



CITY OF PORTLAND, OREGON



Bureau of Police

Sam Adams, Mayor

Michael Reese, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

Integrity • Compassion • Accountability • Respect • Excellence • Service

MEMORANDUM (CONFIDENTIAL)

November 8, 2010

TO: Sergeant John Birkinbine #29351
North Precinct

SUBJECT: Discipline: Suspension without Pay
80 Hours
2010-B-0004

You are hereby notified that your conduct, while employed with the Portland Police Bureau, has not met standards acceptable to the Bureau. The charges include a violation of Directive 315.30 - Unsatisfactory Performance. Under City of Portland Human Resources Administrative Rule 5.1 (8), a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies, is cause for disciplinary action.

This disciplinary action stems from your involvement in an on-duty incident that occurred on January 29, 2010, in an apartment complex parking lot located at 12800 NE Sandy Blvd. in Portland. This incident began as a welfare check call and ended nearly two hours later with a police shooting that resulted in the death of Aaron Campbell (Campbell). You correctly self-dispatched to the call, thinking that it needed the support of more than one sergeant. According to records, you arrived on-scene to this call at 1721, about one hour and 38 minutes into the call.

Your performance in this matter did not meet expectations in the critical areas of communication or coordination.

BACKGROUND

You have been employed with the Portland Police Bureau since April 21, 1994.

In February 2000, you received a one day suspension without pay for a violation of General Order 4.01.030 (G8); you initiated a pretext stop with no reasonable justification for doing so.

In July 2001, you received a one day suspension without pay for violations of General Order 315.00 – Laws, Rules, Orders, at it related to General Order 1010.20 – Use of Physical Force; you struck a handcuffed subject in the back of the head with an open hand.

Your background includes over 2,200 hours of training through November 2009, including Basic and Advanced Academy, specialized hostage negotiation communication skills and hostage use of force scenario based training, communication skills, patrol tactics, defensive tactics, incident command training, supervising critical incidents, and other supervisory training such as sergeant's command school. You have received training regarding individuals who face physical or mental barriers, including 40 hours of crisis intervention training which was required following the death of a mentally ill person, while in Portland police custody. The CIT training was designed to teach officers to recognize that a person's mental illness may affect the person's behavior and ability to respond or interact with police. Your background also includes certification as a taser operator, and an instructor in the operation of police vehicles and firearms.

Along with other training designed to develop sound judgment, police officers at PPB are taught tactical guidelines. The guidelines have been a part of PPB skills training since at least the mid 1980's. The guidelines are designed to assist officers in use-of-force decision-making, minimizing the risk of injury to the subject, officers and the public.

In the last few years there have been a number of reviews and substantial internal Bureau, City Council and community discussion around the Portland Police Bureau's use of force decision-making generally and specifically, where mental health issues are a possibility. In 2008, the Police Bureau modified its force policy to emphasize the central role of the *Graham v. Connor* "totality of circumstances" analysis in force decision making. At the same time, the Bureau announced a requirement that every officer develop the skills and abilities necessary to regularly resolve confrontations safely and effectively without resorting to the maximum force allowed by the Supreme Court's *Graham* standard. The Bureau also announced the policy that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely, and emphasized a high value on the use of de-escalation tools that minimize the need to use force. A force data collection reporting and review system has been established; officers and supervisors both monitor that data.

Over the several years prior to this incident, the Bureau also trained its officers and sergeants on patrol-level responses to potential hostage or barricaded persons incidents. The model response trained by the Bureau required coordination of custody, perimeter and communication functions, management of supervisory span of control, cooperation and collaboration between supervisory personnel and effective management and distribution of information and commands at a scene.

FACTS SUPPORTING ACTION

This matter was investigated and reviewed through the course of the following: Detective Division investigation, grand jury review, Internal Affairs Division investigation, Training Division review, precinct commander review and recommendations and Use of Force/Performance Review Board review and recommendations. All of this material was considered and is incorporated here by reference.

The core explanation and supporting facts for your suspension is set out below.

This incident began with a request from a citizen to check the welfare of a woman and three children believed to be in an apartment with her boyfriend, Aaron Campbell, who was reported to be possibly suicidal, armed, and despondent over the death of his brother. Responding officers established containment and set up perimeter, custody and communication teams.

Prior to direct contact with Campbell, the woman (Jones) came out of the apartment in response to contact from her family; Jones' father was on scene with police. When you arrived on scene Jones was out of the apartment. You contacted Sergeant Reyna, the incident supervisor and asked what you could do. She said there was nothing she needed, had no direction for you, and returned her attention to directing other officers already on scene. There were a number of officers on scene; Officer Quackenbush was the designated communications officer. You saw that Quackenbush had a cell phone as well as Jones' cell phone. You have experience and training with the Hostage Negotiation Team; HNT negotiators are deployed as two-person teams when called out. You decided to partner with Quackenbush. At this point, the children were inside the apartment.

Before Officer Quackenbush made contact with Campbell for the first time, Sergeant Reyna communicated by radio that contact was going to be made so that police personnel could be ready in the event that Campbell came out.

Eventually, Officer Quackenbush established contact with Campbell and communicated to Campbell that police were worried about the children, Campbell's welfare, and that police were not there to hurt him. You were located next to Officer Quackenbush. Officer Quackenbush said something to the effect that police could not leave until the kids were out; you said that the phone went dead and "within seconds" the three little children were out. In your IAD interview you stated: "They had obviously been given direction because, from Mr. Campbell, because of the way they came down. They looked immediately for police officers and they walked right to them." Officers said they were not prepared for the children to come out because it occurred so quickly; the children were secured.

With only Campbell left in the apartment, the circumstances had changed. You, Reyna, and some officers exchanged information and tried to reach decisions on how to handle the situation. The officers in the custody team, including the less lethal and lethal cover officers remained in place and were not included in the discussion.

Between 1735 and 1758, you and Sergeant Reyna were in an alcove discussing tactical options; you described the discussion as centering on "what threshold do we need to achieve for us to withdraw police resources?" Sergeant Reyna was considering withdrawing police presence from the scene. You wanted to be sure that Jones and the children had a safe place to stay in case the police walked away. You also felt like there needed to be a face to face conversation with Campbell or other significant assurance that he was not going to harm himself or anyone else.

At 1759, Sergeant Reyna asked Officer Quackenbush to solicit from Campbell a promise that he will not hurt himself; she then left the alcove to brief Captain Day who had arrived. After text communication between Quackenbush and Campbell, you told Quackenbush to call Campbell and tell him police would like him to come out. Officer Quackenbush did so. Campbell came outside immediately, without saying he was going to come outside.

A number of coordination, communication, supervision and poor judgment issues were identified in the review of this matter, but to be clear the following decisions on your part were not correct:

1. You did not take steps to communicate critical information to other officers on-scene.

Given your experience and training as a sergeant and officer, and in particular, your work with the Hostage Negotiation Team, you understand how important it is to communicate your plans and critical information to other police and support personnel.

You failed to notify Sergeant Reyna and on-scene officers about the timing or substance of the communications team's contacts with Campbell before initiating contact with him or after; nor is there evidence to show that you made adequate efforts to inform others of the context of the communications with Campbell.

In your due process meeting, it was suggested that you did not have enough time to make these notifications because the intent was to float the ideas to Campbell about providing for the safety of the children and to only suggest he come outside, and as a result Campbell's actions were unexpected. You did not make sure that others were prepared to deal with the consequences of having the communications with Campbell; this is counter to your training as an HNT member which requires making sure that other officers on scene are ready before contact is initiated and to expect the unexpected.

