Independent Police Review
Investigator: Eric Berry
Case Reviewer: Kelsey Lloyd / Ross Caldwell

Confidential Investigative Report

Incident Date: Unknown
Case #: 2022-B-0022
Complainant: N/A

Involved Members Interviewed:

Officer	DPSST	Assignment	Allegation Category	Allegation #
Commander Craig Dobson	#35609	Central	Conduct	1
Captain Franz Schoening	#41832	Training	Conduct	2

Witness Members Interviewed:

Officer	DPSST	Assignment
Officer Nicholas Bianchini	#50575	East
Captain Jacob Clark	#43501	North
Commander Chris Gjovik	#38946	North
Commander Tina Jones	#41759	PSD
Detective Erik Kammerer	#29988	Detectives
Officer Craig Lehman	#51073	Central
Sergeant Patrick Mawdsley	#46428	Tactical Operations
Sergeant Martin Schell	#32700	Traffic
Officer Brian Wheeler	#57813	East
Officer John Young	#44217	Training

Citizens Interviewed:

None

Applicable Directives:

Directive 635.10 – Crowd Management/Crowd Control
Directive 1010.00 – Use of Force
Directive 1500.00 – Training

Allegations:

1. Commander Craig Dobson #35609, provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00 (CONDUCT) (Directive 1500.00 – Training; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

2. Captain Franz Schoening #41832, provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00 (CONDUCT) (Directive 1500.00 – Training; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Incident Overview:

In 2014, the City of Portland and the United States Department of Justice (DOJ) entered into a Settlement Agreement related to the Portland Police Bureau (PPB). The Settlement Agreement was the conclusion to a DOJ lawsuit alleging PPB engaged in a pattern or practice of using unconstitutional force against people with an actual or perceived mental illness. Under the terms of the Settlement Agreement, the City of Portland agreed to make several changes related to PPB's practices and policies. This Settlement Agreement remains in effect and DOJ continues to monitor Portland's efforts to comply with it.

On 05/25/20, George Floyd was murdered by a police officer in Minneapolis, Minnesota. Shortly after this incident, large protests began taking place in many cities around the United States, including Portland. In Portland these protests continued for several months. PPB and other law enforcement agencies responded to these protests. PPB officers documented using force at least 6,000 times during their responses to the protests. Numerous community members expressed concern about the nature and extent of force used by PPB officers during their responses.

On 04/02/21, the DOJ notified Portland it was no longer in compliance with the terms of the Settlement Agreement. The City and DOJ entered into negotiations and mediation related to bringing Portland back into compliance with the terms of the Settlement Agreement. During these talks, the City and DOJ agreed to amend their Settlement Agreement. On 04/15/22, United States District Court Judge Michael Simon approved the amended Settlement Agreement.

Paragraph 192 of the amended Settlement Agreement describes several aspects of PPB's response to the 2020 protests that the City agreed to investigate. These aspects include the nature of crowd management and crowd control training provided to PPB personnel, inappropriate orders given by PPB command staff to use force, inadequate review by PPB command staff of required documentation of officers' uses of force, and PPB command staff's failure to clarify misunderstandings and misapplications of PPB policies to officers.

Case #2022-B-0022 addresses the crowd management and crowd control training provided to PPB personnel. This investigation seeks to determine whether PPB staff provided inadequate training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00 – Use of Force.

Investigation Narrative:

Scope of investigation spanned multiple areas

During this investigation, IPR reviewed many records related to the crowd management and crowd control training the Police Bureau provided to its members. IPR reviewed Police Bureau training material for trainings provided to PPB's Rapid Response Team (RRT), Mobile Field Forces (MFFs), Crowd Management

Incident Commanders (CMICs), and grenadiers. IPR also reviewed training material related to crowd control and crowd management from in-service trainings, advanced academy trainings, and sergeant's academies. IPR reviewed training material from inter-agency trainings such as the statewide basic crowd control training organized by PPB, the Oregon State Police (OSP) and other local law enforcement agencies. IPR reviewed training material prepared and presented by staff from Portland's Office of the City Attorney (CAO), related to US District Court Judge Marco Hernandez's determination multiple PPB officers violated a temporary restraining order he had earlier issued, restricting the conditions under which PPB could use force during protests. IPR also interviewed Commander Chris Gjovik #38946, when he led the Training Division, regarding PPB crowd control training, and how Training Division staff work with training staff from specialized units like RRT.

IPR consulted with the United States Department of Justice (DOJ), regarding the direction and scope of this investigation. DOJ staff identified some portions of a memorandum describing RRT members' rationale for resigning en masse on 06/16/21 as potentially relating to PPB crowd control training. IPR interviewed the author of this memorandum, Captain Jacob Clark #43501.

DOJ staff also alluded to statements made by some officers during Police Review Board (PRB) hearings following investigations of their uses of force during the George Floyd related protests. DOJ staff often monitor PRB hearings, and later shared their concerns with IPR about statements they reportedly heard some PPB members make. These statements included the idea certain uses of force could be authorized under Directive 635.10 – Crowd Management/Crowd Control without also meeting the requirements of Directive 1010.00 – Use of Force. These statements also included the idea officers could use force against physically resistant protesters who were aiding or assisting more actively aggressive protesters. IPR questioned every Police Bureau member it interviewed for this investigation about these ideas.

IPR interviewed officers with multiple years of experience responding to protest activity, as part of RRT and/or MFFs. IPR interviewed these officers regarding the nature of the crowd control training they received. These officers include Sergeant Martin Schell #32700, Detective Erik Kammerer #29988, and Officer John Young #44217.

IPR conducted witness interviews with some of the PPB members that had force allegations sustained against them during previous IPR and IA investigations, related to their responses to protest activity between 05/29/20 and 11/16/20. These members include Sergeant Patrick Mawdsley #46428, Officer Nicholas Bianchini #50575, Officer Craig Lehman #51073, and Officer Brian Wheeler #57813.

NOTE: In their contact with IPR, DOJ staff referred to statements made by involved officers during PRB hearings following investigations of the officers' uses of force. Under applicable law, PRB hearings are considered confidential, because they relate to personnel investigations and the imposition of discipline on employees. No verbatim or near-verbatim records are kept of PRB hearings. When IPR identified and interviewed the previously described officers with sustained force allegations, it reviewed and relied on statements made by these officers when they were interviewed during the course of their previous administrative investigations.

IPR interviewed PPB members who attended CMIC training provided by one of this investigation's involved members. These members include Commander Kristina Jones #41759 and Sergeant Schell.

NOTE: In the interview summaries below, IPR Investigations Coordinator (IC) Eric Berry is at times referred to as Lead Investigator (LI) Berry because some interviews occurred before his promotion to IC.

Paragraph 192 of the amended Settlement Agreement (Exhibit 1) directs IPR to focus this investigation on PPB command staff, specifically lieutenants and above. However, paragraph 192 also directs IPR to investigate any member, regardless of rank, if during this investigation IPR determined the member may have violated PPB Directive. Many of the members IPR interviewed as witnesses during this investigation took part in providing crowd control training to other PPB members. IPR did not identify specific instances when these members provided training that incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00. IPR therefore did not identify these witnesses as involved members.

Ultimately, IPR identified Commander Craig Dobson #35609 and Captain Franz Schoening #41832 as involved members for this investigation. IPR determined both members played substantial roles in developing and providing crowd control training to other PPB members. To reflect the concerns expressed in paragraph 192, IPR wrote conduct allegations against Commander Dobson and Captain Schoening, alleging they provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00 – Use of Force.

Training Division's role in reviewing specialized unit training changed over time
During this investigation, IPR found earlier Directives related to providing training to Bureau members did not require specialized units like SERT and RRT to submit their training materials to the Training Division for review. IPR found this practice began to change with the Bureau's adoption of Directive 1500.00 – Training, which directed that Precincts and Divisions must submit their training materials to the Training Division for review and approval. However, IPR also found specialty units like SERT and RRT are not directly mentioned in Directive 1500.00. Multiple witnesses told IPR specialty units did not immediately begin submitting their training materials to the Training Division for review and approval, even after Directive 1500.00 was adopted.

<u>Commander Chris Gjovik #38946</u>
Lead Investigator (LI) Berry interviewed Commander Chris Gjovik #38946 on 07/28/22. In summary, he indicated: He has worked for PPB for approximately 23 years. At the time of his interview, Commander Gjovik was in charge of the Training Division. He previously served in PPB's Internal Affairs unit from 2019 through September of 2021 and was not assigned to the Training Division during the 2020 protests. The Training Division oversees PPB training, including the Advanced Academy, in-service training, specialty weapon training, and special skills training. Training Division staff also develop new training material to address gaps in existing training identified by community groups, elected officials, and other entities.

Asked how training material for specialty units like RRT is developed, Commander Gjovik stated:

> *Our Directive 1500.00 specifically states that all training has to be approved through the Training Division Captain and has to be given 60-day window for our chain of command*

> *to do a review, basically make sure it's up to the standards of policy and procedure, and, you know, our training doctrine. (Gjovik interview, lines 58-61)*

Describing the Training Division's review process, Commander Gjovik stated:

> *The lesson plans need to come in to the chain of command at 60 days, and then specifically – and this wasn't the practice in the past, but specifically those go through the chain of command and many times they go to the DOJ, so we need that 60 day window to vet those, to make any changes possible, and then they're just notified when they're approved. (Gjovik interview, lines 122-125)*

Asked who develops training material for specialty units, Commander Gjovik stated:

> *The members of the unit themselves with assistance from – with the Training Division. So building a lesson plan isn't the most intuitive thing. So, we typically will kind of, I don't want to use this derogatorily, but we handhold through the process to make sure that they understand why the steps are there, but they develop the content. Their RU manager approves the content, and then it gets sent through our approval system. (Gjovik interview, lines 74-77)*

Commander Gjovik stated, "I know before I got here it was developed somewhat differently and that there was no consistency between specialty unit to specialty unit." (Gjovik interview, lines 57-58) Commander Gjovik indicated Directive 1500.00's requirement Training Division review and approve specialty unit training material was not previously enforced. Commander Gjovik stated:

> *I know that wasn't enforced previously unfortunately and – but now all specialty units are required to formulate lesson plans just like we do here for in-service and Advanced Academy and send them through our approval process for, you know, vetting. In the past I know that was sporadic. So, I'm not sure if the RRT specific lesson plans were vetted or not. (Gjovik interview, lines 61-65)*

Commander Gjovik stated previously, specialty unit members still developed their own training material, but there was "less consistent review" (Gjovik interview, line 88) of it by the Training Division. Commander Gjovik stated, "When there was a review the review was the same, but the consistency of every lesson plan making it through us [Training Division] was inconsistent." (Gjovik interview, lines 90-91) Asked how consistently Training Division staff reviewed RRT training material compared to other specialty units, Commander Gjovik stated, "I don't think it was any less or any more inconsistent than any other unit." (Gjovik interview, line 95)

Describing how RRT developed training materials, Commander Gjovik stated, "From what I've seen in lesson plan materials they use their own in-house subject matter experts to develop their training." (Gjovik interview, lines 97-98)

During the interview, LI Berry reviewed the second bullet point of Captain Clark's 06/17/21 memorandum (June 2021 Memo, Exhibit 2), which discussed the changing interpretations of existing Directives, as well

as the perception that there were conflicting standards in Directives 635.10 and 1010.00. Asked if there were conflicting standards in Directives 635.10 and 1010.00 regarding the use of force, Commander Gjovik stated:

> *Quite frankly I've never understood that, but I never sat through the trainings that they said that they were taught something different. Ultimately 635.10 references 1010.00 as the standard for use of force, and I might be simplistic in my thinking, but I take that for what it's worth. And it says 1010.00 is the standard for use of force in crowd control situations. (Gjovik interview, lines 138-141)*

When asked, Commander Gjovik indicated he recalled some involved members in previous administrative investigations indicated they believed they were authorized to use force under Directive 635.10 without meeting the requirements of Directive 1010.00. Commander Gjovik stated, "After looking at Section 9 of 635.10 I believe that was the main crux of the issue is that they were saying that Section 9 superseded the requirement for, you know, objective reasonableness." (Gjovik interview, lines 201-202)

Asked if there was a use of force that could be justified under Directive 635.10 without also meeting the requirements of Directive 1010.00, Commander Gjovik stated, "Yeah, 9.2, I mean, it gives authorization for crowd control munitions and riot control agents, but 9.3 says, 'Force shall be used in accordance with Directive 1010.00.'" (Gjovik interview, lines 169-170)

Asked if there was a particular training which addressed the intersection of the CMIC's authority to declare a civil disturbance and order a dispersal under Directive 635.10 with an individual officer's responsibility to use force in accordance with Directive 1010.00, Commander Gjovik referenced the Bureau's CMIC training program. Following the interview, Commander Gjovik provided IPR with copies of material from the current version of CMIC training, which was reviewed and approved by the Training Division. This material is summarized later in this report.

LI Berry reviewed the third bullet point of the June 2021 Memo (Exhibit 2), which discussed changes in Directive interpretation and policy having been applied retroactively. Asked what he thought Captain Clark was referring to, Commander Gjovik stated:

> *I can't imagine. I'm looking at this policy and it doesn't look it has changed during the time of the protests. The only thing I can think of that he might be referring to is the multiple TROs and Executive Orders that came out addressing the TROs. (Gjovik interview, lines. 212-214)*

Commander Gjovik indicated the Chief also issued executive orders related to crowd control, including an order restricting the use of CS gas to "an immediate risk of death or serious physical injury which cannot otherwise safely be addressed without greater application of force." (Gjovik interview, lines 240-241) Commander Gjovik indicated Mayor Wheeler directed PPB to restrict its use of CS gas on 09/25/20, and those directions were codified in an executive order on 11/30/20.

Asked what he thought Captain Clark was referring to in the thirteenth bullet point of his memorandum (Exhibit 2), which discussed RRT developing and implementing new tactics, which were initially approved

but later criticized, Commander Gjovik indicated he did not know what new tactics RRT members developed during the 2020 protests. Asked if he thought RRT had developed new tactics after its use of CS gas was restricted, Commander Gjovik first noted he was making a "huge assumption" (Gjovik interview, line 273), then stated:

> *I would assume that after the restriction on November 30th requiring, you know, gas basically not be used that there had to have been a change in tactics and developed, you know, different strategies on how to move crowds and how to address situations like this. So, I assume that's what they're talking about." (Gjovik interview, lines 275-277)*

Asked if he had any information about what Training Division did, related to RRT developing new tactics, Commander Gjovik stated, "I don't." (Gjovik interview, line 325) Asked if the Training Division would have had a role in helping RRT develop new tactics, Commander Gjovik indicated if RRT members intended to develop a new tactic and train the rest of the team on it, then requirements described in Directive 1500.00 would apply. Regarding tactics RRT developed on the fly, as it responded to protest activity, Commander Gjovik stated, "There's really nobody to train. You're just getting authorization to make sure that, you know, it's blessed by the Chief's Office and it's within our current policy." (Gjovik interview, lines 298-299) Commander Gjovik also noted Directive 1500.00 including a caveat which permitted the Training Division Commander to waive the 60-day review process and approve a training if there was a necessity to do so. Commander Gjovik indicated protesters changed tactics on a nightly basis during the protests of 2020, which could have created that sort of necessity.

When asked, Commander Gjovik indicated he was not assigned to the Training Division when CAO developed the paragraph 4 and 5 trainings (these trainings are discussed more on page 17) and he did not know whether the Training Division played a role in helping CAO develop it. Commander Gjovik indicated the Training Division review process described in Directive 1500.00 used to apply only to Police Bureau trainings, but the Bureau was in the process of having other City agencies like CAO or BHR submit their lesson plans to the Training Division for review.

When asked, Commander Gjovik identified Commander Dobson and Captain Schoening as having developed training material for RRT. Commander Gjovik indicated Officer John Young was also involved in RRT's less lethal munitions program. Commander Gjovik indicated Commanders Kristina Jones and Timothy Robinson and Captain James Crooker were involved in the Bureau's CMIC program and may have information related to CMIC training materials.

<u>Captain Jacob Clark #43501</u>

Investigations Coordinator (IC) Berry interviewed former RRT Commander Captain Jacob Clark #43501 on 07/28/22. The interview largely focused on the circumstances surrounding the June 2021 Memo. His statements related to the memorandum are described later in this report.

During his 07/28/22 interview, Captain Clark also described the interaction of the Training Division and specialty units like RRT and SERT, related to the development and review of training material. Captain Clark indicated he was assigned to the Training Division as a Lieutenant in approximately 2018. Captain Clark stated there was a robust review process for general PPB training, which involved Training Division staff reviewing lesson plans and sending them to the DOJ for their review. Captain Clark stated:

I think one thing that's important to note is, you know, I was assigned to the Training Division prior to the demonstrations starting. So, I was a lieutenant there for, I don't know, two years maybe before the demonstrations, and throughout that time, you know, and like normal Bureau training we had a very robust process of, you know, lesson plan submissions, and we would send them to the DOJ for approval and all of those things.

Partly through that time period we were told that we had to start doing similar reviews, although much less kind of intrusive or whatever of other Bureau trainings that weren't happening within the Training Division itself. So, we started to get like generic – I mean relatively generic lesson plans from like SERT for example, or the Traffic Division if they were doing motors training or something.

So those started to get kind of cataloged by the Training Division and reviewed, but prior to that like training external of the actual Training Division was kind of run by the individual units. So it's, you know, historically since the beginning of RRT I believe they kind of did their own training, and had their own lesson plan process and stuff like that, and that was the norm for specialty units throughout the Bureau.

I know that that aspect, like the training of RRT obviously is a huge focus right now, but I think it's important to note that while, yes, the directives were in place and that those trainings should have had, you know, lesson plans submitted and approved through Training Division and all that stuff, that that just wasn't the practice and hadn't been. So, obviously that all changed after the demonstrations.

And when I was the team commander there briefly the spring of '21, you know, I was submitting lesson plans for training we were going to have that ended up ultimately getting cancelled, but those lesson plans were going through the proper process, and being reviewed by DOJ and the Training Division, but that was a change in how we had done it historically.

So, and the other aspect that I think is important to bring up is that RRT, the basic training, is a – it's run by multiple agencies. It's not a Bureau training. The Police Bureau participates in the training, but agencies from across the state both attend as students and participate as instructors. And that's police, and county sheriff's organizations, the National Guard, all of them train together under this – the basic academy. So, Portland sends members to attend. Portland sends some instructors to help instruct, but it's a statewide basic, and I know that there's been concerns about the training delivered down there, but it's similar to like a DPSST type academy training whereas, you know, we send our people and we have some instructors, but those lesson plans aren't reviewed and, you know, sent through the same process that we have for Bureau-specific training.

So, you know, we've changed our way of dealing with kind of external to the Training Division trainings past – since the demonstrations, but prior to that was the way it was just done. They were kind of held by those individual units. (Clark interview, lines 595-623)

Early Directives did not require the Training Division to review or approve all training programs

Before the Bureau adopted Directive 1500.00 – Training, it maintained several other Directives which related to training. These included Directive 60.50 – Tips and Techniques and Safety Bulletins, Directive 412.00 – Employee Retraining Program, and Directive 690.00 – Training Precinct/Division.

