Portland Police Bureau

Performance Review Board: Summaries and Reports

June 22, 2016-November 14, 2016

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

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: January 27, 2016

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 20, 2016, to review the following case:

IA Case Number: **2015-B-0325**

Employees: **Employee #1**

Case Summary: Complainant was filming vehicles exiting the Central Precinct underground parking garage. Employee #1 was leaving the parking garage, heard yelling, parked and exited Employee #1's vehicle, and was confronted by the complainant with a camera. Employee #1 placed Employee #1's hand to block or grab the camera and the complainant swatted away Employee #1's hand. Employee #1 realized and remarked about knowing the complainant and entered Employee #1's vehicle and departed.

Allegation #1: *Employee #1 acted unprofessionally when Employee #1 grabbed the lens of the complainant's video camera.*

Recommended Finding: **Not Sustained / Four members**
Sustained / One member

Applicable Directive: **310.00 – Conduct, Professional (CONDUCT)**

Majority Opinion:
Four Board members recommended a finding of Not Sustained. Of those, three said Employee #1's actions met the standard of the directive which says PPB members "shall be governed by reasonable rules of good conduct and behavior." The Board members said Employee #1's actions to block the camera, as shown in the video, were reasonable and that any person faced with a camera in close proximity would have behaved similarly. Another member said the video is inconclusive, but in the absence of a policy to provide guidance for how officers are to behave when being filmed, it is not appropriate to sanction Employee #1.

Minority Opinion:
One member recommended a finding of Sustained, saying that Employee #1 did not behave professionally when Employee #1 put Employee #1's hand up to block or touch the camera. The member said Employee #1 touched the camera. The Oregon constitution allows filming anyone in public, including police officers, and Employee #1's actions did not meet the directive.

Recommendations:

Corrective Action/Discipline

Disciplinary Category: Category A / One member

Corrective Action: CC / One member

Rationale:
The one member who recommended a sustained finding said Employee #1's actions were consistent with category A, "conduct that has or may have a minimal negative impact on operations or professional image of PPB." The member further recommended corrective action of command counseling, which is the presumptive discipline for individuals with no violations in the past year.

Other Recommendations

No additional recommendations.

The IPR director, on February 1, 2016, referred this case to the Citizen Review Committee (CRC) for an expedited appeal. The appeal of the complaint was heard by the CRC on March 30, 2016. The CRC reviewed the Internal Affairs' (IA) investigation, RU Manager's Finding Memo, the Police Review Board's (PRB) Finding, and heard from the complainant, RU manager, acting assistant chief, IA captain, and Independent Police Review Division (IPR) director during the appeal hearing. At the conclusion of the hearing, the CRC voted (5 to 2) to challenge the Bureau's recommended finding of Not Sustained.

On April 26, 2016, Chief O'Dea disagreed with the CRC majority's finding of Sustained, and found the allegation Not Sustained (and added a debriefing).

The CRC held a Conference Hearing on June 1, 2016, to discuss the Bureau's rejection of the CRC's challenged finding. At the conclusion of the hearing, the CRC voted (6-0) to challenge the Police Bureau's finding of Not Sustained with a Debriefing. After attending the Conference Hearing and reviewing the CRC's challenge recommendation, Acting Chief Donna Henderson accepted the CRC finding of Sustained.

Final corrective action: command counseling.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: February 4, 2016

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 January 27, 2016, to review the following case:

IA Case Number: **2015-C-0292**

Employee: **Employee #1**

Summary of Alleged Complaint:

Employee #1 was off duty and playing poker at a friend's home when Employee #1 became upset and was driven home. Employee #1 returned to Employee #1's friend's house, kicked the door, broke a window, and broke a flower pot on the front porch while trying to get into the house. Employee #1 then menaced the occupants of the house with Employee #1's weapon and told Witness #1 Employee #1 would shoot Witness #1 in the head. Employee #1's spouse came to the residence and picked up Employee #1 to take Employee #1 home.

This case was referred to the Police Review Board by the precinct commander.

Allegation #1: *Employee #1 violated state law when, on September 20, 2015, Employee #1 broke a window, a flower pot, and kicked in the door to force entry into Witness #2's house.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **315. 00 - Laws, Rules and Orders**

Majority Opinion:
Review Board members unanimously recommended a sustained finding saying there was overwhelming evidence in the reports that Employee #1 violated state statutes for criminal mischief and disorderly conduct. They said that witnesses to the incident, who also work in law enforcement capacities, were concerned enough to call 911 to resolve the issue.

Minority Opinion:
N/A

Allegation #2: *Employee #1 brought a firearm to Witness #2's home and threatened to shoot Witness #1.*

Recommended Finding: **Not sustained / Five members**

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

Majority Opinion:
After significant discussion, members unanimously recommended a finding of not sustained. Members reviewed the allegation and the reports through the lens of the criminal statute for menacing. They said there was not sufficient evidence to say Employee #1 violated the law and thus the directive which requires all members to "conform, on or off duty, to all applicable laws, rules, and orders." Members said there was evidence that Employee #1 brought a firearm to the social gathering and placed it aside, but that Employee #1 did not use the firearm when making threatening statements.

Minority Opinion:
N/A

Allegation #3: *Employee #1 was unprofessional when, on September 20, 2015, Employee #1 engaged in behavior including, but not limited to, becoming intoxicated, breaking a window and flower pot, and forcing entry into Witness #2's house.* ***(As amended)***

Recommended Finding: **Sustained / Five members**

Applicable Directive: **310.00 – Conduct, Professional**

Majority Opinion:
Members first unanimously recommended that the wording of the allegation be amended to avoid confusion with their recommendation for Allegation #2. They recommended removing the following language from the last part of the allegation "…and menacing people with a firearm."

The Review Board unanimously recommended a sustained finding for the allegation saying that Employee #1 did not meet the standard of the professional conduct directive which requires members, whether on duty or off duty, to "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." They agreed the record showed without dispute Employee #1 did the acts identified in the allegation. Members agreed that Employee #1's unprofessional behavior led to 911 being called and did not meet the standard of the Portland Police Bureau, the City or the profession of law enforcement.

Minority Opinion:
N/A

Recommendations:

Corrective Actions/Discipline

Three workweeks SWOP – Three members
Termination – Two members

Majority Opinion:
Three members said Employee #1's behavior was consistent with category E from the discipline guide, "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 the PPB." They further recommended corrective action of a three work week suspension without pay because it was Employee #1's second violation in seven years. Two members said when looking objectively at the incident, they wanted to be consistent with similar cases. One member said because of Employee #1's actions to obtain alcohol treatment and the Bureau's support system to aid members who seek it, corrective action of a three work week suspension without pay is appropriate.

