

# **Board on Public Safety Standards and Training Minutes**

**July 23, 2020**

The Board on Public Safety Standards and Training held a regular meeting at 9:00 a.m. on Thursday, July 23, 2020 in the Boardroom at the Oregon Public Safety Academy in Salem. Chair Darren Bucich called the meeting to order at 9:00 a.m.

## **Board members present in-person and by Video/Teleconference:**

Nadine Purington, Non-Management Parole and Probation  
James Walker, Oregon State Fire Marshal  
James Oeder, Oregon Volunteer Firefighters Association  
Mark Kreutzer, Oregon Fire District Directors Association  
John Teague, Oregon Association of Chiefs of Police  
Elizabeth Lawrence, Non-Management Law Enforcement  
Thomas Thomas, Private Security Industry  
Darren Bucich, Oregon Fire Chief's Association  
Doug Marteeny, Oregon District Attorney's Association  
DaNeshia Barrett, Non-Management Law Enforcement  
Travis Hampton, Superintendent, Oregon State Police  
Matt English, Oregon State Sheriff's Association  
Scott Derickson, League of Oregon Cities  
Sara Boone, Chief, Portland Fire & Rescue

## **Board Members Absent**

Loren Cannon, Federal Bureau of Investigation  
James Cook, AFSCME/Department of Corrections Representative  
Colette Peters, Director, Department of Corrections - Excused

## **DPSST Staff:**

Eriks Gabliks, Director  
Linsay Hale, Professional Standards Division Director/Interim Academy Training Division Director  
Theresa Janda, Executive Assistant  
Mona Riesterer, Executive Support  
Jennifer Howald, Rules Coordinator

### **1. Introductions**

Chair Darren Bucich introduced himself as the new Chair and welcomed all Board members and Linsay Hale took a roll call to establish a quorum was present.

### **2. \*\*\* Executive Session\*\*\***

The Board on Public Safety Standards and Training (Board) went into executive session at 9:07 a.m. to consult with legal counsel concerning the legal rights and duties of a public body with

regard to current litigation. The executive session was held pursuant to ORS 162.660(2)(h). Executive Session closed at 9:19 a.m.

**3. David Fuller DPST No. 16332 – Withdraw NOI/Administrative Closure**

*Recommended to the board unanimously by the PPC.*

**John Teaague motioned to affirm the recommendations of the PPC following advice from legal counsel, James Oeder seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**4. \*Minutes**

*Approve minutes from the April 23, 2020 Meeting.*

**James Walker motioned to approve the Minutes from April 23, 2020. DaNeshia Barrett seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**5. Fire Policy Committee**

**a. Fire Policy Committee Update – James Oeder, Chair**

James Oeder briefly updated the Board stating four cases were reviewed and are presented to the Board today. Also the Fire Policy Committee will be receiving work to consider that is being done by a Committee reviewing revocations and rules.

**b. Consent Agenda (The following items to be ratified by one vote)**

**A. \*Elijah Cronin DPSST #F38682 (Lebanon Fire District) - Deny**

*Recommended to the Board unanimously by the FPC on June 9, 2020.*

**B. \*Taeton R. Harrington DPSST #F38068 (Mid-Columbia Fire & Rescue) - Deny**

*Recommended to the Board unanimously by the FPC on June 9, 2020.*

**C. \*Anthony D. Monroe DPSST #F18280 (Toledo Fire Department) - Revoke**

*Recommended to the Board unanimously by the FPC on June 9.*

**D. \*Kelly R. Vallance DPSST #F34182 (McMinville Fire Department) - Revoke**

*Recommended to the Board unanimously by the FPC on June 9.*

**Matt English motioned to approve the Fire Policy consent agenda. Sara Boone seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

## 6. Criminal Justice Policy Committees

### a. Police Policy Committee Update – John Teague, Chair

- John Teague briefly updated the Board reporting, last meeting a new process was used that was successful. It was discovered that the need to clarify what fitness violations were found, if any, in order to set up the parameters for recommending Board action.
- He shared that Jill Thissell from Independence Police Department joined the Committee as a non-management law enforcement member. Sheriff Wolfe and Chief Kris Allison termed out, and he is grateful that March Rauch and Zach Kenney will be returning for a second term to the PPC.

