

Police Policy Committee

Minutes

August 16, 2018

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 16, 2018 at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Jeff Hering called the meeting to order at 10:04 a.m.

Committee Members:

Jeff Hering, Chair, Non-Management Law Enforcement
John Teague, Vice Chair, Oregon Association of Chiefs of Police
Loren 'Renn' Cannon, Federal Bureau of Investigations
Dale Cummins, Oregon Association of Chiefs of Police (phone)
Pat Garrett, Oregon Sheriff's Association
Laurence (Craig) Halupowski, Non-Management Law Enforcement
Travis Hampton, Superintendent, Oregon State Police
Andy Heider, OSP Command Staff Representative (arrived to meeting @ 10:47)
Chris Davis, Portland Police Bureau (Designee for Chief Outlaw) (phone)
Bradley Robertson, Non-Management Law Enforcement
Brian Wolfe, Oregon State Sheriff's Association
Craig Zanni, Oregon State Sheriff's Association (phone)
Mark Rauch, Public Member

Committee Members Absent:

Kristine Allison, Oregon Association of Chiefs of Police
Zachary Kenney, Non-Management Law Enforcement
Liz Lawrence, Non-Management Law Enforcement

Guests:

Thomas Fleming
Johnathon Jones
Robert Mason
Daniel Thurman
Jeff Groth

DPSST Staff:

Eriks Gabliks, Director
Lindsay Hale, Professional Standards Division Director
Bob Sibley, Training Compliance Auditor
Kristen Hibberds, Professional Standards Coordinator/Investigator (left meeting @ 11:45)
Jennifer Howald, Rules Coordinator
Alicia Robb, Criminal Justice Office Specialist

1. Introductions

Introductions of members, guest and staff were presented.

2. Minutes of May 17, 2018 Meeting

Approve the minutes of the May 17, 2018 Police Policy Committee.

- Brian Wolfe moved that the committee approve the minutes of the May 17, 2018 Police Policy Committee meeting. John Teague seconded the motion. The motion carried unanimously.*

3. *Proposed Rule Changes for OAR 259-008-0075 - Sheriff Eligibility Determination

Presented by Jennifer Howald

ORS 206.015 provides the eligibility criteria for a person to be a candidate for election or appointment to the office of sheriff and directs the Department, in consultation with the Board, to establish a procedure for determining whether an individual is eligible to be a candidate for election to the office of sheriff. This proposed language refines this language by eliminating duplicative statutory and rule language provided as a reference and focusing on rules that provide interpretations of the authorizing statute which are critical to the Department's processes for determining whether an individual is eligible to be a candidate for election to the office of sheriff.

- John Teague moved to recommend the Board adopt the changes as proposed and that the Board approve filing the changes to OAR 259-008-0075 as a permanent rule change with the Secretary of State if no comments are received. Travis Hampton seconded the motion. The motion passed unanimously.*
- By consensus the committee found no fiscal impact to small businesses*

5. *Administrative Closures

Presented by Kristen Hibberds

Officer	Certifications	Summary	Flagged for Review (if hired in future)
Blaylock, Jerry #23980 Silverton PD	Supervisory	Separation – related to performance.	No
Seaney, Ryan #47259 Crook County Sheriff's Office	Supervisory	Separation – Allegations of harassment that were not sustained.	No
Robbins, Nichalos #58833 Multnomah County sheriff's Office	Application for Training	Conviction – 3/18/11 DUII. Only conviction occurred over 7 years ago.	No
Jaehnig, Mark #29051 OLCC	Basic	DUII-Completed Diversion	No

Teter, Joshua #58564 Curry County Sheriff's Office	Application for Training	Conviction – 2010 Insufficient Funds, Nevada.	No
Leak, Timothy #28007 Deschutes County Sheriff's Office	Executive	Separation – No sustained allegation of misconduct.	No
Allen, Austin #49791 Wasihngton County Sheriff's Office	Advanced	DUII-Completed Diversion	No
Staller, Nathaniel #51456 Rogue River PD	Basic	Separation & Arrest – Resigned during a criminal investigation. Acquitted of all charges.	No
Pemberton, Tyler #56798 Medford Police Department	None	Resignation after criminal investigation that is still pending	Yes
Suenaga, Stan #51777 Warm Springs Police Department	Executive	Separation – At will employee, vote of no confidence from tribal council.	No
Withers, Lynn #31620 Oregon State Police	Advanced	Separation – Due to medical. Open IV related to issue with performance.	No

