

Police Policy Committee Minutes

August 15, 2019

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 15, 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
Brian Wolfe, Vice Chair, Oregon State Sheriff's Association
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
Craig Zanni, Oregon State Sheriff's Association (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:

Chris Davis, Portland Police Bureau (Designee for Chief Outlaw)
Zachary Kenney, Non-Management Law Enforcement
Kristine Allison, Oregon Association of Chiefs of Police

Guests:

Wes Darling
Ron Wommack
Ryan Schmierbach
Logan Martin
Gregg Lewis

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
Mona Riesterer, Exec. Assistant for Training and Professional Standards

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1. Introduction

Introductions of members, guest and staff were presented.

2. Minutes of May 16, 2019 Meeting

Craig Halupowski moved that the committee approve the minutes of the May 16, 2019 Police Policy Committee meeting. Mark Rauch seconded the motion. The motion carried unanimously.

3. Proposed Rule Changes for OAR 259-008-0010: Establishing Pre-Employment Psychological Screening Standards for Compliance with SB 423

Presented by Jennifer Howald

Senate Bill 423 becomes effective on January 1, 2020. This new law prohibits the employment of a person as a police officer or reserve officer unless a pre-employment psychological screening has been completed. SB 423 directs the Board on Public Safety Standards and Training (Board) to adopt rules establishing standards for the qualifications and training necessary for the individual conducting the screening and the standards and procedures for conducting a screening.

In order to facilitate the development of standards for the Board to consider, staff researched the 2014 IACP Pre-employment Psychological Evaluation Guidelines and the standards adopted by other states. Based on the initial research, DPSST shared a first draft of potential rule language with the OACP and OSSA providing an opportunity for Chiefs and Sheriffs to submit preliminary feedback.

In recognition of the diversity of the agencies that are impacted by this law, staff presented draft rule language that seeks to strike a balance between the IACP guidelines, the comments received regarding the preliminary draft rule language, and Board standards. This language is permissive so that the employing agency maintains as much discretion as possible in the selection of the licensed mental health professional and the employing agency retains the final hiring authority.

Mark Rauch moved to recommend the Board adopt the changes as proposed and that the Board approve filing the proposed rule changes for OAR 259-008-0010 with the Secretary of State as a permanent rule if no comments are received. Brian Wolfe seconded the motion. The motion passed unanimously.

4. 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)
Westfall, Jason #33205 OSP	Basic	Separation – Performance deficiencies and insufficient evidence to prove dishonesty was knowingly	No
Jackson, Kenneth #44581 Junction City PD	Advanced	Separation – Resignation unrelated to any misconduct	No
Risteen, Marcus #58653 Keizer PD	None	Separation – Dishonesty with FTO during a traffic stop.	Yes
Gattis, Kristopher #51745 Florence PD	None	Separation – Failed to report child abuse.	Yes
Lyle, David #22960 Washington County SO	Advanced	Arrest – Harassment. No complaint filed by the district attorney.	No
Lemmon Nicholas #59580 Umatilla County SO	None	Conviction – Public Intoxication in Marion County, Iowa. Conviction occurred 5 years prior to employment and is the only conviction.	No
Vanderhoof, Zachary #58342 Linn County So	None	Conviction – Operation while intoxicated in Grand Traverse County, Michigan. Conviction occurred 7 years prior to employment and is the only conviction.	No
Osborne, Tobias #51406 Not Affiliated	Basic	Arrest – Harassment. No charges were filed.	No

Morris, James 29314 Portland Police Bureau	Supervisory	Arrest – Assault IV Domestic Violence. Case Dismissed	No
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Travis Hampton moved to approve the recommendations made by staff to administratively close the above listed cases. Craig Halupowski seconded the motion. The motion carried unanimously

5. Darling, Wesley DPSST # 59704: Application for Training & Subsequent Certification

Presented by Kristen Hibberds

In April 2019, Darling submitted an Application for Training and self-disclosed a criminal conviction.

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 Darling was convicted of Possession of Marijuana Less Than an Ounce.
- **Dishonesty** when Darling was dishonest when questioned by the interviewing officer regarding any marijuana in the vehicle.

