

M E M O R A N D U M



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TO: SHIRLEY METCALF, PRESIDENT OF CENTRAL OREGON COMMUNITY COLLEGE

FROM: JIM PORTER, CHIEF OF POLICE

SUBJECT: REQUEST TO CEASE POLICE RELATED ACTIVITIES

DATE: AUGUST 31, 2018

CC: DISTRICT ATTORNEY HUMMEL,

President Metcalf,

A Bend Police officer, after completing an investigation into the serial stalking of female students on the COCC campus brought forth serious complaint of malfeasance against the security department of Central Oregon Community College. Staff of the Police Department completed an audit covering crimes occurring on the campus, the frequency in which those crimes were being reported, and potential unlawful manner in which the security unit was operating. Bend Police staff used available COCC incident reports, witness statements, Bend police reports, available COCC security dispatch records and Deschutes County 911 dispatch records as the predominant source of data for this review.

The audit found information within COCC incident reports, witness statements, and Deschutes County records that could lead a reasonable person to believe the College has continued its past practice of conducting criminal investigations, taking statements from victims and witness in criminal incidents, collecting or attempting to collect evidence in criminal cases, assigning staff who the colleges is aware are unqualified to conduct investigations, and security officers have continued the unlawful past practice of stopping and detaining citizens as was reported to have led to the murder of Kaylee Sawyer. In brief, COCC incident reports and witness statements indicate the College security department has resumed the same manner of operations as prior to Kaylee Sawyers murder and after signing of our Memorandum of Understanding.

The most troubling of all, in reviewing information within COCC incident reports and from witness statements, it appears a disproportionate number of victims of crimes on campus are females and the security unit by actions and inaction can be seen as contributing to this trend.

Failing to share information

With the use of public source information the Bend Police Department crime analyst compared the Deschutes County 911 dispatch records on calls for services at the Bend campus to the incident dispatch records for the COCC public safety unit. Specifically, comparing the period beginning on May 1st, 2017 through April 29th, 2018. The analyst concluded there was information which led them to believe the security staff at COCC has failed to report up to 76% of crimes which are required reporting under the rules of the National Incident Based Reporting program of the US Department of Justice.

This under reporting gives a potentially false impression on the overall safety of the campus to any parent or potential student. These under reported crimes do not appear to have been reported on Cleary reports by COCC, but based upon the limited information available this has not been confirmed. Additionally, this lack of reporting can deprive the victim's access to their rights under the Oregon Constitution as victims and precludes the opportunity to have their stolen property recovered and returned.

Criminal Investigations by COCC Security Staff

As a result of this apparent under reporting of crimes by the COCC security unit the Bend Police Department possesses only limited data to determine the exact number of criminal investigations being conducted by COCC security staff or the number of victims. Information within COCC incident reports, witness statements and suspect statement could lead a reasonable person to believe the security staff of COCC is conducting investigations into significant crimes against females. The following are two confirmed incidents:

- On November 7, 2017, at 5:50 pm, a victim of a "jacket theft" contacted the Bend Police to report her coat had been stolen from the library at COCC. By 8 pm, the same day, the officer had arrested the suspect Michael Mahoney and recovered four stolen women's coats, stolen from the campus library and had obtained a full confession. Information from within COCC incident reports, witness and suspect statements indicated the following took place over a two year period:
 - Mahoney, the suspect stated to Bend officers he had in fact been targeting women at the campus library and stalking them to satisfy his sexual fantasies for approximately 24 months.
 - During these 24 months the security unit at COCC had identified Mahoney as a suspect but chose to conduct an in-house criminal investigation into coat thefts and not consult or advise law enforcement who had the authority to arrest Mahoney.

