

Police Policy Committee Minutes

May 20, 2021

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 20, 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
DaNeisha Barret, Non-Management Law Enforcement
Alex Gardner, Oregon State Police Command Staff Representative
Zachary Kenney, Non-Management Law Enforcement
Liz Lawrence, Non-Management Law Enforcement
Chris Davis, Portland Police Bureau (Designee for Chief Lovell)
Kathy McAlpine, Oregon Association Chiefs of Police
Mark Rauch, Public Member
Terry Rowan, Oregon State Sheriff's Association
Chris Skinner, Oregon Association Chiefs of Police
Jill Thissel, Non-Management Law Enforcement
Craig Zanni, Oregon State Sheriff's Association

Committee Members Absent:

Terri Davie, Superintendent, Oregon State Police
Mark Garton, Oregon State Sheriff's Association

Guests:

DPSST Staff:

Linsay Hale, Professional Standards
Hassan Hassan, Training Division Director
Marsha Morin, Criminal Justice Certification Program Manager
Melissa Lang, Professional Standards Case Manager
Wendy Nunez, Criminal Justice Office Specialist

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1. Introductions

Introductions of members, guest and staff were presented.

2. Approve February 18, 2021 Meeting Minutes

Liz Lawrence moved to approve the minutes from the 2/18/2021, Police Policy Committee meeting. DaNeisha Barret seconded the motion. The motion passes, with Terry Rowan abstaining due to technical difficulties.

3. Approval for Changes to the Basic Police Curriculum

Presented by Dr. Staci Yutzie

The Training Division requested the approval of the Police Policy Committee to make modifications to the Basic Police (BP) curriculum based on a multi-year collaborative effort to align training with constituent needs and evidence-based practices, both in content and delivery.

Background:

In May 2017, DPSST began the first of three phases of revision to the Basic Police curriculum. A separate Advisory Panel, comprised of citizens and police officers, was convened for each phase. The Board on Public Safety Standards and Training approved the Phase 1 revisions in January 2018, and the Phase 2 revisions in January 2019. Recommendations from both the Phase 3 Advisory Panel and a comprehensive administrative review of the entire program are included in this proposal.

The 2021 Basic Police curriculum consists of 16 weeks (640 hours) of academic and skills training designed to prepare new officers for the next step of their professional development, field training. Course topics and content are informed by academic research where possible. The program structure is aligned with research on effective learning practices. Opportunities for practice and feedback are built in throughout the program in the form of activities, role plays, skill drills, fragment drills, and scenario training.

Phase 3 revisions focused on criminal investigations and traffic safety, however a concurrent review of the complete program resulted in additional changes to program structure, course topics, content, application, assessment, and delivery methodologies.

Zachary Kenney moved to recommend that the Board approve the updated 2021 Basic Police Curriculum. Mark Rauch seconded the motion. The motion carried unanimously.

4. 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)	Nicholas Berg	56785	Basic	Berg resigned from the Umatilla Tribal Police Department (UTPD) in lieu of termination for poor performance. Berg's conduct is indicative of insubordination and poor work performance and not a violation

				of the Board's moral fitness standards.
b)	Jeffrey Davis	28980	Basic, Intermediate, Advanced and Supervisory	DPSST opened a professional standards case following Davis' retirement during an active or pending investigation. His agency declined to provide records and DPSST was unsuccessful compelling the release of the information through legal channels. From the information DPSST obtained through the media, DPSST surmised the separation was not due to wrong doing on Davis' part. Given the specific circumstances of this case, DPSST recommended administrative closure rather than to pursue a federal case which could impact DPSST's future access to agency personnel records. Davis' records will be made available to a potential employer should he seek future employment in public safety in Oregon.
c)	Terry Kruger	21778	Basic, Supervisory and Management	Kruger was separated from the West Linn Police Department following his mishandling of a tort claim. Kruger's conduct was performance based and not a moral fitness violation.
d)	Colin Tracy	46028	Basic and Intermediate	Tracy was arrested for Assault in the 4 th Degree. The complainant declined to press charges; therefore, the arrest did not result in a criminal disposition that required Board review.

