinator
FROM: Anne Presentin
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, October 22, 2014, to review two cases, ²⁰¹³~~2014~~-B-0046 and 2014-C-0141.

IA Case Number: 2013
2014-B-0046

Employee: **Employee #1**

Case Summary: Allegations 1 and 2
Employee #1 and Employee #2 contacted Individual #1 and Individual #2 together at Individual #2's home in response to a welfare check. Individual #1 has a restraining order against Individual #2 and Employee #1 did not arrest Individual #2 for violating the restraining order.

Allegation 3

Employee #1 was dispatched to a possible domestic disturbance call on December 2013. The call came in via Clackamas County Dispatch, through BOEC, and then to Employee #1. There were errors made in the address either by the caller or between dispatch organizations. As a result, the dispatched address did not exist as given and there was no house at the location provided. Additionally, the caller requested the officers be cancelled as the caller no longer wanted to report the issue. As a result, Employee #1 did not attempt contact and cancelled Employee #1's cover car.

Allegation 4

Employee #1 responded as a cover car to a call at a Starbucks. The call involved an unwanted person inside yelling and screaming. Although Employee #1 was dispatched as the cover officer, once Employee #1 started taking proactive steps toward the resolution of the call, Employee #1 became the primary officer. Employee #1 treated the call as an unwanted person and asked a transient to leave. Once the transient left, Employee #1 assumed the necessary work had been completed to clear the incident and the call was concluded. Employee #1 did not contact the complainant or obtain any information for a notebook entry or report of the incident. It was later determined by additional officers that the transient had threatened the employee with a knife - information the manager did not know when the manager called the police.

Allegations 5 and 6

Employee #1 called in sick on four occasions during the months of November and December. During the month of November, Employee #1 made two requests for partial time off and, on both occasions, called in again and requested time off for full days. During the month of December,

on an occasion of calling in sick, Employee #1 was later seen at a holiday party. Employee #1 then called in sick for the first three hours on the day following the party.

Allegation #1:

Employee #1 did not arrest a subject when Employee #1 had probable cause the subject was violating a restraining order.

Recommended Finding: **Sustained / Five members**
Applicable Directive: **825.00 – Domestic Violence, Arrests and Restraining Orders**

Majority Opinion:

The directive states arrest is mandatory when a subject is violating a restraining order. Employee #1 did not identify the individuals at the residence nor make an arrest.

Minority Opinion:

N/A

Allegation #2:

Employee #1 did not properly investigate and document a report of a restraining order violation on Oct. 2013.

Recommended Finding: **Sustained / Five members**
Applicable Directive: **825.00 – Domestic violence, arrests and restraining orders**
315.30 – Unsatisfactory performance

Majority Opinion:

Members said the directives clearly and specifically require reporting at the end of a shift. Employee #1 did not file a report on the day the incident occurred.

Minority Opinion:

N/A

Allegation #3:

Employee #1 did not properly investigate and document a report of domestic violence on Dec. 2013.

Recommended Finding: **Sustained / Five members**
Applicable Directive: **825.00 – Domestic violence, arrests and restraining orders**
315.30 – Unsatisfactory performance

Majority Opinion:

Despite the lack of an active disturbance and lack of correct address, the Board said Employee #1 could have made more effort to contact the original caller by phone to determine the correct location and check the situation. Instead, Employee #1 left without conducting further investigation.

Minority Opinion:
N/A

Allegation #4:

Employee #1 failed to properly investigate a call of a disturbance on Dec. 2013

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

Majority Opinion:
Members agreed that Employee #1 should have made an effort to enter the coffee shop and talk with employees once the disturbance had ended. Had Employee #1 done so, Employee #1 would have learned additional facts.

Minority Opinion:
N/A

Allegation #5:

Employee #1 used sick time inappropriately during November and December 2013.

Recommended Finding: **Exonerated / Four members**
Exonerated with a debrief / One member
Applicable Directive: **Directive 311.00 – Duty Required**

Majority Opinion:
Members said the evidence showed either Employee #1 or Employee #1's child was ill when Employee #1 used sick time and that Employee #1 followed sick leave reporting policies to inform Employee #1's supervisor. One member said Employee #1 has already been spoken to about this issue.

Minority Opinion:
One member recommended an Exonerated finding and also recommended a debrief because from the outside, there appeared to be a pattern in the use of sick leave.

Allegation #6:

Employee #1 was untruthful to supervisors when requesting sick time during November and December 2013.

