

Police Policy Committee Minutes

May 16, 2019

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 16, 2019 at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair John Teague called the meeting to order at 10:00 a.m.

Committee Members:

John Teague, Chair, Oregon Association of Chiefs of Police
Liz Lawrence, Non-Management Law Enforcement
Pat Garrett, Oregon State Sheriff's Association
Travis Hampton, Superintendent, Oregon State Police
Andy Heider, Oregon State Police Command Staff Representative
Chris Davis, Portland Police Bureau (Designee for Chief Outlaw)
Craig Zanni, Oregon State Sheriff's Association
Zachary Kenney, Non-Management Law Enforcement
Kristine Allison, Oregon Association of Chiefs of Police (phone)
Mark Rauch, Public Member
Bradley Robertson, Non-Management Law Enforcement
Laurence (Craig) Halupowski, Non-Management Law Enforcement
Dale Cummins, Oregon Association of Chiefs of Police (phone)

Absent:

Brian Wolfe, Vice Chair, Oregon State Sheriff's Association

Guests:

Jo Gardiner
Ron Wommack
Tracey Wommack
Scott Sanders
Terese Sanders
William Nightingale
John Cooper
Jessie Miller
Ashley Simington
Scott Simington
Syren Simington

DPSST Staff:

Eriks Gabliks, Director
Linsay Hale, Professional Standards Division Director
Mike Leloff, Training Division Director
Kristen Hibberds, Professional Standards Coordinator/Investigator
Jenifer Howald Administrative Rules Coordinator
Marsha Morin, Criminal Justice Certification Program Manager

Wendy Nunez, Criminal Justice Office Specialist
Jordan James-Largent, Professional Standards Compliance Specialist



1. Introductions

Introductions of members, guest and staff were presented.

2. Minutes of February 21, 2019 Meeting

- *Craig Zanni moved that the committee approve the minutes of the February 21, 2019 Police Policy Committee meeting. Craig Halupowski seconded the motion. The motion carried unanimously.*

3. Update and Changes to the Police Officer Field Training Manual – Information Only

Presented by Staci Yutzie

The Police Policy Committee (PPC) received an update from the Phase II Basic Police Revision Academy Panel at its November 2018 meeting. The PPC approved the proposed changes which were forwarded to the Board for review and consideration and subsequently approved by the Board at its January 2019 meeting.

During their review, the Advisory Panel identified training items that are best suited for agency delivery during field training rather than the Basic Police Course. Based on the approved curriculum changes, DPSST's Training Division has made the following modifications to the Police Officer Field Training Manual.

- Module I: Officer has completed sexual and workplace harassment prevention training.
- Module I: Officer has completed disease awareness and prevention training.
- Module IV: Officer has completed FEMA Incident Command System training. [Courses ICS 100 and 200]
- Module IV: Officer has completed U.S. Homeland Security Weapons of Mass Destruction (WMD) training. [Course AWR-160]

This new Manual will be phased-in on May 1, 2019 in advance of the new Basic Police Course which will be implemented on July 1, 2019.

4. Proposed Rule Changes for OAR 259-008-0015: Background Investigations

Presented by Jennifer Howald

Current rule requires public and private safety agencies conduct a background investigation on each individual being considered for employment or utilization as a public safety professional to determine if the applicant is a good character. The current standard lists elements that must be included in a background investigation.

The Criminal Justice Moral Fitness Workgroup recommends that conducting a search of DPSST records should be a mandatory element of all pre-employment background investigations to ensure that hiring agencies are aware of any past or pending DPSST

professional standards reviews or the individual was the subject of any complaint filed with DPSST. The Workgroup also approved removing the requirement that the applicant's required personal history statement to be notarized, instead requiring and acknowledgment of "declaration under penalty of perjury."

- *Craig Halupowski moved to recommend the Board adopt the changes as proposed and that the Board approved filing the changes to OAR-259-008-0015 as a permanent rule change with the Secretary of State if no comments are received. Liz Lawrence seconded the motion. The motion passed unanimously.*
- *By consensus the Committee approved the fiscal impact prepared by staff.*

5. Proposed Rule Changes for OAR 259-008-0010, 259-008-0011, 259-008-0060 and 259-008-0067: Establishing the Expiration of DPSST Public Safety Professional Certification – ISSUE TABLED

Presented by Jennifer Howald

DPSST public safety professional certifications are lifetime certifications. Once the certification has been issued to the public safety professional, the individual remains certified for life unless their certifications are relinquished or revoked.

