

Police Policy Committee Minutes

November 21, 2019

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 21, 2019, at the Oregon Public Safety Academy in Salem, Oregon. Chair, John Teague called the meeting to order at 10:00 am

Committee Members:

John Teague, Chair, Oregon Association Chiefs of Police
Brian Wolfe, Vice Chair, Oregon State Sheriff's Association
Liz Lawrence, Non-Management Law Enforcement
Travis Hampton, Superintendent, Oregon State Police
Andy Heider, Oregon State Police Command Staff Representative
Craig Zanni, Oregon State Sheriff's Association
Mark Rauch, Public Member
Laurence (Craig) Halupowski, Non-Management Law Enforcement
Dale Cummins, Oregon Association Chiefs of Police (Phone)
Loren "Renn" Cannon, Federal Bureau of Investigation
Chris Davis, Portland Police Bureau (Designee for Chief Outlaw) (Phone)
Kristine Allison, Oregon Association of Chiefs' of Police (Phone)
Zachary Kenney, Non-Management Law Enforcement
Mark Garton, Oregon State Sherriff's Association

Committee Members Absent:

Bradley Robertson, Non-Management Law Enforcement
DaNeisha Barret, Non-Management Law Enforcement

Guests:

William Lupton
Nathan Thomas
Mathew Ellis
Zachariah Gibson
James Candiff

DPSST Staff:

Eriks Gabliks, Director
Linsay Hale, Professional Standards /Interim Training Division Director
Wendy Nunez, Criminal Justice Office Specialist
Kristen Hibberds, Professional Standards Coordinator/Investigator
Jennifer Howald, Administrative Rules Coordinator
Marsha Morin, Criminal Justice Certification Program Manager
Jordan James-Largent, Professional Standards Coordinator/Investigator



1. Introductions

Introductions of members, guest and staff were presented.

2. Approve August 15, 2019 Meeting Minutes

Brian Wolfe moved to approve the minutes from the 8/15/2019, Police Policy Committee meeting. Liz Lawrence seconded the motion. The motion carried unanimously

3. Administrative Closures – Police

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)
Anderson, Jacob DPSST #58704	None	Separation – Repeatedly falling asleep on duty.	Yes
Arrellin-Lara, Emanuel DPSST #59473	None	Separation – Dishonest to Field Training Officer and Sergeant.	Yes
Barrington, Matthew DPSST #48314	Intermediate	Separation – Employment reinstated prior to arbitration.	No
Botz, Kiana DPSST #59318	None	Separation – Untruthful during application process.	Yes
Cirilo, Michael DPSST #59703	None	Separation – Misrepresented information surrounding an on-duty injury.	Yes
Dewey, James DPSST #53532	Basic	Separation – Investigation unrelated to allegation of misconduct.	No
Fisher, Jessica DPSST #59842	None	Separation – Dishonesty during background investigation.	Yes
Hartle, Joshua DPSST #57834	None	Separation – Dishonest during background investigation and internal affairs investigation.	Yes
Kent, Santiago DPSST #31181	Advanced	Separation – Related to on-duty injury. Concerns were raised regarding Kent’s truthfulness surrounding	No

		allegations of discrimination. No sustained misconduct.	
Oelrich, Bryanna DPSST #56728	Basic	Separation – Related to allegations of steroid possession and use.	No
Reetz, Tosha DPSST #58323	None	Separation – Conduct surrounding unlawful conduct and unprofessionalism.	Yes
Solorio, Jairo DPSST #60121	None	Conviction – Driving Under the Influence in California. Conviction occurred 7 years prior to employment and is the only conviction.	No

Travis Hampton moved to approve the recommendations made by staff to administratively close the above listed cases. Craig Zanni seconded the motion. The motion passed unanimously.

4. Lupton, William #41371; Basic, Intermediate and Advanced Police Certifications – Jacksonville Police Department

Presented by Kristen Hibberds

In April 2019, DPSST was notified that Lupton was cited for a violation and subsequently convicted.