Recommended Finding: **Exonerated / Five Members**
Applicable Directive: **310.50 – Truthfulness**

Majority Opinion:
The Board applied the same reasoning as in Allegation #5: Employee #1 told Employee #1's supervisor of Employee #1's illness and Employee #1's illness when using sick time.

Minority Opinion:
N/A

IA Case Number: 2014
~~2013-C-0141~~

Employee: **Employee #1**

Case Summary: [REDACTED] Employee #1 was dispatched to an in-progress restraining order violation call. Employee #1 did not make an arrest and Employee #1 documented Employee #1's reasoning in a police report.

Allegation #1: [REDACTED] *Employee #1 did not make a mandatory arrest of a subject who had violated a restraining order.*

Recommended Finding: **Sustained / Five members**
Applicable Directive: **825.00 – Domestic violence, arrests and restraining orders**

Majority Opinion:
When a restraining order is violated, there is a requirement of a mandatory arrest and Employee #1 did not arrest the subject. One member said when police officers are on the street, the decision is black and white.

Minority Opinion:
N/A

Recommendations: Corrective Action/Discipline

The Review Board decided to address the five recommended sustained allegations from the two cases together because the issues were similar. Members spent significant time discussing the category of discipline and corrective action.

2013
IA Case #2014-B-0046 and 2014-C-0141

LOR – Three members
1 day SWOP – Two members

The Board said that Employee #1's actions were consistent with Category C of discipline: "Conduct that involves a risk to safety or that has or may have a pronounced negative impact on the operations or professional image of the department, or on relationships with other officers, agencies or the public." One of the examples provided in the Discipline Guide for Category C is "failure to adhere to ORS mandatory arrest."

Majority Opinion:
Three members recommended corrective action of a Letter of Reprimand because they said it had sufficient impact for someone's career, Employee #1 had no previous disciplinary actions and Employee #1 was undergoing significant stress in Employee #1's personal life during the same time frame as the incidents occurred.

Minority Opinion:

Two members said a 1 day Suspension Without Pay was appropriate because it was consistent with other similar cases and Employee #1 had multiple violations in a 6 month window. One member said additional days of SWOP could have been recommended but there were mitigating circumstances related to Employee #1's personal life.

No other recommendations.

Case #	2014-B-0022
Summary	Employee failed on multiple occasions to notify the court coordinator when unable to attend court. (Other allegations not sustained - see below)
Allegation 1	Employee did not attend court when subpoenaed to appear on [date].
Recommended finding Allegation 1	Sustained (Unanimous)
Allegation 2	Employee took more time than was necessary to complete a custody report on [dates].
Recommended findings Allegation 2	Unproven (3), Unproven with Debriefing (2)
Allegation 3	Employee inappropriately call in sick on [date].
Recommended finding Allegation 3	Unproven with Debriefing (Unanimous)
Allegation 4	Employee improperly filled out an overtime slip on [date].
Recommended finding Allegation 4	Sustained (Unanimous)
Allegation 5	Employee submitted an overtime slip for work that employee did not complete on [date].
Recommended finding 5	Sustained (Unanimous)
Recommended discipline	Termination
Final disciplinary outcome	Employee resigned
Reason discipline outside recommended range	Not applicable
Other recommendations	None

DATE: October 29, 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, October 29, 2014, to review the following case:

IAD Case Number: **Internal Case Number**

Employee: **Employee**

Case Summary: Employee missed court on November [redacted] 2013, and as a result the case was dismissed. Employee submitted an overtime slip on February [redacted] 2014, for writing a custody report. The report was less than a page in length. Employee called in sick on February [redacted] 2014, and attempted to coordinate a trade day with another officer. Employee later called Supervisor and said that [redacted] was feeling better and would be coming in to work that day. Employee filled out an overtime slip on February [redacted] 2014, and [redacted] put the name of [redacted] ride-along on the form instead of [redacted] own. Employee turned in an overtime slip on March [redacted] 2014. The slip indicated the overtime was for report writing on case #14-[redacted]. Employee has not written a report on this case, and [redacted] submitted [redacted] report for an associated case (14-[redacted]) during the next shift.

Allegation #1: *Employee did not attend court when [redacted] was subpoenaed to appear on November [redacted] 2013.*

Recommended Finding: Sustained/Unanimous
Applicable Directives: 880.20 – Court Coordination
315.30 – Satisfactory performance

Opinion: Employees are required to attend mandatory court appearances. Employee recognized and admitted that [redacted] did not attend court on November [redacted] 2013.

