Police Policy Committee Minutes November 16, 2023

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 16, 2023, at the Oregon Public Safety Academy in Salem, Oregon. Chair, Scotty Nowning called the meeting to order at 10:00 a.m.

Committee Members:

Scotty Nowning, Chair, Non-Management Law Enforcement Chris Skinner, Vice Chair, Oregon Association of Chiefs of Police (Webex) DaNeshia Barret, Non-Management Law Enforcement Casey Codding, Superintendent, Oregon State Police Mark Daniel, Oregon Association of Chiefs of Police Kevin Dresser, Non-Management Law Enforcement Alex Gardner, Oregon State Police Command Staff Representative Mike Frome, Portland Police Bureau (Designee for Interim Chief Bob Day) Kathy McAlpine, Oregon Association of Chiefs of Police (Webex) Rob Wood, Public Member Jill Thissel, Non-Management Law Enforcement (Webex)

Committee Members Absent:

Angela Brandenburg, Oregon State Sheriff's Association Ashliegh Ramirez, Public Member Kieran Ramsey, Federal Bureau of Investigation Terry Rowan, Oregon State Sheriff's Association

Guests:

Jesus Ferreyra Brock Ameele Andrew Johnson Robin Sells

DPSST Staff:

Phil Castle, Director Suzy Herring, Private Security/Investigator Manager Marsha Morin, Standards and Certification Manager Jennifer Levario Professional Standards Case Manager Jennifer Howald, Administrative Rules Coordinator Erica Riddell, Criminal Justice Office Specialist Shelby Wright, Executive Support Specialist

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1. Introductions

Introductions of members, guests and staff.

2. Approve August 17, 2023 Meeting Minutes

Casey Codding moved to approve the minutes from the August 17, 2023, *Police Policy Committee meeting.* DeNeshia Barrett *seconded the motion. The motion passed unanimously.*

3. Administrative Closure Consent Agenda

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

The Department presented recommendations to administratively close the following professional standards cases to the Police Policy Committee.

a) Daniels, Amber (55598) Police

The Department found Daniel's conduct to be performance-based. Her failure to make an initial determination of a crime, which violated the FGPD policy, does not appear to be an intentional act, but rather the result of what became a chaotic event. Daniels made multiple missteps in the incident that led to her separation, which her agency identified her conduct as "should have known better", which leads staff to believe these items were performance-based and not issues that can be identified as more likely than not as intentional. Given this, the Department found insufficient evidence to show she intentionally misused her authority as a police officer to provide a benefit to another officer, who was her friend.

b) Schuetz, Bradley (54684) Police

The Department did find that Schuetz's performance on October 31, 2020, was not in compliance with FGPD policies. However, the Department determined Schuetz's arrest did not result in a criminal conviction nor does sufficient evidence exist to persuade the Department that his conduct violated the Board's moral fitness standards under the substantial evidence standard of proof authorized in Oregon Administrative Rule.

c) Smith, James (56565) Police

The Warm Springs Police Department sustained allegations of policy violations including Duty Subject To, Reporting for Duty, Absent with Leave, and Insubordination.

Based on the information provided, the Department determined Smith's separation does not violate the Board's moral fitness standards defined in the Oregon Administrative Rule.

d) Welch, Brandon (55517) Police

On October 7, 2022, Brandon Welch was laid off from the Washington County Sheriff's Office (WCSO) as part of a Settlement Agreement related to medical conditions. At the time of his lay-off, there were uninvestigated allegations of misconduct.

The Department determined Welch's conduct may violate the Board's moral fitness standards as defined in the Oregon Administrative Rule. However, due to a medical layoff with ineligibility for rehire due to medical reasons, and consequently, the uninvestigated allegations, there is insufficient evidence to support a moral fitness violation.

Rob Wood moved to approve the Administrative Closure Consent Agenda recommendations made by the Department. Kevin Dresser seconded the motion. The motion passed unanimously.

4. Ameele, Brock (51429) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On January October 12, 2022, Brock Ameele's employment was terminated by the City of Bend Police Department (CBPD). The CBPD internal affairs investigation sustained policy violations related to Brock's unreasonable use of force during an unlawful arrest and unlawful seizure while conducting an unlawful stop, and subsequently destroying evidence, being dishonest, and insubordinate.

