

1 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

2 STATE OF OREGON


3 In the Matter

4 **Revocation of the Basic, Intermediate, and
Advanced Police Certifications Issued to:**

5 **Brock Ameele**
6 DPSST No. 51429

FINAL ORDER

OAH Case No. 2024-ABC-06332
Agency Case No. DPSST No. 51429

7 TO: Brock Ameele
8 

9
10 On November 28, 2023, the Department of Public Safety Standards and Training
11 (“DPSST”) issued to Brock Ameele (“Petitioner”), a Notice of Intent to Revoke Certifications and
12 Proposed/Final Order on Default (“Notice”). Petitioner requested a timely hearing on December 19,
2023.

13 On May 22, 2024, Administrative Law Judge (ALJ) Kate Triana convened a hearing with
14 the parties for Agency Case No. 51429, OAH Case No. 2024-ABC-06332.


15 ALJ Kate Triana issued the Proposed Order on September 5, 2024, affirming that the
16 Petitioner’s Basic, Intermediate, and Advanced Police Certifications be revoked.

17 Petitioner has not filed exceptions to the Proposed Order within the allowed 14-day period
18 permitted by OAR 259.008-0340(5). Accordingly, DPSST adopts the Proposed Order in its entirety.
19 A copy of the Proposed Order is attached to this Final Order and incorporated by this reference as if
20 fully set forth herein.

21 **ORDER**

22 Petitioner’s Basic, Intermediate, and Advanced Police Certifications are hereby REVOKED.
23 Petitioner is ineligible to reapply for any criminal justice public safety training or certification for 3
(three) years. The ineligibility start date is the date of separation from employment with the Bend
Police Department on October 12, 2022.

1 DATED this 24th day of September, 2024.
2

3 By: 
4 Phil Castle, Agency Director
5 Department of Public Safety Standards and Training
6 State Of Oregon

7 **NOTICE OF RIGHT TO APPEAL.** You are entitled to seek judicial review of this order.
8 Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals
9 within sixty (60) days from the service of the final order. Judicial review is pursuant to the
10 provisions of ORS 183.482.
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DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
STATE OF OREGON

CERTIFICATE OF SERVICE

In the Matter of the Proposed Revocation of the
Basic, Intermediate, and Advanced Police
Certifications for:

Brock Ameele
DPSST No. 51429

I certify that on the 25 day of September, 2024, I served the foregoing, *Final Order* on the
party hereto by mailing regular mail, true, exact, and full copies thereof to:

Brock Ameele
[REDACTED]

Via Electronic/Regular Mail Only:

Daniel Thenell
12909 SW 68th Pkwy Ste 290
Portland, OR 97223
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Kristen Curtis
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City of Bend Police Department
555 NE 15th Street
Bend, OR 97701

Via OAH Portal Only:
Office of Administrative Hearings

Department of Public Safety Standards & Training

By: 

Jennifer Levario
Professional Standards Compliance Coordinator

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING**

IN THE MATTER OF:

BROCK AMEELE

) **PROPOSED ORDER**
)
) OAH Case No. 2024-ABC-06332
) Agency Case No. 51429
)
)

HISTORY OF THE CASE

On November 28, 2023, the Department of Public Safety Standards and Training (DPSST) issued a Notice of Proposed Revocation of Certifications and Proposed/Final Order on Default, proposing to revoke Brock Amelle’s (Respondent) Basic, Intermediate, and Advanced Police Certifications. On December 19, 2023, Respondent requested a hearing.

On January 5, 2024, DPSST referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Kate Triana to preside at hearing and scheduled a prehearing conference for February 5, 2024. At the February 5, 2024, prehearing conference, Attorney Kristin Curtis represented Respondent, who also appeared. Assistant Attorney General (AAG) Eliot Thompson represented DPSST. ALJ Triana scheduled a hearing for May 22, 2024.

On February 15, 2024, DPSST issued an amended Notice of Proposed Revocation of Certifications and Proposed/Final Order on Default.

On May 22, 2024, ALJ Triana convened a WebEx Video Conference hearing. Respondent appeared with counsel, Ms. Curtis, and testified. Brent Gilder, a former coworker of Respondent, and James Poole, Bend Police Department Police Officer, testified on behalf of Respondent. AAG Thompson represented DPSST. Jennifer Levorio, DPSST Compliance Coordinator, and Brian Beekman, Bend Police Department Lieutenant, testified on behalf of DPSST.

At the May 22, 2024, hearing DPSST orally moved to amend the February 15, 2024, Notice of Proposed Revocation of Certifications and Proposed/Final Order on Default. ALJ Triana granted the motion, amending the “PROPOSED/FINAL ORDER” section of the Notice of Proposed Revocation of Certifications and Proposed/Final Order on Default to read:¹

The Respondent’s Basic, Intermediate, and Advanced Police Certifications are hereby REVOKED. The Respondent’s ineligibility period during which they

¹ The amended language is noted in underlined italic text.

may not apply for any public safety professional certifications is for three (3) years pursuant to OAR 259-008-0310(10)(d)(A).

At the conclusion of the May 22, 2024, hearing, ALJ Triana closed the evidentiary record, but left the hearing record open for the receipt of written closing briefs. The record closed on July 11, 2024, after the parties submitted written closing briefs.

ISSUES

1. Whether Respondent does not meet the moral fitness standards required of a public safety professional. ORS 181A.410, ORS 181A.640, OAR 259-080-0010(6) (November 1, 2020), and OAR 259-008-0300(3)(a)(A), (B), (C)(i).

2. Whether DPSST may revoke Respondent's Basic, Intermediate, and Advanced Police Certifications. ORS 181A.410, ORS 181A.640, and OAR 259-008-0300(3).

EVIDENTIARY RULINGS

Exhibits A1 through A53, offered by DPSST, were admitted into the record without objection. Exhibits R1 through R5, offered by Respondent, were admitted into the record without objection.

FINDINGS OF FACT

1. Respondent began working as a police officer for the Corvallis Police Department on June 1, 2010. He resigned on December 19, 2016, to begin work for the Bend Police Department. He worked as a police officer for the Bend Police Department from January 3, 2017, until he was discharged on October 12, 2022. (Exs. A2 at 1, A3 at 1; Test. of Amelle.)

2. As a police officer, Respondent holds Basic, Intermediate, and Advanced Police Certifications issued by DPSST (DPSST no. 51429). (Exs. A1 at 5, A2 at 1.)

3. The Bend Police Department has the following written policies which Respondent acknowledged reviewing on the Bend Police Department's Lexipol policy system:

Bend Police Department Policy 310 – Search and Seizure.

310.2 - It is the policy of the Bend Police Department to respect the fundamental privacy rights of individuals. All seizures by this Department will comply with relevant federal and state law governing the seizure of persons and property. Bend Police Department Policy 100 – Law Enforcement Authority.

100.3 - All members shall observe and comply with every person's clearly established rights under the United States and Oregon Constitutions.

100.4 - It is the policy of the Bend Police Department to limit its members to only exercise the authority granted to them by law. While this Department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This Department does not tolerate abuse of law enforcement authority.

Bend Police Department Policy 300 – Force Response.

300.1.1 – [Force is t]he application of physical coercion, physical techniques or tactics, batons, chemical agent, impact munitions, or other less-lethal devices to another person. Control holds, handcuffing, escorting, and searching a person without resistance does not constitute a force response.

300.4 - Officers shall use only that amount of force that is objectively reasonable, under the totality of circumstances known to the peace officer at the time of the event to accomplish a legitimate law enforcement purpose. While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to physical injury before responding with reasonable force to accomplish a legitimate law enforcement purpose.

300.4.1(b) - an officer may use physical force upon another person when (b) The peace officer must accomplish an official action or purpose that is authorized by law or judicial decree.

300.4.2 - Before using physical force upon another person, if the peace officer has a reasonable opportunity to do so, and it is reasonable, safe, and feasible to do so, the peace officer shall give a verbal warning to the person that physical force may be used and provide the person with a reasonable opportunity to comply.

Before using force upon another person, if the peace officer has a reasonable opportunity to do so, and it is reasonable, safe, and feasible to do so, the peace officer shall consider alternatives. Bend Police Officers have the authority to consider and exercise the use of disengagement when evaluating a confrontation

300.6 - Officers shall only use force that is objectively reasonable under the totality of the circumstances. Consideration must be given to balancing a person's Fourth Amendment rights against the government's interest.

300.8 - Bend Police Officers shall ensure medical services are summoned to any person who, at minimally, meets the following circumstances following the use of force, at the earliest available opportunity;

(c) Has sustained a visible physical injury;

(d) Expresses or complains of physical injury or continuing pain;

The primary member on-scene or any on-scene supervisor shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other information or circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration, suspected alcohol or drug use).

300.9 - Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances;

- (b) The application of force caused a physical injury;
- (c) The application of force would lead a reasonable officer to conclude that the individual may have experienced physical injury;
- (e) The individual subjected to the force complained of physical injury or continuing pain;

300.10 - Any use of force by an officer shall be documented completely and accurately in an appropriate report, depending on the nature of the incident. Any reports documenting any use of force shall be completed before the officer's end of shift.

The officers' reports shall articulate the factors perceived and why they believed the use of force was reasonable under the totality of the circumstances.

Bend Police Department Policy 319 – Standards of Conduct.

319.3.5 - The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this Department.

- (c) Refusal, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing or attempting to conceal defective work, removing or destroying it without permission.
- (e) Disobedience or insubordination to constituted authorities or deliberate refusal to carry out any proper order from any supervisor or employee.
- (i) The falsification of records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.

(p) Failure to disclose material facts or the making of any false or misleading statement on any application, examination form or other official document, report or form.

(u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive Conduct.

(ad) False or misleading statements to a supervisor.

Bend Police Department Policy 600 – Investigation and Prosecution.

600.2.1 - An officer responsible for an initial investigation shall complete no less than the following:

7. Complete and submit the appropriate reports and documentation.

Bend Police Department Policy 801 – Property and Evidence

801.3.1 - All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor.

801.7 - (a) Any digital multi-media that is of evidentiary value or is needed to supplement a police report shall be imported into Evidence.com and not attached as an exhibit to a report.

(b) The submitting officer or employee shall complete a property entry and include the required unique ID and description of the data that has been downloaded, imported, or transferred.

(Exs. A5 at 3, 71; A9 at 3-5.)

4. In June of 2021, the Oregon Revised Statute (ORS) regarding the crime of interfering with a peace officer (ORS 162.247) was amended. The amendment included, among other changes, the removal of language that made refusing to obey a lawful order by the peace officer grounds for violating the statute. (See ORS 162.247.) On October 24, 2021, and March 22, 2022, Respondent received legal trainings regarding the amendment. (Ex. A5 at 3.)

Disciplinary History

5. Respondent's 2018 annual evaluation noted that Respondent had been counselled for being dismissive towards a Bend Police Department lieutenant. (Ex. A6 at 4.)

6. Respondent's 2019 annual evaluation noted that Respondent had been counselled for failing to maintain his patrol rifle in a duty-ready condition. During three occasions that year, Respondent's rifle had not been duty-ready. (Ex. A6 at 4.) Respondent also received a letter of

expectation regarding use and storage of a drone, after a drone was unavailable to an on-duty officer. (Ex. A6 at 4; test. of Amelle.)

7. On April 1, 2020, Respondent received a written reprimand after he was found to be disobedient, disrespectful, and disruptive during a training. (Ex. A6 at 4.)

8. On April 7, 2021, Respondent received a letter of confirmation of verbal counseling for failing to return and properly store a drone at the end of his shift. (Ex. A6 at 5.)

9. On November 23, 2021, Respondent received five letters of confirmation of verbal counseling for the following incidents: (1) he left his patrol vehicle running in the parking lot for seven hours after his shift ended; (2) he was not duty-ready for his patrol shift at the time the shift started; (3) he failed to recover stolen property from a vehicle and complete an investigation appropriately; (4) he failed to follow the directive of a sergeant during a call when he failed to contact the reporting person to gain more information for responding officers; and (5) he was approximately one hour late for a patrol shift. (Ex. A6 at 5.) That same day, Respondent received a written memorandum, providing formal notice of substandard performance for the prior year. (*Id.*)

10. On January 11, 2022, Respondent received a verbal counseling for having facial hair that violated Bend Police Department policy. (Ex. A6 at 6.)

11. On June 8, 2022, Respondent received notice of proposed discipline for entering a custody holding cell while armed with a firearm and other police weapons, in violation of Bend Police Department policy. (Ex. A6 at 6.)

12. On June 9, 2022, Respondent received a written reprimand for failing to recognize and report severe damage to his department-issued rifle optic. (Ex. A6 at 6.)

Commendation & Life-Saving Awards

13. In 2019, Respondent received five commendations. (Ex. A6 at 6.)

14. In 2020, Respondent received five commendations and three life-saving awards. (Ex. A6 at 6.)

15. In 2021, Respondent received four commendations and one life-saving award. (Ex. A6 at 6.)

16. By August of 2022, Respondent had received one commendation and one life-saving award. (Ex. A6 at 6.)

April 9, 2022 Incident

17. Respondent was on duty as a patrol officer on April 9, 2022. On that evening, he had a community member on a ride-along in his patrol vehicle. (Test. of Amelle.)