Zachary Kenney moved to approve the recommendations made by staff to administratively close the above listed cases. Liz Lawrence seconded the motion. The motion passed unanimously.

Two administrative closures for Austin Daugherty and Dylan Hansen were provided to the committee as information only as they were involved in the incident detailed in

Joseph DeLance’s case. Daughter and Hansen were not certified at the time of their separation so their cases are deferred and will reopen if they obtain public safety employment in Oregon.

DaNeishia moved to approve the recommendations made by staff to administratively close the above listed cases (d). Mark Rauch seconded the motion. The motion passes with Alex Gardner recused.

5. Orrin, Wallace (51611) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On 1/10/20, Orrin Wallace resigned from the Coquille Police Department (CPD) as part of a settlement agreement. Wallace was untruthful during an investigation into his conduct surrounding his attempts to undermine the CPD and the City.

Staff has determined that Wallace’s untruthfulness during investigations and conduct violates the Board’s moral fitness standards.

Orrin Wallace provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Bradley Robertson moved that the Police Policy Committee adopt the staff report.	Liz Lawrence	13 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:
 - Wallace’s behavior changed for the worse after he self-demoted from sergeant.
 - Wallace’s statements during the phone call to the Budget Committee member were full of reckless misinformation.
 - Wallace stated during the phone call that he was going to make the Chief fail.
 - Wallace’s attempts to undermine the CPD and the City negatively impacted the effectiveness of the department and marred the professional reputation of staff.
- Mitigating:
 - It was plausible that Wallace did not remember the phone call with the Budget Committee member because he was on prescription medications that could have affected his memory.
 - The agency had a culture of dysfunction.
 - Wallace had multiple roles – Union President and Police Officer, it is not clear under which role he was operating under when he called the Budget Committee member.

<ul style="list-style-type: none"> ○ Wallace believed he did everything correctly with his workers' compensation claim. ○ Wallace believed he did everything correctly with his workers' compensation claim. 			
Zachary Kenney 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 Orrin's certifications.	Mark Rauch	5 ayes; 8 nays; (Teague, Barret, Lawrence, McAlpine, Thissel, Zanni, Skinner, Rowan)	Motion Failed
DaNeishia Barret 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 Orrin's certifications.	Chris Skinner	6 ayes; 7 nays; (Robertson, Gardner, Kenney, Davis, Rauch, Zanni, Rowan)	Motion Failed
Mark Rauch 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 Orrin's certifications.	Zachary Kenney	11 ayes; 2 nays; (Lawrence, Thissel)	Motion Passed Unanimously

6. DeLance, Joseph (57721) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On 4/17/20, Joseph DeLance resigned from his position with the Deschutes County Sheriff's Office (DCSO) as a police officer while under investigation for an incident that occurred while attending the Department of Public Safety Standards and Training (DPSST) Basic Police Course 392 (BP392).

During the incident at DPSST, DeLance's conduct resulted in severe injury to another student which he failed to seek medical attention for and did not immediately report to DPSST staff or other authorities.

DeLance's account of the events appears less than truthful given the extent of the injuries to the student and opinions from medical professionals. Staff determined that

DeLance's attempts to minimize both his behavior and the extent of the injuries to the other student, as well as his failure to properly report the incident violated the Board's moral fitness standards.

Joseph DeLance provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Zachary Kenney recused himself due to a conflict of interest.			
Liz Lawrence moved that the Police Policy Committee adopt the staff report.	Mark Rauch	12 ayes; 0 nays; 1 recused (Kenney)	Motion Passed
<p>The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Aggravating: <ul style="list-style-type: none"> ○ DeLance's behavior that lead to the injury of an officer was reckless and violated the Student Rules and Regulations of the DPSST Academy; ○ DeLance was practicing moves he learned at the academy without the supervision of an instructor or the necessary safety equipment; ○ DeLance was employed as a certified corrections officer prior to his role as a police officer, therefore he had prior experience as a public safety professional; ○ DeLance's conduct threatened the efficient operations of the injured officer's agency by removing an officer from being able to conduct his duties; ○ DeLance's verbal mitigation statement reflected a continued minimization of the incident when he stated that when he set the officer down he fell over and landed on the ground, his treatment of another officer who was injured is a poor reflection of police officers serving the public. • Mitigating: <ul style="list-style-type: none"> ○ The injured officer was a willing participant in the activities that led to his injuries. ○ DeLance's conduct happened while off duty. ○ DeLance did not intend to injury the other student. 			
Alex Gardner 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 DeLance's certifications.	DaNeishia Barret	10 ayes; 2 nays; (Teague, Rowan) 1 recused (Kenney)	Motion Passed

