

# Police Policy Committee Minutes - DRAFT

## August 17, 2023

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 17, 2023, at the Oregon Public Safety Academy in Salem, Oregon. Chair John Teague called the meeting to order at 10:00 a.m.

### **Committee Members:**

John Teague, Chair, Oregon Association Chiefs of Police  
Chris Skinner, Vice Chair, Oregon Association of Chiefs of Police  
DaNeshia Barret, Non-Management Law Enforcement  
Angela Brandenburg, Oregon State Sheriff's Association (Webex)  
Casey Coddling, Superintendent, Oregon State Police  
Kevin Dresser, Non-Management Law Enforcement  
Alex Gardner, Oregon State Police Command Staff Representative  
Mark Garton, Oregon State Sheriff's Association  
Scotty Nowning, Non-Management Law Enforcement  
Kathy McAlpine, Oregon Association of Chiefs of Police (Webex)  
Terry Rowan, Oregon State Sheriff's Association (Webex)  
Jill Thissel, Non-Management Law Enforcement (Webex)  
Rob Wood, Public Member (Webex)

### **Committee Members Absent:**

Brad King, Non-Management Law Enforcement  
Mike Frome, Portland Police Bureau (Designee for Chief Charles Lovell)  
Ashliegh Ramirez, Public Member  
Kieran Ramsey, Federal Bureau of Investigation

### **Guests:**

Troy Gainer  
Steven Laren  
Peter Robinson

### **DPSST Staff:**

Phil Castle, Director  
Chris Brodniak, Professional Standards Division Director  
Suzy Herring, Private Security/Private Investigator/Polygraph Program Manager  
Marsha Morin, Standards and Certification Manager  
Melissa Lang-Bacho, Professional Standards Compliance Coordinator  
Jennifer Levario, Professional Standards Compliance Coordinator  
Staci Yutzie, Training Division Director  
Heidi Van Middlesworth, Training Development Specialist  
Erica Riddell, Criminal Justice Office Specialist  
Shelby Wright, Executive Support Specialist



**1. Introductions**

Introductions of members, guests and staff.

**2. Approve June 12, 2023 Meeting Minutes**

*DeNeshia Barrett moved to approve the minutes from the June 12, 2023, Police Policy Committee meeting. Scotty Nowning seconded the motion. The motion passed unanimously with one recusal (Brandenburg).*

**3. Administrative Closure Consent Agenda**

Presented by Melissa Lang-Bacho, Professional Standards Case Manager

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

**a) Utley, Joshua (59267) Police**

On August 31, 2020, Joshua Utley resigned from the Cannon Beach Police Department (CBPD) while under investigation for allegations of violation of CBPD policy, Standards of Conduct, and Efficiency. The Department determined Utley’s conduct did not violate the Board’s moral fitness standards but did indicate several performance-related issues.

*Mark Garton moved to approve the Administrative Closure Consent Agenda recommendations made by the Department. Casey Codding seconded the motion. The motion passed unanimously.*

**4. Gainer, Troy (39919) Certification Review: Police**

Presented by Melissa Lang-Bacho, Professional Standards Compliance Coordinator

On September 2, 2021, the Scappoose Police Department (SPD) terminated Troy Gainer after determining he had violated multiple policies while repeatedly requesting to pick up prescription drugs through the drug turn-in program at other agencies during his work and personal time.

Gainer has been indicted for nine counts of *Official Misconduct*, one count of *Tampering With Evidence*, and three counts of *Delivery of Oxycodone* which were the results of a criminal investigation conducted by the Forest Grove Police Department (FGPD).

Gainer’s employment was reinstated due to an arbitrator opinion on May 24, 2022.

*Troy Gainer provided verbal mitigation for committee consideration.*

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
DeNeshia Barrett moved that the Police Policy Committee Not Adopt the Staff Report and request staff to bring the case back to the Police Policy Committee once the pending criminal case has finished.	Alex Gardner	13 ayes; 0 nays	Motion Passed Unanimously

**5. Larsen, Steven (49075) Certification Review: Police**

Presented by Melissa Lang-Bacho, Professional Standards Compliance Coordinator

*Reason for Discretionary Review*

On April 19, 2023, an Application for Training (F5) for Steven Larsen was forwarded for professional standards review. Oregon eCourt reflects a 2018 conviction for *Recklessly Endangering Another Person - Firearm*, ORS 163.195, which was also reflected in his Law Enforcement Data System (LEDS) record.