18. On April 9, 2022, around 9:00 p.m., Officer James Poole stopped a vehicle for a traffic violation. (Ex. A4 at 13.) During the stop, a passenger in the vehicle abruptly exited the vehicle and walked away from the vehicle. Concerned for his safety, Officer Poole requested that an available officer attempt to locate the passenger to ensure the passenger was not attempting to ambush Officer Poole. (Test. of Poole.) Respondent and Officer Schlechter responded to the call. (Ex. A5 at 9.) At the time, Respondent was in uniform, displaying a badge, and driving a marked patrol vehicle. (*Id.* at 27.)

19. While driving his patrol vehicle in the area, Respondent saw a man (the passenger) walking in the area who had his hood up and a mask covering his face. His hands were in his pockets. When the passenger saw Respondent, he changed directions and began walking away from Respondent. Respondent observed that the passenger was trying to conceal his face from Respondent. (Ex. A4 at 13.) The suspect then began walking down an alleyway where Respondent could not follow in his patrol vehicle. (*Id.*; test. of Amelle.) Based on his training and experience, Respondent believed that the suspect was attempting to avoid him. (Test. of Amelle.)

20. Respondent pulled his patrol vehicle ahead of where the passenger was walking and turned on his patrol vehicle's alley lights in the direction the passenger was walking. Upon exiting his vehicle, Respondent observed the passenger walk toward the vehicle and then around it. (Exs. A4 at 13, A5 at 7; test. of Amelle.) Respondent followed the passenger, shone his flashlight on the passenger, and attempted to engage the passenger in conversation. The passenger told Respondent that "I'm a passenger, I get to walk." (Ex. A4 at 13.) Respondent believed the passenger was trying to avoid him, and based on his prior experience, that the passenger may be trying to avoid identification because he had a warrant out for his arrest. (Test. of Amelle.) Respondent continued to follow the passenger and attempt to engage him in conversation, asking investigative questions such as "you said you're a passenger in somewhere?" and "Do you have a warrant?" (Exs. A4 at 13, A5 at 19.) Respondent also told the passenger that he was being recorded. (Ex. A5 at 19.) The passenger continued to walk away from Respondent, telling Respondent to have a good night and that he would not speak to Respondent. (Ex. A4 at 13.) Respondent continued asking the passenger questions such as "how's it going?" or "what are you doing?" and "can I talk to you?" (Test. of Amelle.) Respondent understood that the passenger did not want to engage in conversation with him. (*Id.*)

21. As Respondent continued to follow the passenger, the passenger stepped off the sidewalk due to a parked vehicle blocking the sidewalk. When Respondent stepped behind the passenger, the passenger moved to the middle of road to walk. The passenger then turned west and continued to walk down the middle of the road. That road had sidewalks on both sides. The passenger then turned south and began walking in the bicycle lane, despite the availability of a shoulder and a sidewalk on the opposite side of the road. At that time, Respondent believed he had probable cause to stop the passenger for committing the violation of Improper Position Upon Highway pursuant to ORS 814.070. (Ex. A4 at 13.) During this time, Officer Schlechter was following the passenger and Respondent in his patrol vehicle. (Ex. A5 at 19.)

22. The entire time Respondent was following the passenger, the passenger did not

remove his hands from his pockets. Respondent was concerned that the passenger may have a weapon in his pocket. (Test. of Amelle; Ex. A4 at 13.) Respondent relayed a radio request that Officer Schlechter stop the passenger for the violation of Improper Position Upon Highway. Respondent yelled at the passenger to “stop” and that he was not free to leave. (Ex. A4 at 14.) At the same time, Officer Schlechter activated his patrol vehicle’s overhead emergency lights to initiate a stop. The passenger continued to walk away from Respondent, stating that he did not need to stop. Officer Schlechter pulled his patrol vehicle into the passenger’s path and told him to stop. The passenger crossed the street and went around behind the patrol vehicle at an “elevated pace.” (*Id.*) Respondent continued to follow the passenger, again ordering him to “stop now.” (*Id.*) The passenger then took his left hand out of his pocket and pointed it towards Officer Schlechter’s patrol vehicle. Next, the passenger turned and looked at Respondent, asking “for what?” (*Id.*) Believing that the passenger would attempt to run away, Respondent began running at him. When the passenger did not start running, Respondent attempted to slow down and then wrapped the passenger in a “bear hug” and took him to the ground in a tackle. (Test. of Amelle; Ex. A4 at 14.) During this, the passenger’s arms were pinned to his side and Respondent landed on top of the passenger on the asphalt roadway. (*Id.*)

23. Once Respondent and Officer Schlechter had the passenger in handcuffs and off the roadway, Respondent searched the passenger. The passenger had some used syringes, a dirty hollow pen shaft, a folding knife, some rock crystals, and \$60 in cash in his pockets. (Ex. A4 at 14-15.) The passenger notified Respondent that he had injected heroin. Pursuant to Bend Police Department policy, Respondent called paramedics to evaluate the passenger and take him to the hospital. (Test. of Amelle.) The passenger continued to decline to identify himself. Respondent took pictures of the passenger and sent them via text message to other police officers to see if anyone recognized the passenger. (Test. of Amelle; Ex. A4 at 15.) When Respondent told the passenger he was being charged with resisting arrest, disorderly conduct, and interfering with a police officer, the passenger responded “Resisting arrest? I wasn’t resisting. I wasn’t resisting at all. You guys tackled me.” (Ex. A5 at 24.) Respondent stated “Yeah, I did.” (*Id.*)

24. Sergeant Rob Emerson responded to the scene of the arrest to conduct a post-force interview.² (Ex. A12 at 2.) Sergeant Emerson believed a post-force interview was necessary because he had heard over the radio that Respondent had [the passenger] on the ground and heard “a little bit of a struggle over the radio.” (*Id.*) At the scene, Sergeant Emerson asked Respondent if it was a “force response” and Respondent indicated that it was, telling Sergeant Emerson that he had tackled the passenger. (*Id.* at 2-3.)

25. When discussing what charges to press, Respondent told Sergeant Emerson about the pedestrian violation. He discussed charging the passenger with misdemeanor allude, to which Sergeant Emerson told Respondent that “absolutely did not have misdemeanor allude” because it did not apply to a passenger of a vehicle. (Ex. A12 at 7.) Respondent then suggested charging the passenger with interfering with a police officer. Sergeant Emerson told Respondent that he “absolutely did not have * * * interfering” because of a recent change in case law that removed language related to a police officer giving a lawful order. (*Id.*)

² Sergeant Thomas Russell was Respondent’s direct supervisor on that night. However, at the time of the incident, Sergeant Russell was assisting another officer on an unrelated call. Sergeant Russell requested that Sergeant Emerson follow up on the force incident on his behalf. (Ex. A15 at 2.)

26. When Sergeant Emerson spoke to the passenger, the passenger reported that his elbow hurt “bad” from the incident. (Ex. A5 at 7.)

27. On the way to the hospital, another police officer notified Respondent of the passenger’s identity. (Test. of Respondent.) Respondent was able to then ascertain that the passenger had an outstanding warrant for a felony parole violation. (*Id.*; Ex. A4 at 15.)

28. Prior to booking the passenger, Sergeant Emerson sent Respondent a text message reminding him to take pictures of the passenger. (Test. of Amelle.) Respondent did not take pictures of the passenger during the booking process. (*Id.*)

29. On April 10, 2022, Sergeant Thomas Russell told Respondent that he needed to complete his force response report form regarding the April 9 arrest. (Ex. A15 at 2.) Respondent told Sergeant Russell that he had reviewed the body camera footage and that the event was not a force response. Sergeant Russell was surprised by this because Respondent had previously told him that he had tackled the passenger during the April 9 event, in part because the passenger had made a “finger gun” gesture at Officer Schlechter. (Exs. A15 at 2, A16 at 8.) Sergeant Russell told Respondent that when he reviewed the video, “the question you need to be asking yourself is – is the force that you used likely to have caused an injury?” (Ex. A16 at 9.) Respondent told Sergeant Russell that “well, now that I watched it, it wasn’t likely to cause an injury because I guided him to the ground.” (*Id.*)

30. On April 10, 2022, Respondent submitted a case report for the April 9 incident. (Ex. A4.) He did not check the “USE of FORCE” box on the report. (*Id.* at 11.) He did not complete a force response report. (Test. of Amelle.) He noted that “I had probable cause to arrest the male for Interfering with a Peace Officer, Resisting Arrest and Disorderly Conduct in the Second Degree.” (Ex. A4 at 14.) He listed the passenger’s offenses as “warrant arrest – in state” and “interfere w/police officer.” (*Id.* at 11.) As evidence, he included body worn camera footage from the event. (*Id.* at 12.) He did not include any photographs of the passenger as evidence. (*See Id.*; test. of Beekman.) When describing the takedown of the passenger, Respondent wrote:

I began running after the male[,] continuing to tell him to “Stop now,” and also heard Officer Schlechter tell him also. He pulled his left hand out of his pocket and pointed it toward Officer Schlechter’s patrol car. He then turned and looked at me over his shoulder as I closed the distance, and told me “for what” while keeping his right hand in his pocket and his body bladed from me. I yelled at him to take his hand out of his pocket and then simultaneously wrapped him up in a bear hug, to pin his arms to his sides, and then lowered him to the ground by using my body weight and slight momentum to place him in a better position where I could safely control him.

(Ex. A4 at 14.)

31. On the evening of April 10, 2022, Respondent sent a text message to Sergeant Russell that read “*not force response report submitted.” (Ex. A15 at 3.)

32. Officer Schlechter also submitted a case report for the April 9 incident. When describing the takedown of the passenger, Officer Schlechter wrote:

I heard [Respondent] yell to [the passenger] to stop. [The passenger] did not comply and [Respondent] started running towards [the passenger.] * * *

As [the passenger] continued walking away from [Respondent] and I, [Respondent] ran up to [the passenger]. It appeared that [the passenger] was peering over his shoulder at [Respondent] as [Respondent] closed distance. [Respondent] wrapped his arms around [the passenger] and it appeared that he used his forward motion as well as body weight to bring [the passenger] to the ground. [Respondent] and [the passenger] were on the ground in the roadway at that point.

(Ex. A4 at 19-20.)

33. Deschutes County Deputy District Attorney (DDA) Brittany Haver reviewed the police report Respondent filed and declined to prosecute the passenger for the offense of interfering with a police officer, explaining that a person cannot interfere with their own investigation. (Ex. A5 at 10.) She also declined to bring charges of Resisting Arrest and Disorderly Conduct in the Second Degree. (*Id.*)

Bend Police Department Internal Investigation

34. The Bend Police Department assigned Lieutenant Brian Beekman to conduct an internal affairs investigation regarding Respondent's actions on and following the April 9 arrest. (Test. of Beekman.) As part of the investigation, Lieutenant Beekman reviewed prior use of force incidents that Respondent had been involved in. He found that between 2017 and 2022, Respondent had been directly involved in 17 use of force events. (Ex. A5 at 8.) Lieutenant Beekman determined that Respondent understood that he was required to report use of force events to a supervisor, document his actions in a force report, and inquire about and document any injuries to the subject. (*Id.*)

35. On May 18, 2022, Lieutenant Beekman interviewed Sergeant Thomas Russel. During the interview, Lieutenant Beekman showed Sergeant Russel the body camera footage from the April 9 incident. Sergeant Russel commented that the takedown of the passenger was "probably not exactly what I pictured in my mind when [Respondent] told me he guided [the passenger] to the ground. * * * I mean, that looks like he tackled the guy to the ground. Um, and I would call that a force[] response." (Ex. A16 at 7.) He went on to explain:

You tackle somebody on concrete or asphalt, you wrap their arms up and take them to the ground. They have no way to break their fall. It's likely to cause injury. In this case did cause injury. If – if we use force on somebody and it results in an injury, that would automatically trigger a forced response for me.

(*Id.*)

36. On May 19, 2022, the Bend Police Department placed Respondent on paid administrative leave to allow for an internal investigation regarding the April 9 incident. (Ex. A5 at 15.) The Bend Police Department notified Respondent in writing regarding the reason for his administrative leave and that his internal investigation interview was scheduled for May 26, 2022. (*Id.* at 58.)

37. On May 24, 2022, Respondent deleted 963 text messages from his work phone. The deleted text messages included ones sent and received regarding the incident with the passenger. (Ex. A5 at 58.) Respondent deleted selected text messages that were over a month old that he did not believe were relevant any longer. (Ex. A20 at 17.)

38. On May 26, 2022, Respondent attended an investigative interview with Lieutenant Beekman, Adam Juhnke (also acting as an interviewer for the Bend Police Department), and Jeff Perkins (acting as Respondent's association representative). (Ex. A19 at 1.) During the interview, Respondent told the investigators that his goal in following the passenger was to observe a violation so he could stop the passenger and confirm whether he had a warrant or not. (Ex. A5 at 31.)

39. When asked what specific facts supported the crimes alleged at the time of arrest, Respondent answered:

Resisting Arrest

Ameele said, "Everything that I articulated in that, um, he was still keeping that hand in, he was making a fist or clutching something in it, in his hands that he was actively trying to keep from, from us being able to control him on. Um, and that he was intentionally trying to prevent us, um, from being able to take control of that."