Bradley Robertson moved, after considering the totality of the case, that DeLance be ineligible to hold public safety certification for 3 years.	Mark Rauch	12 ayes; 0 nays; 1 recused (Kenney)	Motion Passed
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7. **Murphy, Mason (57721) Certification Review:**

Presented by Melissa Lang

Reason for Discretionary Review

On 7/29/20, Mason Murphy resigned from the Morrow County Sheriff's Office (MCSO), in lieu of termination for engaging in sexual intercourse while on duty and that he had failed to review MCSO policies as directed.

Staff determined that Murphy's conduct related to sexual activity violated the Board's moral fitness standards.

Mason Murphy provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Zachary Kenney moved that the Police Policy Committee adopt the staff report.	Mark Rauch	13 ayes; 0 nays;	Motion Passed Unanimously
<p>The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Aggravating <ul style="list-style-type: none"> ○ The committee did not identify any aggravating factors. • Mitigating <ul style="list-style-type: none"> ○ Murphy's conduct was primarily an employment performance issue. 			
Zachary Kenney 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 Murphy's certifications.	Alex Gardner	13 ayes; 0 nays;	Motion Passed Unanimously

8. **Shelby, Alec (57571) Certification Review: Police**

Presented by Linsay Hale

Reason for Discretionary Review

On January 8, 2019, Alec Shelby was terminated from his probationary employment with the Clatsop County Sheriff's Office (CCSO) following an investigation into allegations that he had made inappropriate comments to a co-worker, which included

calling a deputy working in the CCSO jail a “faggot” and talking about engaging in oral sex with a man.

Shelby admitted to being less than truthful with investigators when questioned about his behavior. It was later uncovered that Shelby was also misleading during the CCSO hiring process by repeatedly not reporting interviewing with another police agency when specifically asked.

Staff has determined that Shelby’s conduct violates the Board’s moral fitness standards.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Alex Gardner moved that the Police Policy Committee adopt the staff report.	Bradley Robertson	13 ayes; 0 nays;	Motion Passed Unanimously
<p>The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Aggravating: <ul style="list-style-type: none"> ○ Shelby was told approximately 30 minutes before being interviewed that he should be honest and tell the truth. ○ Training records reflect that Shelby had completed the Code of Ethics training the same month he called another deputy a “faggot” and lied in his interview. ○ Shelby was dishonest and used discriminatory language. • Mitigating: <ul style="list-style-type: none"> ○ No mitigating circumstances were identified by the committee. 			
Alex Gardner 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 Shelby’s certification.	Chris Skinner	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously
Liz Lawrence moved, after considering the totality of the case, that Shelby be ineligible to hold public safety certification for a lifetime.	Alex Gardner	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously

9. Litten, Kevin (44056) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

On 7/17/19, Kevin Litten resigned from the Douglas County Sheriff's Office after an investigation was opened into his truthfulness during a separate investigation into his actions during a K9 search for a suspect.

This review is limited to Litten's untruthfulness during the investigation. Litten's performance during the search is indicative of poor decision making and does not reflect a moral fitness violation.