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

- **Gross Misconduct** when Lupton was convicted of Taking, Angling, Hunting or Trapping in Violation of Wildlife law or rule on August 13, 2019.
- **Dishonesty** when Lupton knowingly engaged in dishonesty by omission when he failed to notify law enforcement when he learned that his juvenile son illegally harvested a turkey on April 3, 2019.

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

William Lupton presented 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.	Mark Rauch	13 ayes; 0 nays;	Motion Passes Unanimously.
Craig Halupowski moved that, when considering only what is contained in the staff report, Lupton did not violate the Board's Moral Fitness Standard and the case be administratively closed.	Zachary Kenney	2 ayes (Halupowski, Kenney); 11 nays;	Motion Fails
Craig Zanni moved that, when considering only what is contained in the staff report, Thomas did violate the Board's Moral Fitness Standard, specifically violating Gross Misconduct as identified by staff.	Andy Heider	13 ayes; 0 nays;	Motion Passes Unanimously
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • The individual did self-report the criminal disposition. • Conduct did not occur while acting in an official capacity. • The individual has complied with all of their court ordered obligations. • The individual only has one criminal disposition in his record. • He did have a bear tag, showing he does follow wildlife laws and rules. • He did not remove the posting from social media, indicating he was not attempting to hide the violation. • Lupton's truthfulness after the interview with OSP. <p>Aggravating Factors</p> <ul style="list-style-type: none"> • Conduct occurred during employment in public safety. • The individual was found guilty of one criminal disposition. • The recentness of the conviction. 			
Craig Zanni 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 Lupton's certifications.	Andy Heider	13 ayes; 0 nays;	Motion Passes Unanimously

5. Thomas, Nathan #53344; Basic and Intermediate Police Certifications – Roseburg Police Department

Presented by Kristen Hibberds

In June 2018, DPSST received a Personnel Action from Roseburg Police Department (RPD) indicating that Thomas had resigned from employment.

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

- **Gross Misconduct** when Thomas engaged conduct that recklessly disregarded the law when he was in possession of a Schedule III controlled substance. Thomas’ admitted possession of a controlled substance threatened the efficient operations of the RPD

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

Nathan Thomas presented verbal mitigation.

Committee Vote/Consensus	Second	Vote	Outcome
Brian Wolfe moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Craig Zanni	13 ayes; 0 nays;	Motion Passes Unanimously
Travis Hampton moved that, when considering only what is contained in the staff report, Thomas did violate the Board’s Moral Fitness Standard, specifically Gross Misconduct as identified by staff.	Brian Wolfe	13 ayes; 0 nays;	Motion Passes Unanimously
Mitigating Factors <ul style="list-style-type: none"> • Staff found no mitigating circumstances. Aggravating Factors <ul style="list-style-type: none"> • The individual’s conduct occurred during their employment as a public safety professional. 			
Craig Haulpowski 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 Thomas’ certifications	John Teague	4 ayes (Haulpowski, Teague, Cummins, Kenney); 9 nays;	Motion Fails
Travis Hampton moved, after considering the identified violations	Liz Lawrence	9 ayes;	Motion Passes

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 Thomas' certifications		4 naves (Halupowski, Teague, Cummins, Kenney);	
Travis Hampton made a motion, after considering the totality of the case, that Thomas be ineligible to hold public safety certification for 5 years.	Andy Heider	13 ayes; 0 nays;	Motion Passes Unanimously

6. Gibson, Zachariah #48800; Basic and Intermediate Police Certifications – Clatskanie Police Department

Presented by Kristen Hibberds

In March 2016, DPSST received a Personnel Action from Clatskanie Police Department indicating that Gibson had been terminated.

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

- **Dishonesty** when Gibson engaged in dishonesty during an investigation into his inappropriate comments/actions involving a female employee of the Fire Department.

