

Portland Police Bureau _____

Police Review Board: Summaries and Reports

Publication date: September



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

Police Review Board Case Outcomes and Stipulated Discipline Publication: September 2021

Police Review Board Deadly Force

Board or Finding Date: 9/9/2020 Case # 2019-B-0069

Final Decision All actions found In-Policy Decision made by: Chief Lovell and Mayor Wheeler

Discipline Guide Category: -

Recommendation 1 Status: None.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N/A.

Police Review Board Performance or Conduct

Board or Finding Date: 9/16/2020 Case # 2020-B-0033

PRB Cat B Third violation in two years

Final Decision One Workday SWOP Decision made by: Chief Lovell

Discipline Guide Category: B (Presumptive)

Recommendation 1 Status: None.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N/A.

Police Review Board Performance or Conduct

Board or Finding Date: 10/7/2020 Case # 2019-C-0278

Final Decision Two Workday SWOP Decision made by: Chief Lovell

Discipline Guide Category: C (Aggravated)

Recommendation 1 Status: Accepted.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N/A.

Police Review Board Case Outcomes and Stipulated Discipline

Publication: September 2021

Police Review Board Deadly Force

Board or Finding Date: 2/11/2021 Case # 2020-B-0039

Final Decision All actions found In-Policy Decision made by: Chief Lovell and Mayor Wheeler

Discipline Guide Category: -

Recommendation 1 Status: Accepted.

Recommendation 2 Status: Accepted.

Recommendation 3 Status: N/A.

Police Review Board Force

Board or Finding Date: 2/17/2021 Case # 2020-C-0229

Final Decision LOR Decision made by: Chief Lovell

Discipline Guide Category: C (Mitigated)

Recommendation 1 Status: Accepted.

Recommendation 2 Status: Accepted.

Recommendation 3 Status: Accepted.

Police Review Board Force

Board or Finding Date: 2/24/2021 Case # 2020-C-0210

Final Decision None (Exonerated) Decision made by: Deputy Chief Davis

Discipline Guide Category: -

Recommendation 1 Status: Accepted. Requires Council action.

Recommendation 2 Status: A. Accepted. B. and C. Already a matter of practice.

Recommendation 3 Status:

Police Review Board Case Outcomes and Stipulated Discipline

Publication: September 2021

Stipulated Discipline

Board or Finding Date: 2/25/2021 Case # 2020-B-0060

Final Decision One Workday SWOP Decision made by: Chief Lovell and Mayor Wheeler

Discipline Guide Category: C (Presumptive) Violation: Disobeyed a direct order to leave a location.

Recommendation 1 Status: N/A.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N/A.

Police Review Board Performance or Conduct

Board or Finding Date: 3/31/2021 Case # 2019-B-0074

Final Decision None Decision made by:

Discipline Guide Category: -

Recommendation 1 Status: Declined. Investigators receive training in interviewing, and a member's union representative/advocate/attorney always has the ability to ask for a break during the interview. There is no set of procedures that can be developed to guarantee that, in all cases, an interaction between two people on a difficult topic will not become strained.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N/A.

Police Review Board Performance or Conduct

Board or Finding Date: 4/7/2021 Case # 2020-B-0056

Allegation 1 found Not Sustained with a Debriefing, and Allegation 2 found Not Sustained.

Final Decision None Decision made by: Deputy Chief Davis

Discipline Guide Category: -

Recommendation 1 Status: Accepted.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N/A.

Police Review Board Case Outcomes and Stipulated Discipline Publication: September 2021

Police Review Board Performance or Conduct

Board or Finding Date: 5/5/2021 Case # 2021-B-0004

Final Decision CC Decision made by: Deputy Chief Davis

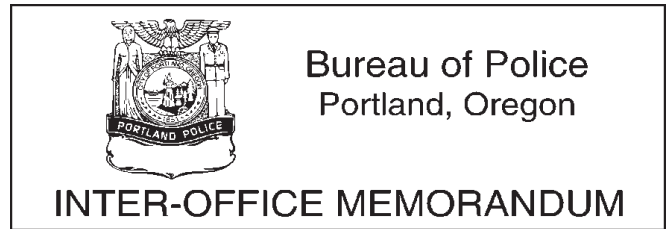
Discipline Guide Category: A (Presumptive)

Recommendation 1 Status: None.

Recommendation 2 Status: N/A.

Recommendation 3 Status: N.A.

DATE: September 15, 2020
TO: Christopher Paillé
Review Board Coordinator
FROM: Tracy M. Smith, Inhance LLC
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on September 9, 2020, to review the following case:

IA Case Number: **2019-B-0069**

Employees: Employee 1
Employee 2
Employee 3
Employee 4

Incident Summary:

Administrative investigation into the circumstance surrounding the employee involved shooting at SE 103rd Avenue and SE Stark Street on December 8, 2019.

Mandatory administrative review required under City Code 3.20.140(B)(1)(c)(1).

Area of review #1: The Application of Deadly Force. (FORCE)

Recommended Finding: **Employee 1 – In Policy - Seven Members**

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

Majority Opinion:

Seven members recommended a finding of In Policy on the Application of Deadly Force. The deadly force used by Employee 1 was reasonable and justified when applied to Directive 1010.00, in relevant part, Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs. It was reported Person 1 acted aggressively and erratically while holding a six-inch knife in each hand and did not comply with employees' commands. It was also reported Person 1 confronted people in vehicles with the knives and approached a driver while they were in the drive-thru at Starbucks.

The Portland Police Bureau (Bureau) De-escalation procedure, 1.1., Members shall use disengagement and de-escalation techniques, when time and circumstances reasonably permit, and Members shall take proactive steps to eliminate the immediacy of the threat, establish control and minimize the need for force. De-escalation procedure, 1.1.1., De-escalation techniques include, in part, 1) using verbal techniques to calm an agitated subject and promote rational

decision making; 2) allowing the subject appropriate time to respond to direction. Employees described Person 1 as angry, animated, agitated, and behaving erratically. Their behavior remained the same throughout this incident. Communicating with them and the presence of employees was ineffective. Also, the warning of being shot was ineffective. Employees used de-escalation techniques in an attempt to reduce the necessity of force to resolve the confrontation with Person 1. They gave Person 1 space, spoke to them calmly, and gave them enough time to process that information. These de-escalation techniques were unsuccessful.

Directive 315.30, in relevant parts, 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. Procedure 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. Person 1 was acting aggressively and erratically. The de-escalation techniques were unsuccessful. Employee 1 made the decision to use deadly force to protect themselves, employees, and others in the area.

Minority Opinion:
None.

Area of review #2: The Application of Less Lethal Force. (FORCE)

Recommended Finding: **Employee 2 – In Policy - Six Members
In Policy with a Debrief – One Member**

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

Majority Opinion:

Six members recommended a finding of In Policy on the Application of Less Lethal Force. The less lethal force used by Employee 2 was reasonable and justified when applied to Directive 1010.00, in relevant part, Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs.

Directive 1010.00, 6. Less Lethal Force, 6.1., Less lethal force provides members with additional tactics or options for managing encounters with threatening or actively resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury.

Person 1 brandished knives at passing cars and walked around a heavily populated sidewalk, as they clenched six-inch knives in each hand. As employees arrived on the scene, Person 1 began approaching them with aggression and agitation, while holding the knives up. Person 1 refused to comply with commands to stop and

drop the knives, resulting in Employee 2 firing one less lethal round at Person 1. Although a higher level of force was authorized under the circumstances, Employee 2 used a less lethal option than the maximum allowed by the constitutional standard. Employee 2 exercised sound judgment using less lethal force given they only had time to use one less lethal round with the tool they had in their hand.

Directive 315.30, in relevant parts, 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. Procedure 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.

The force used by Employee 2 was reasonable and justified when applied to Directive 1010.00, 5. Graham Standard: Force Performance Requirements, in relevant parts, 5.1. To comply with this Directive and satisfy the constitutional standard, members shall only use force that is objectively reasonable under the totality of circumstances. When determining to use any force, members must balance the individual's Fourth Amendment rights against the government's interest. Members shall at least consider the following three criteria in making a decision to use force: 5.1.1. Threat, 5.1.2. Severity, and 5.1.3. Active Resistance or Evading. Employee 2 only had time for firing one less lethal round which was the tool they had in their hand. It was the appropriate tool to use although a higher level of force was authorized under the circumstances. They used sound judgment in using the tool to stop Person 1. Based on the above reasons, Employee 2 followed the policy as stated in directive 315.30 Satisfactory Performance.

Minority Opinion:

One member agreed with the Majority Opinion but recommended a debrief. This member believed the use of less lethal force was appropriate when an individual with mental health concerns was approaching someone with weapons. However, it was important to yell out, for example, "bean bag." This would not take a lot of time and it may prevent less lethal and deadly force being used at the same time.