Because of these communication failures, there was not a shared situational awareness and the officers on the custody team who used lethal and less lethal force indicate that they were surprised by both events (the children coming out and Campbell coming out of the apartment) and interpreted Campbell's actions negatively, instead of positively.

2. You did not coordinate effectively with Sergeant Reyna.

You should have inserted yourself into a leadership role instead of the passive role you chose. Sergeant Reyna was the incident supervisor in a complex and lengthy call with a communications team, custody team and perimeter team. You should have formally taken control of the communications team. If Sgt. Reyna had said no to your insertion in this role, it would have been appropriate for you to contact the lieutenant and apprise him of the situation. There was a need for you and Sergeant Reyna to work together effectively to coordinate and oversee the various functions in play. You and Sergeant Reyna ended up working independently of each other.

As one example, you did not coordinate with Sergeant Reyna before suggesting to Campbell that the children come outside. Sergeant Reyna, members of the custody team, and even you, described being surprised that the children were out. As a second example, before Reyna left the alcove her direction was to get a promise from Campbell that he would not hurt himself. Officer Quackenbush did this; in response to Campbell's response text, you gave the direction to suggest that Campbell come outside. You failed to communicate this next step to Sergeant Reyna and on scene officers. Further, you did this without taking steps to inform other officers on scene before contact was made.

3. At no point did you make a command notification to Lieutenant Rodrigues.

You are an experienced supervisor; you should have recognized that even though Sergeant Reyna refused your assistance, this was a complex call involving multiple teams, with more than a dozen officers. In addition, you and Sergeant Reyna had different ideas about what additional steps, if any, should be taken with respect to Campbell once the children were out. There are a number of points in time when you could and should have taken the initiative to contact the relief lieutenant.

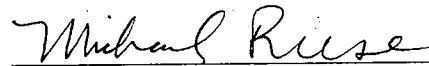
SUMMARY

The Performance Review Board met on Thursday, August 26, 2010, and recommended the conclusion that you violated Directive 315.30 - Unsatisfactory Performance. I agree.

I have carefully considered the information you provided at your due process meeting with me on October 19, 2010. I have determined that an eighty (80) hour suspension without pay is the appropriate level of discipline in this matter.

A copy of this letter will be placed in your personnel file. Under the provisions of the current labor agreement, you are entitled to file a grievance through your union, if you believe this action was not for just cause.

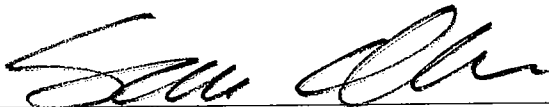
You are not being disciplined for political or religious reasons, but in good faith, and for the purpose of improving public service.



Michael Reese
Chief of Police

11/15/10

Date




Sam Adams, Mayor
Commissioner In Charge

11-15-10

Date

Read and Reviewed:



Sergeant John Birkinbine #29351

I certify that I have read and received a copy of this notice.

11 15 10

Date/Time

- c: PPA President Daryl Turner
Director Yvonne Deckard - Bureau of Human Resources
Wayne Ferrell - Bureau of Human Resources
Steve Herron - Bureau of Human Resources
Police Bureau Personnel File (201)
Discipline File

RECORD RETENTION: 10 years after separation **AUTHORITY:** OAR 166-200-0090(7)



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MEMORANDUM (CONFIDENTIAL)

November 8, 2010

TO: Officer Ronald Frashour #40927
Personnel Division

SUBJECT: Discipline: Termination
2010-B-0004

Your conduct, while employed with the Portland Police Bureau, has not met standards acceptable to the Bureau. The charges include a violation of Directive 1010.10 – Deadly Physical Force, Directive 1010.20 – Physical Force, and Directive 315.30 – Unsatisfactory Performance.

This disciplinary action stems from your involvement in an on-duty incident that occurred on January 29, 2010, in an apartment complex parking lot at 12800 NE Sandy Blvd. in Portland. This incident began as a welfare check call and ended nearly two hours later with a police shooting that resulted in the death of Aaron Campbell (Campbell). You arrived at this call about one hour into it and were assigned the role of lethal cover using a Bureau issued AR-15 rifle. You were the officer who shot and killed Campbell within one minute of his emerging from his apartment. You shot Campbell because he was running away from police after being hit in the buttocks by a less lethal (bean bag) gun. You said you thought Campbell was reaching into the back waistband of his pants for a gun. In fact, Campbell did not have a gun.

Summary of Charges and Reason for Termination

As a matter of common sense, law, policy and training, sworn members of the Portland Police Bureau know that the decision to use deadly physical force is the most important decision that a member will make in the course of his or her career.

The Bureau's overall policy relating to force, Directive 1010.20, states in part that the policy of the Bureau is to accomplish its mission as effectively as possible with as little reliance on force as practical. Members are authorized to use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely. Totality of circumstances factors at a scene include: (1) the severity of the crime; (2) the impact of the person's behavior on the public; (3) the extent to which the person posed an

immediate threat to the safety of officers, self or others; (4) the extent to which the person actively resisted efforts at control; (5) whether the person attempted to avoid control by flight; (6) the time, tactics and resources available; and (6) any circumstances that affects the balance of interests between the government and the person. In addition, members are expected to develop and display over the course of their practice of law enforcement the skills and abilities that allow them to regularly resolve confrontations without resorting to higher levels of allowable force.

Directive 1010.20 further provides that the Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law. Bureau policy and long-standing training principles emphasize using de-escalation tools that minimize the need to use force.

In addition to the Bureau's general use of force policy, the Bureau's policy regarding use of deadly force, Directive 1010.10, emphasizes that in order to use deadly force, there must be an immediate threat of death or serious physical injury or a significant and immediate threat of death or serious physical injury to the member or others.

Bureau Directive 315.30 requires members to perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Bureau. The failure to conform to work standards established for the rank, grade or position is unsatisfactory performance.

Your use of deadly force against Aaron Campbell was not authorized by Bureau policies or training. Your judgment and decision-making violated bureau policies, training and the expectations of you as a City of Portland police officer because:

- Campbell did not pose an immediate threat of death or serious physical injury; nor did he pose a significant and immediate threat of death or serious physical injury to you or others. Further, you were not reasonable in concluding that Campbell posed a threat at the level required to use deadly force.
- You employed a rigid and inflexible approach in assessing the totality of circumstances facing you. Your inability or unwillingness to adapt your thinking and tactics in response to changing circumstances negatively affected your decision-making prior to your decision to use deadly force, your decision to use deadly force, and is still evident in your post-incident explanations for your decision-making.
- In the totality of circumstances at the scene, use of deadly force was not reasonably necessary.

Under City of Portland Human Resources Administrative Rule 5.1(8), a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies, is cause for disciplinary action.

Background

You have been employed with the Portland Police Bureau since November 29, 2001.

There are two incidents in the last two years for which you received counseling for your poor judgment and decision-making in use of force events.

In mid August 2008, you responded to assist another officer who had just performed a pursuit intervention technique (PIT) on a reckless driver. The description of the vehicle driven by the reckless driver was red Honda Accord. You observed a silver Honda with a different plate and damage. You did not verify the description of the suspect vehicle. Thinking it was the reckless driver, you performed a PIT on the silver Honda. The silver Honda was being driven by an innocent person, not the reckless driver. This incident resulted in physical damage and injury. Your application of the PIT was found to be out of policy and lacking probable cause, and in violation of Directive 315.30 - Unsatisfactory Performance. You received command counseling for this on October 24, 2008.

In 2009, you received command counseling for two separate violations of bureau policy that occurred during a use of force encounter with a citizen named Frank Waterhouse. There, you deployed your Taser without first giving a verbal warning and your use of the Taser was found to be out of policy. In addition, the matter was litigated in federal court as a civil rights claim, with a conclusion from the jury that you and another officer were liable for excessive force against Mr. Waterhouse; the judgment was for \$209,188.26 plus interest.

