



## CITY OF PORTLAND, OREGON



### Bureau of Police

Ted Wheeler, Mayor  
Jami Resch, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000

Integrity • Compassion • Accountability • Respect • Excellence • Service

## **Directives 310.00, Professional Conduct and Courtesy; 310.20, Discrimination, Harassment, and Retaliation Prohibited; 310.50, Truthfulness; 315.00, Laws, Rules, and Orders; and 315.30 Satisfactory Performance Executive Summary**

### Introduction

In accordance with the 2012 Department of Justice (DOJ) Settlement Agreement, the Portland Police Bureau is required to conduct an initial six-month and subsequent annual reviews of DOJ-identified directives after receiving DOJ approval on the directive(s) and an initial period of implementation. The Bureau originally enacted DOJ-approved Directives 310.00, Professional Conduct and Courtesy; 310.20, Discrimination, Harassment, and Retaliation Prohibited; 310.50, Truthfulness; 315.00, Laws, Rules, and Orders; and 315.30, Satisfactory Performance in early 2018 and began its initial review of the directives roughly six months later. Because the Bureau works closely with the DOJ and the Compliance Officer and Community Liaison (COCL) during the review of DOJ directives, scheduling conflicts often extend the review cycle and impact implementation.

The Bureau, DOJ, and COCL monitored the newly implemented policies, as well as Bureau training and member behavior, to ensure compliance with the DOJ Settlement Agreement and to assess any unintended negative operational impacts. Finding no inconsistencies with the agreement or consequential operational issues, the Bureau, with the approval of the DOJ, largely kept the policies intact. With the exception of Directive 315.00, Laws, Rules, and Orders, which remained unchanged, the Bureau made minor revisions to the other directives in response to feedback received during the universal review process, to adopt an OIR Group recommendation, and to provide clearer guidance to members.

### Public Comments

The Bureau received very limited feedback on all of the aforementioned directives over the course of both review periods. Commenters primarily focused on the changes proposed by the Bureau during the second universal review and public comment period. Generally, the comments were in support of the proposed changes, though the Bureau also received recommendations to make further revisions, specifically in Directive 310.50, Truthfulness, to offer more clearly defined guidance to members.

### *Directive 310.00, Professional Conduct and Courtesy*

A local community group called on the Bureau to include “political ideology or affiliation” in its list of characteristics that cannot serve as the basis of member discrimination. Given its commitment to policing in a fair, just, and impartial manner regardless of an individual’s political beliefs, the Bureau adopted the recommendation. The revision also aligns the policy with recently adopted changes in the Bureau’s policy on bias-based policing.

### *Directive 310.20, Discrimination, Harassment, and Retaliation Prohibited*

A commenter from the same local community group suggested that the Bureau also prohibit retaliation against an individual who files a tort claim or lawsuit against the member or the Bureau. The Bureau added the DOJ settlement agreement definition for “complaint” to the directive, as most of the policy focuses on discrimination, harassment, and/or retaliation that may result from a complaint. However, as the commenter noted, the definition is somewhat narrow in its scope because of its emphasis on member misconduct. Recognizing this gap, the Bureau adopted the commenter’s recommendation.

### *Directive 310.50, Truthfulness*

The majority of the comments received during the universal review process pertained to the changes the Bureau made to the section in Directive 310.50, Truthfulness, regarding authorized or appropriate uses of deception by a member. The exception to the truthfulness standard is not a new concept or newly allowed behavior under the policy; rather, the Bureau modified its guidance to clearly articulate the circumstances under which a member could use deception. The Bureau developed the revised language in conjunction with the DOJ and the City Attorney’s Office (CAO) to ensure compliance with the DOJ settlement agreement and applicable laws, and to clearly articulate the Bureau’s expectation of member behavior in this context from a disciplinary perspective.

### *Directive 315.30, Satisfactory Performance*

Shortly after enacting the policy in February 2018, the Bureau received a recommendation from the OIR Group, in which they suggested that the Bureau develop a policy that provides instruction to supervisors on their need to maintain their supervisory role in tactical situations when other members are available to perform the necessary tactical duties. The Bureau also received a public comment in support of the OIR Group recommendation. The Bureau adopted the recommendation, as it recognized the need to clearly define supervisors’ roles in tactical situations to ensure that members have appropriate oversight in those circumstances.

We thank every individual who took the time to provide feedback on these directives. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

### The Bureau’s Revised Policies

The Bureau worked closely with the DOJ, COCL, and CAO to review and revise the final suite of accountability-related policies. With the approval of the DOJ, the Bureau made the most notable changes to Directives 310.50, Truthfulness, and 315.30, Satisfactory Performance, to address the aforementioned issues of the appropriate use of deception and supervisors maintaining a supervisory role and perspective in tactical situations. Furthermore, the Bureau incorporated language into the latter policy to establish clear standards for non-sworn staff who encounter life-threatening emergencies while on duty. As previously noted, the Bureau also made minor changes to the other directives in the suite to ensure consistency across Bureau policies, to incorporate settlement agreement language (i.e., a definition), and to sufficiently address public comment and OIR Group recommendations.

The Bureau believes that the revised directives provide more clarity and enhanced guidance to its members; however, any suggestions to further improve these policies are welcome during the next review.

These directives will go into effect on May 15, 2020.

Published on 4/15/2020

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## **310.00 Professional Conduct and Courtesy**

### **Refer:**

- DIR 315.00, Laws, Rules and Orders

### **Definitions:**

- **Misconduct:** Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.
- **Professional Conduct:** The standard by which member behavior that is not specifically addressed in other Bureau directives is evaluated. The Bureau expects member behavior to reflect the highest of law enforcement industry standards. This includes, but is not limited to, member adherence to all applicable laws, rules, and Bureau directives and member application of the law. The Bureau also requires that members fulfill their professional duties, act with the utmost respect for the Constitutional rights of all people, and communicate in a professional manner at all times. Members shall refrain from conduct that unduly affects Bureau operations or unduly erodes public trust.

### **Policy:**

1. The Portland Police Bureau recognizes its role within the community and its internal organization to engage and interact with individuals in a professional and courteous manner that emphasizes a respect for all individuals and cultures. This is regardless of race, gender, nationality, sexual orientation, physical or mental disability, ethnic or religious group, age, or any protected status under applicable law or administrative rules. The Bureau is committed to policing in the most impartial manner possible. Therefore, regardless of protected status, members shall not profile or discriminate against any individual solely based on their membership in the following groups: housing status, socio-economic status, immigration or refugee status, or political ideology or affiliation. The Bureau expects its members to constantly strive to attain the highest professional standard of conduct.

### **Procedure:**

1. Professional Conduct.
  - 1.1. Members, whether on duty or off duty, shall be governed by the reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit to the Police Bureau or the City of Portland.
  - 1.2. Members will conduct themselves in a professional manner in the discharge of their duties and in relations with the public.
  - 1.3. Members shall not publicly criticize the Police Bureau, its policies, programs, actions, or members, or perform any acts, or make any written or oral statements which would unduly impair or diminish the orderly and effective operations, supervision, or discipline of the Police Bureau.
  - 1.4. Members who become aware of an act of misconduct shall report the act of misconduct to a supervisor as soon as practicable. Failure to report member misconduct shall lead to possible discipline up to and including termination.

2. Courtesy.

- 2.1. Members shall, on all occasions, when reasonable, in the performance of their duties or after identifying themselves as a Bureau member, be courteous and considerate toward their supervisors, their subordinates, all other members, and the public. Members shall treat all individuals with dignity and respect, showing consideration for the welfare of all persons with whom they interact.
- 2.2. The use of profanity is generally prohibited, except when necessary to quote another person in reports or in testimony. All other use of profanity will be judged on the totality of the circumstances in which it was used. Members shall document uses of profanity in a police report.
- 2.3. No member shall use epithets or terms that tend to denigrate any member of a protected class under applicable law or administrative rules or any other group included in this policy, except when necessary to quote another person in reports or in testimony.

