

Portland Police Bureau _____

Police Review Board: Summaries and Reports

October 13, 2016- January 10, 2018



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

Police Review Board Cases with Final Dispositions

Publication: September 2018

Board Date	Case #	Final Outcome	Additional Information
10/13/2016	2016-C-0245	Termination	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IPR, and IA concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB's recommended findings and recommended disciplinary action.</p> <p>Recommendation assigned: EAP and Training Division collaborated on a class taught during autumn 2017 inservice training.</p>
11/21/2016	2016-B-0029	Termination	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IPR, and IA concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB's recommended findings for Allegations #1 and #3. Chief Marshman sustained Allegation #2. Chief Marshman disagreed with the PRB's recommended disciplinary action.</p> <p>Additional policy recommendation assigned and completed.</p>
1/18/2017	2016-C-0187	Three Workweek SWOP w/Last Chance Agreement (LCA)	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IPR, and IA concurred with the recommendation. IA controverted the recommended finding for Allegation 5 to a finding of Sustained; the RU manager recommended a finding of Not Sustained.</p> <p>Chief Marshman agreed with the PRB's recommended findings for Allegations 1-4. Chief Marshman agreed with the PRB minority's recommended finding of Sustained for Allegation 5.</p> <p>At the conclusion of the disciplinary process, Allegation 5 was found Not Sustained.</p> <p>Additional policy recommendation assigned and completed.</p>

Police Review Board Cases with Final Dispositions

Publication: September 2018

Board Date	Case #	Final Outcome	Additional Information
1/23/2017	2016-C-0234	One Workweek SWOP	<p>This case was referred to the PRB by the RU manager for sustained findings for Allegations #1 and #2. The branch assistant chief and IA agreed with the RU manager's recommended findings. IPR concurred with the RU manager's findings for Allegations #1 and #2. IPR controverted Allegation #3 to a finding of Sustained. The RU manager recommended a finding of Not Sustained.</p> <p>Chief Marshman agreed with the PRB's recommended findings for Allegations #1 and #2 and agreed with the PRB minority's recommended finding of Sustained for Allegation # 3. Chief Marshman found the misconduct was defined under Category B of the Discipline Guide, with multiple sustained violations and other aggravating factors.</p>
1/30/2017	2016-C-0178	Two Workdays SWOP	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IPR, and IA concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB's recommended findings. Chief Marshman disagreed with the level of imposed discipline and imposed a two workday suspension without pay.</p>
2/1/2017	2016-C-0204	Two Workdays SWOP	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Acting Chief Davis agreed with the PRB's recommended findings.</p> <p>The recommendation regarding the findings template was assigned to the Professional Standards Division and declined. The template already requires all necessary criteria and includes instructions. Clarification of its use will be addressed through on-going training.</p> <p>The discussion regarding a second recommendation, referred to the "Other recommendations" summary section of the memo, did not result in a formal recommendation.</p>

Police Review Board Cases with Final Dispositions

Publication: September 2018

Board Date	Case #	Final Outcome	Additional Information
3/6/2017	2016-B-0045	Two Workweeks SWOP	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB's recommended findings and the board minority's disciplinary recommendation of a two workweek suspension without pay.</p> <p>The policy recommendation was assigned to the policy unit, reviewed, and addressed with an update to Directive 317.40.</p>
4/10/2017	2016-B-0030	Two Workdays SWOP	<p>This case was referred to the PRB by the branch assistant chief. IA concurred with the recommendation. IPR did not formally controvert the findings for Allegations #1-#4. However, IPR did note that they would making a finding of "Not Sustained" based upon the findings definitions, but found the difference between the definitions negligible. IPR agreed with the recommended finding for Allegation #5.</p> <p>Chief Marshman reached a finding of Unfounded for Allegations #1-#3, and Exonerated for Allegation 4. Chief Marshman agreed with the PRB's recommended finding for Allegation #5. Chief Marshman disagreed with the PRB's recommendation for disciplinary action and found the misconduct was defined under Category E of the Discipline Guide.</p> <p>The policy recommendation was assigned to the policy unit for review and consideration.</p>
5/11/2017 Employee 1	2016-B-0011	Three Workdays SWOP	<p>This case was referred to the PRB by the branch assistant chief. IA and IPR concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB majority's recommended finding for Allegation #7 and their recommended finding for Allegation #12. Chief Marshman found the misconduct was defined under Category E.</p> <p>The recommendation regarding guidance development is assigned to the the Professional Standards Division.</p>

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Publication: September 2018

Board Date	Case #	Final Outcome	Additional Information
5/11/2017	2016-B-0011	Two Workdays SWOP Employee 2	<p>This case was referred to the PRB by the branch assistant chief. IA and IPR concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB's recommended finding for Allegation #11. Chief Marshman found the misconduct was defined under Category E.</p> <p>The recommendation regarding guidance development is assigned to the the Professional Standards Division.</p>
5/24/2017	2016-B-0044	All actions found In Policy	<p>This case was referred to the PRB as required under City Code 3.20.140 (B)(1)(c)(1).</p> <p>Chief Marshman agreed with the PRB's recommended findings that all actions were In Policy.</p> <p>Recommendation assigned to the Operations Branch for implementation.</p>
5/25/2017	2017-C-0036	One Workday SWOP	<p>This case was referred to the PRB by the RU manager; the branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Assistant Chief Davis agreed with the PRB majority's recommended findings.</p>
6/14/2017	2016-C-0340	CC	<p>This case was referred to the PRB by the branch assistant chief who controverted the recommended finding of Not Sustained by the RU manager.</p> <p>Assistant Chief Wagenknecht agreed with the PRB minority's recommended finding of Sustained.</p> <p>In reviewing the provided documentation and the employee's statements made during their predetermination hearing, and in referencing the Discipline Guide, Assistant Chief Wagenknecht determined the use of aerosol restraints fell under Category B as a minor deviation from confrontation management performance policy. Discipline was mitigated to the level of a Command Counseling. Mitigating factors included: the employee's statement that they and their officers were placed too close in proximity to the crowd that was openly hostile toward police; there was at least one other supervisor who was also experiencing issues with the crowd due to their close proximity; the employee was dealing with multiple perceived threats during a volatile and quickly evolving incident; once the decision was made to have the officers move away from the crowd, no other significant incidents occurred between the two groups.</p>

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Publication: September 2018

Board Date	Case #	Final Outcome	Additional Information
6/22/2017	2017-B-0001	Termination	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Chief Marshman agreed with the PRB's recommended finding.</p>
6/26/2017	2017-B-0011	CC	<p>This case was referred to the PRB by the RU manager. The assistant chief and IA controverted the Not Sustained finding for Allegation #2 to Sustained.</p> <p>Acting Chief Davis reviewed the case file and considered the PRB's recommendations. Acting Chief Davis found no indication that the employee intended to deceive because the employee noted their own initials on the form and did not sign as the other employee. It was determined the employee erroneously filled out a bureau form.</p>
6/29/2017	2017-B-0006	All actions found In Policy	<p>This case was referred to the PRB as required under City Code 3.20.140 (B)(1)(c)(1).</p> <p>Chief Marshman agreed with the PRB's recommended findings that all actions were In Policy.</p> <p>Recommendation #1 assigned and completed. The ammunition count that occurs after an officer involved shooting is covered by Directive 1010.10 and SOP #37. Recommendation #2 assigned and completed. The physical separation of officer witnesses following an OIS is covered by Directive 1010.10. Recommendation #3 assigned to the PIO and completed: https://www.portlandoregon.gov/police/article/633061. Recommendation #4 assigned to the Training Division for implementation.</p>
7/19/2017	2016-C-0359	Termination	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR controverted the recommended finding of Sustained for Allegation 6 to Not Sustained, and concurred with the recommendation that the case be reviewed by the PRB.</p> <p>Chief Uehara agreed with the PRB's recommended findings for Allegations 1-5 and 7-8. Chief Uehara agreed with the PRB minority's recommended finding of Sustained for Allegation 6, and the PRB majority's recommended finding of Not Sustained with a Debriefing for Allegation 9.</p> <p>The recommendation regarding examination of process and decision making is assigned to the Personnel Division as an action item.</p>

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Publication: September 2018

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7/31/2017	2017-B-0016	One Workweek SWOP	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Assistant Chief Wagenknecht agreed with the PRB's recommended findings.</p>
8/2/2017	2017-B-0008	Termination	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Upon the initial review, Assistant Chief Davis agreed with the PRB's recommended findings and agreed with the PRB minority's opinion that the misconduct was defined under Category F of the Discipline Guide. Chief Oulaw found the misconduct was defined under Category F of the Discipline Guide.</p>
9/6/2017	2017-B-0027	CC	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Assistant Chief Wagenknecht agreed with the PRB's recommended finding for Allegation 1, the majority's recommended finding for Allegation 2, and the PRB majority's recommended level of discipline.</p> <p>Assistant Chief Wagenknecht imposed Command Counseling as the level of corrective action after meeting with the employee.</p>
9/28/2017 Employee 2	2017-C-0152	Resigned	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation. The RU manager recommended a finding of Not Sustained. The branch assistant chief and IA concurred with the Not Sustained recommendation for Allegation 1. IPR controverted the recommended finding of Not Sustained for Allegation 1 to Sustained. The PRB convened on September 28, 2017.</p> <p>Chief Uehara agreed with the PRB majority's recommendation for Allegation 1 (Employee 1) but did not add a debriefing. Chief Uehara agreed with the PRB's recommended findings for Allegations 2-4 (Employee 2).</p> <p>Additional recommendation assigned to the Professional Standards Division as an action item.</p>

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Publication: September 2018

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9/28/2017 Employee 1	2017-C-0152	None	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation. The RU manager recommended a finding of Not Sustained. The branch assistant chief and IA concurred with the Not Sustained recommendation for Allegation 1. IPR controverted the recommended finding of Not Sustained for Allegation 1 to Sustained. The PRB convened on September 28, 2017.</p> <p>Chief Uehara agreed with the PRB majority's recommendation for Allegation 1 (Employee 1) but did not add a debriefing. Chief Uehara agreed with the PRB's recommended findings for Allegations 2-4 (Employee 2).</p> <p>Additional recommendation assigned to the Professional Standards Division as an action item.</p>
11/9/2017	2017-B-0031	LOR	<p>This case was referred to the PRB by the RU manager. The branch assistant chief, IA, and IPR concurred with the recommendation.</p> <p>Chief Outlaw agreed with the PRB majority's recommended findings, disagreed with the level of recommended discipline, and found the misconduct was defined under Category B (Presumptive) of the Discipline Guide.</p> <p>The additional recommendation is assigned to the Personnel Division as an action item.</p>
11/20/2017	2017-C-0157	Exonerated with Debriefing	<p>This case was referred to the PRB as a result of a controverted findings by the branch assistant chief. The RU manager recommended a finding of Exonerated with a Debriefing for Allegations 1 and 2. IA and IPR concurred with the RU manager's recommendations. The branch assistant chief recommended findings of Sustained for both allegations.</p> <p>Chief Outlaw agreed with the PRB's recommended findings.</p> <p>Research related to the recommendation regarding implementation of body-worn and dash cameras is ongoing.</p>

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11/20/2017	2017-C-0157	Exonerated with Debriefing	<p>This case was referred to the PRB as a result of a controverted findings by the branch assistant chief. The RU manager recommended a finding of Exonerated with a Debriefing for Allegations 1 and 2. IA and IPR concurred with the RU manager's recommendations. The branch assistant chief recommended findings of Sustained for both allegations.</p> <p>Chief Outlaw agreed with the PRB's recommended findings.</p> <p>Research related to the recommendation regarding implementation of body-worn and dash cameras is ongoing.</p>
12/18/2017	2017-B-0028	All Actions In Policy	<p>This case was referred to the PRB as required under City Code 3.20.140 (B)(1)(c)(1).</p> <p>Chief Outlaw agreed with the PRB's recommended findings of In Policy for all areas of review.</p>
1/10/2018	2017-B-0029	All actions In Policy	<p>This case was referred to the PRB as required under City Code 3.20.140 (B)(1)(c)(1).</p> <p>Chief Outlaw agreed with the PRB's recommended findings of In Policy for all areas of review.</p> <p>Recommendations assigned to the Training Division as action items.</p>

DATE: October 26, 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 October 13, 2016, to review the following case:

IA Case Number: **2016-C-0245**

Employee: **Employee**

Summary of Alleged Complaint:

On April 25, 2016, Employee, while off duty but on call, was involved in a motor vehicle collision while driving a City of Portland vehicle. At the scene, responding law enforcement personnel observed the unmarked police vehicle resting on its top in a roundabout, skid marks leading to the roundabout and debris from the collision.

Witnesses described Employee as driving at a high rate of speed just prior to the collision. Employee also made statements about having had alcohol earlier in the day. ■ was subsequently arrested for DUII.

Allegation #1: *While off duty and on call, Employee operated a City of Portland vehicle under the influence of intoxicants.*

Recommended Finding: **Sustained/Unanimous**

Applicable Directive: **310.00 – Conduct, Professional; 315.00 – Laws, Rules and Orders; 315.30 – Satisfactory Performance; and 1245.00 – Vehicles, Off-Duty Use by Authorized Members**

Opinion: After investigation of the incident, Employee was arrested for driving under the influence of intoxicants and processed. Voting members found the evidence overwhelming. A test determined Employee had a .256 BAC and ■ admitted to drinking that day. Employee was also convicted of the charges, which required a higher standard of proof than used in PRBs.

