

From: Portland Copwatch

To: Christopher Paille, Police Review Board Coordinator:

cc: IPR Director Constantin Severe
Auditor Lavonne Griffin-Valade
Chief Mike Reese
Mayor/Police Commissioner Charlie Hales
Members of the media
Portland Copwatch

Mr. Paille:

We've examined the Police Review Board (PRB) report that was released in July and have some comments, questions and concerns, most of which are very similar to the concerns we raised in our analysis of the January PRB report. We continue to be disappointed that these reports being released are contingent upon the Chief making a final disciplinary decision in the cases involved, yet the Chief's decision, and his reasons for diverting from PRB recommendations, are not included in the reports.

CONTINUING TO MINIMIZE SERIOUSNESS OF DEADLY FORCE CASES

This report covers three shooting incidents, one of which ended in a death: Jonah Potter (3/26/12) on pp. 4-5, Bradley Morgan (1/25/12) on pp. 6-8, and Ralph Turner (3/6/11) on pp. 21-22. All of the aspects of all of the incidents were found "in policy." Inexplicably, in the Morgan case (the person who was killed by police), the report indicates that there were 13 voting members of the PRB suggesting the case be used for in-service training purposes as an example--even though the ordinance only provides for 7 voting members.

Furthermore, the PRB's findings commend the officers who approached Morgan, despite the fact that he was in the middle of a conversation with a 9-1-1 operator that appeared to be heading in a productive direction. Morgan hung up with the operator when the police arrived.

Both Morgan and Potter are described in the report as suspects with a "suicidal intention to have the police kill him." This is clearly someone's convoluted effort to use words other than "suicide by cop" to say the same thing. Portland Copwatch has repeatedly said over its many years that when one person shoots another person, that is a homicide. The fact that Mr. Potter lived through his interaction with police who fired guns at him shows that the Bureau does not have to accommodate the desires of a person seeking to be killed by police, though that supposition itself is debatable (particularly in cases where the suspect dies).

Police in Morgan's case were judged on policy "024.00--Community Policing Purpose" which talks about problem solving with community members. This is very odd given the fact that the Bureau knew at the time of the shooting and at the time of the PRB hearing (3/21/13) that they were under scrutiny for how officers interact with people in mental health crisis. It seems these cases should all be analyzed for how officers used their Crisis Intervention training.

In Mr. Turner's case, the report uses gushing language to exclaim how an officer firing an assault rifle at Turner's house was a "textbook example" of how to use "cover fire," even though the use of such gunfire is controversial. All of the shootings reviews praise the actions of the police, generally blame the community member for the police using deadly force, and don't take into account the seriousness of when police choose to unleash potentially deadly firepower.

MORE RACISM, ONLY NOW WITH SEXUAL MISCONDUCT TOO

In the last report, there was an incident listed in which a white officer left banana peels on an African American officer's car. This time, there are multiple incidents in which a female officer was found out of policy for unprofessional comments including discriminatory language about race, gender and sexual issues (pages 9-11, 12-13, and 14-15). There is also another case where an officer used sexually suggestive comments multiple times and put some kind of feminine product into another officer's mailbox in retaliation when his actions were questioned. We have been urging the Chief (and the Training Commander, and the Police Commissioners) to institute gender equity training for the Bureau, yet no such recommendation came forward from the PRB even after this report added more examples beyond the Lt. Wyatt case from the January report.

STILL NOT ENOUGH INFORMATION AND TOO MANY REDACTIONS

While this report covers just 13 PRB reviews (as opposed to the 27 in January), it is still lacking in so much detail, and so heavily redacted, that community members trying to make sense of the report have to do too much work to understand its meaning. The redacted words are replaced with very hard-to-read fonts replacing ranks and names with "Employee A," "location," "Supervisor," "remark" and other obtuse references. In one case involving a DUII allegation, an entire paragraph is redacted supposedly to protect the officer's medical privacy. However, in that particular case the PRB moved the allegations from "Alcohol Use" to "Substance Abuse" so it is fairly clear the officer has an addiction problem. It is hard to understand how the Bureau can block out both the name and the details of these cases-- one or the other should be made public (if not both).

The dates of the incidents involved are listed in only two of the 13 cases. The dates of the Review Board hearings are included in only 9 of the 13.