**History:**

- Originating Directive Date: 09/06/01
- Last Revision Signed: 04/15/20
  - Effective Date: 05/15/20
- Next Review Date: 05/15/21

## 310.00, Professional Conduct and Courtesy

### Refer:

- DIR 315.00, Laws, Rules and Orders

### Definitions:

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#1

COMPLETE

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**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 310.00 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.

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### DIRECTIVE 310.00 PROFESSIONAL CONDUCT AND COURTESY (previous comments June 2017)

This Directive has not changed since the last version was published in June 2017. Therefore we repeat our earlier comments here, with some edits.

--As we noted before, the policy (in "Procedure" Section 1.1) that officers should "not commit any act tending to bring reproach or discredit on the Police Bureau" should give some examples. We suggested these items:

- beating down people in mental health crisis;
- carrying badly beaten persons with broken ribs bodily into the jail;
- shooting unarmed persons;
- striking at non-violent protestors.

We noted that many officers are never held accountable under the previous and current Force Directives might, with this added language, still face discipline when their violent behavior causes community outcry. We added that discipline in such cases is not a replacement for firing or jailing officers, but since neither seems to happen (or stick) in force cases, the Bureau would do well to apply this Directive appropriately.

--Section 1.3 still contains the prohibition on officers disparaging Bureau policies. We asked in previous comments whether the Training Division officers who provided Taser training were held accountable for making such disparaging remarks in 2016 (as noted in the Compliance Officer /Community Liaison Q3/Q4 2016 Compliance Report).

--The Policy Section emphasizing respect for various persons of protected status should include political beliefs. This is all the more important since the PPB has repeatedly, since June 2017, over-policed anti-fascist protestors and under-policed or ignored alt-right protestors.

---Section 2.2 on use of profanity says use of profanity will be judged on "the totality of the circumstances in which it was used." It is curious, then, that the PPB's memo explaining their reluctance to outright ban profanity refers to language from an earlier version in which it says officers can swear to "establish control." The use of profanity generally tends to escalate, rather than de-escalate situations. As we have written before, those who seek a professional police force do not want to leave wiggle room for exceptions to the Directive's statement that "the use of profanity is generally prohibited." We continue urge the Bureau to either outright ban profanity or at least re-insert language making clear its use should be extremely rare.

---Section 2.3 prohibiting use of epithets against persons of protected status should, as we suggest for the Policy Section, expressly include "political beliefs."

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### 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

## Directive 310.00 Feedback

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

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### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
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Page 1

**Q1** Please provide feedback for this directive

COMMENTS ON PROFILING, CONDUCT, AND OTHER DIRECTIVES FEBRUARY 2019

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 January . We appreciate that the Bureau extended the timeline on the seven policies posted in early January, as proper notification did not go out for over two weeks. We continue to encourage the Bureau to post incoming comments in real time so that community members and officers might be able to build off others' ideas. As noted previously, we do not mind being identified but understand if others want to remain anonymous. A good idea is a good idea regardless of where it comes from.

While the Accountability Directives are not under review, we strongly urge the Bureau to revisit the 2010 Stakeholder report which included the recommendation to add Communication issues, Training issues, Equipment issues and other Policy-related issues as possible findings for incoming complaints. That would be a great way to address the issue raised by the Compliance Officer's Q4 report that officers feel singled out for Supervisory Investigations since they followed policy but the person lodging the complaint didn't like the policy, for instance.

We would still like to see the review periods last for at least 30 days before the Bureau posts a new draft and after. It is fairly clear, for instance, that the Portland Committee on Community Engaged Policing will not be able to quickly move to review a policy within such a short timeline as they only meet once a month and have fairly full agendas. This is also true for other advisory bodies as we have noted in the past.

While the policies under review do not have a large number of proposed changes, numerous problems we have identified in the past have not been addressed. On the other hand, there are a few changes that are reflective of comments we made which we note below. We commented on all of the seven policies below in September 2018. Once again, we are not offering any comments on Directive 630.31 on Stolen Vehicles.

We still urge the Bureau to add letters to section headings (Definitions, Policy, Procedure) to avoid the problem that there are multiple sections with the same numbers, and to add numbers to each of the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

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DIRECTIVE 310.00 PROFESSIONAL CONDUCT AND COURTESY

Very few changes are being proposed to this policy, so we repeat most of our old comments here without change, with one new

## Directive 310.00 Feedback

sentence \*between asterisks.\* The one exception is that the PPB has, perhaps in response to our concerns, added "political ideology or affiliation" to the list of traits officers can't use as a basis of discrimination (Policy Section 1). This is then captured in an appropriate reworking of Section 2.3 prohibiting the use of denigrating terms against any group included in the policy. We appreciate these changes.

Here are the old comments:

--As we noted before, the policy (in "Procedure" Section 1.1) that officers should "not commit any act tending to bring reproach or discredit on the Police Bureau" should give some examples. We suggested these items:

- beating down people in mental health crisis;
- carrying badly beaten persons with broken ribs bodily into the jail;
- shooting unarmed persons;
- striking at non-violent protestors.

We noted that many officers are never held accountable under the previous and current Force Directives might, with this added language, still face discipline when their violent behavior causes community outcry. We added that discipline in such cases is not a replacement for firing or jailing officers, but since neither seems to happen (or stick) in force cases, the Bureau would do well to apply this Directive appropriately.

--Section 1.3 still contains the prohibition on officers disparaging Bureau policies. We asked in previous comments whether the Training Division officers who provided Taser training were held accountable for making such disparaging remarks in 2016 (as noted in the Compliance Officer /Community Liaison Q3/Q4 2016 Compliance Report). \*We have never received an answer.\*

---Section 2.2 on use of profanity says use of profanity will be judged on "the totality of the circumstances in which it was used." It is curious, then, that the PPB's memo explaining their reluctance to outright ban profanity refers to language from an earlier version in which it says officers can swear to "establish control." The use of profanity generally tends to escalate, rather than de-escalate situations. As we have written before, those who seek a professional police force do not want to leave wiggle room for exceptions to the Directive's statement that "the use of profanity is generally prohibited." We continue urge the Bureau to either outright ban profanity or at least re-insert language making clear its use should be extremely rare.

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### CONCLUSION

As we have before, we extend our thanks to the Bureau for seeking for community input, and for being at least minimally responsive by making changes and/or explaining areas of disagreement. We look forward one day to being able to declare that the Bureau is free from corruption, brutality and racism.

With regard to the failed notifications from the "third party vendor," we have suggested that Staff put themselves on the alert list and check the outgoing emails to be sure the correct information was included. This will avoid having to re-post Directives in the future.

Thank you again for your time

--Portland Copwatch

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**Q2** Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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## **310.20 Discrimination, Harassment, and Retaliation Prohibited**

### **Refer:**

- City of Portland, Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination and Retaliation
- DIR 312.50, Identification
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 344.05, Bias-Based Policing/Profiling Prohibited

### **Definitions:**

- **Complaint:** Any complaint made to the City by a member of the public, a PPB officer, or a civilian PPB employee of alleged misconduct by a Bureau member.
- **Discrimination:** Unequal or adverse treatment of an individual on the basis of actual or perceived protected status.
- **Harassment:** Inappropriate verbal or physical conduct, which may include conduct that is derogatory or shows hostility towards an individual, related to the individual's actual or perceived protected status. The intent or consent of the persons engaging in the inappropriate conduct does not matter. Harassment includes sexual harassment which may consist of unwanted sexual advances, requests for sexual favors, and other sexually oriented verbal or physical conduct.
- **Retaliation:** Adverse conduct towards an individual, not otherwise authorized by law or policy, which is in response to an action taken or perceived to be taken by the individual. Conduct that would likely deter an individual from reporting or supporting a claim or harassment or discrimination may constitute retaliation. Retaliation can occur even if the underlying complaint of harassment or discrimination is not substantiated.

