

Police Policy Committee Minutes

November 18, 2021

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 18, 2021, at the Department of Public Safety Standards and Training (DPSST or Department) 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 Barrett, Non-Management Law Enforcement
Terri Davie, Superintendent, Oregon State Police
Alex Gardner, Oregon State Police Command Staff Representative
Mark Garton, Oregon State Sheriff's Association (Webex)
Zachary Kenney, Non-Management Law Enforcement (Webex)
Mike Frome, Portland Police Bureau (Designee for Chief Lovell) – (New Member, Observer Only) (Webex)
Mark Rauch, Public Member
Terry Rowan, Oregon State Sheriff's Association (Webex)
Chris Skinner, Oregon Association Chiefs of Police
Jill Thissel, Non-Management Law Enforcement (Webex)

Committee Members Absent:

Bradley Robertson, Non-Management Law Enforcement
Kieran Ramsey, Federal Bureau of Investigation
Kathy McAlpine, Oregon Association of Chiefs of Police
Craig Zanni, Oregon State Sheriff's Association
Vacant, Non-Management Law Enforcement
Vacant, Public Member

Guests:

Eric Kozowski
Michael McGean
Eric Weaver
Emerson Lennon

DPSST Staff:

Jerry Granderson, Director
Brian Henson, Acting Deputy Director
Marsha Morin, Standards and Certification Manager
Melissa Lang, Professional Standards Case Manager
Jordan James-Largent, Professional Standards Case Manager
Jennifer Howald, Administrative Rules Coordinator
Shelby Alexander, Executive Support
Chris Enquist, Interim Skills Manager

1. Introductions

Introductions of members, guests and staff.

2. Approve August 19, 2021, Meeting Minutes

DaNeshia Barrett moved to approve the minutes from the August 19, 2021, Police Policy Committee meeting. Terri Davie seconded the motion. The motion passed with two abstentions (Rauch, Thissel).

3. Approval for Changes to the Basic Police Curriculum

Presented by Chris Enquist

The DPSST Training Division requested the approval of the below modifications to the Basic Police Academy curriculum. House Bill 2513 amends Oregon Revised Statutes (ORS) 181A.440 to include “at least three hours of training in airway and circulatory anatomy and physiology” as a requirement for basic certification as a peace officer. To accommodate these additional training hours within the existing 640 basic police academy hours, the following changes are recommended:

- Remove- Skills Midterm (4 hours)
 - The Skills Midterm has no mandates associated.
 - Removal is not expected to negatively impact student skill development.
 - Skill venues may need to identify other means of informal student assessment to ensure student developing and training are in alignment.
- Add- Airway and Circulatory Anatomy and Physiology (4 hours)
 - Course Goal: This course is designed to introduce a new officer to the risks and signs of respiratory compromise and their responsibility to act under such circumstances.
 - Learning Outcomes:
 - Describe the risk of various holds on respiratory compromise.
 - Recognize the signs of a person in respiratory compromise.
 - Recognize the officer’s responsibility to act.
 - High-Level Content:
 - Anatomy: chest, lungs, and diaphragm
 - Causation of respiratory compromise leading to death
 - Types of holds
 - Positional asphyxia
 - Responsibility to act
 - Recovery position

Mark Rauch moved to recommend approval of the proposed changes to the DPSST Basic Police Academy curriculum. Terri Davie seconded the motion. The motion passed unanimously.

4. Proposed Rule Changes for Oregon Administrative Rules (OAR) 259-008-0085 – Legislative Changes Affecting the Basic Police Course

Presented by Jennifer Howald

OAR 259-008-0085 maintains the minimum standards for Board-approved mandated courses. For the basic police course, the rule includes a list of the training requirements that are found in statute. Staff presented proposed rule changes and fiscal impact statements for rule amendments that update the list of statutory training requirements to include changes from the 2021 legislative session.

House Bill 2986 and House Bill 3041 amended ORS 181A.470 which requires training on the investigation, identification, and reporting of crimes motivated by prejudice to include prejudice based on perceived gender or gender identity of the victim. House Bills 2986 and 3041 resulted in technical revisions to references and verbiage in the basic police course curriculum and course materials - but did not result in changes to the instructional goals, learning outcomes, or behavior metrics for the basic police course.

House Bill 2513 added a requirement that the minimum training required to obtain basic certification as a police officer include at least three hours of training in airway and circulatory anatomy and physiology. This bill did require changes to the basic police course curriculum (see item 3 above) and does have a fiscal impact on DPSST.

Consensus reached approving the fiscal impact statements provided by staff.

