

# **Police Policy Committee Minutes May 15, 2014**

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 15, 2014, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Kent Barker called the meeting to order at 1:30 p.m.

## **Attendees:**

### **Committee Members:**

Kent Barker, Chair, Oregon Association Chiefs of Police  
Larry Blanton, Oregon State Sheriff's Association  
Tom Bergin, Oregon State Sheriff's Association  
John Bishop, Oregon State Sheriff's Association  
Michael Crebs, Portland Police Bureau, Asst. Chief (by phone)  
Richard Evans, Oregon State Police Superintendent  
Craig Halupowski, Non-Management Law Enforcement  
James Hunter, Oregon Association of Chiefs of Police (by phone)  
Joel Lujan, OSP Command Staff Representative  
Murray Rau, Non-Management Law Enforcement  
Glen Scruggs, Non-Management Law Enforcement  
Jeffrey Staples, Non-Management Law Enforcement  
Mike Wells, Non-management Law Enforcement  
Mathew Workman, Oregon Association Chiefs of Police (by phone)

### **DPSST Staff:**

Eriks Gabliks, Director  
Todd Anderson, Training Division Director  
Leon Colas, Professional Standards Coordinator/Investigator  
Linsay Hale, Professional Standards Division Director  
Kristen Hibberds, Professional Standards Coordinator/Investigator  
Sharon Huck, JTA Coordinator  
Theresa King, DOC-BCC Audit Program Coordinator  
Debbie Graves, Administrative Operations Supervisor  
Tia Turnipseed, Professional Standards Assistant

### **Guests:**

Steve Beck, Oregon Council of Police Association  
Craig Johnson, Department of Justice  
Jason Seibert, Attorney  
Anthony Barnett, Umatilla Tribal Police



**1. Minutes of February 20, 2014 Meeting**

Approve the minutes of the February 20, 2014 Police Policy Committee meeting.

*To see a complete record of the February 20, 2014 Police Policy Committee minutes, please go to:*

[http://www.oregon.gov/dpsst/BD/Policy\\_Committee\\_Minutes/PPC\\_Minutes/PPCminutes022014.pdf](http://www.oregon.gov/dpsst/BD/Policy_Committee_Minutes/PPC_Minutes/PPCminutes022014.pdf)

*Larry Blanton moved that the committee approve the minutes of the February 20, 2014 Police Policy Committee meeting. John Bishop seconded the motion. The motion carried unanimously.*

**2. Proposed Order in the Matter of Anthony Barnett – DPSST# 37913**

Presented by Leon Colas & Craig Johnson – Assistant Attorney General

Review the facts of the case and determine whether to accept or amend the proposed order issued by the Office of Administrative Hearings (Executive Session to Consider Confidential Legal Advice)

*Tom Bergin moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Craig Halupowski seconded the motion. The motion carried unanimously.*

*Upon review of the findings of fact made by ALJ Betterton, Richard Evans moved that the Police Policy Committee find that BARNETT's Insubordination does rise to the level to warrant revocation when considered alone. Craig Halupowski seconded the motion. The motion carried 9-4-1 with Barker, Blanton, Bergin, Bishop, Crebs, Evans, Halupowski, Lujan and Rau voting aye; Hunter, Scruggs, Staples and Workman voting nay; and Wells abstaining.*

*Upon review of the findings of fact made by ALJ Betterton, Larry Blanton moved that the Police Policy Committee find that BARNETT's misuse of LEADS constitutes Misconduct and that the conduct does not rise to the level to warrant revocation when considered alone. Craig Halupowski seconded the motion. The motion carried unanimously with Wells abstaining.*

*Upon review of the findings of fact made by ALJ Betterton, Richard Evans moved that the Police Policy Committee find that BARNETT's sexual harassment constitutes Misconduct and that the conduct does rise to the level to warrant revocation when considered alone. Tom Bergin seconded the motion. The motion carried 8-5-1 with Blanton, Bergin, Bishop, Crebs, Evans, Halupowski, Lujan and Workman voting aye; Barker, Hunter, Rau, Scruggs and Staples voting nay; and Wells abstaining.*