Your background includes approximately 1,300 hours of training through August 2009, including Police Corp, Advanced Academy, defensive tactics, AR-15 operation, patrol tactics, use of force, crowd control, communication tactics, taser operation, less lethal operation, as well as certification as a defensive tactics instructor and firearms instructor. You have received training regarding interacting as a police officer with persons who face physical or mental barriers, including 40 hours of crisis intervention training which was required following the death of a mentally ill person while in Portland police custody. The CIT training taught officers to recognize that a person's mental illness may affect the person's behavior and ability to respond or interact with police.

Along with other training designed to develop sound judgment, police officers at PPB are taught tactical guidelines. The guidelines have been a part of PPB skills training since at least the mid 1980's. The guidelines are designed to assist officers in use-of-force decision-making, minimizing the risk of injury to the subject, officers, and the public.

In the last few years there have been a number of reviews and substantial internal Bureau, City Council and community discussion regarding the Portland Police Bureau's use of force decision-making generally and specifically, where mental health issues are a possibility. In 2008, the Police Bureau modified its force policy to emphasize the central role of the Graham v. Connor "totality of circumstances" analysis in force decision making. At the same time, the Bureau

announced a requirement that every officer develop the skills and abilities necessary to regularly resolve confrontations safely and effectively without resorting to the maximum force allowed by the Supreme Court's Graham standard. The Bureau also announced the policy that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely, and emphasized a high value on the use of de-escalation tools that minimize the need to use force. A force data collection reporting and review system has been established; officers and supervisors both monitor that data.

Over the several years prior to this incident, the Bureau also trained its officers and sergeants on patrol-level responses to potential hostage or barricaded persons incidents. The model response trained by the Bureau required coordination of custody, perimeter and communication functions, management of supervisory span of control, cooperation and collaboration between supervisory personnel and effective management and distribution of information and commands at a scene.

Facts Supporting Action

This matter was investigated and reviewed through the course of the following: Detective Division investigation, grand jury review, Internal Affairs Division investigation, Training Division review, precinct commander review and recommendations, and Use of Force/Performance Review Board review and recommendations. All of this material was considered and is incorporated here by reference.

However, the core explanation for the conclusion that your use of deadly force was outside bureau policy, training and expectations is set out below.

1. Information Available Before You Arrived

At 1725 hours on January 29, 2010 you went to the call, which was at an apartment located at 12800 NE Sandy Blvd. You were responding to a request for an AR-15 operator. You read the data system entry while your partner officer drove to the call. The entry included the following information:

- The call came in about an hour prior (1622 hours).
- The call was generated as a welfare check on a female, Angie Jones.
- Jones' boyfriend, Campbell, was suicidal.
- Campbell was armed with a gun.
- Campbell's brother died that morning and he "is very distraught."
- Campbell was flagged in the system for domestic violence.
- Campbell's most recent criminal justice event occurred nearly a year earlier, in April 2009.
- "Eyes were on" apartment #37; meaning that officers had it under surveillance.
- A number of officers and two sergeants were on-scene and had the location contained.
- Police were setting up for a loud hail.

You also knew that the female (Jones) and three children were thought to be inside the apartment.

2. Information Available to You On-Scene

You arrived and replaced Sergeant Reyna in the role of lethal cover for the custody team. Officer Lewton was assigned as less lethal cover for the custody team. Sergeant Reyna was the incident supervisor. You learned that the female, Ms. Jones, was out of the apartment but the children were still inside. You learned there was a text message from Campbell to Ms. Jones stating something like "Don't make me get my gun, I aint playing." You knew there were numerous officers on scene, and that other officers were working to communicate with Campbell. You were standing very near other members of the custody team, including Officer Lewton. You said you learned that Ms. Jones had said that Campbell had a small gun and you assumed it was a small handgun; you also said you were told that Campbell kept the gun in his sock in the pocket of his coat. (IAD Transcript p. 10.)

At 1732 hours, Officer Quackenbush was talking with Campbell. At 1734 hours, you advised that the three children, who were very young, were coming out the front. At 1735 hours, Sergeant Reyna advised by radio that officers were to hold their positions. At 1751 hours, Sergeant Reyna advised by radio that they were on the phone with Campbell. At 1758 hours, Sergeant Reyna advised by radio that they were getting positive feedback from Campbell and were still in text communication with him.

At 1807 hours, you (or, according to you, Officer Willard) advised by radio that Campbell was walking out. Sergeant Birkinbine, who was working with Officer Quackenbush on communication with Campbell, had not advised by radio of the plan to contact Campbell or the intended message prior to making contact with Campbell shortly before 1807. However, at this same time, Sergeant Birkinbine did advise by radio that Campbell was compliant.

Campbell walked out of the apartment with both hands on the back of his head. In compliance with Officer Lewton's instructions, Campbell slowed his pace, walked backward towards Officer Lewton, you and other officers, with both of his hands on the back of his head, and stopped at least twice in response to commands. Officer Lewton instructed Campbell to put his hands straight up into the air. Campbell remained in the same spot with his both hands on his head and said something to Lewton that you did not hear because of your focused mindset. According to records, at 1808 hours, Officer Lewton deployed less lethal force, which struck Campbell in the buttocks. Campbell's back had been to Officer Lewton and you; he began to run away from you towards the alcove of his apartment. According to records, at 1808 hours, you advised of shots fired, lethal force, and subject down.

When interviewed by detectives on February 1, 2010, Officer Lewton stated that immediately after Campbell fell to the ground, he looked to his left at you. Officer Lewton stated: "And um, he [Frashour] looks at me and says something like um, uh, says something to me about um, his

[Campbell's] hands were going towards his waistband um, and uh, I thought he had a gun. It was something like that."

3. Campbell Was Not a Threat at the Level Required for Deadly Force and It Was Not Reasonable for You to Think So

Campbell did not pose a threat at the level required to support a decision to use deadly force. The Training Division and precinct commander reviews cover this issue in detail but some of the factors include:

- The reason for the initial call was a welfare check.
- Campbell was not reported as having committed a crime.
- Campbell was not wanted for a crime.
- Campbell was reportedly distraught and in need of mental health assistance.
- Campbell was reported to be suicidal.
- The most threatening statement, in the form of a text message that Campbell sent Jones, was reported as: "Don't make me get my gun, I aint playing."
- Campbell sent the small, very young children out.
- Communications between officers and Campbell were occurring and were reported as positive in nature.
- Campbell did not directly threaten officers.
- Campbell did not come out of the apartment with a weapon drawn or in view.
- Campbell came out of the apartment with his hands clasped together on top of his head and he walked backward toward officers and followed commands to slow down and stop.
- Although passively resistant, Campbell was substantially compliant with officer instructions.
- There was no justification for the use of less lethal force in order to force Campbell to put his hands in the air when his hands were already on his head
- That the less lethal rounds would have an effect such as pain (officers are taught that the pain from less lethal is the equivalent of being hit by a baseball/line drive).
- Plenty of resources were available, including other officers providing cover from various vantage points and a K9 (dog).
- The scene was well lit and there were no obstructions to vision.
- You did not hear any of the commands that the less lethal officer was giving Campbell.
- There were considerable resources and tactics available to vigorously pursue a non-fatal resolution of this confrontation while limiting the risk to an acceptable level. There were sergeants on scene, an inner perimeter, an outer perimeter, a communications team and a custody team.
- No officer, including you or Officer Lewton, observed a gun or any weapon in the back of Campbell's waistband.

