

Police Policy Committee Minutes - DRAFT

February 17, 2022

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 17, 2022, at the Oregon Public Safety Academy in Salem, Oregon. Chair, John Teague called the meeting to order at 10:30 a.m.

Committee Members:

John Teague, Chair, Oregon Association Chiefs of Police
DaNeshia Barrett, Non-Management Law Enforcement (Webex)
Alex Gardner, Oregon State Police Command Staff Representative
Zachary Kenney, Non-Management Law Enforcement
Mike Frome, Portland Police Bureau (Designee for Chief Charles Lovell)
Kieran Ramsey, Federal Bureau of Investigation (Webex)
Kathy McAlpine, Oregon Association of Chiefs of Police
Mark Rauch, Public Member
Terry Rowan, Oregon State Sheriff's Association (Webex)
Jill Thissel, Non-Management Law Enforcement (Webex)
James Cleavenger, Non-Management Law Enforcement (Webex)
Kevin Dresser, Non-Management Law Enforcement
Ashliegh Ramirez, Public Member (Webex)
Angie Brandenburg, Oregon State Sheriff's Association

Committee Members Absent:

Chris Skinner, Oregon Association Chiefs of Police
Terri Davie, Superintendent, Oregon State Police (Acting Superintendent, Jon Harrington)
Mark Garton, Oregon State Sheriff's Association

Guests:

Stacey Postgate	Kasey Hughes
Joshua Nasbe	Joseph Patnode
Mitchelle Coussens	Emerson Lenon

DPSST Staff:

Jerry Granderson, Director
Brian Henderson, Acting Deputy Director
Suzy Herring, Professional Standards Administrator
Marsha Morin, Standards and Certification Manager
Michael Anderson, Facilities, Fleet & Interim Procurement Manager
Kayla Ballrot, Fire Certification Supervisor
Melissa Lang-Bacho, Professional Standards Case Manager
Jordan James-Largot, Professional Standards Case Manager
Jennifer Howald, Administrative Rules Coordinator
Shelby Alexander, Executive Support



1. Introductions

Introductions of members, guests and staff.

2. Approve November 18, 2021 Meeting Minutes

Kathy McAlpine moved to approve the minutes from the November 18, 2021, Police Policy Committee meeting. Zachary Kenney seconded the motion. The motion passed with four abstentions (Cleavenger, Dresser, Ramirez, Brandenburg).

3. Brian Lister; DPSST No. 36594 – Review of Amended Proposed Order

Presented by Melissa Lang-Bacho

On January 7, 2022, the Administrative Law Judge (ALJ), Samantha A. Fair, issued a proposed order revoking Lister's certifications for three years, effective August 4, 2020, in accordance with Oregon Administrative Rule (OAR) 259-008-0320(4)(a).

In the proposed order revoking Lister’s certifications, the ALJ referenced the incorrect Oregon Administrative Rule and determined the ineligibility period based on that citation. The Proposed Order has been amended to correct the rule to OAR 259-008-0320(4)(c), and the ineligibility timeframe to begin April 22, 2021, the date the Board made a final determination to revoke Lister’s certifications.

Mark Rauch moved to recommend that the Board adopt the amended proposed order for revocation of Brian Lister’s certifications. Kathy McAlpine seconded the motion. The motion passed with one abstention (Brandenburg).

4. Case Review Process Overview/Updates

Presented by Marsha Morin

Staff provided a brief overview of the case review process and updates that were made to the staff report.

5. Administrative Closures – Police / Regulatory Specialists

Presented by Melissa Lang-Bacho

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

	Name	DPSST#	Certification(s)	Reason for Closure
a)	Jonathan Farrester	29189	Basic, Intermediate and Advanced Police Certifications	The Department determined that Farrester was not arrested for Disorderly Conduct on July 20, 2021, and the professional standards case was opened in error.
b)	Christopher Huffman	26128	Basic, Intermediate and Advanced Police Certifications	Christopher Huffman was arrested on December 30, 2019, for <i>Driving Under the Influence of Intoxicants (DUII)</i> and <i>Reckless Driving</i> . On June 1, 2020, Huffman pled guilty to

