

*Please note: The Bureau has not proposed any changes to Directive 315.00 since it was enacted in March 2018. This is the current directive on the Bureau's website.

315.00 Laws, Rules, and Orders

2nd Universal Review: 1/2/19 – 1/31/19

Refer:

- City of Portland Human Resources Administrative Rules
- Human Resources Administrative Rule 1.01, Duties and Authority of the Director of Human Resources
- DIR 010.00, Directives Manual
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing

Definitions:

- Directive: A Portland Police Bureau official document that addresses both the policy and procedural sections for a specific topic.
- Human Resources Administrative Rules (HRARs): City of Portland standards that help ensure compliance with applicable laws and regulations and mandate or constrain employee action. The Director of the Bureau of Human Resources is responsible for the development and revision of all HRARs. The City Council or, when designated, the Chief Administrative Officer (CAO) has the final authority to approve and adopt all rules.
- Orders: Written and/or verbal direction from any PPB member above the recipient's rank or above the recipient in the chain of command.

Policy:

1. In order to further develop and maintain its legitimacy and to continually build its credibility with the public and within the Bureau, the Portland Police Bureau (PPB) recognizes that correct and impartial enforcement of the law demands that Bureau members understand, comply with, and be held accountable to those same laws that apply to members of the community. Furthermore, Bureau members also have a responsibility to understand and comply with applicable City rules and Bureau orders and directives. This policy establishes the expectation of the Bureau regarding member compliance with all laws and applicable rules, directives, and orders.

Procedure:

1. Members shall acquire and maintain a thorough knowledge of city, state, and federal law, including elements constituting criminal acts and fundamental rules of evidence.
2. Members shall not commit any act or fail to perform any act constituting a violation of any applicable laws, rules, and orders, whether stated in these directives or elsewhere.
3. Bureau Directives.
 - 3.1. Members are required to know and act in accordance with all PPB directives.
 - 3.1.1. Members shall electronically sign a statement acknowledging that they have received, read, and had an opportunity to ask questions about the new or revised directives within 30 calendar days of the Chief's approval and prior to enactment, except as provided in Directive 010.00, Directives Manual. When PPB deems

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appropriate, members shall also successfully complete a knowledge check assessment within that same timeframe.

- 3.1.1.1. Timely acknowledgment of new or revised directives is an important job duty. Members who fail to acknowledge new or revised directives within the prescribed timeline may be subject to corrective action and/or discipline.
 - 3.1.1.2. Supervisors shall ensure that members have electronically signed and acknowledged directives within the designated timeframe.
 - 3.1.2. Members must know and comprehend standards as established within Bureau communications mediums issued by the Chief or the member's Responsibility Unit Manager (e.g., orders, bulletins, tips and techniques, memoranda, etc.). Upon returning to duty, members shall read all communications issued during their absence.
 - 3.1.3. Members having any question or uncertainty about any directive, standard, law, rule, or order will immediately seek clarification via the chain of command.
4. Compliance with City of Portland HRARs.
 - 4.1. As employees of the City of Portland, all Bureau members, sworn and non-sworn, are subject to all City of Portland HRARs. Therefore, members are expected to know and comply with all HRARs.
 - 4.1.1. Additionally, members shall be required to read and electronically acknowledge all critical HRARs, as defined by the Bureau of Human Resources.
 - 4.2. If there is a conflict between a citywide HRAR and a collective bargaining agreement, the collective bargaining agreement prevails.
5. Bureau Orders.
 - 5.1. Members shall promptly obey any lawful written or verbal order of a supervisor. This will include orders relayed from a supervisor by a member of the same or lesser rank.
 - 5.1.1. Members who are given an otherwise proper order that is in conflict with a previous order shall respectfully inform the supervisor issuing the new order of the conflict. When informed of the conflict, the supervisor shall determine the appropriate course of action and notify the member accordingly. Under these circumstances, the responsibility for resolving the conflict shall be upon the supervisor issuing the new order, and members shall follow the supervisor's resolved direction and shall not be held responsible for deviation from the previous order.
 - 5.1.2. If in doubt as to the legality of an order, members shall request the issuing supervisor to clarify the order or confer with higher authority. Members shall not obey any order that a reasonable officer would believe is clearly unlawful.
6. Notification Requirement.
 - 6.1. Members shall ensure that their direct supervisor or, if unavailable, an on-duty supervisor is notified as soon as practical when cited for a violation of law or regulation, other than a traffic infraction, when arrested for a criminal offense, if their driver's license is suspended, if they become subject of or violate a restraining order, if they become aware they are a suspect in a law enforcement investigation, or if they become

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the subject of a Department of Public Safety Standards and Training investigation, suspension, or revocation proceeding. This notification must occur within 24 hours, unless a method of communication is not available or the member is incapacitated. In notifying a supervisor, members are not violating any Communication Restriction Order that may be in place.

7. Bureau Chain of Command.

7.1. Unless authority has been delegated otherwise, the chain of command is the established order of authority for members of the Bureau. The Chief of Police is responsible for the placement of non-sworn members within the chain of command. The chain of command for sworn members, in descending order, is:

- 7.1.1. The Chief of Police,
- 7.1.2. Assistant Chief,
- 7.1.3. Commanders,
- 7.1.4. Captain/Non-sworn Division Manager,
- 7.1.5. Lieutenant/Non-sworn Administrative Supervisor (I or II),
- 7.1.6. Sergeant,
- 7.1.7. Detective/Criminalists
- 7.1.8. Police Officer.

Provide feedback [here](#).

