

*Please note: This is a working draft of Directive 0305.00. This is a new directive, and the PPB has not implemented any portion of this draft.

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0305.00, Active Bystandership, Intervention, and Anti-Retaliation (NEW)

First Universal Review Period: 6/1/2021 – 6/30/2021

Refer:

- Oregon House Bill 4205 (Enrolled)
- City of Portland, Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination, and Retaliation
- DIR 0240.00, Employee Assistance Program (EAP)
- DIR 0310.00, Professional Conduct and Courtesy
- DIR 0310.20, Discrimination, Harassment, and Retaliation Prohibited
- DIR 0330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 0333.00, Criminal Investigations of Police Bureau Employees and Other Law Enforcement Agency Sworn Employees
- DIR 0335.00, Discipline Process
- DIR 0338.00, Discipline Guide
- DIR 0500.00 Portland Police Bureau Wellness Program (NEW)
- DIR 1010.00, Use of Force

Definitions:

- **Active Bystandership:** Actively stepping forward, speaking up, and taking action to intervene to address harmful behavior and/or prevent harmful behavior from escalating.
- **Bystander:** A witnessing member who is in a position to know that there is a need for positive action and is in a position to take some form of action to intervene.
- **Passive Bystandership:** Failing to intervene by modeling inaction or passivity. Passive bystandership may discourage intervention by other members, or may appear to support the misconduct or harmful behavior.
- **Misconduct:** Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.
- **Mitigating Factor:** A circumstance, fact, or influence that may reduce the level of discipline recommended.
- **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.

About the Active Bystandership for Law Enforcement (ABLE) Project:

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Georgetown University Law School’s “Innovative Policing Program” created ABLE Project as an innovative approach to tackling deep-rooted challenges in policing. The project includes wide-ranging strategies that emphasize community involvement and engagement, focused training, officer wellness, improving accountability, and consistency across police departments. The foundational pillars of the project are preventing misconduct, reducing mistakes, and promoting officer health and wellness. With these pillars as the focus, the project aims to give officers the tools to effectively intervene and create an institutional culture that supports and encourages peer intervention.

Policy:

1. This policy establishes guidelines for members to comply with state law regarding the duty to intervene, instructs members on intervention and active bystandership strategies and techniques, and outlines existing policies and procedures for intervening in and reporting misconduct.
2. The Portland Police Bureau recognizes the important role that peer-intervention and active bystandership play in reducing harm for both members, and the community. The Bureau further recognizes that member attempts at and receptiveness to intervention should be a potential mitigating factor in any consequent discipline proceeding, as long as accountability is achieved. As a result, the Bureau is committed to creating a culture of active bystandership and peer intervention, following the ABLE Project standards, and allocating resources to implement and sustain ABLE strategies.
3. The Bureau acknowledges that giving members the tools to identify potential warning signs and intervene is critical to community trust, harm reduction, and member wellness. The goal is for members to be proactive in identifying certain conduct before it escalates.
4. Integrity and accountability are key factors in creating institutional changes. Affirming its commitment to the ABLE Project’s objective centered on changing law enforcement culture, the Bureau will enhance its efforts to create a work environment that promotes active bystandership, accountability, encourages proactive intervention, and does not tolerate retaliation for intervention.

Procedure:

1. ABLE Program Principles.
 - 1.1. Member Wellness.
 - 1.1.1. Wellness plays a critical role in a member’s ability to perform their duties adequately.
 - 1.1.2. Work-induced stress, sleep deprivation, and poor fitness habits, among other harmful practices, may have a negative impact on a member’s judgment and actions.

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- 1.1.3. Fostering a culture of peer intervention and receptiveness to peer intervention promotes member wellness by potentially reducing member exposure to mistakes, misconduct, and the discipline process. Intervention may also reduce the occupational risks associated with law enforcement work, such as suicide and depression.
- 1.1.4. Members may refer to Directives 0240.00, Employee Assistance Program (EAP), and 0500.00, Bureau Wellness Program (NEW), for guidance on accessing assistance resources and developing positive wellness practices.
- 1.2. Active Bystandership and Recognizing the Need to Intervene.
 - 1.2.1. Notice.
 - 1.2.1.1. Situational awareness applies to peer intervention. It refers to the conscious recognition or perception of our environment and the interaction of our experience, the experiences of others, and the situational factors that influence behavior and decision-making. Having self-awareness and an awareness of others and the environment can help members recognize the need to intervene before misconduct occurs or to prevent harmful behavior from unreasonably escalating.
 - 1.2.1.2. With an increased awareness, members may be able to recognize in themselves and other officers, physical and/or emotional indicators that suggest that a situation may escalate and require intervention.
 - 1.2.1.3. Members should strive to be self-aware and mindful of others in an effort to recognize the need for intervention.
 - 1.2.2. Decide.
 - 1.2.2.1. Active bystandership requires recognizing when intervention may be necessary and being decisive and deliberate in your actions to intervene.
 - 1.2.2.2. Intervention is necessary when the risk or cost of intervening (e.g., member tension or discord, etc.) outweighs the risk of not intervening (e.g., escalating harmful behavior, safety issue, possibility of member or subject injury, etc.).
 - 1.2.2.3. The Bureau shall prepare members to recognize the need for intervention and employ effective strategies to intervene, when appropriate or necessary.
 - 1.2.3. Act.
 - 1.2.3.1. Successful intervention requires members to act when it is safe and feasible to do so.
 - 1.2.3.2. Opportunities for active bystandership may include, but are not limited to;
 - 1.2.3.2.1. Members intervening before the harmful behavior or misconduct occurs. For example, when a member notices a change in a peer’s behavior, outside the context of an incident or call.