### **Policy:**

1. To build and sustain community trust, the Bureau is committed to constructing relationships and an environment in which community members do not fear reprisal. The Bureau strictly prohibits members from engaging in any form of discrimination, harassment, or retaliation against community members, including discouragement, intimidation, coercion, or adverse action, against any community member or Bureau member who files a complaint, tort claim and/or lawsuit, or cooperates with an investigation of a complaint against a Bureau member.
2. The Portland Police Bureau is also committed to establishing and maintaining a positive and supportive working environment in which all members have the opportunity to perform their duties to their fullest potential; therefore, the Bureau expressly prohibits members from engaging in all forms of discrimination, harassment, or retaliation against other Bureau members or employees of the City, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.

**Procedure:**

1. In addition to the City's Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination and Retaliation, members shall comply with all State of Oregon and federal laws that prohibit discrimination, harassment, and retaliation.
2. Discrimination Prohibited.
  - 2.1. Members shall not take any employment-related action that adversely affects an applicant or employee on the basis of actual or perceived legally protected status.
  - 2.2. Members shall refer to Directive 344.05, Bias-Based Policing/Profiling Prohibited, which prohibits taking police action solely or primarily based on an individual's actual or perceived protected status. In addition, members are expressly prohibited from engaging in any other unequal or adverse treatment of an individual on the basis of actual or perceived legally protected status.
3. Harassment Prohibited.
  - 3.1. Members are expressly prohibited from engaging in conduct that constitutes harassment, which includes sexual harassment. Examples of prohibited behavior include unwanted and inappropriate physical contact, use of epithets or slurs, making sexually suggestive comments or gestures, or using Bureau equipment to transmit or receive offensive material, statements or pictures.
4. Retaliation Prohibited.
  - 4.1. Members shall not engage in adverse conduct in response to action taken or perceived to be taken by any individual.
  - 4.2. The intent of applicable City rules and this Directive is to prohibit conduct that is unlawful, as well as other inappropriate conduct, before it rises to the level of unlawful retaliation. Retaliation by a member against any City employee for any reason is expressly prohibited. Examples of actions that may constitute explicit or implicit workplace retaliation include, but are not limited to:
    - 4.2.1. Adverse employment action such as termination of employment, demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment decisions, assigning undesirable work, shunning;
    - 4.2.2. Intentionally not providing cover, support, or assistance, or intentionally responding to calls for cover, support, or assistance in an untimely manner;
    - 4.2.3. Reprisal in response to a member reporting misconduct, making a misconduct complaint or cooperating with an investigation of misconduct;
    - 4.2.4. Filing a tort claim and/or lawsuit;
    - 4.2.5. Reprisal for testifying against a Bureau member;
    - 4.2.6. Creation of a hostile work environment;
    - 4.2.7. Intimidation or ridicule;
    - 4.2.8. Rude, discourteous, or disrespectful behavior; or
    - 4.2.9. Inappropriate jokes, comments, or gestures.

- 4.3. Members shall not engage in any form of explicit or implicit retaliation against a community member. For example, a member shall not issue a citation to, or take other action against, a community member solely for:
  - 4.3.1. Exercising their legal rights;
  - 4.3.2. Reporting or making a claim of misconduct regarding a Bureau member;
  - 4.3.3. Filing a tort claim and/or lawsuit;
  - 4.3.4. Participating in an investigation of a complaint against a Bureau member;
  - 4.3.5. Questioning the legality of a Bureau member's actions; or
  - 4.3.6. Asking for a Bureau member's name, business card, and/or Bureau I.D. number.
5. Complaints of Misconduct.
  - 5.1. No employee of the Bureau who is the subject of a misconduct complaint shall intentionally contact, or take any action against, a complainant or a witness involved in the misconduct complaint in retaliation for the complainant or witness having filed or provided information in support of a misconduct complaint. Members who are subject of a complaint shall be notified of the complaint in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing.
    - 5.1.1. If the accused employee makes such contact or takes such action against a Bureau complainant, that complainant is encouraged to notify a supervisor as soon as practical, but no later than 24 hours after the contact.
    - 5.1.2. If the accused employee makes such contact or takes such action against a Bureau witness, that witness shall notify a supervisor as soon as practical, but no later than 24 hours after the contact.
    - 5.1.3. If the accused employee has contact with a complainant or witness who is a member of the public, the accused employee shall advise a supervisor as soon as practical, but no later than 24 hours after the contact.
    - 5.1.4. If the accused employee has contact with a Bureau complainant or witness (other than in the normal course of business), the accused employee shall advise a supervisor as soon as practical, but no later than 24 hours after the contact.
6. Reporting Discrimination, Harassment, and Retaliation.
  - 6.1. Members shall report any discriminatory, harassing, and/or retaliatory behavior they observe or become aware of in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing, as soon as practical. Members are not required to follow chain of command in reporting discrimination, harassment, or retaliation. Members may also report retaliatory behavior to the Bureau of Human Resources.
  - 6.2. Managers and supervisors shall take immediate action to stop and prevent any discrimination, harassment, or retaliation they observe or of which they become aware.
    - 6.2.1. Managers and supervisors shall notify their supervisor and the branch assistant chief of the circumstances and the action taken. If the immediate supervisor is implicated in the misconduct, the supervisor shall make this report to the next highest level in the chain of command.
  - 6.3. For any discrimination, harassment, or retaliation that could constitute a violation of HRAR 2.02., the manager or supervisor shall also report the behavior or incident to the



Bureau of Human Resources as soon as possible, but no later than two working days after observing or becoming aware of the violation.

**History:**

- Originating Directive Date: 09/06/01
- Last Revision Signed: 04/15/20
  - Effective Date: 05/15/20
- Next Review Date: 05/15/21

## 310.20, Discrimination, Harassment, and Retaliation Prohibited

### Refer:

- City of Portland, Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination and Retaliation
- DIR 312.50, Identification
- DIR 330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 344.05, Bias-Based Policing/Profiling Prohibited

### Definitions:

- Complaint: Any complaint made to the City by a member of the public, a PPB officer, or a civilian PPB employee of alleged misconduct by a Bureau member.
- Discrimination: Unequal or adverse treatment of an individual on the basis of actual or perceived protected status.
- Harassment: Inappropriate verbal or physical conduct, which may include conduct that is derogatory or shows hostility towards an individual, related to the individual's actual or perceived protected status. The intent or consent of the persons engaging in the inappropriate conduct does not matter. Harassment includes sexual harassment which may consist of unwanted sexual advances, requests for sexual favors, and other sexually oriented verbal or physical conduct.
- Retaliation: Adverse conduct towards an individual, not otherwise authorized by law or policy, which is in response to an action taken or perceived to be taken by the individual. Conduct that would likely deter an individual from reporting or supporting a claim or harassment or discrimination may constitute retaliation. Retaliation can occur even if the underlying complaint of harassment or discrimination is not substantiated.

### Policy:

1. To build and sustain community trust, the Bureau is committed to constructing relationships and an environment in which community members do not fear reprisal. The Bureau strictly prohibits members from engaging in any form of discrimination, harassment, or retaliation against community members, including discouragement, intimidation, coercion, or adverse action, against any community member or Bureau member who files a complaint, tort claim and/or lawsuit, or cooperates with an investigation of a complaint against a Bureau member.
2. The Portland Police Bureau is also committed to establishing and maintaining a positive and supportive working environment in which all members have the opportunity to perform their duties to their fullest potential; therefore, the Bureau expressly prohibits members from engaging in all forms of discrimination, harassment, or retaliation against other Bureau members or employees of the City, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.

