

Police Policy Committee Minutes November 19, 2015

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 19, 2015, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Kent Barker called the meeting to order at 10:02 a.m.

Attendees:

Committee Members:

Kent Barker, Chair, Oregon Association Chiefs of Police
John Bishop, Oregon State Sheriff's Association
Michael Crebs, Portland Police Bureau, Asst. Chief (Designee for Chief Larry O'Dea)
Scott Dillon, Non-Management Law Enforcement
Mike Wells, Non-management Law Enforcement
Mathew Workman, Oregon Association Chiefs of Police
Kristine Allison, Oregon Association of Chiefs of Police
Brian Wolfe, Oregon State Sheriff's Association (via phone)
Jeffrey Staples, Non-Management Law Enforcement
Pat Garrett, Oregon Sheriff's Association
Jeff Hering, ONEA

Committee Members Absent:

Joel Lujan, OSP Command Staff Representative
Murray Rau, Non-Management Law Enforcement
Greg Bretzing, Federal Bureau of Investigation
Richard Evans, Oregon State Police Superintendent

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Linsay Hale, Professional Standards Division Director
Mona Riesterer, Professional Standards Assistant
Kristen Hibberds, Professional Standards Investigator & Coordinator
Leon Colas, Professional Standards Investigator & Coordinator
Julie Johnson, Compliance Specialist
Monica Walker, Criminal Justice Certification Supervisor
Ryan Keck, Leadership Training Coordinator

Guests:

David Croft– Central Police



1. Minutes of May 21, 2015

Approve the minutes of the May 21, 2015 Police Policy Committee meeting.

To see a complete record of the May 21, 2015 Police Policy Committee minutes, please go to:

<http://www.oregon.gov/dpsst/BD/pages/policepolicycommitteemeetingminutes.aspx>

John Bishop moved that the committee approve the minutes of the May 21, 2015 Police Policy Committee meeting. Jeff Staples seconded the motion. The motion carried unanimously.

2. *Curriculum Revision Request for Basic Police Regarding Intoxilyzer 8000

Item was tabled for a later date.

3. *Approval for Changes to Basic Police Curriculum

Item was tabled for a later date.

4. *Approval for Changes to the Police Career Officer Development (PCOD) Curriculum

Presented by Ryan Keck

The Training Division presented the Police Career Officer Curriculum Change to the Police Policy Committee and requested adaptations to the PCOD Curriculum as presented.

Mike Crebs moved that the committee recommend approval to the Board for the proposed changes to the PCOD Curriculum. John Bishop seconded the motion. The motion carried unanimously.

5. *OAR 259-008-0025, 259-008-0030, 259-008-0035, and 259-008-0085 –Proposed Rule Change; Minimum Standards for Training, Minimum Standards for Mandated Courses

Presented by Sharon Huck

The proposed rule language contains extensive housekeeping changes made with the intention of more clearly reflecting current requirements and procedures, particularly with regard to waivers of minimum training standards and the Board-adopted minimum standards for mandated courses. (Note: This proposed rule does not alter any of the current Board-approved standards.)

John Bishop recommended filing the proposed language for OAR 259-008-0025, OAR 259-008-0030, OAR 259-008-0035, and OAR 259-008-0085 with the Secretary of State as a proposed rule and a permanent rule if no comments are received. Kris Allison seconded the motion. The motion carried unanimously.

By consensus it was determined by the committee that there is no significant fiscal impact on small businesses.

6. ***OAR 259-008-0005, OAR 259-008-0010, OAR 259-008-0015, OAR 259-008-0020-Senate Bill 239, Reserve Office-Proposed Rule Change**

Presented by Sharon Huck

The proposed rule change is resulting from a legislative concept presented by the Board during the 2015 legislative session which would require agencies that employ or utilize reserve officers conduct background checks prior to employment or utilization. The change requires agencies employing or utilizing reserve officers submit F-4 Personnel Action Reports to DPSST indicating that a background check has been completed. The rule also provides housekeeping for consistency.

Michael Crebs recommended filing the proposed language for OAR 259-008-0005, OAR 259-008-0010, OAR 259-008-0015, and OAR 259-008-0020 with the Secretary of State as a permanent rule if no comments are received. John Bishop seconded the motion. The motion carried unanimously.

