

IN THE MATTER OF:)
EDWARD SOMMERS)
)

Scot A. Sowden, Elsmere Police Department, Master Corporal

Allyson M. Britton, Esq. representing Elsmere Police Department

Mark Denney, Esq., representing Edward Sommers

ALSO PRESENT:

Sean Moriarty, POST Executive Director

Ameshia Bucknor, POST Administrator

Charles Emory, POST Investigator

POST received two Notification of Employment Status Change forms from the Elsmere Police Department (“EPD”). The first one is dated July 22, 2025, and indicated to POST that former officer Edward Sommers (“Sommers”) was terminated from EPD for breach of internal discipline and that he may be subject to decertification or suspension by POST (the “July Notice”). A second notice, dated September 23, 2025, indicated that Sommers resigned, that he may be subjected to POST action, that he either received or waived a 11 *Del. C.* § 9200 hearing, and that he resigned or retired prior to entry of findings concerning a breach of internal discipline for which he could have been terminated (the “September Notice”). At the hearing, yet a third notice was provided to the Hearing Board. This notice, which was not signed by either party,¹ is dated the same day of the July Notice (July 22, 2025) and indicates that Sommers both resigned and was discharged. This matter was then scheduled for a hearing before this Hearing Board on October 8, 2025.

¹ The July Notice and the September Notice were both signed by Laura Giles, Chief of EPD. Sommers did not sign either notice. The July Notice states that Sommers refused to sign and the September Notice indicates “N/A” in the employee signature line.

SUMMARY OF EVIDENCE

EPD submitted a binder to the Board containing 17 tabbed exhibits. These exhibits were admitted mostly without objection. EPD Exs. 3-5 and 9 were admitted over objection during the course of the hearing. Sommers submitted a binder of exhibits, tabbed 1-9. These exhibits were admitted without objection. EPD presented testimony from Chief Giles, M/C Sowden and Det. Mitchell. Sommers testified on his own behalf.

FINDINGS OF FACT

Unsurprisingly, given the confusing nature of the various notices submitted to POST regarding Sommers' separation from EPD, as noted above, much of the argument and the evidence submitted to the Board focused on the nature of Sommers' separation from EPD and whether POST had jurisdiction to consider the matter. Chief Giles initially explained that, on July 21, 2025, Sommers was scheduled to be interviewed by M/C Sowden regarding an Internal Affairs ("IA") investigation that had been ongoing (IA25-06). After Sommers failed to appear for his interview, EPD sent officers to his residence to see if he was home. He was on suspension at the time, and when the officers arrived, Sommers questioned how he could be interviewed while on suspension. EPD responded that it did not matter, and Sommers appeared later that day for his interview.²

Following the interview, EPD issued a termination letter, dated July 22, 2025 (the "Termination Letter"). *See* EPD Ex. 3.³ The Termination Letter noted the IA interview conducted

² Sommers' counsel stated that the only notice Sommers received regarding the interview was by a text message that counsel had sent to him. M/C Sowden later testified that he texted Sommers about the interview and he did not respond to it.

³ Sommers' objection to the Termination Letter, as well as to Exs. 4-5 and 9, appeared to center on an argument that the Board could not consider these records because Sommers did not receive a Chapter 92 hearing and could not therefore test the facts and claims set forth in those internal affairs records. Sommers also appeared to argue that the Termination Letter is highly prejudicial

the previous day (and that Sommers was late for the interview), provided that, “[a]s a result of that interview,” a total of nine (9) charges were substantiated (and that an additional three were not substantiated), that “multiple charges” had been previously substantiated on July 3, 2025, at a “Separate Trial Board,” and that the Chief was terminating Sommers as a result.

Chief Giles explained that she issued the Termination Letter and sent the July Notice to POST following the interview and her decision to terminate Sommers. Chief Giles also testified that Sommers did not request a hearing after she issued the Termination Letter and that the substantiated charges pertained to breaches of discipline for which Sommers could be terminated.