- Mahoney stole a female victim's jackets as trophies for his own sexual gratification, often masturbating into the jackets, then storing them at his residence.
- COCC incident reports and witness statements indicate at least 13 females reported to campus security their coats were stolen between 01/01/2015 and Mahoney's arrest on 11/01/2017.
- On November 28, 2016, COCC security officers, in their incident reports identified Mahoney with the use of *Oregon Department of Motor Vehicle records* as the suspect in a crime, but withheld the suspect information from law enforcement agencies who had the authority to arrest Mahoney and end the stalking and thefts from females on campus.
- On November 28th, 2016 COCC security officers recorded in their reports and in *intelligence bulletin PS-7* they had been conducting on-going undercover surveillance operations following Mahoney when he was in the library, but did not notify law enforcement who possessed the authority to arrest Mahoney and end the stalking and thefts from females on the campus.
- On or about February of 2017, COCC security officers issued an internal "intelligence bulletin", on COCC form "PS-7", which included photos of Mahoney, his vehicle and the crimes they believed he had committed, listing his daughter's name and his address. COCC failed to share this bulletin with law enforcement who possessed the authority to arrest Mahoney and end the stalking and thefts.
- On November 7, 2017, a victim of a coat theft contacted the Bend Police to report the theft. At approximately 6pm, Bend officers while questioning a COCC security officer on the reported theft of a jacket at the COCC library, discovered security staff had identified Mahoney as being responsible for a series of coat thefts on campus, but had not shared it with law enforcement.
- By 8pm on this same date, Bend officers had arrested Mahoney, obtained his confession and recovered four coats stolen from females students at the COCC library, ending his near two year series of crimes on the campus targeting and stalking females.
- COCC security incident reports, COCC *Intelligence reports* and Bend Police reports clearly establish that between November of 2016 when COCC security first identified Mahoney as the suspect and November of 2017 when COCC security finally disclosed Mahoney's name to Bend officers, Mahoney had stalked and stole property from at least 3 additional female students on the COCC campus.
- It is not unreasonable to assert that the withholding of Mahoney's name and criminal activities by COCC security staff from law

enforcement led to three additional females being stalked and having their property stolen.

- On April 4th, 2018, at 7:08 pm, Jesslyn Murphy reported to a Bend Police Officer she had been attacked and grabbed on her buttocks by a suspect who attempted to steal her backpack in a remote parking lot. This parking lot is adjacent to the parking lot where Kaylee Sawyer was kidnapped, raped and murdered just 21 months prior. Reports written by College security officer, witness statements and Deschutes County 911 dispatch records indicate the following took place on this date:
 - The COCC incident report indicate at 6:12 pm, Murphy reported she was attacked to a COCC security officers in the parking lot. The officer failed to “immediately report” the incident to the Bend Police as required by the MOU
 - But, the COCC incident report reflects the security officer did immediately notified his superiors, the COCC public information officer and vice president of the college and initiated a campus wide alert, but at no time contacted the law enforcement.
 - There was no evidence reflecting the public information officer, nor the vice president of the college “immediately reported” the crime to the Bend Police Department, as required by the MOU. Despite the seriousness of the allegations, the close proximity of this alleged attack to the location of the previous attack on Kaylee Sawyer which a reasonable person could concluded needed a police response.
 - Without notifying the Bend Police Department the security officer then conducted a search of the alleged crime scene, attempting to locate evidence, thus tainting the crime scene and excluding the possibility of introducing any evidence found at a crime scene into a justices proceedings against the suspect. These searches have occurred in prior crimes on campus investigated by COCC security since 2014.
 - The COCC incident report on this attack was written by the security officer, but not forwarded to the Bend Police as required by the MOU.
 - COCC incident reports states at 9:34 pm, campus security officers, while on patrol saw what they believed was a suspect in the attack on Jesslyn Murphy, a Jerome Jewett.
 - At approximately 9:30pm, COCC incidents reports and witness statements confirm COCC security officers stopped, detained, questioned and seized the state identification of the citizen they believed to be the suspect, despite the fact there was little to no resemblance between the reported suspect and Jewett.

- The reports reflect this citizen was not a student and was not involved in the reported attack. The manner in which the security officer stopped and detained Jewett could lead a reasonable individual to believe they were being stopped, detained and questioned by a police officers as reflected in the Oregon Vs Hall decision.
- At approximately 9:39 pm, security officers notified Bend officers they had a suspect stopped (Jewett). The Bend officers responded to the College campus, confirmed the security officer had conducted a stop of a citizen seizing his Oregon identification, and confirmed he was not involved in the reported attack on Murphy. Bend Officers returned Jewett his Oregon identification card insured the citizen was released from the College's stop and transported to his residence.