Terry Rowen moved to recommend that the Board adopt approve filing the proposed rule changes for OAR 259-008-0085 as a permanent rule if no comments are received. Terri Davie seconded the motion. The motion carried unanimously.

5. Administrative Closures – Police / Regulatory Specialists

Presented by Melissa Lang

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

	Name	DPSST#	Certification(s)	Reason for Closure
a.	Anthony Barnett	37913	Basic, Intermediate and Advanced Police	Barnett was investigated for an alleged sexual harassment incident where he was initially found not to have violated policies. Barnett was later terminated from the UTPD after a tribal hearings officer overturned the original decision and found that Barnett had violated sexual harassment policies. Barnett filed an appeal for wrongful termination. The judge determined that Barnett had not sexually harassed the employee. Following the decision from the judge, Barnett

				was reinstated to his position with the UTPD. DPSST does not believe the individual's separation violates the Board's moral fitness standards.
b.	Robert Edwards	27266	Basic, Intermediate, Advanced, Supervisory and Management Police	DPSST has determined OSP's discipline in this investigation was a demotion not a separation that would be subject to professional standards review. Therefore, Edwards' separation does not violate the Board's moral fitness standards.
c.	Perry Rhoades	46858	Basic and Intermediate Police	DPSST determined that Rhoades' mishandling of the cash and insufficient documentation was a result of his inexperience. DPSST has determined the Rhoades' separation does not violate the Board's moral fitness standards.
d.	Jeffrey Smith	36061	Basic Police	The investigation pending at the time of his separation was related to unintentional damage to his assigned patrol vehicle, which he reported. DPSST has determined the individual's separation does not violate the Board's moral fitness standards.

DaNeshia Barrett moved to approve the recommendations made by staff to administratively close the above listed cases. Chris Skinner seconded the motion. Terri Davie and Alex Gardner recused from b, c and d due to a conflict of interest. The motion on all cases passed unanimously.

6. Eric Kozowski (42173) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On January 31, 2018, Eric Kozowski was terminated from the Deschutes County Sheriff’s Office (DCSO) after multiple investigations resulted in sustained findings including the use of the DCSO uniform while campaigning for political office, a citizen complaint regarding a theft case that was improperly handled, improper handling of a potential measure 11 sex crime case, and untruthfulness during the investigation into his use of the DCSO uniform while campaigning.

Staff determined that Kozowski’s use of the DCSO uniform while campaigning and his less than truthfulness during the investigations violated the Board’s moral fitness standards. The improper handling of two cases, was indicative of incompetence only and are not part of this review.

Eric Kozowski 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.	Zachary Kenney	10 ayes; 0 nays	Motion Passed Unanimously

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

- **Dishonesty:** Kozowski was less than truthful during an internal investigation when he stated he did not understand expectations and did not know who made a post on Facebook when, in fact, he made the post.
- **Misuse of Authority:** Kozowski knowingly used his DCSO uniform while campaigning for his personal benefit.

Aggravating Factors:

- By the time Kozowski was interviewed for an internal investigation, he was well informed on the issues and was still evasive when answering questions.
- Kozowski was not candid in his responses to the internal investigator and at times was evasive.
- It is doubtful that the jury made findings on Kozowski’s truthfulness as it is defined in OAR for this process.
- Kozowski initially stated that he did not know who made a post on Facebook, when in fact he made the post.

Mitigating Factors:

- The investigator hired to conduct the internal investigations was not certified to conduct investigations and did not search for the truth, rather he asked leading questions to obtain a pre-determined outcome in the investigation.
- The internal investigations were politically motivated.

<ul style="list-style-type: none"> • Truthfulness has a large array of meanings and Kozowski’s conduct lacked integrity rather than being blatantly dishonest. • The Deschutes County District Attorney reviewed Kozowski’s conduct and did not find <i>Brady</i> violations. • Kozowski knew he was being treated unfairly and was involved in an adversary process. • Kozowski knew there was a conflict in policies and their legality, which he had a hard time answering questions that came across as not being candid. 			
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 Kozowski’s certifications.	Zachary Kenney	10 ayes; 0 nays	Motion Passed Unanimously

7. Eric Weaver (56198) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On September 11, 2019, Eric Weaver was terminated from his position with the Warm Springs Police Department (WSPD) for unjustified use of force, and falsified police reports to justify his wrongful actions.

A use of force investigation was started to review three instances of force that Weaver used during encounters with citizens. Of the three instances, the investigators found that Weaver’s use of force was unjustified in one of them. An internal investigation was conducted reviewing the findings of the use of force investigator. Staff determined that Weaver’s conduct violated the Board’s moral fitness standards.

