

Police Policy Committee Minutes February 19, 2015

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Thursday, February 19, 2015, 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 10:03 a.m.

Attendees:

Committee Members:

Kent Barker, Chair, Oregon Association Chiefs of Police
Brian Wolfe, Oregon State Sheriff's Association
John Bishop, Oregon State Sheriff's Association
Michael Crebs, Portland Police Bureau, Asst. Chief (Designee for Chief Mike Reese)
Richard Evans, Oregon State Police Superintendent
Larry Blanton, Oregon State Sheriff's Association (by phone)
Kristine Allison, Oregon Association of Chiefs of Police (by phone)
Murray Rau, Non-Management Law Enforcement
Mike Wells, Non-management Law Enforcement
Mathew Workman, Oregon Association Chiefs of Police (by phone)
Gary Bretzing, Federal Bureau of Investigation

Committee Members Absent:

Glen Scruggs, Non-Management Law Enforcement
Joel Lujan, OSP Command Staff Representative
Jeffrey Staples, Non-Management Law Enforcement
Scott Dillon, Non-Management Law Enforcement

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Linsay Hale, Professional Standards Division Director
Mona Riesterer, Professional Standards Assistant
Leon Colas, Professional Standards Coordinator/Investigator
Kristen Hibberds, Professional Standards Coordinator/Investigator

Guests:

Marco Espinoza
Betsy Simpson



1. *Minutes of November 20, 2014 Meeting

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

Correction for November 20, 2014 Minutes – Kent Barker was present
To see a complete record of the November 20, 2014 Police Policy Committee minutes, please go to:

<http://www.oregon.gov/dpsst/BD/pages/policepolicycommitteemeetingminutes.aspx>

John Bishop moved that the committee approve the minutes of the November 20, 2014 Police Policy Committee meeting. Richard Evans seconded the motion. The motion carried unanimously.

2. *Matthew Tiller, DPSST #53939 (Possible Executive Session)

Medical Waiver Presented by Linsay Hale

On January 12, 2015, DPSST received a letter from Union County Sheriff's office requesting a waiver of the visual acuity and depth perception. The case brought before the committee is to determine whether or not to recommend approval of the waiver.

Matthew Workman moved that the Police Policy Committee recommend approval of the waiver based on the background presented to the committee. Richard Evans seconded the motion. The motion carried unanimously.

Rich Evans requested staff review the medical waiver process to determine if there is a more streamlined process available.

3. *OAR 259-008-0000, 259-008-0005, 259-008-0010, 259-008-0025, 259-008-0035, 259-008-0040, 259-008-0060, 259-008-0100, 259-008-0250 – Certification of Oregon Liquor Enforcement Inspectors

Proposed Rule Change Presented by Sharon Huck

This proposed rule change adds liquor enforcement inspectors to DPSST's definition of law enforcement officer. As such, except for the exclusions provided in statute, liquor enforcement inspectors will be required to meet DPSST'S minimum standards for employment for law enforcement officers, including medical standards, moral fitness and education, prior to being granted entry into a basic training class or certification.

John Bishop moved to approve filing the proposed language with the Secretary of State as a proposed rule and permanent rule if no comments are received as presented. Murray Rau seconded the motion. The motion carried unanimously.

By consensus it was determined by the committee that there is no significant fiscal impact on small businesses.

4. ***Nathan Lay, Baker County Sheriff's Office, DPSST #40666**

Presented by Leon Colas

Determine whether to recommend to the Board the revocation of Lay's Basic Police certifications based on discretionary disqualifying conduct.

Richard Evan's moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Michael Crebs seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Nathan Lay's behavior did involve **Insubordination** when Lay failed to properly follow procedures which included falsely logging time.

Richard Evans moved that the Police Policy Committee find that Nathan Lay's **Insubordination** does rise to the level to warrant revocation when considered alone based. Brian Wolfe seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified Nathan Lay's behavior did involve **Misconduct** as defined in Administrative Rule when Nathan Lay falsified information stating he was somewhere when he wasn't which creates a danger risk to the citizens.

Richard Evans moved that the Police Policy Committee find that Nathan Lay's **Misconduct** does rise to the level to warrant revocation when considered alone. John Bishop seconded the motion. The motion carried unanimously

By discussion and consensus, the committee determined that Nathan Lay's behavior did involve **Gross Misconduct** as defined in Administrative Rule when Lay falsified information.

John Bishop moved that the Police Policy Committee find that Nathan Lay's **Gross Misconduct** does rise to the level to warrant revocation when considered alone. Michael Crebs seconded the motion. The motion carried unanimously

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

By discussion and consensus, the committee determined that Nathan Lay's behavior did not involve **Disregard for the Rights of Others**.

By discussion and consensus, the committee identified Nathan Lay's behavior did involve **Dishonesty** as defined in Administrative Rule based on falsely documenting patrol log and also dishonesty during the internal investigation.