**Procedure:**

1. In addition to the City’s Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination and Retaliation, members shall comply with all State of Oregon and federal laws that prohibit discrimination, harassment, and retaliation.
2. Discrimination Prohibited.
  - 2.1. Members shall not take any employment-related action that adversely affects an applicant or employee on the basis of actual or perceived legally protected status.
  - 2.2. Members shall refer to Directive 344.05, Bias-Based Policing/Profiling Prohibited, which prohibits taking police action solely or primarily based on an individual’s actual or perceived protected status. In addition, members are expressly prohibited from engaging in any other unequal or adverse treatment of an individual on the basis of actual or perceived legally protected status.
3. Harassment Prohibited.
  - 3.1. Members are expressly prohibited from engaging in conduct that constitutes harassment, which includes sexual harassment. Examples of prohibited behavior include unwanted and inappropriate physical contact, use of epithets or slurs, making sexually suggestive comments or gestures, or using Bureau equipment to transmit or receive offensive material, statements or pictures.
4. Retaliation Prohibited.
  - 4.1. Members shall not engage in adverse conduct in response to action taken or perceived to be taken by any individual.
  - 4.2. The intent of applicable City rules and this Directive is to prohibit conduct that is unlawful, as well as other inappropriate conduct, before it rises to the level of unlawful retaliation. Retaliation by a member against any City employee for any reason is expressly prohibited. Examples of actions that may constitute explicit or implicit workplace retaliation include, but are not limited to:
    - 4.2.1. Adverse employment action such as termination of employment, demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment decisions, assigning undesirable work, shunning;
    - 4.2.2. Intentionally not providing cover, support, or assistance, or intentionally responding to calls for cover, support, or assistance in an untimely manner;
    - 4.2.3. Reprisal in response to a member reporting misconduct, making a misconduct complaint or cooperating with an investigation of misconduct;
    - 4.2.4. Filing a tort claim and/or lawsuit:
      - 4.2.4.4.2.5. Reprisal for testifying against a Bureau member;
      - 4.2.5.4.2.6. Creation of a hostile work environment;
      - 4.2.6.4.2.7. Intimidation or ridicule;
      - 4.2.7.4.2.8. Rude, discourteous, or disrespectful behavior; or
      - 4.2.8.4.2.9. Inappropriate jokes, comments, or gestures.

- 4.3. Members shall not engage in any form of explicit or implicit retaliation against a community member. For example, a member shall not issue a citation to, or take other action against, a community member solely for:
  - 4.3.1. Exercising their legal rights;
  - 4.3.2. Reporting or making a claim of misconduct regarding a Bureau member;
  - 4.3.3. Filing a tort claim and/or lawsuit;
  - 4.3.3.4.3.4. Participating in an investigation of a complaint against a Bureau member;
  - 4.3.4.4.3.5. Questioning the legality of a Bureau member's actions; or
  - 4.3.5.4.3.6. Asking for a Bureau member's name, business card, and/or Bureau I.D. number.

## 5. Complaints of Misconduct.

- 5.1. No employee of the Bureau who is the subject of a misconduct complaint shall intentionally contact, or take any action against, a complainant or a witness involved in the misconduct complaint in retaliation for the complainant or witness having filed or provided information in support of a misconduct complaint. Members who are subject of a complaint shall be notified of the complaint in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing.
  - 5.1.1. If the accused employee makes such contact or takes such action against a Bureau complainant, that complainant is encouraged to notify a supervisor as soon as practical, but no later than 24 hours after the contact.
  - 5.1.2. If the accused employee makes such contact or takes such action against a Bureau witness, that witness shall notify a supervisor as soon as ~~practicable~~practical, but no later than 24 hours after the contact.
  - 5.1.3. If the accused employee has contact with a complainant or witness who is a member of the public, the accused employee shall advise a supervisor as soon as ~~practicable~~practical, but no later than 24 hours after the contact.
  - 5.1.4. If the accused employee has contact with a Bureau complainant or witness (other than in the normal course of business), the accused employee shall advise a supervisor as soon as ~~practicable~~practical, but no later than 24 hours after the contact.

## 6. Reporting Discrimination, Harassment, and Retaliation.

- 6.1. Members shall report any discriminatory, harassing, and/or retaliatory behavior they observe or become aware of in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing, as soon as ~~practicable~~practical. Members are not required to follow chain of command in reporting discrimination, harassment, or retaliation. Members may also report retaliatory behavior to the Bureau of Human Resources.
- 6.2. Managers and supervisors shall take immediate action to stop and prevent any discrimination, harassment, or retaliation they observe or of which they become aware.
  - 6.2.1. Managers and supervisors shall notify their supervisor and the branch assistant chief of the circumstances and the action taken. If the immediate supervisor is implicated in the misconduct, the supervisor shall make this report to the next highest level in the chain of command.

6.3. For any discrimination, harassment, or retaliation that could constitute a violation of HRAR 2.02., the manager or supervisor shall also report the behavior or incident to the Bureau of Human Resources as soon as possible, but no later than two working days after observing or becoming aware of the violation.

DRAFT

#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, September 15, 2018 4:38:38 PM  
**Last Modified:** Saturday, September 15, 2018 4:39:25 PM  
**Time Spent:** 00:00:46

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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 310.20 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.

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### 310.20 DISCRIMINATION, HARASSMENT AND RETALIATION PROHIBITED (previous comments June 2017)

We continue to support the sections added to this Directive prohibiting retaliation against officers who file complaints or participate in misconduct investigations and protecting civilians who participate in misconduct investigations in line with DOJ Settlement Agreement paragraph 130.

As noted in our previous comments, the word "immediately" was taken out of officers' responsibilities to report on such misconduct (Section 6.1), instead saying it has to be reported "as soon as practicable." Conversely, officers including witness officers subjected to retaliation have to report the offending officer's behavior "no later than 24 hours after the contact." This seems like an unfair burden on people who are being victimized and could result in them being disciplined for reporting it outside that time frame. The accused officer has to report contacting civilian or Bureau complainants or witnesses within 24 hours, which seems burdensome but is in that officer's best interest.

--We repeat our suggestion that Section 5.1 prohibiting officers from contacting or taking action against anyone involved in filing complaints might require that officers who recognize complainants or witnesses against them to call in a supervisor or other on-duty officer (not involved in the alleged misconduct) to relieve them from contacting such persons.

--As we noted before, Section 2.2 about discrimination says that Directive 344.05 on Bias-Based Policing prohibits police action "solely or primarily" based on someone's status (race, gender, ability, etc.). This language is appropriate but, as we noted last year and above, the word "primarily" is not currently in 344.05, but should be.

--It may be worth adding a prohibition on retaliation against the filing of tort claims and/or lawsuits, since those processes are technically different from filing complaints (see our comments on 220.40).

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## 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

Directive 310.20 Feedback

**Q2** Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, February 09, 2019 3:38:16 PM  
**Last Modified:** Saturday, February 09, 2019 3:38:55 PM  
**Time Spent:** 00:00:38  
**IP Address:** 97.120.206.243

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Page 1

**Q1** Please provide feedback for this directive

COMMENTS ON PROFILING, CONDUCT, AND OTHER DIRECTIVES FEBRUARY 2019

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 January . We appreciate that the Bureau extended the timeline on the seven policies posted in early January, as proper notification did not go out for over two weeks. We continue to encourage the Bureau to post incoming comments in real time so that community members and officers might be able to build off others' ideas. As noted previously, we do not mind being identified but understand if others want to remain anonymous. A good idea is a good idea regardless of where it comes from.