After considering the totality of the circumstances, Craig Halupowski moved that the Committee recommend to the Board that BARNETT's certifications be revoked. Joel Lujan seconded the motion. The motion carried 10-3-1 with Barker, Blanton, Bergin, Bishop, Crebs, Evans, Halupowski, Lujan, Rau and Workman voting aye; Hunter, Scruggs and Staples voting nay; and Wells abstaining.

Larry Blanton moved that the Committee recommends to the Board that BARNETT's Insubordination warrants an ineligibility period to reapply for certification of 3 years. Richard Evans seconded the motion. The motion carried 11-2-1 Barker, Blanton, Bergin, Bishop, Crebs, Evans, Halupowski, Hunter, Lujan, Rau and Workman voting aye; Scruggs and Staples voting nay; and Wells abstaining.

Craig Halupowski moved that the Committee recommends to the Board that BARNETT's Misconduct warrants an ineligibility period to reapply for certification of 3 years.

Richard Evans seconded the motion. The motion carried 11-2-1 with Barker, Blanton, Bergin, Bishop, Crebs, Evans, Halupowski, Hunter, Lujan, Rau and Workman voting aye; Scruggs and Staples voting nay; and Wells abstaining.

Craig Halupowski moved that the Committee recommend to the Board amending the proposed order to find that BARNETT committed Misconduct and Insubordination and revoke BARNETT's certifications. Joel Lujan seconded the motion. The motion carried unanimously with Wells abstaining.

### **3. Jenna Whiteaker – DPSST# 49213**

Presented by Kristen Hibberds

John Bishop moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Joel Lujan seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following behaviors by WHITEAKER being considered in this case as:

- Failing to respond to calls for service;
- Allowing two lower priority calls to remain unresolved with no response; and
- Extending the lengths of her breaks beyond what was allowed by department policy.

By discussion and consensus, the committee determined that WHITEAKER's behavior did not involve Insubordination as defined in Administrative Rule.

By discussion and consensus, the committee identified WHITEAKER's behavior did involve Misconduct as defined in Administrative Rule when she failed to respond to a Priority 3 medical call and a physical altercation call.

*Richard Evans moved that the Police Policy Committee find that WHITEAKER's Misconduct does not rise to the level to warrant revocation when considered alone. Craig Halupowski seconded the motion. The motion carried unanimously.*

*By discussion and consensus, the committee identified WHITEAKER's behavior did involve Gross Misconduct as defined in Administrative Rule when she failed to respond to calls, creating a possible risk by not responding, assuming someone else did.*

*Richard Evans moved that the Police Policy Committee find that WHITEAKER's Gross Misconduct does not rise to the level to warrant revocation when considered alone. Craig Halupowski seconded the motion. The motion carried unanimously.*

*By discussion and consensus, the committee determined that WHITEAKER's behavior did not involve Misuse of Authority as defined in Administrative Rule.*

*By discussion and consensus, the committee identified WHITEAKER's behavior did involve Disregard for the Rights of Others as defined in Administrative Rule when she failed to respond to a medical call.*

*Larry Blanton moved that the Police Policy Committee find that WHITEAKER's Disregard for the Rights of Others does not rise to the level to warrant revocation when considered alone. Craig Halupowski seconded the motion. The motion carried unanimously.*

*By discussion and consensus, the committee determined that WHITEAKER's behavior did not involve Dishonesty as defined in Administrative Rule.*

*By discussion and consensus, the committee did not identify any Aggravating Circumstances.*

*By discussion and consensus, the committee identified the following Mitigating Circumstances:*

- *Self-professed that during the time period under investigation, she was having personal issues;*
- *Readily admitted to her violations;*
- *Understood the requirements of her position; and*
- *Cooperated during the entire investigation.*