Minority Opinion:
Two members also found Employee #1's behavior to be consistent with category E from the discipline guide and recommended corrective action of termination. One member said Employee #1's past discipline history resulting in suspension without pay and Employee #1's actions that put Employee #1 and others at risk led to a recommendation of termination. One member cited Employee #1's past discipline history and serious behavior as reasons for the termination recommendation and also said the Bureau should explore options for a "last chance agreement."

Other Recommendations

No other recommendations.

This case was referred to the Police Review Board by the precinct commander; the branch assistant chief, the captain of the Professional Standards Division, and IPR concurred with the recommendation.

[Then] Chief O'Dea agreed with the board's recommended findings for Allegations 1 and 3, and disagreed with the board's recommended finding of Not Sustained for Allegation 2, finding the allegation Sustained. The rationalle provided: *The board reviewed Allegation #2 (Employee#1 brought a firearm to Witness #2's home and threatened to shoot Witness #1) and incorrectly considered the allegation through a legal lens for a criminal charge. The board recommended a finding of Not Sustained for Allegation #2. Examination of alleged criminal behavior and filing formal criminal charges is the job of the District Attorney. The Police Bureau's internal role is to look at alleged misconduct or unsatisfactory performance and determine whether there is a violation of a City of Portland Human Resources Administrative Rule, a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies based on a preponderance of the evidence standard, not the higher standard of proof of beyond a reasonable doubt that applies in a criminal trial. Based on the facts presented, Chief O'Dea found by a preponderance of the evidence that Employee #1 brought a firearm to Witness #2's home and threatened to shoot him in the head.*

The disciplinary process of this case carried over into the new appointment of Chief Marshman who agreed with the Sustained finding for Allegation #2 and supporting rationalle provided by former Chief O'Dea.

Final disciplinary action: termination.

DATE: February 16, 2016

TO: Lawrence P. O'Dea III
Chief of Police

FROM: Mark Fulop
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on February 8, 2016, to review the following case:

IA Case Number: **2015-B-0029**

Employee: **Employee**

Summary of Alleged Complaint:

Employee, while on duty, in uniform, and operating a marked police vehicle, responded to a police call for service to assist officers. On-scene officers noticed Employee had slurred speech and watery eyes, smelled the odor of alcohol, notified supervisor of their observations, and notified precinct command staff. Employee was transported to Legacy Laboratory and ordered to take a Reasonable Suspicion Alcohol Test, in the form of a Breathalyzer test, which PRN failed. This case was referred to the Police Review Board by the precinct commander.

Allegation #1: *Employee failed to notify PRN supervisor of PRN use of alcoholic beverages that could interfere with the safe and effective performance of duties or operation of City equipment or vehicles.*

Recommended Finding: **Sustained / Unanimous**

Applicable Directive: **316.00 – Alcohol Use**

Opinion: Employee admitted drinking alcohol and was confronted by other officers on the scene who smelled it on PRN breath. Employee did not notify PRN supervisor of PRN alcohol use until after PRN knew that the Lieutenant had been notified.

Allegation #2: *Employee, while in uniform and on duty, operated PRN marked patrol car while under the influence of an alcoholic beverage.*

Recommended Finding: **Sustained / Unanimous**

Applicable Directive: **316.00 – Alcohol Use**

Opinion: The facts are undisputed that Employee reported for duty under the influence of alcohol. When Employee took the required Breathalyzer test the result of the test was a .08 Blood Alcohol Content (BAC). Based dissipation rates, Employee 's BAC at the start of PRN shift would have been substantially higher, perhaps near .17 BAC.

Allegation #3: *Employee, while performing* PRN *sworn duties as* rank *, was under the influence of intoxicants.*

Recommended Finding: **Sustained /Unanimous**

Applicable Directive: **310.00 – Conduct, Professional**

Opinion: Voting members unanimously determined that Employee performed PRN sworn duties as a police officer under the influence of intoxicants based on PRN own admission and PRN BAC test results.

Allegation #4: *Employee was dishonest or untruthful when talking to other bureau members about* PRN *alcohol consumption.*

Recommended Finding: **Sustained /Unanimous**

Applicable Directive: **310.50 – Truthfulness**

Opinion: Voting Members unanimously sustained a finding of Untruthfulness, based on the facts that: 1) Employee denied PRN alcohol use at the scene after being asked several times; and, 2) During the investigation, when asked if PRN had been untruthful, Employee replied "yes".

Recommendations: Corrective Actions/Discipline

Termination – Unanimous

Opinion: Voting members unanimously recommended Termination, based on Category F in the discipline guidelines. Member rationales included: 1) The presumptive discipline for a Category F violation is Termination, aggravated in this case by previous discipline of 80 hours SWOP for confidential information 2) The substance abuse policy in the police contract states that the presumptive discipline for a .08 BAC breathalyzer reading is Termination; 3) The severity of Employee 's intoxication in this instance coupled with the sustained finding of Untruthfulness would result in Termination; and 5) Category F applies to violations that could result in death or serious injury to officers and/or citizens, which applies to Employee 's operation of a police vehicle and carrying a weapon while intoxicated.

Additional Corrective Action Recommended

No other corrective action recommended.

Other Recommendations

Members recommended that, upon conclusion of this case, the other officers involved be debriefed as to the process and positive process used by officers in handing this case.

This case was referred to the Police Review Board by the precinct commander; the branch assistant chief, the captain of Professional Standards, and IPR concurred with the recommendation.

Chief O'Dea agreed with the board's recommended findings and the recommended disciplinary action of termination.

Final disciplinary action: the employee resigned prior to the conclusion of the pending disciplinary process.

Other recommendations: the involved members were debriefed as recommended.

Abbreviation used in redactions: PRN - pronoun.

DATE: March 29, 2016

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on March 16, 2016, to review the following case:

IA Case Number: **2014-B-0046**

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

Summary of Alleged Complaint:

Employee #3 alleged Employee #1 intentionally neglected to give Employee #3 information necessary to do Employee #3's job, ridiculed Employee #3 in front of coworkers, and made inappropriate comments about Employee #3's status as a single parent. Employee #3 divulged this information during Employee #3's interview in another internal investigation.

