Police Policy Committee Minutes

August 19, 2021

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 19, 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
DaNeshia Barret, Non-Management Law Enforcement
Terri Davie, Superintendent, Oregon State Police
Mark Garton, Oregon State Sheriff's Association (Webex)
Zachary Kenney, Non-Management Law Enforcement (Webex)
Chris Davis, Portland Police Bureau (Designee for Chief Charles Lovell) (Webex)
Kathy McAlpine, Oregon Association of Chiefs of Police
Terry Rowan, Oregon State Sheriff's Association (Webex)
Chris Skinner, Oregon Association Chiefs of Police
Craig Zanni, Oregon State Sheriff's Association (Webex)

Committee Members Absent:

Alex Gardner, Oregon State Police Command Staff Representative Jill Thissel, Non-Management Law Enforcement Kieran Ramsey, Federal Bureau of Investigation Liz Lawrence, Non-Management Law Enforcement Mark Rauch, Public Member

Guests:

Michael Lacer Ashley Lacer Dan Thenell Christopher Beem Chuck Beem

DPSST Staff:

Jerry Granderson, Director
Suzanne Herring, Professional Standards Division Director
Mike Herb, Academy Operations Manager
Marsha Morin, Standards and Certification Program Manager
Melissa Lang, Professional Standards Case Manager
Jordan James-Largent, Professional Standards Case Manager
Jennifer Howald, Administrative Rules Coordinator
Shelby Alexander, Executive Support Specialist

1. <u>Introductions</u>

Introductions of members, guest and staff were presented.

2. Approve May 20, 2021 Meeting Minutes

Terri Davie moved to approve the minutes from the 5/20/2021, Police Policy Committee meeting. DaNeshia Barrett seconded the motion. The motion passed unanimously.

3. Administrative Closures – Police / Regulatory Specialists

Presented by Melissa Lang

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

	Name	DPSST#	Certification(s)	Reason for Closure
a)	Gregory Buddrius	38125	Basic, Intermediate, Advanced and Supervisory Police Certifications	An internal investigation found that Buddrius failed to notify his immediate supervisor of his absence as directed. Buddrius did notify the agency of his absences, but failed to also contact his immediate supervisor.
				Acts of insubordination alone are considered performance based issues.
b)	Cecelia Cannetti	60066	Basic Police Certification	Cannetti resigned after receiving notice to terminate her probationary employment due to performance issues and multiple negative interactions with others and the public.
				Staff determined that Cannetti's conduct, while concerning, is indicative of incompetence and poor work performance and does not constitute Board moral fitness violations.
c)	Mark Cudmore	00499	Basic Police Certification	Cudmore was arrested for Driving Under the Influence of Intoxicants (DUII) and Unlawful Possession of a Firearm. Based on the unique circumstances identified below, DPSST believes it is unlikely

				that Cudmore will return to public safety and recommends administrative closure of this case, which will allow Cudmore's certifications to immediately expire. • Cudmore is unable to be located to face the criminal charges against him. • DPSST is unable to locate Cudmore. • Cudmore resigned from his public safety position in 1973. • Cudmore served as a police officer for 2.5 years.
d)	Richard Gray	31346	Basic, Intermediate, Advanced, Supervisory and Management Police Certifications	Richard Gray resigned from the John Day Police Department as a result of a settlement agreement following an investigation into concerns related to his work performance managing a police department, use of prescription medication while on duty, and concerns regarding Gray's wellbeing. While Gray's conduct is concerning, DPSST does not believe it violates the Board's moral fitness standards.
e)	Cheryl Robinson	24294	Basic Police Certification	Robinson plead No-Contest to Driving Under the Influence of Intoxicants and guilty to Reckless Driving. Staff determined Robinson's conviction violates the Board's moral fitness standards; however, based on the unique circumstances identified below, DPSST believes it is unlikely Robinson will return to public safety and recommends administrative closure of this case, which will allow Robinson's certifications to immediately expire. • DPSST staff are unable to locate Robinson; • Robinson retired from public