Brock Ameele provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Rob Wood moved that the Police Policy Committee adopt the staff report.	DeNeshia Barrett	11 ayes; 0 nays	Motion Passed Unanimously

The Police Policy Committee found the following moral fitness violations and factors:

Moral Fitness Violations:

- Dishonesty: Ameele was dishonest by omission when he destroyed inculpatory evidence, did not turn in a use of force report, and failed to place photographs into evidence.
- Misuse of Authority: Ameele intentionally exceeded his lawful peace officer powers during an arrest and seizure that lacked probable cause or reasonable suspicion. Ameele intentionally harmed another when he used unreasonable force to detain him without lawful authority.
- Misconduct: Ameele was dishonest about a force response event, destroyed inculpatory evidence, harmed a person by using unreasonable force, and conducted a seizure and arrest that lacked probable cause or reasonable suspicion.

Aggravating Factors:

- The incident was likened to "noble cause corruption" in that Ameele was so fully invested that he thought he was doing something for the common good and, therefore justified in not following the rules. This hurts the profession.
- Ameele disregarded the sergeant's directive to make changes to the criminal charges he wanted to make.
- Ameele's suggestion that he did not hurt anyone is contrary to the essence of a use of force incident and he was not willing to accept this.
- The infraction escalated quickly for no good reason.
- Ameele's prior disciplinary history showed a pattern of insubordination which is concerning.
- Ameele's conduct could be problematic for an agency as it was not an isolated incident.
- The District Attorney placed Ameele on a Tier 2 Brady list and agreed with the Bend Police Department that the stop of the passenger lacked evidence for seizure and had no probable cause.
- The stop of the passenger was extremely "chippy" due to the nature of the incident.

Mitigating Factors:

• The District Attorney determined that Ameele had not been dishonest in spite of him being placed on the Tier 2 Brady list.

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Mike Frome moved, after considering the identified violations of the Board's moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Ameele's certifications.	Kevin Dresser	11 ayes; 0 nays	Motion Passed Unanimously
Mark Daniel moved, after considering the totality of the case, that Ameele be ineligible to hold public safety certification for 3 years.	Scotty Nowning	11 ayes; 0 nays	Motion Passed Unanimously

5. Carnahan, Shawn (39921) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On May 9, 2023, Shawn Carnahan was separated from his position as a reserve deputy with the Columbia County Sheriff's Office (CCSO) following a professional standards investigation into allegations of dishonesty and misconduct. While working for the CCSO as a reserve deputy, Carnahan was co-currently employed in a certified role as a sergeant with the Vernonia Police Department (VPD) and remains in this role.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Scotty Nowning moved that the Police Policy Committee request staff to gather additional information from Vernonia Police Department regarding any investigation they may have conducted into the complaint and separation from CCSO.	DeNeshia Barrett	11 ayes; 0 nays	Motion Passed Unanimously

6. Ferreyra, Jesus (61841) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On February 16, 2023, Jesus Ferreyra was terminated from the Woodburn Police Department (WPD) for untruthfulness while a probationary employee. Ferreyra's termination included allegations and admissions of misconduct. Although Ferreyra did not obtain Basic Police certifications while working for the WPD, he previously obtained Telecommunicator and

Medical Dispatch certifications. After his termination, Ferreyra returned to his previous employer and is currently working as a dispatcher.

Jesus Ferreyra provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
DeNeshia Barrett moved that the Police Policy Committee adopt the staff report with amendments to the moral fitness violations as detailed below.	Alex Gardner	11 ayes; 0 nays	Motion Passed Unanimously

The Police Policy Committee found the following moral fitness violations and factors:

Moral Fitness Violations:

- Dishonesty: The committee did not identify elements of dishonesty.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: The committee did not identify elements of misconduct.

Aggravating Factors:

- Ferreyra tried to excuse away the statement he made in his mitigation letter and did not address why he was untruthful.
- Ferreyra had prior ethics training.

Mitigating Factors:

- Ferreyra was in the first group of its kind to review the Field Training Manual before attending the academy at his agency.
- There was not a complete investigation conducted into the statements Ferreyra made.
- There is no transcript of the questions asked and answers Ferreyra gave to the FTO.
- It is possible that Ferreyra did not understand the complete context of the question asked of him.
- Ferreyra was dishonest but the circumstances behind it were mitigating.
- Ferreyra's responses were either an omission or a misunderstanding.
- Ferreyra gave inaccurate statements which lacked intent.
- Ferreyra was asked to sign off on topics without attending the academy.
- The review of the Field Training Manual should have been done one on one with a coach.
- The committee identified the statements Ferreyra made as inaccurate in their review but did not find the conduct to be intentional.