Area of review #3: Post Shooting Procedures. (PROCEDURE)

Recommended Finding: Employee 3 - In Policy - Seven Members

**Applicable Directives: 1010.10 - Deadly Force and In-Custody Death Reporting and Investigation Procedures
630.50 – Emergency Medical Aid
640.10 – Crime Scene Procedures
315.30 – Satisfactory Performance**

Majority Opinion:

Seven members recommended a finding of In Policy related to Post Shooting Procedures. Directive 1010.10 Deadly Force and In-Custody Death Reporting and Investigation Procedures, 2.1.3. On-Scene Supervisor, 2.1.3.1., After complying with scene security and first aid provisions as found within Directive 640.10, Crime Scene Procedures, the on-scene supervisor shall complete 2.1.3.1.1. Locate and separate all witnesses and involved members. Employee 3 responded to the scene after shots were fired. They managed the inner perimeter with Employee 4. Subsequently, Employee 3 handled the outer perimeter after Employee 4 took over as the Incident Commander (IC).

Directive 630.50 Emergency Medical Aid, states in relevant part Members will provide emergency medical aid to ill or injured persons under the following conditions: c. Primary police duties have been accomplished, 1. Any immediate danger has been neutralized, and 3. Any required emergency assistance has been requested by telephone or radio, at the earliest time feasible. Employee 3 checked on Person 1's condition when they arrived on the scene.

Directive 640.10 Crime Scene Procedures states, in relevant part, the first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times a specific member will be in charge. Directive 640.10 also states, in relevant part, c. Protect human life and property, and render aid, d. Protect the crime scene by ensuring items within the scene are not disturbed, and e. Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement. Employee 3 identified witness employees and preserved evidence. They directed that crime scene tape be put up. They assigned employees to locate witnesses, bullet strikes, casings, and other items of evidence, including video. They instructed employees to start a crime scene log, separated witness employees, and ensured the entrance/exit into and out of the shooting scene. Employee 3 ensured they had enough resources to properly handle the scene satisfactorily and efficiently, which supported the goals and objectives of Directive 640.10.

Directive 315.30, in relevant parts, 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. Procedure 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. Employee 3 followed the post-shooting procedures, the deadly force, and in-custody death reporting and investigation procedures, crime scene procedures, and the emergency medical aid directive.

Minority Opinion:

None.

Recommended Finding: **Employee 4 - In Policy - Seven Members**

Applicable Directives: **1010.10 - Deadly Force and In-Custody Death Reporting and Investigation Procedures**
630.50 – Emergency Medical Aid
640.10 – Crime Scene Procedures
315.30 – Satisfactory Performance

Majority Opinion:

Seven members recommended a finding of In Policy related to Post Shooting Procedures. Directive 1010.10 Deadly Force and In-Custody Death Reporting and Investigation Procedures, 2.1.3. On-Scene Supervisor, 2.1.3.1., After complying with scene security and first aid provisions as found within Directive 640.10, Crime Scene Procedures, the on-scene supervisor shall complete 2.1.3.1.1. Locate and separate all witnesses and involved members; 2.1.3.1.3. The supervisor shall obtain from witness members and other sources the public safety information in Section 2.1.1.2. Section 2.1.1.2. states If directed by the on-scene supervisor, the involved member(s) shall provide a Public Safety Statement. Employee 4 took over as IC when they arrived on the scene. They ordered Employee 2 to give a public safety statement and documented the answers they gave. They made all the notifications as outlined by Directive 1010.10.

Directive 630.50 Emergency Medical Aid, states in relevant part Members will provide emergency medical aid to ill or injured persons under the following conditions: c. Primary police duties have been accomplished, 1. Any immediate danger has been neutralized, and 3. Any required emergency assistance has been requested by telephone or radio, at the earliest time feasible. Employee 4 ensured medical aid was given to Person 1 when they arrived on the scene.

Directive 640.10 Crime Scene Procedures states, in relevant part, the first member arriving at the scene of a crime will be in charge until the member receiving the call arrives, until relieved by his/her supervisor, or until the Detective Division sergeant arrives and officially announces he/she is taking charge. At all times a specific member will be in charge. Directive 640.10 also states, in relevant part, c. Protect human life and property, and render aid, d. Protect the crime scene by ensuring items within the scene are not disturbed, and e. Identify and isolate witness(es) with particular attention to information that witnesses may overhear from police members or the police radio. Obtain names and addresses of witnesses and an initial statement. Employee 4 took over as IC when they arrived on the scene. They identified witness members and separated them, and ensured they had enough resources to properly handle the scene satisfactorily and efficiently per Directive 640.10.

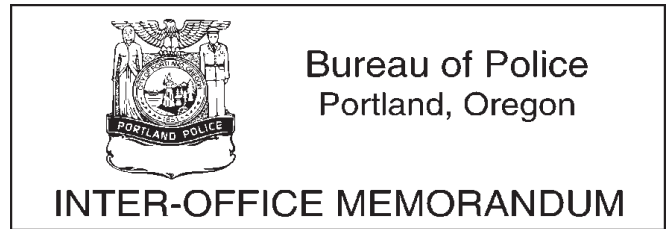
Directive 315.30, in relevant parts, Procedure, 1. Member Responsibilities, 1.1., Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions. Procedure 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. Employee 4 followed the post-shooting procedures, the deadly force, and in-custody death reporting and investigation procedures, crime scene procedures, and the emergency medical aid directive.

Minority Opinion:
None.

Recommendations: None.

DATE: September 24, 2020
TO: Christopher Paillé
Review Board Coordinator
FROM: Tracy M. Smith, Inhance LLC
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, September 16, 2020, to review the following case:

IA Case Number: **2020-B-0033**

Employee: **Employee 1**

Summary of Alleged Complaint:

Employee 1 saw a vehicle leave the parking lot of a motel. Employee 1 developed probable cause to stop the vehicle. Before activating their overhead lights, the vehicle drove off at a high rate of speed. While attempting to locate the vehicle, Employee 1 collided with the patrol vehicle driven by Employee 2, who was assisting with the area check. The GPS data showed Employee 1 was traveling at a high rate of speed prior to the collision.

Case referred to the Police Review Board by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Allegation 1: Employee 1 failed to announce over the radio that they were in pursuit of a vehicle. (PROCEDURE)

Recommended Finding: **Not Sustained – Five Members**

Applicable Directive: **630.05 – Vehicle Intervention and Pursuits**

Majority Opinion:

Five members recommended a finding of Not Sustained on Allegation #1, Employee 1 failed to announce over the radio they were in pursuit of a vehicle. Employee 1 did not intend to engage in a vehicle pursuit. They originally intended to make a traffic stop when they were working the night shift, looking for people violating the law, in a high drug and stolen vehicle area.

Directive 630.05 defines Pursuit as An active, deliberate attempt by one or more members to apprehend one or more occupants of another moving vehicle, when it is reasonably apparent that the driver of that vehicle is aware of that attempt and is resisting apprehension by increasing speed, disobeying traffic laws, or attempting to elude the officer through evasive maneuvers or tactics. Based on the definition of Pursuit in Directive 630.05, Employee 1 was not in pursuit of the vehicle. At the beginning of the incident and before deploying spike strips, they requested additional units and air support. Their intent was not to pursue the car.

Throughout Employee 1's years of employment with the Police Bureau (Bureau) they were trained, before making a traffic stop, to close the distance on a vehicle

before turning the lights on and asking the vehicle to yield. Employee 1 realized the car was traveling at a high rate of speed when sparks flew from the car. One member stated the active attempt, based on the definition of Pursuit in Directive 630.05, referred to Employee 1's driving behaviors. This would have involved increasing speeds, following and turning with the vehicle to keep up with it—anything other than normal driving behaviors, radio transmissions, and asking for cover and other units to aid them. The deliberate attempt to pursue the vehicle would have been to activate the overhead lights and siren in continuing to follow the vehicle.

Minority Opinion:
None.

Allegation 2: Employee 1 drove without due regard while attempting to catch up to a vehicle and caused a collision. (CONDUCT)

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **630.10 – Driving Responses**
315.30 – Satisfactory Performance
317.40 – Authorized Use of Resources

Majority Opinion:

Five members recommended a finding of Sustained on Allegation #2, Employee 1 drove without due regard while attempting to catch up to a vehicle and caused a collision. Directive 630.10, states in relevant part, 1.2.1., Do not relieve the member driving an emergency vehicle from the duty to drive with due regard for the safety of all other persons. Directive 317.40 states, in relevant part, Procedure 1.2., Vehicles, 1.2.1., Members shall exercise due regard for the safety of all persons at all times while operating any City vehicle. Failure to do so may result in discipline. Vehicles 1.2.2., Members shall not intentionally, recklessly, or negligently damage or destroy vehicles while on or off duty. Damages incurred to police vehicles while using approved pursuit intervention strategies shall be reviewed pursuant to Directive 630.05, Vehicle Pursuits. Given the circumstances and conditions, nighttime, and driving in a residential area, Employee 1 was driving too fast. The posted speed was 25 mph, but their driving speed at one point during the incident was 88 mph.

