

**DEPARTMENT OF JUSTICE**  
**INTEROFFICE MEMO**

DATE: September 21, 2022

TO: Commission on Statewide Law Enforcement Standards of Conduct and Discipline

FROM: Frederick M. Boss, Executive Director

SUBJECT: Presiding Officer's Report on Rulemaking Hearings

The Commission on Statewide Law Enforcement Standards of Conduct and Discipline (“The Commission”) filed a notice of proposed rulemaking on July 28, 2022, which was published in the August 1, 2022, Oregon bulletin. The notice solicited public comment at four scheduled rulemaking hearings as well as written comments. The hearings occurred as scheduled, and I served as the hearings officer. Public attendance at the hearings was available both in person and virtually.

Members of the public were asked to register in advance if they wished to make a public comment at the hearing. As time permitted after those who had registered in advance testified, other attendees were permitted to make public comments. All people who expressed a desire to make a public comment were permitted to do so. Attendees were told that the hearings were being recorded.

All hearings were recorded and are available on the Commission’s website. For ease in locating individual testimony, this report includes video time stamps and brief summaries of the public testimony received at the hearings. I encourage you to view the video recordings to hear the complete public testimony.

**Summary of Oral Comments**

**Hearing Date and Time:** August 30, 2022, at 1:00 pm  
**Hearing Location:** Oregon Department of Justice, Bend  
Virtual via Zoom

1. Mike Krantz, Chief of Police for the City of Bend attended the hearing in person. Chief Krantz submitted written comments to the Commission by email on August 3, 2022, and provided public comment at the Commission’s August 4, 2022, meeting. He did not make additional comments at this rulemaking hearing.
2. Marc Poris testified virtually (*video time stamp 2:25*). He noted that all public hearings are scheduled for 1pm and suggested that a hearing be scheduled at 6pm.

He also requested that the Commission's website include information about the Commissioner's affiliation and compensation and suggested additional groups be represented on the Commission.

3. Barbara Kenny testified virtually (*video time stamp 6:05*). She testified as to her experience as a mother whose child was killed by Springfield police. She urged the Commission to define "excessive" use of force, and "justified" use of force, and the set standards around the process leading up to discipline. Ms. Kenny submitted a written comment via email on September 12, 2022. Her written comment is substantially similar to her oral testimony.

**Hearing Date and Time:** September 1, 2022, at 1:00 pm

**Hearing Location:** Oregon Department of Justice, Portland  
Virtual via Zoom

No members of the public attended the hearing in person. The following testimony was received virtually.

1. Dan Handelman, representing Portland Copwatch (*video time stamp 3:20*), testified about differences in Portland's disciplinary standards and the Commission's proposed rules. Portland Copwatch submitted written testimony that is attached as **Exhibit 1**.
2. Sandy Chung, representing ALCU of Oregon, (*video time stamp 9:41*) testified about incidents of racism with the Portland police. She stated that the current proposed rules provide too much latitude and request that the standards be drafted with more input from community members.
3. Beatrix Li, representing Oregon Justice Resource Center (*video time stamp 15:14*), testified that clear statewide standards would ensure accountability but that the proposed standards fall short. OJRC opposes the proposed rules and requests more participation from groups with experience litigating law enforcement accountability issues.
4. Fumiaki Tosu, representing Dandelion House and ACLU of Oregon, (*video time stamp 19:51*) stated that the proposed standards fall short and that holding officers to a higher standard benefit both communities and the police.
5. Yusuf Arifin, representing himself and ACLU of Oregon, (*video time stamp 23:57*) testified that young people are wary of exercising rights to protest because of police intimidation. The proposed standards fall short and do not strengthen accountability.

6. Andre Miller, representing Proactivists of Oregon (*video time stamp 26:46*) testified that marginalized communities are underrepresented on the Commission. He submitted written testimony at the hearing, which is substantially similar to his oral testimony. The written testimony is attached as **Exhibit 2**.
7. Marc Poris (*video time stamp 29:27*) restated comments from the Bend (8/30) hearing. He raised an additional concern that written reprimand is a permitted sanction for unjustified, intentional assault.