Employees alleged Employee #1 was retaliatory by being dismissive, not communicating important information necessary to complete their work, and taking away responsibilities when they voiced concerns or made suggestions. The office environment was alleged to have changed dramatically upon Employee #1's and Employee #2's arrival, and the atmosphere was described as toxic by multiple people present in the division during the transition period. Employees did not feel comfortable going to supervisors to address the issues or for guidance and feared retaliation.

This case was referred to the PRB due to controverted findings by both Professional Standards and IPR and the PRB only reviewed allegations 3, 4, and 5 for this reason. Allegations 1 and 2 were found Not Sustained with a Debriefing and not subject to review by the PRB.

Allegation #3: *Employee #1 was unprofessional in Employee #1's treatment of subordinates in the* division.

Recommended Finding: **Not sustained / Three members**
Sustained / Two members

Applicable Directive: **310.00 – Conduct, Professional; HRAR 5.01 - Discipline**

Majority Opinion:
Three members of the Board recommended a finding of Not Sustained, saying there was insufficient evidence to find the directive had been violated. The members agreed much information was provided from witnesses. However, there were no specifics documented prior to the Internal Affairs investigation nor reported during the Internal Affairs investigation on the dates, times or context of Employee #1's actions. Two

members said assumptions were made. Another said Employee #1 was not a good fit for the Division and received coaching by supervisors, but that Employee #1 did not violate the directive.

Minority Opinion:
Two members recommended a finding of Sustained. They said Employee #1 acted unprofessionally, as evidenced by the Internal Affairs investigation and the statements documented. One member said there was a preponderance of evidence in the record that Employee #1 violated the directive. Another member said that different comments made by Employee #1 about other members of the Bureau were unprofessional and reported by both sworn and non-sworn employees, including Employee #1's comments specifically related to an officer leaving the division, and Employee #1's characterization of another officer as a baby.

Allegation #4: *Employee #1 was discourteous in his treatment of subordinates in the* division.

Recommended Finding: **Not sustained / Three members**
Sustained / Two members

Applicable Directive: **310.40 – Courtesy; HRAR 5.01 - Discipline**

Majority Opinion:
Three members of the Board recommended a finding of Not Sustained for the same reasons identified in Allegation 3. These same members had the same recommendation for Allegation 3.

Minority Opinion:
Two members of the Board recommended a finding of Sustained for the same reasons identified in Allegation 3. These same members had the same recommendation for Allegation 3.

Allegation #5: *Employee #2 failed to supervise Employee #1, allowing Employee #1 to create a hostile work environment.*

Recommended Finding: **Unfounded / Two members**
Not Sustained / One member
Not Sustained with a Debrief / One member
Sustained / One member

Applicable Directive: **315.30 – Satisfactory/Unsatisfactory Performance**

Majority Opinion:
Two members of the Board recommended a finding of Unfounded. They noted that Employee #1 and Employee #2 had a good working relationship and that some employees said they did not inform either supervisor of concerns because they said it would not result in improvement. The members said upper management did not inform Employee #2, as Employee

#1's direct supervisor, of informal coaching about Employee #1's communication style and conduct until after the coaching session occurred. Management directed Employee #2 to ensure Employee #1's conduct improved and after that no additional issues were documented. Based on the timing of when Employee #2 was informed, the members recommended an Unfounded finding.

Minority Opinion 1:
One member recommended a finding of Not Sustained, saying that there is a high threshold for an unfounded finding. The member said that even though Employee #2 was brought into discussions about Employee #1's conduct late, Employee #2 likely had some awareness of the issues occurring in the division .

Minority Opinion 2:
One member recommended a finding of Not Sustained with a Debrief. The member said while the directive was not violated, a debrief was necessary to discuss Employee #2's awareness of the environment in the division

Minority Opinion 3:
One member recommended a finding of Sustained because the division is a small work unit. Employee #2, as a supervisor, should be more aware and involved with what is occurring with those under Employee #2's supervision.

Recommendations:

Corrective Actions/Discipline

Employee #1

The two members who recommended sustained findings for allegations 3 and 4 also recommended corrective action.

Command Counseling – One member
Letter of Reprimand – One member

Opinion 1:
One member said the actions of Employee #1 were consistent with Category A of the discipline guidelines, "Conduct that has or may have a minimal negative impact on operations or professional image of PPB." The member further recommended the presumptive discipline of command counseling, saying it was unfortunate the investigation had to occur and training in effective communication styles could be helpful.

Opinion 2:
One member said Employee #1's actions were consistent with Category A and further recommended corrective action of a Letter of Reprimand. The Board member said Employee #1 was deficient in Employee #1s actions, but that suspension without pay was not warranted.

Employee #2

One member recommended a sustained finding for allegation 5 and also recommended corrective action.

LOR – One member

Opinion:
One member said Employee #2's actions within a position of command were consistent with discipline Category B, "Conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other officers, agencies or the public." The PRB member further recommended corrective action of letter of reprimand, which is the presumptive discipline.

Minority Opinion:
N/A

Other Recommendations

Implement four recommendations identified by the RU manager related to the results of the investigation:

A
- Bureau Leadership (at the Senior Level, Assistant Chiefs, Commanders and other management staff with hiring authority) must take into consideration the culture and climate of Divisions when assigning leadership-level positions to ensure the best chance for success for the entire Division and the assigned leader.

B
- Bureau leaders, Assistant Chiefs, Commanders and those with the hiring authority, must clearly articulate the roles and expectations of supervisors and managers and hold them accountable to those expectations.

C
- All staff must be assured that a positive work environment is a priority and provided the support necessary, including access to senior level management personnel to address workplace concerns.

D
- All Police Bureau Divisions must utilize the expertise of the Police Human Resources Division staff at the onset to assist with any matters related to the work of the Bureau and the environment of its Divisions.

Vote: 6 concur

The members of the Board unanimously found the recommendations of the RU manager to be sound and recommended the Bureau implement them. One member said the issues identified through this investigation could have been addressed much sooner if they had been brought to Employee #1's attention earlier. Another member emphasized the importance of the first recommendation and said Employee #1 was a fairly new supervisor who

had transferred into the Division from one with a different culture. The Bureau needs to consider the personalities and level of experience when making staffing and supervisory decisions, the member said.

Chief O'Dea sustained Allegations 3 and 4 and found Allegation 5 Not Sustained with a Debriefing.

Final corrective action: command counseling for Allegations 3 and 4 combined.