While the Accountability Directives are not under review, we strongly urge the Bureau to revisit the 2010 Stakeholder report which included the recommendation to add Communication issues, Training issues, Equipment issues and other Policy-related issues as possible findings for incoming complaints. That would be a great way to address the issue raised by the Compliance Officer's Q4 report that officers feel singled out for Supervisory Investigations since they followed policy but the person lodging the complaint didn't like the policy, for instance.

We would still like to see the review periods last for at least 30 days before the Bureau posts a new draft and after. It is fairly clear, for instance, that the Portland Committee on Community Engaged Policing will not be able to quickly move to review a policy within such a short timeline as they only meet once a month and have fairly full agendas. This is also true for other advisory bodies as we have noted in the past.

While the policies under review do not have a large number of proposed changes, numerous problems we have identified in the past have not been addressed. On the other hand, there are a few changes that are reflective of comments we made which we note below. We commented on all of the seven policies below in September 2018. Once again, we are not offering any comments on Directive 630.31 on Stolen Vehicles.

We still urge the Bureau to add letters to section headings (Definitions, Policy, Procedure) to avoid the problem that there are multiple sections with the same numbers, and to add numbers to each of the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

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310.20 DISCRIMINATION, HARASSMENT AND RETALIATION PROHIBITED

As noted in previous comments, rather than requiring officers to report on retaliation "immediately," Section 6.1 says they must make a

## Directive 310.20 Feedback

report "as soon as practicable." However, officers (including witness officers) who were the victims of such retaliation have to report the offending officer "no later than 24 hours after the contact" (Section 5.1). This seems like it could result in discipline for people who were being harmed, we hope the Bureau will change this requirement. The accused officer has to report contacting civilian or Bureau complainants or witnesses within 24 hours, which is in that officer's best interest.

It seems a better idea would be to require the officer to call in a Supervisor rather than make contact with such a person to avoid confrontations, as we have previously suggested. Though it happened off-duty, an officer facing a complaint was terminated for retaliating against the civilian complainant according to a recent Police Review Board Report; training and policy requiring another officer to come in may have made the officer think twice before doing so.

--Section 2.2 about discrimination says that Directive 344.05 on Bias-Based Policing prohibits police action "solely or primarily" based on someone's status (race, gender, ability, etc.), which is great-- except, as noted above, the word "primarily" needs to be added to 344.05.

--We also still think the Bureau should prohibit retaliation against a person who files a tort claim and/or lawsuit, since those processes are technically different from filing complaints. The Bureau's proposed definition of complaint actually makes this worse, by restricting complaints to misconduct issues raised with the City.

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### CONCLUSION

As we have before, we extend our thanks to the Bureau for seeking for community input, and for being at least minimally responsive by making changes and/or explaining areas of disagreement. We look forward one day to being able to declare that the Bureau is free from corruption, brutality and racism.

With regard to the failed notifications from the "third party vendor," we have suggested that Staff put themselves on the alert list and check the outgoing emails to be sure the correct information was included. This will avoid having to re-post Directives in the future.

Thank you again for your time

--Portland Copwatch

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### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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## **310.50 Truthfulness**

### **Policy:**

1. Truthfulness is a pillar upon which the Portland Police Bureau's legitimacy and community credibility are built. The integrity of police service is rooted in honesty and truthfulness. The Bureau is committed to holding its members accountable for being honest and truthful in all statements made and actions taken which relate to their duties as members of the Police Bureau.

### **Procedure:**

1. No member shall knowingly or willfully be dishonest or untruthful in giving a statement or testimony, in creating a report, in any official oral or written communication, or in giving any statement about actions taken that relate to the member's own or another member's employment or position. Being dishonest or untruthful includes knowingly or willfully: making false statements, falsifying work-related records or official documents, omitting material facts or material information, or answering questions or providing information in a manner that is incomplete, evasive, deceptive, or misleading.
  - 1.1. These requirements apply to any report, investigations, or communication concerning Bureau business, including, but not limited to, oral communications, written reports, transmissions to the Bureau of Emergency Communications, testimony in legal proceedings and communications to members via radio, telephone, pager, e-mail, text, or mobile data computer (MDC).
2. Members shall not knowingly or willfully make any false statements to justify a criminal or traffic charge, or seek to unlawfully influence the outcome of any investigation.
3. Members are obligated under this directive to respond fully and truthfully to questions about any action taken that relates to the member's employment or position, or to the employment or position of another member, regardless of whether such information is requested during a formal investigation or during the course of business.
4. A limited exception to the standards in this directive exists when the member reasonably believes that deception: (i) is necessary due to the nature of a member's assignment, such as an undercover assignment; (ii) is necessary to acquire information for a criminal investigation; or (iii) to protect the member or others from an articulable threat. The use of deception in these circumstances must be for a specific and legitimate law enforcement purpose and must be temporary in nature.

### **History:**

- Originating Directive Date: 09/06/01
- Last Revision Signed: 04/15/20
  - Effective Date: 05/15/20
- Next Review Date: 05/15/21

## 310.50, Truthfulness

### Policy:

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#1

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, September 04, 2018 6:36:18 AM  
**Last Modified:** Tuesday, September 04, 2018 6:40:53 AM  
**Time Spent:** 00:04:35

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Page 1

**Q1** Please provide feedback for this directive

Bureau members should be required to testify truthfully in any court proceeding whether on duty or off duty. The pillar of trust extends to bureau members involved in off duty civil cases which require sworn statements made under oath. Under no circumstance should a bureau member provide false testimony in any off duty court proceeding, hearing, affidavit, or declaration.

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**Q2** Contact Information (optional)

**Respondent skipped this question**

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## #2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, September 15, 2018 4:37:29 PM  
**Last Modified:** Saturday, September 15, 2018 4:38:16 PM  
**Time Spent:** 00:00:47

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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:

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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.

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## Directive 310.50 Feedback

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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.

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DIRECTIVE 310.50 TRUTHFULNESS ("Truthiness.") (previous comments June 2017)

PCW continues to support changes made to this Directive in 2017.

However, we repeat these comments we made in 2015 and twice in 2017:

--We are disturbed that Section 4 says there are limited exceptions for officers lying, such as when "deception is necessary due to the nature of the assignment, when necessary to acquire information for a criminal investigation or to protect the safety of the member or others." While the Directive limits such deceit to temporary, specific circumstances, it seems to give a lot of latitude for cops to lie to the community. As opponents of the death penalty ask "why do we kill people to teach that killing people is wrong?", one can also ask, "why do we let those who enforce the laws teach dishonest people to be honest by being dishonest?"

-----

### 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

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### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, January 03, 2019 12:41:39 AM  
**Last Modified:** Thursday, January 03, 2019 12:53:49 AM  
**Time Spent:** 00:12:10  
**IP Address:** 74.120.152.116

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Page 1

**Q1** Please provide feedback for this directive

I have some concerns about the lack of specificity in the policy.

Section 3 reads:

3. Members are obligated under this directive to respond fully and truthfully to questions about any action taken that relates to the member's employment or position, or to the employment or position of another member, regardless of whether such information is requested during a formal investigation or during the course of business.

This section does not seem to state to whom a statement must be given fully. Obviously, statements given should be truthful. But it is unclear what qualifies as a "full" statement. Given the current nature of issues involving some of the folks who aggressively moderate police activity publically, it seems that this could lead to a morass of internal investigations.