Directive 315.30, in relevant parts, 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. Member Responsibilities, 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. Employee 1 was driving fast to set up the spike strips to deter the vehicle. However, their driving speed caused the collision.

Minority Opinion:
None.

Allegation 3: Employee 1 engaged in a prohibited vehicle pursuit. (PROCEDURE)

Recommended Finding: **Not Sustained – Five Members**

Applicable Directive: **630.05 – Vehicle Intervention and Pursuits**

Majority Opinion:

Five members recommended a finding of Not Sustained on Allegation #3, Employee 1 engaged in a prohibited vehicle pursuit. Based on the definition of Pursuit in Directive 630.05, it is defined as An active, deliberate attempt by one or more members to apprehend one or more occupants of another moving vehicle, when it is reasonably apparent that the driver of that vehicle is aware of that attempt and is resisting apprehension by increasing speed, disobeying traffic laws, or attempting to elude the officer through evasive maneuvers or tactics. Based on Allegation #1 and the definition of Pursuit, members determined Employee 1 did not engage in a pursuit. Therefore, Allegation #3 was Not Sustained. It was never Employee 1's intention to engage in a pursuit. They were trying to catch up to the vehicle to initiate a traffic stop. They did not have the time to engage in a pursuit. They never put on their lights and sirens or directly followed the vehicle.

Minority Opinion:
None.

Recommendations: Corrective Actions/Discipline

Two Day Suspension Without Pay – Five Members

Majority Opinion:

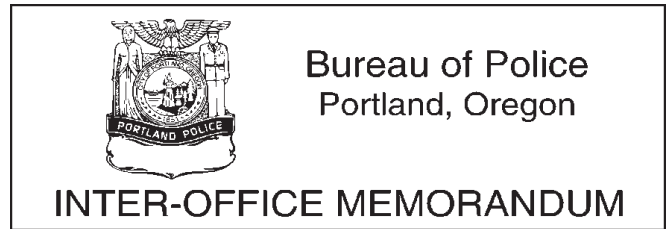
Five members recommended a Sustained finding related to Allegation #2, Category B (Presumptive, 3rd violation in two years). One member stated Employee 1 had been with the Bureau for several years and there were mitigating factors related to their job performance. During their career at the Bureau, this was their first collision where speed was a factor. Their previous collisions were mostly backing into poles in parking lots. Other than their time as a trainee, they worked the [REDACTED] shifts at the precincts. They were the most active employee at the three precincts. In one year, Employee 1 made several arrests, recovered more firearms, and had more K9 tracks in arrests than other employees in the Bureau. They also had more interactions with people than other employees. During these interactions, they did not have a single complaint related to how they treated people or their use of force. Their tenure in the Bureau and high performance put them in a place to be involved in more collisions.

One member stated it was dangerous for Employee 1 to drive that fast. The incident could have turned out differently. Another member stated that speed in a residential area was an aggravating factor. This could have been “catastrophic” in an area where people and families resided. Another member believed Employee 1's driving record, car collisions, fell under Aggravated discipline, but the

mitigating circumstances resulted in a finding of Presumptive discipline.

Minority Opinion:
None.

DATE: October 13, 2020
TO: Christopher Paillé
Review Board Coordinator
FROM: Tracy M. Smith, Inhance LLC
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, October 7, 2020, to review the following case:

IA Case Number: **2019-C-0278**

Employee: **Employee 1**

Summary of Alleged Complaint:

Internal Affairs received an internal memo describing an interview of Person 1, the acquaintance of Employee 1. The memo contained information related to a verbal disturbance involving Employee 1 while they were in uniform and on-duty.

Case referred to the Police Review Board by the RU manager. IA, IPR, and the branch assistant chief concurred with the recommendation.

Allegations numbered 2, 3, and 6 unfounded and not reviewed by the Police Review Board.

Allegation 1: Employee 1 acted inappropriately when they confronted Employee 2 and Person 1 while on-duty. (CONDUCT)

Recommended Finding: **Sustained – Five Members**

Applicable Directive: **310.00 – Professional Conduct and Courtesy**
315.30 – Satisfactory Performance

Majority Opinion:

Five members recommended a finding of Sustained on Allegation #1, Employee 1 acted inappropriately when they confronted Employee 2 and Person 1 while on-duty. Employee 1's behavior was unprofessional and a violation of Directive 310.00, 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. Employee 1's conduct also violated Directive 315.30, states, in relevant part, 1. Member Responsibilities., 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. Employee 1 demonstrated poor decision-making. They admitted they violated Directives 310.00 and 315.30. Additionally, Employee 1 said they did not have the emotional skills to deal with this situation at the time of its occurrence.

Minority Opinion:

None.

Allegation 4: Employee 1 misused Police Bureau resources when they utilized LEDS and NCIC to make numerous inquiries of Person 1, unrelated to any official activity. (CONDUCT)

Recommended Finding: **Sustained – Five Members**

Applicable Directives: **317.40 – Authorized Use of Bureau Resources**
315.00 – Laws, Rules, and Orders
310.00 – Professional Conduct and Courtesy

Majority Opinion:

Five members recommended a finding of Sustained on Allegation #4, Employee 1 misused Police Bureau resources when they utilized the Law Enforcement Data System (LEDS) and National Crime Information Center (NCIC) to make numerous inquiries of Person 1, unrelated to any official activity. Directive 317.40, states, in relevant part, 1., Resources shall be used for their intended purpose in accordance with the law (e.g., state, local, contracts, licenses, property rights, records, etc.) and approved policy, procedure, or training. Section 2., states, in relevant part, Inappropriate uses of resources include, but are not limited to, facilitating unauthorized access or modification, negligent or purposeful misuse, abuse, breach, damage, destruction, loss, or theft. One member stated the violation of Directive 317.40 resulted in the type of harm that the directive was designed to prevent, and this was most concerning to them. Employee 1 admitted they conducted these queries while on duty and used Bureau resources to conduct the queries. Additionally, Employee 1 said they violated the directives governing this allegation.

Directive 315.00, states, in relevant part, Procedure., 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. Employee 1 violated Directive 315.00 when they conducted these searches using Bureau equipment for personal use.

Directive 310.00, 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. Section 1.2., Members will conduct themselves in a professional manner in the discharge of their duties and in relations with the public. Employee 1 violated this directive when they conducted the searches on Person 1 and committed acts, DMV queries, that would bring reproach on the Bureau. They did not professionally conduct themselves when they utilized Bureau resources to run these queries on a community member of the public.

Minority Opinion:

None.

Allegation 5: Employee 1 misused Police Bureau resources when they accessed and used the Versaterm MDT mapping feature to locate Employee 2 in order to confront

Employee 2 and Person 1 on a matter unrelated to their official duties.
(CONDUCT)

Recommended Finding: **Sustained – Five Members**

Applicable Directive: **317.40 – Authorized Use of Bureau Resources**
315.00 – Laws, Rules, and Orders
310.00 – Professional Conduct and Courtesy

Majority Opinion:

Five members recommended a finding of Sustained on Allegation #5, Employee 1 misused Police Bureau resources when they accessed and used the MDT mapping feature to locate Employee 2 in order to confront Employee 2 and Person 1 on a matter unrelated to their official duties. Directive 317.40, states, in relevant part, 1., Resources shall be used for their intended purpose in accordance with the law (e.g., state, local, contracts, licenses, property rights, records, etc.) and approved policy, procedure, or training. Section 2., states, in relevant part, Inappropriate uses of resources include, but are not limited to, facilitating unauthorized access or modification, negligent or purposeful misuse, abuse, breach, damage, destruction, loss, or theft. One member said it was not against policy for Employee 1 to update their MDT mapping to include a precinct. However, the directive was violated when Employee 1 used the MDT mapping feature to locate Employee 2, who was with Person 1, and engage in a confrontation with them on a matter unrelated to their official duties. Employee 1 admitted they violated directives when they mapped Employee 2.

Directive 315.00, in part, states, Procedure., 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. Employee 1 violated this directive when they mapped Employee 2.

Directive 310.00, in part, states, 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. Section 1.2., Members will conduct themselves in a professional manner in the discharge of their duties and in relations with the public. When Employee 1 updated their coverage area to cover a precinct, they located Employee 2 and Person 1 and confronted them. These actions by Employee 1 would bring reproach on the Bureau. Additionally, Employee 1 did not professionally conduct themselves when they misused Bureau resources to obtain information on a community member of the public, Person 1.