By consensus it was determined by the committee that there is no significant fiscal impact on small businesses.

7. ***Brandon Hanes, DPSST #47632 Basic Police Certification – Salem Police Department**

Presented by Kristen Hibberds

Jeffrey Staples abstained due to a potential conflict of interest.

The case brought before the Policy Committee involves Brandon Hanes' conduct surrounding his conviction of Harassment and whether the Committee recommends to the Board that his certification should be revoked or not revoked.

Kris Allison moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried with 9 ayes and Jeffrey Staples abstaining.

By discussion and consensus, the committee determined that Brandon Hanes behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Brandon Hanes' behavior did involve **Misconduct** as defined in the Administrative Rule due to the conviction charge of harassment.

Michael Crebs moved that the Police Policy Committee find that Brandon Hanes' **Misconduct** does rise to the level to warrant revocation when considered alone. John Bishop seconded the motion. The motion carried with 9 ayes and Jeffrey Staples abstaining.

By discussion and consensus, the committee identified that Brandon Hanes' behavior did not involve **Gross Misconduct** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Brandon Hanes' behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Brandon Hanes' behavior did involve **Disregard for the Rights of Others** as defined in the Administrative Rule by the crime in which he was convicted of.

John Bishop moved that the Police Policy Committee find that Brandon Hanes' **Disregard for the Rights of Others** does rise to the level to warrant revocation when considered alone. Mike Wells seconded the motion. The motion carried with 9 ayes and Jeffrey Staples abstaining.

By discussion and consensus, the committee determined that Brandon Hanes' behavior did not involve **Dishonesty** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Brandon Hanes behavior did involve **Aggravating Circumstance** by his hostility behavior towards other law enforcement officers and not being forthcoming with the information during the investigation. Mr. Hanes prevented the crimes from being investigated by his behavior and attitude and intentionally damaging the DUI investigation by consuming alcohol.

By discussion and consensus, the committee determined Brandon Hanes' behavior did not involve any **Mitigating Circumstances**.

After considering the totality of the circumstances, Mike Wells moved that the committee recommends to the Board that Brandon Hanes certification be revoked. Michael Crebs seconded the motion. The motion carried with 9 ayes and Jeffrey Staples abstaining.

John Bishop moved that the committee recommends to the board that Brandon Hanes' **Misconduct** warrants for an ineligibility period to reapply for seven years. Kristine Allison seconded the motion. The motion carried with 9 ayes and Jeffrey Staples abstaining.

Michael Crebs moved that the committee recommends to the Board that Brandon Hanes' **Disregard for the Rights of Others** warrants for an ineligibility period to reapply for fifteen years. Pat Garrett seconded the motion. The motion carried with 9 ayes and Jeffrey Staples abstaining.

8. ***Paul Rubenstein, DPSST #10756 Basic, Intermediate, Advanced, Supervisory, Management and Executive Police Certifications – Cornelius Police Department**
Presented by Kristin Hibberds

The case brought to the Police Policy Committee involves Paul Rubenstein's conduct surrounding the multiple investigations that led to his retirement and whether the Committee should recommend to the Board that his certifications should be revoked or not revoked.

Kent Barker abstained due to a potential conflict of interest. Mathew Workman acting as vice chair facilitated the meeting during this case.

Pat Garrett asked abstained due to a potential conflict of interest.

Mathew Workman wanted to note for the record that he has served with Rubenstein on the Chiefs of Police Committee on several committees' together as well as several social interactions and feels that he can make a fair determination based on the information presented.

Mike Wells moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Kristine Allison seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

By discussion and consensus, the committee determined that Paul Rubenstein's behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Paul Rubenstein's behavior did involve **Misconduct** as defined in the Administrative Rule by gambling while on duty and using personal use of his work vehicle. Also, by not showing a good example of being Chief of Police, as this is a position that should be looked up to by others.

Scott Dillon moved that the Police Policy Committee find that Paul Rubenstein's **Misconduct** does rise to the level to warrant revocation when considered alone. Michael Crebs seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

By discussion and consensus, the committee identified that Paul Rubenstein's behavior did involve **Gross Misconduct** as defined in the Administrative Rule by misusing city resources.