*Steven Larsen provided verbal mitigation for committee consideration.*

<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 .	Scotty Nowning	13 ayes; 0 nays	Motion Passed Unanimously
<p>The Police Policy Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> <li>• Dishonesty: The committee did not identify elements of dishonesty.</li> <li>• Misuse of Authority: The committee did not identify elements of misuse of authority.</li> <li>• Misconduct: Larsen violated criminal law and was convicted of <i>Recklessly Endangering Another Person</i>. When Larsen shot his firearm in the direction of residential homes it threatened or harmed persons or property.</li> </ul> <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> <li>• The committee did not identify any aggravating factors.</li> </ul> <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> <li>• Larsen submitted several letters from those who have worked with him as a reserve officer over the years and are in support of him seeking certification as a police officer.</li> <li>• Under slightly different circumstances, an ineligibility period imposed by the Board may have already run its course.</li> </ul>			
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 no Board action should be taken against Larsen’s application for training and subsequent certification.	Casey Codding	13 ayes; 0 nays	Motion Passed Unanimously

**6. Needham, Brian (33137) Certification Review: Police**

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

*Reason for Discretionary Review*

On July 7, 2020, Brian Needham resigned from the Harney County Sheriff’s Office (HCSO) after a Brady Investigation determined that Needham would never be subpoenaed to testify as a law enforcement witness again by the current Harney County District Attorney (HCDA) or DA elect.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Alex Gardner moved that the Police Policy Committee Not Adopt the Staff Report and request staff to gather additional information and bring the case back to the Police Policy Committee.	John Teague	13 ayes; 0 nays	Motion Passed Unanimously

**7. Robinson, Peter (48227) Certification Review: Police**

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

*Reason for Discretionary Review*

On August 12, 2022, the Department received a notice from Peter Robinson of a criminal citation he received for *Possession of Natural Resource/Mineral Resource (Obsidian)*. Robinson was in possession of two large pieces of black obsidian in Yellowstone National Park, Wyoming.

On August 30, 2022, Robinson pleaded not guilty in the U.S. District Court, District of Wyoming (Yellowstone National Park). On October 19, 2022, the petty offense/misdemeanor was collateralized, and Robinson was directed to pay \$550.00.

*Peter Robinson provided verbal mitigation for committee consideration.*

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Scotty Nowning moved that the Police Policy Committee adopt the staff report.	John Teague	13 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: Robinson’s criminal possession of a protected mineral resource taken from Yellowstone National Park threatened to harm the park’s preservation of “Obsidian Cliff.”

*Aggravating Factors:*

- The committee did not identify any aggravating factors.

*Mitigating Factors:*

<ul style="list-style-type: none"> <li>• Robinson accepts responsibility for his actions.</li> <li>• Robinson was respectful during the event.</li> <li>• Robinson was not actually trying to commit a crime.</li> </ul>			
Scotty Nowning 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 no Board action should be taken against Robinson’s certifications.	Kevin Dresser	13 ayes; 0 nays	Motion Passed Unanimously

**8. Smith, Aaron (44175) Certification Review: Police**

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

*Reason for Discretionary Review*

On December 15, 2020, Aaron Smith resigned from the McMinnville Police Department (MPD) as part of a settlement agreement after an internal investigation into misconduct. Smith was untruthful about his reason for requesting sick time on four separate occasions.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Mark Garton moved that the Police Policy Committee adopt the staff report.	Casey Codding	13 ayes; 0 nays	Motion Passed Unanimously

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

*Moral Fitness Violations:*

- Dishonesty: Smith admitted to the McMinnville Police Department investigators that he was intentionally dishonest when he sent text messages to his superiors on four occasions requesting time off to care for his sick child.
- Misuse of Authority: The committee did not identify elements of misuse of authority.
- Misconduct: The committee did not identify elements of misconduct.

*Aggravating Factors:*

- Most employees currently know what is available to them to help with mental health issues and stigma for this type of issue has decreased.
- Smith exercised poor judgment when he lied several times about the use of his sick time.
- Smith fabricated three separate lies on three separate days to two different supervisors.