**Hearing Date and Time:** September 7, 2022, at 1:00 pm  
**Hearing Location:** Oregon Department of Justice, Pendleton  
Virtual via Zoom

No members of the public attended the hearing in person. The following testimony was received virtually.

1. Maria Rossi Cahill, representing Pacific Northwest Family Circle (*video time stamp 2:00*) testified as to the following concerns: (1) Need for higher standard of conduct for law enforcement; (2) Mitigating factors; (3) Additional areas of misconduct; (4) more clarity in language; and (5) commission membership.
2. Marc Poris, (*video time stamp 12:50*) discussed public participation in rulemaking process.
3. Beatrix Li (*video time stamp 16:14*) testified as to experience with police at protests in 2020. She also discussed concerns with commission membership. She highlighted a concern with written reprimand as possible sanction for sexual assault.
4. Michelle (last name withheld) (*video time stamp 21:44*) discussed personal experience with police misconduct.

**Hearing Date and Time:** September 14, 2022, at 1:00 pm  
**Hearing Location:** Oregon Department of Justice, Medford  
Virtual via Zoom

No members of the public attended the hearing in person. The following testimony was received virtually.

1. Lizzy Utterback (*video time stamp 3:38*) raised concerns about the makeup of the Commission, mitigating factors, sexual assault standards and hate groups.
2. Alicia LeDuc Montgomery, attorney with LeDuc Montgomery, LCC (*video time stamp 10:12*) provided video, documents, and examples from a case she is

currently litigating involving conduct involving Medford police officers and Jackson County sheriff's office. She requested that the proposed standards include sanctions for targeting based on disability. She submitted **Exhibit 3** in advance of the hearing.

3. Marc Poris (video time stamp 33:20) offered comments on prior testimony and expressed hope that commission would take public comments into consideration before finalizing standards.
4. Sandy Chung, representing ACLU of Oregon (video time stamp 36:16) shared public information about a client's experience with the Ashland police. She testified that the proposed standards will not hold police accountable.
5. Lena Houston Davisson (video time stamp 41:44) testified that she was alarmed that hate groups were not addressed in the standards. She also expressed concern about lack of accountability and ability for bad actors to continue same behaviors.
6. Maria Macduff (video time stamp 47:55) testified about her experience as a mother whose son was killed by Tigard police. She recommended (1) balanced input, (2) clear definitions, and (3) an independent ethics committee.
7. Barbara Kenny (video time stamp 56:18) expressed hope that Commission is watching the videos and considering the public comments.

**From:** [Portland Copwatch](#)

**Mail received time:** Tue, 30 Aug 2022 20:17:51

**Sent:** Tue, 30 Aug 2022 13:17:36

**To:** [ORLawEnf Commission](#)

**Cc:** [Portland Copwatch](#)

**Subject:** TESTIMONY on state discipline standards from Portland Copwatch

**Importance:** Normal

**Sensitivity:** None

**Archived:** Tuesday, September 6, 2022 11:11:52 AM

---

\*CAUTION EXTERNAL EMAIL\* This email originated from outside of DOJ. Treat attachments and links with caution. \*CAUTION EXTERNAL EMAIL\*

To the Commission on Statewide Law Enforcement Standards of Conduct and Discipline:

Our organization, Portland Copwatch, has been promoting police accountability through civilian action since 1992. We appreciate the ability to testify and hope that you will make changes based on our testimony and others you will hear from the community.

First, we want to acknowledge that Mr. Schuback and Mr. Karia, who were on opposite sides of the bargaining table in Portland, seem to have brought many of the values imbued in Portland's new discipline guide to the table.