f)	Michael Smith	37881	Basic,	safety nearly 6 years ago; • Robinson served as a police officer in Oregon for 25 years. Michael Smith was terminated
			Intermediate, Advanced and Supervisory Police Certifications; Basic Corrections Certification	after a second psychological evaluation found he was unfit for duty after the passing of his wife. Though concerning, Smith's conduct was the result of his inability to cope with his wife's death rather than intentional misconduct. Staff determined that Smith's separation does not constitute a moral fitness violation.
g)	Ryan Stone	49365	Basic, Intermediate and Advanced Police Certifications	Stone resigned from the Springfield Police Department (SPD) as part of a settlement agreement. The settlement agreement notes that at the time of his separation: • Stone was not subject to disciplinary action or a performance improvement plan. • Stone was not facing allegations of misconduct or disciplinary action. DPSST does not believe Stone's separation violates the Board's moral fitness standards.
h)	Scott McKee	19065	Basic, Intermediate, Advanced, Supervisory and Management Police Certifications	Scott McKee retired from the Springfield Police Department (SPD) as part of a settlement agreement with the city. The settlement agreement notes that, at the time of his separation, McKee had been cleared of any wrongdoing as the result of an internal investigation and absent the settlement agreement, McKee would have been eligible to return to employment. Staff reviewed the internal investigation in person and confirmed the investigation

		allegations were unfounded or not substantiated.

Bradley Robertson moved to approve the recommendations made by staff to administratively close the above listed cases. Terri Davie seconded the motion. The motion passed unanimously.

4. Lacer, Michael (49712) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On April 17, 2020, Michael Lacer was discharged from his position with the Oregon State Police (OSP) after he was found to have violated criminal laws while on a hunting trip when he shot an elk on private property and trespassed on that property to retrieve the elk.

Michael Lacer provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome		
Terri Davie recused herself due to a conflict of interest.					
John Teague disclosed a potential or perceived conflict of interest in this case due to personally knowing individuals mentioned in this case. Teague declared he would be able to remain unbiased because he does not know Michael Lacer, has not met him, and feels he can make a fair determination based on the information presented.					
DaNeshia Barrett moved that the Police Policy Committee adopt the staff report. Kathy McAlpine 10 ayes; 0 nays; 1 recused (Davie) Motion Passed Unanimousl					

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision:

Moral Fitness Violations:

• **Misconduct:** Lacer violated criminal laws while taking an elk that was shot on private land without advance permission from the landowner.

Aggravating Factors:

• The committee did not identify any aggravating factors.

Mitigating Factors:

- The property owner did not wish to press charges and gave Lacer permission to hunt on his property.
- There was not a preponderance of the evidence for untruthfulness.
- Lacer's verbal mitigating statement.
- Lacer may not have needed to disclose to the troopers that he shot the animal on private property.

Bradley Robertson moved, after	Chris Skinner	10 ayes;	Motion
considering the identified violations		0 nays;	Passed
of the Board's moral fitness		1 recused	Unanimously
standard and weighing the		(Davie)	
aggravating and mitigating			
circumstances unique to this case			
that no Board action should be			
taken against Lacer's certification.			
	1	l	

5. Beem, Christopher (58055) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On October 15, 2019, Christopher Beem resigned from the Warrenton Police Department (WPD) while under investigation for claiming active military service in order to obtain a discount at businesses, while not qualifying for the discount.

Christopher Beem provided verbal mitigation for committee consideration.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Bradley Robertson moved that the Police Policy Committee adopt the staff report.	Terri Davie	11 ayes; 0 nays	Motion Passed Unanimously

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

• **Dishonesty:** Beem utilized his expired military identification card to obtain military discounts from businesses when he had no valid basis to obtain the discounts.

Aggravating Factors:

- Beem misrepresented himself to obtain discounts at business knowing it was wrong for him to access the discount.
- Beem exercised poor judgment in using the expired military identification.
- Beem knew he should not have the military identification but kept it anyway.
- Beem used his expired military identification as a backup when he was not able to obtain a law enforcement discount.
- Beem accessed the military discount at five businesses.

Mitigating Factors:

- A variety of vendors give discounts to law enforcement officers and military and is ultimately their discretion to determine what qualifies for a discount.
- Beem's poor judgment does not warrant Board action.
- Beem's conduct was not done in the workplace.
- Beem did not misuse his authority as a police officer to obtain discounts.

Chris Skinner moved, after	Zachary	8 ayes;	Motion
considering the identified violations	Kenney	3 nays	Passed
of the Board's moral fitness		(Davis,	
standard and weighing the		McAlpine,	
aggravating and mitigating		Zanni)	
circumstances unique to this case			
that no Board action should be			
taken against Beem's certification.			
			i l

6. Berreth, Kristin (44821) Certification Review: Police and Regulatory Specialist

Presented by Melissa Lang

Reason for Discretionary Review

On February 27, 2019, Kristin Berreth was terminated from her position with the Oregon Liquor Control Commission (OLCC) as a Regulatory Specialist after she appeared to be under the influence of alcohol while at work and for being untruthful during the investigation into her conduct.