IPR reviewed these historical Directives during this investigation, to better understand the historical context of the implementation of Directive 1500.00. IPR found none of the historical Directives described an expectation that specialty units like RRT submit their training materials to the Training Division for review and approval.

The originating date of Directive 60.50 is 09/06/01. The Directive indicated RU managers who wished to produce a Tips and Techniques or a Safety Bulletin should send a draft of it to the Training Division. The Directive indicated Training Division staff would edit the document and prepare a copy for the Chief's approval. The Directive did not address specialty units.

The originating date of Directive 412.00 is 09/12/08. The Directive described the training expectations for a sworn or non-sworn member returning to duty after an extended absence. The Directive identified the Training Division manager as having a role in determining what training a returning officer should undergo. The Directive did not describe an expectation Training Division staff review training material for specialty units.

The originating date of Directive 690.00 is 09/06/01. The Directive was revised once, on 09/05/03, to revise the expected procedure for Precinct and Division training programs. The Directive described the expected interaction of Precinct and Division command staff with the Training Division. The Directive indicated Precincts and Divisions could conduct "proficiency or tactical training" to members provided it did not impair normal operations. The Directive indicated Precincts or Divisions would submit training material to the Training Division 30 days prior to conducting training. The Directive indicated the Training Division would review all Precinct or Division training programs for approval or disapproval. The Directive indicated if the Training Division did not approve a Precinct or Division training program, they would provide a written explanation of the disapproval. The Directive noted RU managers could appeal Training Division disapprovals, through channels, to the Chief. The Directive also noted specialty units like SERT, HNT, and EDU were exempted from the Training Division review and approval process. The Directive did not mention or address RRT.

Because Directives 60.50, 412.00, and 690.00 were not in effect during the time span encompassed by this investigation, IPR did not list them as exhibits for this investigation. Copies of these historical Directives are available for review in this investigation case file.

Directive 1500.00 superseded other Directives and clarified the Bureau's training review process

The originating date of Directive 1500.00 – Training is 02/06/15. On that date, the Bureau rescinded Directives 60.50, 412.00, and 690.00 and replaced them with Directive 1500.00. Directive 1500.00 was significantly revised, in collaboration with the DOJ, on 11/28/16. It was again revised on 12/30/18.

The first version of Directive 1500.00, with an originating date of 02/06/15 (Exhibit 3), was lengthier than previous training-related Directives. It provided a detailed description of the roles and responsibilities of the Training Division, as well as its expected interactions with other Police Bureau divisions. The Directive indicated the Training Division is responsible for maintaining all training-related records, developing annual training plans, conducting annual training needs assessments, and providing maintenance training and retraining members. Section 8.1 of the Directive stated the Training Division will maintain SOPS for "reviewing and approving curriculums and other training materials." (Exhibit 3, throughout)

Like Directive 690.00 before it, Directive 1500.00 also indicated Precincts and Divisions could provide "proficiency or tactical training" to members, when authorized to do so by the Training Division. Section 11 of the Directive addressed Precinct and Division training. The Directive indicated Precincts or Divisions should provide training materials to the Training Division for review 60 days in advance of the training date; an increase from the 30 days described in Directive 690.00. Section 11.1.2 stated in part, "the Training Division will review and preapprove all precinct/division training." The Directive indicated the Training Division would provide a written explanation for any disapprovals, and noted RU managers could appeal disapprovals, through channels, up to the Chief. Unlike Directive 690.00, Directive 1500.00 did not exempt specialty units, like RRT, SERT, HNT, and EDU, from the Training Division review and approval process. However, no specialty units are mentioned by name in the first version of this Directive. (Exhibit 3, throughout)

The first revision of Directive 1500.00 is dated 11/28/16 (Exhibit 4). This version is lengthier than the originating version and included a detailed policy statement outlining the Training Division's role in administering and providing training to members. This version of the Directive described in greater detail expectations related to the annual training plan and training needs assessment, the training advisory committee, and state-required maintenance training. This version of the Directive included expected procedures for providing field training, Advanced Academy training, tenured officer training, in-service training, supervisory training, certification training, and retraining. (Exhibit 4, throughout)

Section 13 of the first revision of Directive 1500.00 described the Bureau's expectations related to the Training Division's role in reviewing and administering Precinct and Division training in greater detail. Section 13.1.2 of this version of the Directive stated:

> *In order to maintain training consistency throughout the Bureau, the Training Division shall review and preapprove all precinct/division training. Specifically, the Training Division shall be responsible for the review, approval, scheduling, safety planning, recording, and reporting of precinct/division training. (Exhibit 4)*

This version of the Directive again noted Precincts and Divisions must submit training plans to the Training Division for review 60 days prior to the training date. Section 13.1.3.2 of this version of the Directive

stated: "The Training Manager or designee shall review the training plan to ensure all training comports with current policies and training doctrine." (Exhibit 4)

The first revision of Directive 1500.00 went on to describe the Bureau's expectations related to the scheduling, safety planning, delivery, and reporting of Precinct and Division training. Section 13.4.1 of this version of the Directive stated, "Precincts/divisions shall not deliver training unless there is an approved lesson plan on file with the Training Division." Again, no exemption was described for specialty units. (Exhibit 4, throughout)

Directive 1500.00 was revised a second time, with an effective date of 12/30/18 (Exhibit 5). Beyond very minor wording changes, the expectations related to Precinct and Division training described in section 13 remained unchanged from the first revision of Directive 1500.00. There was again no exemption described for specialty units.

All three previously described versions of Directive 1500.00 are listed as exhibits for this investigation.

June 2021 Memo regarding RRT resignation reflects team members' perspectives
IPR interviewed the author of the June 2021 Memo (Exhibit 2) the describing RRT members' rationale for resigning en masse, Captain Jacob Clark. Captain Clark indicated he wrote his memorandum at the request of Bureau command staff, in order to express team members' reasons for resigning.

Captain Jacob Clark #43501
IC Berry interviewed Captain Jacob Clark #43501 on 07/28/22. In summary, he indicated: He has worked for PPB for approximately 18 years. He first joined RRT shortly after completing his probationary period as a newly-hired officer. He served on RRT for about two or two and a half years, until approximately 2008, when he was transferred to an undercover assignment and had to resign from the team. In July 2020 he was assigned to RRT on a full-time basis, to act as one of two field commanders for the team. He was a lieutenant at the time and he and then-Lieutenant Schoening both served as field commanders for RRT, working opposite schedules. On 08/16/20, he sustained a Redacted while serving on RRT and had to step away from the team due to his injury. In April 2021, he became RRT's commander, replacing Lieutenant Jeffrey Niiya, who left PPB to work at another agency.

Captain Clark indicated: At the time of the 06/16/21 team meeting, there were very approximately 45 members serving on RRT. There had been several RRT callouts during April and May of 2021, and some team members were already talking about resigning. An RRT member had recently been criminally indicted, related to his use of force at a protest. Shortly after that announcement, the Oregon Department of Justice announced it was investigating Detective Erik Kammerer related to another use of force incident at a protest. Captain Clark stated:

> *I knew the team was – they had already been at a breaking point before all of this, so I wanted to call them all in and talk through it and see where they were. The intent was not for the team to resign. I mean, it was just simply to bring them together and talk about where they are and try to keep things going. But ultimately they got together and talked about, you know, not wanting to do this work anymore. On their own they had a vote, and*

> *it was a unanimous vote from all the people present that they were gonna resign from the team. (Clark interview, lines 203-208)*

Captain Clark indicated he told team members they should articulate their reasons for resigning. Captain Clark indicated he wrote his June 2021 Memo (Exhibit 2) in order to describe the members' reasons for resigning. Captain Clark stated:

> *I took notes, and they told me the different reasons that they had for resigning from the team, and those notes are what I used to craft the resignation memo. So this is their own – the teams' own reasons and rationale for wanting to resign. (Clark interview, lines 209-212*

Captain Clark stated:

> *As soon as the team made their decision the meeting concluded. I notified my chain of command. So, I knew that this had to be documented soon, and right away the next morning I was called into a meeting with the Mayor and all of the Chiefs to discuss the resignation, and I listed to them verbally, read from my notes, as to why the team was resigning, and they, of course, wanted a written document of that as soon as possible. So, I think we had two meetings that morning, and then I sat down to craft this [memorandum] as quickly and articulately as I could. (Clark interview, lines 223-228)*

During the interview, LI Berry reviewed the second bullet point of the June 2021 Memo, which discussed the changing interpretations of existing Directives, as well as the perception that there were conflicting standards in Directives 635.10 and 1010.00. Asked if there were conflicting standards in Directives 635.10 and 1010.00, or other Directives, regarding the use of force, Captain Clark stated:

> *These were simply the two that the team focused on, and frankly I don't remember their jack – I'm sorry, their exact rationale for what this was and what the conflicting standards what they believed were there. I don't recall what was said there. Again, it's me trying to take notes on the bullet points of their concerns, so I wish I could provide you more detail there, but I don't remember exactly what their issues were specifically. (Clark interview, lines 252-258)*

Asked to describe what he was referring to, when he wrote about changing interpretations, Captain Clark indicated team members referred to Judge Hernandez' TRO violation determination related to a PPB officer having shot a physically resistant protester – who was likely aiding more aggressive protesters – with a less lethal impact munition. Captain Clark stated:

> *The team was upset that they had been trained – the point of them – and again, I wasn't part of any training for over a decade, but, you know, when people are using signs and then intentionally slow-walking that those are people that you can use force on, and that*

> *that had always been the interpretation, and then the judge's ruling countered that. (Clark interview, lines 265-268)*

Captain Clark stated:

> *I know one point they were focusing on was kind of the definition of passive resistance. And so what they had believed or what they said they had been trained to believe is, you know, like the TRO cases, the example they were using, that somebody holding a sign and using that to slow the advance of the RRT line so that people behind them can attack that that's not passive resistance, that they're actively engaging in more of an act of aggression type of thing 'cause it's a coordinated effort. And so to them that's the, you know, it's active aggression. It's not just passive resistance. And so that differing, that change in kind of interpretation of what passive resistance is was one of the ones they talked about. But I don't remember much more detail than that. (Clark interview, lines 303-310)*

Captain Clark indicated team members also mentioned some IPR and IA investigations where the findings were initially exonerated or not sustained but were later controverted to sustained. Captain Clark stated, "There was some grief there that, 'How can these cases go all the way through and find that the officer did nothing wrong, and then be reinvestigated and controverted and found sustained?'" (Clark interview, lines 294-295)

Asked if there were conflicts between Directives 635.10 and 1010.00, regarding the appropriate use of force, Captain Clark indicated he did not see a conflict between the Directives as he read them, since Directive 635.10 notes that force should be used in accordance with Directive 1010.00. Captain Clark indicated team members referenced previous trainings, related to the use of RCAs during protests. Captain Clark stated, "When it came to like riot control agents [RCAs] and stuff like that that there were different uses I guess in crowd control." (Clark interview, lines 317-318) Captain Clark stated, "There was a lot of grief in the team that 1010.00 and 635.10 didn't marry appropriately." (Clark interview, line 328)

Asked if there was a conflict between Directives 635.10 and 1010.00 regarding the appropriate use of RCAs, Captain Clark stated:

> *I don't see a conflict there. Yeah, the CMIC typically would say, you know, "CS gas is authorized." Well, if I'm gonna toss gas I still have to justify why I'm using that. I don't know if, you know, prior trainings had been that way because I didn't participate in them, but, you know, it's still – it was clear to me from the training I went to that I still had to justify my own deployment of RCAs regardless of what the direction of the CMIC is. (Clark interview, lines 399-402)*

Captain Clark indicated he did not serve on RRT for many years, and he did not attend nearly as many crowd control trainings as long-standing team members attended. When asked, Captain Clark indicated he does not know which specific training sessions team members were referring to during their discussion on 06/16/21.

Asked whether RRT members mentioned any specific training sessions during their 06/16/21 discussion, Captain Clark indicated team members referenced the CAO paragraph 4 and paragraph 5 trainings (these trainings are discussed more on page 17) related to Judge Hernandez' TRO violation determinations. Captain Clark stated:

> *Unfortunately I was off the team at that point, so I didn't participate in that training. But it was unanimous amongst the team that they left that training still not understanding what they could or couldn't do as it related to force and crowd control. (Clark interview, lines 341-343)*

During the interview, IC Berry reviewed the third bullet point of the June 2021 Memo, which discussed changes in Directive interpretation and policy having been applied retroactively. Asked if he recalled what policy changes RRT members were referring to, Captain Clark stated:

> *I think what they were most focused on is I think the changes in interpretation. And again, the example they talked about that stands out the most in my mind is that Hernandez ruling, and I think it was June 30th or 31st or something. And that kind of change in the interpretation of passive resistance. I think that's kind of where they were focused at the most, but I know there was a robust discussion about it. I just don't remember the specifics. (Clark interview, lines 428-434)*

When asked, Captain Clark indicated team members also discussed the Chief's executive order, severely restricting the use of CS gas. Captain Clark indicated team members noted CS was extremely effective for effecting dispersals, without having to resort to higher levels of force. Captain Clark stated, "Basically the most effective tool we had remaining was the use of dynamic movements from the team." (Clark interview, line 448) Captain Clark indicated RRT and MFF members warned command staff that increasing the use of dynamics "could actually reenergize the crowd and get more people attending making the dispersals even more difficult." (Clark interview, lines 452-453)

During the interview, IC Berry reviewed the thirteenth bullet point of the June 2021 Memo, which discussed RRT developing and implementing new tactics, which were initially approved but later criticized. Asked if the increased use of dynamics was one such tactic, Captain Clark stated, "that's the main one that we discussed. I don't remember if there were other ones. I mean, I don't remember specifically what they were. I remember the dynamics specifically." (Clark interview, lines 464-465)

Regarding new tactics RRT developed, Captain Clark indicated an RRT member developed a plan to embed undercover officers within groups of protesters, in order to identify the specific people within the crowd who were engaging in criminal activity. Captain Clark indicated the team member briefed he and Lieutenant Schoening on the plan, and they approved it and referred it up their chain of command. Captain Clark indicated the plan was approved and implemented. Captain Clark noted the program was "extremely effective" (Clark interview, line 481) throughout the spring of 2021. Captain Clark stated:

> *There was a lot of frustration in that, you know, we're coming up with tactics, and in that case it was a great tactic that worked really well, and it took months and months for Bureau leadership to actually approve its use, while at the same time we're telling them we have concerns about like the use of dynamics and we're told to just continue to utilize them. (Clark interview, lines 481-485)*

When asked, Captain Clark confirmed he spoke to Chief's office staff regarding potential negative consequences regarding the increased use of dynamics. Captain Clark indicated he did not recall whether this took place when he was assigned to RRT, or when he was assigned as an MFF field commander. Asked who he spoke to about the issue, Captain Clark stated:

> *At the time Deputy Chief Davis was – I don't know his official assignment, but he appeared to be the person in the Chief's Office kind of directly in control of the demonstration responses. So, he was involved in just about all the discussions around the demonstrations that I was a part of I think. Yeah, but I don't know how that was like delineated in the Chief's Office. (Clark interview, lines 509-512)*

Asked how Chief's office staff conveyed their acknowledgment that restricting the use of CS gas would result in higher levels of force, like the increased use of dynamics, Captain Clark stated, "It was all verbal." (Clark interview, line 531)

Review of training records did not locate evidence of concerning training material

IPR reviewed crowd management and crowd control training material for trainings that were prepared and presented between 2017 and 2020. These records include material from: CMIC trainings sessions from 2018 and 2019; RRT all-team training sessions from 2018 and 2019: PPB and OSP inter-agency "state basic" crowd control trainings from 2017, 2018, 2019, and 2020; MFF in-service trainings from 2019 and 2020; grenadier operator's courses from 2017, 2018, and 2019; grenadier in-service trainings from 2018 and 2019; PPB advanced academies from 2017 and 2019; and PPB sergeant's academies from 2018 and 2020.

The material IPR reviewed included lesson plans, handouts, PowerPoint presentations, presenter's notes, and attendance records. During this review, IPR found no training material which explicitly stated officers could use force against community members without meeting the requirements of Directive 1010.00. However, the majority of the training material IPR reviewed did not appear to be a verbatim or near-verbatim representation of the training as it was provided. Rather, much of the material comprised talking points, which the trainer would then expand upon as they lectured. As an example, in a PowerPoint presentation from the 2018 sergeant's academy titled "Crowd Control, Crowd Management, and the First Amendment," (Exhibit 6) slide 14 states:

> *What is your role as the Incident Commander?*
> - *You are in charge*
> - *You have to make a decision*
> - *You have to accept responsibility for your decisions*
>
> *(Exhibit 6)*

The accompanying lesson plan for this training from the sergeant's academy was prepared by Commander Dobson, then a sergeant, in October 2013 and updated in April 2018 (Exhibit 7). The section addressing the responsibilities of a sergeant called upon to act as an Incident Commander (IC) likewise consists of talking points for the trainer to expand upon. It states:

> ***Part 1 – Sergeant Responsibilities as the IC during a civil Disturbance***
> ***Planning for a protest***
> - *Understanding the crowd / situation*
> - *Using the Decision making model*
> - *Developing:*
>   - *A plan*
>   - *Objectives*
>   - *End state*
>   - *Rules of engagement*
> - *Managing the event*
> - *Communications*
>
> ***DISCUSSION***
> *(Exhibit 7)*

IPR found several instances of training material referring to Directives 635.10 and 1010.00. However, IPR found no instances of training material that discussed the relationship between these two Directives, or whether force can be authorized under Directive 635.10, as opposed to Directive 1010.00. IPR found multiple instances of quotations of or references to Directive 635.10's policy statement, which reads:

> *The Portland Police Bureau recognizes both the importance of protecting First Amendment rights and the tradition of exercising free speech and assembly in the City of Portland. The Bureau is committed to respecting lawful assembly and expression of speech while also maintaining public safety, peace, and order.*

IPR also found several instances of training material referring to specific Constitutional issues. For example, in a PowerPoint presentation for the 2019 Advanced Academy titled "Mobile Field Force" (Exhibit 8), slide 35 states:

> *Performance Objectives:*
> *•Describe how the 1st amendment applies to the police*
> *•Describe how the 4th amendment applies to the police*
> *•Describe how the 8th amendment applies to the police*
> *•Describe how the 14th amendment applies to the police*
> *(Exhibit 8)*

The next 15 slides in this PowerPoint address specific facets of each constitutional amendment. Starting on slide 50, this PowerPoint presentation then addresses Directive 1010.00 – Use of Force and how it describes specific types of force, including aerosol restraints like pepper spray, and impact weapons like the baton. This presentation notes aerosol restraints may be used in response to physical resistance or the indication of an intent to engage in physical resistance. This presentation notes impact weapons may

be used in response to active aggression. This presentation also quotes Directive 635.10 – Crowd Control/Crowd Management in its entirety on slides 67-70. (Exhibit 8, throughout)

The accompanying lesson plan for this training was prepared by Captain Schoening, then a Lieutenant, in June 2017, and was updated in July 2019 (Exhibit 9). This lesson plan also largely consists of expected talking points for the trainer. The objectives for the previously described Constitutional issues and use of force sections state:

> *• Module 3 – Constitutional issues (0.5 Hour) CONFIDENTIAL*
> *o Describe how the 1st amendment applies to the police*
> *o Describe how the 4th amendment applies to the police*
> *o Describe how the 8th amendment applies to the police*
> *o Describe how the 14th amendment applies to the police*
>
> *• Module 4 – Use of Force (0.5 hours)*
> *o Explain the difference in the use of force when in crowd control*
> *o Describe when force can be used on persons in a crowd*
> *(Exhibit 9)*

This lesson plan also includes a procedural justice statement, which states:

> *The Portland Police Bureau recognizes that the City of Portland has a tradition of free speech events. This class includes a discussion on how constitutionally protected protest activities give voice to the community, and how the Police Bureau's impartial and respectful response that protest activity is critical to maintaining trust with community members. (Exhibit 9)*

Training regarding Judge Hernandez Ruling

City Attorney's Office (CAO) staff prepared training material, related to Judge Hernandez's determination multiple PPB officers violated a TRO he had earlier issued. CAO staff prepared a so-called "paragraph 4" training for the entire Police Bureau, related to appropriate uses of force. CAO staff also prepared a so-called "paragraph 5" training for all Police Bureau grenadiers. These designations correspond to specific paragraphs from Judge Hernandez's ruling. IPR reviewed material for both trainings. IPR staff also observed the paragraph 5 training as it occurred.