Other recommendations: recommendations labeled A and B declined (as currently a matter of practice); recommendations labled C and D assgined to the Personnel Division.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: April 15, 2016

TO: Christopher Paille
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on April 6, 2016, to review the following case:

IA Case Number: **2014-C-0265**

Employee: **Employee #1**

Summary of Alleged Complaint:

On 9/14/14, around 0012 hours (12:12 a.m.) Officers responded to several calls regarding a group yelling, the word 'shot', and a person saying that they would kill someone. The group was described walking from Cathedral Park, under the bridge, toward the St. Johns' square. The descriptions of the group included mentions of black males and females, and a shirtless black male. Employee #1 and Employee #2 stopped four subjects near N. Philadelphia Avenue and N. Ivanhoe St. Employee #3 stopped a shirtless male one block away, on N. Lombard Avenue.

Employee #1 stopped three subjects, and was joined by Employee #4. Employee #2 stopped another subject on the same block, near the U.S. Bank. One subject - later identified as Subject #1, age sixteen - began to walk away from Employee #4 and Employee #1, toward Employee #2. Employee #2 saw Employee #1 indicate that Subject #1 should be stopped. Employee #2 told Subject #1 to stop, then clapped Employee#2's hands at Subject #1. Subject #1 responded verbally. Employee #2 and Employee #1 put Subject #1 in an escort hold, and attempted to remove Subject #1's backpack and handcuff Subject #1.

An ensuing struggle with Subject #1 led to uses of force by Employee #2, Employee #1, and Employee #5. Employee #2 attempted a takedown, then turned Employee #2's attention to a gathering crowd. Employee #1 used a leg sweep, knee strikes, and punches. Employee #5 pulled Subject #1 by the hair, and after further struggle, deployed an ECW into Subject #1's back. After the ECW (Taser) was deployed, Subject #1 was handcuffed.

This case was referred to the Police Review Board as a result of a controverted finding of *Sustained* by IPR for Allegation 2. Allegations 1 and 3-7 were found *Not Sustained* or *Exonerated* and not subject to review by the Police Review Board.

Allegation #2: *Employee #1 made an unjustified stop of Subject #1.*

Recommended Finding: **Not Sustained with Debrief / Four members Sustained / One member**

Applicable Directive: **315.00 – Laws, Rules and Orders (CONDUCT)**

Majority Opinion:
Four members of the Board recommended a finding of not sustained and also recommended a debrief on tactics for de-escalation. The members said that with Employee #1's training and knowledge of a disturbance in the area, Employee #1 had reasonable suspicion to detain Subject #1 to inquire about the alleged disorderly conduct. They also said Employee #1 was directed by another officer to detain Subject #1. Finally, Employee #1 was one of three officers responding at that time and it was not appropriate to single out Employee #1. To reach their recommendation, the members relied upon statements made by involved members outside of the resulting court proceedings.

Minority Opinion:
One member of the Board recommended a finding of sustained because Employee #1 did not have reasonable suspicion to single out one individual from a group and detain the individual for an alleged crime. The member said the law is clear that it applies to individuals. The Board member relied upon Employee #1's statements made at trial.

Recommendations:

Corrective Actions/Discipline

CC – One member

Rationale:
The one member who recommended a sustained finding for Allegation #2 said the violation was consistent with Category A of the discipline guide: Conduct that has or may have a minimal negative impact on operations or professional image of PPB. The member further recommended corrective action of command counseling, which is the presumptive discipline for employees with no similar violations in a year.

Other Recommendations

No other recommendations.

Chief Marshman agreed with the board's recommended findings.

DATE: June 06, 2016

TO: Donna Henderson
Acting Chief of Police

FROM: Mark Fulop
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on May 23, 2016, to review the following case:

IA Case Number: **2015-C-0201**

Employee: **Employee (Resigned)**

Summary of Alleged Complaint:

Employee contacted and interviewed Complainant on July 4, 2015 at SE 86th and Bybee on a disturbance call. Later on in the evening, he called her phone and left her a message with his personal cell phone number. After exchanging a number of text messages with her, Employee went to her hotel after he was off work at about 0330 and remained there until after 1000. During his visit with Complainant, he received a massage and had other forms of physical contact with Complainant.

Allegation #1: *Employee failed to write a report regarding a domestic violence investigation. (PROCEDURE) (Directive 910.00 - Field Reporting Handbook Instructions)*

Recommended Findings: **Sustained/Five members**
Applicable Directive: **910.00 – Field Reporting Handbook**

Majority Opinion:
All five voting members sustained the allegation based on the evidence presented that Employee did not write a report regarding the domestic violence investigation. Employee had initiated and continued contact with Complainant who was led to believe that Employee was writing a police report related to the domestic violence incidence where she was the victim. A domestic violence report was not filed by Employee.

Allegation #2: *Employee inappropriately contacted a domestic violence victim after a police call. (CONDUCT) (Directive 310.00 - Conduct, Professional)*

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

Majority Opinion:
All five voting members sustained the allegation based on a determination that Employee did contact Complainant multiple times by phone, text

messages, and in person after the response to her police call regarding a domestic violence incident. It was observed that the subsequent contact with the Complainant was not only in violation of the conduct directive but was egregious behavior by an Employee towards a potential domestic violence victim.

Allegation #3: *Employee inappropriately handled his firearm while off-duty. (CONDUCT) (Directive 310.00 - Conduct, Professional)*

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

Majority Opinion:
Voting members unanimously sustained finding the that Employee violate the conduct directive. Evidence demonstrated that did bring his police firearm to Complainant's hotel room, placed it in the open, and drew Complainant's attention to the weapon. One voting member noted that placing the gun on a table and drawing attention to it served no purpose other than to further create a power differential. Another member noted that the mishandling of the weapon by Employee could have led to catastrophic negative outcomes during the incident.

Allegation #4: *Employee had inappropriate physical contact with Complainant. (CONDUCT) (Directives 310.00 - Conduct, Professional;315.00 – Laws, Rules and Orders)*

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

Majority Opinion:
All five voting members sustained the allegation based on the preponderance of evidence that Employee touched Complainant inappropriately and encouraged her to inappropriately touch him. Employee had power in this situation, and Complainant had reported that she was uncomfortable and forcibly had to fend off Employee's advances. It was noted that Employee tried to pressure Complainant to be untruthful about their contact.