Because the certification is a lifetime certification, certified public safety professionals are held to the moral fitness standards beyond their period of employment. This means from time to time, the Policy Committees receive discretionary professional standards cases for individuals who have been out of the public safety profession for many years due to retirement or any other separation from employment.

A current Policy Committee member requested the Criminal Justice Moral Fitness Workgroup consider whether or not public safety professional certifications should continue to be considered lifetime certifications, holding individuals who have been retired or otherwise separated for an extended period to the same moral fitness standards for currently employed public safety professionals. The Workgroup recommended that certifications expire after five years of separation. The five year period recognizes the current Board standard that requires a person who has been separated from their certified discipline for longer than five years be required to recomplete their basic training course in order to be eligible for recertification.

The workgroup was also asked to consider the impact of expiration on the levels of certification that an individual may have received prior to their separation from employment and subsequent expiration of certification. The Workgroup recommended that the years of service would remain applicable to the experience requirements for upper levels of certification. The Workgroup recommended that the training requirements for upper levels of certification should be satisfied with new training in recognition of the impact of the absence from the profession on knowledge and skills. The training recommendation mirrors the current practice for recompletion of basic training in order to be eligible for reissuance of basic certification.

Prior to the presentation of this issue to the Police Policy Committee, a member from another Policy Committee requested this issue be tabled due to concerns about the reactivation of expired certification. The issue has been tabled by staff pending resolution to those concerns. The proposal will be represented at a future Police Policy Committee meeting.

6. Proposed Rule Changes for OAR 259-008-0070: Criminal Justice Moral Fitness Workgroup Recommendations, Part Two

Presented by Jennifer Howald

On October 17, 2018, the Criminal Justice Moral Fitness Workgroup began a review of the denial, suspension and revocation standards that were updated and implemented on August 1, 2017. The Workgroup was formed to review a number of unintended tensions in the revised administrative rule language as well as additional issues resulting from procedural and legal changes occurring after the standards became effective.

These proposed rule changes amend the denial/suspension/revocation standards or processes. In whole, the amendments seek to further clarify the intent of the existing standards and provide clear guidance regarding professional standards case review processes. Changes include:

- Mandatory Grounds for Denial/Revocation – Amendments to the definition of discharge for cause adding destruction of evidence and removing category titles.
- Discretionary Grounds for Denial/Revocation –
 - Clarifying amendments such as word order and punctuation for the definitions of the moral fitness categories Dishonesty, Misuse of Authority and Gross Misconduct;
 - Deleting the category of Disregard for the Rights of Others. Conduct previously considered disregard for the rights of others may still be grounds for denial/revocation under the definitions of Misuse of Authority and Gross Misconduct.
- Updates to the Department’s processes for administrative closure of professional standards cases.
- Updates to the Policy Committee’s review processes for discretionary professional standards cases.
- Removing suspension of certification for discretionary cases. Discretionary cases will result in the certification being denied or revoked.
- Changes start date for the certification ineligibility period from the date of separation/conviction to the date the Board approves denial/revocation.
- Updates to the Department’s processes for review of complaints.
- An administrative rule reorganization that separates the currently existing single OAR 259-008-0070 into multiple, specific purpose/process rules in order to make the rules easier to read.

- *Zach Kenney moved to recommend DPSST file the changes as proposed with his concerns about changing the start date of the ineligibility period entered as official comment. Mark Rauch seconded the motion. The motion passes unanimously.*
- *By consensus the Committee approved the fiscal impact prepared by staff.*

6. Administrative Closures – Police/Regulatory Specialist

Presented by Kristen Hibberds

Staff presented the following professional standards cases to the Police Policy Committee for administrative closure.

Officer	Certifications	Summary	Flagged for Review (if hired in future)
Gard, Nathan #57877 PPB	None	Separation – for using derogatory terms towards a fellow classmate	Yes
Hodencamp, Verne #49455 Gold Beach PD	Intermediate	Separation – Insufficient evidence to prove violations to Moral Fitness standard.	No
Berry, Kenneth #27854 DCSO	Advanced	Separation – Performance.	No
Schreiber, Eric #51745 DCSO	None	Separation – Insufficient evidence to prove violations to Moral Fitness	No

- *Craig Zanni moved to approve the recommendations made by staff to administratively close the above listed cases. Liz Lawrence seconded the motion. The motion carried unanimously.*

7. Wommack, Ronald DPSST # 38511: Basic, Intermediate and Advanced Police Certifications – Tigard Police Department

Presented by Kristen Hibberds

Issue: On March, 2018, Wommack was separated from employment with the Tigard Police Department (TPD). On June 1, 2018, Wommack was convicted of DUII. After reviewing investigative materials, staff has identified violations of the Board’s minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Wommack was convicted of a crime.
- Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others, or Misuse of Authority.**

Ronald Wommack presented verbal mitigation.