Secondly, section 4 reads:

4. A limited exception to the standards in this directive is when deception is necessary due to the nature of a member's assignment, such as an undercover assignment or when necessary to acquire information for a criminal investigation. The use of deception in these circumstances must be for a specific and legitimate law enforcement purpose and must be temporary in nature. Members may also use deception when they have an objectively reasonable belief that it is necessary to protect the member or others from a significant threat.

I may have missed it, but I do not see a definition of "significant threat." Qualification in these circumstances seems appropriate given that truthfulness is a policy that carries termination as a presumptive discipline.

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**Q2** Contact Information (optional)

Name

Email Address

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## #2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, January 14, 2019 8:55:29 AM  
**Last Modified:** Monday, January 14, 2019 9:30:28 AM  
**Time Spent:** 00:34:59  
**IP Address:** 74.120.152.118

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Page 1

### Q1 Please provide feedback for this directive

Any policy with as much weight as truthfulness should be a bright line policy with no room for vagueness or interpretation. Paragraph 4 allowing for limited exceptions to truthfulness, therefore, should be omitted from 0310.50 and moved to 0315.30 Satisfactory Performance. This is because paragraph 4 is prescribing requirements on how to perform in a satisfactory manner. Phrases such as "when necessary" under truthfulness are overly subjective. When necessary to whom? What is the threshold for necessary? Is it really necessary, for example, to lie during a suspect interview? How is that decided? Police officers routinely use equivocation or deception to calm people down, prevent violence, keep a scene safe or gain compliance. Placing this paragraph in the performance directive can allow for clarity on the appropriate application of deception and allow for appropriate discipline.

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### Q2 Contact Information (optional)

Name  
Email Address  
Phone Number

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# #3

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, February 09, 2019 3:31:51 PM  
**Last Modified:** Saturday, February 09, 2019 3:32:33 PM  
**Time Spent:** 00:00:42  
**IP Address:** 97.120.206.243

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Page 1

## Q1 Please provide feedback for this directive

### COMMENTS ON PROFILING, CONDUCT, AND OTHER DIRECTIVES FEBRUARY 2019

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 January . We appreciate that the Bureau extended the timeline on the seven policies posted in early January, as proper notification did not go out for over two weeks. We continue to encourage the Bureau to post incoming comments in real time so that community members and officers might be able to build off others' ideas. As noted previously, we do not mind being identified but understand if others want to remain anonymous. A good idea is a good idea regardless of where it comes from.

While the Accountability Directives are not under review, we strongly urge the Bureau to revisit the 2010 Stakeholder report which included the recommendation to add Communication issues, Training issues, Equipment issues and other Policy-related issues as possible findings for incoming complaints. That would be a great way to address the issue raised by the Compliance Officer's Q4 report that officers feel singled out for Supervisory Investigations since they followed policy but the person lodging the complaint didn't like the policy, for instance.

We would still like to see the review periods last for at least 30 days before the Bureau posts a new draft and after. It is fairly clear, for instance, that the Portland Committee on Community Engaged Policing will not be able to quickly move to review a policy within such a short timeline as they only meet once a month and have fairly full agendas. This is also true for other advisory bodies as we have noted in the past.

While the policies under review do not have a large number of proposed changes, numerous problems we have identified in the past have not been addressed. On the other hand, there are a few changes that are reflective of comments we made which we note below. We commented on all of the seven policies below in September 2018. Once again, we are not offering any comments on Directive 630.31 on Stolen Vehicles.

We still urge the Bureau to add letters to section headings (Definitions, Policy, Procedure) to avoid the problem that there are multiple sections with the same numbers, and to add numbers to each of the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

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DIRECTIVE 310.50 TRUTHFULNESS ("Truthiness.")

## Directive 310.50 Feedback

The proposed change to this Directive slightly improves upon the phrasing Portland Copwatch has previously called out as too vague. Section 4 still says there are limited exceptions for officers lying, such as when "deception is necessary due to the nature of the assignment, when necessary to acquire information for a criminal investigation," but now says there has to be "an objectively reasonable belief it is necessary" to lie "to protect the safety of the member or others." A case that came before the Citizen Review Committee in which Sgt. Erin Smith told a protestor he could be arrested for video-recording police, knowing that statement was untrue, led to a PPB Captain refusing to accept the CRC's proposed "sustained" finding due to what the Captain felt was the vagueness in the old language. While we believe Smith's violation was clear, we support this change but the "objectively reasonable" requirement should apply to any state-sanctioned lie, if they continue to be allowed.

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### CONCLUSION

As we have before, we extend our thanks to the Bureau for seeking for community input, and for being at least minimally responsive by making changes and/or explaining areas of disagreement. We look forward one day to being able to declare that the Bureau is free from corruption, brutality and racism.

With regard to the failed notifications from the "third party vendor," we have suggested that Staff put themselves on the alert list and check the outgoing emails to be sure the correct information was included. This will avoid having to re-post Directives in the future.

Thank you again for your time

--Portland Copwatch

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### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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## **315.00 Laws, Rules, and Orders**

*Note: The Bureau did not make any changes to this directive.*

### **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 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 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.

**History:**

- Originating Directive Date: 09/06/01
- Last Revision Signed: 04/15/20
  - Effective Date: 05/15/20
- Next Review Date: 05/15/21

#1

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, September 01, 2018 4:13:34 PM  
**Last Modified:** Saturday, September 01, 2018 4:24:33 PM  
**Time Spent:** 00:10:59

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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?

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**Q2** Contact Information (optional)

**Respondent skipped this question**

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## #2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, September 15, 2018 4:36:18 PM  
**Last Modified:** Saturday, September 15, 2018 4:37:02 PM  
**Time Spent:** 00:00:43

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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.

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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.

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### 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

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### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, February 09, 2019 3:41:27 PM  
**Last Modified:** Saturday, February 09, 2019 3:42:04 PM  
**Time Spent:** 00:00:37  
**IP Address:** 97.120.206.243

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Page 1

**Q1** Please provide feedback for this directive

COMMENTS ON PROFILING, CONDUCT, AND OTHER DIRECTIVES FEBRUARY 2019

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:

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315.00 LAWS, RULES AND ORDERS

There are no proposed change to this Directive. despite the input we provided in September. To wit, "we continue to have concerns that

## Directive 315.00 Feedback

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

As we have before, we extend our thanks to the Bureau for seeking for community input, and for being at least minimally responsive by making changes and/or explaining areas of disagreement. We look forward one day to being able to declare that the Bureau is free from corruption, brutality and racism.

With regard to the failed notifications from the "third party vendor," we have suggested that Staff put themselves on the alert list and check the outgoing emails to be sure the correct information was included. This will avoid having to re-post Directives in the future.

Thank you again for your time

--Portland Copwatch

---

### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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### **315.30, Satisfactory Performance**

#### **Refer:**

- DIR 210.21, Leaves from Service
- DIR 300.00, Statement of Ethical Conduct
- DIR 310.00, Professional Conduct and Courtesy
- DIR 315.00, Laws, Rules, and Orders
- DIR 334.00, Performance Deficiencies
- DIR 1010.00, Use of Force

#### **Policy:**

1. The Portland Police Bureau requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives, City ordinances, and state and federal laws to perform their duties and functions within a law enforcement agency. The Bureau expects its members to meet the requirements of their position and accomplish their functions in a satisfactory and efficient manner that supports the goals and objectives of the Bureau.