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

Zachariah Gibson presented 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.	Craig Zanni	13 ayes; 0 nays;	Motion Passes Unanimously
Liz Lawrence moved that, when considering only what is contained in the staff report, Gibson violated the Board's Moral Fitness Standard, specifically Dishonesty as identified by staff and Gross Misconduct when he damaged the reputation of his agency by repeated engaging in egregious	Craig Halupowski	13 ayes; 0 naves;	Motion Passes Unanimously

behavior affecting the efficient operations.			
Mitigating Factors <ul style="list-style-type: none"> • Staff found no mitigating circumstances. Aggravating Factors <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. • The individual’s conduct occurred while working in an official capacity. • Gibson’s position of authority. • The vulnerability of the victim. 			
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 Board action should be taken against Gibson’s certifications.	Craig Halupowski	13 ayes; 0 nays;	Motion Passes Unanimously
Craig Halupowski made a motion, after considering the totality of the case, that Gibson be ineligible to hold public safety certification for life.	Travis Hampton	13 ayes; 0 nays;	Motion Passes Unanimously

7. Candiff, James #51133; Basic and Intermediate Police Certifications – Scappoose Police Department

Presented by Kristen Hibberds

In October 2018, DPSST received a Personnel Action from Scappoose Police Department indicating that Candiff had resigned during an investigation.

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

- **Dishonesty** when Candiff engaged in dishonesty when he knowingly engaged in untruthfulness and misrepresentation when he claimed to have admitted to his two sergeants that he was sending nude photos of himself in uniform.
- **Gross Misconduct** when Candiff threatened the efficient operations of the of the agency when he engaged in sexually oriented behavior while on duty and in uniform that distracted him from performing proactive police work as well as taking inappropriate pictures of himself in uniform.

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

James Candiff presented verbal mitigation

Committee Vote/Consensus	Second	Vote	Outcome
Craig Zanni moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Craig Halupowski	13 ayes; 0 nays;	Motion Passes Unanimously
Craig Halupowski moved that, when considering only what is contained in the staff report, Candiff violated the Board's Moral Fitness Standard, specifically Dishonesty and Gross Misconduct as identified by staff.	Liz Lawrence	13 ayes; 0 nays;	Motion Passes Unanimously
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • The culture of the agency. <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; • The individual's conduct occurred multiple times • Candiff's verbal mitigation blaming others and not taking responsibility. • Letter from Candiff's attorney implying Candiff is allowed to engage in this conduct while on breaks and that lower call volumes would be a reason to engage in this conduct. • Candiff's thought of turning civil dispute into a criminal issue. 			
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 Board action should be taken against Candiff's certifications	Liz Lawrence	13 ayes; 0 nays;	Motion Passes Unanimously
Liz Lawrence made a motion, after considering the totality of the case, that Candiff be ineligible to hold public safety certification for life.	Travis Hampton	13 ayes; 0 nays;	Motion Passes Unanimously

8. Evans, Timmy #29606; Basic, Intermediate and Advanced Police Certifications – Portland Police Bureau

Presented by Kristen Hibberds

In May 2018, DPSST received a Personnel Action from the Portland Police Bureau indicating that Evans had been terminated from employment.

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

- **Gross Misconduct** when Evans violated his Non-Disclosure Agreement with the PPB when he provided an applicant copies of her confidential background paperwork. Evans also provided an applicant with confidential interview answers to aid her in passing the oral interviewing portion of PPB’s hiring process and provided an out of state hotel room for an applicant to help pass the testing to become a Portland Police Officer.

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

Mathew Ellis presented verbal testimony on behalf of Timmy Evans.