- *Craig Halupowski moved to approve the recommendations made by staff to administratively close the above listed cases. Brian Wolfe seconded the motion. The motion carried unanimously.*

6. ***Fleming, Thomas DPSST #55747 Basic Police Certification; Marion County Sheriff's Office**

Presented by Lindsay Hale

Issue: In February 2018, DPSST received a Personnel Action form from the Marion County Sheriff's Office (MCSO) indicating that Fleming has resigned during an investigation.

Thomas Fleming presented verbal mitigation.

Vote/Consensus	Second	Vote	Outcome
Travis Hampton moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based.	Craig Halupowski	13 ayes; 0 nays	Motion passes unanimously.

<ul style="list-style-type: none"> • Consensus reached that Fleming's conduct did not involve Gross Misconduct as defined in administrative rule. • Consensus reached that Fleming's conduct did not involve Misuse of Authority as defined in administrative rule. • Consensus reached that Fleming's conduct did not involve Disregard for the Rights of Others as defined in administrative rule. • Consensus reached that Fleming's conduct did not involve Dishonesty as defined in administrative rule.

<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case as required by OAR 259-008-0070(4)(f), there are aggravating circumstances present: Fleming's conduct occurred during his employment as a public safety professional, his conduct resulted in a criminal conviction, the recentness of his conviction and he plead guilty to a class A violation.</p>

<p>Pursuant to OAR 259-008-0070(4)(F), there are mitigating circumstances present: Fleming was not sentenced to prison, jail time or probation, he has met all of his court obligation and this conviction represents the only conviction in his record. The PPC also found his verbal statements as additional mitigation.</p>

Bradley Robertson made a motion that after considering the totality of the case that no Board action be taken on Fleming's Certification.	John Teague	13 ayes; 0 nays	Motion passes unanimously.
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7. *Thurman, Daniel DPSST #43666 Basic and Intermediate Police Certifications Silverton Police Department

Issue: In September 2017, DPSST received a Personnel Action form from the Silverton Police Department indicating that Thurman had resigned with a settlement agreement.

Vote/Consensus	Second	Vote	Outcome
Chris Davis moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based.	Craig Halupowski	13 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Thurman's conduct did involve Gross Misconduct as defined in administrative rule when during a simulated firearms training he identified the suspect's race and then fired multiple rounds into the vehicle. Thurman's overall performance deficiencies resulting in his work plan is evidence of the threat he caused to the efficient operation of the agency.	Brian Wolfe	13 ayes; 1 nay (Halupowski)	Motion passes.

Travis Hampton moved that this Gross Misconduct when considered alone rises to the level to warrant action against the officer's certifications.			
<ul style="list-style-type: none"> • Consensus reached that Thurman's conduct did not involve Misuse of Authority as defined in administrative rule. • Consensus reached that Thurman's conduct did not involve Disregard for the Rights of Others as defined in administrative rule. • Consensus reached that Thurman's conduct did not involve Dishonesty as defined in administrative rule. 			
<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case as required by OAR 259-008-0070(4)(f), pursuant to OAR 259-008-0070(4)(F), there are aggravating circumstances present: Thurman's conduct occurred during his employment as a public safety professional and while acting in an official capacity.</p>			
<p>Pursuant to OAR 259-008-0070(4)(f)(F), there are no mitigating circumstances present.</p>			
Travis Hampton made a motion that after considering the totality of the case that Board action be taken on Thurman's Certification.	Chris Davis	13 ayes; 1 nay (Halupowski)	Motion passes.
<ul style="list-style-type: none"> • Consensus reached that Thurman's conduct impacts his ability to be employed as a public safety professional because it violates the Code of Ethics, sworn and affirmed by him, to safeguard lives and property; to protect all persons against deception, the weak against oppression or intimidation and the peaceful against violence or disorder. Thurman's conduct is particularly egregious based on his history of significant performance issues. 			
John Teague made a motion that Thurman's Gross Misconduct warrants an ineligibility period of 3 years.	Travis Hampton	13 ayes; 0 nays	Motion passes unanimously.