Minority Opinion:

None.

Recommendations: Corrective Actions/Discipline

Two Day Suspension Without Pay – Five Members

Majority Opinion:

Five members recommended a Sustained finding related to Allegations #1, #4, and #5, Category C (Aggravated, 1st violation in three years). One member said Employee 1 did not disclose confidential information, but they accessed and used confidential information. Another member said Employee 1's confrontation with Employee 2 and Person 1 presented a potential risk to public safety. Members said the three allegations were aggravating circumstances.

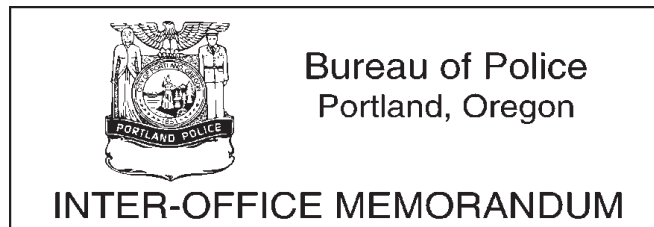
Minority Opinion:

None.

Other Recommendations

As an action item, Employee 3 will have a conversation with Employee 2 to discuss concerns related to Employee 2's interactions with Employee 1.

DATE: Nov. 25, 2020
TO: Christopher Paillé
Review Board Coordinator
FROM: Bridger Wineman
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, November 18, 2020 to review the following case:

IA Case Number: **2020-C-0088**

Employee: **Employee #1**

Summary of Alleged Complaint:

On [REDACTED], 2020, Employee #1 had contact with Person 1.

Person 1 alleged Employee #1 used inappropriate force and inappropriately touched them.

An allegation of inappropriate force (Allegation #2), involving another on-scene officer, was found *Not Sustained* during the initial review process and not subject to review by the Police Review Board. An allegation of inappropriate touching (Allegation #3) was found *Not Sustained* during the initial review process and not subject to review of the Police Review Board.

This case was referred to the Police Review Board as a result of both a recommended controverted finding and an initial PRB referral made by the RU manager. IPR controverted the recommended finding of *Not Sustained* for Allegation 1 to *Sustained*.

Allegation 1: Employee #1 used inappropriate force during contact with Person 1. (FORCE)

Recommended Finding: **Not sustained – Six members
Exonerated – One member**

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

Majority Opinion:

Six board members recommended a finding of not sustained. While video evidence shows force was used in bringing the subject to the ground from their bicycle, the board members did not find a preponderance of evidence that the use of force was inappropriate. One board member noted the subject was reaching into their backpack, which was reason to use force.

Minority Opinion:

One board member recommended a finding of exonerated. The member said while force was used, the preponderance of evidence, including the subject reaching into their backpack, shows the member's conduct was within policy.

Allegation 4: Employee #1 failed to document use of force report and notify a supervisor.
(PROCEDURE)

Recommended Finding: **Sustained – Seven members**

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

Majority Opinion:

The board unanimously recommended a sustained finding. Directive 1010.00 defines a takedown as, "Physical coercion used by a member to affect, direct, or influence a person to go to the ground not under their own control." Directive 1010.00 defines force as, "Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force." Board members said a preponderance of evidence, including the video and credible statement from the subject, show the subject was removed from their bicycle not of their own accord. Members said this evidence shows force was used, but the officer did not file a report as required under the directive.

Minority Opinion:

N/A

Recommendations: Corrective Actions/Discipline

Majority Opinion:

The board unanimously recommended corrective action of a letter of reprimand.

Six members recommended category A on the discipline guide for conduct that has a minimal negative impact on operations or professional image of PPB, which includes failure to write a report as a noted example. Members recommended the letter of reprimand because they felt the actions were aggravated due to the importance of the Use of Force directive and the member's failure to recognize their actions as a use of force.

One member recommended category B on the discipline guide for conduct that has a negative impact on operations or professional image of the PPB, or that negatively impacts relationships with other officers, agencies or the public. The member recommended the presumptive discipline of a letter of reprimand.

Letter of reprimand – Seven members

Minority Opinion:

N/A

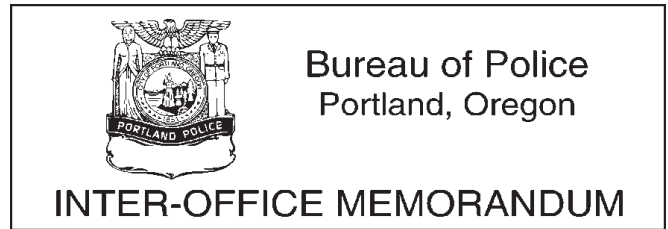
Additional Corrective Action Recommended

N/A

Other Recommendations

No other recommendations.

DATE: December 16, 2020
TO: Christopher Paille
Police Review Board Coordinator
FROM: Adrienne DeDona
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, December 9, 2020 to review the following case:

IA Case Number: **2020-C-0150**

Employee: **Employee 1**

Summary of Alleged Complaint:

During a protest on June 8, 2020, a mobile field force (MMF) attempted to take two individuals into custody. The subjects fled toward the area of the protest surrounding the justice center where the crowd was actively working at harming officers. Employee 1 fired a less lethal launcher at one of the subjects. It was unknown if the subject was struck and the subject was never identified.

The case was referred to the Police Review Board as a result of a controverted finding. The branch assistant chief controverted the recommended finding of *Not Sustained* to *Sustained*. IPR agreed with the controverted finding recommendation.

Allegation 1: Employee 1 used a less lethal launcher on a subject who was not engaging in active aggression. (FORCE)

Recommended Finding: **Not sustained with debrief – 4
Sustained – 3**

Applicable Directive: **1010.00 – Use of Force
635.10 – Crowd Management/Crowd Control**

Majority Opinion:

The majority of the Board believed Employee 1 used an appropriate use of force under the circumstances and found the allegation not sustained. Their rationale was that, considering it was an unprecedented time in Portland with ongoing unrest and attempts to harm police officers, and that officers were being called to contain criminal acts while trying to keep the public and other police officers safe, Employee 1's reasons for using a less lethal launcher on a subject were justified. It was the 11th night of protests in downtown Portland and a large group had been deemed an unlawful assembly and had been dispersed from the center of the violence at the Justice Center by a Mobile Field Force (MMF) unit.

The two suspects were instructed by the MMF sound truck to clear the area to the west, but instead they chose to walk, and then run, eastward, in the direction of the Justice Center. The majority of the Board believed the subjects intended to engage

in active aggression and that the events of the night qualified as a riot, even though it was not officially labeled such on that night.

The majority of the Board believed Employee 1 fired the less lethal launcher at one of the subjects to prevent them from potentially engaging in a more violent situation, and it was justified in directive 1010.00, use of force, prong 6.4.2.1.3. One board member stated, when applying the Graham Standard, the totality of circumstances showed that the subjects planned to engage in aggressive action. The board member believed the intended aggressive action presented an immediate risk of physical injury, which was justified by prong 6.4.2.1.4, which states an officer may use impact munitions to prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves.

Based on the direction in which the subjects were running, the majority of the Board believed the subjects intended to cause harm to the public or other officers. One board member said, according to the interview notes, Employee 1's interpretation of the scene was that the subjects intended to cause harm to police officers. One board member said the act of running towards the riot scene, rather than away from the enclosed area, clearly showed the subjects' intent to engage in aggression. Two members said the use of force was justified because the suspects did not comply with the order to disperse. The majority of the Board agreed Employee 1 made a reasonable decision during rapidly-changing circumstances that night.

Minority Opinion:

Three board members agreed with the controverted findings and believed that the allegation was sustained. The three board members believed that firing a less lethal launcher was preemptive in nature and not justified under the circumstances because the subjects were unarmed, running away and not posing a direct threat or directly engaged in violence. One member said that the subjects were a half mile from the Justice Center so it was not possible to know with certainty that they were heading to the Justice Center, even if they were heading in that general direction. One board member believed Employee 1 was reacting to the subjects' noncompliance and showing them, by force, that they were heading in the wrong direction. This board member did not believe the subjects posed an immediate danger because they were running away. One board member stated that Employee 1 did not seem to understand that all force must be justified under directive 1010.00.

Recommendations:

Corrective Actions/Discipline

The three board members who recommended a sustained finding felt the officer's misconduct was best described by Category B. Based on the facts presented, the members believed the officer's conduct may have a negative impact on operations or the professional image of PPB.

