



CITY OF PORTLAND, OREGON



Bureau of Police

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Executive Summary **Directive 0316.00, Drug, Alcohol, and Tobacco Free Workplace**

Introduction

The Portland Police Bureau initiated its review of Directives 0316.00, Alcohol Use, 0316.10, Drug/Controlled Substance Use, 0316.20, Tobacco Use, and 0316.30, Drug and Alcohol Testing, in December of 2020. As a result of that review, all policies were consolidated under Directive 0316.00 and renamed “Drug, Alcohol, and Tobacco Free Workplace” to centralize and streamline the important information the policies contain.

The Bureau made several changes to the revised directive. The primary changes include: updating the language and formatting the directive for consistency with other Bureau directives; providing clear guidance on marijuana and cannabidiol (CBD) use; prohibiting alcohol use when members are in a paid on-call status; removing the prohibition of transporting alcohol in Bureau vehicles; and updating language and procedure to make the directive consistent with the Portland Police Association (PPA)/Portland Police Commanding Officers Association (PPCOA) Substance Abuse Policy and City of Portland Human Resources Administrative Rules, when applicable.

Public Comments

The Bureau received several comments during both of the universal review and public comment periods for the directive. Multiple commenters pointed to a need for clarification surrounding marijuana and CBD use in light of Oregon decriminalization of marijuana. Commenters also sought clearer guidance regarding alcohol use while in an on-call status, and transporting alcohol in city owned vehicles. The Bureau also received comments regarding drug testing and matters that are subject to collective bargaining.

Directive Language and Format

The revised directive combines four older directives into one new directive that covers all of the same topics. The revised directive uses gender neutral language and an updated format, making Directive 0316.00, Drug, Alcohol, and Tobacco Free Workplace, consistent with other updated Bureau directives.

Marijuana and CBD Use

The Bureau received several comments about marijuana and CBD use for members. The revised directive acknowledges Oregon’s decriminalization of marijuana while continuing to prohibit marijuana use, in accordance with federal law. The revised directive also puts members on notice

that commercially available CBD products may contain tetrahydrocannabinol (THC), which could result in a positive drug test. This is due to unclear regulatory guidance and inconsistent commercial practices regarding CBD products.

Alcohol Use While On-Call, Alcohol in City Vehicles, Alcohol and Firearms

The Bureau received a comment seeking guidance on whether or not alcohol consumption is permissible when members are in an on-call status. While Directive 0317.40, Authorized Use of Bureau Resources, provides that members in an on-call status shall not consume alcohol to the extent that it would impair their ability to perform police duties in a Bureau-issued vehicle, the revised Directive 316.00 now imposes a complete prohibition on alcohol use for members while in paid on-call status. According, Directive 0317.40 will be modified to account for this change when that directive is next reviewed.

The Bureau also received several comments about the permissibility of transporting alcohol in City vehicles and a discrepancy between two conflicting directives. While Directive 0317.40 allows Bureau members to transport alcoholic beverages in Bureau-issued vehicles, former Directive 0316.00 prohibited it, other than for transporting evidence. The revised directive 0316.00 resolves this discrepancy by prohibiting open containers of alcohol from Bureau vehicles, other than as evidence. This modification allows members flexibility for limited, incidental personal use of Bureau-issued vehicles pursuant to Directive 1245.00, Vehicles, Off-Duty Use by Authorized Members.

Finally, the revised directive provides guidance concerning alcohol use when members are relying on their authority as law enforcement officers to carry and conceal a firearm, and provides guidance for how members should respond when they are called into work after consuming alcohol.

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

Clarity and Consistency

Last, the revised directive incorporates several changes that make the directive consistent with the collective bargaining agreement's PPA/PPCOA Substance Abuse Policy, which governs drug testing for sworn members. The revised directive updates the list of substances tested to include phencyclidine, anabolic steroids, and prohormones. The revised directive discusses the role of the Medical Review Officer and provides greater detail about the drug testing procedure. The revised directive also clearer guidance on the use and reporting of prescription drugs.

The Bureau welcomes further feedback on this policy during its next review.

Note: On November 9, 2021, the Bureau temporarily delayed the enactment of DIR 0316.00 and removed it from the PPB website to allow for additional internal review of the directive. The Bureau did not make any revisions to the directive during the brief internal review period. As a result, Chief Lovell re-signed the directive on December 15, 2021, and it will go into effect on January 14, 2022.

Published on December 15, 2021.

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0316.00, Drug, Alcohol, and Tobacco Free Workplace

Refer:

- 41 U.S.C. 81, The Drug-Free Workplace Act of 1988
- ORS 475.005, Definitions
- ORS 659A.300, Requiring breathalyzer, polygraph, psychological stress or brain-wave test or genetic test prohibited
- City of Portland Human Resources Administrative Rule 1.06, Employee Medical Files
- City of Portland Human Resources Administrative Rule 4.01, Drug and Alcohol Use Prohibited
- City of Portland Human Resources Administrative Rule 4.02, Smoking
- City of Portland Human Resources Administrative Rule 4.09, Use of City Resources
- City of Portland Human Resources Administrative Rule 10.02, Employee Assistance Program
- City of Portland Drug and Alcohol Procedure
- DIR 0240.00, Employee Assistance Program (EAP)
- DIR 0311.30, Off Duty Responsibility of Officers
- DIR 0315.00, Laws, Rules and Orders
- DIR 0315.30, Satisfactory Performance
- DIR 0317.40, Authorized Use of Bureau Resources
- DIR 0330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 0334.00, Performance Deficiencies
- DIR 0335.00, Discipline Process
- DIR 0415.00, Return to Work Policy
- DIR 0660.10, Property and Evidence Procedures
- DIR 1245.00, Vehicles, Off-Duty Use by Authorized Members
- PPA/PPCOA Substance Abuse Policy (intranet)

Definitions:

- Drug: Includes marijuana, controlled substances, and all illegal drugs.
- Medical Review Officer: A licensed physician responsible for receiving laboratory drug testing results who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a positive test relative to an employee's medical history and other relevant biomedical information.
- Reasonable suspicion: For this directive, reasonable suspicion means objective and articulable facts that would make a reasonable supervisor believe that a person was under the influence of alcohol and/or drugs, or that a person's ability to perform the functions of their job safely was impaired or compromised.
- Smoking Instruments and Tobacco Products: Any cigar, cigarette, pipe, e-cigarette, vaping, or other smoking equipment, and chewing tobacco.

Note: On November 9, 2021, the Bureau temporarily delayed the enactment of DIR 0316.00 and removed it from the PPB website to allow for additional internal review of the directive. The Bureau did not make any revisions to the directive during the brief internal review period. As a result, Chief Lovell re-signed the directive on December 15, 2021, and it will go into effect on January 14, 2022.

Policy:

1. The Bureau commits to providing a safe, healthy, and alcohol- and drug-free workplace, and prioritizes wellness for all members.
2. The City, the Bureau, and the community expect members to report to work in a condition to perform their duties in a safe, effective, and efficient manner.
3. This policy discusses rules and procedures regarding alcohol, drug, and tobacco use, and alcohol and drug testing, consistent with the above-mentioned commitment and expectations.

Procedure:

1. Member Restrictions and Requirements.
 - 1.1. Alcohol.
 - 1.1.1. Members shall not report for duty under the influence of alcohol.
 - 1.1.2. Members shall not consume or be under the influence by alcohol while on duty, while in a paid on-call status, while driving a Bureau vehicle, or while on Bureau property.
 - 1.1.3. Members shall not purchase or consume alcohol while in uniform.
 - 1.1.4. The Bureau prohibits open containers of alcohol on any City property, including vehicles.
 - 1.2. Drugs.
 - 1.2.1. Members shall not manufacture, use, or distribute drugs in the workplace.
 - 1.2.2. Members shall not consume or possess any drugs, except prescription medication for which they have a valid prescription from a qualified physician, and that are used as prescribed.
 - 1.2.3. Notwithstanding Oregon law, members shall not use or possess marijuana, medical or otherwise.
 - 1.2.3.1. Members should be aware that commercially available cannabidiol (CBD) products may contain levels of tetrahydrocannabinol (THC) that could potentially result in a positive drug test.
 - 1.2.4. Members who unintentionally ingest or have bodily exposure to a drug in the course of their duties shall notify a supervisor as soon as practicable.
 - 1.3. Prescription Medications.
 - 1.3.1. Members are responsible for understanding the side effects of all of their prescription medications.
 - 1.3.2. Members shall not use any prescription or nonprescription medications, which may interfere with the safe and effective performance of duties or operation of City equipment or vehicles, without notifying their supervisor before beginning work or operating the equipment or vehicle.