CAO staff prepared a PowerPoint presentation for both the paragraph 4 training and the paragraph 5 trainings. Both presentations address authorized uses of force under Directive 1010.00, and include detailed descriptions of what constitute passive resistance, physical resistance, and active aggression. These presentations include a detailed chronology and description of the various court-related limitations placed on PPB's use of force during the George Floyd related protests. The presentations include video clips of specific force incidents Judge Hernandez ruled on. The presentations also include descriptions of inappropriate justifications of uses of force from Force Data Collection Reports (FDCRs) completed by PPB officers during the George Floyd related protests. The presentations include very detailed information regarding specific instances when officers may use specific types of force. As one example, in the section of the paragraph 4 PowerPoint presentation addressing issues identified in FDCRs related to the use of

the baton, slide 59 notes that in some FDCRs, officers indicated they used a baton because protesters refused an order to move, or who were moving in a manner that was intentionally slower than the line of advancing officers. This slide states:

> ***Baton strikes and jabs may only be used in response to ACTIVE AGGRESSION.***
>
> *****Refusing to move is passive resistance. Slow walking is passive resistance or compliance. Force is not justified.*****

IPR listed Commander Dobson's previously described PowerPoint presentation and lesson plan for the 2018 Sergeant's Academy training on Crowd Control Management and the First Amendment as exhibits for this investigation, as well as Captain Schoening's previously described PowerPoint presentation and lesson plan for the 2019 Advanced Academy training on MFFs. Because none of the training material IPR reviewed during this investigation appeared to suggest PPB officers could use force without meeting the requirements of Directive 1010.00 – Use of Force, IPR did not list any of the rest of these training materials as exhibits for this investigation. All of the training material IPR reviewed is available in this investigation case file.

At IPR's request, CAO staff provided unredacted copies of the paragraph 4 and paragraph 5 trainings to IPR for this investigation. CAO staff advised IPR they consider much of this material to be attorney-client privileged and cautioned IPR not to release it to third parties. Because this material is not redacted, IPR did not list any of it as exhibits for this investigation. All of the CAO training material IPR reviewed is available in this investigation case file.

NOTE: IPR's review of training material for this investigation focused on the issue of whether any PPB training or trainer falsely and inaccurately indicated members could use force without meeting the requirements of Directive 1010.00. This investigation did not address an instance where an inaccurate legal precedent was used in a training presentation, nor did it address another instance where an inflammatory Internet "meme" was used in a training session. Those incidents were investigated under other case numbers. Refer to those investigations for further details.

Interviews with experienced crowd control officers do not identify concerning training material
During this investigation IPR interviewed officers with multiple years of experience responding to protest activity as part of RRT and/or MFFs regarding the crowd control training they received. IPR did not identify concerning training material or training staff during these interviews.

Officer John Young #44217
LI Berry interviewed Officer John Young #44217 on 08/31/22. In summary, Officer Young indicated: He has worked for PPB for approximately 16 years. He joined RRT in 2008, and he remained on the team until the mass resignation in June 2021. Over the years, he served as a line officer, grenadier, and trainer for RRT. He provided bicycle and grenadier training to RRT members and police officers from other agencies at joint training sessions at Camp Rilea. He received multiple in-service trainings while he served on RRT. He is currently assigned to the Training Division and at the time of his interview was responsible for MFF crowd control training.

When asked, Officer Young indicated RRT members developed their own training material. Asked whether RRT complied with the expectation described in Directive 1500.00 that Training Division staff review and approve training materials, Officer Young indicated in 2015, RRT started sending training material to the Training Division to review and approve. Officer Young stated:

> *That is the more recent case. Prior to I would guess or maybe around 2015 or so RRT maintained their own training. Their own records and that's a rough guesstimate. I couldn't tell you exactly when it started happening, but it was – I think it was around that time period. (Young interview, lines 75-79)*

Asked what other Bureau members would have information about RRT trainings, Officer Young indicated many of them no longer worked for PPB. Officer Young identified former PPB Officers Zachary Domka #48437 and Anthony Zanetti #40588 as having played a role in developing RRT training. Officer Young stated, "Lot of the members who were involved with instructing and training left. So, there isn't that many left as far as that were involved." (Young interview, lines 552-553)

Officer Young indicated: He attended the 06/16/21 RRT meeting when the team voted to resign. Going into the meeting he was aware it was possible everyone would resign. The meeting was precipitated by the criminal indictment of Officer Corey Budworth #55392, for a use of force against a protester. Officer Young stated, "I think it became unclear about what RRT's role actually was and what they could and couldn't do." (Young interview, line 102-103) Officer Young stated:

> *Specifically it was on the interpretations of force. So, RRT began with a certain understanding of specifically physical resistance and active aggression, and then when we started getting the TROs through the courts and they were defining them differently, then it started to create confusion because it differed from the way things had been trained. And so then it became of, "Okay, if this is – if that's changed, then what can we do and how can we do it?" There was no time to train while we're in there or to really retrain in the ongoing nightly thing. So there was a change there that made it difficult. (Young interview, lines 109-114)*

Prior the interview, Officer Young reviewed the June 2021 Memo (Exhibit 2). Asked what he thought Captain Clark was referring to in the second bullet point, which discussed the changing interpretations of existing Directives, Officer Young stated:

> *So, when he's talking about interpretations, so like a specific example would be with the baton. RRT had trained if someone grabs your baton it's active aggression. After the court got involved the court said that if they grab your baton it was physical resistance. It's not active aggression unless he tries to take it away. So for us as a team to try to determine someone grabbing your stick was it just physical resistance or active aggression it's a big leap because somebody grabbing on, the time between when they grab it and they try to take it away and you trying to discern of whether or not he's just physical resistance or active aggression we felt that was – it was just difficult and we wanted clarification.*

> *So that is a specific example of how things changed because what that meant at a higher level active aggression we had trained, then you could use baton strikes from the guys on the side. Right? 'Cause he's trying to take your stick away. Well, if they make it physical resistance that's active aggression, they cannot do that, so it takes away something that we had trained, right? You could pepper spray them, but you couldn't use baton strikes because it didn't rise to that level. (Young interview, lines 142-154)*

Officer Young indicated Judge Hernandez also made a determination related to grenadiers shooting people who picked up objects at protests. Officer Young stated:

> *Oftentimes grenadiers would target someone for active aggression for throwing things. So there was one where somebody picked something up and they end up shooting him I think with an FN [FN-303] or something like that. So then the court came out and said, "Well, reaching down and grabbing something you can't just automatically shoot them," and I understand where that's coming from 'cause you don't know. He may just be picking up any random object, but RRT had trained, and specifically with like munitions and stuff, if you see them pick something up that is active aggression, but then again you have that narrow window of decision of like, "What are they picking up?" Oftentimes you don't know what was coming at you 'cause you – by the time they grab it and they throw it, and by the time you can actually see it, especially at night, you don't know what it was. So – that was another one of those examples of those difficult decisions. It was an interpretation after-the-fact of what RRT had trained. (Young interview, lines 195-207)*

Asked if there was a conflict between the use of RCAs, as described in Directives 635.10 and 1010.00, Officer Young stated:

> *I don't think there's a conflict there. The CMICs generally when they went to dispersal, when it got to that point, declared it a riot, unlawful assembly, generally we were already at the level of active aggression – from the crowd. So that threshold had already been met. They've already been given the warnings. We've already tried the de-escalation. We'd already been out of sight trying to deescalate. We've already tried all these different measures, but as far as a conflict in those I don't know that it – don't see one for that. (Young interview, lines 279-284)*

Asked what he thought the June 2021 Memo (Exhibit 2) was referring to in the third bullet which discussed changes in interpretation changing retroactively, and members being disciplined despite having acted within policy, Officer Young stated, "I think it was interpretations of policy." (Young interview, line 326) Asked how these changing interpretations were communicated to RRT, Officer Young referred to Judge Hernandez' TROs and the subsequent CAO training sessions. Officer Young stated, "I remember getting the language of the TRO, but the training came from the City Attorneys." (Young interview, lines 341-342)

Asked what he thought the June 2021 Memo (Exhibit 2) was referring to in the thirteenth bullet point which discussed RRT developing and implementing new tactics, which were initially approved but later criticized, Officer Young referred to a program of embedding officers within groups of protesters, who could then provide information that allowed police to make specific targeted arrests. Officer Young also

referred to the increased use of officers on bicycles for crowd control, noting, “That’s when things really start going smoother.” (Young interview, lines 401-402)

Asked if RRT also implemented an increased use of dynamics, Officer Young stated, “Well, when they started shifting to the crowd embedded and to bikes, then that kind of changed that. They kind of went away from the dynamics.” (Young interview, lines 405-406)

Asked about the criticism RRT received about the new tactics, Officer Young indicated he believes most of the criticism related to the increased use of dynamics, but he could not describe what sort of criticism the team received. Officer Young stated, “As far as that part goes I tried to check out outside of this as far as that political side of it, so I don’t recall specifically on that piece about them criticizing dynamics.” (Young interview, lines 439-440)

Officer Young indicated RRT was not able to formally train on these new tactics, or develop documentations for them, because of their operational tempo during 2020. Officer Young stated, “It never got done. They were never able to create curriculum or they were trying to do it, and then RRT resigned. Everything stopped.” (Young interview, lines 412-413)

Asked if RRT members had been given conflicting information during training sessions, Officer Young stated, “Not specifically. I think it comes down to the interpretation was different from how they had trained, and then after the courts got involved that they had a different interpretation on it.” (Young interview, lines 301-302) Officer Young indicated the Bureau’s crowd control training remained consistent for several years prior to 2020. Officer Young stated, “State Basic, RRT's, in-service's, all that was consistently doing the same training years prior to this happening.” (Young interview, lines 313-314)

Asked if the CAO training he received conflicted with previous training, Officer Young stated, “It was different than what had been trained, yes.” (Young interview, line 468) Officer Young again referred to Judge Hernandez’ determination regarding the distinction between physical resistance and active aggression, related to a person taking hold of an officer’s baton. Officer Young stated:

> *In essence what they were saying, so just merely grabbing it, and exactly how you're describing it, is trying to determine, "Are they grabbing it to take it away or are they just grabbing it to put their hands on it? For what purpose?" That's exactly what we were up against of like trying to understand of like where this language between physical resistance and active aggression. (Young interview, lines 477-482)*

Asked if the issue of officers using force at a level commensurate with active aggression against protesters who were themselves not displaying active aggression, but who were aiding other more aggressive protesters was addressed during the CAO training, Officer Young stated:

> *They [CAO] defined them as passive. If they were slow walking you couldn't move them along or push them along to move faster. You know, it was general compliance. They said it was passive even though there were active and noncompliant. (Young interview, lines 493-495)*

When asked, Officer Young indicated during previous RRT trainings, officers were taught that they could consider such protesters to be engaged in more active resistance to police.

Sergeant Martin Schell #32700

LI Berry interviewed Sergeant Martin Schell #32700 on 09/22/22. During the interview, Sergeant Schell indicated: He joined RRT in 2008 or 2009 and remained on the team until October 2018, first as an officer and later as a sergeant. He took part in providing crowd control training to other Bureau members during in-service trainings as well as the Advanced Academy. He also worked with RRT, in his capacity as the sergeant of the Bureau's now-disbanded Mounted Patrol, during crowd control trainings. He attended RRT trainings at Camp Rilea as well as at the Portland Air National Guard (PANG) base, but he did not attend every RRT training. The frequency of RRT trainings varied over the years.

Sergeant Schell stated, "once I had gotten horses, I was more focused on the horse part of the crowd control part, so I wasn't participating in all the other ancillary type training that was occurring with RRT." (Schell interview, lines 113-114) Sergeant Schell indicated he developed training material related to the use of PPB's Mounted Patrol for crowd control. Sergeant Schell indicated he sent all the training materials he developed to the Training Division, for their review.

Asked whether RRT members or Training Division staff typically developed RRT training material, Sergeant Schell stated, "I don't know how they make lesson plans and things came together or where they came from if they came from outside agencies and things like that. But a lot of times it was within the team providing the training." (Schell interview, lines 117-118)

When asked, Sergeant Schell indicated he did not identify any conflicting standards regarding the use of force, as described in Directives 635.10 and 1010.00. Sergeant Schell indicated he could not come up with an example of a use of force that would be authorized under Directive 635.10 but not under Directive 1010.00. During the interview, LI Berry reviewed section 9 of Directive 635.10 and section 6.4.6 of Directive 1010.00 with Sergeant Schell. Asked if he identified any conflicting standards between the two Directives, Sergeant Schell indicated he did not, and he noted both Directives refer to each other.

Asked whether he was taught, at any training he had ever attended during his service with PPB, that officers could use force without meeting the requirements of Directive 1010.00, Sergeant Schell stated, "Not that I recall, no." (Schell interview, line 417) Sergeant Schell further stated, "I don't recall any training where I've been told I could ignore what it says in 1010.00." (Schell interview, lines 422-423)

Asked whether he was taught, at any training he had ever attended during his service with PPB, that officers could use RCAs or other munitions during a dispersal without meeting the requirements of Directive 1010.00, Sergeant Schell stated, "No. My understanding has always been whoever pulls the pin on it or presses the trigger on it still has to make a decision." (Schell interview, lines 430-431)

Sergeant Schell indicated he was no longer a member of RRT and did not attend the 06/16/21 RRT meeting. Prior the interview, Sergeant Schell reviewed the June 2021 Memo (Exhibit 2) and indicated he had previously read a portion of it at the time. Asked what he thought the Memo was referring to in the second bullet point which discussed the changing interpretations of existing Directives, Sergeant Schell stated:

> *The City Attorney's Office on interpretations on the temporary restraining orders and those things that occurred during 2020, that it seemed like the interpretation of the directives were evolving as we were responding to that incident. (Schell interview, lines 167-169)*

Sergeant Schell further stated:

> *I guess that would be the interpretations by the City Attorney's Office or legal interpretations. And I would assume that, in my opinion, to me, not only from the City Attorney's Office but then also by, obviously, the temporary restraining orders that were placed upon us during that time period. (Schell interview, lines 173-176)*

Asked about the third bullet point of the June 2021 Memo (Exhibit 2), that talked about interpretations having been applied retroactively, Sergeant Schell again referenced the CAO training and Judge Hernandez' TRO, stating:

> *The only thing I can think of is the legal interpretations that were being made as part of the TROs and then also the opinions from the City Attorney's Office because I attended the later trainings that were put on in regards to that. And it was I guess I was not interpreting things the same as maybe the City Attorney's Office was interpreting things. So, it was a learning experience for me, also. (Schell interview, lines 239-242)*

During the interview, Sergeant Schell confirmed he attended a training provided by CAO staff regarding the appropriate use of force. Sergeant Schell stated:

> *What stood out in my mind were the video reviews that they had with us. And they had us review different applications of force that had been – and I don't know where the videos came from – but they were shown to us during the training. And then to – their interpretation of whether or not it was what the behavior of the, I guess, person involved – what that rose to and then also then the, you know, response of our members. And so, the – that, again, it was – I learned a little bit. Let's say that. (Schell interview, lines 309-313)*

Asked if he would have interpreted appropriate uses of force differently than the CAO training represented them, Sergeant Schell indicated he was not previously familiar with the incidents, so he could not say whether his own interpretation would have been different. Sergeant Schell stated, "It provided clarity where we were going with these interpretations of the policy." (Schell interview, lines 318-319) Asked whether the CAO training described protesters' behavior as less aggressive than he might have previously described it, Sergeant Schell stated:

> *In my personal opinion, I felt that some of the interpretations were interpreting the – in some of the scenarios – I can't say all of them, but some of the scenarios they were being interpreted as the community member's actions were I guess less intrusive or escalating than I had – I would have interpreted it prior. (Schell interview, lines 351-353)*

Detective Erik Kammerer #29988

IC Berry interviewed Detective Erik Kammerer #29988 on 08/31/22. In summary he indicated: He has worked for the Police Bureau for approximately 28 years. He joined RRT in 2001, as a founding member. Before the team disbanded, he was the longest-serving member of RRT. In his time on RRT he served as a line officer, grenadier, assistant squad leader, and squad leader.

Detective Kammerer indicated: He was also part of the training cadre for the state basic crowd control training put on by PPB, OSP, and other agencies, at Camp Rilea. As part of that work, he developed lesson plans for a report writing training, and prepared legal updates, usually in conjunction with a City Attorney. The training material he prepared addressed parts of Directives 635.10 and 1010.00 but did not directly address section 9 of Directive 635.10, which addresses the CMIC's authority to order dispersals and authorize the use of RCAs.

Detective Kammerer indicated: When he joined RRT in 2001 he went through the state basic crowd control training, which at the time was taught solely by OSP. He later attended grenadier training, as well as scheduled RRT trainings. Initially, RRT held trainings every other year. Detective Kammerer stated, "Somewhere around the mid-teens I believe we switched to a bi-annual, like a spring/fall training." (Kammerer interview, lines 96-97) It was around that time that he became part of the training cadre for the state basic training.