				<p><i>DUII</i> and received a diverted sentence. The <i>Reckless Driving</i> charge was dismissed. On December 22, 2021, after successfully completing the terms of his diversion, the <i>DUII</i> charge was dismissed. The Department determined that Huffman's arrest did not result in a criminal disposition of a criminal offense that requires review.</p>
c)	Deron McMaster	28004	Basic and Intermediate Police Certifications	<p>October 21, 2021, DPSST opened a case based on the information provided on the F4s form. On October 22, 2021, Deschutes County Sheriff's office (DCSO) submitted an amended F4S indicating McMaster separated after the investigation had been completed and discipline had been imposed. Correspondence with DCSO indicates that McMaster was demoted on September 20, 2021, and he voluntarily resigned on September 21, 2021. The Department determined that the professional standards case was opened in error due to incorrect reporting from the agency.</p>

Zachary Kenney moved to approve the recommendations made by staff to administratively close the above listed cases. Kathy McAlpine seconded the motion. The motion passed unanimously.

6. Coussens, Mitchell (50465) Certification Review: Police

Presented by Melissa Lang-Bacho

On July 21, 2021, Mitchell Coussens was terminated from his probationary employment with the Yamhill County Sheriff’s Office (YCSO) after an internal investigation found that he had not properly handled a call for service and lacked self-initiated activities.

Mitchell Coussens provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Mike Frome and Zachary Kenney recused themselves due to a conflict of interest.			
Kathy McAlpine moved that the Police Policy Committee adopt the staff report.	Mark Rauch	11 ayes; 0 nays; 2 recused (Frome, Kenney)	Motion Passed
<p>The policy committee found Coussens violated the Board’s moral fitness standard, specifically:</p> <ul style="list-style-type: none"> • Dishonesty: The committee did not identify elements of dishonesty. • Misuse of Authority: The committee did not identify elements of misuse of authority. • Misconduct: Coussens threatened persons and the efficient operation of the YCSO by not completing an investigation for a <i>Domestic Menacing</i> complaint prior to leaving at the end of his shift and by not notifying the agency he left work. <p>The committee further identified the following aggravating and mitigating factors that influenced their decision on the severity of the action to be taken.</p> <ul style="list-style-type: none"> • Mitigating <ul style="list-style-type: none"> ○ Although Coussens’ conduct did result in inefficient operation of the YCSO when they spent time and resources looking for him, it was limited to one instance and did not create an ongoing issue. ○ When Coussens went off duty while still in uniform and in a marked patrol vehicle, it was a competency issue. • Aggravating <ul style="list-style-type: none"> ○ Coussens’ acknowledgment of the radio call directing him to call the family back and subsequent failure follow through, coupled with his statement that he did not recall being told to call the family back, raised concerns about his honesty during the internal investigation. ○ Coussens’ abandonment of a call was shocking conduct for a seasoned officer. ○ The YCSO spent time and resources to try to locate Coussens after he abandoned a call and went home. ○ Citizens were endangered when Coussens did not investigate the incident at the time it occurred. ○ Coussens was avoiding work by driving around looking for a van. 			

<ul style="list-style-type: none"> ○ The YCSO identified competency issues with Coussens' work during his probationary period. 			
Alex Gardner 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 Coussens' certifications.	Mark Rauch	11 ayes; 0 nays; 2 recused (Frome, Kenney)	Motion Passed

7. Hughes, Kasey (40208) Certification Review: Police

Presented by Melissa Lang-Bacho

On March 19, 2019, Kasey Hughes was terminated from the Sunriver Police Department (SPD) as a result of an investigation into his involvement in responding to a sexual assault case that occurred in another jurisdiction.