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

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

• **Dishonesty:** Berreth was untruthful with investigators about a can of alcohol in her vehicle at work, stating that the can was empty, then stating that it was an open container.

Aggravating Factors:

- Berreth was evasive with investigators.
- Berreth worked for the OLCC, therefore was in a position that enforces alcohol laws and rules.
- Berreth has no level of awareness or admission that she has a problem with alcohol.

Mitigating Factors:

- Berreth stated she drinks white wine, not red.
- One of Berreth's coworkers did not notice any signs of impairment.
- The can of wine in her car was white wine. If Berreth had red staining around her mouth it was not from the can of white wine in her car. The investigation questioning continued after Berreth requested a union representative.
- Berreth's dishonesty may have been due to impairment.

- Berreth was asked multiple times about having an open can of alcohol in her vehicle, the one-time she said she had an open container in her vehicle appeared to be accidental.
- Having an open container is a violation and not criminal.
- She was noted to be putting on lip gloss, which may have been what stained her lips.
- Berreth was dishonest for self-preservation reasons.

Terri Davie moved, after	Zachary	10 ayes;	Motion
considering the identified violations	Kenney	0 nays;	Passed
of the Board's moral fitness		1 did not vote	
standard and weighing the		due to	
aggravating and mitigating		technology	
circumstances unique to this case		issues.	
that no Board action should be		(Rowan)	
taken against Berreth's			
certifications.			

7. Currey, James (26140) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On March 31, 2018, James Currey retired from the Umatilla Tribal Police department (UTPD) while under investigation for theft of tribal property.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Terri Davie moved that the Police	Kathy	10 ayes;	Motion
Policy Committee adopt the staff	McAlpine	0 nays;	Passed
report.		1 did not vote	
		due to	
		technology	
		issues	
		(Rowan)	

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

- **Dishonesty**: Currey told police he had thrown antlers in an Oregon Department of Fish and Wildlife (ODFW) waste pit, when in fact he did not.
- **Misuse of Authority**: Currey used his position with the UTPD to take property that he knew belonged to the Confederated Tribes of the Umatilla Indian Reservation.
- **Misconduct**: Currey knowingly and willfully stole and converted to his own use property of some value to the Confederated Tribes of the Umatilla Indian Reservation.

Aggravating Factors:

- Currey faced federal prosecution for his actions;
- Currey arrived at the ODFW pit to dispose of the antlers after he stated that he already threw the antlers in the pit.

Mitigating Factors:

• The committee did not identify any mitigating factors

	1		
Terri Davie moved, after	DaNeshia	10 ayes;	Motion
considering the identified violations	Barrett	0 nays;	Passed
of the Board's moral fitness		one person did	
standard and weighing the		not vote due	
aggravating and mitigating		to technical	
circumstances unique to this case,		reasons	
that Board action should be taken		(Rowan)	
against Currey's certification.			
Bradley Robertson moved, after	Terri Davie	11 ayes;	Motion
considering the totality of the case,		0 nays	Passed
that Currey be ineligible to hold			Unanimously
public safety certification for a			
lifetime.			

8. DiGregorio, Sean (57783) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On April 1, 2019, Sean DiGregorio resigned from the Portland Police Bureau (PPB) during an active investigation into allegations that he displayed his badge at multiple bars while intoxicated and attempted to punch an individual.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Chris Davis and Zachary Kenney recused themselves due to a conflict of interest.			
Terri Davie moved that the Police	DaNeshia	9 ayes;	Motion
Policy Committee adopt the staff	Barrett	0 nays;	Passed
report.		2 recused	
		(Davis,	
		Kenney)	

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations:

- **Dishonesty**: DiGregorio told employees of businesses he was on a sting operation, when in fact he was not.
- **Misuse of Authority**: DiGregorio displayed his police identification in an attempt to gain access to businesses that were closed.
- **Misconduct**: DiGregorio attempted to punch an individual at a bar and threatened the efficient operation of the PPB by displaying conduct in public that discredits the agency.

Aggravating Factors:

- The businesses that DiGregorio flashed his badge at were in the jurisdiction of the PPB;
- Multiple people witnessed DiGregorio flashing his police identification;
- Alcohol does not cause people to do things, it only lowers inhibitions.