Disorderly Conduct

Ameele said, "His actions, um, led us into the middle of the road by his, his actions with our response to his actions, not us inducing him to do any certain thing his refusal to obey our, our lawful orders to, to stop, um, where we first, um, advise him of that his behavior led us into the middle of the road, um, where he was ultimately needed to be secured, uh, to be able to safely continue with our contact and that led to the blockage of traffic."

Interfering with a Peace Officer

Ameele said, "Um, I, I believe that I had reasonable suspicion that he was, had a warrant, that he was engaging in criminal activity in addition to the probable cause that I had to stop him for that violation. Um, at that point he's prohibiting me from my duties to investigate a crime. Um, and I believe that

that it fit, uh, for that and that his, his actions were intentionally to pro prohibit me from carrying out that criminal, um, investigation portion.”

Ameele was asked, “So I wanna make sure and understand at the time of arrest, you understood lawful order had been removed from the interfering statute? It did not exist anymore.”

Ameele replied, “Yeah.”

Ameele went on to say that he believed he had reasonable suspicion that [the passenger] had committed the crime of a warrant (prior to making physical contact with him). Ameele said at the time he thought that was lawful.

Ameele said, “If he had turned out not to have a warrant, I would’ve issued him a citation for the violation, and moved on his way.”

Ameele was asked, “So you’re saying you’re applying the IPO statute because you’re conducting a criminal investigation on [the passenger] related to a warrant, and he was interfering with that through his actions. Is that what you’re saying?”

Ameele replied, “That’s what I believed at the time.”

(Ex. A5 at 34-35.) During a continued interview the following day, Respondent clarified:

Ameele clarified parts of the interview from the day prior. When asked, Ameele said the first time he had probable cause for a violation was when [the passenger] was walking down the middle of the road on Sally Lane. Ameele said the violation was improper placement on a roadway.

Ameele said the first time he communicated that information was on Brookwood Boulevard. Ameele said the first time he had reasonable suspicion or probable cause for a crime was on Brookwood Boulevard after [the passenger] refused to stop for Ameele. Ameele said the crime was having a warrant. Ameele said after this event, and talking to the district attorney, he realized you cannot have reasonable suspicion for a warrant.

Ameele continued, “I understand that, um, I clearly made mistakes that I could have done. I could have done different. I could have done better. Um, we wouldn’t be here in this situation, um, if mistakes hadn’t been made or if things could have been done in a better way. And so I want, I want to be forthcoming that I can take ownership for that I can take ownership for, um, for making mistakes. I made mistakes before I’m gonna make ‘em again, obviously I don’t want to be in any circumstance where I’m making a fatal error or a liability error.”

When asked, Ameele clarified that he never had probable cause for the crime of misdemeanor elude. Ameele said the first crime he observed was IPO. Ameele said the elements he thought [the passenger] violated were [failing to obey a] lawful order and [the passenger] interfering with the investigation he was trying to do. Ameele said he knew lawful order by itself did not apply but he thought there was a caveat that would still apply.

Ameele was asked, "And he would've been aware that he's interfering with a criminal investigation or did you tell him?" Ameele replied, "I don't, I don't think they're required to know if they're breaking the law or not." When asked, Ameele said that at the time of our interview, he no longer believed [the passenger] had committed the crime of disorderly conduct.

Ameele went on to say he now understands, after the fact, that it cannot be resisting arrest if the person was stopped for only a violation.

(*Id.* at 40.)

40. When asked about whether the passenger notified Respondent that he was injured, Respondent replied "I don't remember hearing anything about that. If, if I had heard that there was a complaint of an injury, I would've done a force response." (Ex. A5 at 39.)

41. When asked if he believed his actions violated Policy 210 regarding Search and Seizure, Respondent stated that:

I, I believe I followed policy cuz I, I disagree that that was a stop. We, we have the ability to use white light, um, to keep ourself safe, to look into, um, areas from the roadway. We have a right to get out and encounter people and talk to him. He expressed clearly by his own words and actions that he knew he was free to leave that he's not being stopped. And um, if he had turned around and engaged with me, I would've told him that too, that, hey, you're not being stopped free to leave. Um, but can I talk to you about this, that didn't occur because I'd argue, he knew he was free to leave already. And he was doing that. There was no point where I had ever, there was ever even a stop of us standing together, uh, talking. So there was, I tried to approach him to speak with him and then followed him, but there was never, um, any stop. I, I would say that that would, if that's the position that those actions create a seizure, um, I, I think that would be concerning that that would imply that almost every interaction we have is a stop then. So I think I, I followed policy in that regard.

(Ex. A5 at 47-48.)

42. When discussing the Bend Police Department's use of force policy, Lieutenant Beekman asked Respondent:

So you weren't necessarily working off of this definition by policy. You were just working off a [] sort of your own general approach of where the line is you consider reportable force or not reportable?

(Ex. A19 at 119.) Respondent answered "I - I think that's accurate." (*Id.*)

43. On June 2, 2022, Lieutenant Beekman interviewed DDA Haver regarding the matter. DDA Haver explained that while she believed Respondent acted lawfully when he stopped the passenger for a violation, the arrest of the passenger was not lawful. DDA Haver did not believe Respondent had sufficient evidence for the charge of interfering with a police officer. She also explained that a charge of resisting arrest would not have been valid because someone cannot be arrested on the charge of resisting their own arrest. (Ex. 43.)

44. On June 30, 2022, Lieutenant Beekman interviewed Respondent again. Lieutenant Beekman asked about the photos of the passenger on Respondent's phone:

Ameele said he did not think the images of [the passenger] were evidence in the case.

Ameele was asked, "So, because you decided it wasn't a force response at that time, you didn't think those photos were relevant as evidence regarding a force incident?"

Ameele said, "Correct, yeah."

Ameele was asked, "But there's a second piece, which is his identification is a, is a criminal component of this call, right? He had a criminal warrant. Those images were used ultimately to identify him, which gave authority to arrest and enforce that warrant, that's evidence, correct?"

Ameele said, "Uh, I don't know that I, a hundred percent agree with that. I think there's a lot of times where we'll take a picture of someone and show other people, um, to try and ID them, but it's not necessarily relevant to the criminal case. And that's the only purpose of using those photos."

Ameele was asked, "I see what you're saying that there's many different facts on cases, specific to this case, he was detained in handcuffs for, I think about 45 minutes-ish before he was actually identified. And so there was a detention of him that went a period of time and then he was identified and the warrant was uncovered. If it involves the detention of a person, I would argue there is evidentiary relevance to those images and how that, that went from, he was photographed, he was identified at this particular time through those images. And that led to the discovery of the warrant in, in the facts of this incident. Were those evidentiary pictures because of that dynamic?"

Ameele replied, "I, I just didn't think so."

Ameele was asked, “Knowing what you know now about [the passenger’s] reported injury about some of the criminal issues around different ORS criminal statutes and the warrant, do you now believe those photos are evidence?”

Ameele said, “Um, in, in hindsight treating this as a force response? Absolutely. I think they, they would’ve been, and I should have taken more for the, the post force response, um, type of photos.”

Ameele was asked, “Um, and you agree that evidence photos need to be placed into evidence and then that needs to be documented in a report?”

Ameele replied, “Yes. Yep.”

Ameele was asked, “And those photos were not placed into evidence and it was not documented in a report in this case?”

Ameele said, “Correct.”

(Ex. A5 at 60-61.) Later in their conversation, Respondent told investigators:

Ameele was asked to recall if he was the only one who took photos of [the passenger]. Ameele said he did not remember. Ameele said he thought he sent multiple text messages from his work phone to other officers trying to identify [the passenger] using his photo. Ameele remembered receiving a reply message while driving [the passenger] to the hospital that identified the person as [the passenger]. Ameele could not remember what police officer sent him that message.

Ameele was asked, “Why didn’t you just delete the images if they’re not evidence, I mean? You had time to review, it wasn’t a force incident. Do you ever delete photos?”

(This question was posed as a hypothetical from Ameele’s stated perspective of thinking it was not a force incident.)

Ameele said, “Sometimes, um, but those ones are specifically of him. So, um, I didn’t, I didn’t want to get rid of something that I thought might be relevant to this.”

Ameele was asked, “But you did, you got rid of text messages, between you?”

Ameele said, “Right, things that I, I didn’t think were, were relevant a lot.”

Ameele said he had experienced the memory on his phone getting full and so he routinely deleted message threads. Ameele denied that he was trying to hide anything when he deleted the text messages in question. In summary, he said he was clearing memory and clearing old messages from the phone.

* * * * *

Ameele was asked, “So you kind of allude to the fact that there’s a photo of somebody for a criminal investigation, you allude to it in your report, but it is not attached to the case report. It’s not entered into evidence?”

Ameele replied, “Yeah.”

Ameele was asked, “And I think that’s, that’s where we’re trying to say, those are items of evidence?”

Ameele replied, “I think I just straight up forgot to, to enter them.”

Ameele was asked, “How was that not evidence?”

Ameele replied, “I, I think I just forgot.”

(Ex. A5 at 64, 65.)

45. When asked about the deletion of the text messages on his phone, Respondent told the investigators:

Ameele was asked, “Did you specifically review the text message string between you and Schlechter before you deleted it?”

Ameele said, “I don’t even remember there being a, a thread.”

Ameele was asked, “Or any text messages with you and Emerson or you and Russell?”

Ameele said, “Uh, the Emerson one. I, I, I did remember, I think it was very brief and said something to the fact of get photos or document photos or something, which was what I brought up, um, in the interview.”

Ameele was asked, “So just to clarify, you remember reading that on the 24th?”

Ameele said, “Yeah.”

Follow up question, “And, and then deleting it?”

Ameele replied, “And I think, I, I think I probably was swiping too fast and I remembered that. Um, and then that’s why I brought that up.”

Follow up question, “So when you say it like that, it sounds like you’re kind of reflecting thinking I should have kept that message. Is that true?”

Ameele said, “Yeah, I wish I would’ve now. Yeah.”

(Ex. A5 at 66.)

46. When asked whether he agreed that he did not follow Policy 300 regarding force response, Respondent stated: “In, in hindsight. Yes. I agree with that.” (Ex. A5 at 48.)

47. The Bend Police Department investigation substantiated the following ten alleged policy violations:

Allegation #1 – On April 9, 2022, Officer Brock Ameele, through his words and actions, created a seizure of [the passenger] early in the contact. This seizure lacked reasonable suspicion or probable cause. * * *

In view of all the circumstances surrounding the incident, a reasonable person would have believed they were not free to leave. Case law does not require a person to submit to police authority to constitute a seizure[.] Therefore, [the passenger] was seized by Ameele without reasonable suspicion or probable cause at that time.

Additionally, this investigation has found that there was not probable cause to believe [the passenger] had committed any crimes during his contact with Ameele. At most, Ameele observed [the passenger] commit a Class D pedestrian violation of Improper Position Upon Highway. Ameele used force to detain [the passenger,] handcuffed him, and placed him in the back of a patrol car.

Ameele then began transporting [the passenger] from the scene, before knowing his identity or that he had a valid arrest warrant. [The passenger] would not provide his name to Ameele. Ameele was finally able to positively identify [the passenger] while on route to the hospital, about 47 minutes after [the passenger] had initially been detained.

[The passenger] was detained by force, handcuffed, placed in a patrol car, and transported from the scene of detention without committing any crime. [The passenger’s] only offense was a pedestrian violation. I find facts to believe this action by Ameele was an unreasonable seizure of [the passenger].

Allegation #2 – On April 9, 2022, Officer Brock Ameele arrested [the passenger] for Interfering with a Peace Officer. This arrest lacked probable cause[.] * * *

I find facts to believe that Ameele did not respect [the passenger's] rights under the United States and Oregon Constitutions. Ameele abused his authority under the law. Ameele did not use sound discretion when choosing to use force and arrest [the passenger]. * * *

Officer Ameele, through his words and actions as a police officer, seized [the passenger] on Sally Lane without reasonable suspicion or probable cause. In light of this, Ameele's actions of continuing to follow [the passenger,] use force, and make an arrest were unreasonable.

* * * * *

Allegation #3 – On April 9, 2022, Officer Brock Ameele used force on [the passenger] in order to detain him. This force was unreasonable under the totality of the circumstances[.] * * *

I find facts that lead me to believe Ameele wrapped his arms around [the passenger] and with forward motion took him to the ground over the duration of one second. Many individuals involved in this event, including Ameele, described this as a tackle. This act was force[.] * * *

[The passenger] resisted Ameele and Schlechter's efforts to handcuff him. Both Ameele and Schlechter stated they needed to pull [the passenger's] right hand out of his pocket. At one point, BWC footage showed both of Ameele's hands and one of Schlechter's hands pulling [the passenger's] arm. The resistance was significant enough that Ameele suggested charging [the passenger] with the crime of Resisting Arrest. This action was a force response as well.

* * * * *

During his interview, Ameele repeatedly stated confusion about this policy and what force was. However, his reporting history showed that he had accurately reported force, during similar circumstances, dating back to 2017. Additionally, he had read and acknowledged the Force Response policy.

