



## 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: 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 128<sup>th</sup> 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~~ <sup>feet</sup> 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.

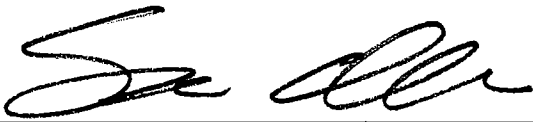
You are not being disciplined for political or religious reasons, but in good faith, and for the purpose of improving public service.



Michael Reese  
Chief of Police

11/15/10

Date

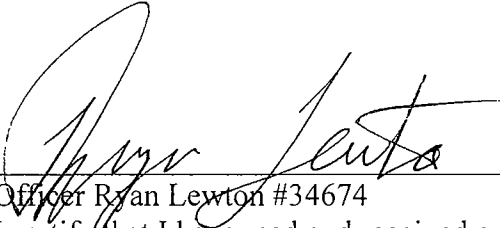


Sam Adams, Mayor  
Commissioner In Charge

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)