#1

COMPLETE

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Page 1

Q1 Please provide feedback for this directive

ORDINANCE NO. 1199 Amending §15.051 to Address Firearm Safety in Multnomah County Section 1 15.064 Possession of a Loaded Firearm in a Public Place (C) It is unlawful for any person who possesses a firearm, clip or magazine in or upon a public place, or while in a vehicle in a public place, to refuse to permit a peace officer to inspect that firearm, clip or magazine after the peace officer has identified himself or herself as such. The prohibitions of this subsection do not apply to or affect the persons listed in subsection (B) of this section.

The Multnomah preemptive law that bans loaded guns/magazines is in direct conflict with the ninth circuit Court of appeals ruling affirming the constitutional right to open carry and is a blatant failure of the spirit of the law both state and federally in that it is very obvious that it acts as a back door ban on open carry. You wouldn't tell someone who wished to drive a vehicle that they had the right to do so only so long as they never had gas in their car?

Q2 Contact Information (optional)

Respondent skipped this question

#2

COMPLETE

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Page 1

Q1 Please provide feedback for this directive

COMMENTS ON PROFILING, ACCOUNTABILITY, AND OTHER DIRECTIVES SEPTEMBER 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Independent Police Review, Citizen Review Committee and the Portland Police Bureau:

Below are Portland Copwatch's comments on the Directives posted for review in September . We are very concerned that the PPB released SEVENTEEN Directives for review on the Saturday of Labor Day weekend, expecting meaningful feedback by September 16. Because we have made comments on all of these Directives in the past, this task was somewhat easier for us but still requires checking to see what changes were made in between comment periods. We continue to encourage the Bureau to post comments as they arrive so commenters might be able to build off others' ideas (de-identified is fine with us, though we are fine being identified). We point out that until recently, comments on Body Cameras were posted on the Bureau's website for everyone to read.

We make a few comments about the possible findings on misconduct allegations, below. We are glad that the Bureau moved away from trying to cut down the four possible findings to two, but continue to believe that the same findings should apply to deadly force cases. They should not just be "In Policy/Out of Policy," as there could be room for an "Insufficient Evidence" (aka "Not Sustained") finding in those cases. We did not see any reference to applying this concept to deadly force cases in the Bureau's published Directives memos, rather, Directive 336.00 still only includes the two findings previously being used.

In publishing the finalized 330 series in February, the Bureau claimed they clarified that the "Discipline Coordinator" is the same person as the "Review Board Coordinator." The Discipline Coordinator's role and position at the Professional Standards Division (PSD) is not made clear in Directive 335.00, though there is a brief mention in Section 2.1.1.1 that the person is in PSD. The term "Review Board Coordinator" is still used in Directive 336.00. So it seems no clarification actually happened.

Similarly, in previous comments we noted: "A general point of confusion is that many Directives refer to the Professional Standards Division and/or Captain, while others refer to the Internal Affairs Captain. Our understanding of the structure is that IA is part of PSD and there is a ranking member over all of PSD, not just IA. We hope the Bureau can clarify this point." The two terms are still used interchangeably among the Directives.

We also continue to believe that the review periods should be at least 30 days on both ends of the rewriting process so there is time for organizations who only meet monthly to weigh in. As we noted, this might include the BHU Advisory Committee, though they seem to have special dispensation to make comments and receive feedback above and beyond all other groups, as well as the Training Advisory Council, Citizen Review Committee, and if it ever begins meeting, the Portland Committee on Community Engaged Policing.

Although the Bureau has been putting out "redline" versions of the Directives when they are up for their second round of public comments, the final versions-- which frequently are significantly different from what was posted in round two-- do not indicate where changes were made, making comments on the policies extremely difficult when they come back up again as all of these have.

Directive 315.00 Feedback

The Bureau did make some changes-- some of which are substantive-- based on PCW's comments, as noted below, although in once case the change reversed a policy PCW supported.

We continue to believe the Bureau should add letters to section headings (Definitions, Policy, Procedure) so that there are not multiple sections with the same numbers, and to enumerate the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

315.00 LAWS, RULES AND ORDERS (previous comments July 2017)

There were only a few minor changes to this Directive after the last posting.

The most significant one is that a "knowledge check" about the content of Directives will be done when the PPB finds it appropriate-- clarifying the old version's "when appropriate" for presumably wise-acre cops who wanted to decide for themselves (Section 3.1.1).

PCW earlier thanked the PPB for the part of Policy Section 1 which clarifies Bureau members have to follow the same rules as everyone else, even though we could point to numerous examples of laws and Bureau rules that give officers "special rights." We asked the Bureau to re-insert the admonishment to follow these laws both on and off duty, which has not been done.

We also acknowledged that Section 5.1 says officers only have to obey "lawful" orders from their superiors. This is particularly significant in the response to protests of late, where PCW has pointed out that the Nuremberg Principles should allow officers to refuse to impose collective punishment on a civilian population (as outlined in international law).

We continue to have concerns that the Bureau's / City's position is that the Portland Police Association's Collective Bargaining Agreement can over-ride Human Resources rules (Section 4.2). The Bureau's cover memo upon release of the finalized Directive says this does not allow officers to violate any laws; we disagree. When officers are able to get away with killing people-- including unarmed people-- over and over again, and be reinstated to the job even after being fired, there is a problem.

CONCLUSION

Once again we thank the Bureau for seeking for community input, and to the extent that some of our comments have been addressed, for taking our advice seriously. We repeat here our deep concern about publishing so many important policies at one time, during a holiday season. We continue our struggle to see a Bureau free from corruption, brutality and racism, which is the basis for our participating in this process. As noted before, while we don't always agree with the Bureau's reasons for rejecting certain recommendations, it is helpful to be receiving them.

Thank you for your time

--Portland Copwatch

Q2 Contact Information (optional)

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