Mitigating Factors:

- DiGregorio was intoxicated and does not recall what happened;
- DiGregorio stated that he does not normally drink to excess;
- DiGregorio's conduct happened while off duty.

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 DiGregorio's certification.	Bradley Robertson	9 ayes; 0 nays; 2 recused (Davis, Kenney)	Motion Passed
Kathy McAlpine moved, after considering the totality of the case, that DiGregorio be ineligible to hold public safety certification for 5 years.	Craig Zanni	9 ayes; 0 nays; 2 recused (Davis, Kenney)	Motion Passed

9. Irvine, Michael (32743) Certification Review: Police

Prior to the meeting, Michael Irvine (32743) signed a stipulated order surrendering his certifications voluntarily and was not reviewed by the committee.

10. Pastore, Andrew (40175) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On March 7, 2019, Andrew Pastore resigned from the Tigard Police Department (TPD) in lieu of termination. While under investigation, Pastore was untruthful when he omitted facts while attempting to obtain an overtime shift.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Kathy McAlpine recused herself due to a conflict of interest.			
John Teague moved that the Police Policy Committee not adopt the staff report and send back to DPSST staff for additional	Zachary Kenney	10 ayes; 0 nays; 1 recused (McAlpine)	Motion Passed
information.			

11. Wileman, Jason (41421) Certification Review: Police

Presented by Melissa Lang

Reason for Discretionary Review

On April 1, 2019, Jason Wileman resigned from the Medford Police Department (MPD) during an internal investigation into a complaint that he had not followed up with the victim of a theft crime. The MPD internal investigation revealed Wileman was untruthful with the crime victim, in his police report, in his description of the quality of video evidence and during the internal investigation.

Though MPD found there were multiple instances of untruthfulness, this review will be limited to Wileman's conduct surrounding the video evidence due to a lack of a preponderance to prove the remaining allegations.

Policy Committee Discussion/Vote	Second	Vote	Outcome
Terri Davie moved that the Police Policy Committee adopt the staff report.	Craig Zanni	11 ayes; 0 nays	Motion Passed Unanimously

The committee found the following moral fitness violations along with aggravating and mitigating factors which they considered in making their decision.

Moral Fitness Violations 1:

- **Dishonesty**: Wileman stated that the video evidence obtained for a criminal complaint was of poor quality, when in fact it was not; Wileman stated he viewed the video on your phone in the field when he had not; Wileman stated the email with the video evidence was no longer available when it was.
- **Misconduct**: Wileman threatened the efficient operation of the MPD with his lack of action in the investigation of a criminal complaint.

Aggravating Factors:

- The victim in the case was a retired police officer who followed up multiple times with the case;
- Wileman lied to the victim of the criminal complaint
- Wileman's misconduct harmed the reputation of the agency

Mitigating Factors:

• The committee did not identify any mitigating factors

¹ The policy committee also found that Wileman violated the Board's moral fitness standards for misuse of authority. The committee found that Wileman had misused his authority by intentionally not following up on Theft 3 case. While Wileman's conduct on duty was unacceptable, there is insufficient evidence in the records to support a moral fitness violation for misuse of authority necessary to revoke his certification.

Terri Davie moved, after	Kathy	11 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 Wileman's certifications.			
Craig Zanni moved, after considering the totality of the case, that Wileman be ineligible to hold public safety certification for a lifetime.	Kathy McAlpine	11 ayes; 0 nays	Motion Passed Unanimously

12. <u>Informational Update on Proposed Rule Changes for OAR 259-008-0005</u> <u>Providing Conforming Amendments Align Rule with Statute</u>

Presented by Jennifer Howald

OAR 259-008-0005 includes the definitions that are used for the interpretation of the criminal justice public safety professional administrative rules found in OAR chapter 259 division 8. This rule includes definitions that are found in ORS 181A.355 as well as other definitions adopted by the Board on Public Safety Standards and Training (BPSST).

This proposed rule change updates OAR 259-008-0005 to align the rule with the statutory changes that occurred during the 2021 legislative session. The rule changes also include housekeeping amendments for punctuation, ORS references, and past legislative changes.

On July 22, 2021, the BPSST approved the proposed rule changes to OAR 259-008-0005 that are outlined in this memo. The proposed rule change is open for public and constituent comment until August 21, 2021. There were no fiscal impacts identified as a result of the rule change.

DPSST submitted the proposed rule change directly to the BPSST to facilitate a timely response to the effective dates of the bills identified below. This informational update provides an opportunity for the Police Policy Committee (PPC) to review the proposed rule change during the comment period.