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- 1.2.3.2.2. Members intervening when they witness harmful behavior or misconduct occurring. This may occur at the outset of the incident or if the member believes the harmful behavior has unreasonably escalated.
 - 1.2.3.2.3. Members reporting harmful behavior or misconduct that they witnessed or of which they become aware.
 - 1.2.3.3. While the Bureau encourages members to act early when intervening, early intervention may not always be safe or practicable. Members should endeavor to prevent harmful behavior and misconduct when it is safe and reasonable to do so.
2. Additional Member Intervention Requirements as Established by Bureau Directives and State Law.
 - 2.1. Duty to Intervene and Report Misconduct as Required by Bureau Policy.
 - 2.1.1. Pursuant to Directive 1010.00, Use of Force, members must intervene to prevent or stop what they know or reasonably should know to be unlawful or out-of-policy force, unless the member is unable to intervene safely.
 - 2.1.2. Pursuant to Directive 0310.00, Professional Conduct and Courtesy, when a member becomes aware of an act of misconduct, they must report the act to a supervisor as soon as possible.
 - 2.1.3. Pursuant to Directive 0333.00, Criminal Investigations of Police Bureau Employees and Other Law Enforcement Agency Sworn Employees, members must immediately notify a member in their chain of command, any Assistant Chief, the IA Captain, or the Independent Police Review when they receive a complaint of criminal conduct by another member or when they have knowledge of any criminal conduct by a member.
 - 2.1.3.1. Any member who observes criminal conduct by another member has a duty to reasonably intervene if safe and feasible. After intervening, members shall immediately notify their supervisor or any individual listed above.
 - 2.1.4. Members who fail to report member misconduct shall be subject to disciplinary action.
 - 2.2. Duty to Intervene and Report as Required by State Law.
 - 2.2.1. Pursuant to state law, members shall intervene to prevent or stop other police officers the member knows or reasonably should know has engaged in any from the following conduct, unless the intervening member cannot intervene safely:
 - 2.2.1.1. Unjustified or excessive force that is objectively unreasonable under the circumstances or violates the offending officer’s agency’s use of force policy;
 - 2.2.1.2. Sexual harassment or sexual misconduct;
 - 2.2.1.3. Discriminating against a person based on race, color, religion, sex, sexual orientation, national origin, disability, or age;
 - 2.2.1.4. Committing a crime; or

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- 2.2.1.5. Violating the minimum standards for physical, emotional, intellectual and moral fitness for public safety personnel established under ORS 181A.410.
 - 2.2.2. Members shall intervene in this conduct without regard to the rank or assignment of the other police officer and without fear of retaliation.
 - 2.2.3. Members shall report this conduct to a supervisor within 72 hours of witnessing such conduct.
 - 2.2.4. Members shall report this conduct at all times, regardless of whether the member is on or off duty, regardless of whether the officer engaging in misconduct is on or off duty, regardless of whether the officer engaging in misconduct works for another agency, and regardless of whether the misconduct happens between members or between members and the public.
 - 2.2.5. Pursuant to state law, members who fail to intervene under the circumstances where intervention is required by law or fail to report that conduct may be subject to disciplinary action.
3. Anti-Retaliation.
 - 3.1. The Bureau will not tolerate retaliation against members who intervene to prevent harmful behavior or conduct described in Sections 2.1. and 2.2. of this directive.
 - 3.1.1. No member shall punish, target, or otherwise ostracize another member for attempting to intervene or successfully intervening.
 - 3.1.2. Members shall act in accordance with Directive 310.20, Discrimination, Harassment, and Retaliation Prohibited.
 - 3.2. Reporting Retaliatory Behavior.
 - 3.2.1. Members shall report any retaliatory behavior they observe or of which they become aware, as soon as practical, in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing.
 - 3.3. Investigating Retaliation Allegations.
 - 3.3.1. The Bureau shall fully investigate all allegations of retaliation in accordance with Directive 330.00, Internal Affairs, Complaint Intake, and Processing.
4. Potential Discipline Mitigation.
 - 4.1. Member intervention that stops misconduct or prevents it from escalating may be a potential mitigating factor when considering discipline for the witness and/or offending member(s).
5. Supervisor Responsibilities.
 - 5.1. Supervisors who are notified of an act of misconduct, including a member’s failure to intervene, shall inform Internal Affairs.

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5.2. Supervisors shall report any behavior or incidents that could constitute a violation of Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination, and Retaliation, in accordance with Directive 310.20, Discrimination, Harassment, and Retaliation Prohibited.

6. ABLE Program Coordinator Responsibilities.

6.1. The ABLE Program Coordinator shall:

- 6.1.1. Facilitate the delivery of the ABLE program curriculum to all sworn members;
- 6.1.2. Incorporate the principles of active bystandership into relevant disciplines, including Patrol Procedures, Control Tactics, and Patrol Vehicle Operations;
- 6.1.3. Promote the program through regular internal and external communications and annual refresher training;
- 6.1.4. Coordinate with the Bureau’s Leadership, Wellness Program, EAP, Procedural Justice teams; and
- 6.1.5. Make a reasonable effort to assist surrounding law enforcement agencies with ABLE program implementation.

7. ABLE Program Training.

- 7.1. All sworn members will receive an initial eight hours of dedicated ABLE training and an additional two hours of annual refresher training in subsequent years.
- 7.2. The training will cover the relevant social science, the inhibitors to active bystandership, and the strategies and tactics of giving and receiving an intervention. The Training Division shall also endeavor to incorporate the principles of active bystandership into relevant Academy and in-service curricula, including, but not limited to, use of force; stops, searches, and arrests; report writing; and pursuits.

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