Allegation #2: *While off duty and on call, Employee was in possession of an open container of an alcoholic beverage while operating a City of Portland vehicle.*

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

Applicable Directive: **310.00 – Conduct, Professional; 315.00 – Laws, Rules and Orders; 315.30 – Satisfactory Performance; and 1245.00 – Vehicles, Off-Duty Use by Authorized Members**

Majority Opinion: An opened beer can was found near the scene of the incident, but there was nothing linking the opened container to Employee, the vehicle, or the crash. Four Voting Members determined that the allegation that Employee was in possession of an open container of alcohol was Unfounded.

Minority Opinion: Based on the investigating Clackamas County deputy's belief of possible dishonesty in Employee's explanation at the scene, one Voting Member determined that there was not sufficient proof to sustain the allegation based on a preponderance of the evidence, but that the allegation was not without a credible basis in fact.

Allegation #3:

While off duty and on call, Employee was involved in a motor vehicle collision while driving a City of Portland vehicle under the influence of intoxicants.

Recommended Finding: **Sustained/Unanimous**

Applicable Directive: **310.00 – Conduct, Professional; 315.00 – Laws, Rules and Orders; 315.30 – Satisfactory Performance; and 1245.00 – Vehicles, Off-Duty Use by Authorized Members**

Opinion: Voting Members unanimously determined that none of the facts supporting the allegation are in dispute. There was clear evidence of Employee's intoxication that ■ was in a vehicle collision, and ■ was driving a City of Portland vehicle.

Allegation #4:

While off duty and on call, Employee drove a City of Portland vehicle under the influence of intoxicants and was involved in a collision causing physical injury to another person.

Recommended Finding: **Sustained/Unanimous**

Applicable Directive: **310.00 – Conduct, Professional; 315.00 – Laws, Rules and Orders; 315.30 – Satisfactory Performance; and 1245.00 – Vehicles, Off-Duty Use by Authorized Members**

Opinion: Voting Members unanimously determined that none of the facts supporting the allegation are in dispute. There was clear evidence of Employee's intoxication, ■ was in the vehicle collision, and ■ was driving a City of Portland vehicle and that the collision involves another vehicle. The driver of the other vehicle initially stated that ■ was not injured, but later indicated that he did in fact sustain injuries.

Allegation #5:

While off duty and on call, Employee drove a City of Portland vehicle under

the influence of intoxicants in a manner likely to cause injury to persons or property.

Recommended Finding: **Sustained/ Unanimous**

Applicable Directive: **310.00 – Conduct, Professional; 315.00 – Laws, Rules and Orders; 315.30 – Satisfactory Performance; and 1245.00 – Vehicles, Off-Duty Use by Authorized Members**

Opinion: Voting Members unanimously determined that in this case, there was clear evidence that Employee drove under the influence of intoxicants, and injured both a person and property.

Recommendations:

Corrective Actions/Discipline

Termination/Unanimous

Opinion: Voting Members unanimously determined that Category F of the Discipline Guide applied most appropriately to the sustained allegations. Category F includes a presumptive recommendation of Termination. Voting Members' individual rationales for the recommendation included: 1) The presumptive recommendation of Termination is appropriate because Employee was highly intoxicated and operating a City of Portland vehicle while on call, even though ■ had a duty to remain fit to respond; 2) The presumptive recommendation is appropriate, and the risk to the public may have been an aggravating factor; 3) The presumptive recommendation is appropriate, with Employee's high rate of speed in the roundabout, injury to the public citizen, and the highly graphic scene of the accident serving as aggravating factors; and 4) Though there may have been some mitigating factors, given Employee's exemplary record of service, the facts of the crash and the graphic scene on display were aggravating, thus the presumptive recommendation of Termination is appropriate.

Additional Recommendations:

The Bureau should improve access to seek help for issues related to stress, trauma, and substance abuse; that the Bureau consider ways to and reduce stigma for officers accessing support, that are time of such incidents that the Bureau re-circulate policy reminders to share and underscore importance of PPB policies related to alcohol and vehicles.

DATE: December 5, 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 November 21, 2016, to review the following case:

IA Case Number: **2016-B-0029**

Employee: **Employee**

Summary of Alleged Complaint:

Employee was involved in a DUII crash on [REDACTED]. When property was taken from their take-home bureau vehicle, evidence from a case was found. Employee failed to put the weapons into property or to deliver DNA swabs to FED after the call. Due to the DUII crash, Employee was convicted and ordered to do jail time. Employee was unable to report for duty due to incarceration.

Allegation #1: *Employee failed to handle evidence from case [REDACTED] according to Police Bureau Policy*

Recommended Finding: **Sustained/Unanimous**

Applicable Directive: **660.10 – Property and Evidence Procedure**

Opinion: Voting members unanimously sustained the allegation based primarily on Employee's own statements. When asked if they were allowed to take evidence home with them, Employee said not to their knowledge. In addition, the language of the directive regarding firearms is clear, stating they must be delivered to PED or any satellite property room locks.

Allegation #2: *Employee was unable to report for duty due to [REDACTED] incarceration.*

Recommended Finding: **Not Sustained/Unanimous**

Applicable Directive: **311.00 – Duty Required**

Opinion: Voting Members unanimously determined that there was not the preponderance of the evidence required to sustain the allegation. Factors considered included: lack of clarity in the directive and Employee's previously allowed deviation from the call schedule. In this instance, Employee attempted to inform PPB of their whereabouts, and the possibility they may be taken into custody and not be able to call after that. Though PPB did not affirmatively excuse Employee of their duty to call in this instance, when considered in context, it was not unreasonable to conclude that Employee was allowed to deviate from the call schedule since they had

done it before.

Allegation #3: *Employee responded to a [REDACTED] callout related to incident [REDACTED] while under the influence of alcohol.*

Recommended Finding: **Not Sustained/Unanimous**

Applicable Directive: **310.00 – Conduct, Professional; 315.00 – Laws, Rules and Orders; 316.00 – Alcohol Use**

Opinion: Voting Members unanimously determined that the allegation could not be sustained because it was not supported by a preponderance of the evidence. Employee could not remember the time at which they started drinking alcohol on 4/24, but did not believe they had consumed alcohol prior to the callout related to incident [REDACTED]. The only other officer at the scene on 4/24 stated that there was no indication that Employee was intoxicated. In the absence of any indication of intoxication, the alleged policy violation could not be sustained.

Recommendations: Corrective Actions/Discipline

1 Week SWOP/3 Voting Members
2-Day SWOP/2 Voting Members

Majority Opinion: 3 Voting Members recommended 1 week SWOP based on a determination that Employee's conduct rose to Category D with aggravating circumstances within the discipline guide. Factors considered included: the intentional violation of policy for handling evidence; the evidence in question was firearms; and risking the chain of custody for the evidence in question seriously threatened another investigation with public safety implications.

Minority opinion: One Voting Member recommended 2-Day SWOP as the presumptive Category D discipline within the Guide, taking into account that this was Employee's first discipline since command counseling in 2010.

Minority Opinion: One Voting Member recommended 2-Day SWOP, based on Category C in the Discipline Guide with aggravating circumstances, due to the fact that the evidence directive was violated with the mishandling of firearms.

Additional Recommendations:

Voting members also recommended reviewing two of the directives – 660.10 – Property and Evidence Procedure, and 311.00 – Duty Required – and revising for further clarity.

DATE: February 07, 2017
TO: Michael W. Marshman
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 January 18, 2017, to review the following case:

IA Case Number: **2016-C-0187**

Employee: **Employee**

Summary of Alleged Complaint:

A Law Enforcement Data System (LEDS) auditor sent Internal Affairs a memo requesting an examination of LEDS requests for information about Citizen. The auditor specifically wanted to know if Employee was responsible for any LEDS requests regarding Citizen and what valid criminal justice purpose Employee had for requesting the information.

Allegation #1: *Employee accessed information about Citizen through LEDS on April 13, 2014 without a valid criminal justice purpose (PROCEDURE) (Directive 310.70 – Dissemination of information; 315.00 – Laws, Rules and Orders; 1226.00 – Computer Technology)*

Recommended Findings: Sustained – 4 Members
Abstained – 1 Member
Applicable Directives:
310.70 – Dissemination of information
315.00 - Laws, Rules and Orders
1226.00 – Computer technology

Opinion: The voting members considered the evidence that Employee had a confirmed hit on LEDS searching for Citizen on 4/13/14, with no criminal justice purpose for the search. Directive 1226 states that information obtained from IT resources such as LEDS “will be used for criminal justice purposes only.” Directive 310.70 states that these resources are “not for public disclosure, nor should they be accessed for personal reasons.” One voting member found it very disconcerting to think of an officer gaining information about members of the public that way. Four voting members found the recommended finding of sustained for these reasons. One voting member One board member recused themselves and abstained due to a realized conflict of interest.

Allegation #2: *Employee accessed information about Citizen through LEDS on September 07, 2014 without a valid criminal justice purpose (PROCEDURE) (Directive 310.70 – Dissemination of information; 315.00 – Laws, Rules and Orders; 1226.00 – Computer Technology)*

Recommended Findings: Sustained – 4 Members
Abstained – 1 Member
Applicable Directives:
310.70 – Dissemination of information
315.00 - Laws, Rules and Orders
1226.00 – Computer technology

Opinion: The voting members considered that on September 07, 2014 Employee had accessed information through LEDS without a valid criminal justice purpose, that there is confirmation it occurred, and it is against policy. Directive 1226 states that information obtained from IT resources such as LEDS “will be used for criminal justice purposes only.” Directive 310.70 states that these resources are “not for public disclosure, nor should they be accessed for personal reasons.” Four voting members found the recommended finding of sustained for these reasons. One board member recused themselves and abstained due to a realized conflict of interest.

Allegation #3: *Employee accessed information about Citizen through LEDS on December 25, 2015 without a valid criminal justice purpose (PROCEDURE) (Directive 310.70 – Dissemination of information; 315.00 – Laws, Rules and Orders; 317.40 – Authorized use of Bureau Resources)*

Recommended Findings: Sustained – 4 Members
Abstained – 1 Member
Applicable Directives:
310.70 – Dissemination of information
315.00 – Laws, Rules and orders
317.40 – Authorized use of Bureau Resources

Opinion: Records show that Employee did run a search on Citizen on December 25, 2015. The members discussed how between the time periods referenced in allegations #1 - #2, and here in allegation #3, a new policy had been implemented (317.40) in place of Directive 1226.00, but with the same intention. 317.40 entrusts officers with resources, especially information technology, in accordance with the law. Directive 310.70 states that these resources are “not for public disclosure, nor should they be accessed for personal reasons.” Four voting members found the recommended finding of sustained for these reasons. One board member recused themselves and abstained due to a realized conflict of interest.

Allegation #4: *Employee accessed information about Citizen 2 through LEDS without a valid criminal justice purpose (PROCEDURE) (Directive 310.70 – Dissemination of information; 315.00 – Laws, Rules and Orders; and 317.40 – Authorized use of Bureau Resources)*

Recommended Findings: Sustained – 4 Members
Abstained – 1 Member
Applicable Directives:
310.70 – Dissemination of information
315.00 – Laws, Rules and orders
317.40 – Authorized use of Bureau Resources

Opinion: Records show that Employee accessed information about Citizen 2 through LEDS without valid criminal purpose. Directive 317.40 entrusts officers with resources, especially information technology, in accordance with the law. Directive 310.70 states that these resources are “not for public disclosure, nor should they be accessed for personal reasons.” The voting members also discussed how one of the searches Employee initiated came up in [REDACTED] partner’s name and considered whether Employee did this purposefully. One member said Employee had seemed genuinely perplexed when the search records came up in Employee 2’s name and [REDACTED] didn’t understand how that could have happened, which indicated [REDACTED] had not intentionally searched while Employee 2 was still logged on, in an attempt to conceal the search. Another member found the explanation of the IT system and how that could have happened “credible.” Four voting members found the recommended of finding sustained for these reasons. One board member recused himself and abstained due to a realized conflict of interest.

Allegation #5: *On July 6, 2016 Employee was untruthful during an Internal Affairs interview by answering questions or providing information in a manner that was evasive, deceptive or misleading. (CONDUCT) (Directive 310.50 – Truthfulness)*

Recommended Findings: Sustained – 1 Member
Not Sustained – 3 Members
Abstained – 1 Member
Applicable Directives:
310.50 – Truthfulness

Opinion: The voting members deliberated extensively on this allegation with differing opinions of whether Employee’s may have been nonspecific during interviews Internal Affairs or was intentionally untruthful. Directive 310.50 states that “the integrity of police service is based on honesty and truthfulness.” At the end of the discussion, three voting members did not feel the investigation reached the threshold of a sustained finding and voted for not sustained. One voting member sustained the finding citing sufficient preponderance of evidence and one board member recused himself and abstained due to a realized conflict of interest.

Recommendations:

Corrective Actions/Discipline
3 weeks SWOP/2 Voting Members
Termination/2 Voting Members
Abstained – 1 Member

Opinion: After substantive discussion, two voting members assessed the discipline as Category D, with 3 or more violations, aggravated by the officer's discipline history resulting in 3 weeks SWOP. One voting member placed the discipline in Category E with aggravating factors of prior disciplinary history, and multiple sustained allegations resulting in a recommendation of termination. One member, sustaining the truthfulness allegation, arrived at Category F with the recommendation of termination. This voting member also noted, for the record, that even without the sustained truthfulness allegation, the member would have arrived at the same termination recommendation through Category E with aggravating factors of prior disciplinary history, and multiple sustained allegations. One board member recused himself and abstained due to a realized conflict of interest.