Mike Wells moved that the Police Policy Committee find that Nathan Lay's **Dishonesty** does rise to the level to warrant revocation when considered alone. Brian Wolfe seconded the motion. The motion carried unanimously

By discussion and consensus, the committee identified the following **Aggravating Circumstances**: Lay's failure to take responsibility for what he had done.

By discussion and consensus, the committee identified no **Mitigating Circumstances**.

After considering the totality of the circumstances, Michael Crebs moved that the Committee recommends to the Board that Nathan Lay's certifications be revoked. Richard Evans seconded the motion. The motion carried unanimously

Richard Evans moved that the Committee recommends to the Board that Nathan Lay's **Insubordination** warrants an ineligibility period to reapply for certification of seven years. John Bishop seconded the motion. The motion carried unanimously.

Michael Crebs moved that the Committee recommends to the Board that Nathan Lay's **Misconduct** warrants an ineligibility period to reapply for certification of seven years. Brian Wolfe seconded the motion. The motion carried unanimously.

Brian Wolfe moved that the Committee recommends to the Board that Nathan Lay's **Gross Misconduct** warrants an ineligibility period to reapply for certification of ten years. Richard Evans seconded the motion. The motion carried unanimously.

Michael Wells moved that the Committee recommends to the Board that Nathan Lay's **Dishonesty** warrants an ineligibility period to reapply for certification of a lifetime. Michael Crebs seconded the motion. The motion carried unanimously.

5. ***Marco Espinoza, Springfield Police Department, DPSST #49339**

Determine whether to recommend to the Board the revocation of Espinoza's Basic Police Certifications based on discretionary disqualifying conduct.

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

By discussion and consensus, the committee determined that Marco Espinoza behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Marco Espinoza's behavior did involve **Misconduct** as defined in Administrative Rule based on the arrest and conviction of Disorderly Conduct in the Second Degree.

Mike Wells moved that the Police Policy Committee find that Marco Espinoza's **Misconduct** does rise to the level to warrant revocation when considered alone. Larry Blanton seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Marco Espinoza's behavior did involve **Gross Misconduct** based the arrest for DUII, Interfering with a Police Officer and Resisting Arrest and ultimate conviction for Disorderly Conduct in the Second Degree.

Michael Crebs moved that the Police Policy Committee find that Marco Espinoza's **Gross Misconduct** 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 determined that Marco Espinoza's behavior did not involve **Misuse of Authority**.

By discussion and consensus, the committee determined that Marco Espinoza's behavior did not involve **Disregard for the Rights of Others**.

By discussion and consensus, the committee identified Marco Espinoza's behavior did involve **Dishonesty** as defined in Administrative Rule when Espinoza unintentionally lied to the responding officers.

Matthew Workman moved that the Police Policy Committee find that Marco Espinoza's **Dishonesty** does not rise to the level to warrant revocation when considered alone. Murray Rau seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following **Aggravating Circumstances**: Espinoza's treatment of the officers at the scene, putting the officers in a situation where they had to call for back up.

By discussion and consensus, the committee identified the following **Mitigating Circumstances**: Espinoza sought treatment within a couple days without being told to do so, several letters of support from coworkers and Mr. Espinoza's sincerity in his apology letter.

After considering the totality of the circumstances, Richard Evans moved that the Committee recommends to the Board that Marco Espinoza's certifications not be revoked. Matthew Workman seconded the motion. The motion carried unanimously

Larry Blanton left the meeting at 11:15 a.m.

6. ***Waymon Hubbard, Salem Police Department, DPSST #43391**

Determine whether to recommend to the Board the revocation of Hubbard's Basic, Intermediate and Advanced Police certifications based on discretionary disqualifying conduct.

Murray Rau moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Michael Crebs seconded the motion. The motion carried unanimously

By discussion and consensus, the committee determined that Waymon Hubbard's behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Waymon Hubbard's behavior did involve **Misconduct** as defined in Administrative Rule when Mr. Hubbard's behavior continued to include harassment and that the Judge's order of no contact was not followed.

Matthew Workam moved that the Police Policy Committee find that Waymon Hubbard's **Misconduct** does rise to the level to warrant revocation when considered alone. Murray Rau seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Waymon Hubbard's behavior did involve **Gross Misconduct** as defined in Administrative Rule due to Mr. Hubbard's disregard for the no contact court order.

John Bishop moved that the Police Policy Committee find that Wayman Hubbard's **Gross Misconduct** does rise to the level to warrant revocation when considered alone. Kristine Allison seconded the motion. The motion carried unanimously

By discussion and consensus, the committee determined that Waymon Hubbard's behavior did not involve **Misuse of Authority**.