Asked to describe who develops training materials for RRT trainings, Detective Kammerer stated:

> *Generally it's RRT because they're the subject matter experts on the trainings. There's nobody else that was able to develop the training for us. So, we would develop our own training. There'd be lesson plans written and those would be submitted to the Training Division. (Kammerer interview, lines 109-111)*

Asked whether RRT had always submitted their training materials to the Training Division for review, or if that was a more recent development, Detective Kammerer stated, "No, it's my understanding that that's historically always been going on. I can't imagine that we would develop our own training and put it out and not have it reviewed by anybody in the Training Division." (Kammerer interview, lines 117-120)

Asked if he was aware of any changes in the process of how subject matter experts from specialty units interact with Training Division staff, Detective Kammerer stated, "Up until recently no. I know now that there's this push to have Training develop all the training now and not have these individual subject matter experts do the training." (Kammerer interview, lines 124-125) Detective Kammerer stated, "It's my understanding that's more of a direction from the DOJ." (Kammerer interview, line 128)

Detective Kammerer indicated: He attended the 06/16/21 RRT meeting when the team voted to resign. Captain Clark called the meeting in order to discuss the future of RRT. Going into the meeting, he was aware it was possible the team might vote to resign. He abstained from voting, but did resign after the vote was held. Detective Kammerer stated, "I had concerns that my position within the team could sway

people to vote one way or the other, which is why I abstained from the vote, but I was willing to go with the will of the team." (Kammerer interview, lines 169-170)

When asked, Detective Kammerer indicated he could not describe specific statements RRT members made during the meeting, related to training they received, or conflicting information they had received related to the use of force. Detective Kammerer noted "pretty much the entire team" (Kammerer interview, line 359) was present, and many people were talking. Detective Kammerer stated, "I think Captain Clark probably did the best he could to capture what was being said." (Kammerer interview, line 361)

During the interview, LI Berry reviewed the second bullet point of the June 2021 Memo (Exhibit 2), which discussed the changing interpretations of existing Directives, as well as the perception that there were conflicting standards in Directives 635.10 and 1010.00. Asked if he knew what Captain Clark was referring to, Detective Kammerer stated, "So 1010.00 governs the use of force, whereas 635.10 governs use of force during crowd dispersals, and there is a – not necessarily a disagreement, but a discontinuity between the two directives." (Kammerer interview, lines 191-193) Detective Kammerer further stated:

> *For impact munitions and riot control agents in 1010.00 you need active aggression. In 635.10 those are directed to be used at the decision of the incident commander based on the totality of the event, the circumstances at the time. So where you may not have active aggression by every single person in the crowd the use of riot control agents is authorized and appropriate, and that's the discontinuity between 635.10 and 1010.00. (Kammerer interview, lines 195-199)*

Detective Kammerer stated, "It was our understanding that force used under this event – these events would be governed by 635.10, and was instead being viewed under strictly 1010.00 without taking into account 635.10." (Kammerer interview, lines 206-208) Detective Kammerer stated:

> *So you have your after-action, right? And so those levels of force are reviewed under 635.10, and then make their way wherever they make it to where someone then decides, "We're actually gonna look back at these through just 1010.00 and disregard 635.10," and so that was the frustration. (Kammerer interview, lines 212-214)*

Detective Kammerer stated:

> *We would write our reports, our FDCRs assuming that the governance of force was under 635.10, and then at some point later up the chain of command, and this wasn't like within a week or so, but, you know, months later we were given the understanding that it was being reviewed under the governance of 1010.00 with a disregard for 635.10. (Kammerer interview, lines 221-224)*

Asked if he knew at what point in the AAR process the emphasis changed to Directive 1010.00, or who was responsible for the change, Detective Kammerer stated, "That I do not know." (Kammerer interview, line 236)

Asked if Directive 635.10 authorized uses of force that would not be authorized under Directive 1010.00, Detective Kammerer stated, "It [Directive 635.10] specifically talks about dispersals and how at the direction of the incident command RCAs or riot control agents or impact munitions may be used for dispersal." (Kammerer interview, lines 282-283) Asked if that meant that an officer could use RCAs without meeting the requirements of Directive 1010.00, once a CMIC authorizes a dispersal, Detective Kammerer stated:

> *The best way I can answer that is if you have a group of people who are acting differently, so you have someone, you know, one or two people with active aggression and two or three others that are maybe just kind of standing around them, protecting them, standing in front of them, shielding them, under 1010.00 I could not use any force against those protecting, only against those in the active aggression. Under 635.10 I can use riot control agents or impact munitions under the authority of the incident commander to disperse that crowd. (Kammerer interview, lines 288-292)*

Asked if part of the justification for such a use of force was that the less aggressive protesters were cooperating with the more aggressive protesters, Detective Kammerer stated, "That's correct." (Kammerer interview, line 299) Describing such activity, Detective Kammerer stated, "It's a coordinated movement." (Kammerer interview, line 304)

Asked if he knew what the June 2021 Memo (Exhibit 2) was referring to when he wrote about conflicting standards between training and legal interpretations, Detective Kammerer stated:

> *I know some of the legal interpretations involved passive resistance and what actually constituted a passive resistance. You know, our training, if you will, is passive resistant is you're an immobile object. Right? You're not active in any way. You're like a rock, or a tree or a bush. And so at any point when resistance is offered, then you're no longer passive. And so that was our understanding, and that's pretty much the constitutional standard for passive resistance, and it was becoming apparent that the City Attorney's Office did not necessarily follow that interpretation. (Kammerer interview, lines 246-251)*

Detective Kammerer stated, "The guidance we were receiving from the City Attorney's Office through the chain of command is that even slow walking is considered to be passive resistance, and that wasn't really consistent with our understanding of passive resistance." (Kammerer interview, lines 268-270) Asked if RRT members would have previously considered slow walking to be closer to active resistance, until CAO indicated it was passive resistance, Detective Kammerer stated, "That's correct, yes." (Kammerer interview, line 277)

Asked if he could think of a specific training he received as an RRT member where he was taught that, under the direction of the CMIC, he could use force against aggressive protesters as well as less aggressive protesters who were cooperating with the aggressive protesters, Detective Kammerer stated, "No sir, I cannot recall any specific trainings of that nature." (Kammerer interview, lines 314-316)

Asked if those kinds of issues would likely be brought up in classroom training, or in scenario-based training, Detective Kammerer stated:

> *So, normally like on a training document you'll list the directives that are being trained. That doesn't necessarily mean during the training you sit down and read the directive. It could just be scenario-based training that incorporates those directives into it. So, I mean, I guess you could say you could be learning it without specifically knowing you were learning that directive. (Kammerer interview, lines 322-326)*

Detective Kammerer stated, "There would be no, 'Okay, at this point we're gonna go over Section 9 of 635.10.' It would just be incorporated into the scenario-based training." (Kammerer interview, lines 333-335)

Asked if he could think of specific trainers who provided trainings related to Directives 635.10 and 1010.00, Detective Kammerer indicated former Lieutenant Niiya instructed at the most recent state basic crowd control training at Camp Rilea. Detective Kammerer stated, "I know Commander Dobson was involved in a lot of the scenarios." (Kammerer interview, line 343)

During the interview, IC Berry reviewed the third bullet point of the June 2021 Memo (Exhibit 2), which discussed changes in Directive interpretation and policy having been applied retroactively. Asked if he recalled what policy changes RRT members were referring to, Detective Kammerer stated, "My guess would be that's more the directions we were receiving from the City Attorney's Office on interpretations." (Kammerer interview, lines 352-353)

During the interview, IC Berry reviewed the thirteenth bullet point of the June 2021 Memo (Exhibit 2), which discussed RRT developing and implementing new tactics, which were initially approved but later criticized. Asked to describe what new tactics RRT implemented, Detective Kammerer stated:

> *Once riot control agents were taken away from us completely, then, you know, we explained through the chain of command that taking away these tools leaves us less tools to deal with these incidents, which, you know, basically at that point we had sticks and maybe pepper spray depending on what was going on at the time that we needed to use it. (Kammerer interview, lines 418-422)*

Detective Kammerer stated:

> *So we would come up with other tactics such as – one of them that was really effective was you would do a dynamic toward the crowd which would get the crowd to begin moving, and instead of stopping and holding the line and giving the initiative back to the crowd we would just slow down into a double-time, which is a jog, and then jog for blocks keeping that crowd moving. It would tire them out and they would disperse, but people didn't like it. They did not like the optics of us doing that. You know, no force was used, but they just didn't like it, and so that was a tactic that came under review as to its appropriateness. (Kammerer interview, lines 424-430)*

Detective Kammerer indicated: Protesters also continually changed their tactics. Initially, officers successfully used impact munitions and RBDDs to disperse violent crowds. As more protesters started

wearing armor and carrying shields, these were less effective. Detective Kammerer stated, "So we had to switch to dynamics, or smoke or something else." (Kammerer interview, line 435)

Detective Kammerer noted PPB was "very behind on the messaging." (Kammerer interview, line 438) Detective Kammerer stated, "And so, you know, we would deploy smoke and the Twitterverse would explode saying, 'We used gas,' and there would be no way to – no mechanism to correct that." (Kammerer interview, lines 439-441)

When asked, Detective Kammerer indicated there was no documentation associated with the new tactics RRT developed. Detective Kammerer stated, "Those were all done on the fly." (Kammerer interview, line 460) Detective Kammerer stated:

> *Pretty much they were all tried out contemporaneous to the incident. So, like for the double-time run I just started doing it one night and it was super effective, and so then that kind of became a tactic that we used. (Kammerer interview, lines 464-466)*

When asked, Detective Kammerer confirmed he attended a training CAO provided, related to Judge Hernandez' TRO violation determinations. When asked, Detective Kammerer indicated portions of the CAO training conflicted with what he was previously taught. Detective Kammerer stated, "That was when it really became apparent that the assumptions and interpretations that RRT was operating under weren't necessarily the same as those of the City Attorney's Office." (Kammerer interview, line 492-493) Detective Kammerer noted Judge Hernandez seemed especially concerned with officers discharging multiple rounds from an FN303 less lethal launcher. Detective Kammerer stated:

> *The way we trained to use those was just like any other projectile weapon, like a firearm, you fire until the threat is gone. And so the requirement of fire, assess, fire, assess, fire, assess isn't necessarily accurate in the actual use because you're just firing until the threat is done much like you would with a firearm. There's no requirement with a firearm to shoot once, and then wait to see what happens, and then shoot again. So that interpretation that came out of the TRO and through the City Attorney's Office I didn't necessarily agree with. (Kammerer interview, lines 499-503)*

When asked, Detective Kammerer indicated he did not know whether CAO staff had attended previous RRT trainings. Detective Kammerer stated, "If they [CAO] were there, I did not see them." (Kammerer interview, line 551) When asked, Detective Kammerer indicated he did not know whether CAO staff had reviewed RRT training materials before previous training sessions were presented.

Asked who else could speak to the training RRT members received over the years the team was in operation, Detective Kammerer identified Commander Dobson and Captain Schoening, as well as former PPB Lieutenant Niiya.

Interviews with officers with sustained force allegations do not identify concerning training material
During this investigation, IPR interviewed some of the PPB members that had force allegations sustained against them during previous IPR and IA investigations, related to their responses to protest activity

between 05/29/20 and 11/16/20. IPR did not identify concerning training material or training staff during these interviews.

Sergeant Patrick Mawdsley #46428

Sergeant Patrick Mawdsley #46428 had a force allegation sustained against him, under case #2020-C-0150, related to shooting a protester with a less lethal impact munition on 06/08/20. Sergeant Mawdsley was interviewed as an involved member for that investigation on 09/09/20. During that interview, Sergeant Mawdsley appeared to suggest that during a dispersal, he was authorized to use force under Directive 635.10, without meeting the requirements of Directive 1010.00, stating:

> *So, under 635, Section 9, once the IC orders a crowd to disperse and they don't heed the warnings, impact munitions can be deployed to prevent violence, injury, or property damage avoiding a greater application of force. So, I believe that by doing so, by using impact munitions to disperse a crowd before they continue to use additional force that's what we're doing is we're predicting their behavior, but based on the – on the behavior that we've seen up to that point. (Mawdsley 09/09/20 interview, lines 455-459)*

And:

> *So, my intent at the time is not to deploy this under 6 – under 1010. My intent is to deploy that as a dispersal technique under 635. And I think 1010 references 635 and 635 references 1010.00, but I can deploy the 40mm solely to disperse somebody without applying any of the 1010.00. However, I think in this case I think the 6.4.2.1.1, In Response to Active Aggression, applies. (Mawdsley 09/09/20 interview, lines 540-543)*

LI Berry interviewed Sergeant Mawdsley as a witness member for this investigation on 11/18/22. In summary, he indicated: He was worked for PPB for approximately 17 years and was on RRT for 7 years. He left RRT when he promoted to sergeant. He also has "quite a bit" (Mawdsley interview, line 42) of experience responding to protests as part of an MFF.

LI Berry reviewed the previously described statements from Sergeant Mawdsley's involved member interview with him. Asked if he had indicated he was authorized to use force under the dispersal section of Directive 635.10 without meeting the requirements of Directive 1010.00, Sergeant Mawdsley stated, "No, that would not be a fair statement." (Mawdsley interview, line 53) Sergeant Mawdsley stated:

> *I think to get authorization, for the IC to authorize dispersal munitions under 635.10, you have to have met – he has to have met the requirements under 1010.00 before he can make that authorization. So, he has already evaluated this group, this riot, that group has risen to the level that meets the requirements for 1010.00 to use impact munitions, other dispersal, then it references 635.10 for the specifics on how they can authorize that. (Mawdsley interview, lines 55-59)*

Asked if he meant that everyone who remained, after an IC had declared a dispersal, met the criteria for force to be used against them, Sergeant Mawdsley stated, "Not necessarily everybody who's out there, but the event as a whole, and then specific people would be a case-by-case basis." (Mawdsley interview, lines 64-65) Asked if he meant that he included the IC having ordered a dispersal as part of his own calculation whether to use force, Sergeant Mawdsley stated, "I think it counts as part of it, yes." (Mawdsley interview, line 69)

Sergeant Mawdsley indicated he left RRT in 2016 or 2017 and would have attended his last RRT training prior to leaving the team. Sergeant Mawdsley indicated he continued to receive crowd control training related to his work on MFFs after he left RRT. When asked, Sergeant Mawdsley indicated he did not recall a specific training where the intersection of Directives 635.10 and 1010.00 was discussed. Sergeant Mawdsley stated, "I can't think of a specific training. I know that we have covered – we'd be cover use of force training at every one. You cover the directives at every training that we go to, but I don't remember specific dates of a training." (Mawdsley interview, lines 99-101)

Sergeant Mawdsley indicated Commander Dobson provided crowd control trainings at Camp Rilea and at PANG, but he could not describe the specific training he had received from Commander Dobson. Sergeant Mawdsley indicated it was also possible he had received crowd control training from Captain Schoening, but he did not recall specific details. When asked, Sergeant Mawdsley indicated it was difficult to say with certainty what specific issues were covered in a particular training. Sergeant Mawdsley stated, "That's now how my brain works." (Mawdsley interview, line 108)

When asked, Sergeant Mawdsley stated he did not believe any training he received from either Captain Schoening or Commander Dobson was inadequate. Sergeant Mawdsley stated, "I think all of our training is extremely thorough." Mawdsley interview, line 131) Sergeant Mawdsley further stated:

> *I think if you want to look at whether it's adequate it would be reasonable to compare to our training that we get versus, you know, the nationwide. But I think consistently we – this Agency is the nationwide standard for crowd control events. That's why our instructors teach in fact worldwide this type of stuff, so I think that is a statement in and of itself about the thoroughness, detail and quality of the training. (Mawdsley interview, lines 137-140)*

<u>Officer Nicholas Bianchini #50576</u>

Officer Nicholas Bianchini #50576 had a force allegation sustained against him, under case #2021-C-0121, related to having pushed a protester on 08/15/20. Officer Bianchini was interviewed as an involved member for that investigation on 10/14/21. During the interview, he appeared to suggest he was justified in using force against the protester, because of active aggression the protester had shown earlier in the protest. Officer Bianchini stated:

> *In my mind, he was still the guy that was on the sidewalk with balled up fists that was being threatening, aggressive. So for him to change from that mindset in that short amount of time that I didn't see that as a possibility. I felt like he was still capable of harming somebody, based on what I had saw just minutes prior. (Bianchini 10/14/21 interview, lines 260-263)*

LI Berry interviewed Officer Bianchini as a witness member for this investigation on 11/16/22. In summary, he indicated: He has worked for PPB for approximately 14 years. He joined RRT in 2010 or 2011, shortly before the Occupy Portland movement started. He remained on RRT until the team voted to resign in 2021.

LI Berry reviewed the previously described statement from Officer Bianchini's involved member interview with him. Asked if it was accurate that part of his decision to use force related to the active aggression the protester had shown toward another officer in an earlier encounter, Officer Bianchini stated, "Yes." (Bianchini interview, line 77) Asked if he could recall a specific training where he was taught he could consider the active aggression a person displayed against another officer in a different encounter as part of his own calculation to use force against that person, Officer Bianchini first stated:

> *In general terms, yes. I don't remember specific training that I was taught, but, I mean, you're working as a team. And so, if somebody is threatening an officer next to you, you are more than able to take action against that person to, you know, facilitate an arrest or defend the other officer from being assaulted as well. (Bianchini interview, lines 83-85)*

LI Berry reminded Officer Bianchini several minutes had elapsed between the two police contacts with the protester, and asked whether he recalled a training where a person's active aggression against another officer several minutes previously could be used as part of the calculation whether to use force against that person, Officer Bianchini stated:

> *You know, if somebody is acting aggressive, you know, hours prior, you might write that person off as kind of having a – you know, keep an eye on that person, but they're not actively doing what they were doing hours prior. This was a matter of minutes, you know. We were in the same location. We were, I guess, with the same group of people and with the same officers that I was with when he was exhibiting the active aggression. To me, there wasn't that time, you know, elapsed from him being, you know, aggressive to non-aggressive. He was still a threat in my mind. (Bianchini interview, lines 90-95)*

Asked if he meant the two police contacts with the protester were essentially the same incident, Officer Bianchini agreed. Officer Bianchini stated, "Yeah. If you tell me that you want to punch me in the face, and then I walk, you know, 20 feet to my right, and it's a minute later, I'm still going to think of you as the guy that wants to punch me in the face." (Bianchini interview, lines 100-101)

Officer Bianchini indicated he did not attend the 06/16/21 RRT meeting when the team voted to resign, because he was on leave. Officer Bianchini indicated he also resigned from RRT following the meeting. Prior the interview, Officer Bianchini reviewed the June 2021 Memo (Exhibit 2). Asked what he thought the Memo was referring to in the second bullet point which discussed the changing interpretations of existing Directives, Officer Bianchini stated:

> *I don't know what he was referring to. I can only speculate. My speculation would be directions to the team were changing on a nightly, weekly basis. Officers were getting hurt. The tactics that were being deployed and changed sometimes created a larger risk*

> *for officers that were getting hurt. There was a lot of complaints coming in against force that was being used. And it just seemed like there was maybe no winning based on everything changing and the complaints. And there was no perfect way to do that job. And it was putting officers at risk. The liability, increased liability. I think that's what he was referring to. (Bianchini interview, lines 147-152)*

Officer Bianchini indicated it was difficult to distinguish things he learned in a particular training session from things he learned in other training sessions. When asked, Officer Bianchini confirmed he had received crowd control training from Captain Schoening. Officer Bianchini indicated he recalled Captain Schoening leading a training session at Camp Rilea, sometime between 2016 and 2019. Officer Bianchini stated, "I think it was just basic crowd control instruction, scenarios." (Officer Bianchini interview, line 181) Officer Bianchini also confirmed he had received crowd control training from Commander Dobson, of a similar nature to what he received from Captain Schoening. When asked, Officer Bianchini indicated he did not believe the training he received from either Captain Schoening or Commander Dobson was inadequate.