That said, unlike the proposed statewide standards, Portland's guide explicitly lists termination as the presumptive discipline, with little ability for mitigation, for these violations of policy:

- felony crime conviction or felonious misconduct
- domestic violence
- criminal conviction of a crime that is a DPSST certification disqualifying crime
- untruthfulness
- public corruption for monetary gain
- intentional misuse of police authority based on protected class or status
- out-of-policy use of deadly force or significant policy violation of the confrontation management performance policy during use of deadly force.

The state's guidelines flesh out the ideas of felonious crimes and misconduct by listing sexual assault, assault and assault without justification, stalking (which is a felony upon repeat offense), bias or hate crimes, and sex crimes.

The state also includes the other categories of domestic violence, untruthfulness, and public corruption. However, for each of these rules the state is allowing mitigating factors to take the discipline all the way down to written reprimands for any of these harmful acts. This is

not acceptable for these levels of misconduct. Any of the categories not presumed to lead to termination in Portland have a presumptive discipline of 120 hours suspension without pay, aggravated discipline of termination, and mitigated discipline of 80 hours without pay. The state should follow suit, even if demotion and salary reduction are also included as options.

We're very interested to see that Portland's entire list of aggravating and mitigating factors were reproduced in the Commission's draft, along with new added aggravating factors of:

- +Prior disciplinary history
- +Failed to de-escalate encounter when feasible
- +Low probability or limited potential for rehabilitation
- +Nature of event allowed for time to reflect
- +Victim's vulnerability
- +Presence of training or experience

The state is also proposing mitigating factors of:

- +Role of officer (subordinate to supervisor)
- +Attempts to de-escalate
- +Potential for rehabilitation
- +Nature of event was unpredictable, volatile or unfolded rapidly
- +Extraordinary circumstances or hardships
- +Lack of training or experience

Some of these mitigating factors cause us great concern and can be categorized as "nobody said I couldn't." The administrative and criminal actions listed in this report should be common-sense things that an officer knows is wrong. The fact that an officer is a subordinate does not excuse their committing violations of human rights, a principle established at Nuremberg ("I was just following orders" is not an excuse).

Furthermore, the issue of police officers deliberately targeting people due to a protected class or status-- race, ethnicity, gender identity, sexual orientation, religion or housing status-- needs special attention.

It is very good that officers violating policies about biased policing cannot get off with just a letter of reprimand. However, the use of the word "solely" to describe the reason an officer took certain actions is an unacceptable get-out-of-discipline-free card. The officer can say "I didn't like the car they were driving, and also they were Black" and not be punished. The phrase "solely or primarily" is used elsewhere to determine violations here and should be used in these rules.

We are not opposed to people who use drugs or alcohol recreationally but do agree that officers who carry weapons, drive vehicles and interact with the public should not consume or be under the influence of mind-altering intoxicants at work. It is interesting that the use of drugs or alcohol while on duty also, like bias in policing, does not allow for a written reprimand in the proposed rules. This reinforces our concern from above that written reprimands should not be used for those other serious violations.

The discipline for impairment, however, does allow for written reprimand, and it's not clear why.

It is also interesting that the Commission is heavily dominated by male or male-presenting members and that the discipline for sexual harassment (rather than assault) is presumptively less than termination. While it is true sometimes men are the subjects of sexual harassment, it seems that the issue is not being taken seriously by the Commission, perhaps because of implicit gender bias. Ironically.

It is not 100% clear to us whether some of the statewide factors (including the aggravating factors to consider) will be implemented in Portland while the current collective bargaining agreement is in effect until 2025. Regardless, we hope that the Commission will take our advice and improve these guidelines for the good of everyone in the state. We don't want to have to come back in two years with the same comments as the current contract is getting ready to expire.

We are also very interested in the rule that is being proposed around arbitration. It seems as if the rule will require arbitrators to return cases to jurisdictions if there are multiple allegations and they disagree that there was misconduct in just one of them, allowing the jurisdiction to set the new level of discipline. If that is the intent of this rule, Portland Copwatch supports it.