Note: On November 9, 2021, the Bureau temporarily delayed the enactment of DIR 0316.00 and removed it from the PPB website to allow for additional internal review of the directive. The Bureau did not make any revisions to the directive during the brief internal review period. As a result, Chief Lovell re-signed the directive on December 15, 2021, and it will go into effect on January 14, 2022.

1.4. Tobacco.

1.4.1. Members shall not use smoking instruments or tobacco products while inside City property, including vehicles, or while in contact with a community member.

1.5. Other Restrictions.

1.5.1. If relying on their authority as law enforcement officers to carry and conceal a firearm, members shall not carry firearms if they are under the influence of alcohol or drugs as defined by the Portland Police Association (PPA)/Portland Police Commanding Officers Association (PPCOA) Substance Abuse Policy.

1.5.2. Members who are called into work after consuming alcohol or drugs shall notify their supervisor of their consumption, and their supervisor shall determine whether or not the member can report to work.

1.5.2.1. Members shall not report to work if they are under the influence of alcohol or drugs as defined by the PPA/PPCOA Substance Abuse Policy.

2. Exceptions.

2.1. Consuming alcohol or tobacco may be necessary for rare, special assignments involving surveillance and undercover operations. In such situations, members shall not consume an amount of alcohol that impairs their ability to perform their duty.

2.2. Members may have direct physical contact with drugs in certain rare, special assignments involving surveillance and undercover operations. In such situations, members shall notify a supervisor and obtain permission before repeated exposure to such situations.

2.3. Members who consume alcohol as part of a special assignment shall notify a supervisor as soon as practicable after consuming alcohol.

2.4. As part of official duties, members may handle, control, and dispose of alcohol and drugs according to DIR 0660.10, Property and Evidence Procedures, and any applicable Standard Operating Procedure.

3. Testing.

3.1. Random Testing.

3.1.1. The Bureau may randomly test members for alcohol and/or drugs. If the member is subject to a collective bargaining agreement, then such testing shall comport with any requirements in the applicable collective bargaining agreements.

3.2. Reasonable Suspicion Testing.

3.2.1. Members shall be tested for alcohol and/or drugs whenever there is reasonable suspicion to believe they have engaged in prohibited alcohol and/or drug use. Reasonable suspicion requires specific, articulable observations made by a trained supervisor, concerning the appearance, behavior, speech, or body odors of the member.

3.2.2. Testing Procedure.

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- 3.2.2.1. All alcohol and/or drug testing shall be performed by a Bureau-approved laboratory and shall follow the City Drug and Alcohol Testing Procedure and, where applicable to the member, the PPA/PPCOA Substance Abuse Policy.
 - 3.2.2.2. Because the presence of alcohol and/or drugs is perishable, all reasonable suspicion testing shall be conducted as soon as possible.
 - 3.2.2.3. The approved laboratory will release test results to the Personnel Division (Personnel) manager via the Bureau of Human Resources (BHR).
 - 3.3. Alcohol Testing Threshold.
 - 3.3.1. An alcohol test result of .02 percent or higher by weight of alcohol as shown by chemical analysis of blood, breath, or urine constitutes a positive test for this directive.
 - 3.4. Substances Tested.
 - 3.4.1. The substances tested for include the following: alcohol, cannabinoids, cocaine, opiates, Phencyclidine, amphetamines, barbiturates, benzodiazepines, anabolic steroids, and prohormones.
 - 3.4.2. Members who test positive for alcohol and/or drugs shall be placed on administrative leave, pending a review.
 - 3.4.3. Members who test negative for alcohol and/or drugs may return to work after the Personnel manager or designee informs the member's Responsibility Unit (RU) manager that the member may return to work.
 - 3.4.4. Members who test positive due to a prescribed medication will not be placed on administrative leave if the Medical Review Officer confirms that the member has been prescribed that medication and verifies the use is consistent with the prescription. Members are responsible for providing proof of their prescription without delay.
4. Workplace Searches.
 - 4.1. The Bureau reserves the right to search, without member consent, workplace areas and property to investigate potential violations of this directive.
 - 4.2. Workplace areas and property subject to search include, but are not limited to, all Bureau property and areas in which the City has joint control with the member such as vehicles, equipment, offices, desks, and lockers, and computer files. These searches shall be conducted according to City of Portland Human Resources Administrative Rules.
5. Responsibility.
 - 5.1. Members.
 - 5.1.1. Members are responsible for reporting to work not under the influence of alcohol and/or drugs and fully capable of performing their duties safely, effectively, and efficiently.
 - 5.1.2. Members shall be tested for alcohol and/or drugs in accordance with this Directive.

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5.1.3. Members who reasonably suspect that another member may be using alcohol and/or drugs at work shall immediately notify a supervisor.

5.2. Supervising and Managing Members.

5.2.1. Supervisors shall refer to the PPA/PPCOA Substance Abuse Policy, located on the Intranet, for guidance regarding alcohol and/or drug testing.

5.2.2. If a supervisor has reasonable suspicion to believe that a member is under the influence of alcohol and/or drugs, they shall consult the BHR Business Partner via the Personnel Manager, and they shall jointly decide whether to refer the member to testing.

5.2.3. Supervisors shall notify their Responsibility Unit (RU) manager as soon as practicable after a member is referred to testing.

5.2.4. Supervisors shall document their reasonable suspicion in a memorandum, and forward the memorandum and any other supporting documents to their RU manager and the Personnel Manager.

5.2.4.1. The memorandum shall include all facts that support the supervisor's reasonable suspicion, including any statements the affected member made regarding their use of alcohol and/or drugs.

5.2.5. Supervisors shall assure that all members reporting for duty under their supervision are capable of performing their assigned duties.

5.2.6. If a supervisor has reasonable suspicion to believe a member is using alcohol and/or drugs in violation of this Directive, they shall notify their RU manager as soon as practicable and document their reasonable suspicion in a memorandum as described under sections 5.2.4. and 5.2.4.1. The Assistant Chief of Services or designee shall determine whether or not to order testing.

5.3. RU Manager.

5.3.1. The RU manager shall notify the Assistant Chief of Services of the reasonable suspicion.

5.3.2. RU managers shall forward the reasonable suspicion memorandum and any other supporting documents regarding the incident to the Assistant Chief of Services.

5.3.3. The Assistant Chief of Services shall review the documentation, notify the Chief of Police of the incident, and make a recommendation regarding the incident to the Chief of Police.

5.4. Bureau of Human Resources.

5.4.1. The Designated Employee Representative (DER) in BHR, in coordination with Personnel Division, is responsible for administering and tracking all alcohol and drug testing.

5.4.2. The DER or their designee shall:

5.4.2.1. Assist with reasonable suspicion testing when practicable.

5.4.2.2. Provide the Chief of Police with an annual audit of the testing program, including the following information:

5.4.2.2.1. The number of tests administered;

5.4.2.2.2. The number of tests with a positive result;

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- 5.4.2.2.3. An accounting of the costs of the program;
- 5.4.2.3. Ensure all confidential records of the program are maintained in a secure location dedicated to alcohol and drug testing.

5.5. Personnel Manager.

5.5.1. The Personnel Manager or designee shall:

- 5.5.1.1. Assist with reasonable suspicion testing when practicable.
- 5.5.1.2. Notify a member's RU manager when the member tests positive under this program.
- 5.5.1.3. Notify the Chief of Police of any positive test results.
- 5.5.1.4. Take appropriate action by order of the Chief of Police regarding members who test positive.
- 5.5.1.5. Complete the appropriate reports regarding the results of all testing under this program.

6. Employee Assistance Program.

6.1. The Bureau has an Employee Assistance Program (EAP) to assist members with a full range of personal issues including alcohol and/or drug abuse problems.

6.2. Contact between members and EAP is confidential unless otherwise authorized by law or by the member.

7. Confidentiality.

7.1. Laboratory reports and/or test results shall be treated as confidential medical records.

The reports and test results may be disclosed to Bureau management as needed, and to the tested member upon request and consistent with the PPA/PPCOA Substance Abuse Policy.