8. ***Johnston, Bradley DPSST #27723 Basic, Intermediate, Advanced, Supervisory, Management and Executive Police Certifications and Instructor Certification; Astoria Police Department**

Presented by Kristen Hibberds

Issue: In August 2017, DPSST received a Personnel Action form from the Astoria Police Department (APD) indicating that Johnston had retired with a settlement agreement.

Vote/Consensus	Second	Vote	Outcome
John Teague moved that the Police Policy Committee adopts the staff report as the record upon which its	Pat Garrett	13 ayes; 0 nays	Motion passes unanimously.

recommendations are based.			
<ul style="list-style-type: none"> • Consensus reached that Johnston's conduct did not involve Gross Misconduct as defined in administrative rule. • Consensus reached that Johnston's conduct did not involve Misuse of Authority as defined in administrative rule. • Consensus reached that Johnston's conduct did not involve Disregard for the Rights of Others as defined in administrative rule. • Consensus reached that Johnston's conduct did not involve Dishonesty as defined in administrative rule. 			
<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case as required by OAR 259-008-0070(4)(f). There are aggravating circumstances present: Johnston's conduct occurred during his employment as a public safety professional and his conduct occurred while he was acting in an official capacity. The PPC found that Johnston engaged in the conduct as the Chief of Police as additional aggravation.</p>			
<p>Pursuant to OAR 259-008-0070(4)(f)(F), there are no mitigating circumstances present. The PPC found additionally mitigating the information provided by the City on August 14, 2018.</p>	<p>Craig Halupowski made a motion that after considering the totality of the case that no Board action be taken on Johnston's Certification.</p>	<p>Bradley Robertson</p>	<p>13 ayes; 0 nays</p> <p>Motion passes unanimously.</p>

9. *Petersen, Eric DPSST #33872 Basic, Intermediate and Advanced Police certifications; Molalla Police Department

Presented by Kristen Hibberds

Issue: In August 2017, DPSST received a Personnel Action form from the Molalla Police Department (MPD) indicating that Petersen had resigned during an investigation.

Vote/Consensus	Second	Vote	Outcome
John Teague moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based	Craig Halupowski	13 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Petersen's conduct did involve Gross Misconduct as defined in administrative rule when Petersen knowingly gave misleading answers to questions during an investigation into his conduct.	Travis Hampton	6 ayes; 6 nays (Garrett, Halupowski, Davis, Rauch, Wolfe, Zanni)	Motion ties; vote tabled
John Teague moved that this Gross Misconduct when considered alone			

rises to the level to warrant action against the officer's certification			
<ul style="list-style-type: none"> • Consensus reached that Petersen's conduct did not involve Misuse of Authority as defined in administrative rule. • Consensus reached that Petersen's conduct did not involve Disregard for the Rights of Others as defined in administrative rule 			
Consensus reached that Petersen's conduct did involve Dishonesty as defined in administrative rule when Petersen knowingly gave misleading answers to questions during an investigation into his conduct. Brian Wolfe moved that this Dishonesty when considered alone rises to the level to warrant action against the officer's certifications.	Craig Halupowski	13 ayes; 0 nays	Motion passes unanimously.
<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case as required by OAR 259-008-0070(4)(f).</p> <p>There are aggravating circumstances present: Petersen's conduct occurred during his employment as a public safety professional and while acting in an official capacity. Additionally aggravating was that he didn't answer some of the questions he was asked during the investigation into his conduct.</p> <p>Pursuant to OAR 259-008-0070(4)(F), there are no mitigating circumstances present.</p>			
Chris Davis made a motion that after considering the totality of the case that Board action is taken on Petersen's certification.	Bradley Robertson	13 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Petersen's conduct impacts his ability to be employed as a public safety professional because it violates the Code of Ethics, sworn and affirmed by him, to safeguard lives and property; to protect all persons against deception, the weak against oppression or intimidation and the peaceful against violence or disorder. Petersen's conduct is particularly egregious because he engaged in dishonesty when questioned about his conduct. Petersen's integrity has been compromised by his conduct and his demonstrated dishonesty renders him ineffective to serve as a public safety officer.			
Brian Wolfe made a motion that Petersen's Dishonest warrants an ineligibility period of a lifetime.	Craig Halupowski	13 ayes; 0 nays	Motion passes unanimously

10. *Complaint – 2018-65CJ Craig, Steve DPSST #37427 Not Currently Employed
Presented by Lindsay Hale

Dale Cummins recused himself due to a conflict of interest.