The committee did not have any comments regarding this rule change.

13. <u>Proposed Rule Adoption for DPSST Designation of Law Enforcement Agency</u> Accreditation Bodies per House Bill 2162

House Bill 2162, from the 2021 Legislative Session, establishes a requirement for Oregon law enforcement agencies with 35 or more sworn police officers to become accredited by an accrediting body. House Bill 2162 directs the Department of Public Safety Standards and Training (DPSST) to adopt a rule for the purpose of designating which accrediting bodies a law enforcement agency in this state may use to obtain the required accreditation.

Accreditation programs are designed to help law enforcement agencies establish and maintain standards that represent current professional law enforcement practices; to increase the effectiveness and efficiency in the delivery of law enforcement services; and to establish standards that address and reduce liability for the agency and its members.

The following proposed rule for adoption designates the Oregon Accreditation Alliance and the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA®) as accrediting bodies.

The Oregon Accreditation Alliance was established in 2001 and provides accreditation to qualified law enforcement and 911 agencies in Oregon and Alaska. The Oregon Accreditation Alliance is also recognized by the U.S. Attorney General's Office as the independent credentialing body for certifying Oregon law enforcement agency compliance with the U.S. Department of Justice standards of certification on safe policing principles.

CALEA provides accreditation to law enforcement and communications agencies, training academies and campus security organizations. CALEA has been accrediting law enforcement agencies since 1979 and is an internationally recognized accreditation body. For reference, the standards included in Oregon Accreditation Alliance and CALEA standards manuals have been included as attachments.

Consensus reached approving the fiscal impact statements provided by staff.

Terri Davie moved to recommend that the Board approve filing the proposed rule adoption as a permanent rule if no comments are received. Kathy McAlpine seconded the motion. The motion carried unanimously.

14. Department Updates

Marsha Morin, Standards and Certification Program:

- Current Cases
 - o 106 total Police/Regulatory Specialist cases
 - o 63 are ready to begin the review process or are in some stage of the review process.
 - 43 are pending criminal/employment matters or waiting on records to be provided to DPSST.
 - o 25 new cases have been added since the last policy committee meeting.
- DPSST and the committee extended their appreciation for Chris Davis and his work with the committees and in public safety as he moves on to his new role as Chief of Police for Green Bay, Wisconsin.
- In a continued effort to expand DPSST communications and promote transparency, DPSST has created a Workgroups web page which will detail all active workgroups along with the agenda and minutes for each meeting. There are currently three active workgroups: Background, Arbitration/Certification and Field Training.
- DPSST has updated the HR218 web page to include a best practices for firearms qualifications along with a sample qualification card that may be used to meet the federal requirements.
- A new informational section will be added to committee books that will contain items such as audit report summary and other documents that shows how agencies are meeting the compliance requirements pursuant to Oregon Administrative Rule.

Suzy Herring, Professional Standards Division:

- HB2162 adds a second public member position to the Police Policy Committee. DPSST staff are working on the recruitment for the position. The bill also adds a second and third public member position to the Board. All three Board positions are currently vacant. One position is nominated by the President of the Senate, one is nominated by the Speaker of the House and the third must represent a marginalized or historically underrepresented community. Board members are appointed by the Governor and confirmed by the Senate.
- SB116 makes it unlawful for a private security provider or an entity that employs private security providers to possess or use in the scope of employment equipment, vehicles, uniforms or titles that imply that the provider or entity is affiliated with a public or private safety agency as defined in ORS 181A.355. The bill is effective January 1, 2022. DPSST staff are working on draft administrative rules. The law and rules are expected to have some fiscal impact on private security businesses and DPSST plans to have a phase-in plan to address the issue for businesses that need to make changes to cars and uniforms. The rules will come forward to the Board soon.

15. <u>Director's Update</u>

Jerry Granderson, Director:

• DPSST has had a number of positive COVID cases and is working on updating the COVID policies. As a result of these cases, some classes were sent home and DPSST is pushing back police classes by two months to ensure the health and wellbeing of both the students and staff.

16. Nominee for Applicant Review Committee (ARC)

Chris Davis' departure from the Police Policy Committee also leaves a vacancy on the Applicant Review Committee.

Chris Davis moved to nominate Zachary Kenney as the Police Policy Committee member to serve on the Applicant Review Committee. DaNeshia Barrett seconded the motion. The motion passed unanimously.

17. Next Police Policy Committee Meeting: November 18, 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.