Michael Crebs moved that the Police Policy Committee find that Paul Rubenstein's **Gross Misconduct** does rise to the level to warrant revocation when considered alone. John Bishop seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

By discussion and consensus, the committee determined that Paul Rubenstein's behavior did involve **Misuse of Authority** as defined in the Administrative Rule by using his assigned vehicle that has been assigned by the city for his own personal use as this shows an abuse on public trust.

Kristine Allison moved that the Police Policy Committee find that Paul Rubenstein's **Misuse of Authority** does rise to the level to warrant revocation when considered alone. Mike Wells seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

By discussion and consensus, the committee determined that Paul Rubenstein's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Paul Rubenstein's behavior did involve **Dishonesty** as defined in the Administrative Rule by lying to the City Manager when questioned about his relationship with a female..

Mike Wells moved that the Police Policy Committee find that Paul Rubenstein's **Dishonesty** does rise to the level to warrant revocation when considered alone. Jeffrey Staples seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

By discussion and consensus, the committee determined that Paul Rubenstein's behavior did involve **Aggravating Circumstances**. Rubenstein was the Chief of Police. He was approached several times by different individuals about his ongoing behavior and Rubenstein never made any attempt to correct the situation. Rubenstein's letter showed minimal contrition and he excused his behavior because of his pay cut.

By discussion and consensus, the committee determined Paul Rubenstein's behavior did not involve any **Mitigating Circumstances**.

After considering the totality of the circumstances, Jeffrey Staples moved that the Committee recommends to the Board that Paul Rubenstein's certification be revoked.

Mike Wells seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

John Bishop moved that the committee recommends to the Board that Paul Rubenstein's **Misconduct** warrants for an ineligibility period to reapply for seven years. Mike Wells seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

John Bishop moved that the committee recommends to the Board that Paul Rubenstein's **Gross Misconduct** warrants for an ineligibility period to reapply for a ten years. Jeffrey Staples seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

John Bishop moved that the committee recommends to the Board that Paul Rubenstein's **Misuse of Authority** warrants for an ineligibility period to reapply for a ten years. Jeffrey Staples seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining.

Jeffrey Staples moved that the committee recommends to the Board that Paul Rubenstein's **Dishonesty** warrants for an ineligibility period to reapply for lifetime. Mike Wells seconded the motion. The motion carried with 8 ayes and Kent Barker and Pat Garrett abstaining

9. ***Tina Latendresse, DPSST # 53701, Hillsboro Police Department (Possible Executive Session)**

Presented by Leon Colas

The case presented to the Police Policy Committee is Tina Latendresse's conduct surrounding the use of military leave and sick time, and specifically her untruthfulness regarding these issues and whether the Committee recommends to the Board that Latendresse's certifications be revoked or not revoked. (*Possible executive session if medical information is discussed.*)

Mike Wells moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Michael Crebs seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Tina Latendresse's behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Tina Latendresse's behavior did not involve **Misconduct** as defined in the Administrative Rule.

By discussion and consensus, the committee identified that Tina Latendresse's behavior did not involve **Gross Misconduct** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Tina Latendresse's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Tina Latendresse's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Tina Latendresse's behavior did involve **Dishonesty** as defined in the Administrative Rule by being untruthful about calling in sick for work. Latendresse's was untruthful about military time off when stating she needed additional time off.

The Police Policy Committee closed the public session to convene in Executive Session pursuant to ORS 192.660(2) (f) at 11:10 a.m. This Executive Session was closed to members of the public. Public session was reconvened at 11:15 a.m.

Michael Crebs moved that the Police Policy Committee find that Tina Latendresse's **Dishonesty** does rise to the level to warrant revocation when considered alone. Kristine Allison seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Tina Latendresse's behavior did involve **Aggravating Circumstance** by being deceptive in using her national service. Also the fact that Latendresse was a tenured officer from another state.

By discussion and consensus, the committee determined Tina Latendresse's behavior did not involve any **Mitigating Circumstances**.

After considering the totality of the circumstances, Pat Garrett moved that the Committee recommends to the Board that Tina Latendresse's certification be revoked. Michael Crebs seconded the motion. The motion carried unanimously.