* * * * *

I find facts to believe the force Ameele used on [the passenger] was objectively unreasonable under the totality of the circumstances known to him at the time. [The passenger] had not committed any crimes at the time of

force. [The passenger's] identity was not known and there was no known information about him having a warrant.

[The passenger] had committed a pedestrian violation. I do not find Ameele's statements about weapon and officer safety concerns credible. There was no evidence from any officer at this event regarding specific information about weapons or officer safety issues related to [the passenger]. [The passenger] was not aggressing toward officers but rather making numerous attempts to walk away and disengage with officers.

If [the passenger] was such an immediate threat, tactics such as maintaining distance, coordinating additional resources, and maintaining a position of cover should have been used. Instead, Ameele created urgency by running up to [the passenger] and using a control technique. This lacked coordination with another cover officer who was on the scene. [The passenger's] behavior had not changed throughout, as he continued to walk away and verbally disengage.

* * * * *

Ameele's actions did not minimize injury to [the passenger.] Ameele wrapped his arms around [the passenger's] arms and took him to the ground. This prevented [the passenger] from protecting himself during the fall. Visible in BWC footage, [the passenger's] body struck the asphalt road surface on his left side. This occurred with Ameele on top of him.

Considering body weight, and patrol officer equipment, Ameele weighed nearly 100 pounds more than [the passenger.] With Schlechter on the scene, Ameele could have coordinated a two-officer escort position with [the passenger] that controlled his arms. Instead, Ameele used a technique that had a high risk of injury. This was corroborated by [the passenger's] reported injury afterward.

* * * * *

I find facts to believe that Ameele did not warn [the passenger] before using force, but had the time and ability to do so. The only urgency in using force on [the passenger] was created by Ameele. Ameele did not adequately consider or employ alternative tactics prior to his takedown technique. Specifically, Schlechter was on scene and they could have formed a two-officer plan prior to acting. Additionally, disengagement with [the passenger] was a reasonable tactic that Ameele repeatedly said he did not consider.

* * * * *

I find facts to believe that [the passenger] was not an immediate or severe threat to officers or others. There were no incident-specific facts to believe [the passenger] was a threat. Ameele relied on generalized safety concerns that were not connected to specific knowledge. For example, Ameele relied heavily on officer safety concerns related to [the passenger] walking with his hands in his pockets. This behavior would be normal for a pedestrian on an April evening and are not credible unless accompanied by specific facts.

Force decisions are framed by the severity of the crime at issue. In this case, [the passenger] had committed no crimes. [The passenger] was walking away from officers at the time of force. [The passenger] was not running from officers or actively aggressing toward officers at the time of force.

In summary, Ameele's force was unreasonable under the totality of the circumstances. The government's interest was minimal and the force did not balance [the passenger's] Fourth Amendment rights.

* * * * *

Ameele did not completely and accurately document this force incident in his report. Ameele described the force event in his report as "I yelled at him to take his hand out of his pocket and then simultaneously wrapped him up in a bear hug, to pin his arms to his sides, and then lowered him to the ground by using my body weight and slight momentum to place him in a better position where I could safely control him."

Ameele described the takedown as a tackle both to Emerson and [the passenger.] By the time Ameele wrote his report, his description had changed significantly. Ameele's description in his report was untrue based on the technique visible on BWC footage.

Ameele did not indicate the event was a force response on the report face page or document the event in a force report. Ameele did not articulate force considerations or alternative tactic considerations in his report. Ameele did not adequately document injuries and treatment (or lack thereof). Ameele did not place evidentiary pictures in evidence.

All of these facts formed my belief that Ameele's report was both incomplete and inaccurate.

Allegation #4 – On April 9, 2022, Officer Brock Ameele exceeded his lawful peace officer powers during the arrest of [the passenger]. * * *

* * * * *

I find facts to believe Ameele arrested [the passenger] for IPO and booked him into the Deschutes County Jail for that crime. This was after a scene supervisor, Sergeant Emerson, had told him that he did not have cause to arrest [the passenger] for that crime. * * *

Ameele's statement was that he applied a portion of the new statute, regarding a person interfering with a criminal investigation, to [the passenger] interfering with Ameele investigating him for a warrant. Ameele did not dispute that at that time he did not know [the passenger's] name or if he had a warrant. In fact, he called [the passenger] by the name "Anthony" just prior to his detention.

Deputy District Attorney Brittany Haver reviewed the incident afterward. Haver concluded that IPO may apply if a criminal investigation was actually occurring. Haver recognized that in this case, the only investigation Ameele was conducting was for a violation.

Ameele recommended the District Attorney also charge [the passenger] with Disorderly Conduct II and Resisting Arrest in his police report. Ameele lacked evidence to support that [the passenger] committed either crime. Ameele created the Disorderly Conduct II situation by choosing to use a takedown control technique on [the passenger] in a roadway. [The passenger's] level of resistance did not meet the level required for the crime of Resisting Arrest.

I find facts that lead me to believe Ameele exceeded his peace officer powers by arresting and booking [the passenger] for the crime of IPO and recommending two additional criminal charges. Ameele's conduct was unreasonable, unlawful, and excessive. Ameele's justification for IPO was not supported by facts because he was not conducting a criminal investigation of [the passenger.] Furthermore, a supervisor tried to intervene and prevent him from arresting for IPO, and Ameele charged the crime anyway. A legal analysis afterward further corroborated that there was not evidence to charge IPO, Disorderly Conduct II, or Resisting Arrest.

Allegation #5 – On April 9, 2022, Officer Brock Ameele disobeyed the instructions of a department supervisor regarding the arrest of [the passenger.] The was an act of insubordination. * * *

* * * * *

During his interview, Sergeant Rob Emerson provided a clear recollection of his interactions with Ameele. Emerson recalled that he told Ameele he "absolutely" did not have the crime of IPO related to [the passenger's] conduct. Ameele's statement was that he saw this conversation as an informal discussion about charging and he was able to make his own decision about charges.

I find facts to believe Sergeant Emerson's memory of events was more credible than Ameele's. Emerson had a clear and specific memory of events that were corroborated by many other aspects of this investigation. Ameele's recollection of events was incomplete and often vague. Despite the event occurring less than two months prior to his interview, he provided many general answers. He was unable to remember facts of the event, including many that would reflect poor performance on his part.

For example, in that same conversation, Sergeant Emerson said Ameele told him that [the passenger] had committed the crime of misdemeanor elude. Ameele's denied saying that and was vague in his recollection. Ameele said, "I mean, if he says, I said that then I, I mean, I don't have any reason to, to doubt him. I just don't, that's not what I recall. I, I don't remember. I don't remember saying that."

Additionally, Emerson's direction to Ameele to document [the passenger's] reported injury with pictures was not in dispute. Ameele admitted to failing to follow that direction. There were no evidentiary pictures related to this claimed injury in evidence. The investigation showed that Ameele failed to take those pictures after he was directed to by his supervisor.

Ameele failed to carry out proper work orders relating to [the passenger's] arrest and Ameele failed to take pictures of [the passenger's] reported injury. Ameele disobeyed directions from Sergeant Emerson and his actions were insubordinate. * * *

Allegation #6 – On April 9, 2022, and afterward, Officer Brock Ameele did not complete and submit adequate reports and documentation related to this event. * * *

* * * * *

I find facts to believe that Ameele's police report about this event lacked or omitted the following necessary documentation:

- Checking the use of force box.
- Completing a force response form.
- Making an entry for evidence pictures on the property page and entering images into evidence.
- Documentation of force considerations including factors justifying using force, alternative tactics, post-force inquiries or lack thereof, and injury documentation.

- Ameele’s written description of force applied during [the passenger’s] takedown and handcuffing was untrue. Specifically, Ameele stated, “I yelled at him to take his hand out of his pocket and then simultaneously wrapped him up in a bear hug, to pin his arms to his sides, and then lowered him to the ground by using my body weight and slight momentum to place him in a better position where I could safely control him.”

This written statement was untrue based upon the technique Ameele used which was visible in BWC footage, Ameele’s statements and descriptions after force, and [the passenger’s] reported injury. These all contradict that [the passenger] was lowered to the ground. * * *

Allegation #7 – On April 10, 2022, and afterward, Officer Brock Ameele was dishonest when speaking with a department supervisor and in how he reported on the force response event. * * *

* * * * *

I find facts to believe that Ameele’s team supervisor, Sergeant Tommy Russell, asked Ameele to complete a use of force report after this event. According to Russell, Ameele replied that he did not need to because the event was not a force response. This was an untrue statement to his supervisor. * * *

Russell said Ameele also told him that his contact with [the passenger] was unlikely to have caused an injury. Ameele had told Russell that this was because he lowered [the passenger] to the ground. These were both false statements to a supervisor and controverted by the BWC footage and [the passenger] reporting an injury.

This was also inconsistent with what Ameele had told Sergeant Emerson. According to Emerson’s statement, Ameele told Emerson at the scene that the event was a force response and that he had tackled [the passenger.]

During his interview, Ameele initially said he did not remember Sergeant Russell asking him to write a force report. Then Ameele said it sounded familiar that he had told Russell that he (Ameele) did not need to write a force report.

When asked about sending Russell a text message about submitting the “not force response report,” Ameele said he did not remember sending the message. Ameele was then shown the message he had sent, at which point he acknowledged that he sent the message.

Ameele went on to not complete a force response report or add details, required in force policy, to his narrative report. A reported force response is reviewed through the chain of command and the training unit. Since Ameele did not report the event as a force response, the review of his report was completed by Officer Ryan Tiktin, who had not been at the event.

Russell also stated that Ameele told him [that the passenger] pointed a finger gun at Schlechter. This would be significant information that should have been in Ameele's report but was not. During his interview, Ameele said [the passenger] pointed his arm at Schlechter but Ameele could not see the position of [the passenger's] hand. When asked about this contradiction, Ameele ultimately said, "That could have been how I described it to him (Russell)."

Ameele's memory of these supervisor interactions was vague and changed when faced with new information. Russell's memory of this event was detailed and precise. I find facts to believe that Russell's recall of this event was credible and Ameele's was not.

Based on those facts, I believe Ameele did not demonstrate integrity when interacting with Sergeant Russell or writing his report. Specifically, he was dishonest with Sergeant Russell when he told him he had not used force on [the passenger.] This dishonesty continued through how he wrote his report by minimizing the control technique used on [the passenger.]

Allegation #8 – On April 9, 2022 or April 10, 2022, Officer Brock Ameele showed BWC footage to [a] civilian rider[.] * * *

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Allegation #9 – On April 9, 2022 and afterward, Officer Ameele did not place several evidence images in evidence. Officer Ameele did not document these evidence images in a report. * * *

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During his interview, Ameele stated that he had three images of [the passenger] on his work iPhone. These images were of [the passenger's] face and neck area. These images documented the state of [the passenger's] face and neck at the time of this event. These images were used to identify [the passenger]. In summary, these images were of evidentiary value for the force response and for documenting how [the passenger] was identified and his arrest warrant was discovered. This investigation has determined that Ameele was actually in possession of four images of [the passenger] contrary to Ameele's provided statement.

There were no evidence images that were submitted by Ameele in the evidence.com system for this case. On Ameele's case report, there were no images listed on the property page. I find facts to believe that Ameele failed to place these four images in evidence. Ameele failed to make a property entry, as required by policy. * * *

Allegation #10 – On May 24, 2022, Officer Brock Ameele willfully destroyed text messages on his work-assigned iPhone to conceal defective work and without authorization to do so. * * *

* * * * *

Oregon Administrative Rules require records retention for the public safety departments of city governments. Incident case files are required to be retained following the statute of limitations. Officer notes are required to be retained for a minimum of two years. Oregon Revised Statue 131.125 has a limitation on misdemeanor proceedings of two years. A violation has a limitation of six months.

Based on these requirements, case information related to the arrest of [the passenger] that was in Brock Ameele's possession would need to be retained for two years. I find facts to believe that communication relevant to the identification of [the passenger] was evidentiary in nature and fell under these records retention requirements.

Furthermore, I find facts to believe that messaging communication between Ameele and Sergeants Russell and Emerson were department records. On 05/19/22, Ameele was made aware in writing that the arrest of [the passenger] and his interactions with department supervisors, was being investigated.

Despite this information, Ameele chose to delete those messages, and many others, totaling 932 individual deletions. In his interview, Ameele stated that he routinely deleted messages and did not consider their importance as a department record. A forensic analysis corroborated Ameele's statement that he routinely deleted messages from his work phone. However, this habit would not absolve Ameele from the requirements of maintaining evidence and department records. Additionally, Ameele said that he read Emerson's message about [the passenger] on May 24, before he deleted it.

Ameele stated that he was forthcoming with information about text messages in his initial interview. This was not an accurate statement. He was forthcoming about Emerson's message but was not forthcoming about his message to Russell. Ameele only acknowledged sending the message after it was shown to him during the interview.

I find facts to believe that Ameele did conceal defective work by destroying text messages without permission. Specifically, Ameele destroyed a directive from Sergeant Emerson about documenting [the passenger's] physical condition with pictures. Ameele destroyed a message containing dishonest language about a "not force response report" to Sergeant Russell.

I find facts to believe that Ameele did not have permission or authorization from the department to delete these records. I find that Ameele's conduct was willful because he deleted department records from his work phone messaging application while the criminal event was within the statute of limitations and after he had been notified that the department was investigating the arrest. * *

(Ex. A5 at 69 – 83; *emphasis in original*.)