These are factors that you failed to recognize, or ignored, or you were distracted and did not account for in your decision-making.

4. Examples of Your Rigid and Inflexible Approach

In addition, you saw Campbell as a threat the entire call to the exclusion of any other interpretation of Campbell's actions. Not every example is listed here but they are covered in the review materials. Some examples are set out below.

You characterized the children coming out as a bold action by Campbell. You thought Campbell may be considering suicide by cop and believed he was planning something.

Just prior to Campbell coming out you heard a report from officers covering the back of the apartment that Campbell was looking out the blinds. You interpreted this as Campbell gaining information and planning to attack officers or plan an escape.

Your perspective regarding Campbell's emergence from the apartment and subsequent events is described in a number of additional places, including the IAD Transcript at pages 10-27.

On Campbell emerging from the apartment you explained:

"I was shocked when he came out and alarmed by how determined he seemed. I've seen a lot of people come out to give up and I'd never seen anyone do it the way he did it. It just wasn't right. Uh, normally people move slow - - normally people put their hands straight up in the air, but it was the determined way he seemed to be moving and, uh, it wasn't slow. Normally people are slow, they're methodical, they do not run quickly and have something bad happen. That didn't seem to be the case with him and I noticed that right away. And I don't know if he stopped in the middle of the parking lot on his own or because he was directed to. But as soon as he emerged he was being given voice commands by officer, at least one officer and I assumed my role as lethal cover and I was just looking to the threat. Looking at him. Uh, but he did stop uh and he was facing directly south with his hands on his head."

You described Campbell's hands as on his head with his fingers "interlaced or very close." (IAD Transcript, p. 11). In response to the question, "Could you see his underwear above the pants?" you recalled "seeing a white t-shirt because the arms up on his head raised the coat up a little bit and I could see a white t-shirt. Uh, I don't know if I saw, I couldn't say for sure if I saw underwear or not." You said you were focused on his hands.

You were aware that commands were being given by officers but, "didn't pay attention to the specific wording or details" because they did not seem out of the ordinary. He was walking backwards towards officers with both of his hands on his head; you described his pace as "too fast."

Before he reached a distance of about 15 feet from the police car, which you described as Campbell's stopping point, you switched your aperture sight for closer range shooting. Also,

you had shifted position because you had been squatting/kneeling for a long time, your legs were in pain, and you felt uncomfortable.

You described your observations:

"I heard him [Lewton] say stop. I also (indecipherable) and I heard him say put your hands up and they were on his head. And that was one of the only commands now thinking back that stood out because I thought to myself briefly, well, they're already on his head. And then I thought, well, but that is how we are suppose to do it."

"I know you can't see it on the tape, but he's looked through me, open hole in his arm made by his elbow with his hand and he looked in the direction, me and Officer Willard because we were the farthest ones up on the police car. I don't know that he would - I don't know if he, it's right to say he was looking at Officer Lewton, but he looked in the direction of me. I don't know if he saw me, but he looked in my direction and he yelled and I don't know, I - the dog is barking and he so it's loud out there, but he yelled something and it was, I took it, I understood it to be aggressive and hostile and loud. And I've heard people yell when we've been trying to take them into custody and I've heard people be happy about it and I've heard people say things like sir, I want to comply with you, I can't for example, if he had a bad leg, or a broken arm and can't raise his hand, or whatever. He was not trying to communicate any intent to comply. Very much not trying to do that. He was communicating an intent and showing not to comply. He was yelling back at the commands that were being given by Officer Lewton. And other than the command to put your hands up, I again don't remember the others. He just yelled something that I understood right away to be aggressive. Um, his hands were still on his head. I-then he was hit with the bean bag gun. He was hit with the bean bag because I saw it, I saw the bean bag bounce off of him, I believe in the rear-end, or just below, he was hit with the bean bag and it bounces to the ground and I saw it and heard it. And I knew what it was right away." (IAD Transcript. p.16.)

Yet, you said that you did not see Campbell fail to comply with any commands other than the command to move his hands from the back of his head to straight up in the air. (IAD Transcript. p. 17) As a less lethal operator, you know or should know that use of less lethal force must be reasonable under a totality of the circumstances. While there is no mechanical model, the range of options under the Bureau's levels of control guidelines provides that at a minimum, Campbell had to display at least aggressive physical resistance or the intent to engage in aggressive physical resistance before less lethal force could be deployed.

From your perspective, Campbell "stumbles forward" as a result of the less lethal. He regained his balance and stood back up. He kept his hands on his head. Then you describe Campbell as "reaching that left hand straight down in the back of his waistband into his pants", turning and running away from officers toward a silver Volvo that was parked near the alcove. You viewed Campbell as "grabbing his gun." Your perspective was that it was a "deliberate movement of the hand."

"When he started running I think I had to catch up with the gun and get it on him again. And it's almost like I was waiting for him to have a chance to have an empty hand. I think I, I think I was justified in deadly force when the hand went in the pants based on the information that we've been talking about, knowing he's armed and yelling. Oh, I knew I was justified then, but that wasn't when my decision to use deadly force was made, not when he first reached, not when he first ran, but when he continued to run and continued to have a hand in his pants. It's like I was waiting for him to give up, but I knew he cannot get to the front of the Volvo, the direction he was running, I can't let him get to the Volvo. And he gets to the Volvo, his hand is still down in the back of his pants and I remember getting a sight picture and I remember like going and taking my eye off the front site and looking back at the hand again and it was still there and I remember thinking the word jumped into my mind, gun. And I remember thinking that gun, I mean the way he's moving it, it looks like he's pulling, he's about to pull it out. He's going to start shooting at the police. I cannot let him shoot at the police. I cannot let him do it from a position of cover behind that car. I've got to shoot him. I mean that just all came right to my mind, I thought I have to shoot him and I did." (IAD Transcript pp. 21-22).

At that moment, there were a number of other resources and options available besides deadly force. A number of officers were also providing cover from a variety of locations, and the K-9 officer was present and in fact, had released the dog.

You said the reason you used deadly force is that you thought Campbell was digging for a gun in the back of his waistband while running away from you and other officers, and that Campbell was going to shoot at officers. Your answers to IAD investigator questions are troubling.

You indicated:

- You never considered the possibility that Campbell was unarmed.
- You would not acknowledge that the less lethal rounds could cause a pain reaction.
- When you were asked whether it would have made a difference to you if you had known that Campbell was coming out at the request of one of the officers at the scene you said: "I guess it would have shown some compliance on his part and I would have registered that as some compliance on his part. It wouldn't have affected the end result, I can tell you that. I know that's not, I'm just, but yeah, it would have shown compliance on his part and it would have taken some of the alarm off I suppose of what was going on[.]" We understand this response to mean that you were so certain he was digging for a gun, Campbell's seeming compliance with an officer request to come out would not have mattered in your weighing of the circumstances.
- At the time you fired you did not realize that the K9 officer had released his canine, but said: "In fact, I can even tell you that even if I had seen the dog running I would have shot him anyway, it wouldn't have mattered because he was pulling a gun out. That wouldn't have weighed on my decision, I don't think."

Your post-incident explanations regarding your thinking about your decision to use deadly force, shows how rigid and inflexible you interpreted the overall situation. You saw Campbell as a threat during the entire call to the exclusion of any other interpretation of Campbell's actions.

5. Your Use of Force Was Not Reasonably Necessary Under the Totality of Circumstances

This situation involved a call to police to help determine the whereabouts and safety of Angie Jones and her three children, and assist Aaron Campbell, who was described as distraught and suicidal because his brother had just passed away. Police told Campbell that they were there to help him. Although certainly there were facts in favor of a cautious approach, police were not there because Campbell had committed a crime, he was not wanted for a crime and he did not pose an immediate threat.

