# Police Policy Committee Minutes

# **February 18, 2021**

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 18, 2021, at the Oregon Public Safety Academy in Salem, Oregon. Chair, John Teague called the meeting to order at 10:00 am

### **Committee Members:**

John Teague, Chair, Oregon Association Chiefs of Police
Bradley Robertson, Non-Management Law Enforcement
DaNeishia Barrett, Non-Management Law Enforcement
Kieran Ramsey, Federal Bureau of Investigation (Non-Voting)
Terri Davie, Superintendent, Oregon State Police
Alex Gardner, OSP Commander Staff Representative
Mark Garton, Oregon State Sheriff's Association (WebEx)
Zachary Keeney, Non-Management Law Enforcement (WebEx)
Liz Lawrence, Non-Management Law Enforcement
Chris Davis, Portland Police Bureau (Designee for Chief Lovell) (WebEx)
Kathy McAlpine, Oregon Association of Chiefs of Police (WebEx)
Jill Thissell, Non-Management Law Enforcement (WebEx)

Craig Zanni, Oregon State Sheriff's Association (WebEx)

# **Committee Members Absent:**

Mark Rauch, Public Member

#### **Guests:**

Christian Powell Douglas Treat Mark Wold Brian Lister

### **DPSST Staff:**

Linsay Hale, Professional Standards/Interim Training Division Director Les Hallman, Interim Director Marsha Morin, Criminal Justice Certification Program Manager Jennifer Howald, Administrative Rules Coordinator Wendy Nunez, Criminal Justice Office Specialist

# 1. Introductions

Introductions of members, guest and staff were presented.

# 2. Approve November 19, 2020 Meeting Minutes

Alex Gardner moved to approve the minutes from the 11/19/2020, Police Policy Committee meeting with one minor change. Liz Lawrence seconded the motion. The motion passed unanimously.

# 3. Administrative Closures - Police / Regulatory Specialists

Presented by Linsay Hale

Staff presented the following professional standards cases to the Police Policy Committee for administrative closure.

	Name	DPSST#	Certification(s)	Reason for Closure
a)	Darren Frank	30854	Basic and Intermediate Police Certifications; Basic Corrections Certification	During a routine e-court and LEDS check, DPSST staff located a 2004 misdemeanor Wildlife Violation conviction for discharging a firearm from the roadway.  Records relating to the arrest, citation and conviction have been purged.  Due to the length of time that has passed since the conviction, the lack of availability of records, and Frank's retirement from law enforcement, DPSST recommends administrative
b)	Andrew Martin	55294	Basic Police, Basic Telecommunicat ions and Basic Emergency Medical Dispatcher Certifications	On February 4, 2020, DPSST received notice that Martin had separated from employment with the John Day Police Department due to multiple failures to follow agency directives.  Upon review, DPSST does not believe Martin's separation violates the Board's moral fitness standards.
c)	Anthony Miltich	49415	Basic, Intermediate, Advanced,	On January 1, 2019 Miltich resigned from the St. Helens Police Department during an

			Supervisory and Management Police Certifications	investigation into policy violations relating to disparaging comments he made to co- workers.  DPSST determined that the conduct was indicative of poor employee/employer relationship and does not constitute a violation of the Board's moral fitness standards.
d)	Mark Scott	51689	Basic Police Certification	On 10/9/20, Scott resigned from the Wasco County Sheriff's Office as part of a settlement agreement.  DPSST determined the settlement agreement was civil in nature and unrelated to Board moral fitness standards.
e)	Patrick Smith	33050	Basic, Intermediate, and Advanced Police Certifications	Smith resigned/retired from his position with the Coquille Police Department (CPD) in 2016 under a settlement agreement.  DPSST was unable to verify with current CPD Leadership what if any misconduct was committed by Smith leading to the settlement agreement because of turnover at the CPD.
f)	Joe Turnham III	61156	Not Certified	DPSST received an application for Training (F5) disclosing a conviction for Fleeing or Attempting to Elude a Police Officer and an additional citation for Reckless Driving.  Staff has determined Turnham's conduct violates the Board's moral fitness standard; however, Turnham self-reported the conviction, it occurred more than five years prior to employment in public safety, it is the only conviction on their record, all court obligations have been

	satisfied and, per Chief Whipple, it did not involve dishonesty or deceit.
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Terri Davie moved to approve the recommendations made by staff to administratively close the above listed cases. Liz Lawrence seconded the motion. The motion passed unanimously.