Eric Weaver provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Alex Gardner moved that the Police Policy Committee adopt the staff report.	DaNeshia Barrett	10 ayes; 0 nays	Motion Passed Unanimously
<p>The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.</p> <p><u>Moral Fitness Violations:</u></p> <ul style="list-style-type: none"> • Dishonesty: Weaver was untruthful in his reporting when he stated that he was pinned in the door. • Misconduct: Weaver’s use of force was unjustified and harmed another person. 			

<u>Aggravating Factors:</u> <ul style="list-style-type: none"> Weaver's use of force was unjustified. 			
<u>Mitigating Factors:</u> <ul style="list-style-type: none"> Weaver did not review the body camera video prior to writing his report. Weaver's inaccuracies in his reporting were due to memory failure and not intentionally dishonest. Weaver was immediately suspended on leave without pay, the committee determined that this discipline is highly unusual for this this type of conduct. Weaver declined to participate in the employer's internal investigation, which resulted in mitigating information not being presented until the committee meeting. Weaver's failure to announce that he was a police officer, and only state his name was because he was familiar with the people in the home, who knew he was a police officer. 			
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 no Board action should be taken against Weaver's certification.	Alex Gardner	10 ayes; 0 nays	Motion Passed Unanimously

8. Peter Arnautov (36986) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On November 14, 2019, Peter Arnautov was terminated from his position with the Oregon State Police (OSP) after he was found to have stated that he has a bias against the LGBTQ community. Staff determined that Arnautov's conduct violates the Board's moral fitness standards.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Terri Davie and Alex Gardner recused themselves due to a conflict of interest.			
Chris Skinner moved that the Police Policy Committee adopt the staff report.	DaNeshia Barrett	8 ayes; 0 nays; 2 recused (Davie, Gardner)	Motion Passed

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

- **Misconduct:** Arnautov in a single egregious act based on the perception of sexual orientation, knowingly made a discriminatory statement that would lead an objectively reasonable person to conclude that he could not perform his duties in a fair and impartial manner.

Aggravating Factors:

- Arnautov uttered three words with conviction.
- It is reasonable to think that he cannot be impartial.
- By Arnautov’s own admission, his speech renders him ineffective as a police officer in Oregon.
- Arnautov never fully disowned his statement.
- Arnautov’s statement about hating gay people, was against an extremely sensitive community and to be openly vocal about his feelings was an egregious act.
- Arnautov’s statement was against a protected class.
- The conversation about the gay community was stopped, and restarted, by Arnautov later on in the day.
- Arnautov was explicit in stating his bias and demonstrated that he would not be impartial in policing.

Mitigating Factors:

- Arnautov had a long career as a public safety officer without any apparent instances of misconduct.
- Arnautov was honest during the investigatory process.

Chris Skinner 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 Arnautov’s certifications.	DaNeshia Barrett	8 ayes; 0 nays; 2 recused (Davie, Gardner)	Motion Passed
Mark Rauch moved, after considering the totality of the case, that Arnautov be ineligible to hold public safety certification for 10 years.	Mark Garton	8 ayes; 0 nays; 2 recused (Davie, Gardner)	Motion Passed

9. Michael Huber (28130) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On December 10, 2019, Michael Huber was terminated from his position with the McMinnville Police Department (MPD), after they found that he was untruthful during an investigation and had engaged in off-duty misconduct. Staff determined that Huber’s untruthfulness and conduct violate the Board’s moral fitness standards.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Alex Gardner moved that the Police Policy Committee adopt the staff report.	Zachary Kenney	10 ayes; 0 nays;	Motion Passed Unanimously

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

- **Dishonesty:** Huber stated that he was calm and professional in his interactions with his neighbors when he was not.

Aggravating Factors:

- Huber misrepresented his actions with police and was not calm and professional.
- Officers only made an arrest because Huber stated there were at least three arrests to be made.
- Huber was yelling at his neighbors.
- Huber had twenty years’ experience working as a public safety professional and it would be expected that he know how to control his emotions.
- Huber told officers who arrived, that the neighbors would claim that he pushed one of them.
- Huber was untruthful when he stated he did not touch his neighbor.
- The only witness of Huber’s interaction with his neighbors that did not have an interest in the case, did not see Huber push his neighbor but did run to the scene because he believed a fight was starting.

