

May 9, 2023

Members of the House Committee on Judiciary,

SB 808, as introduced, included language that would have replaced one of the two (or three, if you include Chief Addleman) Chief Law Enforcement Officers and one of the two representatives of police labor organizations with two members of community-based organizations to represent the interests of the public.

As introduced, SB 808 received nearly unanimous support, with the exceptions being the Oregon State Sheriffs Association and the Oregon Council of Police and Sheriffs.

The A-Engrossed version of SB 808 removed that attempt to address one of the main complaints that was made abundantly clear to both the Commission on Statewide Law Enforcement Standards of Conduct and Discipline (LESC) itself **and** the Senate Judiciary Committee.

Another common complaint that was made abundantly clear to the LESC and the Senate Judiciary Committee is that the rules codified by the LESC have been written such that law enforcement officers can walk away with a written reprimand for the following offenses:

- Assault
- Sexual Assault
- Sexual Harassment
- Unjustified or Excessive Use of Physical or Deadly Force
- Use of Drugs or Alcohol While on Duty

I sent the email below to the members of the LESC seven months ago on October 10, 2022 and copied some of you, including Chair Kropf and Rep. Bynum who was one of the Chief Sponsors of HB 2930, which created the LESC.

Please consider amending SB 808 by returning to the original language so non-law enforcement community members have a bit more representation on the LESC.

I also hope you will closely examine the work that the LESC has done to date. I do not believe that the rules they have codified thus far match the expectations the sponsors of HB 2930 had for them.

Thank you,

Marc Poris  
Portland, OR

**Subject:** Please Fix Your Recently Published Statewide Law Enforcement Standards

**From:** Marc Poris <marc.poris@gmail.com>

**Date:** 10/10/22, 12:05 PM

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Hello Statewide Law Enforcement Standards of Conduct and Discipline Commissioners,

Thank you for serving on the Commission on Statewide Law Enforcement Standards of Conduct and Discipline.

I appreciate the amount of time that you all have spent working on the initial set of rules.

I am also extremely disappointed in the way the public was engaged in the process.

Most troubling to me was the fact that, besides Executive Director Boss, Co-chair Slauson was the only member of the Commission to attend any of the public comment hearings. I want to thank him again for attending all four of those hearings.

While the staff did an adequate job of summarizing the written and verbal testimony, too much is lost when you, the Commissioners, do not take advantage of the opportunity to see and hear members of the public in real time.

So, to reiterate what Executive Director Boss said in his September 21 Interoffice Memo, "I encourage you to view the video recordings to hear the complete public testimony."

The public has no way of knowing whether any Commissioner other than Co-chair Slauson actually watched the testimony, so I want to highlight what three members of the public said, and I hope you will each take the time to watch and reflect on all three of their testimonies.

Barbara Kenny testified on August 30th.

Her child was killed by 4 Springfield police officers in 2019. If you are unfamiliar with the story, here's a link:

<https://www.registerguard.com/story/news/2021/03/31/report-springfield-police-failed-to-de-escalate-before-shooting-stacy-kenny/4807251001/>

Here is a direct link to Barbara Kenny's 4 minutes of testimony at the August 30th hearing:

<https://youtu.be/DLQk12-fFJw?t=368>

Ms. Kenny points out in her testimony that, of the four officers involved in her child's death, one officer retired, one was fired 18 months later due to sexual misconduct allegations and two officers remain employed. Ms. Kenny updated her recollection of when Officer Robert Rosales was fired in later written testimony. He was actually fired 26 months after his involvement in her child's death.

A woman who asked that journalists not report on her story shared that she was sexually assaulted by then-Portland Police Bureau officer Alfonso Valadez. She testified at the hearing on September 7th.

Here is a direct link to her 2 minute testimony:

<https://youtu.be/LrrREluotqI?t=1312>

Officer Valadez, after being fired by then-Chief Marshman, was reinstated by an arbitrator. Within 2 weeks of his reinstatement, he disregarded PPB policy and engaged in a high speed vehicle pursuit that led to a crash that killed the driver of the other vehicle.

Here's one article about this case:

<https://www.koin.com/news/portland-cop-investigated-after-pursuit-ended-in-death/>

Maria Macduff, whose 26 year old child Jacob was having a mental health crisis when he was killed by Tigard police officer Gabriel Maldonado on Jan 6, 2021, testified at the hearing on September 14th.

Here is a direct link to her 5 minute testimony:

<https://youtu.be/4ZXgm2RuzUo?t=2878>

And here is an article about the shooting of Jacob Macduff by Tigard police:

<https://www.opb.org/article/2022/07/27/tigard-police-settlement-shooting-death-jacob-macduff>

Officer Maldonado was allowed to leave the Tigard Police Department and start working for the Port of Portland Police while his investigation was ongoing. He was eventually put on leave and apparently fired, and he still has a case open in the DPSST Professional Standards/Economic Sanctions Database.