### b. Telecommunications Policy Committee Update – Lindsay Hale

Lindsay Hale briefly updated the Board in place of the previous Chair, Kelly Dutra, whose second term had expired. She explained that a replacement for Kelly Dutra will be George Long with BOEC, and his confirmation is in the queue at the Governor's office for Senate confirmation. The TPC had a meeting in June and reviewed the Administrative rule in front of you today relating to the applicant review committee. There will be no meeting in August due to a lack of agenda items.

### c. Corrections Policy Committee Update – Nadine Purington, Chair

Nadine Purington briefly updated the Board. She shared that Basic Parole & Probation will graduate on the 24<sup>th</sup>. The next Parole & Probation class will start on July 27, 2020. She mentioned that Mike Gower is retiring so the new designee for him will Michael Yoder. Also, Taj Shivvers is on the agenda today for approval to replace Carole Dishion whose second term has expired. The next meeting is in August.

### d. \*Consent Agenda (The following items to be ratified by one vote)

#### A. \*Nigel Deluna DPSST#54679 (Mt. Angel Police Department) – No Action

*Recommended to the Board unanimously by the PPC on June 18, 2020*

#### B. \*Thomas Houpt DPSST#60473 (Grant County Sheriff's Office) – No Action

*Recommended to the Board unanimously by the PPC on June 18, 2020*

#### C. \*Robert Johnson DPSST#50633 (Medford Police Department) – No Action

*Recommended to the Board in an 8/2 vote by the PPC on June 18, 2020.*

#### D. \*Corbin Lantz DPSST#42610 (Department of Public Safety Standards & Training) – Revoke

*Recommended to the Board unanimously by the PPC on June 18, 2020*

#### E. \*Terry Lohf DPSST#27923 (Lakeview Police Department) – No Action

*Recommended to the Board in a 6/4 vote by the PPC on June 18, 2020.*

**F. \*Sebastian Precup DPSST#60628 (Portland Police Bureau) – No Action**

*Recommended to the Board unanimously by the PPC on June 18, 2020.*

**G. \*Patricia Lyon DPSST#57573 (Coffee Creek Correctional Facility) – Revoke**

*Recommended to the Board in a 7/6 vote by the CPC on June 16, 2020*

**H. \*Lianna Mechanic DPSST#53161 (Multnomah County Sheriff's Office) – No Action**

*Recommended to the Board in a 12/1 vote by the CPC on June 16, 2020*

**I. \*Michael Payne DPSST#34804 (Snake River Correctional Institution) – No Action**

*Recommended to the Board unanimously by the CPC on June 16, 2020.*

**J. \*Sara Stewart DPSST#60771 (Curry County Sheriff's Office) – No Action**

*Recommended to the Board unanimously by the PPC on June 18, 2020*

**K. \*OAR 259-006-0000, 259-008-0290, 259-008-0067 – Proposed Rule Change - Approve.**

Establishing DPSST applicant moral fitness standards.

*Recommended to the Board by the TPC on June 10, 2020; Recommended to the Board by the CPC on June 16, 2020; Recommended to the Board by the PPC on June 18, 2020;.*

**L. \*Law Enforcement Memorial Wall Nomination – Marshal Zacharia H. Stroud, Harney City**

*Recommended to the Board unanimously by the PPC on June 18, 2020.*

**M. \*Committee Appointments**

- Zachary Kenney, representing non-management Law enforcement; Re-Appointment to the PPC; 2<sup>nd</sup> term effective 7/23/20
- Erica Stohlhand, representing APCO; Re-Appointment to the TPC; 2<sup>nd</sup> term effective 7/23/20
- Tim Svenson, representing OSSA; Re-Appointment to the TPC; 2<sup>nd</sup> term effective 7/23/20

**DaNeshia Barrett motioned to approve the Criminal Justice consent agenda. James Oeder seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**e. \*Administrative Rules Relating to Certification and Licensure Requirements Impacted by the COVID-19 (Coronavirus) State of Emergency - Approve**