Staff did not identify any violations of **Disregard for the Rights of Others** or **Misuse of Authority**.

Wesley Darling provided verbal mitigation.

Committee Vote/Consensus	Second	Vote	Outcome
Bradley Robertson moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Craig Halupowski	12 ayes; 0 nays	Motion passes unanimously
Consensus reached affirming the staff analysis identifying violations of the Board’s moral fitness standard.			
<p>Mitigating Factors:</p> <ul style="list-style-type: none"> • Conduct occurred before employment in public safety; • The date of the conviction and their age at the time; • The individual self-reported the criminal disposition; • The individual’s conduct did not occur multiple times; • The individual has complied with all their court ordered obligations. • Darling’s verbal statements to the committee. • The written mitigation that was submitted on Darling’s behalf. 			

<ul style="list-style-type: none"> • Darling’s lie to the officer was not considered as a reflection of his moral character • Darling’s current status with the Oregon National Guard and his service to our country <p>Aggravating Factors:</p> <ul style="list-style-type: none"> • The individual was found guilty of one Violation unclassified. • Darling’s subsequent Failure to Appear. 			
Bradley 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 should be taken against Darling’s certification.	Craig Halupowski	12 ayes; 0 nays	Motion passes unanimously.

6. Martin, Logan DPSST #60009 Application for Training and Subsequent Certification

Presented by Kristen Hibberds

In June 2019, Martin submitted an Application for Training and self-disclosed three criminal convictions.

Staff identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Martin was convicted of Recklessly Endangering Another Person, Criminal Mischief in the Second Degree, and for Intoxication of Liquors Prohibited in Certain Public Places.

Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others, or Misuse of Authority.**

Logan Martin provided verbal mitigation.

Committee Vote/Consensus	Second	Vote	Outcome
Andy Heider moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Mark Rauch	12 ayes; 0 nays	Motion passes unanimously
Consensus reached affirming the staff analysis identifying violations of the Board’s moral fitness standard.			

<p>Mitigating Factors:</p> <ul style="list-style-type: none"> • The individual has complied with all of their court ordered obligations; • Conduct occurred before employment in public safety; • The date of the conviction and their age at the time; • The individual self-reported the criminal dispositions. • Martin’s verbal statements to the committee • The written mitigation submitted by Martin’s Chief. <p>Aggravating Factors:</p> <ul style="list-style-type: none"> • The individual’s conduct occurred multiple times; • The individual has more than one criminal disposition; • The individual was sentenced to probation and restitution; • The individual was found guilty of two Class A Misdemeanors and one Petty Misdemeanor. 			
Mark Rauch 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 should be taken against Martin’s certification.	Craig Halupowski	11 ayes; 1 nays (Lawrence)	Motion passes

7. **Schmierbach, Ryan DPSST # 41342: Basic, Intermediate and Advanced Police Certifications**

Presented by Kristen Hibberds

On April 12, 2018, DPSST opened a case after receiving information that Schmierbach received a citation for a crime that was later dismissed as a Civil Compromise. Schmierbach subsequently resigned during an administrative investigation into his conduct.

Staff identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Schmierbach was cited for Hit and Run-Property while under the influence of intoxicants and when he violated his Return to Work Rehabilitation Agreement.
- Dishonesty when Schmierback knowingly left the scene of a crime after hitting another vehicle and when he concealed his vehicle in the garage of his home.

Staff did not identify violations of **Disregard for the Rights of Others** or **Misuse of Authority**.

Schmierbach provided verbal mitigation.