Committee Vote/Consensus	Second	Vote	Outcome
Zachary Kenney and Chris Davis recused due to a conflict of interest.			
Craig Halupowski moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Mark Rauch	11 ayes; 0 nays; 2 abstained (Kenney, Davis)	Motion Passes
Mark Rauch moved that, when considering only what is contained in the staff report, Evans violated the Board’s Moral Fitness Standards specifically Gross Misconduct as identified by staff.	Craig Zanni	11 ayes; 0 nays 2 abstained (Kenney, Davis)	Motion Passes
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • The amount of support Evans has received • Evans being under a lot of pressure to ensure diversity when recruiting. • The number of commendations Evans has received in his career. <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; • The individual’s conduct occurred multiple times. • Evans was disciplined for similar behavior in 2015 			

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 Board action should be taken against Evan's certifications.	Craig Zanni	2 ayes (Cummins, Rauch); 8 nays 2 abstained (Kenney, Davis) (Heider stepped out)	Motion Fails
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 Evan's certifications.	Craig Zanni	8 ayes; 2 nays (Cummins, Rauch), 2 abstained (Kenney, Davis) (Heider stepped out)	Motion Passes

9. O'Malley, Patrick; Basic, Intermediate, Advanced and Supervisory Corrections Certification and Basic, Intermediate, Advanced and Supervisory Police Certifications – Lebanon Police Department

Presented by Kristen Hibberds

In April 2018, DPSST received a Personnel Action from Lebanon Police Department indicating that O'Malley had resigned in lieu of termination.

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

- **Dishonesty** O'Malley engaged in dishonesty when he knowingly:
 - made false statements regarding another officer's sexual orientation;
 - lied to an LPD officer he supervises regarding listening to a confidential recording;
 - misrepresented that the Chief of Police had directed him to talk to records staff about sexual harassment.
- **Gross Misconduct** when O'Malley threatened the efficient operation of the agency by:
 - intentionally making false sexual orientation remarks and gender bias comments about LPD officer to a citizen;
 - knowingly making false comments to LPD officers with intent to create a hostile work environment;
 - making offensive and sexually harassing comments to an LPD officer on two separate occasions regarding masturbation and his arousal during a medical procedure;
 - not reporting criminal conduct of a woman who propositioned him for sex in exchange for money.
 - engaging in unprofessional and inappropriate behavior with a city employee and the wife of a city employee.

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

Committee Vote/Consensus	Second	Vote	Outcome
Craig Zanni moved that the Police Policy Committee adopt the staff report as the record upon which its recommendations are based.	Mark Rauch	13 ayes; 0 nays;	Motion Passes Unanimously
Travis Hampton moved that, when considering only what is contained in the staff report, O'Malley violated the Board's Moral Fitness Standard, specifically Gross Misconduct as identified by staff.	Zach Kenney	13 ayes	Motion Passes Unanimously
<p>Mitigating Factors</p> <ul style="list-style-type: none"> • Staff found no mitigating circumstances. <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; • The individual's conduct occurred multiple times. 			
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 Board action should be taken against O'Malley's certifications	Mark Rauch	13 ayes; 0 nays;	Motion Passes Unanimously
Liz Lawrence made a motion, after considering the totality of the case, that O'Malley be ineligible to hold public safety certification for life.	Craig Halupowski	13 ayes; 0 nays;	Motion Passes Unanimously

10. Saulo, Caleb #59701; Appeal of Academy Dismissal – Warm Springs Police Department

Presented by Linsay Hale

Caleb Saulo is a police officer employed by the Warm Springs Police Department. On October 17, 2019, while enrolled in Basic Police Class #395 (BP395), Officer Saulo failed to report to class as scheduled. Upon further investigation, Saulo was found passed out in his vehicle which was parked on Academy grounds. Saulo admitted to possessing and consuming alcohol on campus to the point of passing out, oversleeping and failing to appear for class.

Saulo was found to be in violation of the Student Rules and Regulations and the Board's Standards of Student Conduct (found in OAR 259-012-0010) by possessing and consuming alcohol on campus,

and for failing to report to class. He was subsequently dismissed from the Academy for these violations.

Saulo appealed his dismissal to the Director in accordance with OAR 259-012-0035(12). After considering Saulo's conduct, the facts identified in the final investigation report and the mitigation provided by Mr. Saulo, the Director upheld the dismissal.