*After considering the totality of the circumstances, John Bishop moved that the Committee recommend to the Board that WHITEAKER's certification not be revoked. Richard Evans seconded the motion. The motion carried unanimously.*

#### **4. Christopher J. Tiboni – DPSST# 45424**

Presented by Leon Colas

*Craig Halupowski moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried unanimously.*

*By discussion and consensus, the committee identified the following behaviors by TIBONI being considered in this case as:*

- *Truthfulness to the Chief when he was confronted about an affair;*
- *Failing to report an on-duty accident;*
- *Asking the woman he was having an affair with to send nude photos while on and off duty; and*
- *The amount of time spent meeting with this woman while he was on duty.*

*By discussion and consensus, the committee determined that TIBONI's behavior did not involve Insubordination as defined in Administrative Rule.*

*By discussion and consensus, the committee identified TIBONI's behavior did involve Misconduct as defined in Administrative Rule when he crashed into a car, and by spending a tremendous amount of time with this woman when he should have been patrolling the city, negatively impacting the department.*

*Tom Bergin moved that the Police Policy Committee find that TIBONI's Misconduct does rise to the level to warrant revocation when considered alone. Craig Halupowski seconded the motion. The motion carried 11-2 with Barker, Blanton, Bergin, Bishop, Crebs, Evans, Halupowski, Rau, Staples, Wells and Workman voting aye; Scruggs and Hunter voting nay.*

*By discussion and consensus, the committee determined that TIBONI's behavior did not involve Gross Misconduct as defined in Administrative Rule.*

*By discussion and consensus, the committee determined that TIBONI's behavior did not involve Misuse of Authority as defined in Administrative Rule.*

*By discussion and consensus, the committee determined that TIBONI's behavior did not involve Disregard for Rights of Others as defined in Administrative Rule.*

*By discussion and consensus, the committee identified TIBONI's behavior did involve Dishonesty as defined in Administrative Rule. He was dishonest by omission when he adjusted his story when interviewed by the Chief and when he claimed he didn't know he was required to report an on duty vehicle accident.*

Craig Halupowski moved that the Police Policy Committee find that TIBONI's Dishonesty does rise to the level to warrant revocation when considered alone. Richard Evans seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- He was a coach of the football team and a public figure in a small town; and
- Hiding his vehicle and sneaking around did not represent department in a positive way.

By discussion and consensus, the committee did not identify any Mitigating Circumstances.

After considering the totality of the circumstances, Richard Evans moved that the Committee recommend to the Board that TIBONI's certifications be revoked. John Bishop seconded the motion. The motion carried unanimously.

Craig Halupowski moved that the Committee recommend to the Board that TIBONI's Misconduct warrants an ineligibility period to reapply for certification of seven years. Richard Evans seconded the motion. The motion carried unanimously.

Craig Halupowski moved that the Committee recommend to the Board that TIBONI's Dishonesty warrants an ineligibility period to reapply for certification of lifetime. John Bishop seconded the motion. The motion carried unanimously.

## **5. Shane Pallesen – Request for Eligibility Determination– DPSST# 32178**

Presented by Kristin Hibberds

Staff requested that the PPC review the request for eligibility determination and make a recommendation to the Board whether Pallesen's eligibility to apply for certification should be restored.

Larry Blanton moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Craig Halupowski seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- He stole gas from his employer by using the Department's the credit card;
- Only when he was confronted did he admit to the theft;
- He was stealing from the department when he knew it was wrong at the time; and
- Did not take responsibility in his letter.