Jennifer Howald explained that the Administrative Rules referenced are in regard to licensure and certification requirements that have been impacted by COVID-19. Basic and continuing education training has been impacted, as well as access to fingerprinting services in some cases, all of which are integral to certification and licensure standards for each of the disciplines under the Board's regulation. Temporary rules that were approved by the Executive Committee on March 31, 2020 enacted provisions addressing immediate impacts of

COVID-19 on Basic training, continuing education and fingerprinting services will expire September 27, 2020. She summarized the Department's next steps which are outlined in the memo.

1. Criminal justice programs. The temporary rule language specifically addresses maintenance training for public safety professional certifications. It does not change or remove any of the maintenance standards and it does communicate the Department's intent to not suspend certifications based on late or incomplete maintenance training caused by COVID-19 issues. In these cases the Department is exercising discretion on use of its suspension authority in recognition of the wide impacts of COVID-19 and recommends replacing the temporary rules with a separate permanent rule change that allows the Department to continue the intent of the temporary rule as well as address other employment training and certification standards that may be affected by COVID-19. The new proposed rule for adoption includes end dates for each component of the discretionary authority. If no substantive comments are received, the permanent rule change will replace the temporary rules on the expiration date.  
Clarification was given upon questioning by Mark Kreutzer that this is specific to COVID-19 only and not any other pandemic situation in the future and is intended to make clear that it does not lessen standards in any way.
2. Fire service. Two temporary rules are in place for the Fire Service. The first addresses certification maintenance and allows the Department to approve time extensions to avoid the lapse of certifications for incomplete maintenance due to COVID-19 issues. The second temporary rule addresses the review process for Fire Service agency training accreditation agreements and allows additional time when the regular review process cannot be completed due to COVID-19 issues. Some additional rule language needs clarification and updated, which will be reviewed by the Fire Policy Committee (FPC) prior to taking further action and will also ask the FPC to consider whether any long-term language needs to be changed to extend the opportunity for time extensions for those agreements. Rule changes will be presented to the Fire Policy Committee in August for review and recommendation, which will then follow the normal rule making process.
3. Private Investigator Licensure program. This addresses continuing education requirements and allows the Department to approve exceptions to hour limits prescribed by OAR, which increases flexibility by allowing more self-study. The need to extend the intent of the temporary rule beyond September is indeterminate. The Department would like the Private Investigator subcommittee to review the continuing education standard in its entirety since these standards have not been reviewed since 2014 and consider a rule change that simplifies the continuing education process and allows more flexibility to the sources that can be used. The Department recommends allowing the temporary rule to expire with additional rule-making action to be reviewed by the Private Investigator subcommittee and the Private Security and Investigator Policy Committee for recommendation later this year. If the Board approves this recommendation, the temporary rule will expire but may be replaced with a good permanent rule change in the future.

4. Private Security and Licensure Program. Two temporary rules are in place, one addressing temporary work permits which allows the Private security professional to perform services, while completing training and fingerprint requirements (within 120 days), if delayed due to COVID restrictions, but does not waive these requirements. The second temporary rule addresses annual firearms training and qualifications requirement for the armed private security professionals and instructors, by allowing the Department to approve time extensions if unable to complete them due to COVID-19 issues. It is uncertain if additional extensions will be needed. The Department recommends filing proposed rule changes to prepare for a potential extension through the end of the year. It clarifies that an additional temporary work permit cannot be obtained without completing training and fingerprinting requirements. If the Board approves this recommendation, The Department will facilitate the permanent rule change, filing it with a public comment period. The situation will be monitored to make a determination whether to file as permanent rule changes, which will depend on if ongoing COVID-19 issues require extension of either or both of the temporary rules.