Committee Vote/Consensus	Second	Vote	Outcome
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<i>Craig Zanni recused himself due to a conflict of interest.</i>			
Craig Halupowski moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Travis Hampton	11 ayes; 0 nays; 1 recused (Zanni)	Motion passes.
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			
<p>Mitigating Factors:</p> <ul style="list-style-type: none"> • Schmierbach's verbal statements to the committee. <p>Aggravating Factors:</p> <ul style="list-style-type: none"> • The individual's conduct occurred during their employment as a public safety professional; • The individual's conduct surrounding alcohol abuse did occur multiple times. • Schmierbach's attempt to cheat the victim of his criminal behavior when he offered him \$27.00 • The steps Schmierbach took to avoid taking responsibility by concealing his actions 			
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 Schmierbach's certification.	Andy Heider	11 ayes; 0 nays; 1 recused (Zanni)	Motion passes .
Travis Hampton made a motion that, after considering the totality of the case, that Shmierbach be ineligible to hold public safety certification for life.	Liz Lawrence	11 ayes; 0 nays; 1 recused (Zanni)	Motion passes.

8. Lewis, Gregg DPSST #22515: Basic Police Certification

Presented by Kristen Hibberds

In February 2018, DPSST was notified that Lewis had been terminated from employment. DPSST's review was stayed pending an employment arbitration. Prior to the arbitration, a Settlement Agreement was reached.

Staff identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Lewis made disparaging comments against citizens of a protected class.

Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others** or **Misuse of Authority**.

Lewis provided verbal mitigation.

Committee Vote/Consensus	Second	Vote	Outcome
Mark Rauch moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based	Travis Hampton	12 ayes; 0 nays	Motion passes unanimously.
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			
<p>Mitigating Factors:</p> <ul style="list-style-type: none"> • Lewis' verbal statements to the committee • Lewis' overall service to the City and the community • Lewis' acceptance of responsibility. • The context of his statements were not indicative of a moral deficit. <p>Aggravating Factors:</p> <ul style="list-style-type: none"> • The individual's conduct occurred during their employment as a public safety professional. • Lewis' behavior occurred as a Sergeant while conducting roll call where other officers were present and required to be in attendance. 			
Bradley 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 should be taken against Lewis' Certification	Craig Halupowski	5 ayes; 7 nays; (Wolfe, Barrett, Hampton, Garrett, Heider, Lawrence, Zanni)	Motion fails.
After further discussion, Travis Hampton motioned that board actions should be taken against Lewis' certification.	DaNeshia Barrett	7 ayes; 5 nays (Teague, Cummins, Halupowski, Rauch, Robertson)	Motion passes.
Mark Rauch made a motion that, after considering the totality of the case, that Lewis be ineligible to hold public safety certification for three years.	Craig Halupowski	9 ayes; 3 nays (Garrett, Hampton, Lawrence)	Motion passes

9. Altabef, Daniel DPSST # 45330: Basic Police Certification

Presented by Kristen Hibberds

In February 2018, DPSST was notified that Altabef had been terminated from employment. DPSST's review was stayed pending an employment arbitration. On October 1, 2018, an Award was issued upholding Altabef's termination.

Staff identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Altabef engaged in unprofessional conduct during a traffic stop that resulted in the use of force on a disabled citizen.

Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others or Misuse of Authority.**

Committee Vote/Consensus	Second	Vote	Outcome
<i>John Teague and Craig Halupowski recused themselves due to a conflict of interest.</i>			
Mark Rauch moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based	Andy Heider	10 ayes; 0 nays; 2 recused (Teague, Halupowski)	Motion passes
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • No mitigating factor were considered. <p>Aggravating Factors</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. • Altabef's failure to change his behavior after receiving correction and counseling. 			
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 no Board action should be taken against Altabef's certification.	Bradley Robertson	6 ayes; 4 nays (Barrett, Lawrence, Rauch, Zanni); 2 recused (Teague, Halupowski)	Motion passes

10. Lackey, Issac DPSST # 39648: Basic, Intermediate and Advanced Police Certifications

Presented by Kristen Hibberds

DPSST received a Personnel Action from PPB indicating that Lackey had been terminated on May 1, 2018.

Staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Lackey retaliated against a co-worker by making a complaint alleging unethical conduct.

Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others** or **Misuse of Authority**.

Lackey provided verbal mitigation.

Committee Vote/Consensus	Second	Vote	Outcome
Travis Hampton moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based	DaNeisha Barrett	12 ayes; 0 nays	Motion passes unanimously.
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • No mitigating factors were considered. <p>Aggravating Factors</p> <ul style="list-style-type: none"> • The individual's conduct occurred during their employment as a public safety professional. 			
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 should be taken against Lackey's certification	Brian Wolfe	12 ayes; 0 nays	Motion passes unanimously.