Eventually, the hearing turned its focus to the underlying facts and what caused EPD to terminate Sommers. While the details of the underlying conduct came through the testimony of Det. Mitchel and M/C Sowden (as well as EPD’s exhibits), Chief Giles first highlighted EPD’s concerns. Sommers started with EPD as an officer following graduation from the Dover Police Academy in August 2024. He started his field training after graduating and that concluded in late December 2024. Almost immediately, EPD started having issues with Sommers’ performance

and should not be made public (through this proceeding) since they were not challenged or tested through a hearing. The Board overruled that objection and admitted those exhibits. The IA records and Termination Letter were clearly relevant. There was no challenge to their authenticity, and the authors of those records were present and able to testify – and did in fact do so, and were subject to cross examination. The Board does not understand the contention regarding the inability to test those claims and allegations. The hearing before this Board was that opportunity to challenge all of the claims and concerns detailed in those records. Indeed, Sommer cross-examined those witnesses to some degree during the hearing. That a former officer does not pursue a Chapter 92 hearing before their agency does not mean that POST cannot examine the underlying facts surrounding an officer’s separation from an agency. Indeed, assuming proper jurisdiction under 11 *Del. C.* § 8404, it is POST’s *obligation* to examine all relevant facts and circumstances surrounding an officer’s separation. And officers have the full right and opportunity to test that evidence and present any evidence in mitigation or opposition. *See* 11 *Del. C.* § 8404A (setting forth rights and procedures for POST hearings) and 29 *Del. C.* Chapter 100 (Administrative Procedures Act, made applicable to POST hearings).

and having concerns regarding safety. Chief Giles testified that she had received complaints from officers that Sommers was not grasping officer safety, that Sommers did not retain information once he was off field training, that he “didn’t do the basics.” Her concerns over officer safety eventually resulted in Chief Giles instructing Sommers not to leave the town limits of Elsmere while on duty unless there was a 10-40 (Office in Trouble) call. When asked about safety concerns, Chief Giles testified that when Sommers gets into a stressful situation, he blacks out and gets too overwhelmed, which concerned her for Sommers, fellow officers and the public.⁴

A Criminal Justice Council (“CJC”) decision, dated May 28, 2025, was admitted without objection. *See* EPD Ex. 7. This decision details an incident (IA25-3) that took place on February 8, 2025, where Sommers was dispatched to a fight in progress involving some juveniles. The CJC ultimately substantiated three of ten counts brought by EPD (pertaining to not using the radio to report a foot pursuit, failing to get the names of the detained juveniles and including them in his report, and using profanity with the juveniles during the incident). Chief Giles testified that Sommers received a 20-hour suspension as a result of the CJC substantiated charges. She testified further that, with respect to the IA25-06, Sommers could have requested a hearing before the CJC.

M/C Sowden testified that he has been working in IA since 2018 and has assisted other agencies with IA investigations. He conducted an IA investigation of Sommers. EPD Ex. 4 is

⁴ On cross-examination, Chief Giles was questioned regarding the nature and chronology of allowing Sommers to resign following her initial decision to terminate Sommers and the different forms submitted to POST. The Board did not find much of this testimony helpful, especially since some of the testimony and the arguments appeared to involve counsel, potentially raising attorney-client privileged communication issues. As explained more fully below, however, POST has statutory jurisdiction under the circumstances regardless of how the parties attempted to settle the employment matter or otherwise characterize Sommers’ separation. Whether EDP misled Sommers or his counsel at any point along the way is a matter between EPD and Sommers. Their interaction and potential failure to have a meeting-of-the-minds on his separation and potential certification issues has no bearing on whether POST can and *should* review this matter.

M/C Sowden's IA file for IA25-06. This was the IA investigation for which Sommers was interviewed on July 21, 2025.

M/C Sowden summarized the IA25-06 investigation as follows. *See* EPD Ex. 4 (for a complete description of the incident and the alleged misconduct). Sommers had been ordered not leave the town limits of Elsmere. He had a meeting with then M/C Mitchell (now Det. Mitchell) where he was disrespectful. Multiple charges were substantiated, including for charges relating to responding to a call to which he was not dispatched and for being disrespectful to Mitchell. M/C Sowden testified about concerns he had about watching a video. There was a "shots-fired" call, but no officer was being shot at, there was no one screaming. It was a calm call and was outside of their sector. Sommers did not comply with directive not to respond. There were firearms handling issues when Sommers arrived at the scene, placing the "red dot" on the back of an officer; M/C Sowden had other concerns regarding officer safety in how he responded to the scene.

