

Police Policy Committee Minutes - DRAFT

November 17, 2022

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 17, 2022, at the Oregon Public Safety Academy in Salem, Oregon. Chair, John Teague called the meeting to order at 10:00 a.m.

Committee Members:

John Teague, Chair, Oregon Association Chiefs of Police
DaNeshia Barret, Non-Management Law Enforcement (Webex)
Angie Brandenburg, Oregon State Sheriff's Association (Webex)
Terri Davie, Superintendent, Oregon State Police (Designee for Casey Coddling)
Alex Gardner, Oregon State Police Command Staff Representative
Zachary Kenney, Non-Management Law Enforcement (Webex)
Mike Frome, Portland Police Bureau (Designee for Chief Charles Lovell) (Webex)
Kathy McAlpine, Oregon Association of Chiefs of Police (Webex)
Scotty Nowning, Non-Management Law Enforcement
Ashliegh Ramirez, Public Member (Webex)
Rob Wood, Public Member
Terry Rowan, Oregon State Sheriff's Association (Webex)
Jill Thissel, Non-Management Law Enforcement (Webex)
Brad King, Non-Management Law Enforcement (Webex)

Committee Members Absent:

Chris Skinner, Vice Chair, Oregon Association Chiefs of Police
Kevin Dresser, Non-Management Law Enforcement (Webex)
Mark Garton, Oregon State Sheriff's Association (Webex)
Kieran Ramsey, Federal Bureau of Investigation (Webex)

Guests:

None

DPSST Staff:

Suzy Herring, Professional Standards Division Director
Hassan Hassan, Training Division Director
Marsha Morin, Standards and Certification Program Manager
Melissa Lang-Bacho, Professional Standards Case Manager
Jennifer Levorio, Professional Standards Case Manager
Jennifer Howald, Administrative Rules Coordinator
Erica Riddell, Criminal Justice Office Specialist
Shelby Wright, Executive Support Specialist
Michael Anderson, Facilities & Fleet Manager



1. Introductions

Introductions of members, guests and staff.

2. Approve August 18, 2022 Meeting Minutes

Scotty Nowning moved to approve the minutes, as amended, from the August 18, 2022, Police Policy Committee meeting. Rob Wood seconded the motion. The motion passed unanimously with two abstaining (Kathy McAlpine, Terry Rowan).

3. Administrative Closure Consent Agenda

Presented by Melissa Lang-Bacho, Professional Standards Case Manager

The Department presented recommendations to administratively close the following professional standards cases to the Police Policy Committee.

a) Caspar, Andrew (35444) Police

The Department opened a professional standards case after being notified that Andrew Caspar had been terminated following an investigation by the Portland Police Bureau (PPB).

On June 7, 2021, Caspar was reinstated to his position after an arbitrator found that there was insufficient information to show that he had been dishonest during the internal investigation but did sustain four performance-based violations that were also part of his termination. The Department proceeded with a review limited to the sustained findings by the arbitrator.

Based on a review of the sustained findings of the arbitrator, the Department determined that Caspar's separation did not violate the Board's moral fitness standards defined in Oregon Administrative Rule.

b) Halfman, Autumn (60860) Police

On August 26, 2022, the Department opened a professional standards case to review Autumn Halfman's dismissal from the Oregon Public Safety Academy (OPSA) after a finding that she violated the Student Standards of Conduct and Student Rules and Regulations for intimate physical contact. The violation is subject to discretionary professional standards review.

Based on the information provided, the conduct described does not meet the definition of a moral fitness violation in Oregon Administrative Rule 259-008-0300. There is information in the record reflecting that the students disrupted the campus when they returned from drinking. Notably, the Student Rules and Regulations indicate that students are prohibited from engaging in loud, boisterous behavior, however, Halfman was not participating in the disruptive conduct and there is no information to support this finding specific to Halfman.

c) Allen, Joshua (60279) Police

On August 26, 2022, the Department opened a professional standards case to review Joshua Allen's dismissal from the Oregon Public Safety Academy (OPSA) after a finding that he violated the Student Standards of Conduct and Student Rules and Regulations for intimate physical contact. The violation is subject to discretionary professional standards review under OAR 259-008-0300(3)(b)(D).

Reporting reflects that the investigation was targeted to only answer one question: if the two students were kissing on campus. The investigation did not look at any of the deeper issues surrounding the incident that call into question the honesty and character of Allen. Allen was observed on video knocking on the door of the woman he had kissed earlier in the evening multiple times. The agency made multiple follow-up interviews, but none to discuss the additional revelations of Allen's conduct or the potential omissions of information during an

investigation. Based on the information provided, there is insufficient information to make findings of dishonesty by omission or misrepresentation for Allen's depiction of the kiss or his conduct that night.

Alex Gardner moved to approve the Administrative Closure Consent Agenda recommendations made by the Department. Scotty Nowning seconded the motion. The motion passed unanimously.

4. Proposed Rule Changes for Oregon Administrative Rule (OAR) 259-08-0010, 259-08-0011, 259-08-0015 and 259-08-0080

Presented by Jennifer Howald, Administrative Rules Coordinator

House Bill 2936, section 3, directs DPSST to create a uniform background checklist and a standardized personal history questionnaire for use by law enforcement units in hiring applicants to be public safety officers. DPSST formed a Background Workgroup to collect constituent input in the development of the checklist and questionnaire and review the current background investigation requirements defined in OAR 259-08-0015. DPSST consulted with the Department of Justice (DOJ) on interpretation of HB 2936, the legal sufficiency of the draft checklist and questionnaire, and statutory authority for implementing the checklist and questionnaire as required minimum standards.