Kasey Hughes provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Mark Rauch moved that the Police Policy Committee adopt the staff report.	Alex Gardner	13 ayes; 0 nays	Motion Passed Unanimously
<p>The policy committee found Hughes violated the Board's moral fitness standard, specifically:</p> <ul style="list-style-type: none"> • Dishonesty: Hughes was deceptive when he failed to notify the agency in another jurisdiction about his involvement in attending to a victim of a crime; Hughes was deceptive when he told hospital staff "I wasn't here, right?"; Hughes was deceptive when he failed to notify his agency of his involvement in responding to the victim of a crime outside of his agency's jurisdiction. • Misuse of Authority: The Committee did not identify elements of misuse of authority. • Misconduct: Hughes operated his SPD patrol vehicle at speeds in excess of 100 mph without emergency indicators, threatening the safety of the public; Hughes failed to ensure coverage for his post, leaving the area without any officers to respond to calls for assistance, which threatened the safety of the public; Hughes' failure to ensure coverage or notify his agency of his absence threatened the efficient operation of the SPD because there were no officers to respond to calls for assistance; Hughes' failure to report a sexual assault to authorities negatively impacted the investigation of the assault, which harmed the victim of the crime, and harmed the efficient operations of the Bend Police Department (BPD) who were investigating the crime. 			

The committee further identified the following aggravating and mitigating factors that influenced their decision on the severity of the action to be taken.

- Mitigating
 - There was no documentation that there were missed calls for assistance during the period of time Hughes' post was unstaffed while he was responding to a victim in another jurisdiction.
 - Hughes had a severe mental health crisis the day after he responded to the incident and he should not be expected to make the best decisions under these circumstances.
 - Hughes' agency did not sustain all of the policy violations they were investigating.
- Aggravating
 - There was little acceptance of his mistakes in Hughes' mitigation, making it appear as though he would do the same thing again if a similar circumstances arose.
 - After Hughes picked up the victim of a crime and transported her to the hospital, he had a portion of the crime scene in his patrol vehicle, which he failed to preserve.
 - Hughes' supervisor lost his job because of Hughes' conduct.
 - The perpetrator could not be pursued because Hughes intervened in responding to the crime in another jurisdiction and failed to report it to BPD immediately.
 - Hughes had multiple opportunities to report the circumstances to his agency.
 - Hughes never gave his agency the opportunity to support him in responding to the victim of a crime that he personally knew.
 - Hughes put himself in a situation with no good options.
 - Hughes attempted to conceal his relationship with the woman who was the victim of a crime.
 - Hughes should have identified himself when he spoke on the phone with the security professional when he was asking them for directions to the woman's location and notified the BPD of the potential for a crime.
 - Hughes considered his conduct both on duty and off duty depending on which category benefited him the most.
 - Hughes was emotionally compromised and made a lot of decisions in a compromised state.
 - Hughes indicated that he was respecting the victim's wishes by not contacting a law enforcement agency because they were the victim's coworkers, however, the victim's needs were not met because of Hughes' conduct.
 - Hughes attempted to minimize his conduct.
 - Hughes referred to himself as a former alcoholic, instead of as an alcoholic who has been sober, which may be indicative of an issue that has not been fully addressed if he is unable to identify that he will have an issue with alcohol for the rest of his life.

Alex Gardner 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 Hughes' certifications.	Mark Rauch	12 ayes; 1 nays (Kenney)	Motion Passed
Mark Rauch moved, after considering the totality of the case, that Hughes be ineligible to hold public safety certification for 3 years.	Kathy McAlpine	13 ayes; 0 nays	Motion Passed Unanimously

8. Patnode, Joseph (34407) Certification Review: Police

Presented by Melissa Lang-Bacho

On June 6, 2019, Joseph Patnode was terminated from the Sunriver Police Department (SPD), after sustained allegations of misconduct related to reporting requirements and insubordination.

Joseph Patnode provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Zachary Kenney moved that the Police Policy Committee adopt the staff report.	Mark Rauch	13 ayes; 0 nays	Motion Passed Unanimously

The policy committee found Patnode violated the Board's moral fitness standard, specifically:

- Dishonesty: The committee determined that Patnode was dishonest by omission when he failed to report information he received about serious allegations of misconduct by another officer.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: The committee determined that Patnode's failure to report serious allegations of misconduct by another officer and his discussion of a confidential investigation with person's both inside and outside of his agency, threatened the efficient operation of the SPD.