7.2. Disclosures, without patient consent, may also occur when:

- 7.2.1. The information is compelled by law or judicial or administrative process;
- 7.2.2. The information is at issue in a dispute between the City and/or Bureau and the member or applicant;
- 7.2.3. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure; or
- 7.2.4. The Bureau is required by law to report the results, including but not limited to federal grant requirements.

History:

- Last Revision Signed: 12/15/2021
 - Effective Date: 01/14/2022
- Next Review Date: 01/14/2024
 - Rescind Directives 0316.00, Alcohol Use; 0316.10, Drug/Controlled Substance Use; 0316.20, Tobacco Use; and 0316.30, Drug and Alcohol Testing.

0316.00, ~~Drug, Alcohol, Use~~

Refer:

- DIR 240.00 Employee Assistance Office
- DIR 315.00 Laws, Rules and Orders
- DIR 316.30 Drug and Alcohol Testing
- DIR 335.00 Performance Review and Use of Force Review Boards
- DIR 341.00 Disciplinary Process
- DIR 660.10 Property and Evidence Procedures

Policy:

1. Members who have the odor of alcoholic beverage about their person or on their breath, or are under the influence of an alcoholic beverage, shall not report for, or remain on duty, unless they have presented such information to a supervisor and have been ordered to report for, or continue duty.

2. In some surveillance and undercover situations, it may be necessary for members to consume alcoholic beverages. In such situations, and whenever possible, members will consume non-alcoholic beverages. In the event alcoholic beverages are consumed, members will not consume an amount which would impair to any degree their ability to perform their duty. Members who consume alcoholic beverages, regardless of the amount, shall inform their supervisor as soon as possible. Members having consumed alcoholic beverages shall not participate in any tactical operation.

3. Members consuming alcoholic beverages off duty shall limit the quantity consumed so as not to be impaired to any degree, or have the odor of alcoholic beverages on their breath, or about their person, upon reporting for duty. Members will not consume alcohol while in uniform.

4. All alcoholic beverages are prohibited from police facilities and/or vehicles, except alcoholic beverages which are held as evidence, or properly receipted prisoner's property.

316.10 DRUG/CONTROLLED SUBSTANCE USE

Index: Title; Drugs in Police Installations; Possession and Use of Controlled Substances

Refer: DIR 240.00 Employee Assistance Office

DIR 315.00 Laws, Rules and Orders

DIR 316.30 Drug and Alcohol Testing

DIR 335.00 Performance Review and Use of Force Review Boards

DIR 341.00 Disciplinary Process

DIR 660.10 Property and Evidence Procedures

POLICY (316.10)

The unlawful possession, usage, or condoning the usage of any nonprescription controlled substance, whether on or off-duty, is prohibited. While off-duty, members shall not be present where illegal substances are used or displayed. The excessive usage of lawfully prescribed narcotics, dangerous drugs or other controlled substances on or off duty is prohibited. Members using prescribed controlled substances or controlled substances prescribed by a licensed physician shall notify a supervisor prior to reporting for duty if it will interfere with the safe and effective performance of duties or operation of City equipment or vehicles. If an employee is using a prescription or non-prescription medication which may interfere with the safe and effective performance of duties or operation of City equipment or vehicles, the member shall consult with their treating physician or pharmacist to determine if the medication will, in fact, have such an effect.

A member's immediate supervisor shall be made aware of any undercover operation where a member may become exposed to the use of controlled substances. Through subordinate briefings, the supervisor will assist the member in avoiding these situations. Any operation that raises a question as to the ability of a member to avoid a situation of this nature, will be discussed with the relief commander and referred to the RU manager prior to the mission's undertaking.

Members shall not store or bring into any police facility or vehicle any controlled substances, except controlled substances which are held as evidence, prisoner's property (properly receipted) or are prescribed to the member for his/her personal use.

316.20 TOBACCO USE

Index: Title; Smoking and Tobacco ~~Free Workplace~~ Products

Refer: DIR 315.00 Laws, Rules and Orders

- ~~41 U.S.C. 81, The Drug-Free Workplace Act of 1988~~
- ~~ORS 475.005, Definitions~~
- ~~ORS 659A.300, Requiring breathalyzer, polygraph, psychological stress or brain-wave test or genetic test prohibited~~
- ~~City of Portland Human Resources Administrative Rule 1.06, Employee Medical Files~~

DIR 335.00 Performance Review and Use of Force Review Boards

DIR 341.00 Disciplinary Process

POLICY (316.20)

Members shall not use tobacco products while inside Bureau facilities, while within Bureau owned or leased vehicles, or while engaged in close contact with the public.

316.30 DRUG AND ALCOHOL TESTING

Index: Title

- Refer: City of Portland Human Resources Administrative Rule 4.01, Drug and Alcohol Use Prohibited
- ~~City of Portland Human Resources Administrative Rule 4.02, Smoking~~
- City of Portland Human Resources Administrative Rule 4.09, Use of City Resources
- ~~City~~ ORS 475.992 Possession of Portland Human Resources Administrative Rule 10.02, Controlled Substance
- ORS 659a.300(4) Breathalyzer Tests
- DIR 240.00 Employee Assistance Program Office (EAO)
- ~~City of Portland Drug and Alcohol Procedure~~
 - ~~DIR 0240.00, Employee Assistance Program (EAP)~~
- ~~DIR 0311~~ 311.00 Duty Required
- DIR 311.30, Off Duty Responsibility of Officers
- ~~DIR 0315~~ 315.00, Laws, Rules and Orders
- ~~DIR 0315.30, Satisfactory~~ 316.00 Alcohol Use
- DIR 316.10 Drug/Controlled Substance Use
- DIR 335.00 Performance Review and Use of Force Review Boards
- ~~DIR 0317.40, Authorized Use of Bureau Resources~~
 - ~~DIR 0330.00, Internal Affairs, Complaint Intake, and Processing~~
 - ~~DIR 0334.00, Performance Deficiencies~~
- ~~DIR 0335~~ 341.00, Discipline Disciplinary Process
- ~~DIR 0415.00, Return to Work Policy~~
 - ~~DIR 0660.10, Property and Evidence Procedures~~
- ~~DIR 1245.00, Vehicles, Off-Duty Use by Authorized Members~~
- ~~PPA/PPCOA Substance Abuse Policy (intranet)~~

POLICY (316.30)

It is a critical component of service delivery of the Portland Police Bureau to maintain a drug-free workplace. Members who engage in the unauthorized use of drugs and alcohol risk their safety, the safety of their co-workers, and the safety, well-being, and trust of the citizens they serve. It is therefore imperative that members are held to a standard that assures the citizens and the other employees they are not under the influence of these substances while at the workplace. This policy will be for all Police Bureau members, both sworn and non-sworn.

Members will be tested for alcohol or drugs whenever there is reasonable suspicion to believe that the employee has engaged in prohibited alcohol use or prohibited drug use. Reasonable suspicion will be based on specific, concurrent, articulable observations made by a trained supervisor, concerning the appearance, behavior, speech or body odors of the member.

PROCEDURE (316.30)**Directive Specific Definitions:**

Alcohol test: A test using equipment for the analysis of the alcohol content of a test subject's blood by the analysis of a breath or blood sample.

Drug: Includes ~~marijuana~~, controlled substances, and ~~all~~ illegal drugs, or other substances that are not controlled but may affect employee behavior, cause impairment, or compromise the safety of the subject, co-workers, or citizens.

- ~~Medical Review Officer: A licensed physician responsible for receiving laboratory drug testing results who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a positive test relative to an employee's medical history and other relevant biomedical information.~~

Drug test: A test conducted whereby an authorized lab technician or designee obtains a sample of urine from a test subject for analysis of its content for drugs or alcohol.

Impairment: Diminished ability, loss or limitation of physical, mental or sensory function. A condition associated with any drug, including but not limited to alcohol.

Reasonable suspicion: ~~For this directive, reasonable suspicion means objective~~ Objective and articulable facts that would make a reasonable supervisor believe that a person was under the influence of alcohol ~~and/or~~ drugs, or that a person's ability to perform the functions of their job ~~safely~~ was impaired, or their ability to do their job safely was compromised.