Finally, we want to recognize that a large number of people on the Commission are either from law enforcement or work for law enforcement in some way. We would have liked to see a more balanced makeup of the Commission, but acknowledge that some of the proposed rules will rankle some officers. On the other hand, we want to acknowledge that many times when officers in Portland lie, cheat, steal or engage in sexual misconduct, the Portland Police Association does not help those officers fight to retain their jobs, which shows a level of integrity. We only hope that the unprovoked, unwarranted and sometimes deadly use of force leads to more instances where the community and law enforcement can agree "this cop should not be on the force any more."

Thank you  
dan handelman  
and other members of  
portland copwatch

My name is Andre Miller and I am a native Black Portlander, an active member in our community, a homeowner and father of 4.

I name all those things because it is important to understand that with the history of Oregon and being one generation removed from Black exclusion laws I have been able to knock down the barriers in place that does not allow Black members of our community the opportunity to thrive.

I provide that context because when we can't thrive in our community we are forced to survive and when we are in survival mode we are unable to find the time to fully invest our own selves and lived experience in our community. We need income equality, equity in socioeconomics and to decrease the poverty/wealth gap.

For too long in Portland and Oregon overall committee's and advisory boards have been stacked with biases, not equitably and not having voices of the ones most impacted.

It is important that if Oregon wants to see true change especially around public safety or policing the ones most impacted by overpolicing and facing the higher chance for profiling and police brutality need to be represented in these committee's.

Marginalized community members need to have a majority of the seats rather than Law Enforcement, retired Law Enforcement officials and their Allies.

I look forward to following this more closely and I request you vote NO to the current standards being proposed due to all of my above concerns in the unequal and under represented voices on the commission.





# Oregon State Police

## Incident: SP19289625

### Incident Details:

---

Incident Type: Assault

Incident Time: 07/11/2019 15:14 - 07/11/2019 15:15

Reported Time: 08/13/2019 09:15

Incident Location: 787 W 8TH ST, MEDFORD, JACKSON OR USA 97501 (JACKSON COUNTY JAIL)  
(Beat: MPO, Region: SWR)

Incident Status: Cleared Exceptional - Prosecution Declined

Summary: OSP was asked to conduct a criminal investigation regarding the conduct of a Jackson County Jail deputy. Potential criminal charges will be referred to the Jackson County District Attorney's Office.

**Involved Offenders - Persons**

---

**Name:** KOLKEMO, BRIAN **Gender:** Male  
**Classification:** Arrested; Charged; Police Officer - outside agency; Suspect **DOB:** [REDACTED]  
**DL:**

**Arrest Report:**

---

**Author:** #31613 PROULX, JEFF **Report Time:** 09/13/2019 13:49  
**Entered By:** #31613 PROULX, JEFF **Entered Time:** 09/13/2019 13:49  
**Arrest Date/Time:** **Arresting Officer:** #31613 PROULX, JEFF  
**Place Of Arrest:**  
**Apprehension Type:**  
**Warrant #:** **Warrant Agency:**  
**Remarks:** Referred to DA

**Charges/Pending Charges:**

---

- **166.065 Harassment** (Misd, B); Status: Referred to DA for consideration; Offense Date: 07/11/2019
- **163.160 Assault IV** (Misd, A); Status: Referred to DA for consideration; Offense Date: 07/11/2019

**Involved Victims - Persons**

---

**Name:** MALAER, JOHN L **Gender:** Male  
**Classification:** Mentioned; Victim **DOB:** 10/22/1958  
**DL:**

---

## Other Involved Persons

---

**Name:** BONDHUS, KEYAN JOSEPH  
**Classification:** Police Officer - outside agency; Witness  
**DL:** [REDACTED]  
**Height:** 6'2"                      **Weight:** 200lb  
**Race:** White                      **Hair Color:**