48. After reviewing the internal affairs investigation report, Chief Mike Krantz authored a memorandum regarding Respondent. In the memorandum, Chief Krantz opined that:

Officer Ameele's actions throughout this incident are very serious and highly concerning. His performance and the decisions he made during and after the arrest raises questions regarding his decision making, integrity and the standards necessary for a police officer to maintain. It is reasonable to conclude based on the facts of this investigation that he attempted to cover up or conceal his improper and poor performance through numerous intentional actions. * * *

The actions Officer Ameele took during this incident and the subsequent related events are extremely serious in nature as they bring significant question to Officer Ameele's credibility as a police officer. His actions violate not only policy and procedure, but also the trust and integrity an officer must maintain with the community, department, supervisors, officers, and many other stakeholders. Officer Ameele's actions have fractured these values which are necessary to remain a Bend Police Officer. A police officer that is untruthful, deploys unlawful/improper force, and refuses to follow orders is extremely difficult to overcome in policing.

* * * * *

One of the basic functions or requirements of a police officer is to render testimony in court as a credible witness. Officer Ameele will now likely not [be] able to adequately fulfill this obligation as he was found to have been dishonest. The US Supreme Court case *Brady v. Maryland* requires a prosecutor to disclose exculpatory evidence, to include, evidence affecting the credibility of a police officer with untruthfulness. * * *

(Ex. A6 at 7 – 8.)

49. On October 12, 2022, the Bend Police Department discharged Respondent for violating policy relating to an unlawful stop, unlawful seizure, unlawful arrest, unreasonable use of force, destruction of evidence, insubordination, and dishonesty. (Ex. A3 at 1.)

Administrative Action Following Respondent's Discharge

50. On December 14, 2022, Deschutes County District Attorney (DA) John Hummel conducted a Brady due process hearing for Respondent. (Ex. R5 at 1.) On December 26, 2022, DA Hummel authored a letter to Respondent's attorney regarding his decision. (*Id.*) In it, DA Hummel indicated that he was not disqualifying Respondent as a witness because of past untruthfulness, but he was placing Respondent on the second-tier Brady list. DA Hummel went on to explain:

The second-tier of my Brady list is reserved for officers who can testify as a witness, but their past untruthfulness will be disclosed to defense counsel. Your client's inclusion on my Brady list, at this tier, is an inclusion with an asterisk, because I did not find your client to be untruthful (as discussed below); your client was found to be untruthful by the Bend Police Department. Due process requires defendants to be informed of the Bend Police Department's finding of your client's untruthfulness, thus I included him in my second tier Brady listing to ensure this happens.

(*Id.*) When examining Respondent's failure to complete a use of force report, DA Hummel found that there was "no doubt" that Respondent's conduct amounted to a use of force and that Bend Police Department Policy required that he complete a use of force report. (*Id.* at 2.) DA Hummel wrote:

Ameele says he did not complete a use of force report because after he tackled the suspect he reviewed the Bend Police Policy on the use of force and, based on this review, concluded that what he did to the suspect did not constitute the use of "force." In our due process hearing Ameele explained that on the night in question he inadvertently read the wrong section of the policy. He said that he now knows what he did constituted the use of force, and if he had read the correct section of the policy on the night in question he would have completed and submitted a use of force report.

There are two possible truths regarding this issue. Ameele either told the truth, or he lied. * * *

The evidence presented does not convince me that Ameele lied when he said he failed to submit a use of force report because he believed the tackle did not constitute the use of force as defined in BPD Policy.

(*Id.*) The DA also opined that, based on the evidence available, he was not convinced that Respondent was dishonest regarding the reason why he did not place photos of the passenger into evidence. Additionally, he was unable to determine the motive and reasoning behind why

Respondent deleted text messages relevant to the investigation. (*Id.* at 3.) He further opined that:

My decision in this Brady review does not reflect my opinion as to the propriety of the City of Bend's decision to terminate your client. In fact, I agree with the City of Bend's determination that your client's actions on April 9, 2022 constituted a seizure that lacked reasonable suspicion, that the subsequent arrest lacked probable cause, and that the force that he used to effectuate the arrest was unreasonable.

(*Id.*)

51. On January 30, 2023, the Bend Police Department notified DPSST of its investigation, findings, and subsequent discharge of Respondent. (Ex. A21.)

52. On November 16, 2023, Ms. Levario authored a Memo for the Police Policy Committee (PPC) regarding Respondent's separation from the Bend Police Department. She noted that:

The Department determined that the conduct being presented to the committee violates the Board's moral fitness standards. Through the case review process, the committee will affirm, modify, or negate the below identified elements of moral fitness violations and make a determination on the disposition of this case:

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 in order to detain them without lawful authority.

Misconduct: Ameele was dishonest about a force response event, destroyed inculpatory evidence, harmed a person by using unreasonable force, and created a seizure and arrest that lacked probable cause or reasonable suspicion.

(Ex. A1 at 1; *emphasis in original.*)

53. Respondent provided an oral mitigation statement at the PPC meeting. During that statement, Respondent indicated that he wanted to continue being a law enforcement professional and that the allegations against him did not accurately reflect his true character. (Ex. A48.) When talking about the April 9 incident, Respondent indicated that "I did not intentionally hurt anyone or abuse my authority for any personal gain. The only thing I believe I was guilty of was being proactive." (*Id.* at 03:17.) He went on to explain, "The person I interacted with was

not injured.” (*Id.* at 04:32.)

54. On January 25, 2024, the PPC determined that Respondent’s conduct amounted to dishonesty, misuse of authority, and misconduct, and recommended that Respondent be ineligible to hold public safety certification for three years. (Ex. A28 at 1.) In making its recommendation, the PPC found the following aggravating circumstances:

- 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 his 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 real 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.

(*Id.* at 2.) The PPC found the following mitigating circumstance:

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

(*Id.*)

55. DPSST’s Board affirmed the PPC’s recommendation to revoke Respondent’s public safety certification for a period of three years. (Test. of Levario.)

CONCLUSIONS OF LAW

1. Respondent does not meet the moral fitness standards required of a public safety professional.

2. DPSST may revoke Respondent’s Basic, Intermediate, and Advanced Police Certifications.

OPINION

DPSST proposes to revoke Respondent's Basic, Intermediate, and Advanced Police Certifications, based on allegations that he does not meet the minimum requirement of good moral fitness required of a police officer. As the proponent of the allegation, DPSST has the burden to establish, by a preponderance of the evidence, that the allegation is correct and that it is entitled to revoke the certifications. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (in administrative actions, burden of proof is by a preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

Applicable Laws and Rules

The minimum standards for certification of public safety personnel³ are set out in ORS 181A.410. As pertinent here, the statute provides as follows:

(1) In accordance with any applicable provision of ORS chapter 183, to promote enforcement of law and fire services by improving the competence of public safety personnel and their support staffs, and in consultation with the agencies for which the Board on Public Safety Standards and Training and Department of Public Safety Standards and Training provide standards, certification, accreditation and training:

(a) The department shall recommend, and the board shall establish by rule, reasonable minimum standards of physical, emotional, intellectual and moral fitness for public safety personnel and instructors.

* * * * *

(c) The department, in consultation with the board, shall establish by rule a procedure or procedures to be used by law enforcement units * * * to determine whether public safety personnel meet minimum standards or have minimum training.

* * * * *

(e) The department shall deny applications for training and deny, suspend and revoke certification in the manner provided in ORS 181A.630, 181A.640 and 181A.650 (1).

ORS 181A.640 identifies the grounds for suspension or revocation of a public safety professional's certification and provides, in pertinent part:

³ "Public safety personnel" and "public safety officer" include police officers. ORS 181A.355(16).

(1) The Department of Public Safety Standards and Training may deny the application for training, or deny, suspend or revoke the certification, of any public safety officer or instructor, except a youth correction officer or fire service professional, after written notice and hearing consistent with the provisions of ORS 181A.630, based upon a finding that:

* * * * *

(c) The public safety officer or instructor does not meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181A.410 (1)(a) to (d).

In in accordance with the authority granted under ORS 181A.410 and 181A.640, DPSST adopted OAR 259-008-0010 (November 1, 2020)⁴, which sets out the minimum standards for employment as a law enforcement officer. As pertinent here, the rule provides:

(5) Moral Fitness. All law enforcement officers must meet moral fitness standards for certification. The moral fitness standards defined in OAR 259-008-0290 and OAR 259-008-0300 apply to law enforcement officers who are employed in a certifiable position but not yet certified, currently certified law enforcement officers and law enforcement officers with lapsed certification.

OAR 259-008-0300, addresses the denial, suspension, and revocation of public safety professionals and provides, as pertinent here, as follows:

(1) The Board has established moral fitness standards that it has determined are critical to upholding the public's trust in the public safety profession, protecting the public and ensuring that the conduct of a public safety professional or an applicant does not reflect adversely on the public safety profession. The Board finds by adopting this rule that a violation of these standards is substantially related to the duties performed by a certified public safety professional.

* * * * *

(3) Discretionary Denial or Revocation of a Public Safety Professional's Certifications.

(a) The Department may deny or revoke a public safety professional's certifications based upon a finding that the public safety professional engaged in conduct that includes any or all of the following elements:

⁴ OAR 259-008-0010 was amended on July 1, 2023, after the incident at issue in this matter. The portion regarding Moral Fitness appears in a different subsection after the amendment, but the language remained the same between the two versions. This citation is to the prior version.

(A) Dishonesty. Dishonesty is intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth;

(B) Misuse of Authority. Misuse of Authority is intentional conduct that includes the use or attempted use of one's position or authority as a public safety professional to obtain a benefit, avoid a detriment or harm another; or

(C) Misconduct.

(i) Misconduct includes conduct that violates criminal laws, conduct that threatens or harms persons, property or the efficient operations of any agency, or discriminatory conduct[.]

OAR 259-008-0310 discusses aggravating and mitigating circumstances to be considered:

(10) Policy Committee Review of Discretionary Professional Standards Cases.

(a) In professional standards cases where the Department has determined that the conduct being reviewed violates the moral fitness standards established by the Board as discretionary grounds for denial or revocation as defined in OAR 259-008-0300(3), the Department will submit its findings to a Policy Committee for disposition. The Policy Committee's disposition will be submitted as a recommendation to the Board for approval.

(b) The Policy Committee will review the professional standards case to:

(A) Affirm, modify or negate the Department-identified moral fitness violations;

(B) Identify aggravating and mitigating circumstances unique to the professional standards case;

(C) Determine how the moral fitness violations and aggravating or mitigating circumstances impact the public safety professional's fitness for certification; and

(D) When recommending denial or revocation of public safety professional certifications, determine how long the individual should be ineligible for certification.

(c) Aggravating and mitigating circumstances are conditions, factors or actions that increase or decrease the total impact that the identified moral fitness violation has on the public safety professional's fitness for certification.

(A) Aggravating circumstances generally increase the severity of the impact the moral fitness violation has on fitness for certification and may, in addition to the moral fitness violation, be grounds to deny or revoke certification. Aggravating circumstances may increase the recommended ineligibility period. Circumstances that may be considered aggravating include, but are not limited to, the degree of the criminal disposition, prior criminal dispositions or misconduct, lack of accountability, number of persons involved in the underlying conduct, number of separate incidents, passage of time from date of incident or incidents, or any other circumstance the Department or the Policy Committee consider aggravating given the specific issues in the case.

(B) Mitigating circumstances do not excuse or justify the conduct, but generally decrease the severity of the impact the moral fitness violation has on fitness for certification and may decrease the recommended ineligibility period. Circumstances that may be considered mitigating include, but are not limited to, written letters of support, truthfulness, cooperation during the incident or investigation, or any other circumstance the Department or the Policy Committee consider mitigating given the specific issues in the case.

(d) The ineligibility period is the timeframe that the public safety professional or applicant is ineligible for public safety certifications and prohibited from performing the duties of a certifiable public safety professional as the result of the total impact of the moral fitness violations and the aggravating and mitigating circumstances on the public safety professional's fitness for certification.

(A) When the identified moral fitness violations include Dishonesty or Misconduct that is discriminatory as defined in OAR 259-008-0300(3), the Policy Committee may recommend an ineligibility period from three years to lifetime.

(B) When the identified moral fitness violations do not include Dishonesty or Misconduct that is discriminatory as defined in OAR 259-008-0300(3), the Policy Committee may recommend an ineligibility period from three years to ten years.

Moral Fitness Standards

In this matter, DPSST asserts that Respondent fails to meet the minimum moral fitness standards for a public safety professional because he engaged in conduct involving dishonesty, misuse of authority, and misconduct. Specifically, DPSST alleges that Respondent engaged in dishonesty when he destroyed evidence, failed to complete and submit a use of force report about the April 9 arrest, and failed to place photographs related to the case into evidence. DPSST alleges that Respondent engaged in misuse of authority when he intentionally made an arrest and seizure that lacked probable cause or reasonable suspicion. Finally, DPSST alleges that

Respondent engaged in misconduct when he was dishonest about a use of force event, destroyed evidence, harmed a person by using unreasonable force, and conducted a seizure and arrest that lacked probable cause or reasonable suspicion.

a. Dishonesty

As set out above, DPSST's rule defines dishonesty as "intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth." OAR 259-008-0300(3)(a)(A).