Allegation #2: *Employee took more time than was necessary to complete a custody report on February [redacted] and [redacted] 2014.*

Recommended Finding: Unproven/3 Members
Unproven w/Debrief/2 Members
Applicable Directives: 315.30 – Satisfactory Performance

Majority Opinion: Employees must demonstrate sufficient competency to properly perform their duties. After investigation, it was not clear whether the amount of time taken to complete the custody report aligns with the amount of work completed, but a factual discrepancy could not be proven.

Minority Opinion: Based on the same reasoning in the majority opinion, two members found the allegation unproven, but also felt that a debrief would be appropriate.

Allegation #3: *Employee inappropriately called in sick on February [redacted] 2014.*

Recommended Finding: Unproven w/Debrief /Unanimous

Applicable Directives: 311.00 – Duty Required
310.50 – Truthfulness

Opinion: Employees shall not feign illness or deceive about the condition of their health. Employee originally asked for a trade day with another officer on unusually short notice, stating [redacted] was ill and could not work that day. The trade day was approved, but Employee was reminded that the day in question was a holiday. As such, Employee would still receive the benefit of holiday pay, even though [redacted] had not actually worked that day. The officer who he traded with to work that day would not have received the additional holiday pay, even though they had actually worked that day. After being reminded of this, and being told that the other officer who had accepted the trade would be reminded as well, Employee decided [redacted] was well enough to come into work, stating [redacted] had a report to write. After investigation, it was unproven whether Employee was in fact sick, as [redacted] had originally stated. Debrief was still indicated for this incident.

Allegation #4: *Employee improperly filled out an overtime slip on February [redacted] 2014.*

Recommended Finding: Sustained/Unanimous

Applicable Directives: 315.30 – Satisfactory Performance

Opinion: Employees must demonstrate sufficient competency to properly perform their duties. Employee admits to putting the wrong name on the overtime slip, claiming [redacted] was tired, it was a long day and [redacted] had worked an additional shift. There may occasionally be mistakes in the times entered on overtime slips, or some entries in other forms. But it is highly unusual for officers to enter the wrong name in an overtime slip. Members determined this mistake was illustrative of a longstanding pattern of insufficient attention to detail, and failed to demonstrate satisfactory performance.

Allegation #5: *Employee submitted an overtime slip for work that [redacted] did not complete on March [redacted] 2014.*

Recommended Finding: Sustained/Unanimous

Applicable Directives: 310.50 – Truthfulness

Opinion: Members unanimously sustained the allegation, with each providing their individual rationale.

One member specified that Employee requested overtime to write a time-

sensitive report. Overtime was granted, but the report was not turned in until 24 hours later, and it had a different case number than the one for which overtime was originally requested. Employee did not have the authority to hold over a report in this manner. The report that was submitted was only 11 lines long and did not reflect 30 minutes of work.

One member specified that there was clear and convincing evidence that Employee lied directly to [REDACTED] sergeant when requesting overtime approval.

One member expressed that with the discussion focused on the narrow allegation there is clear evidence that Employee was not truthful [REDACTED] overtime request.

One member specified that Employee explicitly stated [REDACTED] needed 30 min to write. Based on the case file memos and information, the member did not believe Employee used the requested overtime to write the report, nor was [REDACTED] forthcoming in accounting for [REDACTED] time. This member references the 3rd paragraph of directive 310.50 – Truthfulness in support of [REDACTED] conclusion.

One member agreed with all reasons stated by other members.

Recommendations: Corrective Action/Discipline

Termination/Unanimous

Opinion: Under the discipline guide, a finding of Untruthfulness leads to a Category F presumptive recommendation of termination. Members unanimously recommended termination, with each providing their individual rationale.

One member explained that the Bureau can teach a lot of things, but cannot teach integrity. This is what holds the system in place and is at the foundation of public trust. Moral turpitude is significant and taken very seriously because of the effect that it can have on an individual's employability after leaving the Bureau. However, the entire justice system is based on an assumption of truthfulness, and there is an expectation that the badge and uniform represent credibility and truthfulness.