Other recommendations
None.

DATE: Jan. 25, 2017
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 Monday, Jan. 23, 2017, to review the following case:

IA Case Number: **2016-C-0234**

Employee: **Employee #1**

Case Summary: Complainant spoke with Employee #1 at a precinct front desk about disposing of unused medications. Prior to speaking with Employee #1, Complainant contacted a pharmacy and the Portland Fire Bureau (PFB) about disposing of the medications and was referred to the Portland Police Bureau (PPB). When Complainant informed Employee #1 that Complainant wanted to dispose of medications, Employee #1 told Complainant that the Police Bureau no longer disposed of medications and to throw the medications in the trash. Complainant felt Employee #1 was wrong. When Complainant expressed this to Employee #1, Employee #1 told Complainant that Complainant was rude and threatened to have Complainant removed from the building. Complainant did not want to be arrested for trespassing and left the precinct with the medications.

Allegation #1: *Employee #1 was discourteous to Complainant.*

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

Applicable Directive: **310.40 – Courtesy**

Majority Opinion:

Four members of the Review Board recommended a finding of sustained. The members said that hanging up the headset when Complainant was speaking was disrespectful and not courteous and that officers often have to let members of the public vent their frustrations. In addition, they said Complainant's behavior was not outrageous and did not rise to the level requiring exclusion.

Minority Opinion:

One member recommended a finding of not sustained, saying Employee #1's actions did not violate the directive. The member said Employee #1 could have done more to assist Complainant, but the policy does not objectively require it, and Employee #1 did provide Complainant with options for medication disposal.

Allegation #2: *Employee #1 improperly threatened to arrest Complainant.*

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

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

Majority Opinion:

Four members of the Review Board recommended a finding of sustained because Employee #1 did not have a valid reason for arrest of Complainant. The members noted Complainant was described as “animated,” but was not loud or profane and did not disrupt activities of the Central Precinct lobby. They said Complainant was trying to do the right thing and conduct legitimate business with the PPB.

Minority Opinion:

One member of the Board recommended a finding of not sustained because Complainant did not have a legitimate business purpose to remain after being provided with information. Employee #1 said Complainant could be subject to arrest ‘if’ Complainant continued to be disrespectful.

Allegation #3: *Employee #1 failed to properly perform the duties of Employee #1’s position when Employee #1 was rude and failed to help Complainant with a request for assistance.*

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

Applicable Directive: **315.30 – Satisfactory performance;**
312.00 – Request for Assistance

Majority Opinion:

Four members of the Board recommended a finding of not sustained because Employee #1 provided information and disposal options to Complainant. They agreed that more information could have been provided, but the two directives were followed.

Minority Opinion:

One member of the Board recommended a finding of sustained because Employee #1’s high profile position at the precinct front desk requires specialized behavior to efficiently assist individuals. The member said Employee #1 provided minimal information which frustrated Complainant enough to seek additional assistance at City Hall.

Recommendations: Corrective Action/Discipline

Discipline Category: **Category B / Four members**

Corrective Action: **Two-days SWOP / Four members**

Rationale:

The Review Board found Employee #1’s actions to be consistent with

Category B of the discipline guide, "Conduct that has or may have a negative impact on operations or professional image of PPB, or that negatively impacts relationships with other officers, agencies or the public." Members recommended a two-day suspension without pay because it was Employee #1's second violation in two years, which was aggravated by Employee #1's history of similar behavior resulting in opportunities for service improvements.

Other Recommendations

No other recommendations.

DATE: February 13, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on January 30, 2017, to review the following case:

IA Case Number: **2016-C-0178**

Employee: **Employee**

Summary of Alleged Complaint:

Employee was assigned as the primary officer to a call of a family disturbance in which a father had slapped an adult daughter and then fled the location. After being struck, the daughter ran out of the residence and called 911 while her boyfriend and mother attempted to restrain her father. Employee 2 was assigned to assist Employee on the call. ■ searched the area but was unable to find the father. The daughter and her boyfriend received minor injuries at the hand of the father but neither desired prosecution. The daughter was dissatisfied with the investigation of the incident by Employee, and the manner in which ■ responded to the information ■ received.

Allegation #1: *Employee failed to conduct a satisfactory investigation on a call involving domestic violence. (CONDUCT) (Directives 825.00 – Domestic Violence; 315.30-Satisfactory Performance).*

Recommended Findings: Sustained – 5 Members
Applicable Directives:
825.00 – Domestic Violence
315.30 – Satisfactory Performance

Opinion: There was discussion among the voting members about how officers are trained to respond to domestic violence calls including the need to accurately document the incident, provide resources, be empathetic, and take incident seriously even if the victim elects not to press charges. In this case, the voting members felt that Employee's actions failed to meet the standards of a satisfactory investigation. Among the investigative facts mentioned were Employee's inappropriate political comments, ■ lack of empathy, and ■ failure to provide DV advocate forms as required by policy, and ■ failure to take photos of visual injuries. Voting members were unanimous in a sustained finding for Allegation #1.

Recommendations: Corrective Actions/Discipline

1 Day SWOP/5 Voting Members

Opinion: There was consensus that the sustained allegation fell within Category A of the discipline guide. After discussing the adequacy of Officer training related to DV calls, the voting members agreed that as [REDACTED] and that the witness accounts and failures in documentation to be aggravating circumstances. Specifically, members noted the Officer's inappropriate comments at the scene, a lack of empathy, and failure to follow procedures, which resulted in a unanimous recommended corrective action/discipline of a one-day SWOP.

Other Recommendations

None.

DATE: February 20, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on February 01, 2017, to review the following case:

IA Case Number: **2016-C-0204**

Employee: **Employee**

Summary of Alleged Complaint:

Employee was on █ way to the precinct because █ pack-set radio was not working. █ heard a priority theft call dispatched to a department store. Employee informed dispatch █ was arriving in the area where the suspect was last seen. Based on the description from dispatch, Employee located Suspect and observed him from a distance. Employee informed dispatch Suspect had taken off his sweatshirt and updated the description and █ location. Employee observed Suspect make contact with a female near the northeast corner of SW 11th and Morrison. Employee was concerned █ would lose visual on Suspect and proceeded south on SW 11th Avenue. Employee realized █ was then visible to Suspect and decided to make contact. Employee was informed that Suspect had been using a knife to cut tags off merchandise in the store. Employee exited █ vehicle and attempted to take Suspect into custody. Suspect broke free and began to run North on 11th Avenue. Employee began running after him and deployed █ Taser. The Taser probes made contact with Suspect and he fell forward on SW 11th Avenue onto the street. Employee attempted to handcuff Suspect on the street. After a struggle, Suspect broke free and got away from Employee.

Allegation #1: *Employee's actions in response to a theft in progress precipitated the use of force (FORCE) (Directives 1010.00 – Use of Force; 315.30 – Satisfactory Performance)*

Recommended Findings: **Sustained – 5 Members**

Applicable Directives:
1010.00 – Use of Force
315.30 – Satisfactory Performance

Opinion: The members found that Employee did not adequately plan prior to █ approach of the suspect. Notably, without a working radio and █ failure to wait for cover, Employee's decision to approach the suspect precipitated the use of force. Police training involves always having a plan, and █ did not seem to have a plan, despite █ years of experience. Allegation #1 was unanimously sustained by the voting members.

Allegation #2: *Employee failed to properly manage a confrontation with a theft suspect which included the use of force (FORCE) (Directives 1010.00 – Use of Force; 315.30 – Satisfactory Performance)*

Recommended Findings: Sustained – 5 Members

Applicable Directives:
1010.00 – Use of Force
315.30 – Satisfactory Performance

Opinion: The lack of planning coupled with Employee's nonworking radio subsequently escalated the confrontation. Without the right tools or support, Employee was found to have not used effective confrontation management during the incident. As a result, for Allegation #2, the voting members unanimously sustained the finding.

Allegation #3: *Employee used [REDACTED] electronic control weapon (ECW) in a manner inconsistent with training and directives (FORCE) (Directives 1010.00 – Use of Force; 1051.00 – Electronic Control Weapon System)*

Recommended Findings: Sustained – 5 Members

Applicable Directives:
1010.00 – Use of Force
1051.00 – Electronic Control Weapon System

Opinion: The voting members discussed how Employee's ineffective confrontation management led to Employee's use of the electronic control weapon (ECW). Employee's use of [REDACTED] Taser was inconsistent with training, directives and with PPB's intent to prevent use of force whenever possible. The voting members agreed that the Officer's use of a Taser on a shoplifting suspect who was fleeing from custody without posing danger to others violated Directive 1051.00. Allegation #3 was unanimously sustained by the voting members.

Allegation #4: *Employee was untruthful regarding [REDACTED] use of force and justification for [REDACTED] use of force when [REDACTED] encountered Suspect (CONDUCT) (Directive 310.50 - Truthfulness; 910.00 – Field Handbook Reporting Instructions)*

Recommended Findings: Not sustained – 5 Members

Applicable Directives:
310.50 – Truthfulness
910.00 – Field Handbook Reporting Instructions

Opinion: The members agreed that they could not show by preponderance of evidence that Employee was purposefully untruthful during the investigation. Employee wrote in [REDACTED] report what [REDACTED] perceived

happened that day, and while [REDACTED] account differed significantly from video evidence of the incident, the voting board members did not believe that there was enough evidence to sustain a finding of untruthfulness. The Not Sustained finding for Allegation #4 was unanimous.

Allegation #5: *Employee wrote an inaccurate report regarding [REDACTED] use of force and justification for [REDACTED] use of force against Suspect (PROCEDURE) (Directive 910.00 – Field Handbook Reporting Instructions)*

Recommended Findings: Sustained – 5 Members

Applicable Directives:
910.00 – Field Handbook Reporting Instructions

Opinion: The members agreed that the report Employee wrote contained inaccuracies and did not fully represent a full reporting of the incident. With inaccuracies and omitted details, the voting members concurred that the report did not meet the standards of directive 910.00 Field Handbook Reporting Instructions. Allegation #5 was sustained unanimously by the voting members.

Recommendations: Corrective Actions/Discipline

Opinion: The members discussed that while the level of force was not appropriate to the incident, the Employee's actions did not appear to be an intentional and significant deviation that warranted discipline associated with Category E of the guidelines. Members believed that the Employee's actions were the unfortunate result of poor decision making that caused a snowball effect of one bad decision leading to another. The members agreed that the Employee's actions were a deviation from the use of force policy associated with a Category D violation.

For category D, presumptive is a 2-day SWOP. Some members saw the inaccurate report to be an aggravating factor, but also saw [REDACTED] track record of being a respected officer with no discipline history as being mitigating factors. At the end of the discussion, the vote was unanimous: category D, presumptive recommendation of 2-day SWOP.

Other recommendations

A recommendation was made for PPB to review its current findings template and consider improvements to the template. Specifically, it was noted that a section that summarized the allegations, findings, the facts upon which the RU manager has come to conclusions, with citations of applicable directives by line numbers could potentially be made more concise.

There was discussion of another recommendation to consider the policy implications of reporting on broader data regarding officers whose cases come before the PRB to give a sense of the officers' practice of law enforcement over the course of their careers.

DATE: March 10, 2017
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 Monday, March 6, 2017, to review the following case:

IA Case Number: **2016-B-0045**

Employee: **Employee #1**

Case Summary: Employee #1 was arrested for driving under the influence of intoxicants by [REDACTED] Police. Employee #1 was driving a vehicle assigned to Employee #1 by the Division at the time of Employee #1's arrest.

Allegation #1: *Employee #1 was arrested for Driving Under the Influence of Intoxicants while driving a vehicle leased by the city for Employee #1's use as a member of the Division.*

Recommended Finding: **Sustained / Five members**

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

Majority Opinion:

The Board unanimously recommended a sustained finding based on the following: The facts of the incident were not in dispute. Employee #1 was arrested for driving under the influence of intoxicants after an officer with the [REDACTED] Police Department observed Employee #1 commit traffic violations, stopped Employee #1 and conducted a field sobriety test. Employee #1 later submitted to a breath test which showed 0.11 BAC, which is above the legal limit.

Minority Opinion:

N/A

Allegation #2: *Employee #1 transported an alcoholic beverage in a vehicle leased by the city for Employee #'s use as a member of the Division.*

Recommended Finding: **Sustained / Five members**

Applicable Directives: **310.00 – Conduct, Professional;
316.00 – Alcohol Use**

Majority Opinion:

The Board unanimously recommended a sustained finding as PPB members are prohibited from transporting alcoholic beverages in a city vehicle. The Board agreed that this action is contrary to the Bureau's expectations.

Minority Opinion:

N/A

Allegation #3:

Employee #1 consumed intoxicants to the extent it impaired Employee #1's ability to drive a city vehicle.

Recommended Finding: **Sustained / Five members**

Applicable Directives: **1245.00 – Vehicles, Off-duty use by Authorized Members;**
317.40 – Authorized Use of Bureau Resources

Majority Opinion:

The Board unanimously recommended a sustained finding because observations and tests performed by the [REDACTED] Police Department clearly indicated Employee #1's ability to drive was impaired. The results of the field sobriety test led to Employee #1's arrest and Employee #1 later had a breath test result of 0.11 BAC.

Minority Opinion:

N/A

Allegation #4:

Employee #1 inappropriately drove a city vehicle for personal use, as Employee #1 was unable to immediately respond to work.