# 4. Obenauf, Robert (32107) – Re-Evaluate Findings

Presented by Linsay Hale

On November 11, 2018, Robert Obenauf was terminated from the Washington County Sheriff's Office (WCSO). This termination was the result of Obenauf's improper handling of a citizen complaint alleging misconduct by a temporary WCSO employee, and his subsequent attempts to mislead the complainant and his co-workers by omitting pertinent investigatory information.

Staff has determined that Obenauf's untruthfulness violates the Board's moral fitness standards.

On November 19, 2020, the Police Policy Committee (PPC) was presented Robert Obenauf's professional standards case. Following the PPC meeting, staff discovered that the written mitigation submitted by Mr. Obenauf was not provided for consideration due to staff error.

Staff is requested the PPC review the omitted information and re-evaluate their findings and recommendations.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Liz Lawrence moved that the Police Policy Committee adopt the staff	Terri Davie	12 ayes; 0 nays;	Motion Passed
report.		o nays,	Unanimously

The committee re-discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

- Aggravating
  - The committee considered the aggravating factors from the previous meeting.
- Mitigating
  - Obeanuf admitted to his errors in handling the complaint.
  - Obenauf gave a plausible explanation of events in his mitigation provided to the committee.
  - o It appears Obeanuf slow walked providing information because he thought it was a petty matter and hoped it would go away.
  - Obenauf's actions appear to be related to time management issues

Terri Davie moved, after	Alex Gardner	7 ayes;	Motion
considering the identified violations		5 nays;	Passed
of the Board's moral fitness		•	

standard and weighing the	(Barrett,
aggravating and mitigating	Davis,
circumstances unique to this case	McAlpine,
that no Board action should be	Thissel,
taken against Obenauf's	Zanni)
certifications.	,

### 5. <u>Lister, Brian (36594) Certification Review: Police</u>

Presented by Linsay Hale

On July 2, 2020, DPSST received an F28 Criminal History Reporting form from Brian Lister reporting his May 12, 2020, criminal citation for Fail to Comply with Special Bobcat Regulations-Misdemeanor and Possession of Bobcat without Ownership Tag- Misdemeanor. On August 4, 2020, Lister pled guilty and was convicted of Taking, Angling, Hunting or Trapping in Violation of Wildlife Law or Rule.

This case was originally presented to the PPC at their meeting in November, 2020, at which time additional information was requested for consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
DaNeishia Barrett moved that the Police Policy Committee adopt the staff report.	Liz Lawrence	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

#### Aggravating

- Lister's mitigation provided shows that he does not understand the gravity of the situation,
- o Lister had a clear disregard for ODFW regulations,
- Lister should have known the rules surrounding trapping and taking furbearing animals because of educational and testing requirements needed to obtain a license,
- Lister was determined by his agency to not be eligible to be a Field Training Officer following his conviction,
- Lister was given a prior warning for violating ODFW black bear check in requirements.

# Mitigating

- Lister has support from the District Attorney and his community despite his conviction,
- o Lister's conduct occurred while off duty

Bradley Robertson moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case that no Board action should be taken against Lister's certifications.	Zachary Kenney	4 ayes; 8 nays; (Teague, Barrett, Davie, Gardner, Garton, Lawrence, Thissel, Zanni)	Motion Failed
Terri Davie moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Lister's certifications.	DaNeishia Barrett	10 ayes; 2 nays; (Robertson, Kenney)	Motion Passed
DaNeishia Barrett moved, after considering the totality of the case, that Lister be ineligible to hold public safety certification for 3 years.	Craig Zanni	11 ayes; 1 nays; (Kenney)	Motion Passed

# 6. Powell, Christian (33913) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

On September 10, 2018, Christian Powell resigned from the from the McMinnville Police Department (MPD) while the subject of an investigation involving his inappropriate communication with a female community member (who was later the victim of a crime), his misuse of the Law Enforcement Data System (LEDS), and his untruthfulness during the subsequent investigations into his conduct.

Christian Powell provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Chris Davis moved that the Police Policy Committee adopt the staff report.	DaNeishia Barrett	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

Aggravating

- O Powell was employed as a public safety officer for over 20 years at the time of his separation;
- o LEDS was accessed for personal benefits;
- o Powell would have to re-certify with LEDS every two years and answer questions related to the valid reasons to access information;
- o Powell's actions were pervasive and predatory; and
- o Powell put his agency's access to LEDS at risk.

# Mitigating

o There is little information available to show what Powell did, if anything, with the information he accessed in LEDS.