**Gender:** Male  
**DOB:** [REDACTED]  
**Build:**  
**Eye Color:**

---

**Name:** FUHRMAN, CODY L  
**Classification:** Police Officer - outside agency; Witness  
**DL:**

**Gender:** Male  
**DOB:** [REDACTED]

---

**Name:** MILLER, CHAD E  
**Classification:** Police Officer - outside agency; Witness  
**DL:**

**Gender:** Male  
**DOB:** [REDACTED]

---

## Involved Property:

---

- Police recording / Evidence / INTERVIEW
- Police recording / Evidence / INTERVIEW
- Police recording / Evidence / INTERVIEW
- Police recording / Evidence / INTERVIEW
- Police recording / Evidence / VIDEO
- Police recording / Evidence / JAIL VIDEO/AUDIO

## Involved Addresses:

---

- 787 W 8TH ST / Dispatch address; Incident address / MEDFORD, JACKSON, Oregon, USA 97501 (JACKSON COUNTY JAIL) (Beat: MPO, Region: SWR)

## Involved Officers:

---

- Dispatcher/TC2; Reporting Officer/Case Lead: PROULX, JEFF A / #31613 — SW REGION CRIMINAL COMMAND
- : CENTRAL POINT DETECTIVES / #OSP154 —

## General Report:

---

Author: #31613 PROULX, JEFF

Report Time: 08/27/2019 15:23

Entered By: #31613 PROULX, JEFF

Entered Time: 08/27/2019 15:23

Narrative:

DISTRIBUTION: Jackson County District Attorney's office

REFER: To DVD of Jail Video

DVD of Interview of Malaer, Fuhrman, Bondhus and Kolkemo

Medford Police Department Report/Investigation

On August 13, 2019, I was assigned to investigate an incident that occurred on July 11, 2019 in the Jackson County Jail. Medford Police Department arrested John Lee Malaer for Disorderly Conduct and Menacing (refer to attached report). Malaer was transported to the Jackson County Jail and lodged. Malaer is a paraplegic and his electric chair had a dead battery. Malaer had filed a complaint with Medford Police Department regarding his arrest (refer to report by Sergeant G. Kirkpatrick) and in the report made a complaint about how he was treated at the jail. This information was forwarded to the Jackson County Sheriff's office and in turn to the Oregon State Police with a request to investigate potential criminal conduct. When the Jackson County Sheriff's office reviewed the video of Cell #2 where Malaer was lodged, they noted that Deputy Brian Kolkemo slapped Malaer across the face.

On August 13, 2019, I met with Lt. Josh Aldrich and retrieved a thumb drive of the video. While there, we viewed the video and it clearly shows Deputy Kolkemo slap Malaer across the face one time. I listened to the audio of cell 2, but I am not able to see the video and play the audio at the same time. In reviewing the audio you can hear Malaer calling deputies names and then I heard Malaler tell a deputy to hit him again. I can assume he is talking to Kolkemo. I am not able to hear the slap to Malaer, but he does recognize that he was hit.

In reviewing the audio in the vestibule I can hear Malaer calling the deputies names and telling them he will snap their necks. He was belligerent and uncooperative throughout the encounter.

On August 21, 2019, I met with Malaer at his residence for an interview. The following is a summary of the interview which was recorded in its entirety. The following summary had been condensed for ease of the reader and is not

necessarily in the order in which it was discussed. For a verbatim account, the reader should refer to the recording.

- Malaer told me he is a paraplegic and the battery on his electric wheelchair had died.

- He was lodged in the jail by Medford Police Department for what he claims are bogus charge.

- He told me he was put in a green jacket and was on suicide watch in a cell.

- Malaer was provided a mattress and was placed on the floor.

- Malaer needs a catheter and is able to self-cath.

- He alleges he was on the floor between 18 and 24 hours. Was denied his medications, catheter and wheel chair.

- He told me he was ignored and left to crawl about in his own urine.

- Malaer told me he was denied water and had to drink out of the toilet because he could not reach the sink. He did get a cup hours later.

- He told me the jail staff conducted cell checks on him about every hour and the cell has a camera.