DeNeshia Barrett moved, after	Casey Codding	11 ayes;	Motion
considering the identified violations of the Board's moral fitness		0 nays	Passed Unanimously
standards and weighing the			e numme usiy

aggravating and mitigating circumstances unique to this case, that no Board action should be taken against Ferreyra's		
certifications.		

7. Johnson, Andrew (49797) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On November 3, 2022, a professional standards case was opened after staff received notice from the Law Enforcement Data Systems (LEDS) and news reporting that indicated Andrew Johnson had been arrested on October 25, 2022, for *Unlawful Use of a Weapon* (two counts), and *Menacing* (two counts). A grand jury did not indict Johnson and the charges were dismissed on December 2, 2022. Johnson's employer, the Lincoln City Police Department (LCPD), reported to the Department an economic sanction was imposed against Johnson related to his conduct during the offense.

Andrew Johnson provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Mike Frome moved that the Police Policy Committee adopt the staff report with amendments to the moral fitness violations as detailed below.	Alex Gardner	11 ayes; 0 nays	Motion Passed Unanimously

The Police Policy Committee found the following moral fitness violations and factors:

Moral Fitness Violations:

- Dishonesty: The committee did not identify elements of dishonesty.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: Johnson threatened the efficient operation of the LCPD when he placed the agency at risk of lawsuits after he attempted to arrest persons while involved in an altercation with them.

Aggravating Factors:

• The committee did not identify any aggravating factors.

Mitigating Factors:

- This was an isolated incident. Johnson has not had prior issues.
- Johnson was not dishonest.
- There was conflicting information between what was reported and what occurred in the criminal investigation.
- Johnson's agency disciplined him for his conduct in the incident and continues to support him.
- Johnson admitted to making an inappropriate comment to the U-Haul employee.

• There was evidence that Johnson was kicked or struck by the U-Haul employee.			
Alex Gardner moved, after	Mike Frome	11 ayes;	Motion
considering the identified violations		0 nays	Passed
of the Board's moral fitness			Unanimously
standards and weighing the			
aggravating and mitigating			
circumstances unique to this case,			
that no Board action should be			
taken against Johnson's			
certifications.			

8. <u>Peterson, Brandon (51772) Certification Review: Police</u>

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On November 13, 2019, Brandon Petersen was laid off from his certified police position with the Tigard Police Department (TPD) and reassigned to an uncertified support staff position. This layoff was on the heels of an internal investigation by the TPD into misconduct allegations. The TPD sustained three policy violations regarding performance and one regarding conduct. Petersen attempted to conceal a performance violation that threatened harm to those in the Washington County Jail (WCJ) booking vestibule and the efficient operations of the WCJ booking process.

Policy Committee Discussion/Vote	Second	Vote	Outcome		
Kevin Dresser recused himself due to a conflict of interest.					
Kathy McAlpine recused herself due to a conflict of interest.					
DeNeshia Barrett moved that the	Mike Frome	8 ayes;	Motion		
Police Policy Committee adopt the		0 nays;	Passed		
staff report.		2 recused;	Unanimously		
-		(Dresser and			
		McAlpine)			

The Police Policy Committee found the following moral fitness violations and factors:

Moral Fitness Violations:

- Dishonesty: Petersen was dishonest by omission by not reporting that he overlooked a loaded handgun located on the waistband of an arrestee he brought into the Washington County Jail booking vestibule and misrepresented the truth in his reporting of who and how the gun was found.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: 1) Petersen's lack of attention to the search of an arrestee prior to bringing him into the jail booking vestibule threatened harm to those in the vestibule at the time and threatened the efficient operations of the jail booking process.

- 2) Petersen being placed on "alert" Brady status by the Washington County District Attorney's Office threatened an essential function of every sworn police officer, to testify in court and write accurate reports.
- 3) Petersen's Brady designation called into question 29 docketed criminal cases at the time in Washington County, threatening the efficient operations of the Washington County Circuit Cout System, the Washington County District Attorney's Office, and the Tigard Police Department.

Aggravating Factors:

• Petersen crafted a narrative that "skimmed" the truth.

Mitigating Factors:

- An internal affairs complaint did not sustain allegations of untruthful statements.
- Petersen was sanctioned internally and appropriately.
- Petersen was hired back into a non-certified classification by the Tigard Police Department.