*Mitigating Factors:*

<ul style="list-style-type: none"> <li>• Smith completed an alcohol treatment program after this occurred.</li> <li>• Smith admitted his deceit when he was confronted by it.</li> <li>• Smith had no incidents of being untruthful when he was sober.</li> <li>• Smith lied to protect his alcoholism.</li> <li>• Smith made the decision to not come to work when intoxicated preventing harm to others.</li> </ul>			
John Teague 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 certifications.	DeNeshia Barrett	13 ayes; 0 nays	Motion Passed Unanimously
John Teague moved, after considering the totality of the case, that Smith be ineligible to hold public safety certification for 3 years.	Mark Garton	13 ayes; 0 nays	Motion Passed Unanimously

**9. Stone, Emily (57726) Certification Review: Police**

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

*(DPSST was contacted by Emily Stone after the policy committee meeting regarding not receiving the notice of the case being heard and her opportunity to submit mitigation. Stone has been offered the opportunity to provide mitigation for the next policy committee meeting in November. DPSST will hold this case until after the Policy Committee meeting.*

*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.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
John Teague moved that the Police Policy Committee adopt the staff report.	DeNeshia Barrett	13 ayes; 0 nays	Motion Passed Unanimously
<p>The Police Policy Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> <li>• Dishonesty: Stone was untruthful when she stated she did not receive notice to appear in Municipal Court on July 7, 2020.</li> </ul>			

<ul style="list-style-type: none"> <li>• Misuse of Authority: The committee did not identify elements of misuse of authority.</li> <li>• Misconduct: Stone’s removal of paperwork from her mailbox to hide the fact that she did receive a trial court notice, threatened the efficient operations of the Medford Police Department and the Municipal Court proceedings, potentially threatening the outcome of the cases of those involved in the court process.</li> </ul> <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> <li>• The committee did not identify any aggravating factors.</li> </ul> <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> <li>• The committee did not identify any mitigating factors</li> </ul>			
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.	Chris Skinner	13 ayes; 0 nays	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.	Chris Skinner	13 ayes; 0 nays	Motion Passed Unanimously

**10. Viereck, Dennis (36201) Certification Review: Police**

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

*Reason for Discretionary Review*

On April 22, 2019, Dennis Viereck was terminated from the Scappoose Police Department (SPD) for engaging in a sexual relationship with an applicant for an open police officer position.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Casey Coddling moved that the Police Policy Committee adopt the staff report.	Scotty Nowning	13 ayes; 0 nays	Motion Passed Unanimously
<p>The Police Policy Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> <li>• Dishonesty: Viereck was dishonest by omission when he failed to disclose an ongoing sexual relationship with an applicant while being directly involved in their hiring process.</li> </ul>			

- Misuse of Authority: Viereck misused his authority when he exercised it to make decisions regarding an applicant's background and fitness for employment while he was in a sexual relationship with her, to maintain a privilege in his relationship.
- Misconduct: Viereck engaged in misconduct when he undermined the perceived fairness and neutrality of the application and hiring process conducted by the Scappoose Police Department by concealing and carrying on a sexual relationship with an applicant while being directly involved in their hiring process.

*Aggravating Factors:*

- Viereck engaged in a sexual relationship with someone he was involved in hiring.
- Viereck, in a supervisory rank, had control and authority over the hiring process and abused that authority.
- Viereck was on a last-chance agreement when this occurred.
- Viereck exercised an unfair power dynamic to his advantage.

*Mitigating Factors:*

- The dishonesty finding did not rise to the level necessary to find for more than a 10-year revocation recommendation.

Scotty Nowning 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 Viereck's certifications.	Kevin Dresser	13 ayes; 0 nays	Motion Passed Unanimously
Kathy McAlpine moved, after considering the totality of the case, that Viereck be ineligible to hold public safety certification for 10 years.	Casey Codding	13 ayes; 0 nays	Motion Passed Unanimously

**11. Proposed Rule Changes for Oregon Administrative Rule (OAR) 259-008-0085**

Presented by Staci Yutzie, Training Division Director

Current rules state that Basic Police Course students must obtain and maintain a minimum cumulative score of 75% by Quiz 4. Not meeting this requirement will result in academic failure for the student and withdrawal from the course. Under the prior curriculum, this served as a student progression measurement. If a student was unable to obtain and maintain a minimum of 75% cumulatively on the quizzes, they were unlikely to be able to meet the 75% minimum score required for the midterm and the final. With the revision and



reorganization of the Basic Police Course, Quiz 4 now occurs between the midterm and final exams, and maintaining a cumulative quiz score no longer serves the same purpose. To address this imbalance, the Center for Policing Excellence (CPE) requests the deletion of the cumulative score requirement for Quizzes.