Recommended Finding: **Sustained / Five members**

Applicable Directive: **1245.00 – Vehicles, Off-Duty use by Authorized Members**

Majority Opinion:

The Board unanimously recommended a sustained finding because Employee #1's position requires Employee #1 to be available to respond to an emergency occurrence when off duty. Because of Employee #1's position, Employee #1 was authorized to use a city owned vehicle when off duty. Employee #1 failed to notify Employee #1's supervisor, as is required, that Employee #1 was unable to respond to calls due to Employee #1's driving impairment. The Board agreed that Employee #1 could have made other travel arrangements.

Minority Opinion:

N/A

Recommendations:

Corrective Action/Discipline

Discipline Category: Category E / Five members

Corrective Action: 40 hours SWOP / Three members
80 hours SWOP / Two members

Rationale:

The Board unanimously said the actions of Employee #1 were consistent with category E of the Bureau's 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." Members also unanimously said the presumptive corrective action should apply, which is a 1-2-week suspension without pay.

Majority opinion:

Three members specifically recommended a one week SWOP (40 hours), the lower end of the range of presumptive discipline. Members said Employee #1 immediately took full responsibility for Employee #1's actions. One member cited Employee #1's past work history and exemplary performance.

Minority opinion:

Two members specifically recommended a two week SWOP (80 hours), which is the higher end of the range of presumptive discipline. They noted that Employee #1's position as a supervisor could be an aggravating factor, but recommended the presumptive discipline. They said Employee #1 is an exemplary supervisor who has served well in an acting capacity for Employee #1's superiors when needed. They said Employee #1 has been cooperative throughout the incident investigation, took responsibility and is fully aware discipline is forthcoming. One member said Employee #1 has taken steps to prevent a similar incident from happening again by entering alcohol treatment.

Other Recommendations

Recommendation:

Review and consider clarifying the language of directive 316.00 Alcohol Use related to the transport of closed containers of alcohol for unofficial purposes in a city-owned vehicle assigned for take-home use.

Vote: 5 concur

Rationale:

The Board said some officers are assigned take-home vehicles because they may be required to respond to an emergency when off duty. These same officers are allowed to use their city vehicle to conduct reasonable personal business, such as stopping at a grocery store on their way home from duty to obtain supplies for later use. One member recommended reviewing the rule because the Bureau should trust its employees.

DATE: April 21, 2017
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 Monday, April 10, 2017, to review the following case:

IA Case Number: **2016-B-0030**

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

Summary of Alleged Complaint:

Portland Police Bureau Employee #6 traveled to eastern Oregon with a group of friends between 4/17/16 and 4/21/16. On 4/21/16, while members of the group were shooting, Employee #6's .22 caliber rifle discharged and Employee #6's friend was wounded. Although the Harney County Sheriff's Office (HCSO) opened an investigation into the matter, the Independent Police Review (IPR) did not learn of the incident or HCSO's investigation until *Willamette Week* published an article about the incident on 5/20/16.

Allegation #1: Portland Police Bureau Employee #1 failed to take appropriate action after being informed that Portland Police Bureau Employee #6 was involved in an off-duty negligent discharge of a firearm, which resulted in injury.

Employee: **Employee #1**

Recommended Finding: **Unfounded / Two members
Exonerated / Two members**

Applicable Directive: **315.30 – Satisfactory Performance**

Opinion 1:

Two members of the Police Review Board recommended an Unfounded finding because there was not a credible basis for the allegation of a possible violation of the policy. They said Employee #1 was not required, as part of Employee #1's position overseeing the [REDACTED] Branch, to notify the Professional Standards Division or the Independent Police Review to initiate an investigation. Members said Employee #1 understood that the required notification had already occurred and that existing policies prohibit Bureau employees from stopping or influencing an investigation.

Opinion 2:

Two members of the Police Review Board recommended an Exonerated finding. Given the facts, they said there was a credible basis for the

investigation to occur and to understand Employee #1's role. They also said Employee #1's actions were within policy and Employee #1 was not required, as head of the [REDACTED] Branch, to take action to notify another division. Members said Employee #1 understood required notification had already occurred and that existing policies prohibit Bureau employees from stopping or influencing an investigation. In addition, they said that findings of "Unfounded" had previously only been applied to frivolous allegations with no credible basis.

Allegation #2:

Portland Police Bureau Employee #2 failed to take appropriate action after being informed that Portland Police Bureau Employee #6 was involved in an off-duty negligent discharge of a firearm, which resulted in injury.

Employee: Employee #2

**Recommended Finding: Unfounded / Two members
Exonerated / Two members**

Applicable Directive: 315.30 – Satisfactory Performance

Opinion 1:

Two members of the Police Review Board recommended an Unfounded finding because there was not a credible basis for the allegation of a possible violation of the policy. They said Employee #2 was not required, as part of Employee #2's position overseeing the [REDACTED] Branch, to notify the Professional Standards Division or the Independent Police Review to initiate an investigation. Members said Employee #2 understood that the required notification had already occurred and that existing policies prohibit Bureau employees from stopping or influencing an investigation.

Opinion 2:

Two members of the Police Review Board recommended an Exonerated finding. Given the facts, they said there was a credible basis for the investigation to occur and to understand Employee #2's role. They also said Employee #2's actions were within policy and Employee #2 was not required, as head of the [REDACTED] Branch, to take action to notify another division. Members said Employee #2 understood required notification had already occurred and that existing policies prohibit Bureau employees from stopping or influencing an investigation. In addition, they said that findings of "Unfounded" had previously only been applied to frivolous allegations with no credible basis.

Allegation #3:

Portland Police Bureau Employee #3 failed to take appropriate action after being informed that Portland Police Bureau Employee #6 was involved in an off-duty negligent discharge of a firearm, which resulted in injury.

Employee: Employee #3

Recommended Finding: Exonerated / Four members

Applicable Directive: **315.30 – Satisfactory Performance**

Rationale:

The Police Review Board unanimously recommended a finding of Exonerated, saying Employee #3 acted within policy when Employee #3 learned of the incident. They said Employee #3 understood that required notification of Professional Standards Division or the Independent Police Review would occur. The Board agreed that as the assistant chief overseeing [REDACTED] Employee #3 had a coordination role with the Professional Standards Division per policy, but the onus is on the Professional Standards Division captain to initiate the investigation.

Allegation #4:

Portland Police Bureau Employee #4 failed to take appropriate action after being informed that Portland Police Bureau Employee #6 was involved in an off-duty negligent discharge of a firearm, which resulted in injury.

Employee: **Employee #4**

Recommended Finding: **Unfounded / Two members
Exonerated / Two members**

Applicable Directive: **315.30 – Satisfactory Performance**

Opinion 1:

Two members of the Police Review Board recommended an Unfounded finding because there was not a credible basis for the allegation of a possible violation of the policy. They said Employee #4 was not required, as part of Employee #4's position overseeing [REDACTED], to notify the Professional Standards Division or the Independent Police Review to initiate an investigation. Members said Employee #4 understood that the required notification had already occurred and that existing policies prohibit Bureau employees from stopping or influencing an investigation.

Opinion 2:

Two members of the Police Review Board recommended an Exonerated finding. Given the facts, they said there was a credible basis for the investigation to occur and to understand Employee #4's role. They also said Employee #4's actions were within policy and Employee #4 was not required, as head of [REDACTED], to take action to notify another division. Members said Employee #4 understood required notification had already occurred and that existing policies prohibit Bureau employees from stopping or influencing an investigation. In addition, they said that findings of "Unfounded" had previously only been applied to frivolous allegations with no credible basis.

Allegation #5:

Portland Police Bureau Employee #5 failed to initiate an administrative investigation after being informed that Portland Police Bureau Employee #6 was involved in an off-duty negligent discharge of a firearm, which resulted in injury.

Employee: **Employee #5**
Recommended Finding: **Sustained / Five members**
Applicable Directive: **330.00 – Internal Affairs, Complaint Intake and Processing**

Rationale:

The Police Review Board unanimously recommended a Sustained finding. They said the directive dictates that the [REDACTED] of the Professional Standards Division process and investigate complaints of policy violations by Bureau members. In Employee #5's role at Professional Standards Division, Employee #5 did not take required action to notify the Independent Police Review and initiate the investigation after Employee #5 became aware of the negligent discharge. The Police Review Board also said Employee #5 did not intend to violate the complaint intake policy and that notice given to Employee #5 by Employee #6 was not clear.

Recommendations:

Corrective Action/Discipline

Corrective Action: **1 Day SWOP / Five members**

Rationale:

The Police Review Board unanimously said the actions of Employee #5 were consistent with category D of the discipline guide, "Conduct substantially contrary to the values of the Portland Police Bureau or that substantially interferes with its mission, operations or professional image, or that involves a serious risk to officer or public safety, or intentionally violates bureau policy." They recommended corrective action of one day suspension without pay. The members said circumstances surrounding the rule violation, including the lack of clear communication, provided justification for corrective action less than the presumptive.

Other Recommendations

Review the definitions used in Police Review Board findings for Unfounded and Exonerated to ensure consistency and clarity between investigating entities.

Vote: Unanimous (5)

Rationale:

Police Review Board members spent some time discussing the specific definitions used for Police Review Board discussions related to performance and conduct reviews. Members recognized the lack of a shared understanding of the definitions of Unfounded and Exonerated. They said that consistent use of the words is important to both the involved members and the process.

DATE: May 25, 2017
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 Thursday, May 11, 2017, to review the following case:

IA Case Number: **2016-B-0011**

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

Summary of Alleged Complaint:

During the course of an investigation into alleged violations of Human Resources Administrative Rule 2.02, Employee #3 informed BHR business partners and investigators that Employee #3 had previously reported Employee #3's concerns to Employee #1 and Employee #2.

Allegation #7: Employee #1 did not report allegations of possible misconduct related to statements made by Employee #4 to Employee #3 about a protected class.

Employee: **Employee #1**

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

Applicable Directive: **330.00 – Internal Affairs, Complaint Intake
and Processing**

Opinion 1:

Three members of the Police Review Board recommended a Sustained finding after significant discussion about the allegation, which centers on the reporting requirement, and the context of the statements. One member said Employee #1 learned Employee #3 was upset by Employee #4's statements related to race during a regular one-on-one meeting with Employee #3, and this should have prompted reporting of possible misconduct within two days according to Directive 330.00. Another member said a reasonable manager should have identified the statement made by Employee #4 as a potential violation of rules prohibiting workplace harassment (HRAR 2.02) and reported it for further investigation. Both members said Employee #1 did not make a report as obligated and as trained. Another member said it was technically true that Employee #1 did not follow the reporting obligations set out in Directive 330.00, but Employee #1 exhibited no malice or ill intent.

Opinion 2:

One member recommended a Not Sustained finding because of a lack of clear evidence about the nature of the statements made by Employee #4.

The member said the statements made to Employee #3 were not offensive on their face or in context and, as a result, Employee #1 was not required to make a report under Directive 330.00.

Allegation #11:

Employee #2 did not report allegations of possible misconduct made by Employee #4 to Employee #3 about a protected class.

Employee: **Employee #2**

Recommended Finding: **Sustained / Five members**

Applicable Directive: **330.00 – Internal Affairs, Complaint Intake and Processing**

Opinion:

Members of the Police Review Board unanimously recommended a Sustained finding for similar reasons as Allegation #7. They said Employee #2 learned Employee #3 was upset about comments related to race made by Employee #4 during a casual lunch, but given Employee #2's position as [REDACTED] of the [REDACTED] [REDACTED] [REDACTED] Employee #2 had an additional requirement to report when becoming aware of possible misconduct and should have been aware of this responsibility. One member said the statement may not have constituted a violation of HRAR 2.02, but Employee #2 still had a duty to report it as a potential violation and did not. Another said it was a technical violation and Employee #2 acted with no ill intent. Two members said Employee #2 could have followed up with Employee #3 after learning of the possible misconduct, but Employee #2 did not follow up or report.

Allegation #12:

After the investigation was initiated, Employee #1 made retaliatory and/or intimidating statements to Employee #3.

Employee: **Employee #1**

Recommended Finding: **Sustained / Four members**

Applicable Directives: **315.00 – Laws, Rules and Orders**
310.40 – Courtesy
Human Resources Administrative Rule 2.02 – Prohibition Against Workplace Harassment, Discrimination and Retaliation

Rationale:

Members of the Police Review Board unanimously recommended a Sustained finding, saying that the statements related to the ongoing investigation made by Employee #1 in a one-on-one meeting with Employee #3 could have intimidated Employee #3, which violates the prohibition against retaliation. One member said they do not believe Employee #1 intended to intimidate Employee #3. Members noted that

intent to retaliate is not needed to violate HRAR 2.02. Members also said Employee #1 only made these comments to Employee #3, who was the complainant. Two members said a communication restraining order was in place related to the investigation, and therefore Employee #1 should never have initiated the conversation.

Recommendations:

Corrective Action/Discipline

Employee: **Employee #1**

Corrective Action: **Demotion / One member**
2 Weeks SWOP / One member
2 Days SWOP / One member
Letter of Reprimand / One member

Opinion 1

One member said the actions of Employee #1 were consistent with category E of 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." The member said the following aggravating factors were present: multiple sustained violations, Employee #1's rank and leadership role in PPB, and the training Employee #1 had received relevant to the directives violated during Employee #1's long history with the Bureau. The member said that PPB needs to hold its officers at all levels accountable for knowing the rules, and Employee #1 did not follow the directives for reporting potential misconduct and promoting a workplace free of intimidation. Corrective action of demotion was recommended.