Staff has determined Litten's untruthfulness during the investigation violates the Board's moral fitness standards.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Liz Lawrence moved that the Police Policy Committee adopt the staff report.	Bradley Robertson	13 ayes; 0 nays;	Motion Passed Unanimously
<p>The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Aggravating <ul style="list-style-type: none"> ○ The committee did not identify any aggravating factors. • Mitigating <ul style="list-style-type: none"> ○ The discrepancies between Litten's account of events and those of the other parties were not significant enough to show that Litten was intentionally dishonest. ○ Litten's conduct could be addressed with further training. 			
Liz Lawrence 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 Litten's certifications.	Mark Rauch	13 ayes; 0 nays;	Motion Passed Unanimously

10. Timeus, Terry (17134) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

On 6/5/2020, DPSST received a complaint from the Clackamas County District Attorney (CCDA) alleging misconduct by former West Linn Police Chief Terry Timeus. The complaint included a CCDA Brady v. Maryland Report that sustained allegations that Timeus was responsible for inappropriately initiating a criminal investigation outside of the city of West Linn at the request of a personal acquaintance. It was ultimately determined that Timeus' acquaintance, who owned of a tow truck company, worked with the Timeus and the WLPD to have an employee of

the tow truck company arrested in order to hinder the employee’s ability to file a civil complaint of racial discrimination against the acquaintance.

On 8/20/20, the complaint was presented to the Police Policy Committee (PPC) for disposition in accordance with OAR 259-008-0400(4). The PPC unanimously voted to have DPSST initiate a professional standards case based on the findings of the CCDA’s findings.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
DaNeishia Barret moved that the Police Policy Committee adopt the staff report.	Liz Lawrence	13 ayes; 0 nays;	Motion Passed Unanimously
<p>The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Aggravating: <ul style="list-style-type: none"> ○ Timeus had a conflict of interest in a case and remained inappropriately involved throughout the investigation; ○ Timeus violated ethical practices; ○ Timeus initiated an investigation for an acquaintance who wanted to discredit a man who was about to file a racial discrimination suit against him; ○ Timeus authorized the sharing of confidential attorney-client information related to a discrimination case against the complainant; ○ Timeus served as the Chief of Police and received adequate ongoing training over the course of his career; ○ Timeus’ actions discredited the policing profession. • Mitigating: <ul style="list-style-type: none"> ○ No mitigating circumstances were identified. 			
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 Timeus’ certifications.	DaNeishia Barret	13 ayes; 0 nays;	Motion Passed Unanimously
Bradley Robertson moved, after considering the totality of the case, that Timeus be ineligible to hold public safety certification for a lifetime.	Liz Lawrence	13 ayes; 0 nays;	Motion Passed Unanimously

11. Reeves, Tony (44804) Certification Review: Police

Presented by Linsay Hale

Reason for Discretionary Review

On 6/16/2020, Tony Reeves was terminated from his position with the West Linn Police Department (WLPD) following an internal investigation resulting from a determination made by the Clackamas County District Attorney (CCDA) to exclude Reeves from being called as a witness in any criminal case (commonly known as a Brady determination).

The CCDA completed a Brady v. Maryland Review on 5/29/20, after becoming aware of the settlement of a civil lawsuit filed by a man Reeves had arrested in 2017. The CCDA found sufficient evidence to show that Reeves:

- Failed to Preserve Exculpatory Evidence
- Unlawfully Recorded Without Consent
- Improperly Seized and Disclosure of Confidential Attorney-Client Information
- Failed to Disclose Exculpatory/Impeachment Evidence.

Staff determined that Reeves' conduct that led to his termination, and his untruthfulness during subsequent litigation violates the Board's moral fitness standards.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
DaNeishia Barret recused herself from board action and eligibility period.			
DaNeisha Barret moved that the Police Policy Committee adopt the staff report.	Liz Lawrence	13 ayes; 0 nays;	Motion Passed
The committee discussed the moral fitness violation and identified the following aggravating and mitigating factors specific to this case: <ul style="list-style-type: none">• Aggravating:<ul style="list-style-type: none">○ Reeves' actions negatively impacted the public's trust in policing throughout the state;○ Reeves purposefully omitted information related to a criminal investigation and during a subsequent deposition;○ Reeves intentionally deleted text messages between himself and the complainant that were related to a criminal case;○ Reeves disclosed improperly seized attorney-client privileged information to the complainant regarding a discrimination case against the complainant;○ Reeves pursued a criminal case despite being aware of the apparent conflicts of interest and seeming racial motivations of the complainant;			