One member specified that once an allegation of untruthfulness has been sustained, it is unfair to the Bureau to continue employing that individual. That employee can no longer be sent onto the street, since they are unable to testify in court due to impeachability concerns and Brady list considerations. Employee provided no justification for [REDACTED] behaviors, nor did [REDACTED] offer any other mitigating information that would have provided a basis for not recommending the presumptive measure of termination.

One member made their recommendation based on discussion of Brady considerations and the guidelines of the presumptive recommendation of termination under Category F in the discipline guide.

One member explained that in deferring to the background materials that supported the sustained allegation of Untruthfulness, Employee was offered counseling and assistance on multiple occasions, which [REDACTED] refused. The background materials refer to a lack of trust in Employee by other employees, and requests not to work with [REDACTED] as well a lack of integrity. The lack of truthfulness is incompatible with Bureau's work.

One member respects and gives deference to Employee's prior service, but stated clearly that officers are obligated to respond fully and truthfully. These criteria were not met when Employee willfully did not tell the truth.

Additional Recommendation

None.

Case #	2013-B-0035
Summary	Employee used sick time in a manner not consistent with policy and failed to notify the court coordinator of time off.
Allegation 1	Employee used sick time in a manner not consistent with Police Bureau policy.
Recommended findings Allegation 1	Sustained (3), Unproven with Debriefing (2)
Allegation 2	Employee failed to notify the court coordinator when employee was unable to attend court on short notice.
Recommended finding Allegation 2	Sustained (Unanimous)
Recommended disciplines	One day suspension without pay (Unanimous)
Final disciplinary outcome	One day suspension without pay
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None

DATE: Date December 1, 2014
TO: Christopher Paille
Police Review Board Coordinator
FROM: Michael Greenfield, Marshall Mediation
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, November 19, 2014 to review the following case:

IAD Case Number: **Internal Case number**

Employee: **Employee 1**

Case Summary: From January 1, 2013 to August 15, 2013, Employee 1 used 123 hours of sick time in a manner not consistent with policy; 100 hours of the claimed sick time was on days contiguous with regular days off. Employee 1 also missed appearances at traffic court on June 2013 (eight cases dismissed), August 2013 (3 cases dismissed), and August 2013 (8 cases dismissed). Employee 1 was listed on the UDAR as taking sick time or dependent care on all three of those dates, and the court coordinator had no record of notification from Employee 1.

Allegation #1: *Employee 1 used sick time in a manner not consistent with Bureau Policy.*

Recommended Finding: **Sustained / Three members
Unproven with debriefing / Two members**
Applicable Directive: **311.00 – Duty Required**

Majority Opinion:

A Majority of the Board considered Employee 1's explanation that sick time off was, in most instances, necessary because of [REDACTED]. The Board also considered Employee 1's characterization of the FPD&R process for claiming time off as too complicated and arduous to use for intermittent time off. The Board's Majority determined that Employee 1's use of sick time, 100 hours out of 113 hours corresponding to regular weekend, was not consistent with policy. They concluded that FPD&R forms and processes should have been used for symptoms from [REDACTED] requiring time off and that, absent an FPD&R claim, the Department had no way of knowing what was causing the claim for time off. A majority of the Board recommended that the allegation be sustained.

Minority Opinion:

Two of the members concluded that, while the use of time in conjunction with regular time off could be open to question, the threshold for determining misuse had not been reached and recommended unproven with debriefing.

Allegation #2: *Employee 1 failed to notify the court coordinator when [redacted] was unable to attend court on short notice.*

Recommended Finding: **Sustained / Unanimous**
Applicable Directive: **880.20 – Court Coordination**

Majority Opinion:
The Board concluded that 19 court cases were dismissed because Employee 1 did not notify the court that [redacted] would be unable to attend court on days when those cases were scheduled to be heard.

Recommendations: Corrective Action/Discipline

1 work day suspension without pay - Unanimous

Majority Opinion:
The Board considered that Employee 1 is currently under a work improvement plan and recommends one work day suspension without pay. The Board also recommends that Employee 1 receive a debriefing on the proper use of FPD&R. One Board member requested that the debriefing include a discussion about how [redacted] is doing physically and encouragement to use the FPD&R tools available to [redacted] when [redacted] needs them.

No other recommendations.