- ~~Smoking Instruments and Tobacco Products: Any cigar, cigarette, pipe, e-cigarette, vaping, or other smoking equipment, and chewing tobacco.~~

Policy:

- ~~1. The Bureau commits to providing a safe, healthy, and alcohol and drug free workplace, and prioritizes wellness for all members.~~

~~The City, the Bureau, and the community expect~~ Safety sensitive function: Includes, but is not limited to, situations in which a member must exercise judgment about whether and when to use force, operate a motor vehicle, and/or have any contact with members of the community.

Prohibitions and General Information (316.30)

All members ~~to report~~ are prohibited from:

- Having the odor of an alcoholic beverage on their person or breath while on duty, except as provided for in DIR 316.00.
- Ingesting a prescribed medication or drug, except as provided for in DIR 316.10.
- Possessing an illegal drug, except as provided for in DIR 316.10.
- Possessing a drug illegally, except as provided for in DIR 316.10.
- Using or possessing alcohol while on duty, except as provided for in DIR 316.00.
- Refusing to submit to a reasonable suspicion alcohol or drug test, or a required return-to-work in a condition to alcohol or drug test.
- Reporting for duty or remaining on duty when using any drugs except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the member that the drug will not adversely affect the member's ability to safely perform ~~their~~ the member's duties in a safe, effective, and efficient manner. Members are required to notify their supervisor of the use of prescribed controlled substances as set forth in DIR 316.10.

- ~~2. This policy discusses rules and procedures regarding alcohol, drug, and tobacco use, and alcohol and drug testing, consistent with the above mentioned commitment and expectations.~~

Procedure:**Member Restrictions and Requirements: Responsibilities (316.30)**~~1.1. Alcohol:~~

- ~~1.1.1. Members shall not report for duty under the influence of alcohol.~~
- ~~1.1.2. Members shall not consume or be under the influence by alcohol while on duty, while in a paid-on-call status, while driving a Bureau vehicle, or while on Bureau property.~~
- ~~1.1.3. Members shall not purchase or consume alcohol while in uniform.~~
- ~~1.1.4. The Bureau prohibits open containers of alcohol on any City property, including vehicles.~~

~~1.2. Drugs:~~

- ~~1.2.1. Members shall not manufacture, use, or distribute drugs in the workplace.~~
- ~~1.2.2. Members shall not consume or possess any drugs, except prescription medication for which they have a valid prescription from a qualified physician, and that are used as prescribed.~~
- ~~1.2.3. Notwithstanding Oregon law, members shall not use or possess marijuana, medical or otherwise.~~
 - ~~1.2.3.1. Members should be aware that commercially available cannabidiol (CBD) products may contain levels of tetrahydrocannabinol (THC) that could potentially result in a positive drug test.~~
- ~~1.2.4. Members who unintentionally ingest or have bodily exposure to a drug in the course of their duties shall notify a supervisor as soon as practicable.~~

~~1.3. Prescription Medications:~~

- ~~1.3.1. Members are responsible for understanding the side effects of all of their prescription medications.~~
- ~~1.3.2. Members shall not use any prescription or nonprescription medications, which may interfere with the safe and effective performance of duties or operation of City equipment or vehicles, without notifying their supervisor before beginning work or operating the equipment or vehicle.~~

~~1.4. Tobacco:~~

- ~~1.4.1. Members shall not use smoking instruments or tobacco products while inside City property, including vehicles, or while in contact with a community member.~~

~~1.5. Other Restrictions:~~

- ~~1.5.1. If relying on their authority as law enforcement officers to carry and conceal a firearm, members shall not carry firearms if they are under the influence of alcohol or drugs as defined by the PPA/PPCOA Substance Abuse Policy.~~
- ~~1.5.2. being fully alert and not impaired by any drug and/ or alcohol when they report for duty, or when subject to call back. Members who are called into work after consuming alcohol or drugs shall notify their supervisor of their consumption, and their supervisor shall determine whether or not the member can report to work.~~
 - ~~1.5.2.1. Members shall not report to work if they are under the influence of alcohol or drugs as defined by the PPA/PPCOA Substance Abuse Policy.~~

~~2. Exceptions:~~

- ~~2.1. Consuming alcohol or tobacco may be necessary for rare, special assignments involving surveillance and undercover operations. In such situations, members shall not consume an amount of alcohol that impairs their ability to perform their duty.~~
- ~~2.2. Members may have direct physical contact with drugs in certain rare, special assignments involving surveillance and undercover operations. In such situations, members shall notify a supervisor and obtain permission before repeated exposure to such situations.~~
- ~~2.3. Members who consume alcohol as part of a special assignment shall notify a supervisor as soon as practicable after consuming alcohol.~~
- ~~2.4. As part of official duties, members may handle, control, and dispose of alcohol and drugs according to DIR 0660.10, Property and Evidence Procedures, and any applicable Standard Operating Procedure.~~

~~3. Testing.~~

~~3.1. Random Testing.~~

- ~~3.1.1. The Bureau may randomly test members for alcohol and/or drugs. If the member is subject to a collective bargaining agreement, then such testing shall comport with any requirements in the applicable collective bargaining agreements.~~

~~3.2. Reasonable Suspicion Testing.~~

- ~~3.2.1. Members shall be tested for alcohol and/or drugs whenever there is reasonable suspicion to believe they have engaged in prohibited alcohol and/or drug use. Reasonable suspicion requires specific, articulable observations made by a trained supervisor, concerning the appearance, behavior, speech, or body odors of the member.~~

~~3.2.2. Testing Procedure.~~

- ~~3.2.2.1. All alcohol and/or drug testing shall be performed by a Bureau approved laboratory and shall follow the City Drug and Alcohol Testing Procedure and, where applicable to the member, the Portland Police Association (PPA)/Portland Police Commanding Officers Association (PPCOA) Substance Abuse Policy.~~
- ~~3.2.2.2. Because the presence of alcohol and/or drugs is perishable, all reasonable suspicion testing shall be conducted as soon as possible.~~
- ~~3.2.2.3. The approved laboratory will release test results to the Personnel Division (Personnel) manager via the Bureau of Human Resources (BHR).~~

~~3.3. Alcohol Testing Threshold.~~

- ~~3.3.1. An alcohol test result of .02 percent or higher by weight of alcohol as shown by chemical analysis of blood, breath, or urine constitutes a positive test for this directive.~~

~~3.4. Substances Tested.~~

- ~~3.4.1. The substances tested for include the following: alcohol, cannabinoids, cocaine, opiates, Phenethylamine, amphetamines, barbiturates, benzodiazepines, anabolic steroids, and prohormones.~~

- ~~3.4.2. Members who test positive for alcohol and/or drugs shall be placed on administrative leave, pending a review.~~
- ~~3.4.3. Members who test negative for alcohol and/or drugs may return to work after the Personnel manager or designee informs the member's Responsibility Unit (RU) manager that the member may return to work.~~
- ~~3.4.4. Members who test positive due to a prescribed medication will not be placed on administrative leave if the Medical Review Officer confirms that the member has been prescribed that medication and verifies the use is consistent with the prescription. Members are responsible for providing proof of their prescription without delay.~~

~~4. Workplace Searches:~~

- ~~4.1. The Bureau reserves the right to search, without member consent, workplace areas and property to investigate potential violations of this directive.~~
- ~~4.2. Workplace areas and property subject to search include, but are not limited to, all Bureau property and areas in which the City has joint control with the member such as vehicles, equipment, offices, desks, and lockers, and computer files. These searches shall be conducted according to City of Portland Human Resources Administrative Rules.~~

~~5. Responsibility:~~

~~5.1. Members:~~

~~Members are responsible for reporting to work not under the influence of alcohol and/or drugs and fully not fully capable of performing their duties safely, effectively, and efficiently. assigned duties shall inform a supervisor who will determine a course of action.~~

~~5.1.1. Members shall be tested for alcohol and/or drugs in accordance with this Directive:~~

~~Members who reasonably suspect that another member may be using alcohol and/or drugs at work shall drugs or alcohol should bring their concerns to the attention of a supervisor immediately notify a supervisor.~~

~~5.2. Supervising and Managing Members:~~

~~5.2.1. Supervisors shall refer to the Portland Police Association (PPA)/Portland Police Commanding Officers Association (PPCOA) Substance Abuse Policy, located on the Intranet, for guidance regarding alcohol and/or drug testing.~~