Command Counseling – 2 members

Two board members agreed that the appropriate corrective action was Command Counseling (CC). Both board members felt that although it was the officer's second violation in two years, the previous violation was not relevant to this incident. Both members felt the violation was mitigated based on the unprecedented circumstances of ongoing nightly protests downtown and therefore concluded that CC was most appropriate.

Letter of Reprimand – 1 member

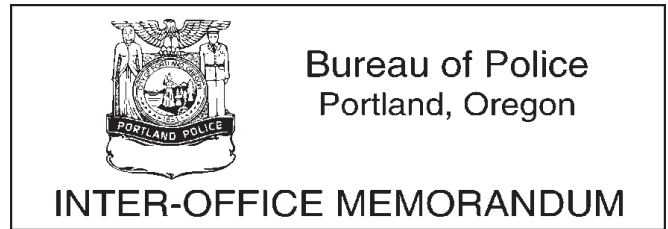
One member reasoned that the most appropriate corrective action was a Letter of Reprimand (LOR). In this board member's opinion, there was one mitigating factor (the unprecedented circumstances of ongoing nightly protests downtown) and one aggravating factor (the fact that the officer had a previous directive 1010.00, use of force, procedural violation in 2019). These therefore cancelled each other out, so the member concluded that the presumptive level, or LOR, was most appropriate.

Other Recommendations

Training

Three board members recommended that the Training Division clarify when using a less lethal launcher is permitted. They believed there was inconsistency between the Training Division and the Chief's office on when using this type of force is allowed.

DATE: January 27, 2021
TO: Christopher Paillé
Review Board Coordinator
FROM: Bridger Wineman
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, January 20, 2021 to review the following case:

IA Case Number: **2020-B-0044**

Employee: **Employee #1**

Summary of Alleged Complaint:

Employee #1 made inappropriate remarks about gender and the transgender community.

Case referred to the Police Review Board by the RU manager. IPR, IA, and the branch assistant chief concurred with the recommendation.

Allegation 2 was found *Not Sustained with a Debriefing* by the RU manager. IPR, IA, and the branch assistant chief concurred with the finding. Allegation 2 not subject to review by the Police Review Board.

Allegation 1: Employee #1 made inappropriate comments about members of the transgender community. (CONDUCT)

Recommended Finding: **Sustained – Five members**

Applicable Directive: **310.20 – Discrimination, Harassment, and Retaliation Prohibited**

Majority Opinion:

The board unanimously recommended a sustained finding. The board members agreed Employee #1's comment referring to a transgender community member was derogatory and in violation of the directive which prohibits harassment, including the use of epithets or slurs. The board members said that there is a preponderance of evidence that Employee #1 made the comment.

One board member said the term used by Employee #1 is not normally used to refer to people. Another member said Employee #1's statement made the other employees uncomfortable enough that they complained about Employee #1's behavior.

Two board members said the impact of the language used was derogatory and in violation of the directive, regardless of Employee #1's intent.

Minority Opinion:

N/A

Allegation 3: Employee #1 made unprofessional comments to newly hired officers.
(CONDUCT)

Recommended Finding: **Sustained – Five members**

Applicable Directive: **310.00 – Professional Conduct and Courtesy**

Majority Opinion:

The board unanimously recommended a sustained finding. Board members said the impact of Employee #1's interactions with new employees, when considered as a whole, went against reasonable standards of professional conduct required by the directive. Examples cited by members of the board included Employee #1 giving the impression Employee #1 was gaming the system for Employee #1's own financial benefit and emphasizing Employee #1's high earnings at a time when new hires would be the first laid off due to budget cuts.

Minority Opinion:

N/A

Recommendations:

Corrective Actions/Discipline

Majority Opinion:

One week SWOP – Five members

The board unanimously recommended corrective action of one week suspension without pay.

All five board members recommended category C on the discipline guide for behavior that has or may have a pronounced negative impact. They said the witness statements from new employees clearly show there was an impact from Employee #1's unprofessional behavior.

The board members also agreed the actions represented a second violation for similar behavior within three years. They said Employee #1's violations are aggravated because Employee #1 should have known better based on Employee #1's long tenure in law enforcement and familiarity with the disciplinary process.

Minority Opinion:

N/A

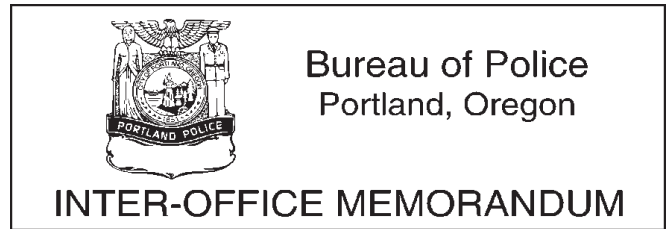
Additional Corrective Action Recommended

The board recommended additional, direct and specific training for Employee #1 from the Portland Bureau of Human Resources, the Office of Equity and Human Rights, and/or the Police Bureau Equity and Inclusion Manager. The training should cover why Employee #1's actions were inappropriate to help ensure the behavior does not continue.

Other Recommendations

No other recommendations.

DATE: February 18, 2021
TO: Christopher Paillé
Review Board Coordinator
FROM: Bridger Wineman
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on February 11, 2021 to review the following case:

IA Case Number: **2020-B-0039**

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

Incident Summary:

Administrative investigation into the circumstances surrounding the officer involved shooting at 7916 SE 6th Avenue on June 28, 2020.

Mandatory administrative review required under City Code 3.20.140(B)(1)(c)(1).

Area of review #1: The Application of Deadly Force. (FORCE)

Employee: **Employee #1**
Recommended Finding: **In policy – Six members**
Applicable Directives: **1010.00 – Use of Force**
315.30 – Satisfactory Performance

Majority Opinion:

The board unanimously recommended a finding of in policy based on the totality of evidence. Board members said Employee #1 acted as trained. Board members agreed the subject presented a clear threat by pointing what appeared to be a gun at Employee #1. Employee #1's actions were within policy that authorizes use of deadly force to protect one's self and others from the threat of death or serious injury.

Minority Opinion:

N/A

Area of review #2: Post Shooting Procedures (PROCEDURE)

Employee: **Employee #2**
Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
 630.50 – Emergency Medical Aid
 640.10 – Crime Scene Investigations
 315.30 – Satisfactory Performance

Majority Opinion:

The board unanimously recommended a finding of in policy. Board members agreed Employee #2 followed the directives regarding post shooting procedures.

Minority Opinion:

N/A

Employee: **Employee #3**

Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
 630.50 – Emergency Medical Aid
 640.10 – Crime Scene Investigations
 315.30 – Satisfactory Performance

Majority Opinion:

The board unanimously recommended a finding of in policy. Board members agreed Employee #3 followed the directives regarding post shooting procedures.

Minority Opinion:

N/A

Employee: **Employee #4**

Recommended Finding: **In policy – Six members**

Applicable Directives: **1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures**
 630.50 – Emergency Medical Aid
 640.10 – Crime Scene Investigations
 315.30 – Satisfactory Performance

Majority Opinion:

The board unanimously recommended a finding of in policy. Board members agreed Employee #4 followed the directives regarding post shooting procedures.

Minority Opinion:

N/A

Area of review #3: Operational Planning and Supervision (PROCEDURE)

Employee: **Employee #3**

Recommended Finding: **In policy – Six members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:

The board unanimously recommended a finding of in policy. Board members agreed Employee #3 followed the directives regarding operational planning and supervision. One member said Employee #3 did an excellent job in a high-pressure situation. Employee #3 activated SERT immediately, separated Employee #1 as required, and made the decision to keep Employee #5 involved, which was well considered.

Minority Opinion:

N/A

Employee: **Employee #4**

Recommended Finding: **In policy – Six members**

Applicable Directive: **315.30 – Satisfactory Performance**

Majority Opinion:

The board unanimously recommended a finding of in policy. Board members agreed Employee #4 followed the directives regarding operational planning and supervision.

Minority Opinion:

N/A

Recommendations:

Corrective Actions/Discipline

N/A

Other Recommendations

Recommendation #1: The board recommended a debrief conversation is held with Employee #2, Employee #3 and Employee #4 to discuss with them the new single step notification system which is currently being developed by the Bureau and to ensure they are prepared to follow the current notification protocol until the new system is fully in place.

Vote: All concur

Recommendation #2: The board recommended the bureau further pursue and adopt the detailed recommendations presented by the Training Division based on

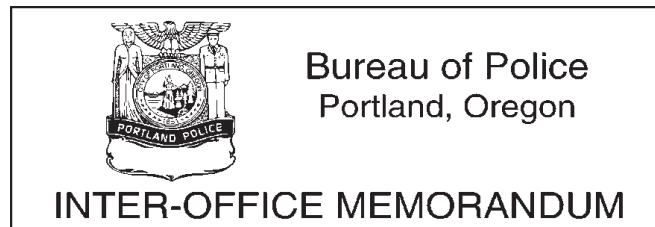
this case and past use of deadly force reviews which were presented to the PRB, including:

- Resolving policy to establish a functional drone program
- Developing the single point-of-contact notification system
- Providing trainings on techniques appropriate for available staffing
- Provide training focused on development and leadership for acting sergeants and lieutenants

Vote: All concur

No other recommendations.