Alex Gardner moved, after	Mark Daniel	8 ayes;	Motion
considering the identified violations		0 nays;	Passed
of the Board's moral fitness		2 recused	Unanimously
standards and weighing the		(Dresser and	
aggravating and mitigating		McAlpine)	
circumstances unique to this case,			
that no Board action should be			
taken against Peterson's			
certifications.			
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9. Sells, Robin (55207) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On February 19, 2021, Robin Sells retired/resigned from the City of Gresham Police Department (GPD) as the result of a City of Gresham investigation into misconduct. Sells was found to have retaliated against the City of Gresham Director of Public Safety (DPS), fostered, and permitted negative treatment of the DPS, undermined the chain of command, and permitted a culture of disrespect.

Robin Sells 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 with amendments to the moral fitness violations as detailed below.	DeNeshia Barrett	11 ayes; 0 nays	Motion Passed Unanimously
The Police Policy Committee found the following moral fitness violations and factors:			

Moral Fitness Violations:

- Dishonesty: The committee did not identify elements of dishonesty.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: The committee did not identify elements of misconduct.

Aggravating Factors:

• The committee did not identify any aggravating factors.

Mitigating Factors:

- The structure in which Sells worked was set up to produce an adversarial work environment.
- The structure in which Sells worked was set up for failure.
- The Gresham City Manager failed to supervise in a way that provided for a cohesive work environment.
- Sells provided verbal mitigation, even though she does not intend to return to law enforcement.

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DeNeshia Barrett moved, after	Mark Daniel	11 ayes;	Motion
considering the identified violations		0 nays	Passed
of the Board's moral fitness			Unanimously
standards and weighing the			
aggravating and mitigating			
circumstances unique to this case,			
that no Board action should be			
taken against Sell's certifications.			

10. Smith, Tyler (54768) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On September 9, 2019, the Oregon State Police (OSP) arrested Tyler Smith on suspicion of attempted rape, child neglect, and assault. On September 18, 2019, Smith was cited for four (4) counts of *Second-Degree Child Neglect*, Class A Misdemeanors, in Grant County Oregon (case 19CR61568).

On September 17, 2019, after receiving notification of the arrest, the Department opened a professional standards case, to monitor the criminal case and determine if Smith violated any of the Board's moral fitness standards.

Smith was terminated from the Grant County Sheriff's (GCSO) on December 23, 2019. Smith grieved his termination and was offered a conditional reinstatement of employment on November 16, 2022. The DPSST has the authority to review information concurrent to his separation, even though he was reinstated, under Oregon Administrative Rule (OAR) 259-008- 0300(4)(a). Smith was also charged with *Driving Under the Influence of Intoxicants* and *Refusal to Take a Test for Intoxicants* on October 11, 2020 (case 20CR56189).

Policy Committee Discussion/Vote	Second	Vote	Outcome
Mike Frome moved that the Police	Scotty Nowning	10 ayes;	Motion
Policy Committee adopt the staff		0 nays;	Passed
report with amendments to the		(Skinner was	Unanimously
moral fitness violations as detailed		absent from	_
below.		the vote)	

The Police Policy Committee found the following moral fitness violations and factors:

Moral Fitness Violations:

- Dishonesty: The committee did not identify elements of dishonesty.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: Smith violated criminal law and received a criminal disposition for *DUII* and *Refusal to Take a Test for Intoxicants*. Smith violated his release agreement by being cited for *DUII* and *Refusal to Take a Test for Intoxicants* and was convicted of Contempt of Court.

Aggravating Factors:

- Smith threatened the efficient operations of the Oregon State Police by making it difficult for the officer to complete the Horizontal Gaze Nystagmus Test during his *DUII* arrest.
- Smith had a prior criminal conviction which evidenced a disregard for the law.
- Smith received a criminal disposition for *DUII* and *Refusal to Take a Test for Intoxicants* in violation of his release agreement.
- Smith told the Oregon State Police officer he only had two beers. Smith blew a 0.10% Blood Alcohol Content but only after Oregon State Police had to subpoena him to do so as he did not consent to the test.
- The Oregon State Police officer was unable to complete the Horizontal Gaze Nystagmus Test because of the difficulty imposed by Smith.
- The charges smith was indicted on and acquitted of were very serious in nature.

Mitigating Factors:

- Smith was not employed at the time he received his *DUII*.
- The contentiousness of Smith's relationship with his ex-wife could have played into the events related to the charges he was acquitted of.