Supervisor Responsibilities (316.30)

~~5.2.2. a. If a supervisor has reasonable suspicion to believe that a member is under the influence of impaired by drugs and/or alcohol, he/she may order a drug test and/or alcohol and/or drugs, they shall consult the BHR Business Partner via the Personnel Manager, and they shall jointly decide whether to refer test in accordance with the requirements of this section. The testing of the member to testing.~~

~~Supervisors will occur as quickly as possible. The supervisor shall notify their his/ her RU manager as soon as practicable after a member is referred to testing immediately.~~

~~5.2.3. Supervisors shall document their reasonable suspicion in a memorandum, and forward theb. A memorandum and any other supporting documents to their RU manager and the Personnel Manager.~~

~~The memorandum shall include all which document the supervisor's reasons for authorizing the test will be written and forwarded, through channels, to the appropriate Branch chief. The documentation of this incident shall include all of the facts that support the supervisor's reasonable suspicion, including. The supervisor will document any statements made by the affected member made regarding their use of alcohol about the usage and/or denial of usage of drugs or alcohol.~~

~~c. Supervisors shall will assure that all members reporting for duty under their supervision are capable of performing their assigned duties.~~

~~If a supervisor has reasonable suspicion to believe a member is using alcohol and/or drugs in violation of this Directive, they shall notify their RU manager as soon as practicable and document their reasonable suspicion in a memorandum as described under sections 5.2.4. and 5.2.4.~~

RU Manager Responsibilities (316.30)

~~5.2.4.—The RU manager will notify the Personnel manager, or his/her designee, of the reasonable suspicion prior to the test. The Personnel manager, or his/her¹.—The Assistant Chief of Services or designee shall determine whether or not, will respond to order assist with the testing.~~

~~5.3. RU Manager.~~

~~5.3.1.— process. The RU manager shall will also notify the Assistant Chief appropriate Branch chief of Services of the reasonable suspicion.~~

~~5.3.2.—test. RU managers shall will forward the reasonable suspiciona memorandum and any other supporting documents regarding the incident to the Assistant Chief of Services.~~

~~The Assistant Chief of Services shall review the documentation, notify the Chief of Police of the incident, through channels, to the appropriate Branch chief. The Branch chief will review the documentation, notify the Chief of Police of the incident and make a recommendation regarding the incident to the Chief of Police.~~

~~5.4. Bureau of Human Resources.~~

Services Branch Chief Responsibilities (316.30)

~~5.4.1.—The Designated Employee Representative (DER) in BHR, in coordination with Personnel Division, Services Branch chief is responsible for administering and tracking all the administration of the Bureau's drug and alcohol and drug testing program. The DER Services Branch chief may designate duties, under this policy, to either the Personnel manager or the Personnel lieutenant, if needed.~~

~~The Services Branch chief, or his/her designee shall, will:~~

~~5.4.1.1.— Assist with reasonable suspicion testing when practicable.~~

~~a. Provide the Chief of Police with an annuala yearly audit of the testing program, including to include the following information:~~

~~1. The number of tests administered; under the program.~~

~~2. The number of tests with a positive result;.~~

~~3. An accounting of the costs of the program;.~~

~~4. Any trends identified.~~

~~5. A summary of disciplinary actions as a result of the program.~~

b. ~~Ensure all confidential records of the, under this~~ program, are maintained in a secure ~~location and locked file cabinet~~ dedicated to ~~alcohol and drug testing and/or alcohol testing records~~. ~~This cabinet will be located in the Personnel manager's office.~~

~~5.5. Personnel Manager:~~

~~5.5.1. The Personnel Manager or designee shall:~~

~~5.5.1.1. Assist with reasonable suspicion testing when practicable.~~

c. ~~Notify a member's~~ the RU manager ~~when the member tests~~ of members within his/her division who test positive under this program.

d. Notify the Chief of Police of any positive test results.

~~Take.~~ Be available, when needed, to take any appropriate action by order of the Chief of Police regarding members who have received a positive test ~~positive result.~~

f. Complete the appropriate reports regarding the results of all testing under this program.

Alcohol Threshold (316.30)

Members, who have .02 percent or more by weight of alcohol in the blood as shown by chemical analysis of the breath or blood, will be removed from any safety sensitive function and be considered to have tested positive under this policy.

Drug/Controlled Substances (316.30)

The substances that will be tested for include; alcohol, cannabinoids, cocaine, opiates, amphetamines, barbiturates and benzodiazepines.

Testing Procedure (316.30)

The presence of drugs and/or alcohol in a member's system is perishable. Therefore, any testing will be conducted as soon as possible. These tests will be conducted by a qualified technician at an approved lab. The lab administering the test will release the results of the test to the Personnel Division (Personnel) manager or his/her designee.

A member who refuses to submit to a drug test or alcohol test is subject to discipline up to and including dismissal. The supervisor will make contact with the Personnel manager or designee who will take appropriate action.

Questions regarding specific testing procedures will be addressed through the Personnel manager.

6. Procedure ~~Employee Assistance Program:~~

~~6.1. The Bureau has an Employee Assistance Program (EAP) to assist members with a full range of personal issues including alcohol and/or drug abuse problems.~~

~~6.2. Contact between members and EAP is confidential unless otherwise authorized by law or by the member.~~

7. Confidentiality:

~~7.1. Laboratory reports and/or test results shall be treated as confidential medical records. The reports and test results may be disclosed to Bureau management as needed, and to the tested member upon request and consistent with the PPA/PPCOA Substance Abuse Policy.~~

~~7.2. Disclosures, without patient consent, may also occur when:~~

~~7.2.1. The information is compelled by law or judicial or administrative process;~~

~~7.2.2. The information is at issue in a dispute between the City and/or Bureau and the member or applicant;~~

~~7.2.3. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure; or~~

~~The Bureau is required by law to report the results, including but not limited to federal grant requirements.~~

Following Test Procedure of Member (316.30)

Test results will be considered medical information and be confidential.

If the result of the urinalysis is positive, or the alcohol test threshold is met, the affected member will be placed on administrative leave, pending a review. The test results will only be released to the Personnel manager or his/her designee who will take appropriate action.

If the test result is negative, the Personnel manager, or designee, will inform the affected member's RU manager that he/she may return to work.

If the positive result is generated by a prescribed medication which is verified by the Personnel manager, the member will not be placed on administrative leave. The Personnel manager will verify that the member has been prescribed the medication recently for which the member tested positive. The member is responsible to provide the required prescription verification to the Personnel captain without delay.

Workplace Searches (316.30)

Areas of the workplace can be searched as a result of an investigation into the allegations of the prohibitions covered by this policy. The areas of the workplace that can be searched are areas and property in which the City maintains joint control with the employee, or full control including any City vehicle. Examples of such areas are, but not limited to, desk, locker, computer files, storage areas, etc. These searches will be conducted according to City of Portland Human Resources Administrative Rule 4.09.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, January 31, 2020 12:07:03 PM
Last Modified: Friday, January 31, 2020 12:08:28 PM
Time Spent: 00:01:24
IP Address: 74.120.152.117

Page 1

Q1 Please provide feedback for this directive

The union representing a portion of the non-sworn members has an issue with the way #3 is written and would like an opportunity to discuss the implications of this language and directive.

Q2 Contact Information (optional)

Name	Kimberly Gates
Email Address	189executivevp@gmail.com
Phone Number	503-793-2815

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, February 03, 2020 1:08:08 PM
Last Modified: Monday, February 03, 2020 1:11:01 PM
Time Spent: 00:02:53
IP Address: 74.120.152.120

Page 1

Q1 Please provide feedback for this directive

There should be something mentioned about no alcohol while on-call. Seems like we beat around the bush on issues like this. We should get straight to the point. No drinking while on-call.

Q2 Contact Information (optional)

Respondent skipped this question

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, February 13, 2020 4:28:17 PM
Last Modified: Thursday, February 13, 2020 4:29:15 PM
Time Spent: 00:00:58
IP Address: 97.120.187.31

Page 1

Directive 316.00 Feedback

Q1 Please provide feedback for this directive

COMMENTS ON VEHICLE TOW, ALCOHOL USE AND OTHER DIRECTIVES FEBRUARY 2020

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

Below are our comments on the six Directives posted for February 2020 (<https://www.portlandoregon.gov/police/article/73677>). While two have not been reviewed under this process previously (so far as we know), the ones that have continue to include problems Portland Copwatch (PCW) identified in earlier comments. PCW continues to thank the Bureau for putting out "redline" versions of Directives upon second review, but urges the Bureau to include notes about reasons first review policies have been chosen, including possible revisions the Bureau is considering.