During the interview, Officer Bianchini noted former Assistant Chief Ryan Lee #39878 also played a major role in developing and providing the Bureau's crowd control training. Officer Bianchini stated, "The other person that was a huge part of our training was Chief Lee. He was a major contributing person before he left." (Bianchini interview, lines 202-203)

<u>Officer Craig Lehman #51073</u>

Officer Craig Lehman #51073 had a force allegation sustained against him under case #2020-C-0254, related to using OC spray against a protester/citizen journalist on 08/01/20. Officer Lehman also had another force allegation exonerated against him, related to having earlier shoved the same person away from police. Judge Hernandez later found Officer Lehman's use of OC violated his TRO, and Officer Lehman also had a laws, rules, and orders allegation sustained against him as a result of Judge Hernandez' finding. Officer Lehman's use of OC spray was later reviewed during the CAO's TRO-related training sessions.

Officer Lehman was interviewed twice as an involved member for case #2020-C-0254, on 11/12/20 and again on 06/30/21. During these interviews, Officer Lehman indicated he first shoved the person away from police. Officer Lehman appeared to indicate he later used OC spray against the person based on his assumption the person was again going to approach police in an aggressive manner. Officer Lehman stated:

> *Pushed him into a car and then – let's see – yeah, I pushed him into a car and then once he recovered he looked like he was still trying to come back in the street again. I still had my pepper spray in my hand so as soon as he got up again to come back in the street I pepper sprayed him in the face. (Lehman interview, lines 243-246*

And:

> *He had been warned and physically moved and physically pushed by me and he still continued his aggressive movements towards the street. So, I – since I already had the*

> *pepper spray in my hand and I'd already tried pushing him, I didn't want to get into a prolonged one-on-one violent confrontation with him so I decided to pepper spray him in the face to limit my chance of using a higher level of force and possibly being outnumbered by the mass amount of people that were still on the sidewalk. (Lehman 11/12/20 interview, lines 363-368)*

And:

> *No, not specifically because like Officer Walters said before, I mean this incident happened almost a year ago and this interview happened in November, so I can't – without reviewing video, I can't specifically articulate what exact action he did at the time but per policy and I know I follow Bureau policy when it comes to all things, the standard for pepper spray is engaging in physical resistance or indicates the intent to engage in physical resistance, so his behavior was –had led me to believe that he was attempting – going to attempt to engage in physical resistance and physical resistance – a person's physical resistance is attempting to evade a member's control. (Lehman 06/30/21 interview, lines 113-119)*

And:

> *It was an attempt to evade a member's control and by control, we were trying to control him from entering the street again. (Lehman 06/30/21 interview, lines 145-146)*

LI Berry interviewed Officer Lehman as a witness member for this investigation on 11/17/22. In summary, Officer Lehman indicated: He has worked for PPB for a little more than 10 years. He was a member of RRT for approximately six years, from 2015 to 2021.

LI Berry reviewed the previously described statements from Officer Lehman's involved member interviews with him. Asked if his decision to use OC spray related to his concern the person would again step into the street toward police, Officer Lehman stated:

> *Yes. But I will say that now that I've had the luxury of watching the video – it's harder to explain the use of force decision-making based on our linear – how we write our reports. And prior to that, when I hadn't watched the video, and I'm basing it just on my recollection alone and the force report, I wasn't able to articulate it as well as two separate things, when in reality it was, like, almost two force events combined into one. And the decision-making was one decision to do two things, if that makes sense. (Lehman 11/17/22 interview, lines 92-97)*

And:

> *It wasn't, like, a push, pause, and then pepper spray. It was like push – push, spray. (Lehman interview, line 103)*

Officer Lehman indicated he did not adequately describe his decision to use OC spray in his previous interview, stating:

> *I think that's where this interview seemed like it went off the rails because that wasn't – I wasn't able to clearly articulate that based on my own recollection alone without watching the video and really understanding that event from, you know, a year later. (Lehman interview, lines 105-107)*

Asked if he was ever trained that he could incorporate concern about a person's possible future actions into a decision to use force against that person, after clarifying the question Officer Lehman stated:

> *I'll just give you an example. So when, like, a hand-tossed munition is deployed into an area, when it's dispersing an agent or smoke or whatever, we have training that says you do not want to let somebody approach that munition and pick it up and throw it back at you. For that reason alone, because you don't want to be infected with your own agent. Or, I mean, some of these things get pretty hot. You don't want somebody to burn themselves, throw it into an area that is a negative area that you don't want that agent to be deployed in and possibly contaminate a person that wasn't a target. So for that reason alone, we had direction to use a reasonable amount of force to prevent them from picking up that agent or that object as it could be used as a weapon against us. (Lehman interview, lines 225-232)*

Asked if he attended a specific training where he was taught to take action to prevent someone from throwing a munition back toward police, Officer Lehman stated:

> *I mean, that was – a large portion of that is learned at grenadier school because you are carrying and deploying the munition. So you're responsible for it after you deploy it or your team is responsible for it. So that would be where that training became, like, into play for me. (Lehman interview, lines 237-239)*

Officer Lehman indicated he attended the 06/16/21 RRT meeting and resigned from the team following the meeting. Officer Lehman indicated he had read the June 2021 Memo (Exhibit 2) previously. Asked what he thought the June 2021 Memo was referring to in the second bullet point which discussed the changing interpretations of existing Directives, Officer Lehman stated:

> *I mean, I think it's definitely out of frustration. We felt like we were within our policy that was laid out to us. And then this statement comes after several of us came under investigation and were found out of policy for doing what we believed was the right thing. And I think that's why he put that in there because it didn't seem like there was any sympathy towards us and what we were trying to do. And even though I felt like what we were doing was within the best interest of the city and in good spirit of what we thought the policy was. (Lehman interview, lines 268-272)*

Asked if he could think of a time when RRT had been given conflicting or inaccurate information during a training session, Officer Lehman stated, "No." (Lehman interview, line 278)

Asked if he had received crowd control training from Captain Schoening, Officer Lehman first noted RRT had a training cadre of members that provided training to other members, while Captain Schoening was in charge of RRT. Officer Lehman stated, "I mean, he [Schoening] wasn't the one teaching. I mean he was in charge of, you know, our team. But – in that capacity, I would say no. He [Schoening] wasn't specifically training me." (Lehman interview, lines 289-292)

Asked if he had received crowd control training from Commander Dobson, Officer Lehman stated yes. Officer Lehman indicated the only crowd control training he specifically remembered receiving from Commander Dobson was an MFF training during his advanced academy, in 2013, when Commander Dobson was still a sergeant. Officer Lehman indicated he believed the format of the training was a PowerPoint presentation.

Asked if he considered any of the training he received from Captain Schoening or Commander Dobson to be inadequate, Officer Lehman stated no. Officer Lehman further stated:

> *Commander Dobson and, you know, now Captain Schoening. I've known Commander Dobson my whole career, and he is a subject matter expert in crowd control. And Captain Schoening is also very knowledgeable on these tactics. I have never seen or heard anything of either of these two people giving any kind of information that wasn't in the best interest of the bureau and best tactics for crowd control events. I mean, they're subject matter experts. They know what they're doing. I don't think – based on my knowledge, it'd be very hard for me to believe that there was any kind of conflicting information that they would give us at their level. But, I mean, this is now – this event happened two and a half years ago. And the farther we get from it, it gets harder and harder to remember the kind of intricacies of, like, even small conversations I had with these guys. (Lehman interview, lines 323-330)*

Officer Brian Wheeler #57813

Officer Brian Wheeler #57813 had a force allegation sustained against him, under case #2021-C-0187, related to having pushed a protester to the ground on 09/30/20. Officer Wheeler also had a procedure allegation sustained against him, related to his tactics and decision making regarding his use of force against the protester. Officer Wheeler was interviewed as an involved member for that investigation on 03/14/22. During that interview, Officer Wheeler appeared to indicate he could use force against a person based on the possibility they might become actively aggressive, or against a person who was not engaging in active aggression themselves, but who was involved in the same protest as more actively aggressive protesters.

Asked how he determined who to push at a protest, Officer Wheeler stated:

> *It can be a variety of things. It could be somebody actively posturing up, looking like they're going to fight you. It could be somebody who is pretending, you know, not to do anything but then, you know, getting directly in your way or trying – needing to move them out of the way of the line because we will not allow anybody to get behind us. That is incredibly*

> *unsafe, especially this night when they were throwing bombs at us and large rocks and mortar fireworks. And so, if somebody is in my way or in the way of the moving, the proceeding RRT line, and they're not making a absolute effort to quickly leave and get out of our way, then at that point, that's when I'm going to use force to move them physically out of our way to create that space that gives us a safety net. (Wheeler 03/14/22 interview, lines 282-293)*

Describing his rationale for using force against the protester, Officer Wheeler further stated:

> *So it was obvious that this person was in the mass crowd the entire time. You know, they had obviously been there the entire time because I think the complaint says it happened at 2250, whereas this riot declaration happened at 2220. And that's when we initially, you know – that's when basically the Molotov went off the first time. So it's obvious that this person had been in the crowd the entire time. They were wearing black bloc attire. I mean, I think I'm thinking of the same one – I mean, everything this night is – that a lot of stuff happened that night. And it was a year and a half ago, so it's hard to know exactly which one. The one I'm thinking of, they were obviously in the crowd the entire night. Obviously, refusing to obey those lawful dispersal orders the entire time. They are there either – whether they're throwing things at us themselves, whether they're blocking others who are throwing things, I don't know. But I know that this person that I used force on at that intersection was in that crowd the entire time. They're wearing the clothing that basically signifies to us that they could be a threat. You know, this black bloc attire. That's what all of them wear so they can blend in, you know. For me, the whole time, it's like if you want to be out there and you don't want to be, you know, subject to the use of force, like, you need to wear something that doesn't blend into every single other person out there that's trying to kill us and fight with us. So, I don't specifically remember what this person was doing or know what this person was doing the entire time. All I know is they're in the crowd. They're not with the rest of the crowd that has moved about a block away from us. They kind of break off from that crowd because they're still next to us when we're doing this double-time jog. So, like I said, everybody who was falling back at that point was either fighting with other officers or was, you know, trying to ambush us, throwing stuff at us at some point or another. So, I felt like everybody that was in that area at that time was a threat because they were not staying with the majority of the rest of the crowd a block away from us, where I felt that was safe. They were still right next to us where everybody else there is actively engaging police violently. (Wheeler 03/14/22 interview, lines 308-331)*

LI Berry interviewed Officer Wheeler as a witness member for this investigation on 12/05/22. In summary, Officer Wheeler indicated: He has worked for PPB for just over five years. He joined RRT in June or July of 2020, and he remained on the team until all team members resigned in June 2021.

Asked if he recalled a crowd control training where he was taught he could consider person's possible future actions as part of his decision to use force against that person, Officer Wheeler stated, "No." (Wheeler interview, line 81) Asked if he recalled a crowd control training where he was taught he could consider the behavior of a group of people as part of his decision to use force against an individual in the group, Officer Wheeler stated, "No." (Wheeler interview, line 85)

Officer Wheeler stated, "I want to say I don't recall a lot of that training. I try to get a lot of that stuff out of my memory. It's kind of bad memories, so – I'll say no." (Wheeler interview, lines 87-90) Asked if it was difficult to recall what he had been taught in a specific training, Officer Wheeler stated, "Yeah, I don't remember everything that I'm – go through in trainings, that's for sure." (Wheeler interview, line 94)

Officer Wheeler indicated: He attended the 06/16/21 RRT meeting when all team members voted to resign. He was aware before the meeting that a mass resignation was possible. He had previously read the June 2021 Memo (Exhibit 2) , describing the team's rationale for resigning. Asked what he thought the Memo was referring to in the second bullet point which discussed the changing interpretations of existing Directives, Officer Wheeler stated, "I can't speculate as to what he was thinking when he wrote that honestly, so I can't give you any specific comment on that." (Wheeler interview, lines 126-127)

Asked if RRT members had been given conflicting or inaccurate information regarding authorized uses of force during training sessions, Officer Wheeler stated:

> *I can't speak to other members. It just seems like the way it was looked at in IA, IPR and going up the chain was different than how things looked out on patrol probably given the publicity of the 2020 incidents. That's how it seemed to us. (Wheeler interview, lines 130-132)*

Asked to clarify what he meant, Officer Wheeler stated, "I'm saying it seemed like the uses of force if they had been on patrol were looked at differently than if they occurred during the riots." (Wheeler interview, lines 137-183)

When asked, Officer Wheeler indicated he had never received crowd control training from Captain Schoening or Commander Dobson. Officer Wheeler indicated he attended one day of training before joining RRT. Officer Wheeler indicated he could not remember specifically who provided the training. Asked if he considered any crowd control training he had received to be inadequate, Officer Wheeler stated, "No." (Wheeler interview, line 167)

Interviews with CMIC training attendees do not identify concerning information
IPR interviewed PPB members who attended CMIC training provided by Commander Dobson. IPR also reviewed training material from Commander Dobson's CMIC training, as well as multiple iterations of his crowd behavior training. IPR did not identify concerning information about Commander Dobson's CMIC training during this review.

Exemplars of Commander Dobson's crowd behavior training reviewed
During this investigation, IPR reviewed training material from multiple iterations of Commander Dobson's CMIC and crowd behavior training. This material includes the lesson plan and other material from a

training in crowd behavior from the 2019 Fall RRT training, as well as material from the CMIC training he provided in September 2019. In this review, IPR found no material where Commander Dobson appeared to suggest members could use force without meeting the requirements of Directive 1010.00.

In the lesson plan and PowerPoint presentation for his 2019 Fall RRT training on crowd behavior (Exhibits 10 and 11), Commander Dobson noted relevant laws and Directives, including the United States Constitution, many state and local statutes, and Directives 635.10 and 1010.00. The material describes various crowd behavior theories and describes how several are now considered outdated or to have been debunked. The material describes several strategies and methods for police to respond to protest activity. The material does not include information specifically related to the authorized use of force. The lesson plan includes an "approved" stamp, indicating it was reviewed and approved by the Training Division.

The Training Division provided IPR with the PowerPoint presentations from Commander Dobson's 2019 CMIC training (Exhibit 12). Former Training Division Commander Gjovik indicated Training Division staff reviewed and approved this material. These presentations cover a wide range of information related to police responding to protest activity, including various theories of crowd behavior, particularly related to how groups of people escalate or deescalate their behavior. These presentations include an overview of various less lethal weapons, including RCAs, area impact weapons, and less lethal launchers. None of the presentations include information specifically related to the circumstances under which an individual officer may use force. None of the presentations include a suggestion an officer may use force without meeting the requirements of Directive 1010.00.

Commander Kristina Jones #41759

LI Berry interviewed Commander Kristina Jones #41759 on 11/23/22. LI Berry provided Commander Jones with a copy of the attendance record from a CMIC training provided by Commander Dobson in December 2018. Commander Jones agreed the attendance record indicated she attended the training. Commander Jones indicated she did not have an independent recollection of the training. Commander Jones indicated she did not remember who the instructor or instructors were. When asked specifically whether Commander Dobson or Captain Schoening may have provided the CMIC training, Commander Jones indicated she did not recall whether either person had done so.

Commander Jones indicated: She did not remember whether the CMIC training addressed the CMIC's authority to order dispersals. She did not remember whether the CMIC training addressed the CMIC's authority to authorize the use of riot control agents (RCAs) and special impact munitions during dispersals, as described in section 9.2 of Directive 635.10. She did not remember whether the CMIC training addressed how that authorization described in section 9.2 of Directive 635.10 intersected with an individual officer's decision to deploy an RCA or munition, as described in Directive 1010.00.

Asked whether she considered any training she received from Commander Dobson to be inadequate, Commander Dobson stated, "I don't recall anything that Commander Dobson would have trained that I would consider inadequate. My perception is he's very knowledgeable and he's considered an expert across the country in crowd management." (Jones interview, lines 224-227)

Asked the same question, but regarding Captain Schoening, Commander Jones stated, "I would classify it as similar to what I said for Commander Dobson. Captain Schoening is also considered an expert in that field and I can't think of any training that I would consider would have been inadequate." (Jones interview, lines 232-233)

During the interview, LI Berry reviewed section 9 of Directive 635.10 and section 6.4.6 of Directive 1010.00 with Commander Jones. Asked if she identified any conflicting standards regarding the use of force in the two Directives, Commander Jones stated, "Not on the face of it." (Jones interview, line 115) Asked if Directive 635.10 authorized uses of force that wouldn't be authorized under Directive 1010.00, Commander Jones stated, "Not that I'm aware of. I didn't re-review the whole thing. I mean, like you just pointed out it says, 'Force shall only be used in accordance with Directive 1010.00 in Section 9.3 [of Directive 635.10].'"

Asked whether she was taught, at any training she had ever attended during her service with PPB, that officers could use force without meeting the requirements of Directive 1010.00, Commander Jones stated, "Not that I can think of." (Jones interview, line 147) Asked whether she was taught, at any training she had ever attended during her service with PPB, that officers could use RCAs or other munitions during a dispersal without meeting the requirements of Directive 1010.00, Commander Jones stated, "Not that I can think of." (Jones interview, lines 151)

Asked whether she was ever taught, at any training she had ever attended at PPB, that officers could use force at a level commensurate with active aggression against protesters who were themselves not displaying active aggression, but who were aiding other more aggressive protesters, Commander Jones stated:

> *So for that the only thing that comes to mind is in Mobile Field Force Training that I can remember. You know, when we're trying to – when we're in a line and being directed to clear an area or clear a street with our – and we have our batons, and I can recall training where, you know, we're advancing and the training was to use our batons to, you know, push or with the short end out to be advancing on a crowd and saying, "Move, move, move," and trying to get a crowd to move back. So that's the closest that I could think that might fit that particular category. (Jones interview, lines 162-167)*

When asked, Commander Jones indicated she believed the training she was referring to was an in-service training related to MFFs which took place before the protests of 2020, but she did not remember exactly when or where the training took place.

Sergeant Martin Schell #32700

LI Berry interviewed Sergeant Martin Schell #32700 on 09/22/22. During the interview, Sergeant Schell confirmed he attended the CMIC training presented by Commander Dobson in December 2018. Sergeant Schell indicated during the training he also provided some input on his experience acting as the planning section chief within the ICS system. When asked, Sergeant Schell indicated he did not recall whether the training addressed the CMIC's authority to order dispersals during civil disturbances. Sergeant Schell stated, "I don't recall exact words like that. By the title of the class, you would assume something like that would be talked about." (Schell interview, line 398-399)

Asked whether the training addressed the CMIC's authority to authorize RCAs during dispersals, Sergeant Schell stated he did not recall. Asked whether the training addressed how the CMIC's authorization to use RCAs intersected with an individual officer's decision to use force, Sergeant Schell stated he did not recall.