Chris Davis moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Powell's certifications.	DaNeishia Barrett	12 ayes; 0 nays	Motion Passed Unanimously
Zachary Keeney moved, after considering the totality of the case, that Powell be ineligible to hold public safety certification for 5 years.	Bradley Robertson	12 ayes; 0 nays	Motion Passed Unanimously

# 7. Collins, Seth (50235) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

Seth Collins resigned his position with the Cannon Beach Police Department (CBPD) on 10/1/18, as part of a Settlement Agreement. Ultimately this separation was the result of a determination made by the Clatsop County District Attorney (DA) that Collin's was no longer suitable to serve as a sole or necessary witness (commonly known as a Brady determination). The DA made this determination after considering three specific incidents spanning Collin's career with CBPD in which he was found to have been untruthful. Specifically:

- In 2018 Collins misled supervisors and a subsequent investigation when he said he had checked a park for a suicidal/homicidal juvenile male;
- In 2014 Collins gave misleading information regarding a training qualification incident; and
- In 2014 Collins misled supervisors and a subsequent investigation relating to his misuse of a patrol car and emergency lights to get through an accident scene.

The CBPD reported Collins' separation was due to his inability to fulfill the essential functions of a police officer position due to his placement on the DA's Brady list.

While the Board does not, by practice, base certification reviews or findings solely upon Brady determinations made by a DA, staff has determined that Collin's behavior directly resulted in his separation with the CBPD and therefore is subject to Board review. His behavior collectively is found to have violated the Board's moral fitness standards.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Liz Lawrence moved that the Police Policy Committee adopt the staff report.	Bradley Robertson	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

- Aggravating
  - o Multiple instances of blatant persistent dishonesty;
  - o He was placed on a Brady list;
  - His dishonesty resulted in a life threatening public safety issue;
  - o Collins did not appear to understand the potential negative impacts his actions could have caused.
- Mitigating
  - o The committee did not identify any mitigating factors

Alex Gardner moved, after	Kathy	12 ayes;	Motion
considering the identified violations	McAlpine	0 nays	Passed
of the Board's moral fitness			Unanimously
standard and weighing the			
aggravating and mitigating			
circumstances unique to this case,			
that Board action should be taken			
against Collins' certifications.			
Alex Gardner moved, after	DaNeishia	12 ayes;	Motion
considering the totality of the case,	Barrett	0 nays	Passed
that Collins be ineligible to hold		-	Unanimously
public safety certification for			
lifetime.			

# 8. Dews, Ryan (46380) Certification Review: Police and Corrections

Presented by Linsay Hale

Reason for Discretionary Review

On October 15, 2018, Ryan Dews resigned from the Columbia County Sheriff's Office (CCSO) as part of a settlement agreement. This resignation was the result of a criminal investigation into a 2016 incident involving domestic violence between Dews and his then girlfriend.

Staff has determined that Dews' conduct in 2016 violates the Board's moral fitness standards. There is also sufficient evidence to show by preponderance that Dews was less than truthful during his accounting of the incident when interview by investigators from the Oregon State Police (OSP), and by officials with the CCSO.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Liz Lawrence moved that the Police Policy Committee adopt the staff report.	Terri Davie	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

#### Aggravating

- Dews' conduct was harassing and should have known that his conduct was not invited.
- Dews used force to overcome his girlfriend's and prevent her from leaving the residence.
- Dews would be required to respond to circumstances as a police officer similar to the one he placed himself in and there would not be trust in his ability to handle to appropriately.
- Dews acted in a controlling manner when he followed his girlfriend and prevented her from leaving or hiding from him.
- He appeared to be less than forthcoming with investigators.
- There was probable cause to charge Dews with domestic violence, however it was outside of the statute of limitations.

# Mitigating

• It was never clear if this incident was violent or not, but it was clearly distressing and harassing.

DaNeishia Barrett moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Dews' certifications.	Bradley Robertson	12 ayes; 0 nays	Motion Passed Unanimously
Bradley Robertson moved, after considering the totality of the case, that Dews be ineligible to hold public safety certification for 10 years.	Liz Lawrence	12 ayes; 0 nays	Motion Passed Unanimously

# 9. Hanson, Christopher (30677) Certification Review: Police

Presented by Linsay Hale

#### Reason for Discretionary Review

Christopher Hanson resigned from the Rogue River Police Department (RRPD) as part of a settlement agreement on September 13, 2018. Hanson's resignation stemmed from the discovery that he had forged the RRPD Commander's signature on multiple training rosters submitted to DPSST.