Vote/Consensus	Second	Vote	Outcome
Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based.	Mark Rauch	13 ayes; 0 nays;	Motion passes unanimously
Consensus reached affirming the staff analysis identifying violations of the Board’s moral fitness standards.			
<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case pursuant to OAR 259-008-0070(4)(f)(B):</p> <p>The following mitigating circumstances were considered:</p> <ul style="list-style-type: none"> • The individual self-reported their conduct. <p>Wommack’s verbal statements made to the PPC were considered as additional mitigation.</p> <p>The following aggravating circumstances were considered:</p> <ul style="list-style-type: none"> • The individual’s conduct occurred during their employment as a public safety professional; • The individual has more than one criminal disposition; • The recentness of the criminal disposition; • The individual’s conduct did result in a criminal disposition; • The individual pled guilty to a Class A Misdemeanor; • The individual received jail time & probation; • The individual’s conduct occurred multiple times. <p>No additional aggravating circumstances were considered.</p>			

Brad Robertson moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case that no Board action be taken against Wommack's certification.	Travis Hampton	10 ayes; 3 nays (Rauch, Zanni, Teague)	Motion passes.
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8. Gardiner, Jo DPSST # 15973: Basic, Intermediate and Advanced Police Certifications – Oregon State Police

Presented by Kristen Hibberds

Issue: In October 2013, Gardiner separated from employment with the Oregon State Police. DPSST was notified of this separation in January 2018. After reviewing the investigative materials, staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Dishonesty** when Gardiner gave false, inaccurate and misleading information to an individual she had stopped in an admitted attempt to elicit a response from the individual.
- Staff did not identify violations of **Disregard for the Rights of Others, Misuse of Authority or Gross Misconduct.**

Travis Hampton and Andy Heider abstained due to a conflict of interest.

Jo Gardiner presented verbal mitigation.

Vote/Consensus	Second	Vote	Outcome
Pat Garrett moved that the Police Policy Committee adopts the staff report, with the inclusion of the dash cam video, as the record upon which its recommendations are based.	Mark Rauch	11 ayes; 0 nays; 2 abstentions (Hampton, Heider)	Motion passes.
Craig Halupowski moved to overturn the staff analysis identifying a violation of the Board's moral fitness standard	Brad Robertson	8 ayes, 3 nays (Garrett, Davis, Lawrence); 2 abstentions (Hampton, Heider)	Motion passes.

Zach Kenny made a motion to recommend to the Board that no action be taken against Gardiner's certification due to no identified moral fitness violations.	Craig Halupowski	11 ayes; 0 nays; 2 abstentions (Hampton, Heider)	Motion passes.
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9. Nightingale, William DPSST # 46319: Basic, Intermediate and Advanced Police Certifications and Basic Telecommunicator and Emergency Medical Dispatcher Certifications- Woodburn Police Department

Presented by Kristen Hibberds

Issue: In December 2017, Nightingale separated from employment with the Woodburn Police Department. After reviewing the investigative materials, staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Dishonesty** when Nightingale attended an Independent Medical Examination and completed the Examinee Information Form stating he was not fishing, hunting or doing yard work and denied engaging in these activities during an internal investigation.
- Staff did not identify violations of **Disregard for the Rights of Others, Misuse of Authority or Gross Misconduct.**

Craig Halupowski abstained due to a conflict of interest.

William Nightingale presented verbal mitigation on his behalf.