Critical Assessment identified deficiencies with PPB crowd control training

Paragraph 189 of the amended Settlement Agreement between the City and DOJ calls for the City to pay for a qualified independent entity to conduct a critical assessment of the City's response to the protests of 2020, which will be released in a public report. Paragraph 189 also calls for the City to conduct a training needs assessment based on the results of the critical assessment.

The City retained Independent Monitor LLC to conduct this critical assessment. The critical assessment team consisted of academic and subject matter experts. They reviewed City records related to the 2020 protests and conducted extensive interviews with City staff, including IPR. The resulting report, titled, "The Handling of the 2020 Protests and Riots in Portland, Oregon: An Independent Review" (Exhibit 13) should be reviewed in its entirety. The summary below describes only the critical assessment's conclusions related to crowd control training.

The assessment noted then current Directive did not appropriately address many of the force responses described elsewhere in this report, including dynamics, often called bull rushes by community members, as well as the issue of officers pushing slow walking protesters during dispersals. The assessment noted officers were not given guidance regarding using these tactics, stating:

> *In other words, we are aware of no formal guidance given to incident commanders, operations section chiefs, RRT supervisors, or individual RRT members about the circumstances under which the dynamic tactic was authorized or prohibited. Further, PPB directives in place at the time focused on baton jabs and strikes but did not clearly address the two-handed baton push that officers sometimes used on protesters who refused to leave after a dynamic. (Exhibit 13, page 53)*

The assessment also referenced section 9 of Directive 635.10 as well as the force thresholds for the use of RCAs, less lethal impact munitions, OC spray, and the use of the baton described in Directive 1010.00. The assessment noted these standards were all relatively vague, and empowered officers to speculate about protesters potentially aggressive future behavior to justify their uses of force against protesters who were not displaying actively aggressive behavior. (Exhibit 13, throughout)

The assessment reviewed PPB's crowd control training system and identified some shortcomings. Describing some of their conclusions, the assessment stated, "Much of what we read and heard supports PPB's reputation as a law enforcement agency that has historically provided its officers with strong public order policing training that adhered to national standards, with some notable exceptions." (Exhibit 13, page 57)

The assessment concluded the City did not provide sufficient oversight to the Bureau's crowd control training. The assessment noted Directive 1500.00 called for the Training Division to review all training materials. The assessment noted RRT SOPs called for the team to provide training materials to the Training Division. The assessment noted the City's Settlement Agreement with DOJ also stated the City would provide all training materials to DOJ for their review. The assessment stated, "In interviews with PPB personnel, however, we were told that RRT training materials generally received only minimal review, if they received any at all, before they were used." (Exhibit 13, page 59) The assessment indicated CAO staff did not review training materials, to ensure the legal precedents referenced in training material were current and accurate. The assessment also indicated DOJ did not receive all training materials.

The assessment noted RRT members prepared training material under difficult circumstances, but also indicated the deference given to them as subject matter experts may have contributed to a lack of appropriate oversight. The assessment stated:

> *To be clear, the RRT members who created the lesson plans and conducted the trainings were experts in public order policing. However, they were generally not certified trainers or experts in educating adult learners. RRT membership was an auxiliary assignment, meaning its training personnel had other full-time responsibilities within PPB. It is hard to imagine how they would have had the time and resources to develop and conduct training without support from others within PPB and the City. While certain deference to RRT members as subject-matter experts was appropriate, the lack of general oversight of PPB's public order training program was a failure that led to significant issues in the training provided. (Exhibit 13, page 60)*

The assessment further stated, "RRT training addressed how to use force, that is, the mechanics of its use, but lacked material focused on the circumstances under which particular types of force were authorized and prohibited." (Exhibit 13, page 62) The assessment noted Directive 1010.00 described thresholds for the uses of specific types of force, which related to a person's level of resistance, from passive resistance, to physical resistance, to active aggression. The assessment noted while introductory crowd control training material defined when various types of force were appropriate, RRT training material did not include these definitions. The assessment indicated in some cases, RRT training material referenced outdated or rescinded Directive. The assessment also indicated in one instance, a photograph of a person yelling appeared to suggest they were engaged in active aggression. The assessment stated:

> *This lack of guidance in RRT training about when particular types of force were authorized and prohibited had consequences for officers and community members during the Review Period. For example, a Contempt Opinion and Order issued by a U.S. District Court Judge identified several examples of officers using force that was disproportionate to the resistance they faced. The explanations given by officers to justify the force revealed a misunderstanding of PPB's definitions of certain resistance levels and, in particular, what kinds of behavior constituted active aggression. (Exhibit 13, pages 63-64)*

Involved member interviews

Commander Craig Dobson #35609

IC Berry interviewed Commander Craig Dobson #35609 on 09/21/22. Commander Dobson's attorney Steve Myers attended the interview. In summary, Commander Dobson indicated: He has worked for PPB for 24 years and is currently the commander of Central Precinct. He joined RRT in 2001 and is a founding member of the unit. He served on RRT until 2016 or 2017, when he became a lieutenant. While on RRT he served as a line officer, a squad sergeant, a grenadier, and a trainer. He was not a member of RRT during the 2020 protests. During the 2020 protests, he served as a CMIC on many occasions.

Asked to draw a distinction between an Incident Commander (IC) and a Crowd Management Incident Commander (CMIC), Commander Dobson indicated an IC could be anyone in charge of an incident or a call. Commander Dobson stated, "A CMIC is a person who is trained in crowd management specifically; in the theory side of it, that has a little bit more training." (Dobson interview, lines 86-87)

Commander Dobson indicated if an upcoming protest is considered to be "low threat," (Dobson interview, line 107) smaller, or one that will not cause issues, then often the Bureau will make a precinct responsible for responding to the protest. Commander Dobson indicated in those cases, typically a sergeant will act as IC and manage the Bureau's response. Commander Dobson stated:

> *When we learn of an event, and it looks like it's going to have issues with it, so there might be civil disobedience, there might be civil disturbance involved in it, there's a threat of some type, or that it's going to draw in lots of resources, then the decision is made to use a CMIC to ensure that you've got the right person managing that event. (Dobson interview, lines 109-112)*

Commander Dobson indicated he was a member of the training cadre when he was a member of RRT. Commander Dobson indicated after he became a lieutenant and left RRT, he continued to provide training to RRT members. Commander Dobson stated, "I'm there to train, but I'm not part of a training cadre, if you will." (Dobson interview, line 132)

Describing his role in providing crowd control training, Commander Dobson stated, "My role, typically, within doing any type of training for crowd or public order type events is the theory side of it." (Dobson interview, lines 122-123) Describing this type of training further, Commander Dobson stated:

> *In crowd behavior we talk about the enhanced – let me see, what did we call it? Enhanced Social Identity Model. The idea behind it being that crowds are not a homogenous group, that they're made up of, if you will, companion clusters is what we call them, groups, small groups of people who gather together for a common cause. It's all based on theory that's been built out by social science and scientists. Clifford Stott is one of them that has done a lot of research over in Europe, and so we've taken parts of that to basically try to summarize that to teach it at a level that people will understand in a simplified view. (Dobson interview, lines 155-161)*

When asked, Commander Dobson confirmed he provided crowd control training to RRT and MFF

members, as well as officers from other law enforcement agencies. Commander Dobson confirmed he provided crowd control training in a variety of settings, including the 2017 RRT Fall regional training and the 2019 state basic crowd control training, and the 2018 and 2019 PPB CMIC trainings. Commander Dobson confirmed he developed lesson plans for these trainings and updated them.

Regarding RRT trainings, Commander Dobson stated, "The majority of the training that I did, I was the lead instructor, it was me teaching." (Dobson interview, line 232) Asked to describe what sort of training he provided, Commander Dobson stated, "It was crowd theory, crowd behavior." (Dobson interview, line 235) When asked, Commander Dobson indicated he believed he most recently provided training to RRT members in 2019.

Commander Dobson indicated: He attended classes and conducted research, and then developed training material based on that work. Training Division staff provided him with examples of appropriately formatted lesson plans. Describing his role in working with the Training Division to develop training material, Commander Dobson stated, "It was to develop it. In many of the cases, it went to Training to be reviewed and then returned." (Dobson interview, lines 289-290) Commander Dobson indicated he did not know whether this process was the same for other specialized units like SERT.

Commander Dobson indicated although the Training Division approved his material, he did not recall how that approval was conveyed to him, or whether any documentation was generated. Commander Dobson stated:

> *Some of it has been approved through the DOJ, where they had gone through it and reviewed it. At times when I've – when I had to update or add clarification to meet the needs of the DOJ requirements or questions that they might have. Again, this is a bit of a niche. There's not a lot of people who understand this piece of it. (Dobson interview, lines 303-306)*

Asked to clarify what he was referring to, Commander Dobson stated, "The crowd management, crowd control, crowd behavior, public order theory that I teach in." (Dobson interview, line 309)

During the interview, Commander Dobson confirmed Directive 1500.00 directs that the Training Division must review and approve all training materials. Commander Dobson confirmed at one time this practice was less formalized and the Training Division did not always review all training material. Commander Dobson indicated at the present time, the Training Division does review all training materials.

When asked, Commander Dobson indicated he did not know when the practice of Training Division reviewing and approving all training materials changed. Commander Dobson indicated he did not know whether it was tied to particular personnel's tenure at the Training Division. Commander Dobson stated, "I couldn't give you a – pinpoint a place or a time, or even a timeframe of when things started to tighten up." (Dobson interview, lines 331-332)

Commander Dobson indicated: He did not attend the 06/16/21 RRT meeting when the team voted to resign. He did not hear about the meeting ahead of time, but he had heard rumors it was possible team members might resign from RRT. He had not previously read the June 2021 Memo prior to being

interviewed by IPR.

During the interview, IC Berry reviewed the second bullet point of the June 2021 Memo (Exhibit 2), which discussed the changing interpretations of existing Directives. Asked if he had a sense what the June 2021 Memo was referring to, Commander Dobson stated, "There was discussion regarding – within 1010.00, to avoid a higher use of force. And that was one of the sticking points that I think was part of that." (Dobson interview, lines 369-370) Commander Dobson indicated he discussed this issue with CAO staff.

During the interview, IC Berry reviewed Directives 1010.00 and 635.10, including section 9 of Directive 635.10 which addresses the CMIC's authority to order dispersals, and section 6.4.6. of Directive 1010.00 which addresses members' appropriate use of RCAs and area impact munitions. Asked if there were conflicting standards regarding the use of force in the two Directives, Commander Dobson stated, "As I see it, no. I know that there were those that had some conflicts, but I don't recall exactly what exactly those conflicts were." (Dobson interview, lines 395-396) When asked, Commander Dobson indicated he had not heard the idea expressed that a CMIC's dispersal order gave an officer the authority to use RCAs without making an individual force calculation, and he indicated he disagreed with the idea. Commander Dobson stated, "I don't ever recall ever being taught or suggested, that you would be relieved of your duty to articulate why you were using force, because someone gave you permission to use those tools [RCAs]." (Dobson interview, lines 406-408)

IC Berry reviewed the third bullet point of the June 2021 Memo (Exhibit 2) which discussed changes in Directive interpretation and policy having been applied retroactively. Commander Dobson indicated the only issue he was aware of was the issue of avoiding a higher use of force that he had discussed with CAO staff.

During the interview, IC Berry asked Commander Dobson about how policy changes were communicated to RRT and MFF members. Commander Dobson indicated the issue of officers using force to avoid using a higher use of force was addressed in the CAO training provided to grenadiers, following Judge Hernandez' TRO violation determinations.

During the interview, IC Berry reviewed the thirteenth bullet point of the June 2021 Memo (Exhibit 2), which discussed RRT developing and implementing new tactics, which were initially approved but later criticized. Asked if he could describe what tactics this was referring to, Commander Dobson stated:

> *I would not be able to say exactly which tactics they're referring to. Personally, there were incidents that I saw where we would discuss doing X. It would be approved, and then after it occurred, there would be some backpedaling at the political level because there was pushback on what we chose to do. (Dobson interview, lines 471-474)*

Asked to describe what new tactics RRT developed and implemented, Commander Dobson referred to a protest in August 2021, involving potential clashes between opposing groups of protesters. Commander Dobson stated:

> *Because of where we were at with TROs, and the situation, we knew that the right and the left were gonna gather again in Waterfront Park. We had not the tools nor the*

> *personnel to be able to address it as we have traditionally done, where you separate the two groups, and instead the plan was to openly say we would not be there, but observe activity and then make arrests as needed. That was approved, accepted. The event changed. The right chose not to go there, but go to 122nd, part of the group, the alt left came here, and a part of that group broke off and went to 122nd, where there was a skirmish between the two groups. There was pushback from that decision at the political level, and the political level then backtracked on whether that was a good idea or not. (Dobson interview, lines 482-490)*

When asked, Commander Dobson indicated the Bureau's response to this incident, of monitoring the event and making arrests as needed, was approved during a conference call before the event. Commander Dobson indicated he, Chief Lovell, and Mayor Wheeler were on the call but he did not recall who else may have been on the call. Commander Dobson indicated such calls were not typical.

Asked to describe a dynamic, Commander Dobson stated:

> *As it's trained, is it's a short movement, quick movement towards the crowd to basically have the crowd move away from you. It's called dynamic because it's a quick movement, and the idea is to get distance and space between you and the group, to add that buffer. (Dobson interview, lines 557-560)*

When asked, Commander Dobson confirmed RRT increased its use of dynamics after their other uses of force were restricted. Commander Dobson indicated he did not seek approval from the Chief's office before the team increased its use of dynamics, or prepare documentation related to the change. Commander Dobson stated, "I didn't see the need to get approval to use a tactic that we had been before." (Dobson interview, line 547)

Commander Dobson stated, "Unfortunately, they [protesters] got used to knowing that we would only go 10 yards, 15 yards and stop, and so then they would turn and begin throwing rocks and bottles again at us." (Dobson interview, lines 566-567) Commander Dobson stated:

> *And so if you look at the evolution of it, it started as trained, you go to X, you know, you go to 10 yards or 15 yards and then stop, to it was required because of their adaptation and evolution to our tactic, that it was required that they continue to push so that they could continue to give distance, and keep them reacting to us, so that they couldn't throw rocks and bottles and endanger our officers. And so, when you talk about increased dynamics, you know, the length of the dynamic increased because they evolved and knew how those tactics were going on. As for the number of dynamics, that was the one – again, pushing the crowd, that was the one way we could keep them in reactive mode, and not be throwing rocks and bottles and other devices at us, and again, helped to try to maintain that distance. (Dobson interview, lines 570-578)*

When asked, Commander Dobson indicated the Bureau received criticism related to the increased use of dynamics. Commander Dobson stated, "It was from the Chief's office, through the Mayor I would assume, regarding again, the imagery, the look of the event." (Dobson interview, lines 619-620) Describing how he

was made aware of this criticism, Commander Dobson stated:

> *Typically we would have a briefing prior to the briefing. So we would brief every night, a certain time. Prior to that there would be a discussion, you know, I would touch base with the Chief's office. Typically that was at AC Davis at the time. (Dobson interview, lines 642-644)*

Commander Dobson stated, "Typically it was AC Davis, sometimes it was, you know, the Chief himself. Sometimes the Mayor was on the phone." (Dobson interview, lines 647-648)

Commander Dobson indicated he assisted CAO staff in preparing the paragraph 4 and 5 trainings they presented to Bureau members. Commander Dobson indicated he later attended one of the CAO trainings, but did not recall which one he attended.

Asked if the CAO training conflicted with previous training he had received, Commander Dobson stated, "I think the interpretation was where the conflict occurred, in some cases." (Dobson interview, line 676) Asked where the conflict in interpretations occurred, Commander Dobson indicated it related to his discussion with CAO related to using force in order to avoid using a higher level of force.

During the interview, IC Berry asked Commander Dobson about how written materials, like lesson plans, are used in the course of conducting scenario-based crowd control training for RRT and MFF officers. Commander Dobson stated, "Typically you build your scenarios around objectives that you want to see the students be able to achieve, and so you will write out a format of how or what is going to happen within them." (Dobson interview, lines 703-705)

When asked, Commander Dobson indicated materials like lesson plans are not provided to officers undergoing the training. Commander Dobson stated, "you would have exercises as part of your training, and there would be a written portion to those that would be given to the instructors or the safety officers, to know how it's to play out, what you're looking for." (Dobson interview, lines 713-715)

Asked whether trainers will refer to specific portions of directives during scenario-based training, Commander Dobson indicated it is possible trainers might do so during the debrief following a scenario. Commander Dobson noted officers from multiple agencies attend larger trainings, like the state basic crowd control course. Commander Dobson stated, "You would have to say refer to your own agency's use of force policy on whether you could do X, Y, or Z with force." (Dobson interview, lines 723-724)

Asked if he addressed section 9 of Directive 635.10, describing the CMIC's authority to authorize dispersals and the use of area impact munitions, in the crowd behavior trainings he provided, Commander Dobson indicated he could not say whether or not he did without reviewing the training material he developed. Asked if he addressed the section of Directive 1010.00 that described the appropriate use of RCAs in the crowd behavior trainings he provided, Commander Dobson again indicated he could not say whether he did so without reviewing the training material he developed.

Asked to describe what is meant by the term passive resistance, Commander Dobson stated, "Passive resistance is typically someone who's not physically resisting. They're static, they're sitting down. They're

not actively interfering." (Dobson interview, lines 762-763) Asked to describe physical resistance, Commander Dobson stated, "Physical resistance would be – could be in various forms. You pushing back, but not fighting, not striking, not punching. It doesn't rise to punching and striking, but it's physically resisting, so as you push, they push back." (Dobson interview, lines 768-770) Asked to describe active aggression, Commander Dobson stated, "That would be the pushing or the punching, striking, throwing objects that would injure." (Dobson interview, line 773)

Asked where slow walking fell within that continuum, Commander Dobson stated, "By City Attorney definition it'd be passive resistance." (Dobson interview, lines 777-779) Asked if the Bureau's crowd control teams would have previously interpreted slow walking as a higher level of resistance than passive resistance, Commander Dobson noted he would have to refer to his discussions with CAO staff in order to answer the question. When asked, Commander Dobson confirmed he had discussions with CAO staff regarding what level of resistance slow walking constituted. Commander Dobson's attorney Mr. Myers indicated Commander Dobson's conversations with CAO staff were privileged. It is common practice for the Police Bureau to consult CAO for legal advice or clarifications. IPR does not have access to those privileged conversations.

During the interview, IC Berry asked Commander Dobson whether he would typically use terms like passive resistance, physical resistance, and active aggression while conducting scenario-based training. Commander Dobson indicated he would not typically use those sorts of terms before or during the training, but might "possibly" (Dobson interview, line 825) use them in a debrief after the training. Commander Dobson indicated it also depended on what sort of training it was and cited the example of the state basic crowd control program, held at Camp Rilea, noting there were "multiple individuals from multiple different agencies who might use different wording." (Dobson interview, lines 828-829) Commander Dobson stated at trainings like those held at Camp Rilea, "You might use different words to describe similar type activity." (Dobson interview, line 837). When asked, Commander Dobson stated he has "probably" (Dobson interview, line 832) such terminology in RRT-only trainings.