Staff has determined that Hanson's behavior violates the Board's moral fitness standards.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Bradley Robertson moved that the Police Policy Committee adopt the staff report.	Terri Davie	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

- Aggravating
  - Hanson's forgeries were criminal and could have resulted in criminal charges.
  - The record clearly identifies that Hanson had forged the signature of his supervisor multiple times to enhance his training record.
- Mitigating
  - The committee did not identify any mitigating factors.

Bradley Robertson moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Hanson's Name's certifications.	Liz Lawrence	12 ayes; 0 nays;	Motion Passed Unanimously
Liz Lawrence moved, after considering the totality of the case, that Hanson be ineligible to hold public safety certification for lifetime	Terri Davie	12 ayes; 0 nays	Motion Passed Unanimously

### 10. Treat, Douglas (29837) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

On May 7, 2020, Douglas Treat retired from the Lake Oswego Police Department (LOPD) while under investigation for making inappropriate and unprofessional comments, some

sexually harassing in nature, to or in the presence of other members of the LOPD. Treat's retirement was part of a settlement agreement reached with the LOPD.

Staff has determined that Treat's harassing behavior towards subordinate officers violates the Board's moral fitness standards.

Douglas Treat provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Alex Gardner moved that the Police Policy Committee adopt the staff report.	Liz Lawrence	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

- Aggravating
  - Treat's conduct happened repeatedly over several years while employed at LOPD.
- Mitigating
  - The culture of the LOPD allowed Treat's behavior to persist without recourse.
  - o Treat did not have an opportunity to respond to several of the allegations.
  - o The amount of mitigation received from Treat was extraordinary.
  - Treat is currently employed at another agency and they have promoted him to a supervisory position.

Alex Gardner moved, after	Bradley	12 ayes;	Motion
considering the identified violations	Robertson	0 nays	Passed
of the Board's moral fitness			Unanimously
standard and weighing the			-
aggravating and mitigating			
circumstances unique to this case			
that no Board action should be			
taken against Treat's certifications.			
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## 11. Yeager, Jimmy (13084) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

In November 2017, DPSST learned, through an automated notification through the Law Enforcement Data System (LEDS) that Jimmy Yeager was arrested on 11/2/17 for *Driving Under the Influence of Intoxicants (DUII)* by the Klamath County Sheriff's Office (KCSO). Yeager pled guilty and was convicted of *DUII* on 11/16/17.

Staff has determined Yeager's conviction violates the Board's moral fitness standards.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Liz Lawrence moved that the Police Policy Committee adopt the staff report.	•	12 ayes; 0 nays	Motion Passed Unanimously

The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:

- Aggravating
  - o The committee did not identify any aggravating factors.
- Mitigating
  - A rule change occurred after Yeager's case was opened that expires certifications after the officer is inactive for 5 years.
  - O Yeager has not been employed in law enforcement in 29 years
  - If Yeager returns to public service he would need to reapply and earn new certifications. His application for certification would be reviewed using the moral fitness standards in place at the time.

Zachary Kenney moved, after	Liz Lawrence	12 ayes;	Motion
considering the identified violations		0 nays	Passed
of the Board's moral fitness		-	Unanimously
standard and weighing the			
aggravating and mitigating			
circumstances unique to this case			
that no Board action should be			
taken against Yeager's			
certifications.			

# 12. <u>Proposed Rule Changes for OAR 259-008-0100: Oregon Fallen Law Enforcement</u> Memorial Eligibility Criteria – Review of Comments

Presented by Jennifer Howald

Over the course of the last year, the Board, the Corrections Policy Committee (CPC) and the Police Policy Committee (PPC) have reviewed and discussed the eligibility criteria for law enforcement officers killed in the line of duty to be recognized on the Oregon Fallen Law Enforcement Memorial.

After the November CPC and PPC review of draft rule changes, DPSST filed a proposed rule change to collect constituent and public comment. The comment period ended December 31, 2020.

Consensus reached approving the fiscal impact statements provided by staff.

DaNeishia Barrett moved to recommend that the Board adopt the amended proposed rule changes for OAR 259-008-0100 as a permanent rule if no comments are received. Liz Lawrence seconded the motion. The motion passed unanimously.