- I asked him on at least two occasions if he was ever physically abused or hit. He told me no, not in the jail.

- Malaer told me his only complaint with the Jackson County Jail staff was they were neglectful and abusive in the treatment they provided, and or failed to provide him.

On August 27, 2017, I emailed Lt. Aldrich and inquired if Deputy Kolkemo completed a Use of Force report regarding the incident with Malaer and was told no report was completed.

On August 27, 2019, I met with Deputy Chad Miller at a local coffee shop. I explained the incident I needed to talk about and he remembered it. The interview was not recorded as the noise level was too high. The following is summary of the information he provided me.

- Miller told me he did not remember the subject's name but remembered him. He told me Malaer was belligerent and would not listen to orders.

- Jail staff used their wheel chair as Malaer's electric wheel chair had a dead battery.
- He told me they patted him down, but does not remember if it was in the cell or outside the cell.
- Miller was not sure if they put him on the breathalyzer.
- Miller told me they put him in holding cell #2.
- Miller said he was dealing with Malaer's feet and looking down at his feet when he heard a loud smack. He was not sure if it was hands clapping or if someone was slapped.
- Miller said he looked up and Malaer's eyes were wide open and he stopped complaining.
- He heard Kolkemo say something similar to....do I have your attention now?
- Miller has worked for the Jackson County Sheriff's office since 2009, with a brief break in service in 2013 when he went to work for Ashland Police Department. He was hired back with the Sheriff's office in the fall of 2013.
- Miller told me when he heard the slap, he was hoping it was a clap.
- Miller said that after they put Malaer in the cell, he exited and dealt with Malaer's electric wheel chair. He said they had to store it in the sally port.
- Miller told me the on duty Sergeant started a log.
- Miller did not ask if anyone hit Malaer, but said if he would have seen it he would have asked the Deputy if he was doing a Use of Force report and then notify a supervisor.
- Miller is a Defensive Tactics instructor and in his opinion, Malaer was a very low threat level.
- At the end of shifts they perform a "shift pass down". This is where the deputies that are terminating their shift share important information with the deputies coming on duty. Miller told me that someone, not sure who, said something to similar to "that was the funniest thing I have seen - what happened to that guy or slapping that guy. When I interviewed Miller he told me Tony Rhein (sp) had made the comment but he was not listed as being part of the incident. I called Miller on August 30, 2019 to clarify who actually made this comment. He said he thought it was Tony, but not sure how he would know since he was not there. He felt that it must have been someone else but he was not sure who made the comment.

This ended my interview with Chad Miller.

On August 30, 2019, I met with Deputy Cody Fuhrman at the Oregon State Police office in Central Point. The interview was recorded.

The following is a summary of the interview which was recorded in its entirety. The following summary has been condensed for ease of the reader and is not necessarily in the order in which it was discussed. For a verbatim account, the reader should refer to the recording.

- Fuhrman told me Malaer was brought to the jail by MPD and he was resistant, combative and verbally abusive throughout the contact.
- Malaer acted this way from the time they got him out of the police car in the sally port to the time they put him in his holding cell.
- Malaer threatened to kill the deputies and said he would snap their necks.
- Fuhrman said they had to remove Malaer from the car as he would not assist them. From the car they took him to the BAC room, but he does not remember if Malaer provided a breath sample.
- From the BAC room they took him to the exchange room where they removed his clothes and put him in a gown.
- During this time, Malaer was still combative and verbally abusive.
- From the exchange room they took him to his cell. He was moved by a wheel chair provided by the jail.
- Fuhrman told me when they got Malaer in the holding cell he did observe Kolkemo slap Malaer across the face one time. Fuhrman described it as trying to get Malaer's attention and stop the current behavior, not to harm him. As stated before, Malaer was continuing to be verbally abusive and threatening to the deputies.
- After Kolkemo slapped Malaer, you can see Malaer continue to chip away at the deputies. Fuhrman said they then placed him on the floor and provided him with a mat to lay on. He told me they didn't put him on the bench for fear of him falling off. Once Malaer was on the floor all deputies exited the room.
- Fuhrman told me he has seen other deputies use this technique before. He told me if they did, it would be considered a Use of Force which would mean completing a DT 1 and notifying a supervisor.