Mitigating Factors:

- Huber’s conduct occurred while he was off duty.
- Huber may have perceived his conduct differently than how others saw him.
- Of the witnesses, only one of them was not an interested party.

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,	Mark Rauch	7 ayes; 3 nays	Motion Passed
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that Board action should be taken against Huber’s certifications.			
Mark Rauch moved, after considering the totality of the case, that Huber be ineligible to hold public safety certification for three years.	Chris Skinner	8 ayes; 1 nays; 1 abstention (Kenney)	Motion Passed

10. James Lynch (28066) Certification Review: Regulatory Specialist

Prior to the meeting, James Lynch signed a stipulated order voluntarily surrendering his certifications and was not reviewed by the committee.

11. Review of Arbitration/Certification Workgroup Recommendation

Presented by Jennifer Howald

Staff presented an overview of the Arbitration/Certification Workgroup’s scope and discussions, including the Workgroup’s recommendation. The Workgroup reviewed the current administrative rules and DPSST practices that determine how professional standards cases are handled when the employment is reinstated through an employment arbitration process. Current practice includes administrative closure of cases where employment is reinstated through an arbitration process based on an interpretation that the reinstatement of employment removed the separation of employment which was the initial reason for reviewing the misconduct.

Administrative rule provides the DPSST and Board clear authority to proceed with the case review process to review the conduct as a violation of the standards for certification. The Workgroup recommends that DPSST follow the rule as written and cease application of the interpretation that resulted in administrative closure for cases involving arbitration and reinstatement of employment where the allegations of misconduct are supported. DPSST plans to implement the Workgroup’s recommendation following the Telecommunications, Corrections, and Police Policy Committees’ opportunity to review of the recommendation during the November meetings.

The committee did not have any comments regarding this update.

12. Proposed Rule Changes for Oregon Administrative Rules (OAR) 259-008-0060, 259-008-0065 and 259-008-0078 – Defining Cardiopulmonary Resuscitation (CPR) Certification and Changes to Law Enforcement Officer Maintenance Standards

Presented by Jennifer Howald

House Bill 2513 requires police officers complete at least three hours of airway and circulatory anatomy and physiology training and have a certification in adult and child cardiopulmonary resuscitation (CPR) to obtain a basic police officer certification. The bill also requires completion of at least two hours of airway and circulatory anatomy and physiology training within each maintenance period and ongoing maintenance of the adult and child CPR certification. HB 2513 becomes effective on January 1, 2022.

Staff presented proposed rule changes and fiscal impact statements for implementation of the adult and child CPR standard and the two hours of airway and circulatory anatomy and physiology maintenance training. While the bill is specific to police officers, these proposed rule changes use the term law enforcement officer and would apply to police officers, corrections officers, parole & probation officers and regulatory specialists.

Consensus reached approving the fiscal impact statements provided by staff.

Terri Davie moved to recommend that the Board approve filing the proposed rule changes for OARs 259-008-0060, 259-008-0065 and 259-008-0078 as a permanent rules if no substantive comments are received. Alex Gardner seconded the motion. The motion carried unanimously.

13. Review of Background Investigations Workgroup and New Requirements per HB 2936

Presented by Jennifer Howald

Staff identified that this agenda item was a placeholder, but the recommendations and rule changes are not ready to move at this time. Staff presented an overview of the current status and an overview of some of the new requirements that will be coming in the future.

House Bill 2936 made several changes to Oregon laws that enhance law enforcement employment background processes. This placeholder and the focus of this discussion is for section 3 of the bill, which requires DPSST 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 workgroup to review the current background standards in OAR 259-008-0015 and help develop the checklist and the questionnaire. The purpose of the standardized personal history questionnaire is to provide a statewide minimum standard. All public and private safety agencies will be required to utilize the questions that are established. However, agencies will be able to add additional questions to meet their needs. DPSST will provide the questionnaire as a DPSST form, but acknowledged that many agencies use an electronic method to facilitate collection of the personal history. Agencies will be able to continue to do so, but may be asked to provide some form of verification that the system they are using includes the questions contained in the standardized personal history questionnaire.

The next step for the standardized personal history questionnaire process will include a legal review. After the legal review, DPSST will present the policy committees with a rule change that will require use of the questionnaire and adopt the questionnaire by reference. As a rule change there will be an opportunity for constituent and public comment prior to the Board approval and implementation of any changes.

OAR 259-008-0015 already outlines what must be included in a background investigation. Much of this information will be formatted in the required uniform background checklist. The checklist will be provided as a DPSST form and will be required to be submitted to DPSST when submitting an F-4 personnel action form for a new hire.