Vote/Consensus	Second	Vote	Outcome
Mark Rauch moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based	Andy Heider	12 ayes; 0 nays 1 abstaining (Halupowski)	Motion passes.
<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case pursuant to OAR 259-008-0070(4)(f)(B):</p> <p>No mitigating circumstances were considered.</p> <p>The PPC found that the initial injury occurred on duty as additional mitigation. They also considered it mitigating that the doctor refused a recorded interview indicating there may have been other mistakes the doctor had made.</p> <p>The following aggravating circumstances were considered:</p>			

<ul style="list-style-type: none"> • The individual’s conduct occurred during their employment as a public safety professional; • The individual’s conduct occurred multiple times. <p>No additional aggravating circumstances were considered.</p>			
Travis Hampton moved, after considering the identified violations of the Board’s moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Nightingale’s Certification	Liz Lawrence	12 Ayes; 0 Nays; 1 Abstaining (Halupowski)	Motion passes
Mark Rauch made a motion that, after considering the totality of the case, that Nightingale be ineligible to hold public safety certification for three years.	Brad Robertson	4 ayes (Kenney, Rauch, Robertson, Teague); 8 nays; 1 abstention (Halupowski)	Motion fails
Travis Hampton made a motion that, after considering the totality of the case, that Nightingale be ineligible to hold public safety certification for five years.	Pat Garrett	9 ayes; 3 nays (Kenney, Rauch, Robertson); 1 abstention (Halupowski)	Motion passes

10. Miller, Douglas DPSST # 35588: Basic and Intermediate Police Certifications – Coos County Sheriff’s Office

Presented by Kristen Hibberds

Issue: In January 2018, Miller separated from employment with the Coos County Sheriff’s Office (CCSO). After reviewing the investigative materials, staff has identified violations of the Board’s minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Miller’s conduct compromised the safety and security of citizens and members of the CCSO. Miller was unprofessional in his interactions with citizens and was a poor example for a trainee involved. Miller’s conduct was detrimental to the operations of the CCSO and negatively reflected on the agency.

- **Disregard for the Rights of Others** when Miller used physical force to control a citizen's movements and force him back into his residence without probable cause violating the citizen's constitutional rights.

- Staff did not identify violations of **Dishonesty** or **Misuse of Authority**.

Craig Zanni abstained due to a conflict of interest.

Douglas Miller presented verbal mitigation.

Vote/Consensus	Second	Vote	Outcome
Pat Garrett moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based	Mark Rauch	12 ayes; 0 nays; 1 abstention (Zanni)	Motion passes
Chris Davis moved that the Committee find a violation of Gross Misconduct as stated by staff, but not Disregard for the Rights of Others.	Craig Halupowski	12 ayes; 0 nays; 1 abstention (Zanni)	Motion passes
<p>The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case pursuant to OAR 259-008-0070(4)(f)(B):</p> <p>No mitigating circumstances were considered.</p> <p>The PPC considered the amount of support for the community, his training record and the fact that he was thoroughly vetted through an employment process and was hired as a supervisor as additional mitigation.</p> <p>The following aggravating circumstances were considered:</p> <ul style="list-style-type: none"> • The individual's conduct occurred during their employment as a public safety professional; • The individual's conduct occurred while they were acting in an official capacity. <p>No additional aggravating circumstances were considered.</p>			
Craig Halupowski moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that no Board action	Zach Kenney	12 ayes; 0 nays; 1 abstention (Zanni)	Motion passes

should be taken against Miller's certification			
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11. Smith, Lee DPSST # 44709: Basic and Intermediate Police Certifications – Lincoln County Sheriff's Office

Presented by Kristen Hibberds

Issue: In January 2018, Smith separated from employment with the Lincoln County Sheriff's Office (LCSO). After reviewing the investigative materials, staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Dishonesty** when Lee was dishonest to his supervisor after receiving a driving complaint stating that he was running a license plate on his MDC. Lee engaged in dishonesty again when he told his supervisor that he was not texting and driving when he was. Additionally, Lee was dishonest during his investigative interview when he stated that when he was questioned by his supervisor about the complaint he didn't know the exact time or location of the incident.
- **Gross Misconduct** when Lee spent an excessive amount of time outside his patrol district over a period of months for personal reasons impacting his response time for calls for service and his ability to conduct proactive law enforcement in his patrol district. Lee's conduct created a risk to the efficient operations of the LCSO.
- Staff did not identify violations of **Disregard for the Rights of Others** or **Misuse of Authority**.

Vote/Consensus	Second	Vote	Outcome
Liz Lawrence moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based	Craig Zanni	13 ayes; 0 nays	Motion passes unanimously.
Mark Rauch moved to affirm the staff analysis identifying violations of the Board's moral fitness standard.	Craig Halupowski	13 ayes; 0 nays	Motion passes unanimously.
The Police Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case pursuant to OAR 259-008-0070(4)(f)(B): No mitigating circumstances were considered.			