Stop and Detention of Citizens

COCC incident reports, Police crime reports, witness statements and suspect statements confirm not only was Kaylee Sawyer unlawfully stopped and detained by COCC security officers in July of 2016, but additionally on the evening of April 4th, 2018, Jerome Jewett was also stopped and detained by security officers as a suspect in a crime he was not associated with.

Due to the under reporting of crimes by COCC security staff no complete review can be conducted to know how often COCC security is conducting unlawful stops and detentions.

Crime Victim's Rights

As mentioned above, due to the lack of complete reporting by the COCC security staff no absolute conclusion can be drawn as to the numbers of criminal cases being investigated by the security staff, but when COCC security initiate a criminal investigation, determine a crime was committed, and then the matter is resolved at the campus level they thwart the protections for victims contained in Oregon's constitutional victims' rights provision (Article I, section 42) and can impede a victims right to obtain compensation for their loss from the Oregon Crime Victim's Compensation Program.

Information from within COCC incident reports and witness statements reflect from as early 2014 through April of 2018, the pattern, practices, policies and operations of the College's security staff has resulted in the tainting of criminal investigations to the degree the offenders could not be charged with crimes. These cases include, but are not limited to, the investigation into the unlawful placing of a video recording device in the women's bathroom on campus in 2015; the seizing and unlawful storage

of controlled substance from 2014 through 2017; the stalking and theft from between 9 and 13 females on the campus between 2015 and 2017; the investigations of reported attacks on two females in 2016 and in 2018; the stopping and detaining of citizens in 2016 and 2018.

The manner in which COCC security has conducted these aforementioned investigations has resulted directly and indirectly in offenders not being apprehended, evidence of crimes being rendered potentially inadmissible in court proceedings, victims not being afforded their rights and has allowed criminals to continue to stalk and victimize females on the campus for a period exceeding two years.

In the Mahoney Stalking case alone, information within COCC incident reports, in witness and suspect statements indicated the withholding of Mahoney's name by COCC staff from law enforcement led to the delayed arrest of the suspect and allowed him to stalk and steal from at least three additional female students between November of 2016 and November of 2018. Of significant concern is in the mentioned stalking cases, in the Sawyer, and Murphy cases, all the victims were females.

The COCC incident, *intelligence reports* and witness statements provide information which raises concerns there exists potential violations of victim's Oregon constitutional rights, violations of Oregon statutes, and a pattern of victimization of females on the COCC campus as a result of the operations of the COCC security unit.

The continued practice by the College of directing students to call the campus dispatch center for assistance with crimes, then dispatching security officers in vehicles resembling police vehicles, having responding security personnel dressed in uniforms nearly identical to police officers, conducting investigations in a manner similar to police officer can easily lead the victims into believing they have submitted a police report, will receive follow-up services and have the opportunity to have their stolen property returned. But yet, the College security cannot make arrests for these crimes they take reports on and/or investigate. They possess no legal access to the national crime systems to enter the stolen property to enable police officers across the nation the ability to recover the victim's stolen property. Campus security may not pursue suspects off of College property, or serve search warrants to recover the stolen property, or make follow-up arrests of the suspects if stolen property is found. With these facts in mind, there would seem to be no logical or legal reason to take reports on crimes by campus security.

Additionally, a review of COCC incident reports raise questions on the unlawful use and dissemination of Oregon Department of Motor Vehicle records by the COCC security unit and dispatch center. Records of the Oregon Department of Motor Vehicles indicated COCC security unit is only licensed to use DMV records to enforce parking violations, not criminal investigations. A COCC incident report

written on November 28, 2016, reflects that the Dispatch center of COCC accessed DMV records to further their criminal investigation into Mark Mahoney. Other COCC reports appear to indicate the COCC security unit is compiling what they refer to as intelligence on citizens, then using and disseminating the intelligence.

To insure the safety and security of students and citizens it is requested COCC immediately cease the practice of taking crime reports, investigating crimes, attempting to seize evidence, processing crime scenes, taking witness statements in criminal matters, and stopping and detaining of citizens until a meeting can be scheduled between COCC officials, the Deschutes County District Attorney, and representatives of the City of Bend Police Department to resolve what appears to be civil rights violations, violation of State Statute and possible violations of the administrative rules of the Oregon Department of Motor Vehicles.