DATE: March 3, 2021
TO: Christopher Paille
Police Review Board Coordinator
FROM: Jeanne Lawson
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, February 17, 2021, to review the following case:

IA Case Number: **2020-C-0229**

Employee: **Employee 1**

Summary of Alleged Complaint:

On August 9th and 10th, 2020, Rapid Response Team (RRT) squads responded to volatile protests in the area surrounding the Portland Police Association (PPA) office. During the response, Employee 1 deployed a less lethal FN-303 round, which struck an unintended subject.

The case was referred to the Police Review Board by IPR as a result of a controverted finding. The RU manager recommended a finding of *Not Sustained with a Debriefing*. The branch assistant chief and Internal Affairs agreed with the recommended finding of *Not Sustained with a Debriefing*. IPR controverted the finding of *Not Sustained with a Debriefing* and recommended a finding of *Sustained*.

This case was sent back for additional review prior to the convening of the Police Review Board. At the conclusion of the additional review, the RU manager recommended a finding of *Not Sustained with a Debriefing*. The acting branch assistant chief controverted the recommended finding and recommended a finding of *Exonerated with a Debriefing*. Internal Affairs agreed with the recommended finding of *Not Sustained with a Debriefing*. IPR controverted the finding of *Not Sustained with a Debriefing* and recommended a finding of *Sustained*. The case was referred to the Police Review Board as a result of the controverted findings recommended by IPR and the acting branch assistant chief.

Allegation 1: Employee 1 used a less lethal launcher and struck an unintended subject.
(FORCE)

Recommended Finding: **Exonerated with debriefing -- 4**
Not Sustained with debriefing -- 1
Sustained -- 2

Applicable Directive: **1010.00 – Use of Force**
635.10 – Crowd Management/Crowd Control

Majority Opinion:

Four members of the Board believed that Employee 1's conduct was lawful and within policy. They each noted that they believed Employee 1's actions were reasonable and appropriate.

A board member stated the allegation was not accurately written, that it should have begun with the officer's intended action, noting that in the course of that action the unintended individual was struck. With this approach, the Graham Standard would apply. Their rationale was that the wording of the allegation was misrepresentative and led one to conclude that Employee 1 struck an unintended subject but neglected to consider whether the officer's actions were reasonable based on the circumstances.

The majority of the board believed that Employee 1's action of firing the less lethal round was objectively reasonable and within policy based on Section 5 of Directive 1010.00 (Use of Force) and that Employee 1's actions were not out of policy under Section 4 of the Prohibited Use of Force of Directive 1010.00 because the officer did not intend to strike the individual. They reasoned that Employee 1 used an appropriate use of force during the civil disturbance that night to deploy a less lethal shot at an aggressive subject, who posed a threat by putting the police and community at risk by throwing eggs at officers. They believed Employee 1 appropriately reasoned that raw eggs could virtually blind officers if the eggs hit their face masks and that frozen eggs could inflict more serious damage. They believed Employee 1 made a sound decision to deploy the FN-303 round at the subject because the crowd was static, and Employee 1's lane of fire was clear until a bystander's arm unexpectedly moved into the lane of fire. They believed a preponderance of evidence showed that Employee 1 was justified in Employee 1's use of force and did not purposefully strike the unintended subject; Employee 1's conduct was within policy.

Minority Opinions:

One board member believed the allegation should not be sustained because the actions of Employee 1 were reasonable according to the Graham Standard, based on the officer's report of the incident, and that the officer had not intended to use force on the innocent individual. This member felt the evidence was insufficient to prove a violation of policy or procedure.

Two board members agreed with the controverted findings and believed the allegation should be sustained. One member stated that the allegation was written correctly because, intentional or not, it struck an individual whom the board member believed was engaged in passive resistance and did not pose a threat. The board member noted that Section 4 of Directive 1010.00 did not include qualifying language to accept force on unintended individuals under any circumstance. The member also cited Section 6 on Impact Munitions of Directive 1010.00, noting that it directs officers to aim for specific target areas

of the body. The member reasoned that if officers were directed to be that specific, striking an unintended individual would not be acceptable. They noted that deployment of less lethal force is currently an important issue and that the Bureau has received many complaints about officers using less lethal weapons and tear gas on innocent people during protests. This board member believed the Bureau should not relax its standards on what is considered an acceptable use of force during crowd control situations and reasoned that if an officer hits the wrong person, then they have violated the use of force directive. One board member believed it was important to keep in mind that a less lethal launcher is nonetheless a weapon and should be treated as such. This board member wondered how officers are trained to view the deployment of less lethal force and noted that Employee 1 had adjusted Employee 1's position and aim after the first shot and wondered whether Employee 1 could have avoided the unintended individual if Employee 1 had done so before the first shot. Both members agreed that the allegation was sustained because Employee 1 struck an unintended subject with a less lethal round.

Recommendations:

Corrective Actions/Discipline

LOR – 2 members

The two board members who sustained the allegation agreed that the appropriate corrective action was a Letter of Reprimand (LOR). They reasoned that it was a Category C violation because the officer's conduct involved a risk to safety that could have a pronounced negative impact on the professional image of the department and on relationships with the public. One member believed the conduct also involved a risk to public safety. It was the first violation and they believed it was at the mitigated level because the officer was honest and detailed in self reporting their use of force on an unintended individual and because Employee 1 had been put in the difficult situation of trying to protect fellow officers as well as manage the safety of the protesters. They also acknowledged the risk of discouraging other officers from being as candid and ethical as Employee 1.

Details of Debriefing (for Exonerated or Not Sustained) – 5 members

One member believed Employee 1's debriefing should include a discussion concerning the need to adjust one's position to improve their shooting lane when deploying an FN-303 in a crowd control situation and a request for Employee 1 to incorporate this experience into Employee 1's FN-303 training classes. Another member suggested the RRT team's leadership engage in a discussion of what the current deployment strategies are for FN-303 deployment and evaluate if the current deployment strategies should be adjusted/modified. Four members believed Employee 1's debriefing should not be used to criticize Employee 1's conduct. One member wanted to encourage Employee 1 to share with Employee 1's peers the value of clear and

honest documentation style. One member thought Employee 1 should be applauded for Employee 1's forthright documentation. Two members thought Employee 1 should reflect on what went well and what did not go well during the incidents of that night.

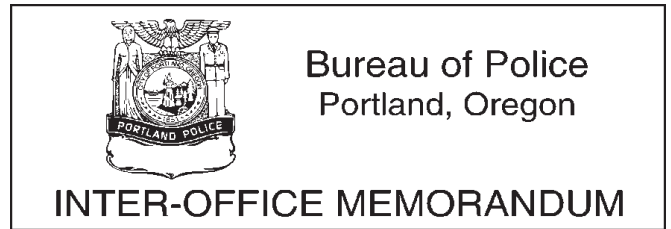
Other Recommendations

Policy

The Board unanimously recommended that the Bureau:

1. Advocate for the approval and purchase of body cameras. Members noted that the Bureau had little information with which to evaluate many use of force incidents during mass protests, including whether it was used by PPB officers or others. Employee 1's transparency provided the Bureau an opportunity to clearly understand this particular use of force incident. Body cameras would allow the Bureau to better understand who uses less lethal weapons in a crowd control situation and why.
2. Reevaluate the current directives to account for mass protest events. All board members agreed that the current policies do not work well in the mass protest context.
3. Initiate a holistic review of the protests from last summer to determine how to ensure accountability of both officers and members of the public.

DATE: March 3, 2021
TO: Christopher Paillé
Review Board Coordinator
FROM: Bridger Wineman
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, February 24, 2021 to review the following case:

IA Case Number: **2020-C-0210**

Employee: **Employee #1**

Summary of Alleged Complaint:

A Use of Force investigation was initiated as a result of a video submitted via social media to the Independent Police Review (IPR) by a member of a protest group.

Case referred to the Police Review Board at the discretion of the branch assistant chief.