Opinion 2

One member also said Employee #1's actions to not report potential misconduct and then make statements about the investigation were consistent with category E of the discipline guide. The member recommended the presumptive discipline of two weeks suspension without pay. However, the member said there were both aggravating and mitigating circumstances, including the potential impact to the Bureau's mission, Employee #1's years of service, Employee #1's lack of significant discipline prior to the incident, Employee #1's loss of rank since the incident, and the fact that it was an honest mistake.

Opinion 3

One member said Employee #1's actions were consistent with category D of the discipline guide, "conduct substantially contrary to the values of the PPB or that substantially interferes with its mission, operations or professional image, or that involves a serious risk to officer or public safety, or intentionally violates bureau policy." The member said Employee #1's actions were not intentional, but Employee #1 should have known not to have a conversation with Employee #3 about the ongoing investigation. The

member recommended the presumptive discipline of two days suspension without pay.

Opinion 4

One member said Employee #1's actions were consistent with category B of the discipline guide, "conduct that has or may have a negative impact on operations or professional image of PPB, or that negatively impacts relationships with other officers, agencies or the public." The member said the allegation was only technically sustained and Employee #1's actions do not constitute an ethical violation. The member said the Bureau's handling of the case caused as much negative impact to the Bureau's image as Employee #1's actions to not report potential misconduct as required. The member recommended the presumptive discipline of a letter of reprimand.

Employee: **Employee #2**

Corrective Action: **1 Week SWOP / Four members
Letter of Reprimand / One member**

Opinion 1

Four members of the Police Review Board said Employee #2's actions were consistent with category E of 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." The members recommended a one week suspension without pay for Employee #2's failure to report potential misconduct, which is the presumptive discipline. They said Employee #2 should have understood the rules as part of Employee #2's position as [REDACTED] of [REDACTED] but Employee #2 also took responsibility for Employee #2's actions during the investigation.

Option 2

One member recommended a letter of reprimand under category B of the discipline guide, "conduct that has or may have a negative impact on operations or professional image of PPB, or that negatively impacts relationships with other officers, agencies or the public." The member said the allegation was only technically sustained and Employee #2's actions do not constitute unethical behavior. The member said the Bureau's handling of the case caused as much negative impact to the Bureau's image as Employee #2's actions to not report potential misconduct as required. The member recommended the presumptive discipline of a letter of reprimand.

Other Recommendations

The Bureau of Human Resources, Office of Equity and Human Rights and Portland Police Bureau should collaboratively to develop guidance to implement the City's policies on equity and diversity while enabling courageous conversations about race and racial equity to increase clarity and understanding with a goal of ensuring a workplace free of discrimination and harassment.

Vote: Unanimous (5)

Rationale:

Police Review Board members said the purpose of the recommendation is to increase clarity and understanding of the two City initiatives. They noted that the City's promotion of courageous conversations about race and racial equity may lead to situations where some members of the PPB staff feel offended. A review of the City's prohibition against workplace harassment, discrimination and retaliation (HRAR 2.02) and the City's equity policies is needed to determine how they align and potentially conflict.

DATE: June 05, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, May 24, 2017, to review the following case:

IA Case Number: 2016-B-0044 (Use of Deadly Force Review PPB Case #16-389389)

Involved Members:

Employee 1
Employee 2
Employee 3
Employee 4
Employee 5
Employee 6

Summary of Incident: Administrative investigation into the officer involved shooting on December 6, 2016, at 98 SE 148th Avenue #12.

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

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

Opinion: The actions of Suspect including exiting the house with a rifle in port arms position, walking toward the team and ignoring commands were aggressive and agitated. Employee 1 acted with what ■ believed was an immediate threat of death to ■ other officers, and the community. Employee 1 fired one round and once Suspect was no longer an immediate threat, Employee 1 immediately deescalated ■ use of force. Voting members unanimously found that Employee 1's actions were in policy.

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

Recommended: (Employee 4) In Policy / Unanimous
Applicable Directive: (PROCEDURE) (Directive 315.30 – Satisfactory Performance; 1010.00 – Post Shooting Procedures)

Opinion: Employee 4 acted appropriately as first supervisor on scene, creating a plan, delegating responsibilities, and made adjustments as

necessary. Employee 4 continued to manage the call until [REDACTED] was relieved by Employee 6. In reviewing the actions of Employee 4, the voting board members unanimously determined [REDACTED] actions were in policy.

Recommended: (Employee 5) In Policy / Unanimous
Applicable Directive: (PROCEDURE) (Directive 315.30 – Satisfactory Performance; 1010.00 – Post Shooting Procedures)

Opinion: Employee 5 was assigned to manage the custody and communication teams. [REDACTED] assembled and staged a custody team, made multiple attempts, via phone and PA, to communicate with [REDACTED] and ensured that [REDACTED] was fully briefed on the plan. The voting board members unanimously determined the actions of Employee 5 were in policy.

Recommended: (Employee 6) In Policy / Unanimous
Applicable Directive: (PROCEDURE) (Directive 315.30 – Satisfactory Performance; 1010.00 – Post Shooting Procedures)

Opinion: Employee 6 assumed command of this incident after [REDACTED] was given a briefing by Employee 4. Employee 6 broadcast this information on the radio so officers on-scene knew of the change in command. Employee 6 began organizing evacuations and refining the plan established by Employee 4. Based on the review, the voting board members unanimously determined the actions of Employee 6 were in policy.

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

Recommended: (Employee 3) In Policy / Unanimous
Applicable Directive: (PROCEDURE) (Directives 1010.10 - Post Deadly Force Procedures; 630.50 - Emergency Medical Aid)

Opinion: Suspect presented a danger even after being shot. Suspect firearm lay near him on the ground, and Suspect had not responded to communication attempts and verbal commands. The delay in approaching Suspect until a plan was established was reasonable and consistent with policy. Based on the review, the voting board members unanimously determined the actions of Employee 3 were in policy.

Recommended: (Employee 2) In Policy / Unanimous
Applicable Directive: (PROCEDURE) (Directives 1010.10 - Post Deadly Force Procedures; 630.50 - Emergency Medical Aid)

Opinion: For the same reasoning that Suspect presented a danger even after being shot, given the proximity of the firearm near to him and the lack of responsiveness to previous commands. The delay in approaching Suspect until a plan was established was reasonable and consistent with policy. Based on the review, the voting board members unanimously determined the actions of Employee 2 were in policy.

Recommended: (Employee 6) In Policy / Unanimous
Applicable Directive: (PROCEDURE) (Directives 1010.10 - Post Deadly Force Procedures; 630.50 - Emergency Medical Aid)

Opinion: Employee 6 worked with the arriving SERT Members to make a plan to get Suspect in custody. The delay in approaching Suspect until a plan was established was reasonable and consistent with policy. Based on the review, the voting board members unanimously determined the actions of Employee 6 were in policy.

Recommendations

It was suggested that when shots are fired on scene, even if prior to police arrival, there is a high likelihood for injury, therefore, considering early deployment and staging medical assistance could potentially save lives. The recommendation was made to review procedures as to how and when medical personnel are dispatched the scene involving incidents where shots are fired.

DATE: June 05, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Thursday, May 25, 2017, to review the following case:

IA Case Number: **2017-C-0036**

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 2 was working a union overtime shift at [REDACTED] when [REDACTED] was approached by the [REDACTED] Manager and made aware of an inappropriate relationship and interaction involving a store employee and Employee 1, another officer assigned to work union overtime at the same Store.

Allegation #1: *Employee 1 was unprofessional when he touched Citizen, a [REDACTED] employee, inappropriately. (CONDUCT) (Directive 310.00 – Conduct, Professional)*

Recommended Findings: Sustained – 5 Members
Applicable Directive 310.00 – Conduct, Professional

Opinion: The evidence of this case was clear that the incident did occur and that it violated the professional conduct directive. Board members concurred with the opinion that there are high expectations for officers because of the role and authority they have in the community. The Board members agreed that Employee 1 violated directive 310.00 in this instance, and unanimously voted to sustain the allegation.

Recommendations: Corrective Actions/Discipline

**1 Day SWOP/4 Voting Members
LOR/1 Voting Member**

Opinion: All five voting members determined that the finding warranted Category C because it has a pronounced negative impact on the professional image of the PPB. Four of the voting members determined the action as presumptive with the recommendation of One Day SWOP. One voting member believed that Employee 1's statements during the investigation and [REDACTED] past performance were mitigating factors resulting in a recommendation of a LOR.

Other Recommendations: None.

DATE: June 21, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on June 14, 2017, to review the following case:

IA Case Number: **2016-C-0340**

Employee: Employee

Summary of Alleged Complaint:

On Friday, September 23, 2016, the No More Sidelines protest march occurred in response to the police shootings in Tulsa, OK and Charlotte, NC. The protest march was un-permitted and began in the 5200 block of NE MLK Blvd. The event was staffed with an RRT bicycle squad, three hard squads, a mixed precinct bicycle squad, and other supporting units.

After the incident, a citizen contacted IPR and submitted a complaint concerning alleged uses of force and discourteous behavior by PPB members throughout the protest. An intake investigation was conducted, and IPR management determined that the matter should proceed to full administrative investigation.

Five allegations were investigated with four of the five resulting in a finding of *Not Sustained*, *Exonerated*, or *Unfounded*. Only Allegation #1 was referred to the PRB as a result of a controverted finding from *Exonerated* to *Sustained* by the Branch Assistant Chief.

Allegation #1: *Employee used inappropriate force against a citizen in the form of pepper spray during a protest on 9/23/16.*

Recommended Finding: Sustained/2 Voting Members
Exonerated/2 Voting Members
Not Sustained/1 Voting Member

Applicable Directive: **1040.00—Aerosol Restraints**

Minority Opinion: Two voting members considered the totality of the events, applied the reasonableness standard, and found Employee use of pepper spray, on an individual ■ believed had intent to engage in physical resistance, did not violate PPB policy. The two members believed that there is enough information to support this reasoning and satisfy the standard of a reasonable officer under Directive 1010.00 and the Graham v. Connor Standard.

Minority Opinion: Based on the language of Directive 1040.00 and its relationship to Directive 1010.00 regarding Use of Force, as applied to the information in the case file, two voting members determined that Employee use of pepper spray was a violation of PPB policy.

Minority Opinion: Based on a review of the case file and Directives 1040.00 and 1010.00, one voting member determined that the allegation could not be sustained. The board member considered conflicting testimonies and found Employee's testimony credible. Employee articulated [REDACTED] reasoning for the deployment of pepper spray, based on [REDACTED] feeling that the citizen's intent was to engage in aggressive behavior. There is enough information to support this reasoning and satisfy the standard of a reasonable officer under Directive 1010.00 and the Graham v. Connor Standard.

Recommendations:

Corrective Actions/Discipline

1 Day SWOP/Unanimous (2 Voting Members)

Opinion: The two voting members who sustained the allegation determined that Employee use of pepper spray was a minor deviation from relevant policy and thus determined that the discipline guide's presumptive Category C recommendation of 1 Day of SWOP was most appropriate.

No additional recommendations.

DATE: July 3, 2017
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 Thursday, June 22, 2017, to review the following case:

IA Case Number: **2017-B-0001**

Employee: **Employee #1**

Summary of Alleged Complaint:

Employee #2 wrote a memo to Employee #3 indicating that Employee #1 wanted to make a complaint against a co-worker for unethical behavior dating back to an event approximately two years prior. Employee #1 alleged that Employee #4 assisted Employee #5 in completing a Law Enforcement Data System (LEDS) recertification over the phone while Employee #5 was on a leave of absence. Employee #3 forwarded the memo to Employee #6 with concerns that the complaint may be retaliatory. Employee #6 forwarded the matter to Professional Standards Division for review.

Allegation #1: Employee #1 retaliated against Employee #4 by making a complaint about Employee #4's conduct at work related to an incident that occurred approximately two years ago.

Employee: **Employee #1**

Recommended Finding: **Sustained / Five members**

Applicable Directive: **310.20 – Internal Affairs, Retaliation Prohibited**

Members of the Police Review Board unanimously recommended a sustained finding for the allegation. Board members found Employee #1's interview statements regarding the timing and intent of Employee #1's complaint to be not credible given Employee #1's past interactions and history with Employee #4. They said Employee #1 had ample time to report potential ethical violations earlier if Employee #1 felt they were serious, and noted the investigation related to Employee #4 resulted in an unfounded finding. They also said Employee #1's past behavior was not consistent with Employee #1's report of the interaction with Employee #2 and believed Employee #1 acted with intent. Finally, they said Employee #1 did not take responsibility for Employee #1's actions.

Recommendations: Corrective Action/Discipline

Employee: **Employee #1**

Corrective Action: **Termination / Five members**

Members of the Police Review Board unanimously said Employee #1's actions were consistent with Category E of 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 Portland Police Bureau." They further recommended the presumptive discipline for the second violation within seven years and corrective action of termination. Board members said termination was the next level of progressive discipline and that Employee #1 was unlikely to change Employee #1's behavior, given Employee #1's discipline history. One member said this is a serious act of retaliation as it could have ruined Employee #4's career. This member said termination removes a liability for the City. Another said if Employee #1 were to continue working for the Bureau, Employee #1 would likely bring reproach to the organization. Two members said Employee #1 was negatively affecting the career and work environment of another employee.