In relaying the first four items to our constituents, we noted that they all seem to relate to questionable behavior which put officers in front of the Police Review Board or in the media in the last 10 months:

640.50 Traffic Crash Investigations: Officer Alfonso Valadez chased a suspect down an off-ramp of the freeway, leading to that person having a fatal head-on crash (Dec. 2019 PRB report).*

316.00 Alcohol Use: Commander Steve Jones crashed his car into a utility pole, cracking it in two, in June 2018, leading to the loss of his job (Sept. 2019 PRB report).

630.23 Reserve Officer Program: The entirety of the Reserve Officer unit resigned in 2018 when the Bureau failed to train them up to the standards required by the US DOJ Agreement (Oregonian, April 19, 2019).

317.40 Authorized Use of Bureau Resources: Detective Norville Hollins III was demoted after he took a police car to the Oregon coast repeatedly, racking up hundreds of non-work miles (Dec. 2019 PRB Report).

We are also making comments on the Holding Cells (870.25) and Vehicle Tow (630.60) Directives, mostly based on our previous input.

As we have commented repeatedly, while it is useful to have 30 days to make recommendations on the second round reviews, the 15-day window for the first round is too short and precludes most official PPB advisory bodies, which only meet once a month (or once every two months) from weighing in.

We also continue to believe the Bureau should put letters on the Definitions, Policy and Procedure sections so there are not multiple sections with the same numbers. Our comments are on the Procedure sections unless otherwise noted.

Footnote (introduction)

*-Valadez resigned before he could be fired.

DIRECTIVE 316.00 ALCOHOL USE (not previously posted)

PCW also does not have a lot to say about this Directive, although it is interesting that undercover officers are encouraged to only drink non-alcoholic beverages, with the exception that if they do drink alcohol it should not be "an amount which would impair to any degree their ability to perform their duty" (Policy 2). While many civilians would be fired for drinking on the job, apparently officers can continue to perform law enforcement tasks so long as they have let the supervisor know that they drank and/or why their breath smells like alcohol (Policy 1). The Police Review Board report indicates that Commander Jones' accident in 2018 happened when the Commander was driving a Bureau car while technically on call for duty, which would violate Policy Section 3 limiting off-duty drinking so officers will not report to duty while impaired or smelling of alcohol. However, this Directive was not cited in his case. Jones resigned before he could be fired.

CONCLUSION

As we wrote one year ago this month, "PCW again appreciates that the Bureau asks for community comments on its policies, and the few changes that were made in response to our feedback. However, the other common-sense ideas we are putting forward which would lead to a more trustworthy and community-minded police force should not be brushed aside. We are hoping that the once the PCCEP starts making recommendations, the Bureau will engage in public discussions (involving the Committee members and the general public) rather than continuing to go behind closed doors to assess community input. That would show a true commitment to 'community engaged policing.'" Now that PCCEP has proposed a policy, albeit not related to a specific Directive but rather generally about how to approach traffic stops, we hope the Bureau takes up this challenge and engages in meaningful discussion.

Thank you for the opportunity to comment,

dan handelman and other members of
Portland Copwatch

Q2 Contact Information (optional)

Name

Portland Copwatch

Email Address

copwatch@portlandcopwatch.org

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, December 07, 2020 9:16:22 AM
Last Modified: Monday, December 07, 2020 9:18:24 AM
Time Spent: 00:02:01

Page 1

Q1

Please provide feedback for this directive

All of the stuff listed in the "Policy" section seems like material we now include in the "Procedure" section. I would move all of that stuff and then a brief policy statement.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, December 15, 2020 5:31:42 PM
Last Modified: Tuesday, December 15, 2020 5:32:12 PM
Time Spent: 00:00:29

Page 1

Q1

Please provide feedback for this directive

COMMENTS ON SEARCH, "BRADY LIST" AND SUBSTANCE USE DIRECTIVES, DECEMBER 2020

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

Below are Portland Copwatch's comments on the Search, "Brady List," and substance use Directives posted for review in November/December . Portland Copwatch (PCW) sent in comments on previous drafts of the Search policy (650.00) in October, the "Brady List" (320.00) in August and the Alcohol Use policy (316.00) in February. The other substance use Directives (316.10 Drug/Controlled Substance Use, 316.20 Tobacco Use, and 316.30 Drug and Alcohol Testing) were not previously posted. The PPB says it is considering consolidating all four substance policies; PCW has no objection to this so long as the content is clear. We have no comments on 316.20.

As with our previous comments on the Brady List policy, (now called "Police Bureau Reporting of Potential Exculpatory or Impeachment Information"), we used the term "Brady List" as it is the common term for the roster of officers subject to disclosure for their possible lack of credibility in court proceedings in reference to a Supreme Court case.

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

DIRECTIVE 316.00 ALCOHOL USE (previously posted February 2020)

Here is what PCW wrote about the Alcohol Use Directive in February:

--It is interesting that undercover officers are encouraged to only drink non-alcoholic beverages, with the exception that if they do drink alcohol it should not be "an amount which would impair to any degree their ability to perform their duty" (Policy 2).

--While many civilians would be fired for drinking on the job, apparently officers can continue to perform law enforcement tasks so long as they have let the supervisor know that they drank and/or why their breath smells like alcohol (Policy 1).

--The Police Review Board report indicates that Commander Jones' accident in 2018 happened when the Commander was driving a Bureau car while technically on call for duty, which would violate Policy Section 3 limiting off-duty drinking so officers will not report to duty while impaired or smelling of alcohol. However, this Directive was not cited in his case. Jones resigned before he could be fired.

CONCLUSION

We continue to appreciate that the community has an opportunity to give input into Bureau policy as long as Portland continues to have police. While the Bureau has made efforts to create a more user-friendly process for commenting on these policies, the redline versions, particularly of both nearly fully-rewritten Directives posted in November, leaves a lot to be desired. The automated redlining resulted in renumbering of existing Sections, sentences strung out among several pages, and enough confusion that we had to re-print the original and compare it line by line to figure out what was changed.

We thank the Directives project administrator for recognizing that our August comments on the Brady list Directive had been left out of the review packet, and adding them in to a revised packet. It's likely that the omission may have been in part because we sent those comments by email and not via the website's online submission process, but we hope the PPB will compile comments regardless of how they arrive. It's not clear, for instance, whether the Portland Committee on Community Engaged Policing (PCCEP) is being

0316.00 Directive Feedback (1UR)

required to post their recommendations using that web portal. (To be clear, we do not think that should be necessary.)

We continue to urge that all response periods last at least 30 days to allow groups like the PCCEP-- which only meets once a month-- to be able to adequately discuss and respond to the policy proposals, especially when they are as important and complex as the Brady and Search Directives.

Thank you for your time

--dan handelman
--Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **copwatch@portlandcopwatch.org**

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, December 02, 2020 6:07:07 PM
Last Modified: Wednesday, December 02, 2020 6:26:44 PM
Time Spent: 00:19:36

Page 1

Q1

Please provide feedback for this directive

Our policy around marijuana needs to be updated to be more in line with the city's values. Specific language authorizing medical marijuana needs to be put in place. We also need to stop unnecessarily testing for marijuana since it is not worth the time or money. This prohibition on marijuana use has made it very difficult to recruit qualified candidates. PPB has chosen to interpret "drug user" in the most outdated, conservative, and restrictive way possible (unlike many other agencies), putting us way out of line of most Portland citizen's values and ensuring we are drawing police candidates from an increasingly narrow slice of the population.