Issue: In June 2018, DPSST received a complaint alleging misconduct by Steve Craig, a police officer formerly employed by the Bend Police Department (BPD), but is not currently employed as a public safety officer in Oregon.

Because this complaint involves an officer who is no longer employed with the agency, they are being presented to the Policy Committee for review and determination of the next steps in accordance with OAR 259-008-0070 (4)(c)(B).

Based on the allegations contained in the complaint, John Teague moved that DPSST proceed with an investigation into Craig's conduct in order to determine if the Board's certification standards have been violated. Mark Rauch seconded the motion. The motion passes unanimously.

11. *Complaint – Humphreys, Christopher DPSST #32784 Wheeler County Sheriff's Office

Presented by Lindsay Hale

Chris Davis recused himself due to a conflict of interest.

Issue: In April 2018, DPSST received a complaint alleging misconduct by Christopher Humphreys, who is currently the Sheriff of Wheeler County.

Because this complaint involves an elected official it is being presented to the Policy Committee for review and determination of the next steps in accordance with OAR 259-008-0070 (4)(c)(B).

Due to the nature of the complaint, Craig Halopowski moved that DPSST administratively close this complaint with a recommendation that the complainant contact the Oregon State Police and the FBI. Brian Wolfe seconded the motion. The motion passes unanimously.

12. *Law Enforcement Memorial Wall Nomination – Sgt. John Lawrence (DPSST #31555) City of Bend Police Department

Presented by Eriks Gabliks

On Thursday, December 4, 2014, Sergeant John Lawrence of the City of Bend Police Department suffered a fatal heart attack following his shift in which he responded to a bank holdup alarm. He returned home after completing his shift but collapsed three hours later. He was transported to a local hospital where he was pronounced dead. Sergeant Lawrence had served with the Bend Police Department for 10 years and had previously served with the Deschutes County Sheriff's Office for 4-1/2 years.

The death meets the criteria for the Oregon Law Enforcement Officer Memorial. Oregon Administrative Rule 259-008-0100 (ii) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

Craig Halopowski moved that the PPC recommend the Board approve adding Sgt. John Lawrence's name to the Law Enforcement Memorial during the 2019 ceremony. Mark Rauch seconded the motion. The motion passes unanimously.

13. *Election of PPC Chair

Brian Wolfe nominates Vice Chair John Teague as the Chair of the PPC. Craig Halupowski seconded the motion. The motion passes unanimously.

Jeff Herring nominated Brian Wolfe as the Vice Chair of the PPC. John Teague seconded the motion. The motion passes unanimously.

Department Update

Eriks thanked outgoing Police Policy Committee Chair Jeff Herring for his many years of dedicated service and leadership. Eriks thanked incoming Chair John Teague and incoming Vice-Chair Brian Wolfe for their commitment and interest in leading the group. Eriks also thanked the members of the Police Policy Committee for their continued hard work and diligence as they review certifications matters presented by staff.

DPSST continues to watch Academy enrollments on an on-going basis to ensure enough classes are being offered to meet hiring needs. Corrections and Parole and Probation basic classes appear to be doing well. Basic Police is where the largest influx of new officers is being experienced. DPSST has planned to begin a 16-week Basic Police class on a monthly basis if needed to meet demands. DPSST is watching the enrollments for the fall and may postpone either the October or November classes unless enrollments increase. This postponed class would be placed later into the calendar for delivery. Eriks shared that the agency may need to return to the Legislative Ways & Means Committee at the beginning of the 2019 session to request funds for additional basic classes. This is still a discussion with many months ahead of us before a decision needs to be made.

DPSST has submitted its 2019-2021 DPSST Agency Request Budget (ARB), and various policy option packages that were approved by BPSST, to the DAS Chief Financial Officer (CFO) on August 3, 2018. DPSST is an early submittal agency so we will await questions and eventually a date for a budget workshop with members of CFO and the Governor's Office.