11. Jones, Steven DPSST #23649 Basic Police Certification

Presented by Kristen Hibberds

DPSST opened a case after receiving information that Steven Jones received two citations that were later diverted and deferred. On May 3, 2019, Jones resigned from his employment with PPB during an investigation.

Staff identified violations of the Board’s minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Jones was convicted of Reckless Driving, when he drove a city vehicle to a call while under the influence of intoxicants, and when he was involved in a crash while driving a city vehicle under the influence of intoxicants.

Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others** or **Misuse of Authority**.

Committee Vote/Consensus	Second	Vote	Outcome
Bradley Robertson moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based	Craig Halupowski	12 ayes; 0 nays	Motion passes unanimously.
Consensus reached affirming the staff analysis identifying violations of the Board’s moral fitness standard.			
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • No mitigating factors were considered. <p>Aggravating Factors</p> <ul style="list-style-type: none"> • The individual’s conduct occurred during their employment as a public safety professional; • The individual’s conduct did result in a criminal disposition. 			
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 Jones’s certification	Mark Rauch	12 ayes; 0 nays	Motion passes unanimously.
Brian Wolfe made a motion that, after considering the totality of the case, that Lewis be ineligible to hold public safety certification for ten years.	Liz Lawrence	12 ayes; 0 nays	Motion passes unanimously.

12. Wommack, Ronald DPSST #38511 Basic, Intermediate and Advanced Police Certifications

Presented by Kristen Hibberds

On March 19, 2018, Wommack was separated from employment with the Tigard Police Department (TPD). On June 1, 2018, Wommack was convicted of DUII. On May 16, 2019, the PPC met and in a vote of 11 in favor and three opposed recommended the Board take NO ACTION against Wommack’s certifications after consideration of all of the facts and weighing the aggravating and mitigating circumstances unique to this case.

The Board requested that the PPC reconsider/discuss the facts of this case, specifically the fact that this is Womack’s 2nd DUII, his Breath Alcohol Content (BAC) was 0.19%, he was operating a motorcycle, and he was in possession of a firearm and is a veteran police officer.

Committee Vote/Consensus	Second	Vote	Outcome
Brian Wolfe moved, after considering the totality of the case, the Committee’s previous findings and the Board’s instructions, that Board action should be taken against Wommack’s certification	Mark Rauch	11 ayes; 1 nay (Robertson)	Motion passes.
John Teague made a motion, after considering the totality of the case, that Wommack be ineligible to hold public safety certification for a period of five years.	Pat Garrett	11 ayes; 1 nay; (Robertson)	Motion passes.

13. Nightingale, William DPSST #46319: Re-evaluate Ineligibility Period of Basic, Intermediate and Advanced Certification and Basic Telecommunicator and EMD Certification

Presented by Kristen Hibberds

In December 2017, Nightingale separated from employment with the Woodburn Police Department.

On May 16, 2019, the PPC reviewed this matter and made a recommendation to Revoke Nightingale's certification for 5 years based on the dishonesty.

Based on staff error in interpretation of the current OAR regarding ineligibility periods, the PPC will need to re-review their ineligibility recommendation based on their finding of Dishonesty, which carries with it a minimum ineligibility period of 10 years and maximum of lifetime.

Craig Halupowski abstained due to conflict of interest.

Committee Vote/Consensus	Second	Vote	Outcome
Pat Garrett made a motion, after considering the totality of the case, that Nightingale be ineligible to hold public safety certification for a period of ten years.	Mark Rauch	11 ayes; 1 nays (Robertson)	Motion passes.

14. Department Update

Linsay reported:

- The Criminal Justice Background Investigation Workgroup continues to meet to discuss DPSST’s role in background investigations. Discussion includes the possibility of developing a repository of applicant’s and the development of an applicant-specific standard and review process.
- The three OAR’s resulting from recommendations developed by the Criminal Justice Moral Fitness Workgroup each received comment: The expiration of criminal justice certifications; updates to the background investigation rule and the updates to the moral fitness standards. Each comment will be considered by the Workgroup next month and represented to the Policy Committees in November.
- The A/V equipment allowing the streaming of these meetings has been installed. DPSST staff is working through the technical bugs to ensure the meetings can be streamed moving forward.