Our current policy has led to the unintended outcome where we have officers who are currently using opiates to treat chronic backpain, but they are unable to use CBD products with no mentally impairing effects. Our policy on marijuana could easily match our policy on alcohol, which focuses on officer and public safety. Even a halfway effort, similar to a don't-ask-don't-tell policy around marijuana would be better than what we have now. PPB needs to update our marijuana policy to demonstrate that it takes officers wellness seriously, it takes the science seriously, and it takes the values of the city seriously.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, December 09, 2020 12:44:13 AM
Last Modified: Wednesday, December 09, 2020 12:44:48 AM
Time Spent: 00:00:35

Page 1

Q1

Please provide feedback for this directive

I have no feedback for this directive.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, December 11, 2020 5:46:06 PM
Last Modified: Friday, December 11, 2020 5:48:31 PM
Time Spent: 00:02:24

Page 1

Q1

Please provide feedback for this directive

I believe this directive reads well. I do believe that it needs to take into account that Marijuana has been legalized here in Oregon. I am not condoning that officers be allowed to consume Marijuana but I do believe they should be able be in the presents of it without issues.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, December 11, 2020 9:52:35 PM
Last Modified: Friday, December 11, 2020 9:58:10 PM
Time Spent: 00:05:35

Page 1

Q1

Please provide feedback for this directive

While off-duty, members who have knowledge/ or suspect such location where substances are used/ or displayed shall not be present at such locations where illegal substances are used or displayed.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Martiniuc**

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, December 15, 2020 5:32:36 PM
Last Modified: Tuesday, December 15, 2020 5:33:00 PM
Time Spent: 00:00:24

Page 1

Q1

Please provide feedback for this directive

COMMENTS ON SEARCH, "BRADY LIST" AND SUBSTANCE USE DIRECTIVES, DECEMBER 2020

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

Below are Portland Copwatch's comments on the Search, "Brady List," and substance use Directives posted for review in November/December . Portland Copwatch (PCW) sent in comments on previous drafts of the Search policy (650.00) in October, the "Brady List" (320.00) in August and the Alcohol Use policy (316.00) in February. The other substance use Directives (316.10 Drug/Controlled Substance Use, 316.20 Tobacco Use, and 316.30 Drug and Alcohol Testing) were not previously posted. The PPB says it is considering consolidating all four substance policies; PCW has no objection to this so long as the content is clear. We have no comments on 316.20.

As with our previous comments on the Brady List policy, (now called "Police Bureau Reporting of Potential Exculpatory or Impeachment Information"), we used the term "Brady List" as it is the common term for the roster of officers subject to disclosure for their possible lack of credibility in court proceedings in reference to a Supreme Court case.

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

DIRECTIVE 316.10 DRUG/CONTROLLED SUBSTANCE USE

We have just two comments on this relatively short Directive.

--The policy says that officers on or off duty cannot use "lawfully prescribed narcotics, dangerous drugs or other controlled substances" if that us is "excessive," but does not define "excessive."

--PCW has addressed its opposition to the use of undercover operatives in comments on other Directives and repeats here that the Bureau should not be engaging in such subterfuge/stings.

CONCLUSION

We continue to appreciate that the community has an opportunity to give input into Bureau policy as long as Portland continues to have police. While the Bureau has made efforts to create a more user-friendly process for commenting on these policies, the redline versions, particularly of both nearly fully-rewritten Directives posted in November, leaves a lot to be desired. The automated redlining resulted in renumbering of existing Sections, sentences strung out among several pages, and enough confusion that we had to re-print the original and compare it line by line to figure out what was changed.

We thank the Directives project administrator for recognizing that our August comments on the Brady list Directive had been left out of the review packet, and adding them in to a revised packet. It's likely that the omission may have been in part because we sent those comments by email and not via the website's online submission process, but we hope the PPB will compile comments regardless of how they arrive. It's not clear, for instance, whether the Portland Committee on Community Engaged Policing (PCCEP) is being required to post their recommendations using that web portal. (To be clear, we do not think that should be necessary.)

We continue to urge that all response periods last at least 30 days to allow groups like the PCCEP-- which only meets once a month-- to be able to adequately discuss and respond to the policy proposals, especially when they are as important and complex as the Brady

and Search Directives.

Thank you for your time

--dan handelman

--Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

copwatch@portlandcopwatch.org

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, December 02, 2020 2:01:58 AM
Last Modified: Wednesday, December 02, 2020 2:07:33 AM
Time Spent: 00:05:34

Page 1

Q1

Please provide feedback for this directive

Simple and candid.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, December 02, 2020 7:05:38 AM
Last Modified: Wednesday, December 02, 2020 7:08:42 AM
Time Spent: 00:03:04

Page 1

Q1

Please provide feedback for this directive

Provide clarification on the City's stance on the recreational and responsible use of cannabis products. There is a lot of confusion on its definition, whether illegal or not.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, December 03, 2020 10:00:54 PM
Last Modified: Thursday, December 03, 2020 10:10:51 PM
Time Spent: 00:09:56

Page 1

Q1

Please provide feedback for this directive

I think there should be random drug/alcohol testing in addition to the already written directive. I also believe the PPB should offer treatment to any personnel that tests positive.

I also think there needs to be more emotional support for officers because they are under enormous stress and experiencing violence and threats on a regular basis with over 6 mos of dealing with the nightly BLM-Antifa riots. This takes a huge mental toll and there should be therapists and/or support groups on site to help officers process it all. Otherwise it leads to wanting to "self-medicate" to ease the pain and trauma.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, December 08, 2020 9:27:51 PM
Last Modified: Tuesday, December 08, 2020 9:30:51 PM
Time Spent: 00:02:59

Page 1

Q1

Please provide feedback for this directive

Under "member responsibilities", it states that if a member reasonably suspect that another member may be using drugs or alcohol should bring their concerns to the attention of a supervisor immediately. This should be limited to on-duty. This wording is all-encompassing.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, December 08, 2020 10:03:38 PM
Last Modified: Tuesday, December 08, 2020 10:07:36 PM
Time Spent: 00:03:57

Page 1

Q1

Please provide feedback for this directive

It would be helpful if the directive included information on random drug screenings as well as those initiated by reasonable suspicion. It would be helpful to see a distinction made between the two.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, December 09, 2020 12:42:41 AM
Last Modified: Wednesday, December 09, 2020 12:43:15 AM
Time Spent: 00:00:34

Page 1

Q1

Please provide feedback for this directive

I have no feedback for this directive.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, December 11, 2020 10:09:46 PM
Last Modified: Friday, December 11, 2020 10:13:28 PM
Time Spent: 00:03:42

Page 1

Q1

Please provide feedback for this directive

Prohibitions and general information.

e. Using or possessing alcohol with intent to use while on duty, except as provided for in DIR 316.00

Commonly officers come into contact with subjects who have alcohol in public/ who are unable to discard their alcohol. Officers commonly throw alcohol away from open containers since alcohol cannot be placed into property and evidence, or be taken to hospital with subject.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Martiniuc**

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, December 15, 2020 5:33:31 PM
Last Modified: Tuesday, December 15, 2020 5:34:12 PM
Time Spent: 00:00:41

Page 1

Q1

Please provide feedback for this directive

COMMENTS ON SEARCH, "BRADY LIST" AND SUBSTANCE USE DIRECTIVES, DECEMBER 2020

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

Below are Portland Copwatch's comments on the Search, "Brady List," and substance use Directives posted for review in November/December . Portland Copwatch (PCW) sent in comments on previous drafts of the Search policy (650.00) in October, the "Brady List" (320.00) in August and the Alcohol Use policy (316.00) in February. The other substance use Directives (316.10 Drug/Controlled Substance Use, 316.20 Tobacco Use, and 316.30 Drug and Alcohol Testing) were not previously posted. The PPB says it is considering consolidating all four substance policies; PCW has no objection to this so long as the content is clear. We have no comments on 316.20.

As with our previous comments on the Brady List policy, (now called "Police Bureau Reporting of Potential Exculpatory or Impeachment Information"), we used the term "Brady List" as it is the common term for the roster of officers subject to disclosure for their possible lack of credibility in court proceedings in reference to a Supreme Court case.

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

DIRECTIVE 316.30 DRUG AND ALCOHOL TESTING

Broadly speaking, PCW supports longstanding community demands that officers be tested for alcohol/drugs/steroids after use of force/deadly force incidents. This is particularly important because suspects who are shot or shot at usually have their toxicology exams broadcast all over the media to justify officer use of force. As has been noted many times, truck drivers who have accidents get tested, so should cops who engage in violence. We recognize that the Police Association contract currently limits drug tests to random testing in addition to the probable cause testing outlined in this Directive, but urge the PPB to work with the City to fix that issue in upcoming negotiations.