Case #	2014-B-0035
Summary	DUII and public urination
Allegation 1	While off duty, employee drove under the influence of intoxicants and was arrested.
Recommended findings Allegation 1	Sustained (Unanimous)
Allegation 2	While off duty, employee behaved unprofessionally by urinating in public after crashing a vehicle.
Recommended finding Allegation 2	Sustained (Unanimous)
Recommended disciplines	Three workweek suspension without pay (3), Two-Three workweek suspension without pay (1), Two workweek suspension without pay (1)
Final disciplinary outcome	Two workweek suspension without pay
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None

DATE: December 11, 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, December 3, 2014, to review case 2014-B-0035.

IA Case Number: **2014-B-0035**

Employee: **Employee #1**

Case Summary: On [REDACTED] 2014, at approximately 1011 hours, a community member called the police reporting a single vehicle accident where the driver appeared to be intoxicated. When officers arrived, they identified the driver of the vehicle as Portland Police Bureau employee Employee #1 and arrested Employee #1 for DUII.

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

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

Majority Opinion:

The Review Board unanimously recommended a sustained finding because Employee #1 was arrested and processed by City of [REDACTED] police and Employee #1 admitted to engaging in the behavior. Members whether on duty or off duty, shall be governed by the reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit upon the Bureau or the City.

Minority Opinion:

N/A

Allegation #2: *While off duty, Employee #1 behaved unprofessionally by urinating in public after crashing a vehicle.*

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

Majority Opinion:

The Review Board unanimously recommended a sustained finding because of Employee #1's statements during the review board and the documented behavior on private property.

Minority Opinion:
N/A

Recommendations:

Corrective Action/Discipline

120 hours SWOP – Three members
80 – 120 hours SWOP – One member
80 hours SWOP – One member

All members of the Review Board recommended discipline category E: Conduct that involves misuse of authority, unethical behavior, or an act that could result in an adverse impact on officer or public safety or to the professionalism of Portland Police Bureau (PPB). DUII is identified as a specific example in Category E. Board members had different recommendations for discipline.

Majority Opinion:
Three members recommended 120 hours SWOP because they said Employee #1 could have been hurt. The behavior had potential to cause harm to others, caused actual property damage and was witnessed by members of the community. PPB expects its [REDACTED] as leaders, to meet a higher standard of behavior and, as a result, they recommended the discipline be higher than the presumptive action.

Minority Opinion 1:
One member recommended 80-120 hours suspension without pay. The member said the behavior warranted something more than the presumptive discipline (“presumptive plus”) because of the two sustained allegations. However, the member said Employee #1 has accepted responsibility for the incident and as a result Employee #1 has worked to help others in the Bureau with their struggles involving alcohol use and abuse. The member said Employee #1 is going to be an asset to the Bureau in the future.

Minority Opinion 2:
One member recommended 80 hours suspension without pay, saying that 120 hours did not seem appropriate given the commendations Employee #1 has received and the lack of prior discipline. As a result, the member recommended one step down from discipline in the guide associated with aggravated circumstances.

No other recommendations.

Case #	2014-B-0034
Summary	Employee failed to established protocols when making contact with a suspect on the street.
Allegation 1	Employee did not use appropriate tactics when contacting a subject on a suspicious person call.
Recommended findings Allegation 1	Sustained (Unanimous)
Recommended disciplines	One day suspension without pay (Unanimous)
Final disciplinary outcome	One day suspension without pay
Reason discipline outside recommended range	Not applicable/In range
Other recommendations	None

DATE: December 10, 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, December 10, 2014, to review the following case:

IAD Case Number: **2014-B-0034**

Employee: **Employee**

Allegation #1: *Employee did not use appropriate tactics when contacting a subject on a suspicious person call.*

Recommended Finding: Sustained / Unanimous

Applicable Directives: 315.30 – Satisfactory performance

Opinion: When ^{Employee} Citizen contacted Citizen from █ vehicle, this was not what █ had been trained to do. Failing to inspect both license plates before approaching the vehicle, and then informing Citizen that police were looking for someone with a similar appearance were additional departures from protocol. Given the information, sensitivity and awareness of the circumstances that Employee had at the start of █ interaction with Citizen, █ departures from protocol were unsatisfactory.

Recommendations: Corrective Action/Discipline

1 Day SWOP/Unanimous

Opinion: Under the discipline guide, all voting members agreed that the sustained finding fit within Category C, with a presumptive recommendation of 1 day SWOP. Specifically, Employee's unsatisfactory performance resulted in a risk to the safety of the department, operations and the public. Had Employee followed protocol consistently from the start of █ interaction with Citizen, additional risk to the safety of operations could have been prevented.

Additional Recommendation

None.