Michael Crebs moved that the committee recommends to the Board that Tina Latendresse's **Dishonesty** warrants for an ineligibility period to reapply for lifetime. Jeffrey Stapleton seconded the motion. The motion carried unanimously.

The Police Policy Committee convened for lunch at 11:20 a.m. and reconvened at 11:30 a.m.

10. ***Bryan Lavigne, DPSST # 38491 Basic Police Certifications, Request for Eligibility Determination**

Presented by Leon Colas

DPSST requests that the PPC review Bryan Lavigne's written request for an eligibility determination and recommend to the Board whether or not his eligibility to apply for certifications should be restored. Because Lavigne's case occurred under prior set of standards, staff used the current minimum initial ineligibility period for Disregard for the Rights of Others (five years) in order to determine the earliest Lavigne would be eligible for reconsideration.

John Bishop moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Bryan Lavigne's behavior did involve **Aggravating Circumstance** due to the conviction of the crime.

By discussion and consensus, the committee determined that Bryan Lavigne's behavior did involve **Mitigating Circumstance** by the passage of time since the conviction. Lavigne was eligible for reconsideration in 2012; he honorably served in the military and received counseling.

After considering the totality of the circumstances, Mike Wells moved that the Committee recommends to the Board that Bryan Lavigne's eligibility to apply for certifications be restored and recommends the same to the Board. Mathew Workman seconded the motion. The motion carried unanimously.

11. **Thomas Kipp, DPSST # 20794 Basic, Intermediate, Advanced and Supervisory Police Certifications – Oregon State Police (Retired)**

Presented by Leon Colas

The case presented to the Police Policy Committee is Thomas Kipp's conduct on June 25, 2013 that led to his arrest for DUII and Recklessly Endangering Another, and his eventual conviction on the DUII charge.

Kristine Allison moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. John Bishop seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Thomas Kipp's behavior did not involve **Insubordination**.

By discussion and consensus, the committee identified Thomas Kipp's behavior did involve **Misconduct** as defined in the Administrative Rule by the DUII arrest.

Kent Barker moved that the Police Policy Committee find that Thomas Kipp's **Misconduct** does not rise to the level to warrant revocation when considered alone. Michael Crebs seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified that Thomas Kipp's behavior did involve **Gross Misconduct** as defined in the Administrative Rule since DUII is a presumed category IV.

John Bishop moved that the Police Policy Committee find that Thomas Kipp's **Gross Misconduct** does not rise to the level to warrant revocation when considered alone. Jeffrey Staples seconded the motion. The motion carried unanimously

By discussion and consensus, the committee determined that Thomas Kipp's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Thomas Kipp's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Thomas Kipp's behavior did not involve **Dishonesty** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Thomas Kipp's behavior did involve **Aggravating Circumstance** by the letter to the Police Policy Committee contained his excuses for receiving the DUII and there was not contrition from Kipp.

By discussion and consensus, the committee determined Thomas Kipp's behavior did involve Mitigating **Circumstances** by attending a treatment program and paying his fines.

After considering the totality of the circumstances, Kristine Allison moved that the Committee recommends to the Board that Thomas Kipp's certification not be revoked. Mathew Workman seconded the motion. The motion carried unanimously.

12. ***Law Enforcement Memorial Wall Nomination Deputy Gil Datan – Coos County Sheriff's Office**

Presented by Eriks Gabliks

Deputy Gil Datan of the Coos County Sheriff's Office died while he was on a forest patrol on April 20, 2015. The death meets the criteria for the Fallen Law Enforcement Officer Memorial. Director Gabliks asked the Police Policy Committee for their vote to include Deputy Datan's name on the Oregon Fallen Law Enforcement Officer Memorial

John Bishop recommended the Police Policy Committee include Deputy Datan's name on the Oregon Fallen Law Enforcement Officer Memorial. Mike Wells seconded the motion. The motion carried unanimously.