Allegation #5: *Employee engaged in illegal activity and pled guilty to the charge of Official Misconduct. (CONDUCT) (Directive 315.00 – Laws, Rules and Orders)*

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

Majority Opinion:
There was a unanimous sustained finding as it was undisputed that Employee pled guilty to the charge of Official Misconduct before the

Multnomah County Circuit Court. Members also discussed that Employee's actions demonstrated a willful disregard of the Bureau's values and undermined the integrity of all police officers who take pride in the work that they do.

Recommendation:

Corrective Actions/Discipline

Termination/5 Voting Members

Majority Opinion:

The five voting members were unanimous in their recommendation of Termination, Category F, presumptive, with multiple contributing factors. The voting members believed that Employee's actions involved a fundamental breach of virtually everything that the Portland Police Bureau stands for. One voting member stated that a case like this destroys the public image of Portland Police. One member said there was no question that the corrective action fits Category F with a presumed termination and that this was not a behavior that could be corrected.

Other Recommendations

None

This case was referred to the Police Review Board by the division manager; the branch assistant chief, the captain of the Professional Standards Division, and IPR concurred with the recommendation.

Chief Marshman agreed with the board's recommended findings and recommended disciplinary action.

Final disciplinary action: the employee resigned prior the conclusion of the pending disciplinary process.

DATE: June 22, 2016

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on June 9, 2016, to review the following case:

IA Case Number: **2015-B-0023**

Employee: **Employee #1**

Summary of Alleged Complaint:

Information was brought to the attention of assignment supervisors and electronic entry key records were examined as a result. A review of the electronic key records and Justice Center lobby video indicated Employee #1 arrived late and left early without a supervisor's approval on several occasions during the months of April and May 2015.

This case was referred to the Police Review Board by the RU manager, with concurrence of the recommendation by IPR, the branch assistant chief, and the captain of the Professional Standards Division.

Allegation #1: *Employee #1 did not work Employee #1's entire assigned shift several times during April and May of 2015.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **Directive 210.30 – Timekeeping and Overtime; 311.00 – Duty Required (PROCEDURE)**

Majority Opinion:
The Board unanimously recommended a sustained finding based on the documentation that Employee #1 did not work Employee #1's entire shift several times during a two-month time period as required. The PRB said the record showed Employee #1's work day was shortened by 1-2 hours per day during April and May 2015. The documentation included expectations set by Employee #1's supervisor in April 2015 that all employees in the work unit arrive at the same time, statements by co-workers that Employee #1 did not arrive on time, lack of requests to a supervisor for time off, lack of approval for time off from a supervisor, lack of documentation for working shortened hours in the employee time-keeping system (Uniform Daily Assignment Roster), and Selectron data and video from Multnomah County that identifies late arrival and early departures by Employee #1.

Minority Opinion:
N/A

Allegation #2: *Officer Employee #1 intentionally did not request the use of accrued leave time when Employee #1 worked fewer hours than were reported on the UDAR.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **Directive 310.00 – Conduct, Professional; 310.50 – Truthfulness (CONDUCT)**

Majority Opinion:
The Board unanimously recommended a sustained finding for the allegation after reviewing the requirement for the two directives. The professional conduct directive (310.00) requires PPB members to be governed by reasonable good conduct and behavior while on duty and to not commit any act tending to bring reproach or discredit to the Police Bureau. The truthfulness directive (310.50) requires that PPB members be honest and truthful in rendering reports and work-related records and official documents. The members agreed that the time keeping system is a report requiring accuracy, honesty and truthfulness. Two members specifically said there was clear and convincing evidence that the directives were violated due to the intentional and willful pattern of behavior. One member said inaccurate timekeeping was a lie of omission. Related to professionalism, one member said that there was never an instance where the work was done and it is not professional to leave an overworked team before the end of a shift. Another member noted that the public expects members to work the hours being paid and to not work those hours discredits the Bureau.

Minority Opinion:
N/A

Recommendations: Corrective Actions/Discipline

Discipline Category: Category F / Five members

Corrective Action: Termination / Five members

Rationale:
The Board unanimously said Employee #1's behavior was consistent with category F of the discipline guide and recommended termination. Based on Employee #1's pattern of behavior and prior disciplinary history, which resulted in significant hours of suspension without pay in 2013 and 2014, the Board agreed there were no mitigating factors. One member said Employee #1's behavior was contrary to the standards of the PPB. Two members specifically mentioned the language in the discipline guide for Category F: "Any violation of law, rule or policy which...demonstrates a serious lack of integrity, ethics or character related to an officer's fitness to hold the position of police officer…"

Other Recommendations
No other recommendations.

Chief Marshman agreed with the board's recommended findings and recommended disciplinary action. Final disciplinary action: the employee retired prior to the conclusion of the pending disciplinary process.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: August 3, 2016

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 July 20, 2016, to review the following case:

IA Case Number: **2015-B-0033**

Employee: **Employee #1 (Officer, Retired)**

Summary of Alleged Complaint:

Performance issues were identified with Employee #1 for the time period spanning January 1, 2015 to November 18, 2015.

Allegation #1: *Employee #1 failed to notify Employee #1's supervisor Employee #1 was taking a prescription medication while on-call for after-hours response and operating a city vehicle.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **Directive 316.10 – Drug/Controlled Substance Use (PROCEDURE)**

Majority Opinion:
Board members unanimously recommended a sustained finding They said it is imperative that PPB members who could be driving a city vehicle notify their supervisors when taking prescribed medication that could affect performance. Members agreed that a casual conversation that occurred in an elevator between employee and supervisor about the medication could not be considered notification.

Minority Opinion:
N/A

Allegation #2: *Employee #1 failed to report to Employee #1's office on October 26, 2015 and October 27, 2015, after being given a letter of expectation with this requirement on August 26, 2015.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **Directive 210.30 – Timekeeping and Overtime (PROCEDURE)**
Directive 315.00 – Laws, Rules and Orders (PROCEDURE)

Majority Opinion:
The Board unanimously recommended a sustained finding because members said it is incumbent upon Bureau employees to notify a supervisor when they have a different work status than expected. Employee #1's position was unique and afforded her a high degree of trust, but Employee #1's supervisor should not be required to seek out employees to learn their work status. Employee #1 had numerous tools at Employee #1's disposal to inform Employee #1's supervisor Employee #1 was sick on Oct. 26, including text, telephone and email, and had ample time to notify Employee #1's supervisor in advance of meeting a repair person at Employee #1's home on Oct. 27. The Board said regardless of the letter of expectation that set forth these requirements, employees need to show up to work. The Board also said the directive 311.00 – Duty Required applied in this circumstance. However, the Board decided to recommend a sustained finding using the two directives listed in the allegation.