#### **Procedure:**

1. Member Responsibilities.
  - 1.1. Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions.
  - 1.2. Members shall perform their duties in a manner that meets the following standards of efficiency and service in order to carry out the functions and objectives of the Bureau.
    - 1.2.1. Sworn members shall prioritize and respond to requests for police assistance.
    - 1.2.2. When a community member requests police action or makes a complaint or report (by any means), the receiving Bureau member shall obtain all pertinent information in a professional and courteous manner in accordance with Directive 310.00, Professional Conduct and Courtesy.
    - 1.2.3. Members shall work their designated hours, unless exempt by their RU manager or supervisor. Members assigned to a specific detail or post shall remain on duty until relieved by a supervisor.
    - 1.2.4. Members shall conform to the work standards established for the rank, grade, and position to which they are assigned.
    - 1.2.5. Members shall not feign illness or injury, falsely report themselves ill or injured or otherwise deceive or attempt to deceive the Bureau as to the condition of their physical or mental health.
    - 1.2.6. Members shall not leave their assignments for an excessive amount of time and will manage their time reasonably for breaks and lunch. Supervisors will ensure that sufficient members are available to carry out the assigned duties of the precinct or division. Supervisors are also required to ensure that no more than two uniform patrol vehicles are at the same location while on a lunch or break, unless that supervisor approved a greater number to be present.

- 1.2.7. Members shall coordinate their efforts with other members to ensure the Bureau's objectives and goals are achieved. Members shall aid, assist and protect other members in times of emergency.
  - 1.2.8. Sworn members shall take appropriate action on the occasion of a crime, disorder, or other condition requiring police action.
    - 1.2.8.1. Non-sworn members encountering a life-threatening emergency while working immediately shall summon proper assistance.
  - 1.2.9. Members who come into contact with stranded individuals or motorists in need of assistance (e.g., vehicle towed on freeway) shall offer assistance to the person(s) and make every attempt to facilitate their safe removal from the area without compromising the member's safety.
  - 1.2.10. Members shall report for duty, unless exempt by their supervisor, at the time and place required by assignment or orders. Members are subject to an emergency recall at any time by their supervisor and shall comply when notified to report for duty. (Trial notices processed through the Court Coordinator's office and any work related judicial subpoenas constitute an order to report for duty under this section.)
  - 1.2.11. Members unable to remain awake while on duty shall notify their supervisor, who will determine the appropriate course of action.
  - 1.2.12. Members shall refrain from conducting personal business while on duty. Members will request time off in advance to conduct personal business or seek supervisor approval if it becomes necessary for the member to be out of service for an extended period of time.
- 1.3. Members who do not demonstrate the ability or knowledge necessary to perform their job-related duties shall be evaluated in accordance with Directive 334.00, Performance Deficiencies.
2. Satisfactory performance during confrontation management:
- 2.1. This subsection sets performance standards for decision-making during confrontations, and requires that members use sound tactics and good decision-making during a confrontation and work diligently toward applying, when practical, less force than the maximum allowed by the constitutional standard and minimizing or avoiding force when possible. This subsection also requires members to develop and display over the course of their practice of law enforcement good confrontation and force management skills.
  - 2.2. The Bureau requires that members be capable of using effective force on behalf of the public, when appropriate, to manage the risks of confrontations.
  - 2.3. It is the intention of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical.
  - 2.4. The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law.

- 2.5. When managing a confrontation, members must make confrontation management decisions based on available options reasonably calculated to resolve the confrontation safely and effectively, with as little reliance on force as practical.
  - 2.6. In applying this standard to a member's performance, the Bureau shall evaluate the member's decision making from the perspective of the member at the moment the decisions were made. This confrontation management standard is separate from and does not modify the use-of-force standard in Directive 1010.00, Use of Force. The relevant inquiry for this confrontation management standard is whether the member pursued the Bureau's goal of resolving a confrontation safely and effectively with as little reliance on force as practical and whether there is a valid reasoning in the member's confrontation management decision-making.
  - 2.7. Over the course of their practice of law enforcement, members must develop and display the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of force allowed by the constitutional standard.
3. Supervisor Performance During Critical Incidents
    - 3.1. Supervisors **at any rank** should prioritize their supervisory perspective and avoid tactical involvement in incidents to the extent possible, under the totality of the circumstances, if there are a sufficient number of officers available and capable of fulfilling a particular tactical role. Supervisors who are not serving as the incident commander may take a tactical role at the direction of the incident commander. Nothing herein prohibits supervisors from taking immediate law enforcement action when objectively reasonable under the totality of the circumstances. In applying this standard to a supervisor's performance, the Bureau shall evaluate the member's decision-making from the perspective of the supervisor at the moment the decisions were made.
      - 3.1.1. Any findings based on an Internal Affairs (IA) case or After Action review of a critical incident must include a finding as to whether the involvement of all supervisors at any rank was consistent with Bureau training and policy.

**History:**

- Originating Directive Date: 09/06/01
- Last Revision Signed: 04/15/20
  - Effective Date: 05/15/20
- Next Review Date: 05/15/21

### 315.30, Satisfactory Performance

#### Refer:

- DIR 210.21, Leaves from Service
- DIR 300.00, Statement of Ethical Conduct
- DIR 310.00, Professional Conduct and Courtesy
- DIR 315.00, Laws, Rules, and Orders
- DIR 334.00, Performance Deficiencies
- DIR 1010.00, Use of Force

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1. The Portland Police Bureau requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives, ~~city~~City ordinances, and state and federal laws to perform their duties and functions within a law enforcement agency. The Bureau expects its members to meet the requirements of their position and accomplish their functions in a satisfactory and efficient manner that supports the goals and objectives of the Bureau.

#### Procedure:

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  - 1.1. Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions.
  - 1.2. Members shall perform their duties in a manner that meets the following standards of efficiency and service in order to carry out the functions and objectives of the Bureau.
    - 1.2.1. Sworn members shall prioritize and respond to requests for police assistance.
    - 1.2.2. When a community member requests police action or makes a complaint or report (by any means), the receiving Bureau member shall obtain all pertinent information in a professional and courteous manner in accordance with Directive 310.00, Professional Conduct and Courtesy.
    - 1.2.3. Members shall work their designated hours, unless exempt by their RU manager or supervisor. Members assigned to a specific detail or post shall remain on duty until relieved by a supervisor.
    - 1.2.4. Members shall conform to the work standards established for the rank, grade, and position to which they are assigned.
    - 1.2.5. Members shall not feign illness or injury, falsely report themselves ill or injured or otherwise deceive or attempt to deceive the Bureau as to the condition of their physical or mental health.
    - 1.2.6. Members shall not leave their assignments for an excessive amount of time and will manage their time reasonably for breaks and lunch. Supervisors will ensure that sufficient members are available to carry out the assigned duties of the precinct or division. Supervisors are also required to ensure that no more than two uniform patrol vehicles are at the same location while on a lunch or break, unless that supervisor approved a greater number to be present.

- 1.2.7. Members shall coordinate their efforts with other members to ensure the Bureau's objectives and goals are achieved. Members shall aid, assist and protect other members in times of emergency.
  - 1.2.8. ~~Members~~Sworn members shall take appropriate action on the occasion of a crime, disorder, or other condition requiring police action.
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- 1.3. Members who do not demonstrate the ability or knowledge necessary to perform their job-related duties shall be evaluated in accordance with Directive 334.00, Performance Deficiencies.
2. Satisfactory performance during confrontation management:
    - 2.1. This subsection sets performance standards for decision-making during confrontations, and requires that members use sound tactics and good decision-making during a confrontation and work diligently toward applying, when practical, less force than the maximum allowed by the constitutional standard and minimizing or avoiding force when possible. This subsection also requires members to develop and display over the course of their practice of law enforcement good confrontation and force management skills.
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    - 2.4. The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law.