- When asked if this incident was ever discussed amongst the deputies, Fuhrman told me he has not discussed it with anyone.

- I asked Fuhrman about the comment that was made during pass down. He told me he does not remember it being said and was not sure if he was even present during the pass down following this incident.

This ended my interview with Cody Fuhrman.

On September 10, 2019 at approximately 8:45am I met with Deputy Keyan Bondhus at the Oregon State Police office in Central Point. I briefly explained to him what I needed to talk to him about and then reviewed the video several times. During the review of the video, Bondhus told me about a different incident with Malaer that occurred that evening near the exchange room. I discussed this later in the interview.

The following is a summary of the interview which was recorded in its entirety. The following summary has been condensed for ease of the reader and is not necessarily in the order in which it was discussed. For a verbatim account, the reader should refer to the recording.

- Bondhus told me Malaer came into the jail, was verbally abusive, hostile and was calling deputies derogatory names.

- He said Malaer was not cooperating with their commands.

- They dressed him in a smock. They do this to suicidal inmates. He said that Malaer may have stated he was suicidal but does not remember.

- Bondhus said from the moment Malaer was introduced to the jail until the time he was placed in the cell he was un-cooperative and verbally abusive.

- I asked him if he observed Kolkemo slap Malaer while in the jail cell and he had no knowledge of it and did not hear Malaer get slapped.

- I asked him if slapping inmates is normal practice and he told me it was not.

- I asked him if this was considered a Use of Force and he said it was.

- Further, that a DT 1 should have been completed, a Use of Force report should have been completed and the supervisor or OIC notified.



- I asked Bondhus to tell me about the incident earlier near the exchange room. He told me they took Malaer to the exchange room to put him in a smock. Malaer was in the wheel chair and was not cooperating with deputies.

- Deputies were moving Malaer from the exchange room to the cell. He told me Kolkemo had a hold of Malaer's right arm and Malaer pulled it away from Kolkemo. Bondhus told me that Kolkemo then open hand slapped Malaer across the face. He explained that he considered this a diversionary strike, but still a Use of Force.

- I asked Bondhus if the strike across Malaer's face near the exchange room was the same type of slap that Kolkemo used in the jail cell and he said it was.

This ended my interview with Keyan Bondhus.

On September 12, 2019 at approximately 10:15am I met with Deputy Brian Kolkemo and his attorney, Don Scales at the Central Point Oregon State Police office. We reviewed the video several times so they were familiar with the incident I was going to be talking to them about. I told them there was another incident that was brought to my attention from my earlier interviews. I explained it was similar as in I was told Kolkemo slapped Malaer across the face when they took him out of the exchange room.

The following is a summary of the interview which was recorded in its entirety. The following summary has been condensed for ease of the reader and is not necessarily in the order in which it was discussed. For a verbatim account, the reader should refer to the recording.

- I asked Kolkemo to walk me through the time Malaer arrived at the jail to him being placed in the cell.

- Kolkemo told me Medford Police Department (MPD) notified them that the subject (Malaer) they were bringing in was uncooperative.

- Malaer was upset about the arrest by MPD.

- Malaer was brought into the vestibule for a pat down; he was not following commands and he was moving around a lot. Malaer was in an agitated state.

- Most of the pat down was completed and the deputies took him to the BAC room to determine his intoxication level. During this, Kolkemo controlled his head because Malaer was moving his head around a lot and Kolkemo didn't want himself or another deputy to get head-butted. Kolkemo did not remember the BAC.