**Jim Walker motioned to approve the Department's recommendations relating to certification and licensure requirements impacted by COVID-19. James Oeder seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**f. \*OAR 259-012-0035 – Proposed Rule Change - Approve**

Student dismissal and appeal. Jennifer Howald explained that the rules in Division 12 maintain the standards of conduct for Criminal Justice students attending the academy and the processes for dismissal of a student who violates them. The rules outline steps a student can take to appeal a dismissal and the process for the Department to initiate a Professional Standards case to review misconduct. When the Academy dismisses a student it impacts the individual's eligibility for certification and continued employment as a public safety professional. Procedural flaws within the current rule were recently identified during a dismissal process. The proposed rule change amends the existing processes for initiation of the Professional Standards case by establishing a process that completes a case review regardless of the certification or the employment status of the student who has been dismissed. The dismissal will cause a Professional Standards review and the conduct that lead to the dismissal will be presented to the discipline-appropriate Policy Committee for recommended certification disposition. If the recommendation is to deny or revoke, the individual can exercise their contested due process. It also amends the appeal process, maintaining the student's ability to appeal their dismissal to the director but removes the secondary appeal of the employer through the Board, recognizing the authority for the Department to dismiss the student and the Board's authority to determine whether the dismissal results in denial or revocation. In the case that the student remains employed following the dismissal the Committee could choose to factor that as mitigation when considering their recommendation. If approved, the Department will proceed with submission for public comment and if no substantive comments are received it will be filed as a permanent rule.

**Jim Walker motioned to approve the Department's recommendations. John Teague seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**g. \*OAR Chapter 259 Proposed Rule Changes – Approve**

Establishing required use of legal name. Jennifer Howald explained that this proposed rule change outlines the Department's recommendation to codify the use of a person's legal name as the name of record in Administrative Rule. By practice the Department requires use of a legal name to create records and to issue certifications and licenses. The records created are used to track, verify and maintain information related to each person's eligibility for certification or licensure and are integral to verifying background, criminal history records and in responding to public records requests. Draft Rule language for each certification and licensure program is included in the memo as well as staff analysis of the fiscal impacts to the rule change. The draft Rules are meant to accomplish the following:

- Establish the requirement to use legal name as the name of record
- Identify that the legal name will appear on the certification or the license.
- Include a requirement to notify the Department when there has been a legal name change.

**James Oeder motioned to approve the Department's recommendations. John Teague seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**7. Private Security/Investigator Policy Committee**

**a. Private Security Investigator Policy Committee Update – Thomas, Chair**

Thomas Thomas gave a brief update to the Board.

**b. Consent Agenda (The following items to be ratified by one vote)**

**A. \*Committee Appointments**

- Michael Holsapple to fill vacant position representing Private Investigators; Appointment to the PSIPC; 1<sup>st</sup> term effective

**James Oeder motioned to approve the Department's recommendations. Matt English seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

**8. Administrative**

**a. Citizen Correspondence – Information Only**

Linsay Hale reviewed the Correspondence that was presented to the Board, explaining it is for information only. She explained that the correspondence was addressed to the Board and it recommends that the Board adopt a mandatory denial or revocation situation when the Department becomes aware that a certified officer or applicant for certification is a member of a

hate group as defined by the State of Oregon or by the Federal Government. These recommendations will go through the Policy Committee process to make sure they are thoroughly vetted and go through the Administrative Rule-making process which also allows an opportunity for public comment. Policy Committee members can expect to see this on their November agendas.

## **9. Director's Report - Director Gabliks**

### New Policy Committee Members

Two Committee policy members who are up for reappointment and one new member for appointment were not presented in time to be included on the agenda and are included here, in the Director's report, for approval by the Board.

- Bruce Riley – Public Member, Reappointment to the Fire Policy Committee; second term begins 7/23/20.
- Mark Rauch – Public Member, Re-appointment to the Police Policy Committee; second term begins 7/23/20.
- Taj Shivvers – DOC/CCCF Non-Management representative, Appointment to the Corrections Policy Committee; first term begins 7/23/20

**Matt English motioned to approve the new Policy Committee members. Liz Lawrence seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

### Legislative

Director Gabliks reported on proposed legislation and the potential impacts on DPSST for the upcoming special session, scheduled for July 2020.