# 13. <u>Proposed Rule Changes for OAR 259-008-0015, 259-008-0290, 259-008-0300 and 259-008-0310: Moral Fitness Standards Relating to Discrimination – Review for Comments Presented by Jennifer Howald</u>

Over the course of the last year, the Board, the Corrections Policy Committee (CPC) and the Police Policy Committee (PPC) have reviewed and discussed the eligibility criteria for law enforcement officers killed in the line of duty to be recognized on the Oregon Fallen Law Enforcement Memorial.

After the November CPC and PPC review of draft rule changes, DPSST filed a proposed rule change to collect constituent and public comment. The comment period ended December 31, 2020.

John Teague moved to recommend that the Board adopt the amended proposed rule changes for OAR 259-008-0015, 259-008-0290, 259-008-0300 and 259-008-0310 as a permanent rule if no comments are received. Alex Gardner seconded the motion. The motion passed unanimously.

# 14. <u>Informational Update: Amending OAR 259-008-0085 to include the current 2019</u> Edition of the Police Officer Field Training Manual.

Presented by Jennifer Howald

OAR 259-008-0085 maintains the minimum standards for Board-approved mandated courses, including field training manuals.

On May 16, 2019, the Department presented an informational update to the Police Policy Committee outlining changes to the 2013 Edition of the Police Officer Field Training Manual. The changes to the Police Officer Field Training Manual were the result of the changes implemented in the Basic Police Course following the Board's approval of the Phase II Basic Police Course revisions.

In March 2021, the Department will be filing a proposed rule change to OAR 259-008-0085 based on the Corrections Policy Committee's recommendation for the Board to adopt the amended Parole and Probation Officer Field Training Manual.

When filing the proposed rule change, staff will include housekeeping amendments to update the rule with the current 2019 Edition of the Police Officer Field Training Manual.

# 15. Constituent Correspondence from Stephen Craig DPSST #37427

Presented by Linsay Hale

On 12/29/20, DPSST received the following correspondence from Stephen Craig addressed to "Executive Board and Police Policy Committee Members". In his correspondence, Mr. Craig, a police officer employed by the Warm Spring Police Department (WSPD), is requesting a waiver of the requirement that he recomplete the 16- week Basic Police Course in order to reactive his Oregon Police certifications:

NOTE: The current training standards in place do not afford the Board or PPC the ability to review or grant waivers of the established training standards based on individual circumstances. It was made clear to Mr. Craig in subsequent conversations that any review and discussion of his correspondence would be limited to the standards in place that led to the denial of his training waiver request.

The Board (who was also presented this correspondence in January, 2021) directed DPSST to establish a workgroup to review and reaffirm or recommend changes to the current processes relating to waivers of the minimum training standards for criminal justice disciplines.

# 16. Department Update

- Les Hallman, Interim Director
  - Two finalists for the Director's position have been sent to the Governor for consideration.
- Linsay Hale, Professional Standards/Interim Training Division Director
  - o Busy legislative session, a lot of focus on law enforcement accountability.
  - OOVID mitigation during training, continue to reevaluate requirements and scheduling on an on-going basis to mitigate the best we can. DPSST employees were designated by the Marion County Health Authority as a tier 1a agency for vaccination because of our role in training first responders.
  - o Update on two cases the PPC directed DPSST to open based on complaints received:
    - Boyd Rasmussen surrendered his certifications prior to the case being heard by the Committee
    - Terry Timeus' case will be presented at the May meeting.
- Marsha Morin, Criminal Justice Certification Program Manager
  - Welcomed Melissa Lang, Criminal Justice Case Manager to DPSST. Melissa will be managing all future cases presented to the policy committee.
  - o Current Professional Standards Cases to be reviewed by the Police Policy Committee
    - 110 total
    - 80 ready for DPSST review and presentation to committee
    - 30 pending resolution of criminal or employment matters
  - o Applicant Review Committee will have its first meeting later this month.
  - O Arbitration workgroup membership has been set this group will be looking at the effects of arbitration on retention of certification.
  - o Looking to create a workgroup on medical standards, field training officer training and certification and waivers of the minimum training standards
  - Expanding the Professional Standards Cases Database, to include all open cases and recently closed with more searchable fields.
  - o Ethics Bulletin has retired, in its place will be a monthly Professional Standards Update that will provide additional statistical data on the most requested items.

# 17. Next Police Policy Committee Meeting: May 20, 2021 at 10:00 am

#### Administrative Notes:

These minutes reflect the order of the discussion/voting items as they appear on the official meeting agenda. The actual order in which they were discussed may vary.

All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at <a href="mailto:dpsst.records@state.or.us">dpsst.records@state.or.us</a>.