- They then transported Malaer to the exchange room.
- In the exchange room Malaer was not cooperative and very resistive. Kolkemo told me this is why they put him in a smock. This was because Malaer resisted them putting on the pants and shirt.
- Kolkemo told me he does remember slapping Malaer on the face in the exchange room . He told me they were able to get Malaer in the wheel chair and were going to take him to cell #2. During this time Malaer was flailing his arms about and grabbing at deputies...possibly their duty belts. During this interaction, Malaer did pull away from one of the deputies, he was not sure if it was him or Deputy Fuhrman. This is when Kolkemo slapped Malaer across the face, on the cheek.
- While transporting Malaer to the holding cell, he was very grabby with his hands. He told me either he or Deputy Fuhrman told Malaer to stop grabbing at them. Once in the cell, Kolkemo says he slapped Malaer. (This is the incident on the video). Kolkemo said he did this to get his attention to stop his behavior. Kolkemo told me that because of Malaer actions (grabbing at them) he chose to slap him opposed to dumping him. Dumping would be a forceful take down to the ground.
- Deputies were able to control him, placed him on the floor of the cell and exited the cell.
- I asked Kolkemo if the action (slapping) he took is considered a Use of Force. He explained that it was not a focused blow, but a diversionary strike to get his attention.
- Kolkemo said his intention was not to hurt Malaer, but to de-escalate the situation the best he could.
- Kolkemo said he did not believe the action he took worked on Malaer, that he was just too amped up. Malaer was still making threats and belligerent to all the deputies.
- I asked if there was any medical treatment provided to Malaer. Kolkemo was not aware of any treatment provided. I asked if anyone checked to see if there were any injuries and he was not aware.
- Kolkemo told me Sgt Tlascala then dealt with Malaer and may have checked on Malaer. I asked if Sgt. Tlascala was aware of the strike and Kolkemo did not think he was.

- I asked if this type of technique has been used before and Kolkemo told me diversionary tactics have been used before. In this case, he used it to get him to stop his behavior so they didn't have to use greater force on Malaer.

On September 12, 2019, I contacted Lt. Aldrich at the Jackson County Jail and asked if there was any video of the exchange room. He shared there is no video in the exchange room.

Referred to Jackson County District Attorney's office for consideration of charges...Assault 4 and Harassment.

Leonard R. Berman  
4711 SW Huber St., Suite E-3  
Portland, OR 97219  
(503) 473-8787  
OSB # 96040  
Easyrabbi@yahoo.com

ATTORNEY FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

MICHAEL EVANS,	:	Case No. <b>1-14-CV-145</b>
	:	
	:	
	:	
Plaintiff,	:	HELEN EVANS
	:	DECLARATION IN SUPPORT OF
	:	PLAINTIFF'S MOTION FOR
	:	PARTIAL SUMMARY
	:	JUDGMENT
v.	:	
	:	
JACKSON COUNTY, ET AL	:	
	:	
Defendants.	:	
	:	

COMES NOW HELEN EVANS , and files this Declaration in support of Motion for partial summary judgment. Under penalty of perjury, Helen Evans does hereby depose and declare:

1. I have been a criminal records technician at the Jackson County Sheriff's office for the last 23 years. I was working in the basement of the Jackson County Jail on April 30, 2012. I am also the wife of the plaintiff.
2. Throughout my employment, including the last five years, I have repeatedly heard visiting patrol and corrections deputies openly laughing and bragging about roughing up

and using force, without justification or provocation, upon inmates and civilians in full view and in earshot of department staff, supervisors and county colleagues.

3. I am unaware of any colleague or supervisor ever objecting to such talk, correcting or reprimanding them for their comments or alleged violence and use of force or disciplining them for such talk or behavior.

4. In fear for my employment, I have never reported this chatter or conduct as it appeared pervasive and tolerated by supervisors and staff and part of the department culture and customary practices. It was an open and common source of discussion and seemed wholly accepted and tolerated. I did not believe my lone voice could effectuate change. For the record, I fear for my employment as I report this information today.

Dated this 20th day of November, 2014.

S//S Helen Evans

---

Helen Evans