Allegation 1: Employee #1 inappropriately deployed OC spray at an unknown individual.
(FORCE)

Recommended Finding: **Exonerated – 5 members**
Not sustained – 1 member

Applicable Directives: **1010.00 – Use of Force**
635.10 – Crowd Management/Crowd Control

Majority Opinion:

Five board members recommended a finding of exonerated. The members said Employee #1's actions in pulling down the subject's gas mask to break its seal and then deploying OC spray were reasonable based on the totality of circumstances. They said the action met the directives based on the threat and active resistance from the subject who was not obeying orders and pushing and grabbing an officer's baton. While the specific circumstances and tactic used are not part of bureau training, the action was reasonable based on the resistance, the ineffectiveness of the OC spray against gas masks, and because it prevented the need for a higher level of force.

One member said Employee #1 took the best possible action by using the lowest level of force available in a very challenging situation.

Another member said their recommended finding of exonerated was based primarily in regard to Directive 635.10 as the key action was pulling down the subject's gas mask rather than simply deploying the OC spray.

Minority Opinion:

One member recommended a finding of not sustained based on the totality of the

evidence. The member said there is not specific training regarding how to treat a gas mask in such a situation, and Employee #1 took reasonable action to make the OC spray effective.

Recommendations:

Corrective Actions/Discipline

N/A

Other Recommendations

Recommendation 1: The Police Review Board supports the procurement and use of body worn cameras.

Vote: all concur

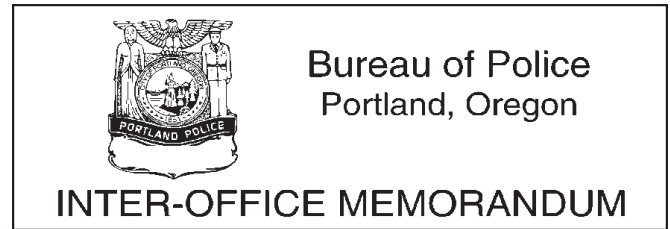
Recommendation 2:

- A. Training Division and RRT address the new protest tactics seen and experienced during the past year to counter the use of laser pointers, gas masks, lit and exploding projectiles, strobe lights, etc., including lessons learned;
- B. Train officers to articulate the reasons for their responses to such tactics;
- C. The Bureau to work on communicating expectations of officers in regard to such tactics.

Vote: all concur

No other recommendations.

DATE: August 4, 2021
TO: Christopher Paille
Police Review Board Coordinator
FROM: Adrienne DeDona
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, March 31, 2021 to review the following case:

IA Case Number: **2019-B-0074**

Employee: **Employee 1**

Two assault incidents occurred in Southeast Portland, Oregon. Person 1 was arrested by patrol officers after the second incident.

The spouse of Employee 1 was identified as one of the victims in one of the incidents. Initial investigations by the arresting officers indicated Person 1 may have committed Measure 11 crimes, including Assault 2, Robbery, and Menacing.

Subsequent investigation by detectives found there was insufficient evidence to charge Person 1 with felony offenses or with Menacing. Person 1 was already on the Behavioral Health Unit's caseload at the time of the incidents.

Detective Division personnel consulted with BHU personnel as they investigated Person 1. BHU staff recommended placing Person 1 on a hold. Detectives determined they would have BHU place Person 1 on a hold and direct present charges against Person 1 at a later date, rather than immediately charging Person 1 with Measure 11 offenses or with misdemeanor offenses.

Employee 1 was aware of the incidents and was said to have disagreed with the decision to place Person 1 on a hold. Employee 1 was said to believe detectives should have immediately charged Person 1 with crimes, including with Menacing related to Person 1's contact with their spouse. A Central Precinct sergeant, acting as a lieutenant at the time, spoke to sergeants in BHU and the Detectives Division, and was said to have indicated Central Precinct personnel were upset with the decision to place Person 1 on a hold. Employee 1's supervisor, Employee 2, contacted Detective Division Employee 3 on the day of the incident, and questioned the decision to place Person 1 on a hold.

Employee 1 was said to have attended Person 1's civil commitment hearing in uniform and made statements critical of the process including the idea that victims' rights were being overlooked. Following the hearing, detectives and BHU personnel notified their supervisors of Employee 1's actions. Employee 3 notified Professional Standards Division Employee 4 of the incident, who in turn notified IPR.

Case referred to the Police Review Board by IPR, who controverted the findings for Allegations 3 and 4 from *Exonerated* and *Not Sustained* respectively, to *Sustained* for both.

Allegations 1, 2, 5, and 6 not subject to review. The finding for these allegations were found *Not Sustained with a Debriefing, Exonerated, Unfounded, and Not Sustained with a Debriefing* respectively.

Allegation 3: Employee 1 made unprofessional statements during a meeting regarding a civil commitment hearing in which they were not an involved member. (CONDUCT)

Recommended Finding: **Exonerated with debrief (3)
Sustained (2)**

Applicable Directive: **310.00 – Professional Conduct and Courtesy**

Majority Opinion:

Three board members agreed that Employee 1 did not violate Directive 310.00 – Professional Conduct and Courtesy during a meeting regarding the upcoming civil commitment hearing. It was noted that this was not the official hearing, but was a premeeting designed to provide the facts of the case to those involved. Board members felt Employee 1 was clear of their intention to attend the meeting to ask questions, and despite being in uniform, Employee 1 had expressed discomfort with wearing the uniform but they were directed to by their commander. Additionally, some board members expressed their belief that Employee 1 attended the meeting to support their spouse which makes sense given the nature of the incident the meeting was about and the knowledge Employee 1 has as a member of law enforcement. One member noted, and others agreed, that none of the involved civilians present complained about Employee 1's behavior at the meeting and did not recall Employee 1 discussing the criminal history of the suspect involved in the case, rather that Employee 1's comments and questions focused mainly on victims' rights. The clinician involved admitted initial defensiveness in relation to Employee 1's comments, but later expressed that they didn't believe that Employee 1 was unprofessional. A board member also clarified that this was a closed meeting and that the DA was explicit in stating that the statements made at the meeting would not sway the final decision.

Debrief Recommended

Three members suggested a debrief accompany their exonerated finding for Allegation 3. These members suggested the debrief include a discussion on how to push back when Employee 1 feels uncomfortable about an order they have received, as well as a how their presence in a uniform should govern their behavior.

Minority Opinion:

Two board members submitted the finding of sustained, noting that an officer should always be aware of their behavior when in uniform and adjust their behavior as needed to meet the professional standards of being in uniform. One board member noted that an order to attend the hearing in uniform did not absolve Employee 1 from behaving professionally. It was also noted that while no civilians present reported Employee 1's behavior as unprofessional, civilians are

not as likely to be aware of the professional standards that come with the uniform. Additionally, one board member said that based on the comments from the civilians, they felt Employee 1's intentions for attending the meeting were clear based on their comments and questions. It was also noted that civilian witnesses are not always reliable and it's important to consider that the officer and clinician at the meeting reported that Employee 1's behavior was unprofessional.

Allegation 4: Employee 1 made untruthful statements when interviewed for an administrative investigation. (CONDUCT)

Recommended Finding: **Not Sustained (3)**
Sustained (2)

Applicable Directive: **310.50 - Truthfulness**

Majority Opinion:

Three board members agreed that the allegation that violated Directive 310.50 – Truthfulness was not sustained. It was noted that the directive includes the qualification that untruthful statements are made knowingly or intentionally, and that given the evidence, Employee 1 did not meet this qualification. Additionally, a board member noted that Employee 1 was recalling an emotional event involving their spouse and therefore their claim that they did not remember statements made should take this into consideration. Another board member mentioned that Employee 1 also expressed their active avoidance of participating in conversations about the case at the precinct.

A board member commented on the fact that the interview about the case was interrupted and held over Zoom which may have had an impact on the consistency of Employee 1's statements. Two members noted that Employee 1's progression of distress regarding the case is understandable given the circumstances and would likely impact Employee 1's ability to recall their statements with accuracy.

In terms of the allegation that Employee 1 used the word "menacing" to describe the suspect involved in the incident with Employee 1's spouse, one board member noted that only one individual recalls Employee 1 using that term, while others that were interviewed do not recall Employee 1 using the word "menacing," rather noting Employee 1 openly saying they did not want to influence the results of the case.

Minority Opinion:

Two members felt that the allegation that Employee 1 violated Directive 310.50 – Truthfulness was sustained. One board member felt that Employee 1's denial was not credible due to a pattern of convenient recollection of events that led them to appear neutral or without fault.

The other board member sustained the allegation and explained that Employee 1 appeared dishonest by omission of facts and materials. This board member also

noted that the term “menacing” is especially concerning given the nature of the term’s use and application in law enforcement, and that multiple sources indicated that Employee 1 used the term.