- 2.5. When managing a confrontation, members must make confrontation management decisions based on available options reasonably calculated to resolve the confrontation safely and effectively, with as little reliance on force as practical.
- 2.6. In applying this standard to a member's performance, the Bureau shall evaluate the member's decision making from the perspective of the member at the moment the decisions were made. This confrontation management standard is separate from and does not modify the use-of-force standard in Directive 1010.00-, Use of Force. The relevant inquiry for this confrontation management standard is whether the member pursued the Bureau's goal of resolving a confrontation safely and effectively with as little reliance on force as practical and whether there is a valid reasoning in the member's confrontation management decision-making.
- 2.7. Over the course of their practice of law enforcement, members must develop and display the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of force allowed by the constitutional standard.

### 3. Supervisor Performance During Critical Incidents

3.1. Supervisors at any rank should prioritize their supervisory perspective and avoid tactical involvement in incidents to the extent possible, under the totality of the circumstances, if there are a sufficient number of officers available and capable of fulfilling a particular tactical role. Supervisors who are not serving as the incident commander may take a tactical role at the direction of the incident commander. Nothing herein prohibits supervisors from taking immediate law enforcement action when objectively reasonable under the totality of the circumstances. In applying this standard to a supervisor's performance, the Bureau shall evaluate the member's decision-making from the perspective of the supervisor at the moment the decisions were made.

3.1.1. Any findings based on an Internal Affairs (IA) case or After Action review of a critical incident must include a finding as to whether the involvement of all supervisors at any rank was consistent with Bureau training and policy.

#1

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**Collector:** Web Link 1 (Web Link)  
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**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 315.30 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.

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### DIRECTIVE 315.30 SATISFACTORY PERFORMANCE (previous comments made September 2017)

As we wrote in 2014, 2015 and twice in 2017, "we continue to believe that Directive 315.30, taken as a whole, will be used by officers (and their bargaining units) to defend any individual incident of excessive force, saying the officer only has to display less reliance on force throughout his or her career." We continue to urge the Bureau to rewrite the Directive to explicitly say that if an officer uses too much force or makes poor decisions in one serious incident, it could lead to discipline, a concept which has been put into Directive 1010.00's Policy Section 2. We recognize that the PPB tried to address this concern in its publication of the finalized Directive in January by saying 315.30 does not over-ride 1010.00; we still believe this Directive should be clear on the matter.

Also in the published Directive, the PPB noted that they agreed to remove the language in Section 2.1 that said the Bureau "requires" officers to "apply effective force when necessary." PCW expressed concern that officers would face discipline if they chose not to use force. The PPB stated they did not want to have a policy that seemed to encourage the use of force. PCW applauds this change and the analysis.

However, Section 2.2 still says force should be applied "when appropriate," which we suggested might be better phrased as "when reasonable and lawful," and would add "and no alternatives are immediately available."

When the Directive was last overhauled, we expressed dismay that the effort to consolidate policies (this Directive absorbed previous policies 630.31, 311.00 and 312.00) may end up trivializing the importance of each individual policy. The Bureau claims these issues all have a common thread. Perhaps a compromise would be to make a section heading for each broad topic ("Assisting Motorists,," "Duty Required," and "Request for Assistance") so that a casual reader can tell there are various concepts covered in the same policy.

Finally we noted that Section 1.2.8 includes the term "disorder" as a reason for officers to take "appropriate action." As with the Directive on Crowd Control, the vague nature of the term "disorder" seems like an invitation for police to act violently against persons exerting their First Amendment Rights.

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### 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

## Directive 315.30 Feedback

### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, February 09, 2019 3:29:27 PM  
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**Q1** Please provide feedback for this directive

COMMENTS ON PROFILING, CONDUCT, AND OTHER DIRECTIVES FEBRUARY 2019

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 January . We appreciate that the Bureau extended the timeline on the seven policies posted in early January, as proper notification did not go out for over two weeks. We continue to encourage the Bureau to post incoming comments in real time so that community members and officers might be able to build off others' ideas. As noted previously, we do not mind being identified but understand if others want to remain anonymous. A good idea is a good idea regardless of where it comes from.

While the Accountability Directives are not under review, we strongly urge the Bureau to revisit the 2010 Stakeholder report which included the recommendation to add Communication issues, Training issues, Equipment issues and other Policy-related issues as possible findings for incoming complaints. That would be a great way to address the issue raised by the Compliance Officer's Q4 report that officers feel singled out for Supervisory Investigations since they followed policy but the person lodging the complaint didn't like the policy, for instance.

We would still like to see the review periods last for at least 30 days before the Bureau posts a new draft and after. It is fairly clear, for instance, that the Portland Committee on Community Engaged Policing will not be able to quickly move to review a policy within such a short timeline as they only meet once a month and have fairly full agendas. This is also true for other advisory bodies as we have noted in the past.

While the policies under review do not have a large number of proposed changes, numerous problems we have identified in the past have not been addressed. On the other hand, there are a few changes that are reflective of comments we made which we note below. We commented on all of the seven policies below in September 2018. Once again, we are not offering any comments on Directive 630.31 on Stolen Vehicles.

We still urge the Bureau to add letters to section headings (Definitions, Policy, Procedure) to avoid the problem that there are multiple sections with the same numbers, and to add numbers to each of the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

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DIRECTIVE 315.30 SATISFACTORY PERFORMANCE

As we wrote in 2014, 2015, 2017 and 2018, "we continue to believe that Directive 315.30, taken as a whole, will be used by officers (and

## Directive 315.30 Feedback

their bargaining units) to defend any individual incident of excessive force, saying the officer only has to display less reliance on force throughout his or her career." The Bureau should rewrite 315.30 to reflect Directive 1010.00's Policy Section 2, which says that if an officer uses too much force or makes poor decisions in one serious incident, it could lead to discipline.

The new version only has two major changes. One is the addition of Section 1.2.8.1, requiring non-sworn members to call for "proper assistance" in a "life threatening emergency." Its lead-in, Section 1.2.8, adds the word "Sworn" before saying that "members shall take appropriate action" when they see crime or "disorder." Presumably, this is to address the new unarmed PPB officers--er, sorry, we mean "Public Safety Support Specialists." It is understandable that unarmed officers may not be fully equipped to handle all "life threatening emergencies," but we would hope that they would at least have some training to do so. Thus, we suggest adding something encouraging the non-sworn members to take actions of which they are capable as well as calling for assistance. PCW still objects to the City's redefining "Community Service Officers" as "Specialists" after the Bureau of Human Resources explicitly told Council these would be unarmed officers who could respond to low-level calls and issue citations, but that is a debate for elsewhere.

Regarding the use of the term "disorder," we noted that the Crowd Control Directive also uses this vague word and caution that police could point to what they see as "disorder" to act violently against persons exerting their First Amendment Rights. The Bureau should define the term or find a better word.

The other addition is a new Section 3, which calls on Supervisors not to get engaged in an action that they are overseeing, and for the supervisor's actions to be reviewed if they do engage to ensure that didn't negatively affect the situation. PCW supports this after seeing multiple incidents where supervisors ignored such advice; this also reflects suggestions made by several experts who have reviewed PPB activity.

We continue to think Section 2.2 should say force may be applied "when reasonable and lawful, and no alternatives are immediately available" rather than "when appropriate."

We will again suggest that the subsections under 1.2 which used to be their own policies should receive headings reflecting the subject matter: "Assisting Motorists," "Duty Required," and "Request for Assistance," for example.

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### CONCLUSION

As we have before, we extend our thanks to the Bureau for seeking for community input, and for being at least minimally responsive by making changes and/or explaining areas of disagreement. We look forward one day to being able to declare that the Bureau is free from corruption, brutality and racism.

With regard to the failed notifications from the "third party vendor," we have suggested that Staff put themselves on the alert list and check the outgoing emails to be sure the correct information was included. This will avoid having to re-post Directives in the future.

Thank you again for your time

--Portland Copwatch

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### Q2 Contact Information (optional)

Name

**Portland Copwatch**

Email Address

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