Implementation of the checklist and questionnaire standards prescribed by HB 2936 will require amendments to the administrative rules that address the background investigation requirements for public safety officers and instructors and the minimum employment standards for public safety officers. In addition to the original memo and attachments, the PPC received revised action items with suggested amendments to reflect the discussions from the TPC and the CPC. The PPC key discussions of the draft rules and the suggested amendments addressed the following:

- Recommended revisions to the requirement to investigate memberships and associations by building on option 2 with additional content from HB 2936 based on the importance of recognizing the statutory language [OAR 259-08-0015(2)(b)(G)].
 - Option 2 was amended to “(G) Memberships and Associations. This includes but is not limited to the applicant’s membership or participation in hate groups, racial supremacist organizations, or militant groups, or the applicant’s display of symbols of racism or racial supremacy.”
- In review of alternate language clarifying when a psychological evaluation is required [OAR 259-08-0010(11)(b)]:
 - Recommended 180 days as the amount of time allowed to be rehired by the same employer without requiring a new psychological evaluation.
 - Approved the staff revisions to capture transitions from a different discipline to the police discipline and the ability to use the original psychological evaluation that was previously conducted when it is the same evaluation that would be administered if hired as a police officer; included suggested changes to the definition of reclassification.

- Challenges in scheduling delays for psychological evaluations which may further be impacted by the addition of more disciplines and cause delays in hiring officers.
- Recommended revisions to the personal history question list.
- Agreement with the implementation and effective date of the rules as July 1, 2023.

Consensus reached approving the fiscal impact statements provided by staff.

Alex Gardner moved to approve filing the rule changes for OAR 259-008-0010, 259-008-0011, 259-008-0015 and 259-008-0080, with the discussed amendments, as proposed rule changes for public and constituent comment. Scotty Nowning seconded the motion. The motion passed unanimously.

Alex Gardner moved to recommend that the Board adopt amended proposed rule changes for OAR 259-008-0010, 259-008-0011, 259-008-0015 and 259-008-0080 as permanent rules, if no substantive comments are received. Scotty Nowning seconded the motion. The motion passed unanimously.

5. Applicant Review Committee Member Nominations

Presented by Suzy Herring, Professional Standards Division Director

DeNeshia Barrett moved to approve Alex Gardner to serve on the Applicant Review Committee. Scotty Nowning seconded the motion. The motion passed unanimously with one abstaining (Alex Gardner).

6. Agency Updates

- Melissa Lang-Bacho, Professional Standards Case Manager
 - Current Cases

Open Cases - 143

- 4 - Pending Closure/Final Order Appeal Time
- 25 - Case Were Opened Since the Last Meeting
- Of the 25 Cases Opened 7 are for an Arrest/Criminal Citation and 19 are for Separations
- 81 - Cases We Have Received Info to Review and Determine the Next Step
- 30 - Cases are Pending Criminal/Employment Issues; 32 are Waiting for Records to be Received

Closed Cases – 9

- 0 - ARC Case – No Action (Pre-Employment)
- 7 - PPC Professional Standards Closed – Admin Closed/No Action
- 2 - PPC Professional Standards Closed – Revoked/Stipulated Orders
- Marsha Morin, Standards and Certification Program Manager
 - FTO Training Development Workgroup. A secondary workgroup has been formed to focus on the training a field training officer should receive to obtain and maintain certification. The group has met once and will be meeting again this month to continue discussions.
 - Background Workgroup. Though the primary focus of the workgroup was the implementation of HB2936, the following additional topics were discussed.

- **DPSST Fingerprint Checks.** Though the Department has access to LEDS for conducting Oregon criminal history checks based on its status as a certifying agency, DPSST does not have NCIC as it is not considered a law enforcement agency by federal standards. DPSST has relied on agencies and their officers to report any out of state criminal conduct. The workgroup discussed options relating to how DPSST could gain direct access into NCIC. Currently this is limited to DPSST submitting fingerprint cards to get a one-time view of an officer's/dispatcher's out of state criminal conduct. As this will come at a high cost, DPSST will continue to work with agencies on the best approach to ensure proper reporting of out of state criminal conduct while researching other avenues of receiving that data.
 - **Applicant Registration Database.** This workgroup and a previous workgroup identified a need for a single point where individuals wishing to apply for a job in public safety would register for and receive an identification number which would be used during the application process. Ultimately this registration number would be linked to all agencies the individual applied for employment and provide valuable information to background investigators. A legal sufficiency review was completed on the concept which indicated that though DPSST did not have jurisdiction over individuals applying for public safety professional positions and could not make this a requirement, they could make it a requirement for agencies to utilize this system. DPSST is moving forward with options on how to implement a system.
 - **Agencies Releasing Background Investigations.** The question was raised if the background rule should be updated to include a requirement for agencies to release background investigations as part of another agencies background investigation. It was determined DPSST does not have the authority to requires this and there is a statue that does.
- **Suzy Herring, Professionals Standards Division Director**
 - The following new Professional Standards staff were introduced to the policy committee:
 - **Jennifer Levario, Professional Standards Case Manager.** This position was added to assist with the professional standards case load.
 - **Juanita Birdsong, Professional Standards Case Coordinator.** This position coordinates the pre-employment criminal conduct cases heard by the Applicant Review Committee (ARC)
 - The recruitment process for a new Department Director is ongoing.
 - DPSST will not have any professional standards cases for the February meeting due to staffing changes.
- **Hassan Hassan, Training Division Director**
 - DPSST is working with constituent agencies to explore options of adding a basic police class in January.
 - DPSST will request limitation to fund additional classes from the Legislative Emergency Board in December.

7. Next Police Policy Committee Meeting: February 16, 2023 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.

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