Recommendations: Corrective Actions/Discipline

Opinion:

Due to the nature of the discussion and facilitation, it was not made explicit by the two board members who recommended sustained findings the corrective action related to their recommended disciplinary category and violation level. Following the Police Review Board, both board members were consulted on the documentation of the discussion and asked to verify. One board member verified the facilitator and notetaker’s understanding of the meeting outcomes. One board member provided a follow up memo to clarify their recommendation which differed from the facilitator and notetaker’s understanding of the meeting outcomes. The summary below is a documentation of the conversation as it was perceived by the notetaker and facilitator during the meeting. *Please see attached memo from the facilitator and attached memo from the board member.*

LOR – One Member

Based on the facts presented, it was the opinion of one board member who recommended sustained findings that Allegation 4 was the most serious and may have a pronounced negative impact on the operations or professional image of the department, or on relationships with other officers, agencies or the public. This board member felt Category C best described Employee 1’s behavior and felt their employee history lacking any disciplinary actions was a mitigating factor.

One Day SWOP – One Member

Based on the facts presented, it was the opinion of one board member that Allegation 4 was the most serious and that Employee 1’s behavior indicated conduct that was intentionally contrary to the values of the PPB policy. This board member felt Category D best described Employee 1’s behavior and expressed that the absence of previous disciplinary actions was a mitigating factor.

Upon inquiry about why both board members deviated from the disciplinary guide which identifies untruthfulness as being an example of a violation under Category F, which would result in a much more serious corrective action, including demotion or termination, both members felt there were mitigating circumstances that constituted such a deviation. Both board members agreed that Employee 1 was put in the position to respond in multiple roles, both personal and professional, and that the difficulty in balancing those roles is a mitigating factor.

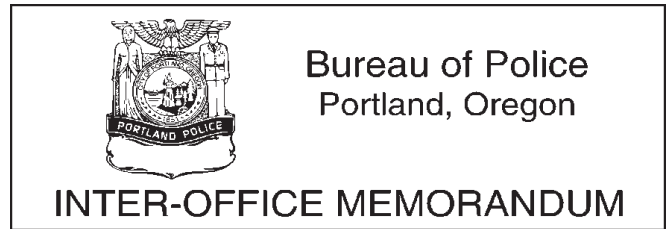
In addition, both board members agreed the personal and emotional circumstances and motivations involved in the situation, were mitigating factors.

Other Recommendations

Procedure

Board members recommended that the procedure for interviewing Bureau employees related to allegations for truthfulness be reevaluated to address the potential for these conversations to deteriorate based upon the tenor and the knowledge that the disciplinary guide calls for demotion or termination when employees are found to be untruthful. At least two members felt that there should be an opportunity to intervene during these conversations and reassess in order to establish a productive interview.

DATE: April 14, 2021
TO: Christopher Paillé
Review Board Coordinator
FROM: Bridger Wineman
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, April 7, 2021 to review the following case:

IA Case Number: **2020-B-0056**

Employee: **Employee #1**

Employee #1 responded to cover on a call of two subjects with warrants. Employee #1 was searching the vehicle and Employee #2 saw Employee #1 pour a bottle of soda on the front passenger seat of the vehicle. Employee #2 said Employee #2 told Employee #1 to stop and clean up the soda.

This case was referred to the PRB as a result of a recommended findings of Sustained for Allegations 1 and 2. Additionally, the branch assistant chief controverted the findings made by the RU manager for Allegations 1 and 2 from *Sustained* to *Not Sustained*.

Allegation 1: Employee #1 intentionally poured soda on the front passenger seat of a subject's vehicle. (CONDUCT)

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

Applicable Directives: **315.30 – Laws, Rules, and Orders
310.00 – Professional Conduct and Courtesy**

Majority Opinion:

Four board members recommended a finding of sustained. The members said the investigation found a preponderance of evidence Employee #1 intentionally poured soda on the seat of a subject's vehicle based on two credible witness statements. The members said Employee #1's explanation that Employee #1 accidentally bobbed the bottle of soda was not believable.

One member said Employee #1's narrative of the situation was shown to be inconsistent with other evidence. The soda bottle does not appear in the cup holder in photos of the scene taken after the incident; where Employee #1 said Employee #1 placed it back in the vehicle.

Minority Opinion:

One member recommended a finding of not sustained. The member said they do not believe the investigation found a preponderance of evidence that Employee #1 intentionally poured soda on the car seat.

Allegation 2: Employee #1 was untruthful during an Internal Affairs interview on 01/01/21.

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

Applicable Directive: **310.50 - Truthfulness**

Majority Opinion:

Four members recommended a finding of sustained. The members said their recommended sustained finding for Allegation #1, that Employee #1 intentionally poured soda on the front passenger seat of a subject's vehicle, paired with Employee #1's later statement in the Internal Affairs investigation that pouring the soda was not intentional, led them to conclude that Employee #1 was untruthful.

Minority Opinion:

One member recommended a finding of not sustained. The member said the investigation did not show that the actions were intentional and therefore also did not show that Employee #1's later statement was untruthful.

Recommendations:

Corrective Actions/Discipline

Majority Opinion:

Termination – Three members

Three board members who recommended the allegations are sustained said Employee #1's actions rose to Category F on the discipline guide and recommended the presumptive corrective action of termination for lying. In finding that Employee #1 was untruthful in this instance they said Employee #1 cannot carry out Employee #1's duties as an officer as Employee #1 would not be trusted to testify in court in future incidents.

Minority Opinion:

Two-day SWOP – One member

One member recommended corrective action of a two-day suspension without pay. They said the conduct falls under Category D on the discipline guide as an intentional violation of policy that would substantially impact the image of the Police Bureau. As this would be Employee #1's first disciplinary action they did not feel it rose to the level of Category F. They recommended the presumptive corrective action as the first related incident of misconduct within the last five years.

Additional Corrective Action Recommended

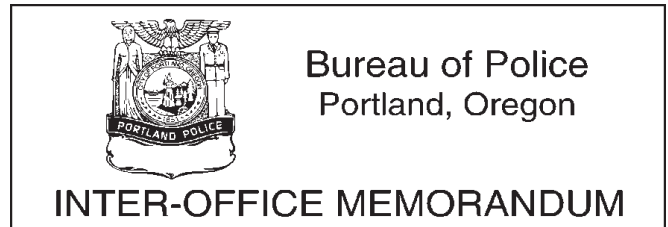
N/A

Other Recommendations

The five board members unanimously recommended a debriefing with the

responding supervisor to encourage them to ask clarifying questions of officers early-on in such an incident. The board members said that a clarifying conversation with those involved, when appropriate from an Internal Affairs perspective, can avoid creating a void in understanding and a larger issue.

DATE: May 10, 2021
TO: Christopher Paille
Police Review Board Coordinator
FROM: Adrienne DeDona
Police Review Board Facilitator
SUBJ: Police Review Board Recommended Findings



CONFIDENTIAL

The Police Review Board met on Wednesday, May 5, 2021 to review the following case:

IA Case Number: **2021-B-0004**

Employee: **Employee 1**

Officers were dispatched to a domestic violence call during which an officer was assaulted. During the After Action Review, it was discovered that Employee 1 had previously been dispatched to a domestic assault call involving the same subjects earlier in the day and failed to write a report.

Case referred to the Police Review Board under City Code 3.20.140(B)(1)(a). The RU manager's recommended finding of *Not Sustained* was controverted to a finding of *Sustained* by IPR, the IA captain, and the branch assistant chief.

Allegation 1: Employee 1 was dispatched to an assault and failed to document a domestic dispute. (PROCEDURE)

Recommended Finding: **Sustained (Unanimous)**

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

Opinion:

The Board agreed to sustain the finding that Employee 1 failed to document a domestic dispute. Board members felt Employee 1 had the information needed to determine that the call qualified as a domestic dispute and therefore required a report according to Bureau policy. Members felt that Employee 1 was aware that the subjects shared a child and had cohabitated prior to the incident, both of which would indicate that the incident was domestic in nature. In addition, a member mentioned that Employee 1 could have taken measures to confirm whether or not an assault took place by having the subjects come to the lobby of the hotel. Another member noted that Employee 1 said Employee 1 chose not to write a report because Employee 1 was apprehensive of calling the subjects "suspects" without evidence of violence, but that Emp. 1 could have listed

the subjects as “subjects.”

Recommendations: Corrective Actions/Discipline

Opinion:

CC – Unanimous

The Board believed Category A best described Employee 1's misconduct. Based on the facts presented, it was their opinion that Employee 1's behavior may have had a minimal impact on the Bureau's operations and involved a failure to write a report. The Board felt that the violation was not aggravated as this was this first violation of this kind in Employee 1's history with the Bureau. Additionally, a member noted that the situation should have been handled at the precinct level. A Sergeant should have instructed Employee 1 to write a report before the end of Employee 1's shift due to an incident taking place the same day that involved the same subjects. This same member expressed that they would be comfortable with mitigating the corrective action, but that they did feel that Employee 1 would benefit from command counseling.