By discussion and consensus, the committee identified the following Mitigating Circumstances:

- *Admits to past faults;*
- *Went through counseling;*
- *Has been an upstanding citizen for the last six years;*
- *Took a realistic approach in the letter he wrote; and*
- *Has tried to do the right thing.*

*Glen Scruggs moved that the Committee recommends to the Board that PALLESEN's ability to reapply for certification should not be restored based upon his Dishonesty and his revocation be deemed permanent. Richard Evans seconded the motion. The motion carried unanimously.*

## **6. Tactical Combat Casualty Care**

Presented by Rich Daniel

Rich articulated a proposal to add tourniquets to the current Confrontational Simulation training program through self-aid or mannequin aid.

*Craig Halupowski moved that the Police Policy Committee recommend approval of Tactical Combat Care to Confrontation Skills Section of the 16-week Basic Police Course. John Bishop seconded the motion. The motion carried unanimously.*

## **7. Background Investigation Update**

Presented by Linsay Hale

Linsay explained that in the last meeting there was some concern about the level of background investigations on reserve officers who are commissioned. Linsay stated that DPSST currently has a requirement that employing agencies conduct background investigations on any officer that they employ. DPSST does not specify how thorough that investigation has to be.

At the request of the PPC, staff researched the statutory authority of the department, and DPSST does have the authority to require background checks, however, does not have the authority to require them for reserve officers who aren't certified.

The information was compiled and presented to the Board on April 24, 2014, The Board directed staff to convene a workgroup to look at the background standard and whether or not it should be reinforced to include quality control. The Board asked that the department file a placeholder with the legislature to propose a legislative change allowing the department to regulate reserve officers who are not currently certified at the department.

## **8. Staff Updates**

Linsay introduced Tia Turnipseed as the newest addition to the Professional Standards Division.

Linsay gave an update on the minimum training standards workgroup. She stated the workgroup met on April 24, 2014. She explained that the group was comfortable with the current requirement of additional training for certified individuals who leave their certifiable role and return after a length of time has passed. There was discussion about creating some level of certification or a requirement for individuals that are serving limited duration administrative capacity. Staff is working on language to present to the workgroup.

Linsay gave an OLCC update, stating that the Job Task Analysis has been completed and has been passed to curriculum development. DPSST will meet with OLCC representatives and begin talking about standards and administrative rules. Because the group most closely aligns with Police, liquor enforcement inspectors will fall under the umbrella of the Police Policy Committee for denial/revocation cases in the future.

The Board approved extending the expiration of the certification chart for Intermediate and Advanced certification charts until October 31, 2015.

Currently in statute, law enforcement agencies are required to provide DPSST with personnel information relating to what could potentially be a moral fitness issue. Another legislative concept that was filed on behalf of DPSST that would give the department the ability to compel the production of the documents by getting a court order through whichever court would have jurisdiction over the matter.

Linsay thanked everyone for their patience as DPSST continues to adjust the Professional Standards process in contested case hearings.

Todd Anderson reported that one Basic Police class was scheduled for May 19, 2014, but because the numbers were low, the class was postponed until July 21, 2014.

The Center for Policing Excellence brought a new five-week parole and probation curriculum to the Corrections Policy Committee. Instead of four weeks in September, they will go to five weeks. This will be the first class to be issued iPads instead of notebooks. The iPads will be used as a reader, a way of interacting with their instructor, a research aid, and will do fictitious caseloads on offenders.

Eriks Gabliks expressed thanks to all who participated or attended the Law Enforcement Memorial on May 6, 2014. Two names were added to the Memorial Wall; a historic name from Jackson County and Officer Robert Libke from Oregon City. The Governor was the key note speaker. More than 800 were in attendance.

Eriks stated the Brady workgroup has finished its work.

Kent Barker requested the Police Policy Committee meet earlier going forward to allow time to cover all materials in the book. The group agreed they would like to meet at 10:30 a.m.

**9. Next Police Policy Committee Meeting – August 21, 2014 at 10:30 a.m.**

With no further business before the committee, the meeting adjourned at 4:15 p.m.

*\* All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at [dpsst.records@state.or.us](mailto:dpsst.records@state.or.us).*