To that end, we suggest:

--In the Policy section where it describes reasonable suspicion required to conduct a drug test, it lists "appearance, behavior, speech or body odors" of the officer. We suggest adding "or interactions while on duty which fall outside an officer's usual daily routine, such as the use of force/deadly force."

--To some extent this is supported in the definitions section where it describes "safety sensitive functions" to include "situations in which a member must exercise judgment about whether and when to use force."

--The "Alcohol Threshold" Section uses the term "safety sensitive function" to say officers who test positive for an alcohol level of .02 or above are not allowed to engage in those potential use of force actions. That prohibition should extend to testing positive for other controlled substances including steroids.

--We support that officers are prohibited from refusing to submit to a reasonable suspicion drug test in the context of this being an administrative/employment issue and not a violation of their constitutional rights (Prohibitions Section f). It may be useful to spell out that distinction in the Directive.

0316.30 Directive Feedback (1UR)

--Formatting suggestions: Assuming the Bureau combines the four controlled substance Directives

----(1) the Section on prohibitions should refer to the Sections which currently reference parts of Directive 316.10 as Sections within this policy around officers having the odor of alcohol on them, ingesting prescribed medication, possessing illegal drugs or alcohol and notifying supervisors about prescriptions that may affect their work (Prohibitions Sections a-e and g); and

----(2) the Member Responsibilities about reporting drug/alcohol use to a supervisor should refer back to what's now Policy Section 3 of 316.00.

CONCLUSION

We continue to appreciate that the community has an opportunity to give input into Bureau policy as long as Portland continues to have police. While the Bureau has made efforts to create a more user-friendly process for commenting on these policies, the redline versions, particularly of both nearly fully-rewritten Directives posted in November, leaves a lot to be desired. The automated redlining resulted in renumbering of existing Sections, sentences strung out among several pages, and enough confusion that we had to re-print the original and compare it line by line to figure out what was changed.

We thank the Directives project administrator for recognizing that our August comments on the Brady list Directive had been left out of the review packet, and adding them in to a revised packet. It's likely that the omission may have been in part because we sent those comments by email and not via the website's online submission process, but we hope the PPB will compile comments regardless of how they arrive. It's not clear, for instance, whether the Portland Committee on Community Engaged Policing (PCCEP) is being required to post their recommendations using that web portal. (To be clear, we do not think that should be necessary.)

We continue to urge that all response periods last at least 30 days to allow groups like the PCCEP-- which only meets once a month-- to be able to adequately discuss and respond to the policy proposals, especially when they are as important and complex as the Brady and Search Directives.

Thank you for your time

--dan handelman
--Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **copwatch@portlandcopwatch.org**

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, March 01, 2021 3:30:45 PM
Last Modified: Monday, March 01, 2021 3:32:47 PM
Time Spent: 00:02:02

Page 1

Q1

Please provide feedback for this directive

A simple line addressing the fact that tobacco use should be allowed for surveillance and/or under cover assignments.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, March 01, 2021 5:47:12 PM
Last Modified: Monday, March 01, 2021 5:50:20 PM
Time Spent: 00:03:08

Page 1

Q1

Please provide feedback for this directive

seems reasonable especially the part about PPB member workplaces searched should they be hiding any alcohol or drugs under suspicions of their superiors so hopefully the members will understand this and adhere to these policies so that way no one in the Bureau gets terminated.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, March 03, 2021 3:45:21 AM
Last Modified: Wednesday, March 03, 2021 4:26:10 AM
Time Spent: 00:40:48

Page 1

Q1

Please provide feedback for this directive

Drug definition states CBD products that do not contain THC are excluded. Issue is, CBD products are not FDA approved therefore there is no standard for these products. The industry recognizes that THC-free CBD oils can contain up to .3% THC and still be labeled 'THC-Free'. From my research, this includes CBD isolate, full spectrum CBD and broad spectrum CBD. Yes, it's the users responsibility to know what goes into their body but there is still a potential problem. As with nutritional supplement industry, there is no governing body to control the products. Each batch made and sold can be vastly different from each other yet marketed under the same label. My point is, depending on how a person's body metabolizes the CBD, how much CBD they use, how often they use it, it could potentially (highly unlikely) lead to a positive urine test. What is the point of this diatribe? I think the definition needs to recognize there are NO products on the shelf today that are truly 100% free of THC. Having that absolute in the definition is setting a person up to violate this policy. Even with due diligence and good faith, a person can violate this policy because the industry has no governing body to regulate these products.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, March 13, 2021 8:37:57 PM
Last Modified: Saturday, March 13, 2021 8:38:37 PM
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Page 1

Q1

Please provide feedback for this directive

COMMENTS ON FOOT PURSUIT AND DRUG USE DIRECTIVES, MARCH 2021

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Foot Pursuits (630.15) and "Drug, Alcohol and Tobacco Free Workplace" (316.00) Directives posted in for comment at (<https://www.portlandoregon.gov/police/73677>). We are choosing not to comment on the Property/Evidence (660.10), Return to Work (415.00) or Injuries (410.00) Directives. By our count, we have commented on 121 Directives, some multiple times, and chose not to comment on 36.

Our comments are made as though the proposed changes are intended to move forward, but recognize that when we say "the PPB changed" certain clauses, we're referring to the draft.

To make these drafts, these two Directives were both converted from pre-2014 format, which would have been a good time for the PPB to adopt our ongoing suggestion to label each major section of the Directives with a letter so there aren't multiple subsections with the same numbers. Since they are still under review, there is still time. The references below are to Procedure Section unless otherwise noted.

DIRECTIVE 316.00 "Drug, Alcohol and Tobacco Free Workplace"

The PPB has moved forward to combine four previous Directives on Alcohol Use, Drug/Controlled Substance Use, Drug and Alcohol Testing, and Tobacco Use into one policy. As noted in our previous comments, we have no objection to this decision.

First and foremost, we find ourselves in the need to express solidarity with any officers who need cannabis for medical purposes or who choose to use it recreationally as allowed by Oregon law. Section 1.2.3 states that "Notwithstanding Oregon law, members shall not use or possess marijuana, medical or otherwise." It's one thing to caution officers not to come to work or be on call under the influence, it's another to limit their medical and off-duty recreational choices.

--The policy still allows officers to consume alcohol for undercover or other special assignments (Sections 2.1 and 2.2). PCW continues to object to the governmental subterfuge, and potential entrapment, involved in undercover police work.

--The policy still outlines reasonable suspicion testing for officers based on "appearance, behavior, speech or body odors," but does not specifically include unusual police actions such as the use of excessive or deadly force. As we've noted many times, truck drivers who crash get tested for drugs, why not cops who kill? If this needs to be addressed in the negotiations about the current Police Association contract (mentioned in Section 3.2.2.1), the Bureau should do so.

--The previous version called for discipline up to termination for officers who refuse a reasonable suspicion drug/alcohol test. We recommended contextualizing that to say discipline can happen to the officer being investigated for possible administrative violations based on their employment. Constitutionally speaking, officers can refuse the test for criminal matters, even if that refusal leads to a dismissal from the Bureau because of violation of employment policies.

That said, here are some improvements in the new draft:

--There is no longer a prohibition on the "excessive" use of prescription drugs, which we noted previously was an undefined term. Instead, the Bureau asks that medications be "used as prescribed" (Section 1.2.2).

--The list of drugs being searched for in tests now includes anabolic steroids and prohormones, which are welcome additions.

0316.00 Directive Feedback (2UR)

--Rather than carve out "safety sensitive functions" for which officers should not show up slightly intoxicated, the policy now prohibits showing up under the influence of alcohol at all, including while on call or driving a vehicle (Sections 1.1.1 and 1.1.2). It's not clear why this doesn't apply to the steroids or other drugs listed in the testing section.

CONCLUSION

We would still like to see more public discussions by the Bureau regarding their decision-making process for creating and changing Directives. Portland Copwatch was among those who have expressed concern that the Portland Police Association has negotiated to be given the "final draft" of any policy, meaning they get to comment after the public has already been shut out of the process. We would like to see them, and officers of all ranks, engage in the same discussion on the policies as the rest of the community, hence the buzz-phrase "community-engaged policing." We mentioned this in the comments on the previous Directive but repeat it here because of the serious trust issues that go along with giving special rights to police.

Thank you for the opportunity to comment
--dan handelman (and other members of)
--Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Portland Copwatch (copwatch@portlandcopwatch.org)**