DATE: July 10, 2017
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 Monday, June 26, 2017, to review the following case:

IA Case Number: **2017-B-0011**

Employee: **Employee #1**

Summary of Alleged Complaint:

Employee #1 signed Employee #2 as attending and [REDACTED] class Employee #2 did not attend.

Allegation #1: Employee #1 inappropriately signed an attendance roster for [REDACTED] class for Employee #2.

Recommended Finding: **Sustained / Five members**

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

The Review Board unanimously recommended a sustained finding for the allegation because Employee #1 signed the attendance roster without having a clear understanding of why Employee #1 was signing for Employee #2. The directive requires Bureau members to “be governed by reasonable rules of conduct and behavior, and shall not commit any act tending to bring reproach or discredit” to the Bureau. The members agreed that Bureau members must know what and why they are signing. One member said that as a supervisor, it was Employee #1’s responsibility to ask questions and obtain clarity before signing. One member said Employee #1 did not intend to mislead, but had ambiguous answers during the Internal Affairs interview.

Allegation #2: Employee #1 was untruthful or misleading during an internal affairs investigation.

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

Applicable Directive: **310.50 – Truthfulness**

The Review Board unanimously recommended a not sustained finding for the allegation, saying there was not a preponderance of evidence that Employee #1 was intentionally untruthful or misleading during the investigation process. Members said Employee #1 was not fully prepared and imprecise in Employee #1’s answers, but was not dishonest. One member said bad decision-making and poor leadership skills were exhibited

because Employee #1 did not take steps to gain needed clarity; another said Employee #1 was in over Employee #1's head.

Recommendations:

Corrective Action/Discipline

Employee: **Employee #1**

Corrective Action: **One-day SWOP / Five members**

Opinion 1

Four members of the Review Board said the actions of Employee #1 were consistent with Category C of the discipline guide, "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." They recommended the presumptive discipline of one day suspension without pay. The members said Employee #1's actions had a pronounced effect on internal relations, external operations and trust of the PPB when the investigation became public.

Opinion 2

One member of the Board said Employee #1's actions were consistent with Category B of the discipline guide, "conduct that has or may have a negative impact on operations or professional image of PPB; or that negatively impacts relationships with other officers, agencies or the public." The member said the discipline should be focused not on the act of signing for Employee #2, but on the lack of precise answers during the Internal Affairs interview. The member recommended a one day suspension without pay, aggravated by [REDACTED].

[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

DATE: July 13, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



Bureau of Police
Portland, Oregon

INTER-OFFICE MEMORANDUM

CONFIDENTIAL

The Police Review Board met on Thursday, June 29, 2017, to review the following case:

IA Case Number: **Internal Case Number** 2017-B-0006

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

Case Summary: Administrative investigation into the circumstances surrounding the officer involved shooting at 8301 NE Hancock Street on February 9, 2017 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: Opinion: After reviewing of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 1's application of deadly force was within policy. Based on all of the available information that Employee 1 learned while in route to the call, during the call and through [redacted] own observations, the board concluded that it was reasonable for Employee 1 to believe that, after multiple warnings, the Suspect was reaching in [redacted] waistband for a weapon. Employee 1 applied deadly force to protect [redacted] other officers and the community from the immediate threat of death or serious physical injury.

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

Recommended Finding: (Employee 2) In Policy/Unanimous
Applicable Directives: Directive 315.30 – Satisfactory Performance

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 2's operational planning and supervision was within policy. The board, cited decisions made by Employee 2 were calculated to resolve the incident effectively with as little force and disruption as possible, were reasonable, and utilized tactics consistent with Bureau training.

Recommended Finding: (Employee 3) In Policy w/De-Briefing/Unanimous

Applicable Directives: Directive 315.30 – Satisfactory Performance

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 3's operational planning and supervision was within policy but that debrief was also appropriate. The board believed that the decisions were consistent with policies and tactics learned in training. However, the board also thought that a debrief was appropriate given that Employee 3, as the Incident Commander, unnecessarily assumed a role in the custody team. This action had the potential of reducing effectiveness as Incident Commander.

Recommended Finding: (Employee 4) In Policy/Unanimous

Applicable Directives: Directive 315.30 – Satisfactory Performance

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 4's operational planning and supervision was within policy. Board members felt that decisions were sound, based on facts and intended to resolve the incident effectively with as little force and disruption as possible and were consistent with both policy and training tactics.

Recommended Finding: (Employee 5) In Policy/Unanimous

Applicable Directives: Directive 315.30 – Satisfactory Performance

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 5's operational planning and supervision was within policy. Decisions made to calculate and resolve the incident effectively with as little force and disruption as possible were reasonable and utilized tactics learned in training.

Area of Review #3: *Post Shooting Procedures*

Recommended Finding: (Employee 2) In Policy/Unanimous

Applicable Directives: Directive 1010.10 – Post Deadly Force Procedures; 630.5 – Emergency Medical Aid

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 2's actions followed procedures for an officer involved shooting and emergency medical aid, and were within policy. Following the shooting Employee 2 organized the custody team, immediately requested code 3 medical assistance and ensured the timely escort of medical personal to the Suspect.

Recommended Finding: (Employee 3) In Policy/Unanimous
Applicable Directives: Directive 1010.10 – Post Deadly Force
Procedures; 630.5 – Emergency Medical Aid

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 3 and other supervisors made the proper post shooting notifications, requested support and relinquished management of the crime scene procedures to relief Commanders when they arrived. The voting members believed that Employee 3 and other supervisors used sound judgement and made good tactical decisions that were consistent with principles of critical incident management.

Recommended Finding: (Employee 4) In Policy/Unanimous
Applicable Directives: Directive 1010.10 – Post Deadly Force
Procedures; 630.5 – Emergency Medical Aid

Opinion: Based on a review of all case materials, interview transcripts and applicable directives, voting members unanimously found that, under the specific circumstances, Employee 4's actions followed procedures for an officer involved shooting and facilitated the delivery of emergency medical aid, and were within policy. The voting members believed that Employee 4 and other supervisors used sound judgement and made good tactical decisions that are consistent with principles of critical incident management.

Recommended Finding: (Employee 5) In Policy/Unanimous
Applicable Directives: Directive 1010.10 – Post Deadly Force
Procedures; 630.5 – Emergency Medical Aid

Opinion: The voting members reviewed all materials and applicable directives and unanimously determined that Employee 5's actions were in policy. The supervisors made the proper post shooting notifications per applicable directives and procedures. Employee 5 used sound judgement and made good tactical decisions that are were consistent with policy, training and principles of critical incident management.

Recommendations:

Voting members offered four recommendations:

1. It was recommended that following any shooting that the Bureau evaluate every weapon to verify that no other firearms were discharged during the incident.
2. After an incident, witnesses should be physically separated from each other to ensure that communications do not take place between officers, rather than separated and supervised as a group at the scene while remaining in a group awaiting instructions.

Recommendations, continued:

3. Portland Police Bureau may consider using this incident as a case study for its complexity of circumstances and response.
4. As much of this completed investigation as possible should be made available to the public as soon as possible.
- ~~5. available to the public as soon as possible.~~ Error

DATE: August 3, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on July 19th, 2017, to review the following case:

IA Case Number: **Internal Case Number 2016-C-0359**

Employee: **Employee**

Summary of Alleged Complaint:

Complainant, through [REDACTED] attorney, alleged Employee gave [REDACTED] the answers to the entrance exam, and oral board for police officer hires testing. [REDACTED] further alleged Employee offered to share a hotel room with [REDACTED] which [REDACTED] interpreted as requesting sexual acts for helping [REDACTED] with the testing process to become a police officer. Employee was also accused of taking confidential background information and giving it to the complainant so [REDACTED] would understand why [REDACTED] failed the background process.

Allegation #1: *Employee provided Complainant with confidential background information in 2010-2011 to assist [REDACTED] with hire. (PROCEDURE) (Directive 310.70 – Dissemination of Information)*

Recommended Finding: **Not sustained, with debriefing/Five members**

Applicable Directive: **310.70 – Dissemination of Information**

Majority Opinion:

After reviewing the facts of the case and the timeline, the members did not find enough evidence to sustain this allegation during the specified timeframe of 2010-2011. However, voting members believed that there was enough evidence to suggest that that Employee had violated the directive as related to confidentiality and for this reason, voting members unanimously determined a finding of not sustained with debriefing to discuss the directives and Employee' breach of confidentiality.

Allegation #2: *Employee provided Complainant copies of [REDACTED] confidential background paperwork. (PROCEDURE) (Directive 310.70 – Dissemination of Information)*

Recommended Finding: **Sustained / Five members**

Applicable Directive: **310.70 – Dissemination of Information**

Majority Opinion:

The voting members reviewed the facts of the case that included references to email messages and text messages sent from Employee' work and personal email and phone accounts. The information that was given to Complainant was confidential and violated directive 310.70. The voting members were unanimous in sustaining Allegation #2.

Allegation #3:

Employee provided Complainant with copies of confidential interview answers to aid [REDACTED] in passing the oral interview portion of hire. (PROCEDURE) (Directive 310.70 – Dissemination of Information)

Recommended Finding: **Sustained/Five members**

Applicable Directive: **310.70 – Dissemination of Information**

Majority Opinion:

In reviewing the facts of the case, the voting members found clear evidence that Employee had provided Complainant with oral interview questions and answers to assist [REDACTED] in the oral interview process. Members discussed how Employee' actions were not only a violation of policy but [REDACTED] actions potentially compromised the equitable testing experience for all candidates. In light of the facts, the voting members unanimously sustained the findings for Allegation #3.

Allegation #4:

Employee requested sexual favors in return for [REDACTED] "coaching" [REDACTED] to become a Portland Police Officer. (CONDUCT) (Directive 310.00 – Conduct, Professional)

Recommended Finding: **Not sustained, with debriefing/Five members**

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

Majority Opinion:

In reviewing the facts of the case, the voting members were clear that Employee coached Complainant through oral board interviews. However, there was no evidence to suggest it was done in exchange for sexual favors. The members recognized that even without sufficient evidence to sustain this allegation, Employee's behavior could bring reproach to the police. The voting members unanimously determined a finding of not sustained with debriefing. It was recommended that the debriefing covers professionalism, the power imbalance between a [REDACTED] and potential candidate, and how the perception of Employee' behavior could bring reproach to the Bureau.

Allegation #5:

Employee offered to share a hotel room with Complainant, in Los Angeles, to help [REDACTED] pass the testing to become a Portland Police Officer. (CONDUCT) (Directive 310.00 – Conduct, Professional)

Recommended Finding: **Sustained/Five members**

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

Majority Opinion:

In reviewing the timeline and facts of the case, the voting members agreed there was sufficient evidence to support this allegation. While there is no evidence to confirm that Employee was expecting sexual favors, Employee's offer to share a hotel room with the complainant were outside the boundaries of acceptable conduct and behavior. The board felt that [REDACTED] conduct was inappropriate, unprofessional, and created the potential risk for a sexual harassment lawsuit. The voting members unanimously sustained Allegation #5.

Allegation #6:

Employee offered to share a hotel room with Complainant, in Phoenix, to help [REDACTED] pass the testing to become a Portland Police Officer. (CONDUCT) (Directive 310.00 – Conduct, Professional)

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

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

Majority Opinion:

Four members found insufficient evidence to sustain this allegation, citing the lack of clarity about the location and timeline of the incident. Based on these facts, four voting members arrived at a finding of not sustained for Allegation #6.

Minority Opinion:

One voting member believed that while the city in which the offer was made may have been in dispute that the offer to share the room was made and was inappropriate. This voting member arrived at a finding of sustained for Allegation #6.

Allegation #7:

Employee failed to perform [REDACTED] duties as a recruiter, for the Portland Police Bureau, in a professional and satisfactory manner. (CONDUCT) (Directives 310.00 – Conduct, Professional; 315.30 – Satisfactory Performance)

Recommended Finding: **Sustained / Five members**

Applicable Directive: **310.00 – Conduct, Professional; 315.30 – Satisfactory Performance**

Majority Opinion:

The members were unanimous in their agreement that Employee failed in [REDACTED] role as PPB recruiter, citing directives 310.00 and 315.30. While [REDACTED]

stated [REDACTED] passion for helping women and underrepresented people into the police force, Employee' actions violated the confidentiality of the Personnel Division. Further, in providing Complainant the questions and score sheets Employee gave Complainant an unfair advantage in the application process. The voting members found Employee' behavior as clearly outside the work standards and policies of the Portland Police Bureau. For Allegation #7 voting members unanimously determined a finding of sustained.

Allegation #8:

Employee brought discredit to the Portland Police Bureau by revealing both the questions and answers of the oral interview of entry level police officer applicant Complainant. (CONDUCT) (Directives 310.00 – Conduct, Professional; 315.30 – Satisfactory Performance)

Recommended Finding: **Sustained / Five members**

Applicable Directive: **310.00 – Conduct, Professional; 315.30 – Satisfactory Performance**

Majority Opinion: In reviewing the findings, it was clear to the voting members that Employee admitted to providing Complainant the questions and answers to the oral board interviews and that [REDACTED] behavior brings discredit to the police bureau and potentially, discredit to the entire testing process. The voting members unanimously sustained Allegation #8 concluding that Employee discredited the PPB when he revealed questions and answers from the oral exam.