There were updates on communications with Campbell, text messages between Campbell and Officer Quackenbush, release of the children, and Campbell's exit from the apartment after communications with the police. You demonstrated an inability or unwillingness to adapt your mindset even though the situation appeared to be de-escalating. The facts and circumstances available to you, in their totality, could not have led you to reasonably conclude that Campbell posed a threat justifying deadly force.

I agree with the analysis that you have been trained that circumstances may change your situation and warrant de-escalation, but there is little evidence in your thinking and actions of you reasonably balancing the threat information at the scene with other counterbalancing information. Or, that you sought to absorb information available to you about the totality of the situation. To the contrary, there is evidence that you steadfastly remained focused on absolute threat control to the purposeful exclusion of participating in the information sharing, group planning and decision making and coordinated action that officers are taught.

SUMMARY

The Performance Review Board met on Thursday, August 26, 2010, and recommended the conclusion that you violated Directive 1010.10 – Deadly Physical Force, and Directive 315.30 – Unsatisfactory Performance. I agree. In addition, your actions are also in violation of Directive 1010.20 – Physical Force.

I have carefully considered the information you provided at your due process meeting with me on October 19, 2010. I have determined that termination of your employment is the appropriate level of discipline in this matter.

A copy of this letter will be placed in your personnel file. Under the provisions of the current labor agreement, you are entitled to file a grievance through your union, if you believe this action was not for just cause.

You are not being disciplined for political or religious reasons, but in good faith, and for the purpose of improving public service.



Michael Reese
Chief of Police

11/15/10

Date

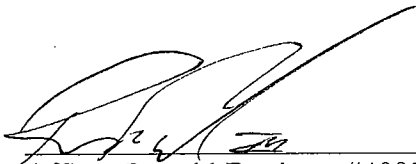


Sam Adams, Mayor
Commissioner In Charge

11-15-10

Date

Read and Reviewed:



Officer Ronald Frashour #40927

11-16-10

Date/Time

I certify that I have read and received a copy of this notice.

c: PPA President Daryl Turner
Director Yvonne Deckard - Bureau of Human Resources
Wayne Ferrell - Bureau of Human Resources
Steve Herron - Bureau of Human Resources
Police Bureau Personnel File (201)
Discipline File

RECORD RETENTION: 10 years after separation **AUTHORITY:** OAR 166-200-0090(7)



CITY OF PORTLAND, OREGON



Bureau of Police

Sam Adams, Mayor

Michael Reese, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

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MEMORANDUM (CONFIDENTIAL)

November 8, 2010

TO: Officer Ryan Lewton #34674
North Precinct

SUBJECT: Discipline: Suspension without Pay
80 Hours
2010-B-0004

You are hereby notified that your conduct, while employed with the Portland Police Bureau, has not met standards acceptable to the Bureau. The charge is a violation of Directive 1010.20 – Physical Force, and Directive 315.30 – Unsatisfactory Performance. Under City of Portland Human Resources Administrative Rule 5.1 (8), a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies, is cause for disciplinary action.

This disciplinary action stems from your involvement in an on-duty incident that occurred on January 29, 2010, in an apartment complex parking lot located at 12800 NE Sandy Blvd. in Portland. This incident began as a welfare check call and ended nearly two hours later with a police shooting that resulted in the death of Aaron Campbell. You were the less lethal operator of the custody team in this incident.

Your use of less lethal force against Aaron Campbell was not authorized by Bureau policy or training and did not meet the performance expectations for a City of Portland police officer. In order for your use of force to have been appropriate in this circumstance, Campbell must have displayed at the very least indications of aggressive physical resistance or the intent to engage in aggressive physical resistance (in other words, violent behavior) and in addition, your use of force must have been reasonable under the totality of circumstances. Neither element was met in this case.

BACKGROUND

You have been employed with the Portland Police Bureau since August 16, 2001.

You were counseled in October 2003 and November 2003 for preventable accidents in two separate incidents.

You were debriefed in April 2009 for a bean bag use of force event that occurred on March 20, 2009. There, officers responded to an apartment at 6300 NE 42nd Avenue on the report of a disturbance. The caller said her boyfriend was smashing things at her residence. An officer arrived and contacted the girlfriend outside the apartment. The officer then walked to the back of the apartment and spoke with the man through a bathroom window. The officer asked the man to come outside and talk with him. The man told the officer that he had a gun and would shoot him. The officer moved to a safe location, at which time, you and additional officers responded.

After setting containment on the location, the man was hailed over a police car loud speaker to come outside. After several attempts, the man came outside. He began walking backwards towards the street as police instructed but the man continued to walk backwards even when directed to stop walking. The command to stop walking was given multiple times by at least two officers. Because of the distance between you and the man, you did not warn him about being hit with the less lethal. You fired two rounds; both missed. After the bean bag rounds were fired, the man stopped walking and was taken into custody. Lt. Walker met with you to debrief the firing of the bean bag at 120 feet when the effective range is 60 feet; the discussion covered the potential negative outcome of hitting the subject in a negative strike area such as the head and the face.

In October 2009, you were counseled for violations of Directive 317.40 – Authorized use of Bureau Equipment, and Directive 315.30 – Unsatisfactory Performance in a matter involving a preventable accident.

Your background includes approximately 2,300 hours of training through December 2009, including Basic and Advanced Academy, defensive tactics, patrol tactics, use of force. You are certified as an AR-15 operator, a less lethal operator, and a taser operator, and you have received training in communication tactics, and other awareness courses such as cultural competency and profiling. You have served as a coach to new officers and received specialized training relating to crowd control as a member of the rapid response team. You have received training regarding individuals who face physical or mental barriers, including 40 hours of crisis intervention training which was required following the death of a mentally ill person while in Portland police custody. The CIT training taught officers to recognize that a person's mental illness may affect the person's behavior and ability to respond or interact with police.

Along with other training designed to develop sound judgment, police officers at PPB are taught tactical guidelines. The guidelines have been a part of PPB skills training since at least the mid 1980's. The guidelines are designed to assist officers in use-of-force decision-making, minimizing the risk of injury to the subject, officers and the public.

In the last few years there have been a number of reviews and substantial internal Bureau, City Council and community discussions around the Portland Police Bureau's use of force decision-

making generally and specifically, where mental health issues are a possibility. In 2008, the Police Bureau modified its force policy to emphasize the central role of the *Graham v. Connor* "totality of circumstances" analysis in force decision making. At the same time, the Bureau announced a requirement that every officer develop the skills and abilities necessary to regularly resolve confrontations safely and effectively without resorting to the maximum force allowed by the Supreme Court's *Graham* standard. The Bureau also announced the policy that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely, and emphasized a high value on the use of de-escalation tools that minimize the need to use force. A force data collection reporting and review system has been established; officers and supervisors both monitor that data.

Over the several years prior to this incident, the Bureau also trained its officers and sergeants on patrol-level responses to potential hostage or barricaded persons incidents. The model response trained by the Bureau required coordination of custody, perimeter and communication functions, management of supervisory span of control, cooperation and collaboration between supervisory personnel and effective management and distribution of information and commands at a scene.

FACTS SUPPORTING ACTION

This matter was investigated and reviewed through the course of the following: Detective Division investigation, grand jury review, Internal Affairs Division investigation, Training Division review, precinct commander review and recommendations, and Use of Force/Performance Review Board review and recommendations. All of this material was considered and is incorporated here by reference.

A number of matters of judgment, coordination, communication and supervision were identified in the review of this matter. The core explanation and supporting facts for your suspension is set out below.