In one case (pp. 14-15) there is no indication of the findings voted on by the board, only a note that the officer "had used" racial remarks and that there was "insufficient evidence" to prove that officer pressured someone to change their report to Internal Affairs. Thus it is only speculation on our part that of the 23 new allegations, 19 were proposed to be "sustained" while three were "unproven" and one was "exonerated."

In actuality, there are only 12 new cases since the first case (pp. 1-3) is repeated from the January report, inexplicably redacting some previously revealed information (case number 2011-B-xxxx) and including other information that was previously hidden (location of the store where the officer went shopping for a TV was SE Division and 165th Av.)

INTERNAL OVER EXTERNAL, AGAIN

Among the 9 new cases not involving shootings (which trigger automatic reviews), there are 23 allegations, only one of which involves a community member-- an officer who apparently "disciplined" a child related to him with a violent physical act in a public setting (probably a school). The officer was found "exonerated" in a 3-2 vote regarding whether the conduct was unprofessional. This continues the trend that indicates the Independent Police Review, Internal Affairs and Police Review Board system take internal complaints more seriously than those presented by the community. The IPR's annual reports bear this out in showing multiply more Bureau-initiated complaints sustained than Community-initiated ones, beginning with a far larger percentage of the Bureau cases being investigated in the first place. (Also of note: The IPR's first allegedly fully independent investigation is being conducted in a case that does not involve a community member.)

LACK OF ACCOUNTABILITY FOR BOARD MEMBERS

Among the comments included in the report are several Board members' equivocations on the seriousness of the misconduct at hand. One serious such comment is included in the case of the officer who apparently continued participating in a specialty unit even though he (or she?) was on administrative leave. One member said that the past discipline should not be considered when imposing the new discipline-- which makes no sense if the officer was supposed to be serving out the discipline from the earlier case when creating the new violation. To their credit, that member agreed with the proposed discipline in the new case (120 days without pay) but not the "last chance" letter proposed by the other four people.

Also, in the above-referenced case in which an officer allegedly pressured another to change a report created for Internal Affairs, the board noted the change made was an addendum, not a modification. If the person who was the subject of the IA investigation told the witness officer to change the report at all, it seems that should be considered inappropriate conduct.

OTHER PATTERNS NOT NOTED

In addition to sexually and racially charged incidents, the PRB has heard multiple cases in the past few years about officers driving under the influence, with two such cases included in the new report (one of which is clearly about Officer Sothern and his reported run-in with a Yamhill county deputy). On the positive side, the Board looked at historical punishment for DUIIs (usually 40 hour suspensions) and decided due to the seriousness of these two (an officer who consumed alcohol while on duty, and Sothern) that they would recommend 80 hour suspensions in both cases, though the on-duty officer also was recommended for termination as, apparently, is called for in the Directives. In any case, the prevalence of such cases has been remarked upon since at least 2004 when 26% of all sustained findings were about DUIIs.

A CALL FOR A TEMPLATE

In our analysis of the January report, we noted numerous inconsistencies, some of which carried over into this report. Since the PRB hearings are still closed to both the media and the public (another issue we'd like to see changed), it would behoove the Board facilitators and coordinator to have a template indicating what information should be included in each report.

We would suggest, at minimum:

- Date of incident
- Type of Review Board (e.g. deadly force, hospitalization, contravened finding, or discipline review of "sustained" finding)
- Type of case (Bureau or Community)
- Number of board members present and voting, and the make-up of those numbers (especially when the numbers diverge from the 5-person panels considering discipline or 7-person ones on force cases)
- Indication of who is writing the opinions... Assistant Chief, Peer Officer, IPR staff, or community member? (since no names are attached, it seems unusual this information is not included)
- Date of review board hearing
- Summary of alleged misconduct
- Summary of training and IA analysis
- Final discipline administered by Chief/Commissioner with explanation if it differs from PRB's recommendation

These would be in addition to what is generally already included in the reports, which are:

- List of individual allegations
- Directives possibly violated
- Vote tallies and explanations for proposed findings (including minority opinion)
- Vote tallies and explanations for proposed discipline (including minority opinion)

We do note that the three cases involving the same female officer all listed her as Officer A, which was a nice improvement over the last report's jumbling of pseudonyms.

As noted in our analysis of the January report, these reports provide invaluable insight into our accountability system. We continue to look forward to a system that is clearer, more transparent, and especially more responsive to the community it serves. At the very least, the Bureau should put out a news release announcing the posting of the reports so that folks do not have to go looking for them.

Thank you
dan handelman
--Portland Copwatch