Allegation #9:

Employee was unprofessional when, after being placed on administrative leave, [REDACTED] used [REDACTED] administrative rights to delete the Portland Police Bureau's Facebook recruitment page. (CONDUCT) (Directive 310.00 – Conduct, Professional)

Recommended Finding: **Not Sustained, with debriefing/Three members**
Not Sustained/Two members

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

Majority Opinion:

After discussing the complexities of social media administration and the possibility of how a personal and separate professional account might connect at the account administrative level, the members found Employee' explanation of [REDACTED] actions credible. It did not appear to the voting members that Employee knew, in deleting [REDACTED] personal Facebook account, [REDACTED] would be deleting the PPB Facebook Recruitment page. Three members voted not sustained, with debriefing. The debriefing of this incident should relate to Employee failing to keep appropriate boundaries between personal and professional accounts in the use of technology.

Minority Opinion:

Two voting members agreed with the not sustained finding but felt that the

potential complexity of an officer with a personal Facebook page being assigned to maintain an official police bureau page did not warrant a debriefing.

Recommendations:

Corrective Actions/Discipline

Termination – Five members

Majority Opinion:

Three members arrived at termination as the recommended discipline by placing the sustained violations in Category E. The three members felt that Employee' actions were a significant misuse of authority and [REDACTED] unethical behavior could have an adverse impact on the PPB. The cumulative sustained allegations and fact that this was the second violation in 7 years were considered aggravating factors that increased the discipline by one level. These considerations brought the three voting members to a recommendation of termination.

Minority Opinion:

Two voting members believed that the egregious nature of the violations rose to the level of Category F discipline. The two voting members believed that Employee displayed a willful disregard of PPB values and a serious lack of integrity, ethics, and character. Further, they believed that Employee' actions have a pronounced negative impact on the PPB. The two voting members arrived at Category F, presumptive recommendation of termination.

Other Recommendation:

A recommendation was made that the bureau examines the process and decision making that led to retaining Employee in a recruitment position given the context of [REDACTED] previous disciplinary history.

DATE: August 8, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on July 31, 2017, to review the following case:

IA Case Number: Internal Case Number 2017-B-0016

Employee: Employee

Summary of Alleged Complaint:

Employee responded to a missing person call involving extended family member while off duty, in personal car, and wearing a partial uniform. Employee told the on-scene responding officer that had just come from the business establishment where had been looking for the missing person. Employee did not notify supervisor and did not write a report regarding off duty actions.

Allegation #1: *Employee responded in partial Portland Police uniform off duty to a police call.*

Recommended Finding: Sustained/Unanimous

Applicable Directive: **1110.00—Appearance Standards**

Opinion: The voting members discussed the findings included the fact that other officers saw Employee in partial uniform and, by admission, Employee stated that responded to a police call while wearing a partial uniform and without permission from manager. actions potentially placed and the community at risk and did not reflect positively on the PPB. Because of this failure to meet the standard in the directive, the voting members unanimously sustained the allegation #1.

Allegation #2: *Employee responded while off duty to a police call for service.*

Recommended Finding: Sustained/Unanimous

Applicable Directive: **315.30—Satisfactory Performance**

Opinion: Undisputed by the facts of the case demonstrated that Employee was not on duty when responded to a police call for service. Employee's off duty conduct failed to conform to standards of the directive. Voting members could find no circumstances in the findings to warrant involvement in the incident and unanimously sustained the findings for Allegation #2.

Allegation #3: *Employee presented [REDACTED] in partial Portland Police uniform, while off duty, to conduct follow-up at the [REDACTED] strip club.*

Recommended Finding: Sustained/Unanimous

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

Opinion: Employee admits to the fact that [REDACTED] went to the [REDACTED] [REDACTED] in partial uniform. Agreeing with the RU manager's findings the voting members believed that Employee's contact with an [REDACTED] [REDACTED] business for the purpose of seeking the whereabouts of one of its employees conveys a perception of impropriety. Furthermore, by presenting [REDACTED] as an officer, in a case involving familial connections, Employee brings discredit and distrust to the lawful exercise of police powers. [REDACTED] actions demonstrated inappropriate use of [REDACTED] position in violation of standards of the directive and, for these reasons, the voting members unanimously sustained allegation #3.

Allegation #4: *Employee inserted [REDACTED] into a Portland Police Missing Persons investigation regarding a family member.*

Recommended Finding: Sustained/Unanimous

Applicable Directive: **311.30—Off Duty Responsibility of Officers**

Opinion: Voting members unanimously sustained allegation #4 based on the fact that Employee's actions were intended to insert [REDACTED] into a Portland Police Missing Persons investigation that involved a member of the Officer's extended family. [REDACTED] actions were found to be a clear violation of the standard of the directive, which states members will not take police action when a personal relationship is involved except to prevent an immediate threat of physical confrontation.

Allegation #5: *Employee failed to notify [REDACTED] supervisor [REDACTED] took off duty police action.*

Recommended Finding: Sustained/Unanimous

Applicable Directive: **311.30—Off Duty Responsibility of Officers**

Opinion: Voting members believed that all evidence sustained this allegation. [REDACTED] [REDACTED] failed to notify an on duty supervisor immediately and also failed to document [REDACTED] actions as required by the directive. Voting members believed [REDACTED] actions were a violation of the standards of the directive and unanimously sustained the allegation.

Recommendations: Corrective Actions/Discipline

1 Week SWOP/Unanimous

Opinion:

After discussion of the discipline guidelines, the voting members arrived at

a Category D because incident could have led to significant negative outcomes including a threat to the safety of Employee and the public. Members also believed that that Employee's behavior was a misuse of authority, could have interfered with operations and created a negative impact on the professional image of the PRB.

Members believed that the cumulative violations, Employee's misuse of authority, poor judgment, the risks that posed to safety, the risk posed to safety of the public, and the potential negative professional image portrayed by actions were aggravating factors. Corresponding to that determination, all five voting members arrived at Category D aggravated and recommended a one week SWOP.

There were no additional recommendations.

DATE: August 15, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on August 02, 2017, to review the following case:

IA Case Number: **Internal Case Number** 2017-B-0008

Employee: **Employee**

Summary of Alleged Complaint:

Employee [REDACTED] made several statements believed to be in violation of PPB directives.

Allegation #1: *As a supervisor, Employee failed to reinforce the values of Directive 344.05 – Biased-Based Policing/Profiling Prohibited. (CONDUCT) (Directive 344.05 – Biased-Based Policing/Profiling Prohibited)*

Recommended Finding: **Sustained/Five members**
Applicable Directive: **344.05 – Biased-Based Policing/Profiling Prohibited**

Majority Opinion:

In reviewing the facts of the case, it is not disputed that Employee made disparaging remarks against individuals of a protected class in violation of the directive. The voting members felt that [REDACTED] statements, [REDACTED] undermined the legitimacy of what the Portland Police Bureau is doing and its work in the community and were described as “shocking” by some of the officers hearing Employee’s statements. The voting members were unanimous in their assessment that Employee’s words showed a blatant disregard for directive and the members unanimously sustained Allegation #1.

Allegation #2 *Employee suggested enforcement action against citizens based on protected classifications. (CONDUCT) (Directives 344.05 - Biased-Based Policing/Profiling Prohibited; and 315.00 – Laws, Rules and Orders)*

Recommended Finding: **Sustained/Five members**
Applicable Directive: **344.05 – Biased-Based Policing/Profiling Prohibited**
315.00 – Laws, Rules and Orders

Majority Opinion:

In reviewing the findings of the investigation, the voting members believed that Employee's statements [REDACTED] were inappropriate and were suggestive of selective enforcement action against citizens based on protected classifications. Voting members felt that Employee's comments were contrary to the PPB's committed to providing services and enforcing laws in a professional, nondiscriminatory, fair and equitable manner. As such, Employee violated the cited directives. The voting members unanimously sustained this allegation.

Allegation #3:

Employee acted in a manner tending to bring reproach or discredit upon the Police Bureau when [REDACTED] made disparaging comments against citizens of a protected class [REDACTED]. (CONDUCT) (Directive 310.00 – Conduct, Professional)

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

Majority Opinion:

The investigation found bureau members were shocked by the comments made by Employee. Voting members felt that by making disparaging comments against citizens of a protected class in front of other officers, including members subordinate to [REDACTED] rank, Employee's conduct brought reproach and discredit to the Police Bureau. For these reasons, the voting members voted unanimously to sustain this allegation.

Recommendations:

Corrective Actions/Discipline
Termination – Five members

In using the Discipline Guide, the voting members unanimously arrived at a recommendation of termination. Three members arrived at this recommendation by placing the multiple sustained findings in category E, aggravated by the fact that Employee's statements could have a significant negative impact to public safety. Several voting members also considered Employee's rank as aggravating factor mentioning that [REDACTED] actions we made from the position of a supervisor and that [REDACTED] actions possibly influencing younger officers who look up to their supervisors.

Two members arrived at the termination recommendation by placing the multiple sustained violations in category F, presumptive, due to the serious lack of integrity and willful disregard for PPB values. One member called the actions of Employee an egregious, abhorrent act and stated such actions have no place in PPB. It was also stated that Employee did not show an understanding of the gravity of [REDACTED] inappropriate statements or the potentially significant negative impacts that [REDACTED] statements about race and socioeconomic status could have on the PPB.

Additional Comments:

Two members of the board expressed a desire to note that sworn precinct members took appropriate action and reported this incident through the chain of command in a timely manner.

One member recommended the investigation documentation should reference any actions related to a 2.02 violation that is outside of, or concurrent with the investigation and whether or not it was substantiated.

DATE: September 19, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on September 06, 2017, to review the following case:

IA Case Number: **Internal Case Number 2017-B-0027**

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 grabbed Employee 2 by the neck, causing pain, and told [REDACTED] [REDACTED] needed to change [REDACTED] shirt as Employee 1 did not believe [REDACTED] had the appropriate shirt on for [REDACTED] uniform. Employee 1 then spoke to Employee 2 in an intimidating manner.

Allegation #1: *Employee 1 inappropriately grabbed Employee 2 by the neck while talking to [REDACTED] about [REDACTED] uniform. (CONDUCT) (Directive 310.00 – Conduct, Professional)*

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

Majority Opinion:

The voting members reviewed the facts of the case that included interviews with witnesses who saw Employee 1 with [REDACTED] hand at Employee 2's neck or shoulder area. By Employee 1's own admission, [REDACTED] used [REDACTED] fingers to press on Employee 2's neck and jawbone. The voting members believed that as a supervisor Employee 1's actions rose to the level of violating directive 310.00. Voting members unanimously sustained allegation #1.

Allegation #2: *Employee 1 spoke to Employee 2 in an intimidating and unprofessional manner. (CONDUCT) (Directive 310.00 – Conduct, Professional)*

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

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

Majority Opinion: Employee 1 also stated that [REDACTED] used 'colorful language' in [REDACTED] interaction with Employee 2, in addition to the physical contact described in allegation #1. The majority of the members agreed that Employee 1's actions were unprofessional. The majority also believed that the actions of Employee 1, whether intended or not, were perceived by

Employee 2 as intimidating. For this reason, four voting members sustained Allegation #2.

Minority Opinion: One voting member agreed that the speech and the actions of Employee 1 were unprofessional but did not feel that the preponderance of evidence supported the allegation of intimidating behavior. With that rationale, one member voted not sustained for Allegation #2.

Recommendations:

Corrective Actions/Discipline

LOR (4 Voting Members)
1 Day SWOP (1 Voting Members)

Majority Opinion: Four voting members placed the sustained findings in Category C. The four voting members found, as mitigating factors, the strong past performance history of Employee 1 coupled with Employee 1's acknowledgement of [REDACTED] mistake and that [REDACTED] could have handled the incident in a different manner. This reasoning led the four voting members to recommend the corrective action of a LOR.

Minority Opinion: One voting member found Category C, presumptive. This member also saw Employee 1 as a strong leader with an excellent record, but because of [REDACTED] position as Employee 2's supervisor, the voting member believed that there is a higher expectation for Employee 1's conduct. For this reason, the voting member recommended a 1-Day SWOP.

No other recommendations.

DATE: October 6, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

IA Case Number: **2017-C-0152**

Employee: Employee 1
Employee 2

Summary of Alleged Complaint:

Complainant was on a ride-along and witnessed the search of a vehicle. The complainant did not know which officer searched the car but did not believe the search was legal. The officer did not document the search in [redacted] report.

Allegation #1: *Employee 1 failed to document the search of a car in [redacted] police report.*

Recommended Finding: **Not Sustained with Debrief/4 Voting Members Sustained/1 Voting Member**

Applicable Directive: **910.00—Field Reporting Handbook Instructions; 650.00—Search, Seizures, and Inventories**

Majority Opinion: The language of the directive does not explicitly assign responsibility to primary or supporting Officers for documenting a search in a report. Given the lack of clarity in the directive, the majority of voting members determined that Employee 1's failure to document the search in [redacted] report did not violate the applicable directives. The 4 voting members arrived at a finding of Not Sustained/ Debrief. The debrief should cover the importance of documenting all actions taken in a report.

Minority Opinion: One voting member concluded that, although the directive does not clearly specify reporting responsibility, an action as significant as a vehicle search should have been noted in the report of Employee 1, even if [redacted] did not personally conduct the search.

Allegation #2: *Employee 2 stated he had conducted a "dirty search" on a vehicle.*

Recommended Finding: **Sustained/Unanimous**

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

Opinion: Based on Employee 2's admission that [redacted] made the statement pertaining to the "dirty search," members concluded that Employee 2's

conduct violated the applicable directive and unanimously sustained Allegation #2.