DPSST asserts that Respondent knowingly committed acts constituting dishonesty when he destroyed evidence, did not turn in a use of force report following a use of force event, and failed to place photographs related to the case into evidence. Respondent argues that he did not intend to destroy evidence when he deleted text messages on his work cell phone, rather he was trying to clear space on the phone. He also argues that he reasonably believed the incident with the passenger did not constitute a force response and thus he was not required to file a use of force report following the arrest. Respondent next argues that he did not believe the pictures of the passenger's face and neck were relevant to the matter and that, based on prior practice, he did not place them into the file as evidence. Finally, he argues that it was a mere oversight when he failed to take pictures of the passenger as instructed by Sergeant Emerson.

Respondent was notified on May 19, 2022, that he was subject to an internal affairs investigation based on the April 9 incident. He was placed on administrative leave and notified that he would be interviewed about the incident on May 26, 2022. On May 24, 2022, while still on administrative leave, Respondent intentionally deleted 963 text messages from his work phone, including messages related to the April 9 incident. He did not delete all the text messages on his phone, only those that he believed were no longer relevant and over a month old. Knowing the reason for his leave and that his interview was in two days, Respondent showed a reckless disregard for the truth when deleted text messages relating to the April 9 incident. As such, his conduct amounts to dishonestly under OAR 259-008-0300(3)(a)(A).

It is undisputed that Respondent tackling the passenger on April 9 constituted a force event. During the internal affairs investigation and at hearing, Respondent acknowledged that it was a force event, per Bend Police Department policy. As such, Respondent should have checked the use of force box on his report, which would have prompted him to complete a use of force report. Respondent failed to do so. Respondent argued that he did not check the box because he was trying to be "absolutely perfect" at work and he honestly believed that it was not a use of force event. However, the evidence shows that, more likely than not, Respondent's failure to complete the use of force report was a falsification. Numerous law enforcement individuals who watched the takedown on body camera footage agreed that it was unequivocally a use of force event. The evidence shows that Respondent was aware on April 9 that his conduct constituted use of force (he acknowledged to the passenger that he had tackled him). He also knew that such an event would require writing a use of force report, as shown by his prior actions in writing use of force reports for similar events and the direct instruction by Sergeant Russell to write a use of force report. Furthermore, there is no evidence that Respondent would have violated any rules or policies by writing a force report in a circumstance where one was not

needed or where it was a close call on whether force was used or not. Thus, Respondent has no reason not to write a use of force report. The evidence shows that, more likely than not, Respondent did not write a use of force report in an attempt to deceive, misrepresent, or somehow falsify what happened on April 9. As such, his conduct amounts to dishonestly under OAR 259-008-0300(3)(a)(A).

Finally, Respondent does not deny that he intentionally failed to include photographs of the passenger as evidence when he submitted his report. Respondent took photographs of the passenger and distributed those photographs to other police officers in an attempt to ascertain the identity of the passenger. It was through the distribution of those photographs that Respondent learned the passenger's identity. As a direct result of that, Respondent was able to find that the passenger had a warrant. As such, the photographs had evidentiary value (to show how the passenger was identified) and should have been included in Respondent's report. However, I am not persuaded that his failure to include the photographs was done to be dishonest or untruthful. Rather, Respondent seems to have operated under the mistaken belief that the photographs did not need to be included with his report. Nothing about the photographs were inculpatory and Respondent had no apparent motive to leave them out of his report. While they should have been included, Respondent's failure to include the photographs with his report does not amount to dishonestly under OAR 259-008-0300(3)(a)(A).

In sum, the evidence is persuasive that Respondent was dishonest when he destroyed evidence and did not turn in a use of force report following a use of force event. However, the evidence failed to show that Respondent's failure to place photographs related the case into evidence amounted to dishonesty under OAR 259-008-0300(3)(a)(A).

b. Misuse of Authority

As set out above, DPSST's rule defines misuse of authority as "intentional conduct that includes the use or attempted use of one's position or authority as a public safety professional to obtain a benefit, avoid a detriment or harm another." OAR 259-008-0300(3)(a)(B).

DPSST asserts that Respondent engaged in misuse of authority when he made an arrest and seizure that lacked probable cause or reasonable suspicion. DPSST further alleges that this conduct harmed another by using unreasonable force to detain the individual without lawful authority. Respondent argues that he reasonably believed during the April 9 event that he had lawful authority to follow the passenger and ask the passenger questions, and that he had lawful probable cause and reasonable suspicion to stop and arrest the passenger after witnessing a pedestrian violation. Furthermore, Respondent argues that his force response in taking down the passenger was lawful, reasonable, proportionate, and did not cause harm to the passenger.

A stop is a "temporary restraint of a person's liberty." ORS 131.605(7). A mere conversation (or mere encounter) is a noncoercive encounter that does not involve some restraint on a person's liberty. *State v. Ashbaugh*, 349 Or 297, 308-309 (2010). A seizure of a person:

[O]ccurs under Article I, section 9, of the Oregon Constitution: (a) if a law enforcement officer intentionally and significantly restricts, interferes with, or

otherwise deprives an individual of that individual's liberty or freedom of movement; or (b) if a reasonable person under the totality of the circumstances would believe that (a) above has occurred.

Id. at 316. Police conduct amounts to a seizure when a police officer “engages in conduct significantly beyond that accepted in ordinary social intercourse.” *Id.* at 310 (quoting *State v. Holmes*, 311 Or 400, 410 (1991), *overruled in part by Ashbaugh*, 349 Or 297). Both stops and arrests are considered seizures under Article I, section 9 of the Oregon Constitution. *Id.* at 308-309. To be lawful, a stop requires reasonable suspicion, and an arrest requires probable cause, but a mere conversation requires neither reasonable suspicion nor probable cause. *Id.* at 309.

DPSST and Respondent disagree on when the seizure of the passenger occurred on April 9. Respondent argues that he did not seize the passenger until the moment he told the passenger to “stop” and that he was not free to leave. DPSST argues that the seizure of the passenger occurred much earlier in the encounter and, at the time it occurred, Respondent did not have reasonable suspicion to seize or stop the passenger. The evidence shows that Respondent did not have reasonable suspicion to stop the passenger until he observed the passenger commit a pedestrian violation. However, prior to that pedestrian violation, Respondent's actions, taken as a whole, would lead a reasonable person to believe they were not free to leave the encounter, and therefore amounted a seizure of the passenger. Respondent followed the passenger in his patrol vehicle, then shone his alley light on the passenger. Respondent continued to follow the passenger on foot, all while shining his flashlight on the passenger and asking him questions of an investigative nature. Even though the passenger made it clear through his statements and actions that he did not want to engage with Respondent, Respondent continued to follow him on foot for several blocks with Officer Schlechter following behind them in a patrol vehicle. Thus, the seizure of the passenger occurred well before Respondent observed the pedestrian violation. As such, Respondent seized the passenger without reasonable suspicion. This amounts to a misuse of authority.

DPSST also argues that, at the time Respondent arrested the passenger, he lacked probable cause to believe that a crime had been committed. Respondent argues that at the time he arrested the passenger he honestly and reasonably believed that a crime had been committed and therefore had probable cause to arrest the passenger. Respondent arrested and later recommended that the passenger be charged with interfering with a police officer, along with his warrant violation. The DDA refused to charge interfering with a police officer because there was no evidence that that crime had been committed. The Deschutes County DA agreed that there was no evidence of any crimes during the April 9 encounter. As such, the evidence supports a finding that Respondent lacked probable cause when he arrested the passenger. Furthermore, Respondent should have been aware that this charge was not valid in this situation because of his training on the amendments to the statute and his discussion with Sergeant Emmerson. Thus, his conduct amounts to a misuse of authority.

As discussed above, Respondent used force when he tackled the passenger on April 9. At the time Respondent tackled the passenger, the only reason he had to stop the passenger was his observed pedestrian violation. Tackling the passenger when he failed to stop when instructed to do so for a minor pedestrian violation was objectively unreasonable under a totality of the

circumstances. The way Respondent executed the tackle (holding the pedestrian's arms to his side and landing on the pedestrian with his entire bodyweight) made the force event likely to physically harm the passenger and did, in fact, cause the passenger to experience pain in his elbow. Furthermore, Respondent's actions could have caused nonphysical harm to the passenger, including a future distrust of police. As such, Respondent engaged in misuse of authority when he used unreasonable force to detain the passenger.

The evidence adduced at hearing shows that Respondent seized the passenger without reasonable suspicion and then arrested the passenger without probable cause. Respondent also harmed the passenger by using unreasonable force to detain him without lawful authority. Respondent's actions amount to a misuse of authority.

c. Misconduct

As set out above, DPSST's rule defines misconduct as "conduct that violates criminal laws, conduct that threatens or harms persons, property or the efficient operations of any agency, or discriminatory conduct." OAR 259-008-0300(3)(a)(C)(i).⁵

DPSST asserts that Respondent engaged in misconduct when he was dishonest about a force event, destroyed evidence, harmed a person by using unreasonable force, and conducted a seizure and arrest that lacked probable cause or reasonable suspicion. For the same reasons argued above, Respondent disputes that his conduct amounted to misconduct.

As discussed above, the evidence is persuasive that Respondent was dishonest about a force event, destroyed evidence, harmed a person by using unreasonable force, and conducted a seizure and arrested that lacked probable cause or reasonable suspicion. Each of these actions constitutes misconduct under OAR 259-008-0300(3)(a)(C)(i).

Revocation of Certifications

Having found that Respondent engaged in discretionary disqualifying dishonesty, misuse of authority, and misconduct under OAR 259-008-0300(3)(a)(A), (B), and (C)(i), the next question is whether, after considering the mitigating and aggravating circumstances identified in OAR 259-008-0310(10)(c), DPSST may revoke Respondent's certifications based upon a lack of moral fitness for law enforcement officers in Oregon.

As required by rule, the PPC and Board considered Respondent's conduct under the criteria set forth in OAR 259-008-0310(10)(c). They found both mitigating and aggravating circumstances. As aggravating factors, the Board and PPC found: (1) the incident was similar to "noble cause corruption" because Respondent thought he was doing something for the common good and therefore justified in not following the rules; (2) Respondent disregarded his superior's directives regarding the criminal charges for the passenger; (3) Respondent's assertion that he did not hurt anyone during the incident shows an unwillingness to accept responsibility; (4) Respondent has a prior disciplinary history showing a pattern of insubordination; (5) the

⁵ OAR 259-008-0300(3)(a)(C)(ii) defines discriminatory conduct. However, DPSST has not alleged discriminatory conduct in this matter.

interaction with the passenger escalated quickly for no justifiable reason; (6) Respondent's conduct was not isolated and could be problematic for an agency; (7) the DA placed Respondent on a Tier 2 Brady list and agreed that the stop of the passenger lacked evidence for seizure and had no probable cause; and (8) the stop and arrest of the passenger was outside the norm for this type of situation. The Board and PPC identified a single mitigating circumstance: the DA determined that Respondent had not been dishonest in spite of placing him on the Tier 2 Brady list. After considering the above factors, the PPC recommended, and the Board approved, revocation with a three-year period of ineligibility based on Respondent's dishonesty.

OAR 259-008-0310(10)(c) defines aggravating and mitigating circumstances as "conditions, factors or actions that increase or decrease the total impact that the identified moral fitness violation has on the public safety professional's fitness for certification." Aggravating circumstances "increase the severity of the impact the moral fitness violation has on fitness for certification." OAR 259-008-0310(10)(c)(A). They can include but are not limited to "the degree of the criminal disposition, prior criminal dispositions or misconduct, lack of accountability, number of persons involved in the underlying conduct, number of separate incidents, passage of time from date of incident or incidents, or any other circumstance DPSST or the Policy Committee consider aggravating given the specific issues in the case." *Id.* Mitigating circumstances "do not excuse or justify the conduct, but generally decrease the severity of the impact the moral fitness violation has on fitness for certification." OAR 259-008-0310(10)(c)(B). They can include "written letters of support, truthfulness, cooperation during the incident or investigation, or any other circumstance DPSST or the Policy Committee consider mitigating given the specific issues in the case." *Id.*

DPSST has sought revocation of Respondent's basic, intermediate and advanced police certifications. Pursuant to OAR 259-008-0300(3), Respondent's dishonesty, misuse of authority, and misconduct provides DPSST with discretionary grounds for revoking his certifications as a public safety professional. Respondent argues that revocation is not appropriate in this matter. Specifically, Respondent argues that he has already been discharged by the Bend Police Department and that there is "no further interest in disciplining [him]." *Respondent Closing Brief* at 7. Respondent argues that he has had "ample time to reflect upon this incident and his choices and learn going forward." *Id.* Finally, Respondent argues that he is a good officer and wishes to return to police work to serve his community.