M/C Sowden testified about another incident that formed the basis of an IA investigation. They received a complaint about an EPD officer speeding without lights and sirens activated. It was mid-day with kids out and about, and after the citizen yelled for the officer slow-down, Sommers returned to the scene and exchanged inappropriate comments with the complainant. There were concerns and violations about Sommers not activating his body-worn camera (BWC). Certain charges were unfounded because the BWC was not activated and they could not determine what was said.

M/C Sowden testified about his concern about officer safety and safety of others. He said that Sommers told him that the citizen showed him a firearm in his waistband and said "what are you going to do about it?" and Sommers simply drove away and did not alert other officers to the potential danger of someone with a firearm threatening an officer. M/C Sowden testified about

another investigation where there was a vehicle pursuit that exceeded 90MPH, where Sommers didn't call the pursuit out until after the suspect was in a collision. Several charges were substantiated, including speeding without slowing down at lights, going the wrong way on a one-way street, that he took his eyes off the road by checking his computer, that he failed to use his radio, and that he failed to notify Wilmington Police when entering their jurisdiction. M/C. Sowden testified that these actions implicated officer safety and public safety. After the crash, Sommers didn't check on the car to see if anyone was hurt; he just sat there for five minutes, not radioing anyone.

M/C Sowden testified about that the IA25-03 matter involving the fight-in-progress call and why that created concern at EPD. M/C Sowden reiterated that Sommers had threatened to tase a non-resistant juvenile and chased another with his taser employed. As noted above, the CJC substantiated several charges, including not using his radio when he was in a pursuit and that he failed to obtain the names of the juveniles involved in the incident. M/C Sowden said he was concerned for officer safety because Sommers did not use a radio and that he left two of the three suspects behind. He also mentioned that there were substantiated charges against Sommers pertaining to attendance.

On cross-examination, M/C Sowden acknowledged that the CJC decision speaks for itself and that the CJC substantiated only three of the ten charges brought against Sommers regarding IA25-03. He also acknowledged that, if concerns arose during the interview, Sommers could have received additional charges. He did not, because, as M/C Sowden put it, Sommers was "no longer part of the department the next day."

Det. Mitchell testified initially about Sommers' field training. He was Sommers' Field Training Officer from September to December 2024. Det. Mitchell testified that Sommers had

difficulty retaining information and training. Det. Mitchell issued him a checklist to assist him, and Sommers lost that as well. Det. Mitchell testified about Sommers driving at an unsafe speed in response to a domestic call, that they nearly struck three vehicles and when Mitchell told him to slow down, he told Det. Mitchell to “relax.” When the suspect exited the residence, he complied with commands to get on the ground, and when Det. Mitchell got on top of the suspect to secure him, Sommers ran up and pushed Det. Mitchell off the suspect, exposing Det. Mitchell and another officer to a dangerous situation.

Det. Mitchell described another incident regarding a BOLO. Sommers did not have the right channel on his radio and Sommers gave his wrong location when he had a robbery suspect. Det. Mitchell testified that Sommers failed to advise dispatch that he stopped a robbery suspect and he did not conduct a felony stop. Det. Mitchell said that in a stressful situation where officers properly focus their adrenaline, Sommers is unable to make accurate decisions. Sommers did not address any of the substantive concerns raised by the EPD witnesses.

Det. Mitchell testified that at the conclusion of field training, a decision was made to allow Sommers to go out on his own. However, shortly thereafter, Sommers was placed on field training again. On cross examination, Det. Mitchell acknowledged that the concerns and incidents he discussed did not form the basis of an IA investigation.

Sommers testified on his own behalf. Sommers testified that he never waived a hearing on IA25-06 and IA25-05. He served punishments on all other IA investigations. He also testified that had his resignation not been accepted, he would have sought a hearing. On cross, he confirmed he did not request a hearing.

The exhibits admitted into evidence include four packets of IA investigations into Sommers’ conduct and performance while briefly employed as an officer with EPD.