The following **aggravating** circumstances were considered:

- The individual’s conduct occurred during their employment as a public safety professional;
- The individual’s conduct occurred while they were acting in an official capacity;
- The individual’s conduct occurred multiple times.

No additional aggravating circumstances were considered.

Liz Lawrence moved, after considering the identified violations of the Board’s moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Smith’s certification	Mark Rauch	13 ayes; 0 nays	Motion passes unanimously.
Liz Lawrence made a motion that after considering the totality of the case to recommend to the Board that Smith be ineligible to hold public safety certification for lifetime	Pat Garrett	13 ayes; 0 nays	Motion passes unanimously.

12. Jones, Stephen DPSST # 23649: Basic Police Certifications – Portland Police Bureau
Presented by Kristen Hibberds

Case tabled by staff pending the collection of additional information.

13. Department Update

Linsay Hale reported:

- DPSST has recently formed a Workgroup to review the role of DPSST/BPSST in preemployment background investigations. This multi-disciplined workgroup is expected to have its initial meeting soon.
- Linsay welcomed Wendy Nunez as the newly hired Criminal Justice Office Specialist. Wendy will be assisting with meeting coordination and minute taking moving forward. Linsay also congratulated and welcome Jordan James-Largent into her new role in the Professional Standards unit.
- The update to the A/V equipment in the Board room is expected to begin shortly. This equipment will allow for internet streaming of all Board/Policy Committee meetings, increasing transparency and room security.

- With the approval of the PPC to proceed with the update to the CJ Moral Fitness rules, staff will begin conducting outreach to ensure all interested parties, including members of the public, have an opportunity to comment prior to any final filing. Staff will be scheduling rule hearings throughout the state.

Eriks Gabliks reported:

- Officer DaNeshia Barkley of the Beaverton Police Department was welcomed as a new member of the Board and Police Policy Committee taking the place of Tigard Police Detective Jeff Herring who recently retired.
- DPSST presented its 2019-2021 budget to the Public Safety Sub-Committee Ways & Means in January. DPSST now awaits the initial budget presentations of our partner public safety agencies to be completed. The main discussion points between the Legislative Fiscal Office and DPSST staff have been regarding the number of Basic Police classes needed to address the retirement wave and the positions needed for HB 2355 (racial profiling) program.
- On the policy front, the 2019 legislative session continues at full speed. More than 3,000 bills have been introduced and DPSST is actively monitoring legislation, providing factual information to legislators and stakeholders, participating in public safety legislative forums, and completing fiscal impacts on proposed legislation. Bills of interest to DPSST includes campus public safety legislation (Kaylee's Law), disarming university police officers at the University of Oregon and Portland State University, law enforcement officer wellness, law enforcement officer pre-employment psych evaluations, and regulatory streamlining initiatives.
- The enrollments for Academy classes continue to be monitored on an on-going basis. The June class was slated to not run as many agencies around the state delay hiring until budget are approved at the local level. This was communicated with agencies and well received. The may Basic Police class started with 38 officers and the July Basic Police class is full with enrollments now going into the August class. Not running the June class will allow staff to implement the Phase 2 changes to the 16-week Basic Police class.
- The Oregon Fallen Officer Memorial was held on May 7 at 1:00 pm at the Academy. The names of four fallen officers, approved by the Board, were honored during this year's ceremony. Ashland Police Officer Malcus Williams, Bend Police Sgt. John Lawrence, and two Multnomah County Sheriff's Deputies, Deputy Robert Ray "Bobby" Anderson and Deputy Sheriff Irving Burkett, who were seriously injured in the line of duty and retired as a result of their injuries. Both of these are being added under the historic recognition program which allows fallen officers from previous years to be honored on the memorial after careful review and approval. Governor Brown attended the event and former State Representative Andy Olson was the keynote speaker.
- DPSST will begin an overview and update on the Supervision and Management classes over the next few months. Committee members and stakeholders (police, corrections, 9-1-1, parole and probation, OLCC) from around the state will be invited to assist. Interested parties should contact Leadership Program Training Coordinator Terry Moss at DPSST.

- DPSST is working to continue the Phase III work group that will review the final four weeks of the 16-week Basic Police Course and recommend changes. The interest from across the state for the Basic Police Curriculum Work Groups has been well received.

Next Police Policy Committee Meeting August 15, 2019

Administrative Notes:

- *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.*