This incident began with a request from a citizen to check the welfare of a woman (Jones) and three children believed to be in an apartment with Jones' boyfriend, Aaron Campbell, who was reported to be possibly suicidal, armed and despondent over the death of his brother.

You heard Officer Quackenbush say on the radio that he had "eyes on" apartment #37 in the Sandy Terrace Apartments at 128th and NE Sandy Blvd. In interviews, you said this indicated to you that this was not an everyday call and you drove code 3 to this call. Between the time you arrived (around 1646 hours), and the point you began giving Campbell commands (around 1807 hours), you made a number of good decisions. For example, you were correct in your assessment that a sergeant was needed, and appropriately requested supervisory assistance to the scene (Reyna). Sergeant Reyna arrived at approximately 1701 hours.

Within a few minutes Jones was out of the apartment and talking with police. You heard Jones say that Campbell had calmed down, that police going into the apartment would aggravate the situation, that Campbell had a gun, and her three small children were inside the apartment.

Sergeant Reyna worked with you and Officer Boylan to assess the information and put a plan together. Sergeant Reyna established a custody team, including you. She asked you to get your less lethal shotgun in case Campbell came out unexpectedly.

A number of events occurred over the next hour, before your decision to use less lethal force. There were communications between police and Campbell that led to the children coming out. Following a break in time, the communication team re-established contact with Campbell and mentioned the idea of coming outside to him. He did so. According to records it was 1807 hours. You described Campbell's coming out as a surprise; the communications team had not broadcast that it was going to re-contact Campbell or suggest he come outside.

You described Campbell as facing away from you and the custody team, as sidestepping very quickly. You told him to stop and to walk back slowly towards the sound of your voice. He did. You described him as taking giant steps backwards and told him to slow down but he did not so you told him to stop. He did. You told him to walk back slowly toward the sound of your voice. He did, until he was ten or fifteen ~~years~~ ^{feet} away from the police car. You told him to stop. He did.

You described Campbell as facing away from you, with his hands behind his head. You told Campbell to do exactly as directed or he would be shot. Campbell turned, still with his hands behind his head, and said something like go ahead and shoot me, turns back and stands still. He had not moved his hands from behind his head. You directed Campbell to put his hands straight up into the air. Campbell did not move. You directed Campbell to put his hands straight up in the air again and again, Campbell did not move. You fired your first bean bag round and in the next few seconds, deployed a total of six rounds as Campbell began running away from the custody team toward a parked car and his apartment. Officer Frashour used deadly force before Campbell reached the parked car; according to records it was 1808 hours.

The following actions on your part were not correct:

1. Your use of less lethal force was outside policy, training, and performance standards.

Directive 1010.20, the Bureau's Use of Force policy, provides that members may use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely. The policy allows for force in accomplishing certain official purposes, and outlines a number of factors to be taken into account in the totality of circumstances. The policy and training reminds officers that their own actions should not contribute to the need to use force. In training, officers are taught that less lethal munitions are not a replacement for time, talk or sound tactics.

Directive 1010.20 identifies levels of control as a guideline for identifying an upper limit on the force that may potentially be used given a particular level of threat. In the context of less lethal shotguns, the subject must display an intent to engage in aggressive physical resistance or actual physical resistance and the use of force must be reasonable under the totality of circumstances.

Less lethal operators are taught that less lethal munitions can be used to achieve compliance when a suspect is violent.

You said the reason you fired less lethal was to force Campbell to comply with your instructions to move his hands from the back of his head to straight up in the air.

Based on the totality of the circumstances you faced, including the information available to you at the time, use of your weapon to gain Campbell's compliance in raising his hands from behind his head was inappropriate to achieve the desired outcome of raising his hands straight in the air.

Campbell was not displaying any intent of aggressive physical resistance; he was merely passively resisting your direction to place his hands straight up in the air. When you decided to fire the less lethal, Campbell had not exhibited any violent behavior. In fact, Campbell had stopped as directed by you and his hands were behind his head. Campbell only ran after being fired upon by you with less lethal. You had other options available to you. Such options consist of de-escalating the situation; engaging Campbell in conversation; and having Campbell drop to his knees or remain still so he could be approached by officers and taken into custody.

2. You did not make an effort to de-escalate.

In interviews, you stated you had concerns about the possibility that Campbell would come out and attack you and the other officers present. Based on the situation, available information, and your observations of Campbell's actions, you should have de-escalated your mindset and used other tools to assist in obtaining Campbell's compliance. Examples of factors that you did not properly take into account include:

- The reason for the initial call was a welfare check.
- Campbell was not reported as having committed a crime.
- Campbell was not wanted for a crime.
- Campbell was distraught and in need of mental health assistance.
- Campbell was reported to be suicidal.
- The plan, of which you were aware, was for police to help Campbell obtain mental health assistance.
- The most threatening statement, in the form of a text message that Campbell sent Jones, was reported as: "Don't make me get my gun, I aint playing."
- Communications between officers and Campbell were occurring and were reported as positive in nature.
- Campbell sent the small, very young children out.
- Campbell did not directly threaten officers.
- Campbell did not come out of the apartment with a weapon drawn or in view.
- Campbell came out of the apartment with his hands clasped together on his head and he walked backward toward officers and followed your commands to stop.

- Although passively resistant, Campbell was substantially compliant with your instructions.
- Plenty of resources and tactical options were available, including a K9 (dog).
- You had a clear view of Campbell's waistband when he turned around and had his back to you and his hands behind his head. You did not observe a gun or weapon in his waistband.

You failed to consider that these factors mitigated the potential threat and you failed to de-escalate your mindset. You engaged in little conversation with Campbell and you did not attempt to ask Campbell to go to his knees or remain still. The circumstances and Campbell's actions indicated he was engaged in passive resistance. Campbell's passive resistance provided you and other officers with the opportunity to talk with Campbell in an effort to produce more cooperation. You failed to give Campbell enough time to comply before deploying your bean bag rounds.

SUMMARY

The Performance Review Board met on Thursday, August 26, 2010, and recommended the conclusion that you violated Directive 1010.20 – Physical Force, and Directive 315.30 – Unsatisfactory Performance. I agree.

In consideration of the totality of the situation based on the findings and analysis in this incident, your use of less lethal force was not consistent with training or policy and your overall performance was unsatisfactory.

I have carefully considered the information you provided at your due process meeting with me on October 19, 2010. I have determined that an eighty (80) hour suspension without pay is the appropriate level of discipline in this matter.

A copy of this letter will be placed in your personnel file. Under the provisions of the current labor agreement, you are entitled to file a grievance through your union, if you believe this action was not for just cause.


You are not being disciplined for political or religious reasons, but in good faith, and for the purpose of improving public service.



Michael Reese
Chief of Police

11/15/10

Date

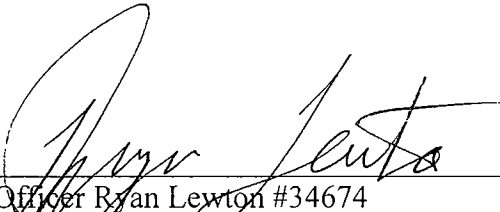


Sam Adams, Mayor
Commissioner In Charge

11-15-10

Date

Read and Reviewed:



Officer Ryan Lewton #34674

I certify that I have read and received a copy of this notice.