13. **Department Update:**

Director Eriks Gabliks gave an update on the following:

1. Eriks welcomed Jeff Hering as a new member of the Board on Public Safety Standards and Training (BPSST) and its Police Policy Committee. Jeff is a Detective with the City

of Tigard Police Department and is an active member of the Oregon Narcotics Enforcement Officers Association (ONEA). Jeff was approved by Governor Brown, and confirmed by the Senate, to fill the vacancy created when Officer Glen Scruggs of the City of Tigard Police Department resigned because of change in work assignments and could no longer serve.

2. DPSST Appeared at the Legislative Public Safety Ways & Means Committee earlier this week.
 - a. Funds for additional basic training classes were requested. DPSST is experiencing what we thought might happen as local budgets improve and as a “baby boomers” retire, we are seeing a significant increase in requests for Basic classes. Basic Police hiring has ramped up and our basic classes are filling up fast. We added a class for November which filled up right away. Our January and February classes are full with 40 and now we are enrolling officers for the April 2016 Basic Police course. We are evaluating starting a Basic Police class in March 2016 to help alleviate the bubble. A recent survey by DPSST shows that city, county, state, tribal and university law enforcement agencies are in the process of recruiting more than 250 officers. The number of officers eligible to retire in 2016 is larger than this number.

Basic Corrections is also having an uptick. Our Basic Corrections classes scheduled for October and January are filled with 40 in each class. We are now enrolling corrections deputies/officers into the April 2016 class which has only a few empty seats left. As a result of our authorized class number, city, county, state, university and tribal law enforcement agencies to hire and wait long periods of time prior to sending a student to the Basic Police class. While we have the physical infrastructure, we have significant fewer staff members now compared to 2008. Last Monday we appeared and requested a place holder for funds (approximately 2.8 million) that we hope are approved when Legislature returns in February. The funds are for two additional 6-week Basic Corrections classes and four additional 16-week Basic Police classes. The funds include dollars for staffing (training, support, facilities) as well as related expenses such as meals and ammunition.
 - b. Limitation Increase for Byrne Grant for Center for Policing Excellence (CPE): DPSST requested an increase in limitation of \$959,000 to support a grant that is being given to DPSST’s Center for Policing Excellence (CPE) by the Oregon Criminal Justice Commission. This grant will fund a variety of projects and are described in the attached PDF titled CPE JAG Proposals. This request was approved.
3. A recent survey among basic police and corrections students attending the Academy showed that more than 30% were military veterans. In some classes the number of military members is closer to 40%. DPSST has created a process through which information and resources are given to Vets attending basic training to ensure they are

receiving any military education benefits they are entitled to. DPSST has worked with the Clackamas County Sheriff's Office to develop this outreach.

4. DPSST's Leadership Team recently conducted its statewide listening tour. Stops included Troutdale, The Dalles, Pendleton, Baker City, Bend, Klamath Falls, Medford, Coos Bay, Keizer, Albany, Eugene, Newport, West Linn, Beaverton, and Astoria. Roseburg was postponed due to the UCC tragedy and will be rescheduled for December. The issue most wanted to discuss was the number of basic training classes being offered. Interest was also expressed for webinars, the ability to send training records to DPSST electronically, and praise for the review underway of the firearms training program with discussion on rifles and carbines.
5. DPSST has hired Kevin Rau to coordinate its mental health/crisis response training program. Kevin recently retired from the Marion County Sheriff's Office and was instrumental in the development of their agency's program. The Oregon Legislative Assembly approved two new positions for this program during the 2015 session. The second position, a clinician, will be hired after the first of the year. The two will bolster basic training offered at the Academy, develop and deliver regional training classes on this issue, network with existing crisis intervention programs, and deliver the crisis intervention training (CIT) class to areas upon request.
6. A recent story by the Associated Press (AP) highlighted law enforcement officer and misconduct. <http://koin.com/ap/a-50-state-look-at-officer-decertification-for-sex-incidents> DPSST was active in the discussions with the AP and shared any information it could to share the work of the agency, the Board, and its Policy Committees. Some states do not issue certification to law enforcement officers and some don't have any processes for decertification. The collective efforts of the Oregon law enforcement community shows that our state holds officers accountable and that professional standards are in place in a transparent setting.

14. Next Police Policy Committee Meeting – February 18, 2016 @ 10:00 a.m.

** 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@state.or.us.*