Throughout the internal affairs investigation, DPSST process, and the hearing, Respondent has consistently demonstrated a lack of understanding of the gravity of his actions and has repeatedly downplayed the seriousness of his choices. He does not demonstrate an understanding of how his actions on April 9 led to a seizure of the passenger long before he told the passenger to "stop." He has downplayed the nature and seriousness of the force response he used against the passenger, who, at the time Respondent used force, had only committed a pedestrian violation. At hearing, Respondent continued to argue that he believed the charge of interfering with a police officer could apply in this situation, despite multiple individuals with more experience and expertise advising him that it did not apply. Throughout the hearing, Respondent made himself out to be the victim of an intentional campaign of unfair discipline by the Bend Police Department. He has claimed that no one was harmed during the April 9 event, failing to recognize how his actions could have harmed the passenger or how his actions could

harm community trust in police. Despite his disciplinary history and actions on April 9, Respondent continues to think of himself as a “top performing” officer. While he testified to his desire to continue working as a police officer, his actions on April 9, his statements and behavior following that event, and his unwillingness to take responsibility for his actions and learn from them, show that he lacks the good more fitness required of a police officer. Respondent’s basic, intermediate and advanced police certifications should be revoked.⁶

As provided by OAR 259-008-0310(10)(d)(B), the PPC recommended, and the Board affirmed, that Respondent be ineligible for certification for the minimum period of three years. Pursuant to OAR 259-008-0340(6)(c), the ALJ has no authority to adjust the ineligibility period approved by the PPC or the Board. Respondent is ineligible for certification as a public safety professional for three years.

ORDER

I propose the Department of Public Safety Standards and Training issue the following order:

Brock Ameele’s basic, intermediate and advanced certifications are REVOKED. Brock Ameele is ineligible for certification as a public safety professional for three years.

Kate Triana

Senior Administrative Law Judge
Office of Administrative Hearings

EXCEPTIONS

The proposed order is the Administrative Law Judge’s recommendation to the Oregon Department of Public Safety Standards and Training (Department). If you disagree with any part of this recommendation, you may make written objections, called “exceptions,” to the recommendation and present written argument in support of your exceptions. Exceptions and argument must be filed with the Department not later than fourteen (14) days following the date of mailing of the proposed order at the following address:

Director
DPSST
4190 Aumsville Hwy SE
Salem, Oregon 97317

FINAL ORDER

After considering all the evidence, the proposed order, and the timely filed exceptions, if any, the Department will issue the final order in this case. The final order may adopt the

⁶ OAR 259-008-0320(1) requires that any denial or revocation of a certification “will encompass all of the public safety professional certifications.”

proposed order prepared by the Administrative Law Judge as the final order or modify the proposed order and issue the modified order as the final order. *See* OAR 137-003-0665.

APPEAL

If you wish to appeal the final order, you must file a petition for review with the Oregon Court of Appeals within sixty (60) days after the final order is served upon you. *See* ORS 183.480 et seq.

SERVICEMEMBERS' CIVIL RELIEF ACT

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.

CERTIFICATE OF MAILING

On September 5, 2024, I mailed the foregoing Proposed Order issued on this date in OAH Case No. 2024-ABC-06332.

By: Electronic Mail

Brock Ameele

[REDACTED]
[REDACTED]

Email: dan@thenelllawgroup.com

Daniel Thenell

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1162 Court St NE

Salem OR 97301

Lucy M Garcia

Hearing Coordinator

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

STATE OF OREGON

In the Matter

**Revocation of the Basic, Intermediate,
and Advanced Police Certification(s)
Issued to:**

**NOTICE OF PROPOSED REVOCATION OF
CERTIFICATIONS AND PROPOSED/FINAL
ORDER ON DEFAULT**

Brock Ameele
Respondent
DPSST No. 51429

TO: Brock Ameele

The Department of Public Safety Standards and Training (Department) proposes to revoke the Respondent's Basic, Intermediate, and Advanced Police Certifications pursuant to its authority in Oregon Revised Statute (ORS) 181A.410 and ORS 181A.640. The Department proposes revocation because the Respondent does not meet the moral fitness standards required of a public safety professional pursuant to Oregon Administrative Rule (OAR) 259-008-0010(6), and OAR 259-008-0300(3)(a)(A), (B), and (C)(i). The Department's proposed revocation is based on the following:

FINDINGS OF FACT

1. The Respondent Brock Ameele ("Last name" or "Respondent") currently holds Basic, Intermediate, and Advanced Certifications.
2. On September 21, 2010, Respondent signed a Criminal Justice Code of Ethics.
3. On October 12, 2022, Respondent was terminated from employment with the City of Bend Police Department for department policy violations related to an unlawful stop, unlawful seizure, unlawful arrest, unreasonable force, destruction of evidence, insubordination, and dishonesty.
4. The Department has determined that Respondent violated moral fitness pursuant to OAR 259-008-0300(3)(a)(A), (B), and (C)(i), and proposes to revoke Respondent's public safety certifications.

ULTIMATE FINDINGS OF FACT

- 1 Pursuant to ORS 181A.410(1)(c), the Board on Public Safety Standards and Training
2 (“Board”), established by rule reasonable minimum requirements of moral fitness for
3 public safety professionals. Pursuant to this authority, the Board and the policy
4 committees have adopted OAR 259-008-0010(6), requiring all public safety
5 professionals to meet the minimum moral fitness standards for certification as
6 established in the rule by the Board and the policy committees.
- 7 2. The Department is charged with implementing the moral fitness standards and may
8 propose to revoke a public safety professional’s certifications when the public safety
9 professional has violated the moral fitness standards for certification defined in OAR
10 259-008-0300.
- 11 3. Under OAR 259-008-0300(3)(a)(A), (B), and (C)(i), the Department may revoke a
12 public safety professional’s certifications based upon the finding that the public
13 safety professional:
14 (a)...engaged in conduct that includes any or all of the following elements:
15 (A) Dishonesty. Dishonesty is intentional conduct that include untruthfulness,
16 dishonesty by admission or omission, deception, misrepresentation, falsification or
17 reckless disregard for the truth;
18 (B) Misuse of Authority. Misuse of Authority is intentional conduct that includes the
19 use or attempted use of one’s position or authority as a public safety professional to
20 obtain a benefit, avoid a detriment or harm another; or
21 (C) Misconduct.
22 (i) Misconduct includes conduct that violates criminal laws, conduct that threatens or
23 harms persons, property or the efficient operations of any agency, or discriminatory
conduct;
4. The Respondent engaged in conduct involving dishonesty. The Respondent was
intentionally dishonest by omission when he destroyed evidence, did not turn in a use

1 of force report during a use of force event, and failed to place photographs related to a
2 case into evidence. The Respondent's conduct is evidence of the Respondent's failure
3 to meet the moral fitness standards in OAR 259-008-0300(3)(a)(A), which
4 specifically provides that the Department may revoke certifications based on conduct
5 involving dishonesty. Respondent's violation of OAR 259-008-0300(3)(a)(A) is a
6 separate and sufficient basis to revoke Respondent's public safety professional
7 certifications.

8
9 5. The Respondent engaged in Misuse of Authority. The Respondent intentionally made
10 an arrest and seizure that lacked probable cause or reasonable suspicion. The
11 Respondent harmed another by using unreasonable force in order to detain them
12 without lawful authority. The Respondent's conduct is evidence of the Respondent's
13 failure to meet the moral fitness standards in OAR 259-008-0300(3)(a)(B), which
14 specifically provides that the Department may revoke certifications based on conduct
15 involving the misuse of authority. The Respondent's violation of OAR 259-008-
16 0300(3)(a)(B) is a separate and sufficient basis to revoke Respondent's public safety
17 professional certifications.

18 6. The Respondent engaged in misconduct. The Respondent was dishonest about a force
19 response event, destroyed evidence, harmed a person by using unreasonable force,
20 and conducted a seizure and arrest that lacked probable cause or reasonable suspicion.
21 The Respondent's conduct is evidence of the Respondent's failure to meet the moral
22 fitness standards in OAR 259-008-0300(3)(a)(C)(i), which specifically provides that
23 the Department may revoke certifications based on conduct involving misconduct.
The Respondent's violation of OAR 259-008-0300(3)(a)(C)(i) is a separate and
sufficient basis to revoke the Respondent's public safety professional certifications.

7. Each of these grounds is a separate and distinct basis supporting a finding that the
public safety professional does not meet the moral fitness standards required by OAR
259-008-0010(6) and defined in 259-008-0300(3)(a)(A), (B), and (C)(i). The
Department is not required to prove that all grounds stated hereinabove, or violations
exist to deny Respondent's certifications.

1 8. Pursuant to OAR 259-008-0310(10)(c)(A), there were aggravating circumstances
2 identified in Respondent's case.

- 3 a. The Police Policy Committee found it aggravating that the incident was like
4 "noble cause corruption" in that the Respondent was so fully invested that he
5 thought he was doing something for the common good and, therefore justified
6 in not following the rules. This conduct hurts the profession.
- 7 b. The Respondent disregarded his sergeant's directive to make changes to the
8 criminal charges he wanted to make.
- 9 c. The Respondent's suggestion that he did not hurt anyone during his verbal
10 mitigation is contrary to the essence of a use of force incident and the
11 Respondent was not willing to accept this.
- 12 d. The Respondent's prior disciplinary history showed a pattern of
13 insubordination which is concerning.
- 14 e. The infraction committed by the passenger in this traffic stop escalated
15 quickly for no good reason.
- 16 f. The Respondent's conduct could be problematic for an agency as it is not an
17 isolated incident.
- 18 g. The Deschutes County District Attorney placed the Respondent on a Tier 2
19 Brady list and agreed with the City of Bend Police Department that the stop of
20 the passenger lacked evidence for seizure and had no probable cause.
- 21 h. The stop and ultimate arrest of the passenger was outside the norm for this
22 type of situation.

23 9. Pursuant to OAR 259-008-0310(10)(c)(B), there were mitigating circumstances
24 identified in Respondent's case.

- 25 a. The Police Policy Committee found it mitigating that the Deschutes County
26 District Attorney determined the Respondent had not been dishonest in spite

of placing him on the Tier 2 Brady list.

10. The Respondent's conduct and subsequent separation are substantially related to the Respondent's fitness and ability to perform the duties of a certified police officer. The Respondent's behavior directly violated the Criminal Justice Code of Ethics and compromised the public's trust in the public safety profession. The Respondent engaged in a use-of-force event, arrest, and seizure without probable cause or reasonable suspicion, omitted evidence, and failed to write a use-of-force report, adversely reflecting on the public safety profession. The Respondent's conduct has compromised their integrity and renders them ineffective to serve in public safety.

11. After review of the facts and weighing the identified aggravating and mitigating circumstances unique to this case the Department proposes that Respondent's certifications be revoked.

CONCLUSION OF LAW

The Department must revoke a public safety professional's certifications if the public safety professional does not meet the minimum requirement of good moral fitness required pursuant to ORS 181A.410, ORS 181A.640, and OAR 259-008-0010(6). Based on the Respondent's conduct, the Respondent does not meet the minimum moral fitness standards in OAR 259-008-0010(6) and OAR 259-008-0300(3)(a)(A), (B), and (C)(i).

PROPOSED/FINAL ORDER

The Respondent's basic, intermediate, and advanced police Certifications are hereby REVOKED. The Respondent's ineligibility period during which they may not apply for any public safety professional certifications is for three (3) years pursuant to OAR 259-008-0310(10)(d)(A).

NOTICE OF RIGHT TO A HEARING AND ISSUANCE OF DEFAULT FINAL ORDER

You are entitled to a contested case hearing as provided by the Administrative Procedures

1 Act (ORS Chapter 183) and the administrative rules of the Department. If you wish to receive a
2 hearing, you must file your request in writing with the Department no later than 20 (twenty) days
3 from the service date.

4 If this Notice was served to Respondent in person, the service date is the date Respondent
5 received this Notice. If the Notice was serviced through the mail, the service date is the date the
6 Notice was mailed, not the date the Respondent received it.

7 Your request may be submitted by mail to the address below or by email to
8 jennifer.levario@dpsst.oregon.gov and by facsimile at 503-378-4600.

9 **Department of Public Safety Standards and Training**
10 **Jennifer Levario**
11 **4190 Aumsville Hwy, SE**
12 **Salem, Oregon 97317**

13 If a request for a hearing is not received within 20 (twenty) days, your right to a hearing
14 is considered waived unless the failure to request a hearing was beyond the Respondent's
15 reasonable control. For a hearing request that is mailed to be timely, it must be postmarked
16 within 20 days from the date of service of this Notice. If the hearing request is submitted by
17 email or facsimile, it must be received by the Department by 5:00 p.m. PT within 20 days from
18 the date the Notice is mailed. If you do not submit a timely request for a hearing, your right to a
19 hearing shall be considered waived.

20 You have the right to be represented by legal counsel. Legal aid organizations may be
21 able to assist a party with limited financial resources.

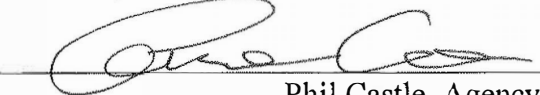
22 When the Department receives a request for a hearing, it will refer the matter to the
23 Office of Administrative Hearings which will designate the time and place for the hearing. You
will receive information on the procedure, right of representation and other rights of parties
relating to the conduct of the hearing before the commencement of the hearing. The hearing will
be conducted, according to the Administrative Procedure Act (ORS Chapter 83), Attorney
General's Rules of the Office of Administrative Hearings (OAR Chapter 137) and Department's
Administrative Rules (Chapter 259 Divisions 05 and 08).