<ul style="list-style-type: none"> ○ Reeves intentionally omitted information from his reporting about the relationship between the complainant and the Chief of Police, and the racist text messages that were sent to him by the complainant; ○ Reeves initiated an arrest that ultimately was found to have violated the civil rights of the person arrested; ○ Reeves did not report unethical behavior of the Chief; ○ Reeves' conduct was conspiratorial in nature; ○ Reeves received adequate, ongoing training over the course of his career; ○ Reeves had multiple opportunities to change course in his investigation but did not; ○ The District Attorney had to review 540 cases that you were involved in as a result of your behavior. <ul style="list-style-type: none"> ● Mitigating: <ul style="list-style-type: none"> ○ Reeves did not engage in sending racist text messages, and appeared to ignore the complainant's racist comments instead of indulging in them. 			
Liz Lawrence 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 Reeves' certifications.	Mark Rauch	12 ayes; 0 nays; 1 recused (Barret)	Motion Passed Unanimously
Bradley Robertson moved, after considering the totality of the case, that Reeves be ineligible to hold public safety certification for a lifetime.	Liz Lawrence	12 ayes; 0 nays; 1 recused (Barret)	Motion Passed Unanimously

12. DPSST's Role in HR218/Law Enforcement Office Safety Act (LEOSA)

Presented by Linsay Hale

HR 218, also known as the Law Enforcement Officer Safety Act (LEOSA), is a federal law that creates a pathway for qualified law enforcement officers and qualified retired law enforcement officers to carry a concealed firearm across state lines. HR 218 was signed into law in 2004 and has been amended twice since then.

In 2005 DPSST provided an information packet that outlined a PPC reviewed state standard that would assist retired law enforcement officers in obtaining the firearms qualifications required by HR218 as one of the components to carry a concealed firearms. This program has not been reviewed since 2005.

DPSST recommended updating the program to current standards making the resources available online and eliminated the need to maintain a list of providers for

firearms qualifications, instead deferring to the cardholder's current or former employer.

Decision:

By consensus the committee decided to recommend to the Board that DPSST discontinue keeping a list of firearms instructors for HR218 instead working with the agencies to develop a best practices document regarding what should be in a firearms course for HR218 participation and post a sample qualification card that may be used by agencies that do not have their own.

Department Update

Marsha Morin Reported:

- Welcome to Chris Skinner and Terry Rowan on the Police Policy Committee
- Cases
 - 109 total
 - 72 ready for review
 - 36 pending or waiting for criminal disposition,
- The Applicant Review Committee has met twice so far and reviewed two cases in which the determined to take no action against those officers pre-employment criminal conduct based on the specific circumstances of those cases.
- We are expanding our audit program. Originally the Agency Compliance Review focused on ensuring DPSST and agency information matched and agencies were in compliance. In addition to the ACR's, with a continued focus of educating agencies of the requirements, DPSST is adding focused audits such as reporting officers on leave; FTM documents are on file at agencies, etc.
- Workgroups:
 - Arbitration Workgroup: The workgroup will have its first meeting in next week. The intent is to review the actions to be taken when an arbitrator reinstates an officer who has sustained moral fitness violations.
 - Field Training Officer (FTO) Certification and Training: The workgroup had their first meeting in May. Consensus from the group is there should be a certification for FTO's who are administering the field training portion of the mandated basic courses.
 - Waiver Review (Pending) –the Board approved the creation of a workgroup to review the rules regarding waivers to attend the basic academy specifically the number of years before an officer must re-attend the full basic academy. Currently officers must attend a career officer development course after 2 ½ years separation from employment and full basic academy after 5 years.
 - Physical Standards —the Board approved the creation of a workgroup to evaluate the current physical standards requirement to determine if the standards should be a pre-academy standard rather than a pre-employment standard.

Linsay Hale Reported:

- In anticipation of the Board's approval of the Phase 3 Basic Police Curriculum Revision, DPSST has built extra time between basic police classes in order to ensure a smooth transition to the new curriculum.
- Linsay Hale announced her resignation from the Department.
- Hassan Hassan has been selected as the Director of the Training Division for DPSST.

13. Next Police Policy Committee Meeting: August 19, 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 dpsst.records@state.or.us.