House Bill 2936 specifies that the checklist must include:

- Information about a psychiatric or psychological evaluation of the applicant, including the evaluator's name and license number and an assessment of the

- applicant's tendencies, feelings and opinions toward diverse cultures, races and ethnicities and differing social, political, economic and life statuses;
- Investigation of the applicant's finances; and
- Identification of at least three references provided by the applicant that are interviewed by the law enforcement unit.

Review of financial records and references are already a part of the rule, but will be updated to meet the specificity of the bill. The new requirement that will take some additional work and have a greater impact is the psychiatric or psychological evaluation of the applicant.

House Bill 2936 results in a new requirement for all public safety officers hired by a law enforcement unit to have received a psychiatric or psychological evaluation. This will include telecommunicators, emergency medical dispatchers, corrections officers, parole and probation officers and regulatory specialists. Police and reserve officers were already required to complete a psychological screening. Additional evaluation is needed to determine if the requirements of HB 2936 affect the current standards for police and reserve officers. DPSST anticipates presenting recommend next steps and rule changes at the next meeting in February 2022.

The committee had questions on the requirements for the background checklist and the information that would be required to be reported. The committee expressed the recommendation that the checklist be limited to a high level checklist, if information or a step is required it should be represented by a checkbox and not require extensive or detailed data entry. The committee asked additional questions on content of the personal history questionnaire and requested an opportunity to review the current draft.

14. Police Policy Committee Membership – Chair and Vice Chair Elections

Presented by Marsha Morin

DaNeshia Barrett moved to nominate John Teague as Chair and Chris Skinner as Vice Chair of the Police Policy Committee effective February 2022. Terri Davie seconded the motion. The motion passed unanimously.

15. Applicant Review Committee – Second Term Nominations

Presented by Marsha Morin

Terri Davie moved to nominate Mark Rauch as the Police Policy Committee member to serve an additional term as a member of the Applicant Review Committee effective December 8, 2021. Alex Gardner seconded the motion. The motion passed unanimously.

16. Department Update

Presented by Marsha Morin, Standards and Certification Manager

- Current Cases
 - 103 total Police/Regulatory Specialist Cases
 - 56 are ready to begin the review process or are in some stage of the review process.
 - 50 are pending criminal/employment matters or waiting on records to be provided to DPSST.
 - 7 new cases have been added since the last policy committee meeting.

- 10 cases were closed since the last policy committee meeting.
- In September 2021, DPSST sent out a notice that, in a cost saving measure, it had discontinued sending the DPSST number cards to new public safety employees. Agencies have immediate access to these numbers through IRIS and in emails sent out during the basic academy registration process.
- DPSST has updated the current F6 roster to mirror the Excel roster format used for the eRoster process. This new roster has replaced the PDF eRoster for all training submissions. DPSST is also piloting a roster data transfer process for agencies that have their own training tracking systems and wish to provide a data transfer of rosters from their systems rather than re-entering into the F6 Roster.

17. Director's Update

Presented by Jerry Granderson, Director

- In an effort to enhance DPSST's connectivity with our constituents and partners, the department is making a concerted effort to conduct outreach to Board members, agency heads, legislature and the media. This outreach is dealing specifically with DPSST's activities, program and mission. This effort is continuing and the Director looks forward to meeting with as many members as he can on an individual basis.
- DPSST has currently been directed by the legislation to implement over 19 Police Reform and associated bills. DPSST is preparing to report the status of these initiatives the beginning of 2022. DPSST is also preparing for the 2023-25 legislative session.
- DPSST would like to thank Bradley Robertson of the Multnomah County Sheriff's Office and Sheriff Craig Zanni of Coos County Sheriff's Office for their dedicated service on this committee. Their participation and leadership served the State of Oregon tremendously and we all thank you.
- DPSST is actively recruiting in order to fill vacant positions, to include newly added public members. The Director looks forward to entertaining any qualified applicant who wishes to be considered.
- DPSST recently had a student test positive for COVID-19. The department is closely monitoring the situation and is conducting contact assessments for this specific class.
- DPSST recently went through a Secretary of State Audit. DPSST has responded to those findings and are correcting any and all recommendations as determined by the Secretary of State Office.
- On behalf of DPSST, the agency asks that everyone keeps Oregon State Police Trooper, John Jefferies and his family in their prayers. Trooper Jefferies is in critical condition after engaging a fleeing assailant. God speed to him, his family, and all those who serve in the Oregon State Police and Public Safety in general.

18. Next Police Policy Committee Meeting: February 17, 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.