

Pending Committee Review

Department of Public Safety Standards and Training Memo

Date: May 20, 2021

To: Police Policy Committee

From: Melissa Lang, Professional Standards Case Manager

Subject: Terry Timeus, DPSST No. 17134

Reason for Discretionary Review

On 6/5/2020, DPSST received a complaint from the Clackamas County District Attorney (CCDA) alleging misconduct by former West Linn Police Chief Terry Timeus. The complaint included a CCDA Brady v. Maryland Report that sustained allegations that Timeus was responsible for inappropriately initiating a criminal investigation outside of the city of West Linn at the request of a personal acquaintance. It was ultimately determined that Timeus' acquaintance, who owned of a tow truck company, worked with the Timeus and the WLPD to have an employee of the tow truck company arrested in order to hinder the employee's ability to file a civil complaint of racial discrimination against the acquaintance.

On 8/20/20, the complaint was presented to the Police Policy Committee (PPC) for disposition in accordance with OAR 259-008-0400(4). The PPC unanimously voted to have DPSST initiate a professional standards case based on the findings of the CCDA's findings.

Material Events and Conduct

In late 2016 to early 2017 Timeus was approached by his personal friend, who was the owner of a towing company located in Portland, asking for assistance with an employee he believed was skimming proceeds from auction sales at his business. Upon learning that the Portland Police Bureau (the agency with jurisdiction) had declined to investigate, Timeus assigned a WLPD detective to investigate the matter for theft.

The WLPD, under the direction of Timeus, was found by the CCDA to have engaged in the following misconduct:

- Failure to preserve exculpatory evidence by intentionally deleting text messages between the business owner and investigating detective that include "... racial epithets/slurs, a motivation to fabricate the theft allegations, and an appearance of improper collusion ... to defeat ... civil claims." (Exhibit A3 page 41)
- Unlawful recording of the statements during the investigation. (Exhibit A3 page 41-42)

- Improper seizure and disclosure of the employee’s confidential attorney-client information relating to his discrimination lawsuit with the business owner. (Exhibit A3 Page 42)
- Failure to disclose exculpatory/impeachment evidence in the criminal investigation, to include, failure to report bias/impeachment evidence related to the business owner’s fear of a discrimination lawsuit, the business owner’s use of racial slurs and epithets, failure to include information about surveillance, and a failure to include information of the personal relationship between Timeus and the business owner. (Exhibit A3 Page 42)

Relevant Circumstances for Consideration

Timeus obtained Basic, Intermediate, Advanced, Supervisory, Management, and Executive Police certifications.

Timeus retired as the Chief of the West Linn Police Department on 11/1/17.

Timeus had 34.5 years experience in law enforcement.

Exhibits Reference

DPSST Employee Profile Report	A1
PPC Staff Report	A2
Clackamas County District Attorney Complaint	A3
PPC Meeting Decision	A4
Timeus Deposition	A5
Investigating Officer Deposition	A6
Page from Termination Documentation of Investigating Officer	A7
Portland Police Independent Review	A8

Committee Member Instructions:

Committee members shall review and discuss each record for moral fitness violations as defined by rule, including aggravating and mitigating circumstances and, upon adoption of the record, make a recommendation to the Board of *action* or *no action*.

By discussion, motion, and vote, the committee members shall take the following action(s):

- Following discussion, adopt the record or return to staff with instructions regarding the record.

- If the record is adopted, make a recommendation to the Board of action or no action.
 - If board action is recommended, recommend the period of ineligibility.
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Definitions and Standards (Abridged):

Moral Fitness Violations:

- Dishonesty - intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth
- Misuse of Authority - intentional conduct that includes the use or attempted use of one's position or authority as a public safety professional to obtain a benefit, avoid a detriment or harm another
- Misconduct - conduct that violates criminal laws or conduct that threatens or harms persons, property or the efficient operations of any agency.

Aggravating and Mitigating Circumstances:

Aggravating and mitigating circumstances are conditions, factors, or actions that increase or decrease the total impact that the identified moral fitness violation has on the public safety professional's fitness for certification.

Aggravating circumstances generally increase the severity of the impact the moral fitness violation has on fitness for certification and may, in addition to the moral fitness violation, be grounds to deny or revoke certification. Aggravating circumstances may increase the recommended ineligibility period. Circumstances that may be considered aggravating include, but are not limited to, the degree of the criminal disposition, prior criminal dispositions or misconduct, lack of accountability, number of persons involved in the underlying conduct, number of separate incidents, passage of time from date of incident or incidents, or any other circumstance the Department or the Policy Committee consider aggravating given the specific issues in the case.

Mitigating circumstances do not excuse or justify the conduct, but generally decrease the severity of the impact the moral fitness violation has on fitness for certification and may decrease the recommended ineligibility period or result in no action. Circumstances that may be considered mitigating include, but are not limited to, written letters of support, truthfulness, cooperation during the incident or investigation, or any other circumstance the Department or the Policy Committee consider mitigating given the specific issues in the case.

Ineligibility Periods:

The *ineligibility period* is the time that the public safety professional or applicant is ineligible to hold a DPSST certification or to apply for training or certification, based upon the moral fitness violation(s) and the aggravating and mitigating circumstances. If Board action is recommended, a

single ineligibility period of three years to life, inclusive and concurrent of all violations, shall be recommended.

- *Misuse of Authority* and/or *Misconduct*. If the committee recommends Board action for Misuse of Authority or Misconduct, the committee must recommend an ineligibility period of three to ten years.
- *Dishonesty*. If the committee recommends Board action for Dishonesty, the committee must recommend an ineligibility period of three to ten years but may increase it to life.