The committee further identified the following aggravating and mitigating factors that influenced their decision on the severity of the action to be taken.

- Mitigating
 - The incident, although spanning over months, was an isolated event.
 - Patnode did not have prior allegations of misconduct.
 - Patnode's conduct was a failure of his leadership position, but not conduct requiring a revocation of certifications.

- Patnode was offered a demotion in lieu of termination, which demonstrated that he was still trusted to work as a police officer.
- It is conceivable that when the officer went into crisis and the SPD Chief of Police responded to the incident, that the Chief would have been aware of the issue that was reported to Patnode by the out of state officer.
- Patnode had an obligation to ensure that the SPD Chief of Police knew what was happening with the officer and when he found out the Chief knew something, Patnode’s obligation ended.
- Text messages provided, by Patnode in his mitigation, between two officers at SPD demonstrated that the agency did know what had happened with the officer.
- The SPD is a small agency where it could be assumed that everyone knows everything, and is likely the Chief of Police did know about the misconduct.
- Aggravating
 - Patnode’s conduct was an epic failure of leadership in which he failed the officer and his department.
 - Patnode’s conduct was a series of events that continued over months and amounted to a dereliction of his duties.
 - Patnode failed to act when a third party, who was a police officer in another state, reported serious allegations of misconduct by another officer to him.
 - Patnode was protecting his friend instead of doing his job.
 - Patnode’s failure to do anything with the third party reporting of serious misconduct by another officer speaks to his character.

<p>Alex Gardner 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 Patnode’s certifications.</p>	<p>Zachary Kenney</p>	<p>12 ayes; 1 nays (Rauch)</p>	<p>Motion Passed</p>
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9. Pastore, Andrew (40175) Certification Review: Police

Presented by Melissa Lang-Bacho

On March 7, 2019, Andrew Pastore resigned from the Tigard Police Department (TPD) in lieu of termination. While under investigation, Pastore was untruthful when he omitted facts while attempting to obtain an overtime shift.

At the August 19, 2021, Police Policy Committee meeting the group voted to not adopt the staff report and asked the Department to obtain additional documentation from TPD’s investigatory file.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Kathy McAlpine and Kevin Dresser recused themselves due to a conflict of interest.			
Alex Gardner moved that the Police Policy Committee adopt the staff report.	Angie Brandenburg	11 ayes; 0 nays; 2 recused (McAlpine, Dresser)	Motion Passed
<p>The policy committee found Pastore violated the Board’s moral fitness standard, specifically:</p> <ul style="list-style-type: none"> • Dishonesty: The committee determined that Pastore omitted information when he failed to notify others that his request for overtime was denied; Pastore was untruthful when he sent a text message stating that Transit had a staffing shortage when they did not. • Misuse of Authority: The committee did not identify elements of misuse of authority. • Misconduct: The committee did not identify elements of misconduct. <p>The committee further identified the following aggravating and mitigating factors that influenced their decision on the severity of the action to be taken.</p> <ul style="list-style-type: none"> • Mitigating <ul style="list-style-type: none"> ○ The committee did not identify any mitigating factors. • Aggravating <ul style="list-style-type: none"> ○ Pastore was untruthful multiple times. ○ Pastore’s claim that he had no recollection of putting in for overtime and no recall of his interactions with others was not creditable. ○ Pastore has been told previously, shift differential does not apply to working a Transit shift, but requested it anyway. ○ Pastore asked multiple supervisors about working overtime, attempting to take advantage of the system for financial gain. ○ Pastore’s actions speak to his lack of character and possible future implications. ○ Pastore’s conduct had an impact on the relationship between Transit and the TPD. 			