Asked whether he would immediately correct an officer, if he saw them use inappropriate force during a scenario-based training, Commander Dobson stated:

> *In the moment, probably not, unless it was a life safety type issue. Afterwards there would be a debrief and discussion of why they took the actions, and we articulate the actions they did, if it was outside of appropriate and talk about that. (Dobson interview, lines 882-884)*

IC Berry noted that during protests, groups of protesters will sometimes cooperate with each other, with some protesters engaging in passive resistance like slow walking in order to screen or protect other protesters who are engaged in active aggression against officers. Asked if officers could use a higher level of force, commensurate with responding to active aggression, against those protesters who were engaged in passive resistance to protect or screen more actively aggressive protesters, Commander Dobson first stated, "You have to be able to articulate why you used the force that you did on each individual that you came across." (Dobson interview, lines 848-849) Asked if it was reasonable for an officer to use force against a passively resistant protester in order to stop the actions of other actively aggressive protesters, Commander Dobson stated:

> *So is it reasonable to use a reasonable, objectively reasonable use of force to move someone to be able to get to another person? So in a bar fight, if I need to move through a crowd, can I move people out of my way to get to a person who's fighting with someone else in a crowd? Similar scenario, just different thing. I believe under Graham that you are allowed to use again, a reasonable, objectively reasonable use of force to move people out of your way to get to higher, you know, another person. (Dobson interview, lines 864-868)*

Asked whether, in such a scenario, an officer could shoot less aggressive bar patrons with an FN-303 in order to get to the more actively aggressive bar patrons, Commander Dobson stated, "Based on current policy, no." (Dobson interview, line 872) When asked, Commander Dobson indicated he had spoken with CAO staff about the issue of officers using force against less aggressive protesters in order to stop more actively aggressive protesters. Commander Dobson stated, "I've had lots of discussions with the City Attorney's Office." (Dobson interview, line 877)

During the interview, IC Berry asked Commander Dobson questions about the 2018 and 2019 CMIC classes he taught. Asked whether he discussed the CMIC's authority to order dispersals, Commander Dobson noted he did not have the training slides for the class in front of him, stating, "Without seeing what the slides were, I can generally say we did talk about dispersals." (Dobson interview, line 888) Asked if he discussed the CMIC's authority to authorize the use of RCAs and special impact munitions, Commander Dobson stated, "I believe so, yes." (Dobson interview, line 893) Asked whether he discussed how that authority intersected with the requirement an officer make an individual use of force decision, Commander Dobson again noted he did not have his training slides in front of him and stated, "I wouldn't be able to answer that." (Dobson interview, line 897)

Asked whether he had ever taught PPB members that they may use force without meeting the applicable requirements described in Directive 1010.00, Commander Dobson stated, "No." (Dobson interview, line 906)

Asked whether he had ever taught PPB members that when a CMIC orders a dispersal, they may use RCAs or area impact munitions without meeting the applicable requirements described in Directive 1010.00, Commander Dobson stated, "No." (Dobson interview, line 910)

Asked whether he ever taught PPB members that they may use a level of force commensurate with active aggression, such as a 40mm or FN-303, against protestors who are not displaying active aggression themselves, but who are cooperating or aiding more aggressive protestors, Commander Dobson stated, "No." (Dobson interview, line 914)

Asked whether, during the CMIC trainings he provided, he had ever taught that a CMIC may direct members to use Riot Control Agents and or area impact munitions during a dispersal, without that officer making an individual assessment of the reasonableness of the force as described in Directive 1010.00, Commander Dobson stated, "No." (Dobson interview, line 923)

Commander Dobson stated:

> *Can we talk just a little bit about the CMIC course process? The idea is it's a class that is the high-level umbrella of you're in charge of an event, and not in a minutia of individual officer or type stuff. And so the class is designed so that they understand how to run an event, the pieces of an event, and that within ICS, the IC is making objectives that are then turned into missions. Those missions are pushed down to the squads, who then make tactical decisions in the field, and so I think that's missed sometimes in that understanding of how things work. I'm not in the minutia, I'm in the big picture type decision making. (Dobson interview, lines 939-946)*

Asked whether his CMIC training primarily focused on carrying out higher level objectives, as opposed to the details of how particular operational elements carry out the CMIC's orders, Commander Dobson stated:

> *They had general ideas, but they don't get into the minutia. You know, we encourage them to go to the training to see how they operate, but again, that class is designed to give them the theory behind why do you use a liaison to reach out to the organizers to build legitimacy? How do you work within a crowd to de-escalate or limit risk, or mitigate risk? (Dobson interview, lines 957-960)*

Asked whether a CMIC ever has an opportunity to critique an individual officer's use of force, Commander Dobson stated, "I would say that's extremely rare." (Dobson interview, line 1005) Commander Dobson indicated an individual officer's FDCR is reviewed through an established process, and a CMIC "rarely" (Dobson interview, line 1012) reviews them. Asked whether a CMIC likely would not be aware of an AAR that demonstrated an individual officer may not have a good understanding of Directives 635.10 and 1010.00, Commander Dobson stated, "Correct, specifically in this time frame, no." (Dobson interview, line 1016) Commander Dobson noted as a CMIC he did not have a role in the AAR process, and typically would not be notified of force allegations against individual officers.

Asked to respond to the allegation he provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members, without meeting the requirements of Directive 1010.00, Commander Dobson stated, "No." (Dobson interview, line 937)

Captain Franz Schoening #41832

IC Berry interviewed Captain Franz Schoening #41832 on 09/22/22. In summary, he indicated: He has worked for PPB since 2002, and at the time of his interview was the Acting Captain for the Detectives Division. He joined RRT in 2008. From approximately 2010 to 2012, he was assigned to the Mounted Patrol unit and was not active on RRT at that time. From May 2018 to May 2019, he was assigned to the Chief's Office, to act as executive officer for former Assistant Chief of Operations Ryan Lee. He did not train or deploy with RRT at that time, since one of his responsibilities was to review force AARs and special event AARs.

Captain Schoening further indicated: While on RRT, he served as a sergeant, an assistant squad leader, and occasionally a squad leader. From May 2019 to the end of the summer of 2020, he was the commander of RRT, replacing former PPB Lieutenant Jeff Niiya. At the end of the summer of 2020, Captain

Schoening transferred to Narcotics and Organized Crime, and former Lieutenant Niiya replaced him as RRT commander.

When asked, Captain Schoening indicated he attended Commander Dobson's 2018 CMIC training as a student, and not one of the instructors. Captain Schoening indicated he has not provided CMIC training.

When asked, Captain Schoening confirmed he was a member of RRT's training cadre. Captain Schoening indicated he could not provide much specificity about when he served in RRT's training cadre. Describing the crowd control training he provided, Captain Schoening stated:

> *I was involved in some of the general instruction for the State Basic School. I was involved in some of the instruction for the CBRNE [Chemical, Biological, Radiological, Nuclear and Explosives] Cadre. I assisted with delivering training for the Advanced Academy for Mobile Field Force training. I was asked to provide in service training for the Bureau at certain times. And then assisted on the periphery of the Grenadier training early on. I think that's the extent of my participation. (Schoening interview, lines 89-92)*

Captain Schoening indicated he has not provided training related to the use of the baton. Describing his role in grenadier training, Captain Schoening indicated in approximately 2015 or 2016, he was asked to become a grenadier instructor. He attended a grenadier instructor certification course in 2015 or 2016, likely put on by CTS, a less lethal munition manufacturer. Captain Schoening further stated:

> *I attended the 2016 Grenadier Sergeant Certification course, just to kind of see how it was run and to assist with setting up qualification drills, that sort of stuff. In '17, 2017, I believe I attended one of the days of the course. If I recall correctly, you can look at the UDAR's, I was sick for two of the three days, I believe it was that course that year. 2018, I was on vacation that year. 2019, because I was not participating, I did not attend any Grenadier courses that year, and then 2020, we didn't have any courses that I recall because of Covid and the protests. So, I never prepared any training material for the Grenadier Instructor course, or Grenadier course, but I was there for at least one of the courses. (Schoening interview, lines 114-121)*

Describing his role in providing grenadier training, Captain Schoening stated:

> *With the Grenadier course, like we talked about that, I had very minimal participation, and the days that I did participate it was mostly assisting with setting up qualification courses, making sure equipment was where it needed to be. I did not prepare any of the lesson plans or PowerPoints for the Grenadier courses. (Schoening interview, lines 211-214)*

When asked, Captain Schoening confirmed he provided crowd control training to RRT and MFF members, as well as officers from other law enforcement agencies. Captain Schoening confirmed he provided crowd

control training in a variety of settings, including the 2017 Regional Grenadier Operator course, the 2017 RRT Fall regional training, and the 2019 state basic crowd control school.

Captain Schoening confirmed he developed training materials for crowd control trainings, including the lesson plan for MFFs for PPB's Advanced Academy, and crowd control scenarios for PPB's 2020 in-service training.

Captain Schoening indicated when he provided crowd control training, he generally did so as part of a group of instructors. Asked to describe working as one of a group of instructors, Captain Schoening first described his work providing training at state or regional trainings, like the state basic crowd control course. Captain Schoening stated:

> *With the statewide course, the instruction's provided by a number of agencies, including Oregon State Police, Portland Police, Salem Police, and in some cases Multnomah County Sheriff's Office, and you have students attending from all over the state and sometimes out of state. The material that's used for that course is fairly standardized. (Schoening interview, lines 192-196)*

Captain Schoening indicated: This training material is divided into modules. For each module there are a "handful of instructors" (Schoening interview, lines 201-202) who have taught the module previously, or who are preparing to teach it. Captain Schoening stated:

> *A lot of the lesson plans are the same from year to year, they were developed by somebody at some point, and the instructors will present that same material to stay consistent with previous years' iterations. So instructors who are delivering that specific module may not have created any of the lesson plan content, but they're familiar with it and delivering it the way it's supposed to be delivered. (Schoening interview, lines 204-208)*

Describing his own role in providing training during the state basic class, Captain Schoening stated, "With the State Basic, it was mostly the scenarios, helping critique performance of members during scenarios, their decision making, their use of tactics, formations, that sort of stuff." (Schoening interview, lines 208-210)

Describing his role in providing RRT in-service training, Captain Schoening stated:

> *The extent of my participation with RRT in service was generally around scenarios, either developing scenarios or providing critique and feedback on scenarios. Again, mostly it was about decision making tactics, that sort of stuff. (Schoening interview, lines 215-217)*

Regarding his role in providing MFF training, Captain Schoening stated, "For Mobile Field Force training, I took sort of the lead on making sure that we were providing the Mobile Field Force training for the Advanced Academy." (Schoening interview, lines 220-221) Captain Schoening indicated in 2018 or 2019,

he updated previous curriculum and helped provide MFF training at the Advanced Academy. Captain Schoening indicated he largely provided training on crowd behavior theory during Advanced Academy MFF training.

Asked if he had ever provided training on small unit tactics in a crowd control setting, specifically including conducting dispersals and dynamics, as well as making arrests, Captain Schoening first described his role in regional trainings like the state basic class. He stated he did not directly provide training on those sorts of tactics, but he did observe and critique scenarios where they were carried out. Captain Schoening stated:

> *Those are incorporated in the scenarios, so a dynamic, a rapid custody deployment or, you know, an arrest of somebody from the crowd, a dispersal, those are tactics that you'd expect to be demonstrated during a scenario, and so in my role, critiquing and providing feedback in scenarios, I would certainly have, you know, observations and feedback to provide to squad leaders or participants about how they use those tactics. Again, this was Regional or statewide training, so most of that was around their ability to actually implement the tactics, not around policy, because the policy is specific to Portland, if that makes sense. (Schoening interview, lines 241-246)*

Describing whether he provided training related to those tactics during RRT in-service training, Captain Schoening stated:

> *For RRT in service you have scenarios where there may be some of those tactics used. I couldn't recall off the top of my head any specific training where we did specific tactics. But generally speaking, for a specialized team like RRT, in service scenarios would involve the implementation and use of some tactics during scenarios, and I would provide feedback and critique on their use of those tactics. I can't recall again any specifics. (Schoening interview, lines 259-263)*

Regarding Advanced Academy MFF training, and Bureau-wide in-service, Captain Schoening stated, "They're not generally using advanced tactics, they don't have the training for that, so most of their stuff is related to patrol skills or tactics, which is a little bit of additional stuff in terms of formations with Mobile Field Forces." (Schoening interview, lines 265-267)

Asked how he made use of written training material during a hands-on exercise like a scenario, Captain Schoening indicated typically the written material he prepared for a scenario included a list of required material and staff, a broad description of the scenario, as well as potential additional information to inject into the scenario as it transpired. Captain Schoening indicated he would also prepare a set of criteria describing how officers were expected to perform during the exercise. Captain Schoening indicated typically officers undergoing the training do not receive a copy of the lesson plan. Captain Schoening indicated members assisting in providing the training might receive a copy of the lesson plan, or he might just brief them prior to the scenario.

Asked whether instructors would ever refer to or read specific portions of Directives during a scenario, Captain Schoening stated, "During the scenario, no." (Schoening interview, line 741) Captain Schoening stated:

> *A lot of the scenarios were based, particularly for Mobile Field Force and for Rapid Response Team scenarios, you're looking at squad level performance, so a lot of it is decision making by squad leaders, how well officers move in unison with their squad. There's just not a lot of opportunities to evaluate individual officer's uses of force, and a lot of tactics are not covered by Directives. So I don't know there's a lot of relevance to specific sections of Directives. (Schoening interview, lines 745-749)*

Asked how he would address having observed an officer's inappropriate use of force during a scenario, Captain Schoening indicated he would address it during the debrief. Captain Schoening stated:

> *I think with anything like that, you'd want to get the officer's perspective on what they did, what they saw, their decision making process, and you would debrief that with them, and if they were flat out wrong about the policy, or their actions were inappropriate, you would correct that. (Schoening interview, lines 853-855)*

Asked whether instructors commonly used terms like passive resistance, physical resistance, and active aggression during a scenario, Captain Schoening stated, "Yes." (Schoening interview, line 838) Captain Schoening stated:

> *I think some of the scenarios that I created for those – the in service talked about passive resistors sitting in the street, and seeing how an officer or squad would deal with a group of passive protestors. So in that context, yes, you're gonna talk about passive resistance, what that is, what the appropriate response is, and critique an officer's decisions or a squad's decisions on how they're gonna deal with that. (Schoening interview, lines 842-845)*

Asked to describe the relationship between subject matter experts who develop training materials and Training Division staff, Captain Schoening stated:

> *So that's evolved. Historically, specialized teams like RRT or SERT, because they were the Subject Matter Experts, did a lot of their training material development and delivery in isolation. Over the last several years there's been an increasing use of the Training Division to either assist in developing lesson plans or approving lesson plans, to make sure that we're consistent with other Bureau programs and directives and expectations. (Schoening interview, lines 297-301)*

Captain Schoening indicated when he was commander of RRT, the lesson plans he developed were reviewed by Training Division staff and DOJ staff. Captain Schoening indicated he also took part in providing in-service training to officers and supervisors in the run up to the last election cycle. Captain Schoening indicated he used existing training material, but also likely revised it and also prepared some new material. Captain Schoening indicated this material was reviewed and approved by the Training

Division and the DOJ. Captain Schoening stated, "As I recall the DOJ actually had feedback, and we revised some of the lesson plan, the curriculum for Bureau in service for Mobile Field Force refresher." (Schoening interview, lines 230-231)

When asked, Captain Schoening indicated it was his understanding that in years past, the Training Division had not always reviewed training materials for specialized units like RRT. Asked to describe when that practice changed, Captain Schoening stated when he was developing scenarios for RRT in-service training, "there was not an expectation that we give those lesson plans or those materials to Training Division." (Schoening interview, lines 315-316)

Captain Schoening stated by the time he became RRT commander in 2019, "the Department of Justice had started to take an interest in crowd control training." (Schoening interview, lines 318-319) Captain Schoening indicated he provided RRT training materials and MFF training materials for the Advanced Academy to the Training Division for their review. Captain Schoening stated:

> *Since 2020, I've received communications from, you know, now Captain Gjovik, that the expectation for all specialty units across the Bureau is that lesson plans will be prepared for training material, even if it's delivered by the SMEs within that unit to that unit. That's the expectation is that they will be delivered to the Training Division for review and approval. (Schoening interview, lines 323-326)*

Captain Schoening indicated: When RRT members met on 06/16/21, Captain Clark was RRT commander, but he himself and Lieutenant Rick Stainbrook #27833 were still assigned to RRT as detached lieutenants, serving on an as-needed basis. The pace of protests had slowed at that point, and his own work with RRT was fairly limited. He attended a portion of the meeting.

During the interview, LI Berry reviewed the second bullet point of the June 2021 Memo (Exhibit 2), which discussed the changing interpretations of existing Directives, as well as the perception that there were conflicting standards in Directives 635.10 and 1010.00. Asked if he was aware of what the June 2021 Memo was referring to, regarding interpretations of Directive changing, Captain Schoening first indicated he did not know all of what went into the Memo, or the discussions that led to it. Captain Schoening then indicated he was aware of discussions related to the use of impact munitions. Captain Schoening stated:

> *There is a provision that authorizes the use of impact munitions to avoid a higher level of force, and there was a belief that that allowed for more flexibility in the use of impact munitions than I guess ultimately the Department of Justice, and the City Attorney's Office, and the Chief's Office believed, so there's some discrepancy there, which was significant enough that it led to the City Attorney providing additional training to less lethal operators, both for RRT and also Mobile Field Forces. (Schoening interview, lines 406-411)*

Describing these differing understandings further, Captain Schoening stated:

> *My understanding is that the Department of Justice and the City Attorney's Office believed that section only authorized the use of impact munitions to avoid the use of deadly force. That's not what the Directive says. There is no definition of higher level of force. Directive*

> *1010 doesn't outline levels of control like it used to or our Use of Force policies used to. (Schoening interview, lines 421-424)*

Captain Schoening stated:

> *Our membership, at least some of them, believed it meant to avoid a more intrusive level of force, more in line with Constitutional standards around the use of force, the Graham standard, case law that talks about different types of force, intrusiveness, minimal, intermediate, deadly. And that the analysis under Constitutional standards of that is different than simply saying deadly force. (Schoening interview, lines 426-430)*

Captain Schoening indicated eventually the Chief's Office clarified that the meaning was to avoid using deadly force. Captain Schoening stated, "Once that direction came out, it removed all the ambiguity and it provided clarity and direction, but prior to that I think our members felt it was a different meaning, is how I took it." (Schoening interview, lines 431-432)

Asked if there were conflicting standards in Directives 635.10 and 1010.00, regarding the use of force, specifically the section of Directive 635.10 addressing the CMIC's authority to authorize dispersals and the use of RCAs and the section of Directive 1010.00 addressing the use of RCAs and special impact munitions, Captain Schoening indicated he believed part of the problem related to the Directives using different terminology. Captain Schoening referred to Directive 635.10's use of the term "special impact munitions," and noted Directive 1010.00 does not use this term. Captain Schoening stated, "I couldn't tell you – still can't tell you what the intent of Section 9.2, when it talks about special impact munitions, what that means." (Schoening interview, lines 459-460)

Asked what the term special impact munition meant, Captain Schoening noted Directive 635.10 did not define the term, and indicated he could not answer the question. Noting he was speculating, Captain Schoening indicated RRT formerly used so-called stinger rounds in their 37mm and 40mm less lethal launchers, which fired rubber pellets somewhat akin to a shotgun shell. Captain Schoening noted RRT team members used the FN-303 less lethal launcher, which normal patrol officers do not have access to. Captain Schoening stated both could be considered special impact munitions, but "whether that's what the intent of 635.10 was, I don't know." (Schoening interview, lines 488-489)

Captain Schoening stated:

> *Directive 1010 seems to provide greater allowances for the use of RCAs and area impact munitions, and it authorizes the use by members really not under the direction of the CMIC under exigent circumstances. Sections 6.4.6.1.2, 6.4.6.1.3, and 6.4.6.1.4 are all situations where a member can use RCAs or area impact munitions not under the explicit direction of the CMIC. Those sections are all separated by periods, not semicolons, so when I read that, the authorization or the direction of the CMIC applies to Section 6.4.6.1.1 and does not carry through to the remainder of the sections. (Schoening interview, lines 460-466)*

When asked, Captain Schoening indicated he did not believe Directive 635.10 authorized uses of force that would not be authorized under Directive 1010.00, noting Directive 635.10 specifically indicated all uses of force must be authorized under Directive 1010.00.