11/16/10

Date/Time

- c: PPA President Daryl Turner
Director Yvonne Deckard - Bureau of Human Resources
Wayne Ferrell - Bureau of Human Resources
Steve Herron - Bureau of Human Resources
Police Bureau Personnel File (201)
Discipline File

RECORD RETENTION: 10 years after separation **AUTHORITY:** OAR 166-200-0090(7)



CITY OF PORTLAND, OREGON



Bureau of Police

Sam Adams, Mayor

Michael Reese, Chief of Police

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MEMORANDUM (CONFIDENTIAL)

November 8, 2010

TO: Sergeant Liani Reyna #28925
North Precinct

SUBJECT: Discipline: Suspension without Pay
80 Hours
2010-B-0004

You are hereby notified that your conduct, while employed with the Portland Police Bureau, has not met standards acceptable to the Bureau. The charge is a violation of Directive 315.30 - Unsatisfactory Performance. Under City of Portland Human Resources Administrative Rule 5.1 (8), a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies, is cause for disciplinary action.

This disciplinary action stems from your involvement in an on-duty incident that occurred on January 29, 2010, in an apartment complex parking lot located at 12800 NE Sandy Blvd. in Portland. This incident began as a welfare check call and ended nearly two hours later with a police shooting that resulted in the death of Aaron Campbell (Campbell).

Your performance in this matter did not meet expectations. As the first arriving sergeant, and incident supervisor, you decided you did not need the assistance of other supervisors. As the incident supervisor, you were responsible for communication and coordination among the various elements of the police response. As the call developed and grew in complexity, it was your responsibility to ensure that updates, using word pictures, were communicated so that other police personnel on scene had a shared sense of situational awareness. In addition, there came a point where you were considering withdrawing police response. You did not communicate this plan out to others on scene; in particular, the custody team.

BACKGROUND

You have been employed with the Portland Police Bureau since December 30, 1993. You were promoted to sergeant October 20, 2005.

In February 2005, you received a thirty hour suspension without pay for violations of Directive 310.00 – Conduct, Professional, Directive 315.30 – Unsatisfactory Performance, Directive 310.00 – Conduct, Professional as it related to Directive 612.00 – Radio Use, Managing Calls for Service, MDC Protocol, Assignment and Deployment of Police Units, Denial of Service, and Directive 910.00 – Field Reporting Handbook Instructions.

In October 2009, you received command counseling for an out of policy pursuit.

Your background includes over 2,000 hours of training through December 2009, including Basic and Advanced Academy, patrol tactics, defensive tactics, AR-15 operation, use of force, and multiple courses specifically intended for supervisors including incident command, supervising critical incidents and sergeant's command school. You have received training regarding individuals who face physical or mental barriers, including 40 hours of crisis intervention training which was required following the death of a mentally ill person while in Portland Police custody. The CIT training taught officers to recognize that a person's mental illness may affect the person's behavior and ability to respond or interact with police. You have also had extensive tactical training to include communication and coordination within a team as a member of SERT.

Along with other training designed to develop sound judgment, police officers at PPB are taught tactical guidelines. The guidelines have been a part of PPB skills training since at least the mid 1980's. The guidelines are designed to assist officers in use-of-force decision-making, minimizing the risk of injury to the subject, officers, and the public.

In the last few years there have been a number of reviews and substantial internal Bureau, City Council and community discussion around the Portland Police Bureau's use of force decision-making generally and specifically, where mental health issues are a possibility. In 2008, the Police Bureau modified its force policy to emphasize the central role of the Graham v. Connor "totality of circumstances" analysis in force decision making. At the same time, the Bureau announced a requirement that every officer develop the skills and abilities necessary to regularly resolve confrontations safely and effectively without resorting to the maximum force allowed by the Supreme Court's Graham standard. The Bureau also announced the policy that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely, and emphasized a high value on the use of de-escalation tools that minimize the need to use force. A force data collection reporting and review system has been established; officers and supervisors both monitor that data.

Over the several years prior to this incident, the Bureau also trained its officers and sergeants on patrol-level responses to potential hostage or barricaded persons incidents. The model response trained by the Bureau required coordination of custody, perimeter and communication functions,

management of supervisory span of control, cooperation and collaboration between supervisory personnel and effective management and distribution of information and commands at a scene.

FACTS SUPPORTING ACTION

This matter was investigated and reviewed through the course of the following: Detective Division investigation, grand jury review, Internal Affairs Division investigation, Training Division review, precinct commander review and recommendations and Use of Force/Performance Review Board review and recommendations. All of this material was considered and is incorporated here by reference.

The core explanation and supporting facts for your suspension is set out below.

This incident began at 1622 with a request from a citizen to check the welfare of a woman and three children believed to be in an apartment with her boyfriend, Aaron Campbell, who was reported to be possibly suicidal, armed, and despondent over the death of his brother. Responding officers established containment and set up perimeter, custody and communication teams.

Your Initial Response

At approximately 1648 hours, you heard Officer Lewton requesting a supervisor to the scene and you broadcast that you would respond. You were the first sergeant and supervisor to arrive on-scene in response to Officer Lewton's request. You arrived at approximately 1701 hours. There were approximately five officers on scene when you arrived.

By 1703, the woman, Jones, had come out of the apartment. You and Officer Boylan talked with Jones; you learned the three children were inside. You said that you did not hear Jones tell Officer Boylan that Campbell's suicidal behavior occurred the night before and he seemed to be doing better that day. In talking with Jones, initially, you thought she seemed surprised that police were there. Jones explained she had not answered her phone because the family had just woken up, and her three small children (ages 2, 4, and 5) were in the apartment. Jones indicated she was worried about police being there and said she thought police presence would escalate Campbell. It is at this point that communication starts to become sporadic and not adequately descriptive and officers on scene begin to develop independent situational awareness (Training, p. 15).

You began discussing options with Officer Lewton and Officer Boylan, including whether police could go into the apartment to get hands on Campbell. As you put the plan together you had Officer Lewton get his less lethal shotgun in case Campbell came out unexpectedly. However, you learned from Jones that Campbell had a hand gun that he last had in a sock in his jacket and he was currently on the couch wearing the jacket. At that point, you decided the tactical approach would be to call Campbell and ask him to come out so police could take Campbell into custody and get him mental help.

Initially, you made some appropriate decisions: containing the scene, developing a plan, identifying a communications officer, establishing a perimeter, deciding not to enter the apartment, and establishing a custody team. You identified yourself as in charge of the custody team, to include lethal cover and less lethal cover (Officer Lewton). You designated yourself as the lethal cover (AR-15 operator) which was not optimal.

The Call Evolves Into a Complex Tactical Incident

Forty minutes after your arrival, a number of events had transpired, including the children exiting the apartment (at 1734) and the arrival of approximately 17 officers and Sergeant Birkinbine. Although not requiring a SERT deployment, the call had developed into a significant tactical incident. At 1751, Lieutenant Rodrigues asked you to call him; you said you would when you could, which was appropriate. At 1759, you directed Officer Quackenbush to solicit from Campbell a promise that he would not hurt himself. You then left your location to meet face to face with Captain Day.

Officer Quackenbush sent a text message to Campbell on Jones' cell phone, asking if he intended on hurting himself. According to Quackenbush Campbell's response was "Never. Wow, you guys ~~test~~ ^{text} too. You get kudos." Officer Quackenbush then texted: "Thanks, Aaron, I appreciate your ~~help~~ ^{text}. I'm truly sorry about your brother. Can you promise me you won't hurt yourself? Jim". Campbell texted back: "you're texting me and not calling me. That's real weird, Jimmy." Quackenbush called Campbell; who answered. There were some technical difficulties but eventually Officer Quackenbush said: "Aaron, we just want to make sure you're okay. And we need to know if you plan on hurting yourself. And we'd like to, if you're willing to, we'd like you to come out and talk to us but we're not gonna come into your apartment." Officer Quackenbush described it as immediately after that, he heard officers yelling that Campbell was coming out of the apartment. Records show that was reported as occurring at 1807; by 1808 Officer Lewton employed less lethal force and Officer Frashour employed deadly force. Officers Lewton and Frashour were part of the custody team.