Warm Springs Police Chief Ron Gregory, employer of Mr. Saulo, is further appealing Saulo's dismissal to the Board, through the Police Policy Committee, in accordance with OAR 259-012-0025(9).

Zachary Kenney moved recommend the Board affirm the Academy dismissal of Caleb Saulo for violations of the rules and regulations that govern students enrolled in a course offered by Oregon's Public Safety Academy. Craig Zanni seconded the motion. The motion passes unanimously.

11. 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. On August 15, 2019, the Police Policy Committee (PPC) met and reviewed draft rule language prepared for the implementation of minimum standards for pre-employment psychological screenings for police and reserve officers. The PPC voted unanimously to recommend that the Board approve filing the proposed changes as prepared for OAR 259-008-0010 as a permanent rule change if no comments are received.

The proposed rule change was filed with the Secretary of State on August 26, 2019 for a public comment period through September 23, 2019. A Public comment was received and needs to be reviewed and considered prior to completing the permanent rule change process. DPSST presented the public comment to the policy committee.

Craig Halupowski moved to recommend that the Board not include standards for second-opinion evaluations as an appeal process. Brian Wolfe seconded the motion. The motion passes unanimously.

Staff presented an amended version of the proposed rule language that was previously reviewed and approved by the PPC on August 15, 2019. The amendments provide additional clarity regarding the intent of the rule and are unrelated to the public comment that was received.

Craig Zanni moved to recommend the board approve filing the amended proposed rule changes for OAR-259-008-0010 as a permanent rule. Craig Halupowski seconded the motion. The motion passes unanimously.

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

Presented by Jennifer Howald

In May, the Telecommunications (TPC), Corrections (CPC) and Police (PPC) Policy Committees reviewed the Criminal Justice Moral Fitness Workgroup recommendation 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 if the individual was the subject of any complaint filed with DPSST. The Moral Fitness Workgroup also recommended removing the requirement that the applicant's personal history statement be notarized, instead requiring an acknowledgment of "declaration under penalty of perjury.

All three Policy Committees unanimously approved the Moral Fitness Workgroup recommendation and DPSST filed the proposed rule changes for public comment opportunity. During the proposed rule public comment period, staff received comment regarding the deletion of the notary requirement.

Staff presented the comment to the Background Investigation Workgroup and The Criminal Justice Moral Fitness Workgroup, both ultimately recommended the proposed rule changes, including removing the notarization requirement, move forward as proposed.

Mark Rauch moved to recommend that the Board adopt the background investigation process changes recommended by the Moral Fitness Workgroup and approve filing the amended proposed rule changes for OAR-259-008-0015 as a permanent rule. Brian Wolfe seconded the motion. The motion passes unanimously.

13. Proposed Rule Changes for OAR 259-008-0010, 259-008-0011 and 259-008-0067: Establishing the Expiration of DPSST Safety Professional Certifications

Presented by Jennifer Howald

Under the current application of the statutes relating to lapse of public safety professional certifications, a lapsed certification is treated like an inactive certification that remains subject to revocation for violations of the moral fitness standards no matter how long the certifications have been lapsed.

The Workgroup recommended that public safety certifications should expire after five years of separation from a DPSST certifiable position. The Workgroup recognized that any person returning to the public safety profession, would be subject to a background investigation by a hiring agency, as well as a DPSST criminal history check conducted for certification purposes.

The Workgroup reaffirmed moving forward with the recommendation that all public safety certifications expire after five years of separation. The reapplication for certification will continue to be handled under the current rules and processes with the understanding that current and future workgroups tasked with

assessing minimum training standards will be asked to review the requirements for reapplying for certifications after they have lapsed or expired.

Consensus reached approving the fiscal impact statements provided by staff.

Liz Lawrence moved recommend that the Board adopt the proposed rule changes for OAR-259-008-0010, 259-008-0011 and 259-008-0067 as a permanent rule if no comments are received. Travis Hampton seconded the motion. The motion carried unanimously.