During the interview, IC Berry reviewed the third bullet point of the June 2021 Memo (Exhibit 2), which discussed changes in Directive interpretation and policy having been applied retroactively. Asked if he knew what policy changes the June 2021 Memo was referring to, Captain Schoening referred to Judge Hernandez' TRO violation determinations. Captain Schoening indicated Judge Hernandez' determinations led to these uses of force being investigated and reviewed, and ultimately led to the guidance issued from the Chief's Office related to the issue of avoiding a higher level of force. Captain Schoening stated:

> *I think from the perspective of the team, they were operating early in 2020 under a certain set of beliefs about what that policy meant and said, and later in 2020, 2021, they were directed that that was not what it meant, and so they felt that that was kind of a moving target, and that the policy interpretation had changed, from their perspective. (Schoening interview, lines 512-515)*

During the interview, IC Berry reviewed the thirteenth bullet point of the June 2021 Memo (Exhibit 2), which discussed RRT developing and implementing new tactics, which were initially approved but later criticized. Asked if he knew what the Memo was referring to, Captain Schoening indicated: As the protests of 2020 continued, PPB's use of CS gas and other force options was restricted. At the same time, those protesters who engaged in criminal conduct continued to change their own tactics. One example was protesters' increased use of vehicles to block or impede officers' movements during dispersals. Drivers would seldom follow instructions to pull over, so at some point officers started using knives to deflate the cars' tires. Eventually, officers began using spike strips to deflate the tires of vehicles, instead of knives.

Captain Schoening also referred to the increased use of dynamics, indicating as the Summer of 2020 wore on, some protesters began using shield walls, and directed more violence against police including paint bombs and mortar style fireworks. Captain Schoening stated:

> *Trying to fight over a wooden shield is a dangerous proposition at best, so they [police] started using more dynamics to try and break that shield wall up and level resistance. So I know a lot of those videos went out on social media as well, or the subject of civil suits. There were certain people that thought it was unprofessional, but it was what we were faced with in the moment, and it was the best option of very limited options for our team and team members. (Schoening interview, lines 581-585)*

Captain Schoening referred to the "psychological impact" (Schoening interview, line 620) of groups of officers running toward protesters, stating, "It accomplishes a lot of that dispersal without having to use physical force at all." (Schoening interview, line 622) He stated, "Over the course of the summer, people figured out that if they just stood there, it was not as effective, if we just stopped in front of them." (Schoening interview, lines 623-624) Captain Schoening indicated some protesters began changing their own tactics. He stated:

> *They started encountering people walking slowly in the street to impede our movements. We encountered people further back into the crowd throwing explosives and paint bombs at us, having kind of the shield walls. (Schoening interview, lines 625-627)*

Captain Schoening indicated in some cases, RRT officers changed how they conducted dynamics. Captain Schoening stated:

> *There were certainly cases where they continued to move quickly towards the crowd to keep them moving, to prevent them from regrouping and engaging in riotous behavior and arsons and assaults, like they had been previously. When it came to the shield wall or individuals slow walking or, you know, restricting our movements, officers ended up making decisions to use force independent of the dynamic itself. But I think that as people became less and less worried about the dynamic, and did engage in those behaviors more frequently, you saw use of force increase when our officers encountered those people were resistive or aggressive during that dynamic movement. So I'd say that the level of physical force that took place during dynamics increased over the summer as the effectiveness of that tactic diminished. (Schoening interview, lines 629-636)*

Captain Schoening noted the Memo's thirteenth bullet point also indicated these tactics were approved by Bureau leadership. Captain Schoening stated:

> *I don't know what any of that is speaking to, 'cause a lot of those tactics were developed at the team level, and again, although there was feedback at times from upstairs, the Chief's Office or the public, I don't know that they ever explicitly approved any tactics that we were using or disapproved of them. (Schoening interview, lines 587-590)*

Asked how RRT went about developing new tactics, during their ongoing responses to protest activity during 2020, Captain Schoening stated:

> *It's challenging. You know, it was a lot of nightly conversations, round-tabling the problem, what are we facing, how are we gonna deal with this, what are the risks, what are they facing, how do we mitigate those risks safely and within policy and all that stuff and the Constitution. All that stuff's important, Constitution, State law, all of that. And people would have ideas, we would round-table those ideas, discuss them and try to come up with a way to implement those tactics. Some were I think probably just spur of the moment. Like I don't know that we discussed stabbing a tire with a knife, but some member out there, in the moment, decided it was a high enough safety issue, or the risk was high enough, they had to solve that immediately, and they developed a way to do it, and they did it, and then we round-tabled that in the days and weeks that followed, and, you know, adjusted it to a more professional and safe way of doing that, accomplishing that goal. (Schoening interview, lines 598-607)*

Captain Schoening indicated: Multiple video clips of PPB officers using new tactics like cutting tires with knives and conducting dynamics were published on social media. He received calls from crowd control officers at other police departments, asking about the tactics. He recalls speaking to Commander Dobson

about officers cutting tires with knives, and he explained the team's rationale for using the tactic. He does not recall speaking with anyone from the Chief's Office regarding new RRT tactics. He does not recall speaking with any elected officials regarding new RRT tactics.

Captain Schoening indicated he attended the online training CAO presented to RRT grenadiers and supervisors. Captain Schoening indicated it was largely focused on the examples from Judge Hernandez' TRO violation determinations, as well as the issue of officers having said they used less lethal impact munitions to avoid a higher level of force. Asked if any information in the CAO training conflicted with his previous training, Captain Schoening again referenced the issue of an officer using force in order to avoid using a higher level of force. Captain Schoening stated:

> *I couldn't point to a specific training that discussed what higher level of force meant. All I can tell you is that, you know, Directive 1010.00 talks about a lot of things, including Constitutional uses of force and Graham v Connor. In the absence of the levels of control or levels of force model, and in the absence of a definition of higher levels of force, I think that it's our obligation, and my believe is that we're bound by Constitutionality and case law, and case law doesn't discuss higher levels of force the way the Chief's Office and the City Attorney have represented it, that it is now. (Schoening interview, lines 678-683)*

Captain Schoening indicated he believed that in a previous case, the Chief's Office found an officer having used a Taser on a person, in order to avoid employing a potentially more injurious takedown, to be a justified use of force. Captain Schoening stated, "So that I guess corroborates my belief and understanding that that section of – the lines in that Directive has not necessarily meant to avoid a deadly – I guess a deadly force." (Schoening interview, lines 692-693)

Asked to define the term passive resistance, Captain Schoening noted the term is defined in Directive. Captain Schoening stated, "It is conduct that doesn't rise to the level of active conduct. So basically you're disobeying lawful orders, you're refusing to comply with direction, but you're not involved in active conduct." (Schoening interview, lines 759-761) Asked to define the term physical resistance, Captain Schoening stated, "It is active conduct that resists members' efforts to exert control, whether you're taking someone into custody or pursuing them or whatever it is, there's active conduct involved." (Schoening interview, lines 766-767)

Asked to draw a distinction between passive resistance and physical resistance, Captain Schoening stated passive resistance would be simply sitting or laying in the street, but taking no other action, "like what you picture during civil disobedience." (Schoening interview, line 774) Describing physical resistance, Captain Schoening stated, "Physically moving in a way that obstructs officers' lawful orders. Physically resisting their attempts to take you into custody, or to take something away from you that you shouldn't have." (Schoening interview, lines 776-778)

Asked to define active aggression, Captain Schoening stated, "It is the threat or overt threat of assaulting somebody." (Schoening interview, line 781) Asked to draw a distinction between physical resistance and active aggression, Captain Schoening stated, "Active aggression is gonna involve, like I said, the overt threat or active – an assault. There's gonna be likelihood of an injury occurring. Physical resistance

generally is just active conduct where there's not an assaultive behavior present." (Schoening interview, lines 786-788)

Asked where slow walking would fall on this continuum, Captain Schoening indicated it was difficult to say, because different people might interpret things differently. Captain Schoening indicated during the protests of 2020, officers found some protesters would start generally moving in the direction of a dispersal order, but would not move with any urgency. Captain Schoening indicated some protesters appeared to be intentionally impeding officers' movements and efforts to disperse protesters or acting as a barrier between police and other protesters throwing fireworks and paint bombs at officers. Captain Schoening stated, "I think it doesn't fit neatly." (Schoening interview, line 807) Captain Schoening stated, "I think slow walking could go either way." (Schoening interview, lines 810-811)

Asked whether an officer can incorporate the active aggression of a protester throwing rocks at police in their decision to use force against a slow walking protester shielding the rock throwing protesters, Captain Schoening stated:

> *So, we had this conversation. Directive 1010.00 doesn't necessarily contain a conspiracy clause. You can't necessarily justify a use of force when somebody – for conspiring to help somebody else engage in a certain level of resistance or active aggression. (Schoening interview, lines 819-822)*

Captain Schoening indicated: The sorts of force officers generally used against slow walking protesters consisted of officers pushing protesters with their batons and their hands. For such a use of force to be justified under the Graham standard described in Directive 1010.00, it must be reasonable and proportional. Captain Schoening stated:

> *The context of what the crowd is doing do matter. So I wouldn't say you could necessarily justify the use of force on the slow walker because of somebody behind them throwing an object at you, but then certainly one factor in the analysis is whether your use of force was reasonable or not. (Schoening interview, lines 828-831)*

Asked whether he had ever trained any member that they could use force without meeting the requirements of Directive 1010.00, Captain Schoening stated, "No." (Schoening interview, line 863) Asked whether he had ever trained any member that, when a CMIC orders a dispersal, they may use RCAs or area impact munitions without meeting the requirements of Directive 1010.00, Captain Schoening stated, "No." (Schoening interview, line 867)

Asked whether he had ever trained any member that they could use a level of force commensurate with active aggression against protesters who were not displaying active aggression but were cooperating with actively aggressive protesters, Captain Schoening stated, "No." (Schoening interview, line 871)

Asked to respond to the allegation he provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00, Captain Schoening stated, "I disagree." (Schoening interview, line 889)

Investigator Comments and Recommended Findings:

Allegation 1: Commander Craig Dobson #35609, provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00 (CONDUCT) (Directive 1500.00 – Training; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Recommended Finding: Not Sustained

Allegation 2: Captain Franz Schoening #41832, provided inadequate crowd management and crowd control training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00 (CONDUCT) (Directive 1500.00 – Training; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Recommended Finding: Not Sustained

Paragraph 192 of the City of Portland's amended Settlement Agreement with the DOJ describes several aspects of PPB's response to the 2020 protests that the City agreed to investigate. This investigation seeks to determine whether PPB staff provided inadequate training, which incorrectly indicated force could be used against community members without meeting the requirements of Directive 1010.00. Although paragraph 192 only called for the City to investigate the training provided to RRT members, IPR expanded the scope of this investigation to include any crowd control training the Bureau provided to any law enforcement officer.

IPR identified Commander Dobson as the first involved member for this investigation. Commander Dobson was a long-standing member of RRT, and also acted as a CMIC for the Bureau on many occasions during the 2020 protests. He was a member of RRT's training cadre for several years, and he continued to provide crowd management and crowd control training to Bureau members, as well as officers from other agencies, after he left RRT. He developed crowd control training materials, including lesson plans and PowerPoint presentations. He taught multiple iterations of crowd dynamics and behavior, and he also assisted in running crowd control scenario training. Multiple witnesses identified Commander Dobson as having had a long-lasting and prominent role in developing and providing crowd control training.

IPR identified Captain Schoening as the second involved member for this investigation. Captain Schoening was a long-standing member of RRT, and at one time commanded the team. He was a member of RRT's training cadre for several years. He provided training to RRT members, MFF members, and to officers from other law enforcement agencies. He developed crowd control training materials, including lesson plans and PowerPoint presentations, and played a prominent role in providing scenario-based crowd control training. Multiple witnesses identified Captain Schoening as having had a long-lasting and prominent role in developing and providing crowd control training.

IPR consulted with DOJ regarding the direction and scope of this investigation. DOJ identified some portions of the June 2021 Memo regarding the RRT resignation as potentially relating to the crowd control RRT members had received. DOJ also identified some statements reportedly made by involved members during PRB hearings, related to the involved members' understanding of when they were authorized to use force.

During this investigation, IPR interviewed multiple officers with many years of experience responding to protest activity in Portland, as part of RRT and/or MFFs. IPR also interviewed multiple officers that had force allegations sustained against them, related to their responses to protest activity between 05/29/20 and 11/16/20. None of these officers identified a particular training or trainer who suggested members could use force without meeting the requirements of Directive 1010.00. None of these officers expressed any concerns, even with the benefit of hindsight, about the quality or accuracy of any training provided by Commander Dobson or Captain Schoening.

IPR also interviewed members who attended Commander Dobson's CMIC training. No member recalled Commander Dobson suggesting members could use force without meeting the requirements of Directive 1010.00. However, the members IPR interviewed regarding CMIC training did not have clear memories of the training and could not describe it in any kind of detail.

IPR reviewed extensive training materials for crowd control training that were prepared and presented between 2017 and 2020. In this review, no training materials were located which came close to suggesting members could use force without meeting the requirements of Directive 1010.00. Although IPR did not find concerning training material, it was evident the material IPR reviewed was not a verbatim or near-verbatim representation of the Bureau's crowd control trainings as they were presented. Rather, much of the material appeared to consist of prompts and talking points, which the trainer would then expand upon. Absent a better record of what information was provided during these training sessions, this investigation was not able to demonstrate this training material was deficient.

The allegations associated with this investigation reflect the expectation expressed in paragraph 192 of the amended Settlement Agreement, that IPR investigate the PPB command staff "who trained Rapid Response Team members to believe that they could use force against individuals during crowd control events without meeting the requirements of PPB Directive 1010.00." This language is notable both for its conclusory nature, as well as the specificity with which it identifies the presumed violation.

Even after expanding this mandate to include all Police Bureau crowd control training, IPR could not identify a specific training document, training session, or trainer that appeared to suggest members could use force without meeting the requirements of Directive 1010.00. No witness, even those involved members with sustained force allegations related to their apparent misunderstanding of the force Directive, identified a training session where they received inaccurate information, or a trainer who gave them inaccurate information.

While this investigation did not find sufficient evidence to demonstrate Commander Dobson or Captain Schoening provided inadequate crowd control training, it did identify how RRT members may have developed a mistaken understanding regarding some of the circumstances under which they were authorized to use force. Much of the Bureau's crowd control training consists of scenario-based trainings. Scenarios are hands-on, practical exercises, during which members respond in squads to a mock protest and practice various maneuvers and methods of engaging with protesters. When interviewed, Commander Dobson and Captain Schoening described evaluating the performance of a squad during a scenario. Both indicated if they observed an inappropriate use of force during a scenario, they would likely bring it up in the debrief after the exercise but would not interrupt the scenario to do so.

The Bureau carried out scenario training in a variety of settings, including the state basic crowd control course held at Camp Rilea, as well as RRT and MFF specific trainings. It was and is relatively uncommon for outside entities like IPR, IA, CAO, DOJ, and community groups to attend or monitor these trainings.

During these scenarios and perhaps especially over the course of the 2020 protests, RRT members appear to have developed an understanding they were authorized to use force against protesters engaging in passive resistance like slow walking, if it appeared they were aiding the efforts of actively aggressive protesters. RRT members also appear to have developed an understanding that during a dispersal and at the CMIC's direction, they could use RCAs and impact munitions against protesters, in order to avoid using higher levels of force, like baton strikes and uncontrolled takedowns.

Prior to Directive 1500.00 becoming effective on 02/06/15, specialty units like RRT were specifically exempted from having to provide their training materials to the Training Division for review and approval. Although Directive 1500.00 directs Precincts and Divisions to provide their training material to the Training Division for review and approval, multiple witnesses indicated this practice was not widely carried out until 2018 or 2019, after the DOJ expressed its interest in reviewing Bureau training material. This likely reflects a cultural bias within the Bureau regarding RRT members' perceived expertise in crowd control. Multiple witnesses described RRT command staff like Commander Dobson and Captain Schoening as subject matter experts. The critical assessment of the City's response to the 2020 protests also noted the deference given to the knowledge and expertise of RRT command staff.

The extent of protest activity in 2020, and the amount of force PPB members used responding to it, brought some of RRT members' understandings of when they were authorized to use force into sharper focus than had been the case previously. Ultimately, Judge Hernandez' TRO violation determinations severely restricted the circumstances under which Bureau members could use force while responding to a protest, and led to CAO developing and providing its paragraph 4 and paragraph 5 trainings.

All members interviewed for this investigation expressed varying degrees of surprise and consternation related to the CAO training. All members indicated some of the CAO's, and by extension Judge Hernandez' force analyses, contrasted greatly with their previous understandings. Some members described the CAO training as reflecting a change in the City's interpretation of existing Directive and policy. It instead

appears to be one of the first times members' long-held assumptions related to the appropriate use of force were challenged.

Because the evidence was insufficient to prove that Commander Dobson provided inadequate training, IPR's recommendation for Allegation 1 is **not sustained**.

Because the evidence was insufficient to prove that Captain Schoening provided inadequate training, IPR's recommendation for Allegation 2 is **not sustained**.

Exhibits:

1. Portland - DOJ amended settlement agreement
2. Clark, Jacob 06-17-21 RRT resignation memorandum
3. Directive 1500.00 first origination 02-06-15
4. Directive 1500.00 first revision 11-28-16
5. Directive 1500.00 second revision 12-30-18
6. 2018 Sergeants Academy PP
7. 2018 Sergeants Academy - lesson plan
8. 2019 Advanced Academy - MFF.ppt"
9. 2019 Advanced Academy - MFF - lesson plan
10. 2019 fall RRT crowd behavior PP
11. 2019 fall RRT crowd behavior lesson plan
12. 2019 CMIC training material
13. Critical Assessment phase one report