A number of coordination, communication, supervision and poor judgment issues were identified in the review of this matter, but to be clear the following decisions on your part were not correct:

1) Declining Sergeants Birkinbine's and Ellertson's offers of assistance

In your IAD interview you described that your thinking on the way to this call was that it was a "routine" call. Your explanation was that police were constantly going to suicidal calls and the police response was either to leave the person alone or the person is willing to go to the hospital with police.

From your perspective Sergeant Birkinbine arrived on scene around the time that Officer Frashour arrived and relieved you as the AR-15 operator (lethal cover) for the custody team. Sergeant Birkinbine asked if you needed anything. You said no. You did not assign or delegate

any tasks to him; you did say that there was a need to make contact with Campbell in order to get the children out. You observed Birkinbine move to assist Quackenbush in those communications.

Very close in time to this (records indicate 1725), you talked with Sergeant Jan Ellertson on the phone where she offered you assistance. Again, you said you did not need help.

You continued the pattern of sole supervision in managing this incident. For example, between 1735 and 1758, you and Sergeant Birkinbine were in the alcove discussing tactical options. By this point, Jones and the 3 children were out of the apartment, which changed the circumstances from a police response perspective, and you were considering withdrawing police presence from the scene. Sergeant Birkinbine wanted to be sure that Jones and the children had a safe place to stay in case the police walked away. Sergeant Birkinbine also told you that he was concerned about walking away without having direct contact with Campbell. Critical incident management training teaches supervisors to be open in discussions about all tactical options. When Sgt. Birkinbine questioned whether police should talk Campbell out of the apartment, rather than walk away as you planned, you said in your IA interview, "He was questioning it and he was questioning me. It was like he was questioning me in front of the other officers, and I had already considered that."

You should have utilized both sergeants for important tasks and sub-missions, including coordinating the negotiations and communication with the rest of the officers on the scene. If this had been done, you could have focused your efforts on the custody team and ensuring they were given clear and concise instructions regarding custody tactics. As a result, there was a lack of communication, a lack of coordination of resources, and a lack of understanding about who was in charge of particular functions and responsible for particular tasks.

Your choice to not accept or use additional support is contrary to the performance expectations of a sergeant. You were task saturated; you had assumed direct supervision of the custody, communication, and perimeter teams, and assumed the role of incident supervisor. You should have recognized you were task saturated and obtained assistance. Your refusals of assistance and lack of recognition of the need to delegate tasks and supervise are indicative of a pattern that was not satisfactory performance, and cannot continue in the future.

2) Lack of Communication

Analysis and review of the incident found that it was not evident who was responsible for providing strategy and radio updates regarding communication efforts with Campbell. Your last communication to others on the scene about communication with Campbell was at 1758; you indicated there was positive text feedback from Campbell and text communication was still occurring.

As the incident supervisor, it is your responsibility to ensure adequate strategy and word-picture radio updates to other officers. You should have provided those updates yourself or put someone

in charge of getting those communications out. As one example, you did not communicate your plan to withdraw police resources after assuring that Campbell was ok to the officers on the communications team, custody team, or perimeter.

In addition, other aspects of your plans were not adequately communicated to Sgt. Birkinbine, the custody team, the less lethal operator (Lewton), the AR 15 operator (Frashour), the K9 Handler (Elias), the negotiator (Quackenbush) and the perimeter units. Members of each of these elements should have been briefed as to the expectations of them in their specific roles. As the call developed and grew in complexity, you should have declared yourself in command over the air, set out clear expectations of all involved, identified someone in charge of each element that was created (preferably another sergeant), communicated your plan for withdrawal, and ensured updates were given so that all members on-scene had a word-picture of what was occurring, including Campbell's actions and statements, and what was expected of them as the dynamics of the call circumstances changed.

When working as a team, you must make it clear to everyone what actions you expect them to take and the time you expect the action to occur. In this situation, you developed a plan but you did not clearly communicate your plan over the air or in face to face communications with the custody team. Examples are identified in the materials; p. 19 of the Training Division review identifies critical details that should have been clearly communicated out via radio to the custody team and surrounding units:

- Your plan to walk away from the incident in the event Campbell promised not to hurt himself.
- Your plan to use the K9 and less lethal shotgun in the event Campbell came out and attempted to run away or back towards the apartment.
- Your plan to move the custody team and lead the operations in the event Campbell came out.
- Your assessment that the situation was de-escalating.
- The information provided by Jones that Campbell's suicidal behavior had occurred the night before and Campbell was currently calm.

In addition, as the incident supervisor you were responsible for ensuring that adequate strategy and radio updates regarding the communications team's contacts with Campbell were communicated to on-scene personnel by radio. Even though you made three updates via radio to indicate there were positive communications occurring after the children came out, there is no evidence to show that you took steps to obtain a detailed understanding of the substance and timing of the communications leading to the children coming out; nor did you take steps to relay this critical information to on-scene officers via radio. You also failed to communicate by radio, before you went to meet with Captain Day that police were going to contact Campbell in order to find out whether he was going to hurt himself. These communication failures on your part resulted in on scene officers and supervisors not having a shared situational awareness. The custody team perceived the situation was escalating while the communications team perceived it to be de-escalating.

3) Not utilizing other resources.

As a supervisor, you are aware of the number of resources available to you and had the time and means to use them. Specifically, you made no attempt during this call to notify or consult with Lt. Rodrigues, SERT, or adequately consult with Birkinbine who was currently a member of HNT.

4) Failing to designate or communicate who was in charge when you left the alcove to meet with command.

You said in your Internal Affairs interview that you were in charge of the custody team. This means that you are responsible for the team until you designate someone else as in charge or are relieved. In critical incident management training, in particular, you have been instructed that it is acceptable to remain in an active tactical situation instead of briefing or making notifications to higher ranking officers. You failed to inform Captain Day that you were actively making tactical decisions and in charge of the custody team. You failed to designate someone as in-charge of the custody team when you left.

SUMMARY

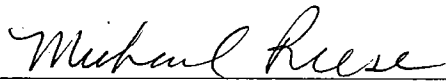
The Performance Review Board met on Thursday, August 26, 2010, and recommended the conclusion that you violated Directive 315.30 - Unsatisfactory Performance. I agree.

Your choices to refuse assistance, and your subsequent failures in communication and task delegation, were unsatisfactory and inconsistent with training and expectations of a sergeant. In addition, as an incident supervisor, you are expected to thoughtfully consider and discuss all available options, ideas, and alternatives put forth by other on-scene personnel.

I have carefully considered the information you provided at your due process meeting with me on October 28, 2010. I have determined that an eighty (80) hour suspension without pay is the appropriate level of discipline in this matter.

A copy of this letter will be placed in your personnel file. Under the provisions of the current labor agreement, you are entitled to file a grievance through your union, if you believe this action was not for just cause.

You are not being disciplined for political or religious reasons, but in good faith, and for the purpose of improving public service.



Michael Reese
Chief of Police

11/15/10

Date



Sam Adams, Mayor
Commissioner In Charge

11-15-10

Date

Read and Reviewed:



Sergeant Liani Reyna #28925

I certify that I have read and received a copy of this notice.

11-16-10

9:58 AM

Date/Time

- c: PPA President Daryl Turner
Director Yvonne Deckard - Bureau of Human Resources
Wayne Ferrell - Bureau of Human Resources
Steve Herron - Bureau of Human Resources
Police Bureau Personnel File (201)
Discipline File