Alex Gardner 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 Pastore's certifications.	Zachary Kenney	11 ayes; 0 nays; 2 recused (McAlpine, Dresser)	Motion Passed
Mark Rauch moved, after considering the totality of the case, that Pastore be ineligible to hold public safety certification for 10 years.	Alex Gardner	10 ayes; 1 nays (Cleavenger); 2 recused (McAlpine, Dresser)	Motion Passed

10. Jensen, Jake (56154) Certification Review: Police

Presented by Melissa Lang-Bacho

On April 2, 2021, Jake Jensen resigned in lieu of termination from his position with the Clackamas County Sheriff's Office (CCSO) after they substantiated findings that he had been untruthful during his background investigation in 2015-2016.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Angie Brandenburg recused herself due to a conflict of interest.			
Zachary Kenney moved that the Police Policy Committee adopt the staff report.	Alex Gardner	12 ayes; 0 nays; 1 recused (Brandenburg)	Motion Passed
<p>The policy committee found Jensen violated the Board's moral fitness standard, specifically:</p> <ul style="list-style-type: none"> • Dishonesty: Jensen was knowingly untruthful during his background investigation in 2015-2016 about his past drug use and was knowingly untruthful about the reason he failed a polygraph test with another agency. • Misuse of Authority: The committee did not identify elements of misuse of authority. • Misconduct: The committee did not identify elements of misconduct. <p>The committee further identified the following aggravating and mitigating factors that influenced their decision on the severity of the action to be taken.</p> <ul style="list-style-type: none"> • Mitigating <ul style="list-style-type: none"> ○ Jensen's conduct primarily occurred before he was a law enforcement officer. ○ Jensen did not understand the ethics required of a police officer when he lied during his background investigation. ○ Jensen disclosed his prior drug use because of the ethics he learned working as a police officer. 			

<ul style="list-style-type: none"> • Aggravating <ul style="list-style-type: none"> ○ Jensen admitted to lying because he knew he would not be hired. ○ Jensen applied for work as a police officer in a state that did not require polygraph examinations as a part of the background hiring process because he knew he would not pass the exam. ○ Jensen was dishonest multiple times. ○ Jensen was placed on the <i>Brady</i> list and there would be an obligation to disclose his untruthfulness in any case where Jensen is a witness. 			
Zachary Kenney 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 Jensen’s certification.	Kathy McAlpine	12 ayes; 0 nays; 1 recused (Brandenburg)	Motion Passed
Mark Rauch moved, after considering the totality of the case, that Jensen be ineligible to hold public safety certification for 10 years.	Mike Frome	12 ayes; 0 nays; 1 recused (Brandenburg)	Motion Passed

11. Program Manager Update

Presented by Marsha Morin, Standards and Certification Manager:

- Current Cases
 - 109 total Police/Regulatory Specialist Cases
 - 57 are ready to begin the review process or are in some stage of the review process.
 - 52 are pending criminal/employment matters or waiting on records to be provided to DPSST.
 - 17 new cases have been added since the last policy committee meeting.
 - 16 cases were closed since the last policy committee meeting.
- Effective January 1, 2022, DPSST announced they were no longer going to accept paper rosters, instead moving to the electronic eRoster form. Since then, there has been an almost 100% compliance rate with the move to the eRoster which has allowed staff to keep officer training records current and focus on resolving issues and assisting agencies.
- DPSST has delayed the start Moral Fitness Workgroup until after the 2022 legislative session concludes and any new changes are written into law.
- The Background Workgroup met and reviewed the policy committees’ comments related to the Background Checklist and Personal History Questionnaire. Both forms have been finalized by the workgroup and will be going to the Department of Justice for a legal sufficiency review prior to being presented to the policy committee’s for review.

12. Director's Comments

Presented by Jerry Granderson, Director:

- Thank you to the new members on the committee.
- Two Basic Police Classes were delayed due to COVID, but have returned to the academy. DPSST's has implemented the following protocols to students on non-compliance with the mask mandate:
 - First violation, the student will receive a verbal warning.
 - Second violation, the student will receive a written warning.
 - Third violation, the student may be dismissed from the academy.
- DPSST is monitoring multiple bills as they move through the legislative process and are ready to provide fiscal impacts when necessary.
- The Commission on Law Enforcement Standards and Conduct is in the process of being formed and the Director will serve as a Co-Chair.

13. Next Police Policy Committee Meeting: May 19, 2022 at 10:00 a.m.

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.

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@dpsst.oregon.gov.