This rule change means that quiz scores will no longer result in academic failure. The quizzes will still be used to measure student progress and provide an opportunity to assess and advise. If a student is not averaging 75% on quizzes leading up to the midterm, DPSST will use this information to advise the student and employing agency on the best course of action going into the midterm or final, which must be completed with a minimum score of 75% or better.

*By consensus the Committee approved the fiscal impact statements provided by staff.*

*John Teague moved to recommend the Board on Public Safety Standards and Training approve filing the proposed rule changes for OAR 259-008-0085 as permanent rules, if there are no substantive comments received. Scotty Nowning seconded the motion. The motion passed unanimously.*

## **12. Nomination for New Chair of Police Policy Committee**

*Chris Skinner moved to nominate Alex Gardner as the new Chair of the Police Policy Committee. Kevin Dresser seconded the motion. The motion passed unanimously.*

*Oregon Revised Statute ORS 181A.375 and OAR 259-006-0000(4) states that members of the policy committees who are nominated for chairperson must also be a member of the Board. Because Alex Gardner is not a current Board member, this vote is void and a new nomination and second must be made.*

*John Teague moved to nominate Scotty Nowning as the new Chair of the Police Policy Committee. DeNeshia Barrett seconded the motion. The motion passed unanimously.*

## **13. Program Manager Update**

Presented by Marsha Morin, Standards and Certification Program Manager

- Moral Fitness Workgroup. DPSST is setting up a Moral Fitness Workgroup to review the rules regarding revocation and denial of criminal justice public safety professional certifications. The first meeting is planned for the end of September 2023.
- DPSST is working with the Klamath Tribes as they work towards SB412 compliance to allow authorized tribal police officers to enforce the law off tribal lands.
- Removal of Manager Signature on Administrative Closures.
  - The manager's approval signature is being removed from the administrative closures because it can be viewed as DPSST approving the closure which is the policy committee's role. DPSST's responsibility is to provide enough information in the closure memos for the committee to make an informed decision.
- Case Coordination Process Changes.
  - Now that DPSST has two fully trained compliance coordinators, we look forward to presenting more cases each quarter.
  - In 2024 we will be rotating coordinators presenting cases each quarter which will allow them to have six months between presenting cases instead of three.

- Committee Case Review Process Training. DPSST will provide refresher training on the committee case review process.

#### **14. Agency Update**

Presented by Philip Castle, Director

- DPSST has a new Professional Standards Division Director, Chris Brodniak. Chris previously worked for DPSST in the Private Security section and as an Instructor for the Academy.
- This week DPSST will be meeting with the Oregon State Sheriff's Association and the Oregon Association of Chiefs of Police to give them updates on the Academy changes that are happening and DPSST's goals for the future of the Academy.
- DPSST will be implementing their new Strategic Plan on September 15, 2023.
- DPSST will be presenting a safety plan to the Ways and Means Committee on September 27, 2023, regarding the new 60-person Basic Police course that will be conducted soon.
- DPSST was funded for three 60-person Basic Police Courses and three courses for Oregon State Police officers only. There are currently open spots for these courses.
- In February DPSST will be going back to the Ways and Means Committee to discuss the results of the 60-person Basic Police Course and discuss any areas that may need to be improved.
- DPSST will be sending out a state-wide survey shortly to gather employment and hiring projections from agencies within Oregon for the upcoming biennium. This will help DPSST determine the potential backlog that we may see in the future if hiring trends stay on the rise.
- Sheriff Mark Garton has reached his final policy committee meeting and was presented with a Certificate for his service on the Police Policy Committee.

#### **15. Next Police Policy Committee Meeting: November 16, 2023 at 10:00 a.m.**

*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@dpsst.oregon.gov](mailto:dpsst.records@dpsst.oregon.gov).*