Minority Opinion:
N/A

Allegation #3: *Employee #1 failed to notify Employee #1's supervisor Employee #1 was sick and did not report for a special event Employee #1 was scheduled to attend on Oct. 24, 2015.*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **Directive 210.30 – Timekeeping and Overtime (PROCEDURE)**

Majority Opinion:
The Board unanimously recommended a sustained finding because Employee #1 did not notify Employee #1's supervisor of Employee #1's inability to attend an outreach event and Employee #1's supervisor found out by accident four days later. Similar to Allegation #1, the Board said members must notify their supervisor if a change is needed to their schedule. Employee #1 did notify the host of the event that Employee #1 would not attend, but did not also notify Employee #1's supervisor. Two members said Employee #1's interview response minimized the situation because it was a volunteer duty.

Minority Opinion:
N/A

Allegation #4: *Employee #1 sent a rude and insubordinate message, with confidential information to Employee #1's captain on Nov. 13, 2015. The message stated in part, "Great job yelling at (name redacted) today on the phone...*
Confidential Information

Recommended Finding: **Sustained / Five members**

Applicable Directive: **Directive 310.00 – Conduct, Professional (CONDUCT)**
Directive 310.40 – Courtesy (CONDUCT)

Majority Opinion:
The Board unanimously recommended a sustained finding for revealing confidential information, especially when considering Employee #1's unique position that required significant trust and respect. The members agreed that Employee #1's tone of communication to Employee #1's supervisor was disrespectful. The members concluded Employee #1's actions were neither professional nor courteous.

Minority Opinion:
N/A

Recommendations:

Corrective Actions/Discipline

Discipline Category: Category C / Five members

Corrective Action: 40 hours SWOP / Five members

Rationale:
The Board unanimously said the actions of Employee #1 were consistent with Category C of the discipline guide, "Conduct that involves risk to safety or that had 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." The members recommended a 1 week suspension without pay, saying Employee #1's actions were aggravated by a pattern of practice which had resulted in a memo to address ongoing deficiencies in performance. The members also found Employee #1's actions to include two violations in three years. One member said revealing confidential information was a key determiner for discipline. Three members said the discipline was necessary to correct ongoing behavior and get the attention of the employee. One member said the transcript of Employee #1's interview showed Employee #1 did not take responsibility for Employee #1's actions.

Other Recommendations

Training

The Board unanimously recommended that the Bureau provide additional ongoing training to all supervisors on employee development and management strategies to strengthen management throughout the Bureau.

Rationale:
The Board found that new supervisors obtain some training when moving into management, but that additional training is necessary on an ongoing basis related to coaching, mentoring and employee development. The Board

recommended that Human Resources and Training Division work together to ensure this occurs.

Policy

The Board unanimously recommended the Bureau review the policy related to the notification process and requirements for both employees and supervisors for prescribed controlled substances or medications.

Rationale:
The Board found the existing policy to be unclear regarding how the notification related to use of controlled substances should be documented and who is responsible for completing it. Members said a discussion is needed on whether employees or their supervisors should ensure written documentation occurs.

Policy

The Board unanimously recommended the Bureau review the policy related to notification time frames for sick time.

Rationale:
The Board found that the new directive related to sick time is silent on the timing related to notification. The Board said language should be added to indicate employees should notify their supervisor prior to their shift starting.

This case was referred to the Police Review Board by the division manager; the branch assistant chief, the captain of Professional Standards Division, and IPR concurred with the recommendation.

Chief Marshman agreed with the board's recommended findings and recommended disciplinary action.

Final disciplinary action: the employee retired prior to the conclusion of the pending disciplinary process.

Other recommendations: the training recommendation assigned to the Training Division; the policy recommendations assgined to the Strategic Services Division.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: August 9, 2016

TO: Michael W. Marshman
Chief of Police

FROM: Mark Fulop
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

CONFIDENTIAL

The Police Review Board met on August 1, 2016, to review the following case:

IA Case Number: **2016-C-0036**

Employee: **Employee**

Summary of Alleged Complaint:

Officers were dispatched to a disturbance. Officers cleared the call after a short time on-scene. The next day, complainant called police to report being assaulted after the police left the call.

Allegation #1: *Employee improperly investigated a domestic dispute by failing to consider a history of violence between a woman and a man and failing to take into consideration the potential for future violence.*

Recommended Finding: **Sustained/4 Members**
Not Sustained/1 Member

Applicable Directive: **825.00 – Domestic Violence, Arrests and Restraining Orders**

Majority Opinion: Four Voting Members sustained the alleged violation on the basis that the initial radio call included enough information to trigger enhanced protocols for handling a potential domestic violence (DV) incident at the scene, regardless of whether there had been an altercation that day. Specifically, the involvement of a husband and wife with a history of violence between them, facts that Employee had the opportunity to be aware of prior to PRN arrival at the scene. In addition, the majority of voting members believed that Employee inadequately assessed the scene given the knowledge that PRN had prior to arrival and did not use DV interview tactics at the scene or adequately assess the potential of future violence. Following the incident, the majority of voting members did not believe that Employee adequately documented the incident.

Minority Opinion: One Voting Member did not sustain the allegation. The member's view was that based on preponderance of evidence that the call description provided by Radio and the observations officers made when they arrived on the scene did not support a potential DV situation. The officers had no reasonable suspicion a domestic violence crime had occurred and there were no suggestions that there was fear of a future assault.

Recommendations: Corrective Actions/Discipline

CC/4 Voting Members

Opinion: Four Voting Members determined that Command Counseling is the appropriate corrective action, per Category B in the Discipline Guide, mitigated by the fact that it appeared that Employee may have been complacent in PRN performance rather than a purposeful disregarded of the policy. This distinction led members to believe that the performance of Employee might best be remediated through command counseling rather that more severe discipline. Voting Members' rationale for the recommendation reflects a desire to ensure that Employee understands the gravity of any potential DV incidents and serve to underscore DV related procedures. Command counseling will provide the opportunity for Employee to better meet the expectations of an officer in such situations in the future.

This case was referred to the Police Review Board as a result of a controverted finding by the branch assistant chief. The original finding was Not Sustained. The branch assistant chief recommended a finding of Sustained. The captain of the Professional Standards Division and IPR also found and concurred with the controverted finding.

Chief Marshman agreed with the board majority's finding and corrective action recommendations.

Final corrective action: command counseling.