CONCLUSIONS OF LAW

POST's jurisdiction to consider possible suspension or revocation of police officer certification is defined by 11 *Del. C.* § 8404(a)(4). Pertinent here is subsection (e), which provides for jurisdiction where an officer has: (1) received an administrative hearing under Chapter 92 of Title 11 ("LEOBOR Hearing") or has knowingly and voluntarily waived that individual's right to such a hearing; and (2) has either (a) been terminated for a breach of internal discipline or (b) resigned prior to the entry of factual findings concerning an alleged breach of internal discipline for which the individual could have been terminated. Since Sommers did not expressly waive his LEOBOR Hearing in connection with IA25-06, the threshold inquiry is whether he implicitly waived a hearing by resigning under the circumstances presented to this Board.

It is not disputed that EPD initially terminated Sommers following his July 21, 2025, interview. The Termination Letter does not expressly provide for a right to a hearing. However, it does note that he "may have rights and should consult with your union representation." EPD Ex. 3. It is undisputed that Sommers at no point requested a hearing and there is no evidence regarding whether he consulted with his union representation. However, as early as May 28, 2025, Sommers exercised his right to a LEOBOR Hearing regarding previous charges issued by EPD. This demonstrates that Sommers knew of an ability to request, and obtain, a LEOBOR Hearing regarding officer discipline. Moreover, the Board observes that Sommers was represented by counsel throughout his termination and subsequent resignation, in lieu of termination, and that his counsel was the same counsel who represented him before the CJC Hearing in May 2025. The Board concludes, under these circumstances, and considering all of the evidence before the Board, that, by resigning in the face of charges, and having not inquired or pursued a LEOBOR Hearing, Sommers effectively waived his right to a LEOBOR Hearing. An implied waiver, under these

circumstances, suffices to trigger POST's jurisdiction and ability to consider possible action on his certification.

POST reserves suspensions and decertifications for cases where an officer's misconduct implicates honesty and integrity or where an officer's conduct places the public or fellow officers at risk of harm. Here, there was substantial evidence presented—most of which was not challenged before this Board—implicating officer safety and safety of the public. Sommers' tenure with EPD was very brief, but yet Sommers' accumulated no less than four IA investigations into his behavior and conduct implicating officer safety. While Sommers was released from field training in December 2025, he was quickly placed back on field training. Three different witnesses detailed grave concerns that they have over Sommers' safety and his ability to grasp the importance of his training. The evidence sufficiently establishes serious concerns, including pointing a firearm at another officer (inadvertently), stopping a robbery suspect and not using the radio or getting out of the patrol vehicle, knocking an experienced officer off of a suspect he was trying to secure, driving at unsafe speeds without emergency equipment activated, aggressively and needlessly threatening juveniles (who turned out not to be those engaged in a potential fight) with tasing and using profanity. Additionally concerning is Sommers' apparent reaction to critique and criticism, including telling his FTO on one occasion to "relax" when he raised legitimate concerns about the speed Sommers was driving to a scene.

At the hearing, Sommers made the point several times that the facts underlying the IA investigations that resulted in his separation were never tested. This ignores the fact that Sommers could have demanded (or at least sought) a LEOBOR Hearing before resigning. He knew of his right to seek a hearing for such discipline, having done so only months prior to his separation from EPD. Further, where an officer does not have a LEOBOR Hearing, the officer has the right and

opportunity to test all challenged conduct during the hearing before this Board. *See also supra* note 3. The argument about not being able to challenge or test the underlying facts therefore does not make sense. Indeed, largely Sommers chose not to challenge EPD's substantive evidence presented to this Board during the hearing, seemingly relying instead on his procedural argument that the Board did not have jurisdiction to move forward.

RECOMMENDATION

Considering all the evidence submitted and the circumstances surrounding both the EPD internal process, and the process offered afforded Sommers in this proceeding, the Board unanimously recommends to the full POST that Edward Sommers be decertified as a Delaware police officer.

/s/ Robert Irwin

Robert Irwin, Dir. Special Investigation,
Delaware Department of Justice,
Presiding Officer

/s/ Mark Farrall

Mark Farrall, Chief,
Newark Police Department,
Member

/s/ Nick Smith

Nick Smith, Mayor,
Clayton,
Member

Date: October 24, 2025