I bring up these particular three cases because:

1. Each person testifying either lost a loved one to police violence or was directly harmed by police violence.
2. Each case demonstrates an officer or officers who should not have remained employed in law enforcement and allowed to harm again.

This Commission must put standards in place that will exclude these dangerous officers, and others like them, from working in law enforcement again.

I personally believe that the legislature convened this Commission not solely (or even primarily) to create uniform standards for conduct and discipline but, more importantly, to ensure that the public is protected from dangerous cops.

The community suffers, more lives are destroyed and trust in law enforcement erodes further when cops who should be (and stay) fired are allowed to remain employed in law enforcement.

Ideally, you would convene public forums, held at accessible times so Oregonians who work 9 to 5 can attend, in which there is space for actual dialogue between members of the public (especially those directly impacted by police violence) members of the Commission and the legislators who formed this Commission.

If, like me, you question whether the Commission's work that has been done to date will make the community safer then I hope you will reach out to the legislators that brought you here and ask them to either start over or rewind this Commission with more actual non-law enforcement representation from the community.

If you wish you had voted differently earlier in the process, I hope you will speak out and let your fellow Commissioners know this.

The direction for how the Commission would carry out its work was set at the May 19 meeting when the vote on Commissioner Karia's ad-hoc motion to use "Commissioner Schuback's general framework to get us started and then replacing within the disciplinary guide categories and actions an outline of the seven areas of misconduct using Executive Director Boss's example, where, with the exception of the mitigating and aggravating factors narrowed to that" passed with 8 "yes" votes.

Listen to Commissioner Teague confide, after voting, that he wished there had been more discussion and, especially more dissent, before the vote on the motion:

<https://youtu.be/VSXuli7NMf4?t=6478>

I commend Commissioner Teague for speaking up about this, although it was too late. The motion had already passed.

The Commission was on its way towards what must have been like [another] standard law enforcement officer labor contract negotiation with Commissioners Schuback and Karia doing the bulk of the "negotiating" in the following sessions.

Had the public been properly notified and encouraged to participate, there is little doubt that the Commission would have proceeded in a different direction.

A more representative Commission with consistent oversight from the legislators tasked to oversee the work would have also produced rules more along the lines of what the legislature was looking for. However, just as happens in every law enforcement labor contract negotiation, the public was effectively shut out of the process.

The City of Portland and Portland Police Association allowed the public to view half of their bargaining sessions before PPA took the negotiations behind closed doors. Commissioners Karia and Schuback might say that, since each Portland City Council member had representation at the bargaining table, the public was involved in the process. The public's involvement in that process was just as limited as it was in this Commission's work.

There is no reason why the public should not be able to participate in every bargaining session that involves the law enforcement officers who are trusted and paid by our government to have the ability to use deadly force on Oregonians, just as the public should be truly encouraged to participate in this Commission's work.

There was almost no participation from the public during the Commission's first 15 meetings. Only one member of the public testified and that was the Chief of the Bend Police Department.

I wonder if it crossed any of your minds at the time why not a single other Oregonian testified during those first 15 meetings.

I wonder if you all felt that Oregonians just don't care about holding law enforcement officers accountable.

I wonder if it registered that, maybe the public didn't know what you were working on.

I wonder if you have actually watched the public's testimony.

To summarize, you are all responsible for codifying:

265-010-0001 – The sanction for Sexual Assault can be mitigated down to written reprimand.

265-010-0005 – The sanction for Sexual Harassment can be mitigated down to written reprimand.

265-010-0010 – The sanction for Assault can be mitigated down to written reprimand.

265-010-0015 – The sanction for Unjustified or Excessive Use of Physical or Deadly Force can be mitigated down to written reprimand.

265-010-0020 – Since law enforcement officer bias must be "based solely on the individual's real or perceived race, ethnicity, national origin, sex, gender identity, sexual orientation, religion, or homelessness" (my emphasis on the word solely), a biased officer can say "I didn't like the car they were driving, and also they were Black" and not face discipline.

265-010-0030 – The sanction for Use of Drugs or Alcohol While on Duty can be mitigated down to written reprimand.

265-010-0035 – Aggravating and Mitigating Factors allows for disciplining bodies to add "Other relevant factors" to justify imposing an aggravated or mitigated sanction, so there really is no standard here.

All of this is mentioned in the copious written and verbal testimony from the public that was provided to you after this August 1st OPB article by Jonathan Levinson was published, which is when most of us found out about your work:

<https://www.opb.org/article/2022/08/01/oregon-draft-rules-leave-wiggle-room-statewide-police-conduct/>

Whether you attended all 17 meetings like Commissioners Slauson, Karia and Teague or 2 meetings like Senator Prozanski, this Commission's work bears your name.

Please go back to the legislature and ask them to provide you with a more representative group of Oregonians that can produce standards designed to actually keep us safe from dangerous law enforcement officers.

Thank you,

Marc Poris  
Portland, OR