Mike Frome moved, after considering the identified violations of the Board's moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Smith's certification.	DeNeshia Barrett	10 ayes; 0 nays; (Skinner was absent from the vote)	Motion Passed Unanimously
Mike Frome moved, after considering the totality of the case, that Smith be ineligible to hold public safety certification for 5 years.	Scotty Nowning	10 ayes; 0 nays; (Skinner was absent from the vote)	Motion Passed Unanimously

11. Stone, Emily (57726) Certification Review: Police

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On August 11, 2020, Emily Stone resigned as part of a settlement agreement after a complaint was reported to the Medford Police Department (MPD) that Stone was untruthful during an investigation into her conduct related to receipt of a trial court appearance and conduct that threatened the efficient operations of the MPD and the Municipal Court System.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Casey Codding moved that the	DeNeshia	10 ayes;	Motion
Police Policy Committee adopt the	Barrett	0 nays;	Passed
staff report.		(Skinner was	Unanimously
		absent from	
		the vote)	

The Police Policy Committee found the following moral fitness violations and factors:

Moral Fitness Violations:

- Dishonesty: Stone was untruthful when she stated she did not receive notice to appear in Municipal Court on July 7, 2020.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: Stone's removal of paperwork from her mailbox to hide the fact that she had received a trial court notice, threatened the efficient operations of the Medford Police Department and the Municipal Court proceedings, threatening the outcome of the cases of those involved in that court proceeding.

Aggravating Factors:

• Stone attempted to cover the fact that she missed her court appearance through multiple overt acts.

- Stone hid the evidence, then realized she was going to be caught so she retrieved paperwork from the recycling bin.
- Stone lied multiple times during the investigation.

Mitigating Factors:

• The video showing Stone removing paperwork from her mailbox does not clearly and convincingly show that the court subpoena was one of those items.

Alex Gardner moved, after considering the identified violations of the Board's moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Stone's certification.	Kevin Dresser	10 ayes; 0 nays; (Skinner was absent from the vote)	Motion Passed Unanimously
Alex Gardner moved, after considering the totality of the case, that Stone be ineligible to hold public safety certification for a lifetime.	Kevin Dresser	10 ayes; 0 nays; (Skinner was absent from the vote)	Motion Passed Unanimously

After the Police Policy Committee made its recommendation in this case, Stone requested a surrender of her certifications.

12. Applicant Review Committee Member Nominations

Presented by Shelby Wright, Executive Support Specialist

DeNeshia Barrett moved to nominate Alex Gardner and Chris Skinner for the Applicant Review Committee. Scotty Nowning seconded the motion. The motion passed unanimously.

13. Program Manager Update

Presented by Marsha Morin, Standards and Certification Program Manager

- Moral Fitness Workgroup. The Workgroup had its first meeting in early October. This meeting consisted of an overview of Moral Fitness processes and the history of the changes along with a review of roles for workgroup members. The workgroup met again on November 6, 2023, and discussed mandatory criminal and discharge for cause disqualifiers for certification.
- FTO Workgroups. The Field Training Officer Certification workgroup had its final meeting at the end of October. The FTO workgroup broke into two separate workgroups (Officer Certification and Training Development) to allow for focused discussions on both topics. Now that both workgroups have produced recommendations on the training and certification requirements for FTO's, DPSST will work towards presenting these recommendations to the committees.

14. Agency Update

Presented by Phil Castle, Director

- The Basic Police 60 person classes will begin their trial run soon with classes starting in November, December, and January. The January class still has open seats.
- The 40 person Oregon State Police course is getting ready to launch here at DPSST as well. We have been working with the Oregon State Police to make sure that the courses are running as they should.
- In the next legislative session, DPSST will be putting forward a Policy Option Packet for some engineering projects needed on campus including additional dorm room space and some more classrooms to accommodate more students on campus.
- Governor Tina Kotek made a visit to DPSST to congratulate staff on their dedication to getting the 60-person Basic Police Academy up and running. After a brief presentation to staff, Governor Kotek took a tour around campus and met with some of our instructors and students to hear about their experiences here at DPSST.
- DPSST is currently recruiting for the open Professional Standards Division Director position.
- Director Phil Castle recognized Kathy McAlpine for her service on the Police Policy Committee as her term has come to an end. We thank her for her service and dedication to this committee.

15. <u>Next Police Policy Committee Meeting: February 22, 2024 at 10:00 a.m.</u>

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 <u>dpsst.records@dpsst.oregon.gov</u>.