By discussion and consensus, the committee determined that Waymon Hubbard's behavior did involve **Disregard for the Rights of Others** as defined in Administrative Rule because the no contact order was not followed, it could potentially cause emotion and physical distress to that specific individual.

John Bishop moved that the Police Policy Committee find that Wayman Hubbard's **Disregard for the Rights of Others** 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 Waymon Hubbard's behavior did not involve **Dishonesty** as defined in Administrative Rule.

By discussion and consensus, the committee identified the following Aggravating **Circumstances**: Violation of the court order.

By discussion and consensus, the committee identified no **Mitigating Circumstances**:

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

John Bishop moved that the Committee recommends to the Board that Waymon Hubbard's **Misconduct** warrants an ineligibility period to reapply for certification of five years. Richard Evans seconded the motion. The motion carried unanimously

John Bishop moved that the Committee recommends to the Board that Waymon Hubbard's **Gross Misconduct** warrants an ineligibility period to reapply for certification of five years. Richard Evans seconded the motion. The motion carried unanimously

John Bishop moved that the Committee recommends to the Board that Waymon Hubbard's **Disregard for the Rights of Others** warrants an ineligibility period to reapply for certification of five years. Richard Evans seconded the motion. The motion carried unanimously

7. ***Lawrence Schmaltz, Salem Police Department, DPSST #15389**

Determine whether to recommend to the Board the revocation of Schmaltz's Basic, Intermediate and Advanced Police certifications based on discretionary disqualifying conduct.

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

By discussion and consensus, the committee determined that Lawrence Schmaltz's behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Lawrence Schmaltz's behavior did involve **Misconduct** as defined in Administrative Rule when Schmaltz was convicted of Telephonic Harassment.

Richard Evans moved that the Police Policy Committee find that Lawrence Schmaltz's **Misconduct** does rise to the level to warrant revocation when considered alone. Mike Wells seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Lawrence Schmaltz's behavior did not involve **Gross Misconduct**.

By discussion and consensus, the committee determined that Lawrence Schmaltz's behavior did not involve **Misuse of Authority**.

By discussion and consensus, the committee determined that Lawrence Schmaltz's behavior did involve **Disregard for the Rights of Others** due continually harassment of the victims.

Michael Crebs moved that the Police Policy Committee find that Lawrence Schmaltz's **Disregard of the Rights of Others** does rise to the level to warrant revocation when considered alone. John Bishop seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified Lawrence Schmaltz's behavior did not involve **Dishonesty** as defined in Administrative Rule.

By discussion and consensus, the committee identified the following **Aggravating Circumstances** that the situation continued after repeated interventions for law enforcement and former co-workers.

By discussion and consensus, the committee identified the following **Mitigating Circumstances** that include Lawrence Schmatlz's 28 years of service to the community.

After considering the totality of the circumstances, Michael Wells moved that the Committee recommends to the Board that Lawrence Schmaltz's certifications be revoked. Michael Crebs seconded the motion. The motion carried unanimously.

Michael Crebs moved that the Committee recommends to the Board that Lawrence Schmaltz's **Misconduct** warrants an ineligibility period to reapply for certification of five years. Mike Wells seconded the motion. The motion carried unanimously.

Michael Crebs moved that the Committee recommends to the Board that Lawrence Schmaltz's **Disregard for the Rights of Others** warrants an ineligibility period to reapply for certification of five years. Mike Wells seconded the motion. The motion carried unanimously

8. Staff Updates

Linsay Hale welcomed Mona Riesterer as the coordinator for the committee.

Linsay reported that DPSST is in the final stages of the Police Jobs Analysis process and thanked everyone for being part of that.

The current medical standards required as a condition of pre-employment have been looked at by a medical expert and recommendations were made to update some of the standards. DPSST is exploring procedural updates regarding the reporting of medical information as well.

Todd Anderson reported that in both the Parole and Probation and the basics corrections local the need for classes has been going up. A basic corrections local class was added in December to meet the high demand A BCL course will start on the 15th of this month. We have a new Oregon State Pre- Academy and it is currently the largest it has ever been. The next available Basic Police class is June and there are 10 openings.

Eriks Gabliks reported on the legislative side we are hosting House Senate Judiciary as well as Public Safety Ways of Means – which is an opportunity to make awareness of what is happening and what is working. We are actively involved on the discussion of Measure 91 and what the impact will be to DPSST and to our training mission. We saw Bill 2654 drop that states applicants that coming into law enforcement profession have an Associates Degree. Senate Bill 343 (Tribal Law Enforcement Bill) did have a hearing and will be moving forward. Portland State University has approved through their board of trustees to form a police department. This will be transitioned over time. We had a rule change earlier and the OLCC will be certified through DPSST as OLCC Inspectors and Agents. Liquor Enforcement Inspector training will be a four week program.

9. Next Police Policy Committee Meeting – May 21, 2015 at 10:00 a.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.*