- **HB 4203 - Outlaw use of Chokeholds** – Prohibits peace officers from knowingly using force that impedes the normal breathing or circulation of the blood of another person by applying pressure to the throat or neck of the other person, unless the circumstance is one in which the officer may use deadly force. Requires the Board to adopt rules prohibiting the training of these maneuvers except as a defensive maneuver. (Proposed OAR to August PPC.)
- **HB 4205 - Duty to Intervene** – Requires police officers to verbally or physically intervene to stop another police officer from engaging in misconduct and to report the act to the appropriate authority. Failure to intervene failure or report as required by the rules is grounds for suspension or revocation of a police officer's certification. (DPSST interpretation shared with Agency/constituent partners on 7/22)
- **HB 4207 - Police Discipline Statewide Database** – Directs DPSST to establish a statewide database of police officer discipline records and to publish online information about certification actions against police officers. Requires LE agencies share personnel files. Adopts into law mandatory disqualifiers for criminal justice certification. (Database published 7/8)

## Secretary of State Audit

Director Gabliks told the Board members that the Secretary of State will conduct a Performance Audit involving DPSST. Their plan includes an audit of DPSST as well as City, County, State and Tribal law enforcement agencies in the areas of Community Policing/Basic Police Training, Police Use of Force, and Police Accountability.

## Governor's Public Safety Training and Standards Task Force

The Director talked about the Governor's Public Safety Training and Standards Task force that is charged with recommending to the Governor improvements in the training and certification of Oregon law enforcement officers. To complete its charge, members of the Task Force will:

- Review current Oregon statutes and administrative rules on police training and certification.
- Identify gaps in current statute, administrative rules, and policies governing officer training and certification.
- Recommend how to apply best practices, research and data to officer training and certification.
- Provide recommendations on how to best incorporate concepts of racial equity into office training and certification requirements.
- Provide recommendations on use of force training, including best practices of how to incorporate concepts of officer use of the least amount of necessary force to accomplish a lawful objective and de-escalation during a use of force event.
- Provide recommendations on the composition of the Board on Public Safety Standards and Training and how to include additional public participation and inclusion of the communities of color.
- Provide recommendations on statutory requirement for officer decertification.

## Budget

The Director gave an overview of the 2021-23 Agency Request Budget with the Board members by presenting an overview. He first showed a breakdown of "Essential Packages" identified, phased out expenses from 2019, and a calculation for inflation based on a standard of 4.3% that will be presented to the legislature. He explained that these are elements of the current service level budget and the legislature may or may not approve of the budget submitted so there can be changes, both plus and minus, to what is presented.

- He explained Policy Option Packages (POP) that will be submitted and included what will and what will not be in the 2021-23 Policy Option Package and offered details about what each package entailed:
  - Pkg 100 – Deferred Maintenance Facilities
  - Pkg 101 – Statistical Transparency of Policing (STOP program)
  - Pkg 102 – Instructor Development
  - Pkg 103 – Public Affairs
  - Pkg 104 – Youth and Community Outreach Coordinator
  - Pkg 105 – Reserve Program Coordinator
  - Pkg 106 – Active Shooter - School Safety Partnership

- Policy Option Packages will not include:
  - Additional Basic classes - will continue to be handled as we currently are, based on needs of stakeholders.
  - Return of Oregon Department of Corrections basic corrections officer training to DPSST – will address as fiscal impact when legislation is active.
  - Fire Program Increases – FIPT does not sustain anything past CSL. DPSST will continue to access FEMA AFG Grants for program needs, which has been extremely successful in helping DPSST acquire props and other equipment needed for Fire Training.
- Essential Packages include:
  - Package 010
    - Vacancy Factor
    - Non-PICS Personal Service Adjustments.
  - Package 021 Phased-In Programs – No items needed for DPSST
  - Package 022 Phased-Out Programs
  - Package 030 Inflation
    - Cost of Goods & Services Adjustments
    - State Government Service Charges Adjustment.
  - Package 040 Mandated Caseload – No items needed for DPSST.
  - Package 050 Fund Shifts – No items needed for DPSST.
  - Package 060 Technical Adjustments – No items needed for DPSST.
- Agencies are required to present 5, 10 and 15 percent budget reduction proposals for the 2021-2023 budget development process. DPSST's Criminal Justice, Fire, and Private Security/Private Investigator Programs will all be submitting a number of reduction proposals in case cuts need to be taken during the 2021-2023 budget development. The Criminal Justice sections reductions will be taken by reducing Basic Police and Basic Corrections Classes, the Fire section will leave one or two staff vacancies unfilled, and Private Security and Investigator section will also leave vacancies unfilled.