Eriks Reported:

- Enrollment in Basic Police Courses remains steady. The bulk of the workload is in the Basic Police Course arena. Staff have met with the Oregon State Police, Portland Police Bureau, and Eugene Police Department over the last few weeks as all of these agencies anticipate a large wave of hiring in the upcoming months. If the current retirement and hiring numbers remain true, and DPSST has to begin a 16-week Basic Police Course every month, the organization will run out of classes by November of 2020. As a result DPSST is looking at requesting the four Basic Police classes that were reduced in the current budget be restored during the 2020 legislative session. The enrollment numbers for both Basic Corrections and Basic Parole and Probation remain steady but manageable within the current training calendar for 2019-2021.
- The conclusion of the 2019 legislative session resulted in a number of bills being introduced that will require DPSST’s attention. Several bills changed Oregon

Criminal Codes which will require that academy curriculum be updated as is done after each session. DPSST will also work on proposed Oregon Administrative Rule language for the pre-employment psych evaluation that will be required for all law enforcement officers. Depending on timing, staff may need to create a Temporary Rule while the Permanent Rule is adopted.

- DPSST is working on various legislative concepts for the 2021 session. A number of these are in the private security program area, another to clear-up confusing language in the Public Safety Memorial Fund statute, and the others to clarify language on DPSST certification.
- The sunset on the ability for the Oregon Department of Corrections to deliver its own training under DPSST's oversight is set to expire in 2023. While DPSST and DOC would both like to see entry level training for state corrections officers return to the Academy the infrastructure and volume of training being offered does not allow it. DPSST requested funds as part of its 2019 agency request budget to construct an additional wing for more dorms to address DOC's return which was not approved. DPSST will be working with DOC to ensure that an extension of the sunset be introduced during the 2021 session.
- DPSST's Center for Policing Excellence is actively working with staff and stakeholders on curriculum updates and changes. The Phase 2 changes to the Basic Police Course are being implemented and Phase 3 is still in work group. A complete review and update of the Basic Corrections Class is slated for 2020.
- DPSST staff is currently working with stakeholders to update the field training manuals for Basic Corrections and Basic Parole and Probation. This process should take about a year with completion targeted for early 2020.
- Terry Moss is working with a diverse stakeholder group to begin the review and update of both the two-week Supervision and Management classes. This group had its first meeting earlier this month and has a schedule of upcoming tasks and meetings.
- DPSST continues its partnership with the Oregon Department of Veterans Affairs (ODVA) which brings a benefits coordinator to campus one day a month during which time this person meets with students attending academy classes to discuss benefits they have earned and are entitled to. On average about 30-40% of the academy students have served in our nation's armed forces. DPSST emails the employee a brochure when being made aware of the hiring of a veteran which explains the training benefits available if the individual wants to use them.
- DPSST staff are working to support two statewide efforts in the wellness and safety arena. The first is the Police Chiefs and Sheriffs Association's Officer Wellness Task Force which is looking at statewide training and awareness opportunities for police, corrections, parole and probation, and 9-1-1 telecommunications. The second is a multi-discipline group working specifically on peer support. The peer support group is building a webpage that will capture information on agency programs, resources, clinicians, etc. this group is also working with Responder Life which is hosting the Northwest Peer Support conference in the Portland area after the first of the year.
- There have been changes on the Board due to legislative term limits. Board Chair Jason Myers completed his third year, of his second term, at the end of June.

Citizen-member Patricia Patrick-Joling was selected to serve as the new Board Chair and Sheriff Brian Wolfe as Vice Chair as of July 1, 2019. DPSST is working with the Oregon State Sheriff's Association on a replacement for Sheriff Myers who will need confirmation by both Governor Brown and the Senate.

15. Next Police Policy Committee Meeting November 21, 2019 at 10:00 am

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.