Allegation #3: *Employee 2 conducted an illegal search of vehicle.*

Recommended Finding: **Sustained/Unanimous**

Applicable Directive: **315.00—Laws, Rules and Orders; 650.00—Search, Seizures, and Inventories**

Opinion: Voting Members discussed the applicable directives regarding vehicle searches and Employee 2's failure to provide a rationale that fit within the guidelines of the directive. Voting members unanimously sustained the allegation because the search in question did not fall within any of the lawful search guidelines.

Allegation #4: *Employee 2 failed to document the search of a car in a police report.*

Recommended Finding: **Sustained/Unanimous**

Applicable Directive: **910.30—Field Reporting Handbook Instructions; 650.00—Search, Seizures, and Inventories**

Opinion: Employee 2 admitted to not documenting a vehicle search in clear violation of the appropriate directives. Voting members unanimously sustained the allegation because of [REDACTED] admission of not documenting the vehicle search in [REDACTED] report of the incident and there was no evidence of documentation in Employee 2's notebook entry describing the incident.

Recommendations: Corrective Actions/Discipline

Employee 1 Command Counseling/1 Voting Member

Opinion: The Voting Member who sustained Allegation #1 recommended Command Counseling based on Category A of the Discipline Guide, mitigated by Employee 1's past performance and no prior history of discipline.

Employee 2: 2 Week SWOP/ Unanimous

Opinion: Voting Members believed that Employee 2's statements, the potential significant adverse impact on the professionalism of the Bureau and egregious nature of the violations appropriately fit in Category E. [REDACTED] actions were a first violation and deemed as presumptive resulting in the voting members unanimously recommending a 2-week SWOP.

Additional Recommendation: During their review of the applicable facts and directives in this case, the Board recommended clarification of the report writing requirements of primary and secondary officers related to searches and seizures in Directive 650.00.

DATE: November 21, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on November 9, 2017, to review the following case:

IA Case Number: **Internal Case Number** 2017-B-0031

Employee: **Employee**

Summary of Alleged Complaint:

Employee informed [redacted] supervisor a photo was taken of a stripper on the hood of [redacted] police car and posted on social media.

Allegation #1: *Employee brought discredit to the Portland Police Bureau when [redacted] allowed a scantily clad woman to climb on the hood of [redacted] police car and have her picture taken.*

Recommended Finding: Sustained/4 Voting members
Not Sustained/ 1 Voting member

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

Majority Opinion: Four voting members sustained the allegation based on the language of the directive and the statements made by Employee. The voting members agreed that, by allowing the picture to be taken, the judgment and conduct of Employee were inappropriate and discredited the Portland Police Bureau. It was also observed that by not intervening to prevent the photograph from being taken demonstrated a low situational awareness by Employee and was a further indication of [redacted] poor judgment at the time of the incident.

Minority Opinion: One voting member did not sustain the allegation. Based on a review of the evidence, the member determined that Employee's actions did not amount to a violation of the policy. While allowing the incident to happen, the voting member felt that Employee took steps to mitigate negative exposure of the incident after it occurred by informing the photographer of the potential negative impact of the photo, asking that the photograph not be shared, and bringing the photograph to the attention of [redacted] supervisor once [redacted] knew that the picture was made public.

Allegation #2:

Employee failed to notify [REDACTED] supervisors of [REDACTED] involvement in an incident likely to bring discredit to the Portland Police Bureau.

Recommended Finding: Sustained/4 Voting members
Not Sustained/1 Voting member

Applicable Directive: **315.30—Satisfactory Performance**

Majority Opinion: Four voting members sustained the allegation, noting that Employee knew, at the time that the photo was taken that it had the potential to bring discredit to the Portland Police Bureau. Employee's comment to the photographer at the time of the incident and employee's statements made during the investigation, highlight and support the finding.

Minority Opinion: One voting member did not sustain the allegation because the voting member believed that the applicable directive applies to the professional standard of conduct and that, while Employee's judgment may be questioned, Employee's conduct did not rise to the level of notifying [REDACTED] supervisors.

Recommendations:

Corrective Actions/Discipline

CC/Unanimous

Opinion: Voting members unanimously believed that the corrective actions fit in Category B of the discipline guide, as conduct which may have a negative impact on the public's perception of the Portland Police Bureau. The presumptive recommendation for Category B was mitigated by Employee's willingness to report the incident and [REDACTED] statement before the review board. Voting members also unanimously arrived at a recommendation of Command Counseling. In addition to Command Counseling, one voting member also recommended that Employee be directed to attend a one-day emotional survival training.

DATE: November 30, 2017
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on November 20th, 2017, to review the following case:

IA Case Number: **Internal Case Number** 2017-C-0157

Employee: **Employee 1**
Employee 2

Summary of Alleged Complaint:

Employee 1 inappropriately ordered Employee 2 to use pepper spray on a suspect who was passively resisting officers' orders. Employee 2 used the pepper spray on [REDACTED] to distract him so other officers could get him out of a stolen car.

Allegation #1: *Employee 1 ordered Employee 2 to use pepper spray, outside of policy, when [REDACTED] told [REDACTED] to use it on [REDACTED] who was passively resisting officers' orders. (FORCE) (Directives 1040.00 – Aerosol Restraints; 1010.00 – Use of Force.)*

Recommended Finding: **Exonerated, with debriefing / Five members**

Applicable Directive: **1040.00 – Aerosol Restraints**
1010.00 – Use of Force

Majority Opinion:

In reviewing the facts of the case, there was a discussion of passive resistance versus failure to comply, and how police are trained to distinguish between the two when assessing a suspect's behavior. The facts of the case suggest that it was reasonable for the officer to assume that the suspect was not complying with orders, was moving around in the vehicle, and could have been armed. The voting members agreed that Employee 1's assessment was reasonable given the suspect's potential danger to officers and the public. The voting members unanimously arrived at a finding of exonerated, with debriefing. The debriefing was requested to review the importance of clearly documenting use of force incidents and the need to include a rationale for the decision to use pepper spray.

Allegation #2:

Employee 2 used pepper spray outside of policy when [REDACTED] sprayed [REDACTED] who was passively resisting officers' orders. (FORCE) (Directives 1040.00 – Aerosol Restraints; 1010.00 – Use of Force)

Recommended Finding: **Exonerated with Debriefing / Five members**

Applicable Directive: **1040.00 – Aerosol Restraints
1010.00 – Use of Force**

Majority Opinion:

In reviewing the totality of the circumstances, it was clear that the suspect was active and non-compliant, reaching around inside the vehicle and not responding to commands. Employee 2 reasonably assumed the suspect might be armed and used pepper spray as an appropriate precaution to de-escalate the incident. The members concurred that the use of pepper spray was reasonable and appropriate in this case and unanimously arrives at a finding of Exonerated, with debriefing. The debriefing was requested to review the importance of clearly documenting use of force incidents and the need to include a rationale for the decision to use pepper spray.

Other Recommendation:

One member suggested that if there had been a dashboard camera, it might have had an impact on this case. The recommendation was made that Bureau should continue to work on implementing and expanding the use of in-car and body-worn cameras.

DATE: Jan. 2, 2018
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 Monday, December 18, 2017, to review the following case:

IA Case Number: **2017-B-0028**

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

Case Summary:

Administrative investigation into the circumstances surrounding the officer involved shooting (or in-custody death) at 8648 SE Flavel Street on May 10, 2017.

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

Employee: **Employee #1**

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

Applicable Directives: **1010.00 – Use of Force**
630.15 – Foot Pursuits

Majority Opinion:

The Police Review Board unanimously recommended a finding of “in policy,” saying Employee #1 had lawful reason to pursue the suspect with the intent of bringing the suspect into custody. Review Board members noted everything happened very quickly and Employee #1 felt Employee #1’s life was in peril. Employee #1’s first shot did not stop the suspect from advancing. One member said evidence supports the fact that the suspect was standing upright when the second round of shots was fired, corroborating Employee #1’s statement that the suspect continued advancing toward Employee #1 after the first round was fired.

Minority Opinion:
N/A

Area of Review #2: *Post-Shooting Procedures.*

Employee: **Employee #2**

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

Applicable Directives: **1010.10 – Post Deadly Force Procedures**
 630.50 – Emergency Medical Aid
 315.30 – Satisfactory Performance

Majority Opinion:

The Police Review Board unanimously recommended a finding of “in policy,” saying Employee #2 did what Employee #2 needed to do and followed procedures. Employee #2’s actions were organized and safe, and Employee #2 secured resources as needed. One member highlighted that there has been a policy emphasis on providing medical attention to people as quickly as possible, and in this incident aid was provided within three minutes.

Minority Opinion:

N/A

Recommendations:

Corrective Action/Discipline

N/A

Other Recommendations

No other recommendations.

DATE: January 24, 2018
TO: Christopher Paillé
Review Board Coordinator
FROM: Mark Fulop
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, January 10, 2018, to review the following case:

IA Case Number: Internal Case Number 2017-B-0029

Employees: Employee 1
Employee 2
Employee 3
Employee 4
Employee 5
Employee 6
Employee 7

Case Summary: Internal review of officer-involved use of deadly force. Administrative investigation into the circumstances surrounding the officer-involved shooting at E Burnside Street and SE Cesar E. Chavez Blvd. in the early morning of May 28, 2017, involving Employee 1, Employee 2 and Employee 3.

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

Recommended Finding: (Employee 3) **In Policy/Unanimous**
Applicable Directives: Directive 1010.00 (Use of Force)
Directive 1020.00 (Firearms)

Opinion: Employee 3, responding to a call about a suspicious man with a gun, encountered the Suspect. Employee 3 perceived Suspect's behavior as suspicious and exited [redacted] patrol car with [redacted] shotgun. Suspect pulled out a gun and pointed it at Employee 3. Perceiving the threat of immediate death or serious physical injury to [redacted] and others, Employee 3 fired three to four rounds of buckshot from [redacted] shotgun. Suspect left the scene. In a second confrontation, Employee 3 again faced Suspect pointing a handgun at him. At this second encounter, Employee 3 fired two rounds from [redacted] shotgun. 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. Given Employee 3's perceived threat of injury or death, the voting members unanimously determined that Employee 3's decisions and actions met the standards of the cited directives and were In Policy.

Recommended Finding: (Employee 2) **In Policy/Unanimous**
Applicable Directives: Directive 1010.00 (Use of Force)
Directive 1020.00 (Firearms)

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. Employee 2 was next to Employee 3 when Suspect stepped out from behind the parked boat and pointed a gun at them. It was reasonable for Employee 2 to fear for [REDACTED] and others' safety. Members unanimously believed that Employee 2's actions met the standards of the directives and were In Policy.

Recommended Finding: (Employee 1) **In Policy/Unanimous**
Applicable Directives: Directive 1010.00 (Use of Force)
Directive 1020.00 (Firearms)

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. Employee 1 saw Suspect behind the parked boat crawling on the ground with [REDACTED] gun drawn. [REDACTED] then heard shots fired. Concerned for the safety of Employee 2 and Employee 3, Employee 1 fired at Suspect's exposed arm beneath the boat. It was reasonable for Employee 1 to fear for [REDACTED] and others' safety. Members unanimously believed that Employee 1's actions met the standards of the directives and were In Policy.

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

Recommended Finding: (Employee 4) **In Policy/Unanimous**
Applicable Directives: Directive 315.30—Satisfactory Performance

Opinion: Members unanimously believed that Employee 4'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 4 helped Employee 6 set up a perimeter; determined where Employee 1, Employee 2 and Employee 3 were located; advised them to take better cover; and provided updates to them as needed.

Recommended Finding: (Employee 5) **In Policy/Unanimous**
Applicable Directives: Directive 315.30—Satisfactory Performance

Opinion: Members unanimously believed that Employee 5'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. After hearing gunshots, Employee 5 arrived directly on the scene where Employee 1, Employee 2 and Employee 3 had engaged Suspect behind the parked boat. [REDACTED] checked them for injuries and assessed their condition as good.

Recommended Finding: (Employee 6) **In Policy / 4 votes**
In Policy with debrief / 2 votes

Applicable Directives: Directive 315.30—Satisfactory Performance

Majority Opinion: A majority of members believed that Employee 6's actions were In Policy. Upon arrival, Employee 6 assumed the role of Incident Commander in a fluid and dynamic situation. ■ set up a perimeter, made proper notifications and identified resources to be deployed. Four voting members agreed that Employee 6's actions were consistent with training and procedure and were In Policy.

Minority Opinion: Two voting members agreed that while Employee 6's actions were In Policy, ■ could have sought an immediate briefing from the responding officers and taken a position closer to the incident before assuming the role of Incident Commander — both points made during the training review. The two voting members believed Employee 6's actions were in Policy with debrief. The nature of the individual debriefing should include review of the identified points identified in the training analysis as a learning opportunity.

Recommended Finding: (Employee 7) **In Policy/Unanimous**

Applicable Directives: Directive 315.30—Satisfactory Performance

Opinion: Members unanimously believed that Employee 7'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 7 took charge of SERT notifications and setting up a SERT staging area. Employee 7 located Employee 1, Employee 2 and Employee 3 and separated them from the scene at the conclusion of the second incident.

Additional Recommendations:

The Police Review Board recommends that all involved officers and sergeants participate in an incident debrief to review roles and procedures as a learning opportunity.

The Training Division recommended that, as Portland Police Bureau shotguns reach the end of their serviceable life and new shotguns are procured, the Bureau should research new sight technology to improve the accuracy of the weapons.