The Director asked for a motion to approve the proposed budget moving forward.

**James Walker motioned to approve the new budget moving forward. James Oeder seconded the motion. A vote was taken by roll call of members present and the motion carried unanimously.**

### COVID-19 Impacts

Eriks reviewed impacts to DPSST's operations and actions taken to adapt due to the COVID-19 pandemic and comply with resulting restrictions.

- Suspended all training on March 17, 2020 – Restarted on May 4, 2020
- Created Health & Safety Guidelines for training delivery
  - Approved by OHA and Governor's Office
- Training delivery changes
  - PPE, social distancing, face coverings, student responsibilities
  - Regional changes – limiting attendees to agency not entire region

- Classes on and off-campus are affected.
- Campus closed to the public – no outside events at OPSA until further notice.
- Changes in food, lodging, hygiene, social distancing, etc.
- DPSST staff areas following issued CDC, OHA, DAS and Governor’s guidelines.
  - The custodial staff has worked diligently to keep the Academy clean and has done a great job.
- Professional Standards: Executive Committee gave authority for Temporary Administrative Rules (3-31-2020)
- DPSST supported Oregon Emergency Management (OEM) with more than 30 FTE assigned to support statewide coordination efforts from March 18 – June 5, 2020

## General

The Director reviewed work taking place at DPSST amid COVID-19 restrictions:

- DPSST conducted Oregon National Guard Wildfire Training for 425 Citizen-Soldiers/Citizen-Airmen during a seven-day training, ahead of fire season, as ordered by the Governor.
- Media interest in the work of DPSST & BPSST has been great.
- DPSST offered one-hour outreach sessions via WebEx on Use of Force training, Basic Police training and Police Accountability for community leaders, the Legislature, elected officials and the media to share information about what goes into the training of a law enforcement officer, including the field training component, before they can be certified. The sessions were recorded and can be found on the DPSST website.  
<https://www.oregon.gov/dpsst/CJ/Pages/InformationalFiles.aspx>
- DPSST was asked to provide testimony to the Presidential Commission on Law Enforcement and the Administration of Justice. The focus was on three things: Cultural change, hiring and retaining the right people, how to train at the entry level and also accountability standards that Oregon has for certification, which was well received. We also shared the data base that we partner with on a national level that identifies bad officers from other states, and recommended that it was time to make that a mandate, as it is currently not mandated. This will allow states to share this information nationally.
- An August 2020 Legislative Special Session on budget and police accountability is currently planned. Chairs of the Ways and Means Committee have proposed to reduce DPSST’s Basic police classes from 16 to 13 in the biennium. This will create a hardship for law enforcement agencies to hire and train new officers.
- A Secretary of State audit on weapons inventory management was recently finished. No significant control risk areas were identified. DPSST continues the process of implementing an electronic inventory management system.
- Eriks reviewed a proposed DPSST re-organization plan being discussed to include a change to the leadership structure. The proposed change includes adding a Deputy Director position, which has been vacant since Eriks became Director due to fiscal challenges at that time. The plan would change the current responsibilities of the Leadership and Management team to include a Criminal Justice Certification and Training Director; Private Security Private Investigator and Polygraph Manager to continue to oversee that program;

Fire Service Certification and Training Manager to continue to oversee that program; and an Operations and Services Division Director. This new structure would create efficiencies and therefore more bandwidth for Brian, as Operations and Services Division Director and Lindsay, as Criminal Justice Certification and Training Director, and sharpen the focus for the Fire and Private Security and Investigators and Polygraph programs and raise the visibility of both.

**10. Next Meeting Date: October 22, 2020**