14. * Proposed rule Changes for OAR 259-008-0070: Criminal Justice Moral Fitness Workgroup Recommendations and Review of Comments

Presented by Jennifer Howald

When staff presented the Workgroup recommendations and proposed rule changes to the May Policy Committees, the PPC expressed concerns about the impacts of the mandatory minimum three year ineligibility period and the Board approval as the effective date of any ineligibility period. The PPC concerns identified potential outcomes that were more punitive than necessary in some cases and the inability to apply discretion to adjust for a lesser penalty. Staff acknowledged the PPC concerns and assured the PPC that the comments would be considered along with the comments received during public comment.

All three Policy Committees approved staff's recommendation to file the proposed rules for public comment. As a part of the outreach and opportunity for comment, the public comment period extended from May 29, 2019 through August 30, 2019 and included four administrative rule hearings.

Staff received one additional submission of public comment from the Oregon Coalition of Police and Sheriffs (ORCOPS). The concerns submitted by ORCOPS addressed the changes to the title and definition of Misconduct, the effective date of the ineligibility period, and how the mandatory disqualifier drug language may impact review of marijuana offenses.

The Criminal Justice Moral Fitness Workgroup met on September 5, 2019, to review the comments and the original recommendations. The resulting recommendations are outlined below.

1. Mandatory Denial or Revocation for Drug Related Convictions

OAR 259-008-0070 (1) defines the grounds for mandatory denial or revocation of public safety professional certifications and includes mandatory denial or revocation for "a conviction in any jurisdiction for any offense involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug." The concerns submitted by ORCOPS identified that the proposed rule language does not include the current rule language that provides exception for discretionary review of marijuana offenses.

The workgroup approved staff's recommendation to re-insert language that would maintain an exception to the mandatory denial/revocation for unlawful use/possession of controlled substances, directing marijuana offenses to the discretionary review process. While marijuana has been legalized in Oregon, the majority of other jurisdictions still consider use/possession to be unlawful. The

Workgroup reaffirmed that it is important to recognize that an individual is expected to follow the laws that apply to their jurisdiction and recommended these cases remain discretionary.

2. The Definition and Application of the Discretionary Moral Fitness Disqualifier -Misconduct

OAR 259-008-0070 (2) defines the grounds for discretionary denial or revocation of public safety professional certifications. When a public safety professional engages in conduct that requires a review for a moral fitness violation, DPSST staff and the Policy Committee are tasked with the review of the conduct to determine whether or not the conduct includes elements of Dishonesty, Misuse of Authority or Misconduct. Each of these moral fitness categories are defined within the rule. The Workgroup's initial recommendations included clarifying amendments to these three categories and elimination of the category Disregard for the Rights of Others.

Current Definition:

Gross Misconduct: Includes behavior that deliberately or recklessly disregards the law, threatens persons or property or the efficient operations of any agency.

Proposed Definition:

Misconduct. Misconduct includes conduct that violates criminal laws or conduct that threatens or harms persons, property or the efficient operations of any agency.

After considering the public comment, the current definition and the proposed definition, the Workgroup agreed to recommend that the Policy Committees and the Board approve the proposed definition for Misconduct as initially proposed. The reasons supporting this recommendation include the following:

3. The Effective Date of an Ineligibility Period

As proposed, OAR 259-008-0310 (11) (d) identifies an ineligibility period as “the timeframe that the public safety professional or applicant is ineligible for public safety certifications and employment as a certifiable public safety professional as the result of the total impact of the moral fitness violations and the aggravating and mitigating circumstances on the public safety professional’s moral fitness for certification.”

The current rule prescribes the first day of the ineligibility period as either the date of the criminal disposition or the date of separation from employment depending on the trigger for the discretionary review. The Workgroup’s recommendation to change the effective date for all ineligibility periods to the date the action as approved by the Board resulted from discussions about the scenarios where public safety professionals are never actually penalized by the revocation process, remaining in the profession and continuing to serve the public. While the certification may be revoked, the person remained employed and serving the public in a certified capacity.