DPSST is tracking legislation proposed for the 2019 session. DPSST has not submitted any legislative concepts for the next session. DPSST is actively involved in discussions taking place that would address campus public safety officers and private security officers. DPSST is communicating with the Oregon Department of Corrections (DOC) which is interested in returning its basic corrections officer training course to the academy. Eriks shared that DPSST would keep the current city-county corrections course as is and offer the same basic course for DOC officers with a focus and emphasis on DOC related issues and operational practices. DPSST estimates that it would need to offer two basic DOC classes for every City-County class to meet their hiring needs. DPSST has also met with a Representative who is interested in trauma informed care for victims of domestic violence and increased training for law enforcement officers on this important topic around the state.

DPSST continues to move forward with the addition of 60 parking spaces to the Oregon Public Safety Academy. Staff is working through the permitting process with the City of Salem. Discussions taking place that we may rock the area this summer, allow the area to settle, and pave it next summer. We will keep you posted.

DPSST has provided a grant to the Oregon State Sheriff's Office which is working with the Polk County Sheriff's Office and Grand Ronde Tribal Police Department to host a class specifically developed for law enforcement officers on the Public Law (PL) 280. The class will be held in Grand Ronde free of charge.

DPSST Crisis Intervention Training Center for Excellence (CITCOE) continues to provide technical assistance to organization looking to create and implement crisis intervention programs around the state. CITCOE also continues to support basic and advanced training classes.

The Police Curriculum Review Committee continues its task to review and recommend updates to the 16-week Basic Police Course. The progress of the group is steady with anticipated changes being ready for the next meeting of the Police Policy Committee. The changes approved and implemented to the first four-weeks of the course are being well received. DPSST is working with the Phase 2 and Phase 3 review committees at the same time to remain on schedule. Dr. Steve James from Washington State University continues to assist our staff and the work groups as DPSST pursues being the first basic police course in the nation to be almost completely evidence based. DPSST staff will continue to provide updates to the Committee as it works on the process and prepares changes for review and consideration.

During the months of July and August, DPSST hosted three different youth academies for young men and women interested in potential careers in law enforcement. The first was the City of Salem Police Cadet Academy that included cadets from various law enforcement agencies around the Willamette Valley. The second, the FBI Youth Academy which was a residential academy held at DPSST. This is the first residential academy the FBI has held in the United States. The third, was the Oregon State Police/American Legion Law Enforcement Youth Academy. All three went very well and DPSST was pleased to assist.

During the month of June, DPSST hosted the American College of Occupational and Environmental Medicine's (ACOEM) Public Safety Medicine Section two-day class for

physicians and medical providers that work with fire service and law enforcement agencies. This two-day workshop offered state-of-the-art training in applying the guidelines and standards currently used for conducting post-offer, return-to-work, disability, or annual examinations of law enforcement officers (LEOs) and fire fighters. More than three dozen attended the class. Attendees included 12 physicians who provide medical evaluations (pre and post hire) for public safety agencies in Oregon and SW Washington. We also had physicians join us who work for the United States Secret Service (Washington D.C.), United States Department of Homeland Security (Washington, D.C.), NIOSH, and the Royal Canadian Mounted Police (Headquarters – Ottawa, Ontario, Canada). The others in the class were risk managers, human resources managers and public safety agency heads. This is only the third time this class has been offered, and the first time it has been offered on the west coast. Special thanks to the Oregon State Police, City of Salem Police, and Marion County Sheriff's Office who provided personnel from specialized teams to share their work and equipment with the physicians.

DPSST was asked to provide wildland firefighter training to 200 members of the Oregon National Guard last month. The Citizen-Soldiers and Citizen-Airmen were trained at the Academy and live-fire, hands-on, training was included as part of the weeklong session. The area burned for the training is visible on campus and will grow back to normal. DPSST is on stand-by to offer additional classes if more members of the Oregon National Guard are activated to support the state wildfire suppression mission.

DPSST Professional Standards and Training Divisions continue to conduct regional outreach sessions through which it gathers information on process improvements and shares update on DPSST processes and services. More sessions will be scheduled in the Fall around the state.

Meeting adjourned at approximately 12:40 pm.

Administrative Notes:

- *The PPC went on break at 10:55, coming back on the record at 11:02.*
- *These minutes reflect the order of the discussion/voting items as they appear on the official meeting agenda. The actual order in which they were discussed may vary.*

** 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.*