DATE: September 20, 2016

TO: Christopher Paillé
Review Board Coordinator

FROM: Anne Pressentin
Police Review Board Facilitator

SUBJ: Police Review Board Recommended Findings

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on September 7, 2016, to review the following case:

IA Case Number: **2016-C-0080**

Employee: **Employee #1**

Summary of Alleged Complaint:

A student was contacted by Employee #1 at school after a fight had occurred between another student and a non-student juvenile. Records indicate Employee #1 was dispatched to a local high school after the school administration called 911 to report a fight at the school. The call was given a priority 2 status with three officers responding.

This complaint originated from a high school administrator, who sent an email to the Youth Services Division expressing concerns regarding Employee #1's contact and treatment of a student. The student's mother also contacted IPR to report a complaint against Employee #1 regarding the same incident.

The student and the school administrator provided statements to IPR through interviews. Upon the completion of the initial intake screening, IPR Director Severe determined the matter would be handled as an IPR independent investigation.

This case was referred to the Police Review Board as a result of a controverted finding for Allegation #2 by the captain of the Professional Standards Division. Allegations 1, 3, and 4 were found not sustained by all reviewing parties.

Allegation #2: *Employee #1's treatment of Subject #1 was unprofessional.*

Recommended Finding: **Not sustained / Two members**
Not sustained with a debrief / Two members
Sustained / One member

Applicable Directive: **Directive 310.00 – Conduct, Professional (CONDUCT)**

Majority Opinion:
Four members of the PRB recommended a finding of not sustained. They said there is not a preponderance of evidence in the record to indicate Employee #1 violated the directive. The members said there was no malice or intent in Employee #1's actions. One member said Employee #1 used tactics that were within a tolerable range in Employee #1's attempt to gather facts for an assault investigation. The members said Employee #1 and the school administrator had different perceptions about the purpose of the

meeting between the student and Employee #1, but Employee #1's behavior did not rise to the level of misconduct. Two members also recommended a debrief with Employee #1 to fully review all steps and actions taken in the incident because there are opportunities for improvement. They specifically mentioned the differences in dealing with youth and the presence of other officers or civilians at an interview as potential topics.

Minority Opinion:
One member recommended a sustained finding based on the totality of the circumstances and the language in the directive, which says, "Police Bureau members…shall not commit any act tending to bring reproach or discredit upon the Police Bureau or City of Portland." The member said the concerns voiced by the school administrator, who has past experience dealing with the Bureau, indicate Employee #1 brought reproach and discredit to the Bureau. The member said Employee #1's actions did not meet the standards expected of Bureau members.

Recommendations:

Corrective Actions/Discipline

Discipline Category: Category A / One member

Corrective Action: Command Counseling / One member

Rationale:
One member said the actions of Employee #1 were consistent with Category A of the discipline guide, "Conduct that has or may have a minimal impact on operations or professional image of PPB," and recommended the presumptive disciplinary action of command counseling. Command counseling was recommended based on the member's lack of previous discipline and the learning opportunity that the incident provides.

Other Recommendations

Recommendation 1:
Follow up with the school administrator to review the facts of the case, response and Bureau follow up.

Vote: 5 concur

Rationale:
The Review Board said there are opportunities for the administrator to also learn from the incident, the investigation and the Bureau's response. One member said this meeting could have already occurred, but confirmation is needed.

Recommendation 2:
Ensure patrol staff are educated about best practices to deal with youth suspects and victims through short briefings conducted by school resource officers at roll calls.

Vote: 5 concur

Rationale:
The Review Board said youth suspects and victims require a different approach than adults. The school resource officers are trained in the most current best practices and have local knowledge to share with fellow Bureau members to ensure professional responses and investigations.

In their intitial review of this case, the RU manager recommended findings of Not Sustained for all four allegations (with a debrief added to Allegation 3); the branch assistant chief concurred with this recommendation. The captain of the Professional Standards Division controverted Allegation 2 finding the allegation Sustained. IPR did not identify whether they agreed with the controverted finding but noted they would add a debrief to the unsustained allegations numbered 2 and 3. As a result of the controverted finding for Allegation 2, the case was referred to the Police Review Board as required under City Code. The PRB only reviewed Allegation 2.

Chief Marshman agreed with the board majority's finding of Not Sustained (with a debrief added).

Other recommendations: recommendation #1 assigned to the responsible precinct; recommendation #2 assigned to the Youth Services Division.

Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

DATE: October 26, 2016

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 Monday, October 17, 2016, to review the following case:

IA Case Number: **2016-B-0015**

Employees:
Employee #1
Employee #2
Employee #3
Employee #4
Employee #5
Employee #6
Employee #7
Employee #8
Employee #9
Employee #10
Employee #11
Employee #12

Case Summary: The internal and administrative investigation and review of the officer involved shooting that occurred on May 24, 2016 at 9000 NE MLK Jr. Blvd, Space #219.

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

Employees:
Employee #1
Employee #3

Recommended Finding: **In Policy / Seven Members**

Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:
The Board unanimously recommended an In Policy finding for the application of deadly force by Employee #1 and approved by Employee #3 to deploy cover fire when chemical agents were being delivered inside a residence. At the time, the suspect was armed, had fired indiscriminately and was located in the residence. Employee #1 and Employee #3 discussed the need to reduce risk that the suspect would shoot from the window at the SERT team members who were exposed while firing chemical agents. Employee #1 and Employee #3 believed PPB members were at immediate risk of death or serious injury and their actions were consistent with the directive.

Minority Opinion:
N/A

Employee: **Employee #2**

Recommended Finding: **In Policy / Seven Members**

Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:
The Review Board unanimously recommended an In Policy finding for Employee #2's actions to fire at the suspect while chemical agents were being deployed into the residence. The suspect was partially obscured by a door jam, but could be seen manipulating a high-powered rifle and pointing it at other officers. Employee #2 was near an armored vehicle and believed the suspect posed an immediate threat of death or serious injury to nearby community members and other PPB members. The Review Board said Employee #2's actions to shoot at the door jam, where Employee #2 believed the suspect to be, was consistent with policy. One member said the suspect's actions could be described as attempted homicide and Employee #2's actions were fully justified.