Both the PPC and the ORCOPS identified potential adverse impacts for implementing the effective date as the Board approved date in all cases. Both groups expressed concern for excessive penalty for conduct that happened prior to employment as a public safety professional and conduct that is delayed for review due to employer or DPSST processes. In review of the identified concerns, the

Workgroup agreed that ineligibility periods for criminal dispositions that occurred prior to employment should continue to be administered with the date of the criminal disposition as the first date of the ineligibility period. In these cases, it is appropriate that the passage of time may result in no further delay in employment or certification.

When considering how to apply an ineligibility period to conduct that occurs while employed as a public safety professional, the Workgroup maintained that there is a distinction between a public safety professional who continues to be employed and in the service of the public and a public safety professional who has remained separated from acting in a certifiable capacity. To resolve the disparity between the two scenarios, the Workgroup recommended administering the ineligibility period according to the circumstance that applies to the case. Examples:

- When the conduct is a criminal disposition that occurred before the person was employed as a public safety professional or after a separation from employment (retirement) - apply the effective date of the ineligibility period as the date of the criminal disposition.
- When the conduct occurred while the person was a public safety professional, the conduct results in separation from a certifiable position, and the person remains separated from serving the public in a certifiable capacity - apply the effective date of the ineligibility period as the date of the separation.
- When the conduct occurred while the person was a public safety professional but the conduct does not result in separation from a certifiable position or the person gains certifiable employment with another agency after a separation - apply the effective date of the ineligibility period as the date the Board approved the action. In this scenario, the Workgroup recommends that any period of time where there was a gap in employment is accounted for as “time served” when calculating the dates for the final order.

ADDITIONAL DEPARTMENT RECOMMENDATIONS:

The Department recommends including the following amendments to OAR 259-008-0005, 259-008-0010 and 259-008-0011.

- Relocating the definition of criminal disposition from the denial/revocation rules (259-008-0070, et al) to the definition rule (259-008-0005).
- Adding a definition for the term jurisdiction to the definition rule.
- Deleting outdated employment requirement language tied to the denial/revocation crimes lists that were deleted from the denial/revocation rule in 2017.

Consensus reached approving the fiscal impact statements provided by staff.

Craig Zanni moved to recommend that the Board approve filing the proposed rule changes for OAR 259-008-0005, 259-008-0010, 259-008-0011 and 259-008-0070, including the adoption of new rule numbers, as permanent rules if no comments are received. Craig Halupowski seconded the motion. The motion passes unanimously.

15. Department Update

Linsay Reported:

- Thank you to everyone who served on the Criminal Justice Moral Fitness Workgroup.
- The Criminal Justice Background Investigation Workgroup continues to meet to develop recommendations regarding DPSST's role in background investigations and the possible establishment of a pre-employment standards and process which applies to applicants for certification who engaged in criminal behavior prior to employment in public safety.

Eriks Reported:

- Enrollment at the Oregon Public Safety Academy remains steady for Basic Police and Basic Telecommunications classes. Basic Corrections remains manageable but Basic Parole and Probation has slowed. Feedback indicates the slowdown in Parole and Probation is tied to state funding reductions which will be discussed during the 2020 Oregon legislative session. To see an updated enrollment: <https://www.oregon.gov/dpsst/cj/Documents/AcademyEnrollments.pdf>
- A complete review and update of the two-week Supervision and Middle-Management courses continues with the assistance of a diverse work group that includes police, corrections, 9-1-1, and parole and probation stakeholders. Dr. Steven James from Washington State University is assisting DPSST staff and the work group.
- Phase 2 revisions to the 16-week Basic Police Course have been well received by students at the Academy. Basic Police Class 392, which began in July and recently graduated, was the first to see the changes. The elimination of the final calls for service week, with that time re-allocated to scenario-based training for four hours each week, paid dividends that were recognized by Academy staff and experienced by students. The final four-week of the Basic Police Course are being addressed by the Phase 3 Work Group. This group is primarily looking at vehicle stops, investigations, and scenario-based training activities. DPSST staff anticipates completion of Phase 3 after the first of the year with presentations to the Police Policy Committee and Board to follow with implementation slated for July 1, 2020.
- Staci Heintzman-Yutzie shared the work Oregon was doing in revising and updating the State's Basic Police Course as a participant in a panel presentation and discussion during the recent conference of the International Association of Chiefs of Police (IACP) in Chicago. Staci was joined by Dr. Bill Lewinski of the Force Science Institute and John Bostain of Command Presence (retired Federal Law Enforcement Training Center (FLETC) Section Chief). Oregon's new model was used as an example of a research and evidence based curriculum with revised training schedules that maximize learning and mitigate injuries.
- On the legislative front, DPSST is working on a number of projects for both the 2020 and 2021 sessions. BPSST's Private Security Committee unanimously supported the introduction of legislation during the 2021 session that will address how private security company officer look and how their vehicles are marked. An additional legislative concept will require private security companies to have written use of force policies and other management tools for day to day operations. The Board unanimously approved these proposed legislative concepts at its October meeting.
- During the 2020 session, the Board on Public Safety Standards and Training (BPSST) approved at its recent meeting a request from DPSST staff to request four additional 16-week Basic Police classes to address the continued wave of retirements.
- DPSST is working with public safety partners to support the first-ever Public Safety Peer Support conference. This event being held at the Salem Convention Center will be open to all public safety peer support members and clinicians. The pre-conference with various training classes will be on Tuesday, February 4, 2020 and the conference will be held on February 5-7,

2020. For more information please go to <https://responderlife.org/northwest-peer-support-conference/>

- DPSST is offering a new opportunity in 2020 called the Elected Officials and Community Partners Academy. This five-hour session will give attendees insight into the work of the Board, Policy Committees, DPSST, and the responsibilities of employers. A tour of the Academy will also be offered. DPSST has hosted similar opportunities for the Association of Oregon Counties, Oregon Mayors Association, League of Oregon Cities, and many Citizen Police Academies with much success. This project will be very similar but offered on a quarterly basis for elected officials and community partners from around the state, not a single organization or community. For more information <https://drive.google.com/file/d/1h4gRtWGW9rS0y23IJGmMfgEQUU2TZcab/view>
- Chief Mitch Hicks of the Columbia River Inter-Tribal Fisheries Commission (CRITFC) Police asked for DPSST's assistance with a discussion taking place with the United States Department of Justice and Bureau of Indian Affairs (BIA) regarding law enforcement officer training. BIA wants to ensure that state law enforcement training academies recognized by their organization meet or exceed the training program offered at their Academy. Eriks is working with CRITFC to address this issue.
- The City of Silverton Police Department submitted a request for a consideration to honor a fallen city marshal from their community who died in 1942 on the State's fallen officer memorial. DPSST staff is processing this request with plans to have it on the Police Policy Committee agenda for its next meeting.
- Mike Leloff, DPSST's Training Division Director recently resigned. Mike retired from the Portland Police Bureau as Assistant Chief and joined DPSST over two years ago. During a recent performance appraisal session, Linsay Hale, DPSST's Professional Standards Division Director, asked to oversee the Training Division on an interim basis to learn more about the organization and to broaden her leadership capabilities. Linsay has been doing a very good job working with the solid management team in the Training Division.
- Police Policy Committee member Bradley Robertson of the Multnomah County Sheriff's Office was out of state and unable to attend today's meeting. Deputy Robertson has indicated he would like to serve a second term on the PPC. Chair Teague approved the request with confirmation to occur at the Board's January 2020 meeting.

16. Next Police Policy Committee Meeting: February 20, 2020 at 10:00 am

Administrative Note:

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.