Minority Opinion:
N/A

Area of Review #2: *Use of Force – K9*

Employee: **Employee #6**

Recommended Finding: **In Policy / Seven members**

Applicable Directive: **1010.00 – Use of Force**

Majority Opinion:
Review Board members unanimously recommended an In Policy finding for Employee #6's actions to send Employee #6's K9 on a bite command to gain compliance from the suspect. The suspect was not responding to officer commands to crawl toward them and it was unknown if the suspect was armed. Employee #6 discussed other less lethal options with responding officers and determined the K9 provided the best opportunity to prevent the suspect from entering the residence where ammunition and firearms were located. In addition, a police dog can be recalled, unlike other methods of force. Given the totality of the circumstances, Employee #6's actions were found to be consistent with the directive. One member said the decision made during the incident was superlative.

Minority Opinion:
N/A

Area of Review #3: *Use of Special Weapons*

Employees: **Employee #4**
Employee #5
Employee #8
Employee #9

Recommended Finding: **In Policy / Seven members**

Applicable Directive: **1090.00 – Special Weapons; 1010.00 – Use of Force**

Majority Opinion:
The Review Board unanimously recommended an In Policy finding for the actions of Employees #4, #5, #8 and #9 to deploy chemical agents during the response and avoid higher levels of force. The employees each followed the plan that was authorized. The suspect was firing the weapon without aim and officers' action of applying gas to move the suspect from the windows was found by the Board to be consistent with the special weapons and use of force directives.

Minority Opinion:
N/A

Area of Review #4: *Use of ECW*

Employee: **Employee #7**

Recommended Finding: **In Policy / Seven members**

Applicable Directive: **1051.00 – Electronic Control Weapon System; 1010.00 – Use of Force**

Majority Opinion:
Board members unanimously recommended an In Policy finding for Employee #7's actions to deploy a Taser to apprehend the suspect. The suspect was fighting with the police dog, which allowed the custody team to move within appropriate range to use a Taser. At the time, it was unknown if the suspect was armed and the suspect was actively resisting. Board members agreed Employee #7's actions were consistent with the directives given the totality of the circumstances, including the need to deny the suspect access to the residence and avoid a higher level of force.

Minority Opinion:
N/A

Area of Review #5: *Operational Planning and Supervision*

Employee: **Employee #10**
Employee #11

Recommended Finding: **In Policy with a Debrief / Seven members**

Applicable Directive: **1010.00 – Use of Force;**
315.30 – Satisfactory Performance

Majority Opinion:
The Review Board unanimously recommended a finding of In Policy for the actions taken by Employee #10 and Employee #11 when they arrived to actively manage the scene and for Employee #11's actions to deploy resources and call for SERT and CNT. The Board found all decisions to be reasonable and consistent with training. The Board members also recommended a debrief to discuss the transition to hand off acting incident commander duties to Employee #12 as the Critical Incident Commander. A delay occurred as Employee #12 waited for Employee #11 to first hand off the command post at the inner perimeter to Employee #10 and then arrive at the staging area to give Employee #12 a briefing, as policy directs. However, more active communication could have occurred via the radio during this transition period to ensure that all supervisors involved were informed and knowledgeable of authorized missions without delay.

Minority Opinion:
N/A

Employee: **Employee #12**

Recommended Finding: **In Policy with a Debrief / Six members**

Applicable Directive: **1010.00 – Use of Force;**
315.30 – Satisfactory Performance

Majority Opinion:
The Review Board unanimously recommended a finding of In Policy for the actions taken by Employee #12 to make notification of his command over the radio, authorize the use of armor and authorize the use of chemical agents. The Board found all decisions to be reasonable and consistent with training. The Board members also recommended a debrief to discuss the transition to hand off acting incident commander duties to Employee #12 as the Critical Incident Commander. A delay occurred as Employee #12 waited for Employee #11 to first hand off the command post at the inner perimeter to Employee #10 and then arrive at the staging area to give Employee #12 a briefing, as policy directs. However, more active communication could have occurred via the radio during this transition period to ensure that all supervisors involved were informed and knowledgeable of authorized missions without delay.

Minority Opinion:
N/A

Area of Review #6: *Post Shooting Procedures*

Employee: **Employee #10**
Employee #11

Recommended Finding: **In Policy / Seven members**

Applicable Directive: **1010.00 – Use of Force;**
315.30 – Satisfactory Performance

Majority Opinion:
The Review Board unanimously recommended an In Policy finding for the actions by Employee #10 and Employee #11 to take the primary role to secure the crime scene after the suspect was taken into custody. Board members found the actions to be consistent with the directive.

Minority Opinion:
N/A

Employee: **Employee #12**

Recommended Finding: **In Policy / Six members**

Applicable Directive: **1010.00 – Use of Force;**
315.30 – Satisfactory Performance

Majority Opinion:
The Review Board unanimously recommended an In Policy finding for the actions by Employee #12 to secure the crime after the suspect was taken into custody, make required notifications and separate officers. Board members found the actions to be consistent with the directive related to supervisory duties.

Minority Opinion:
N/A

Recommendations:

Corrective Action/Discipline

N/A

Policy
Add "cover fire" as a tactic specifically covered by Directive 1010.00 (Use of Force).

Vote: Unanimous (10)

Rationale:
The PRB unanimously said that cover fire should be added to the directive to 1) incorporate and apply the same standard for Use of Deadly Force when using cover fire during incident responses and 2) base training and the evaluation of incidents on the same standard.

Members said that cover fire previously was included in Directive 1010.00, but had been removed during the last review of the policy. Directive 1010.00 is currently under review, and this issue could be provided to the policy development committee.

Training
Include a discussion of critical incident "hand-off" procedures in a future meeting of critical incident supervisors.

Vote: Unanimous (10)

Rationale: PRB members unanimously said the transition, or "hand-off," from an initial incident supervisor to a critical incident commander should be discussed as a debrief and learning opportunity to ensure that all missions are authorized and supervisors are communicating as effectively as possible during rapidly changing situations. One member said it is important supervisors have a mindset to actively share information so that all teams are aware of response activities and missions.

Per City Charter, Code and Policies (3.20.140 - Police Review Board), the Police Review Board makes recommendations to the Chief of Police as to findings and proposed officer discipline in all incidents involving the use force in an officer involved shooting.

Chief Marshman agreed with the board's recommended findings in this case.

There were no out of policy findings, and therefore no recommendations for corrective or disciplinary action.

Board members recommended a debriefing for Area of Review #5. A debrief is a discussion or critique of an incident when there is the belief that a discussion will provide a learning benefit to the involved members. The debriefs were assgined to the responsible precinct.

Other recommendations: the policy recommendation assgined to the Strategic Services Division; the training recommendation assigned to the Critical Incident Management Team.