1 If you fail to request a hearing within the time specified above, withdraw a hearing
2 request, notify the Department or the administrative law judge that you will not appear, or fail to
3 appear at a scheduled hearing, is deemed invalid under OAR 137-003-0550(4), this Notice of
4 Proposed Revocation of Certifications and Proposed/Final Order on Default automatically
5 becomes a Final Order by Default effective upon Board affirmation. In the event of a default, the
6 Department designates the file, including any materials you submitted that relate to this matter,
7 as the record for purpose of proving a prima facie case supporting its final order by default.

8 You are entitled to judicial review of any final order issued in the matter of this Notice of
9 Proposed Revocation of Certifications and Proposed/Final Order on Default in accordance with
10 ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in
11 Salem, Oregon, within 60 days from the date of this order if it becomes a final order.

12 **Notice to Active-Duty Servicemembers.** Active-duty service members are entitled to
13 stay these proceedings under the federal Servicemembers Civil Relief Act, 50 U.S.C. App. 501.
14 You may contact the Oregon State Bar toll-free at (800) 452-8260, the Oregon Military
15 Department toll-free at (800) 511-6944, or the United States Armed Forces Legal Assistance
16 Legal Services Locator via the web at: **Armed Forces Legal Assistance (AFLA)** or
17 **legalassistance.law.af.mil** for assistance.

18 IT IS SO ORDERED THIS 28th day of November 2023.

19 
20 Phil Castle, Agency Director

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

STATE OF OREGON

In the Matter of the Proposed **Revocation of the
Basic, Intermediate, and Advanced Police
Certification(s)** Issued to:

CERTIFICATE OF SERVICE

Brock Ameele
Respondent
DPSST No. 51429

I certify that on the 30 day of November 2023, I served the foregoing, *Notice of Proposed Revocation of Certifications and Proposed/Final Order by Default* on the party hereto by mailing, by regular mail, postage prepaid and certified mail, return receipt requested, true, exact and full copies thereof to:

Brock Ameele

Via Electronic Mail Only

'Darcie Abraham' darcie@thenelllawgroup.com

Via Regular Mail Only

Darcie Abraham
The Thenell Law Group

City of Bend Police Department
555 NE 15th Street
Bend, OR 97701

Department of Public Safety Standards & Training

By: 

Jennifer Levario
Professional Standards Compliance Coordinator

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: January 25, 2024

To: Board on Public Safety Standards and Training

From: Jennifer Levario, Professional Standards Compliance Coordinator

Subject: **Professional Standards Review/Recommendation**
Brock Ameele; DPSST No. 51429

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.

Policy Committee Recommendation

The Police Policy Committee (PPC), in a unanimous vote, recommends that the Board take **ACTION** against Brock Ameele's Certifications.

The committee, in a unanimous vote further recommends Ameele be ineligible to hold public safety certification for 3 years.

Policy Committee Review

The committee considered the following moral fitness violations and factors in making their decision.

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 his 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 real 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.

Information Used in Determination

- Transcript of the verbal mitigation.
- PPC Staff Report, with exhibits.

Action Item

Review the committee recommendation and approve or return the recommendation to the policy committee.

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: November 16, 2023

To: Police Policy Committee

From: Jennifer Levario
Professional Standards Compliance Coordinator

Subject: **Staff Report – Separation**
Brock Ameele/DPSST no. 51429

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.

The Department determined that the conduct being presented to the committee violates the Board’s moral fitness standards. Through the case review process, the committee will affirm, modify, or negate the below identified elements of moral fitness violations and make a determination on the disposition of this case:

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 in order to detain them without lawful authority.

Misconduct: Ameele was dishonest about a force response event, destroyed inculpatory evidence, harmed a person by using unreasonable force, and created a seizure and arrest that lacked probable cause or reasonable suspicion.

Material Events and Conduct

On April 9, 2022, at approximately 2109 hours, CBPD Officer James Poole made a traffic stop in which one of the passengers, a male, walked away. Officer Poole did not have a reason to stop or detain him and told the passenger he was free to go. CBPD Officer Brock Ameele, hearing of the stop and passenger walk-away, turned his patrol vehicle’s alley lights on and parked at Doanna Way and Sally Lane to contact the passenger. Ameele saw the passenger and began following him on foot on the west sidewalk of Sally Lane, asking him investigative questions and shining his flashlight on him.

Ameele transmitted on the radio that the male was “refusing to ID himself”. Sergeant Rob Emerson transmitted that a similar circumstance occurred several months prior with the same vehicle and the male that left the vehicle was “Anthony.” The dispatcher said that the registered owner of the vehicle “Anthony ****” was not wanted. Body Worn Camera footage did not show Ameele asking the passenger to identify himself.

At about the same time, the passenger left the sidewalk and walked south on Sally Lane. There was a parked car blocking the sidewalk. Ameele followed asking the passenger about a warrant. The passenger said, “Have a good night,” and walked away from Ameele.

The east sidewalk on SW Brookwood ended as the passenger walked southbound. The passenger repositioned, walking south in the east bicycle lane. The only available sidewalk was not on the west side of Brookwood Boulevard. There was passing cross traffic in both directions on Brookwood Boulevard.

Ameele, seeing that the passenger was now in the bicycle lane, radioed CBPD Officer Ben Schlechter that he can stop the passenger now for *Improper Position Upon a Highway*. By this time (ORS 814.070), Ameele had followed the passenger for about 550 feet. Ameele told the passenger multiple times that he needed to stop. The passenger did not comply.

Officer Schlechter activated his overhead lights and pulled across the roadway in front of the passenger. The passenger then walked west across Brookwood Boulevard.

Ameele took the passenger to the ground using a control technique. Ameele told the passenger “You’re being detained for the violation, improper position upon a highway.” Ameele did not tell the passenger he was being arrested for any crime. The passenger was handcuffed and walked to a patrol car.

CBPD Sergeant Rob Emerson arrived as the on-scene supervisor. Ameele told Emerson he would arrest the passenger for *Interfering with a Peace Officer (IPO)*. Emerson told Ameele there was no cause to arrest him for IPO. Ameele told Emerson the event was a force response. Ameele said he had to tackle the passenger.

Emerson spoke with the passenger who said he did not stop because the officer did not have the right to stop him. He said he was tackled from behind. He told Emerson his left elbow hurt. Emerson asked Ameele to take pictures of the passenger once they were at the jail when his clothing would be removed to document any injuries.

The passenger told Ameele that he had swallowed drugs. Ameele contacted Bend Fire to respond and evaluate him for this but said nothing about the complaint of his left elbow hurting “bad” as reported to Emerson. There was no documentation in Ameele’s report that he asked the passenger about having injuries, or asked Bend Fire or the medical center to assess or treat the passenger’s injuries related to the force event, or documentation of the passenger’s injuries, or lack of injuries, with pictures. Ameele confirmed that he never asked the passenger if he was physically injured. As the passenger was being transported to the medical center, Ameele received confirmation of who the passenger was for the first time, and it was not “Anthony ****”.

Ameele charged the passenger with IPO in spite of the supervisor’s direction. Ameele told investigators that he did not think it was insubordination to do so. On April 11, 2022, Emerson received an email from the District Attorney’s Office saying they would not charge the crime of IPO as a person could not interfere with their own investigation and the lawful order language

no longer applied. Emerson was surprised to get the email because he believed his conversation with Ameele was “direct and frank” about why the IPO statute did not apply. Ameele admitted to investigators that he did understand at the time of the arrest of the passenger that lawful order had been removed from the interfering with a peace officer statute.

CBPD Sergeant Thomas Russell was not available to respond to the incident but was involved afterward. He asked Ameele to do a force response form. Ameele told Russell that he looked at this Body Worn Camera (BWC) and he did not use force during this incident. Ameele said he “guided the suspect to the ground.” Russell sent out a text message later in the shift to his team about getting reports done. Ameele texted; “*No force response report submitted.” Russell reviewed Ameele’s report and found that it had already been approved. Russell also noticed that Ameele had charged IPO and he knew that Emerson had told him not to charge that offense.

Russell said that Ameele told him the passenger motioned a “finger gun” or pointed at Officer Schlechter during the incident. Ameele told Russell that was part of the reason he tackled the passenger. Russell, after reviewing the BWC, did not see a finger gun movement. However, he would have expected that information to go into a police report. Ameele told Russell it looked like the passenger was pointing a weapon at Schlechter. Russell said, “That’s a major thing that should definitely be in a police report.” Ameele was asked by investigators if he saw the passenger point a “finger gun” at Schlechter. Ameele said, “That could have been how I described it to him....”.

Ameele told investigators that he did not have reasonable suspicion or probable cause for a crime while he was with the passenger on Sally Lane. Ameele also told investigators he did not believe he committed a seizure while following him as he entered Sally Lane. Ameele told investigators he saw using white light as an officer safety measure and not part of a stop. Ameele went on to say that the passenger’s actions of walking away and saying Ameele could not stop him showed that he thought he was free to leave but he did not tell the passenger he was free to leave. Ameele said he did not see a difference if there was a general conversation or investigative inquiries made by the officer to a person regarding circumstances that could create a seizure. Ameele said that the passenger had committed the violation of improper position on Sally Lane, and he could have stopped him.

Ameele said he thought the passenger had a warrant and that he may use a weapon to try to get away. He said before he made physical contact with the passenger, he had reasonable suspicion of a warrant although he also clarified he had no specific knowledge of a warrant at that time. He told investigators he did not consider disengaging with the passenger because “We’re not going to stop doing our jobs because we’re afraid of a potential.” He did agree, however, that there was little specific information known about the passenger’s identity, warrants, and weapons.

Ameele told investigators that his actions when taking the passenger to the ground, removing his hands from his pocket, and handcuffing him were not a force response. Ameele said the difference between force and control is that control is not an action that is likely to cause physical injury. Ameele was asked by investigators “When you made physical contact or physical control with the passenger for the first time, was he an imminent threat to you or others?” Ameele said, “I believed that he had a weapon and that until I could confirm that, um, he did not, that he posed his actions, led me to believe that he had no intention of, of being, um, stopped, um or complying otherwise. And I believe that he posed a threat until I could confirm that he didn’t”.

Ameele was shown the BWC where he was interacting with the passenger at the medical clinic. The passenger said, “You guys tackled me” and Ameele said, “Yeah, I did.”

Emerson searched the evidence and report writing system and found that Ameele had not entered any pictures into evidence. A forensic analysis of Ameele’s work cell phone uncovered an unusual event that occurred on May 24, 2022. The analyst identified an unusually large amount of data items had been deleted on that date between 1256:13 hours and 1309:13 hours. In total, 963 items were deleted or removed in that time period. The messaging application was set to keep messages forever, removal of any communication within the messaging application would have been intentionally removed by the user.

Ameele was asked by investigators if he was aware of the Oregon public records retention requirements for violations and criminal cases. Ameele said, “I don’t think so.”

Ameele was asked, “So what I’m getting at is the incident with the passenger falls under public records and falls under retention requirements. Would you agree with that?” Ameele said, “Yes.”

Ameele was given written notification of the internal investigation on May 19, 2022. He was notified that his interview would be on May 26, 2022, and provided specific allegation information related to the passenger stop event. Two days before the interview, the unusual deletion event occurred on Ameele’s BPD iPhone. Ameele had images of the passenger on his phone that were not deleted. Investigators asked him why he had them and he said because they were specifically of the passenger and might be relevant. Investigators said, “But you did, you got rid of text messages, between you?” Ameele said, “Right, things that I, I didn’t think were, were relevant a lot.”

Ameele was asked, “Did you intentionally destroy evidence related to this internal investigation?” Ameele said, “No. No, I did not.”

Investigators continued to question Ameele about policy related to concealing defective work or destroying it without permission. Ameele did not think that he concealed work but did admit that he destroyed work without permission.

Upon conclusion of the investigation, the BPD Chief of Police sustained ten (10) policy violations against Ameele including Search and Seizure, Law Enforcement Authority, Force Response, Standards of Conduct (3X), Investigation and Prosecution, Body Worn Camera (BWC) Program, and Property and Evidence. Ameele received imposed discipline of an economic sanction in the form of termination of employment from the BPD on October 12, 2022.

On October 13, 2022, the Bend Police Association (BPA) as a representative of Officer Ameele requested to skip grievance steps 1 through 3 and instead requested step 4 grievance to the imposed discipline. The outcome of this grievance found there was no change to the imposed discipline.

On December 9, 2022, the BPA reported they would not move forward with any additional grievance requests.

On December 26, 2022, Deschutes County District Attorney Hummel, in a letter to Ameele's attorney, outlined his Brady investigation findings after receiving information about Ameele's termination from the BPD. Hummel determined Ameele did not meet the standard for a Tier 1 Brady list but was placing him on a Tier 2 Brady list. The difference between the two is that Tier 2 only requires the District Attorney to disclose past untruthfulness but does not exclude them from testifying as does Tier 1.

District Attorney (DA) Hummel came to this decision after a due process hearing with Ameele and his counsel following an initial review of the BPD investigation. Although it is unclear what the standard of proof¹ is for Brady determinations and the process can vary from county to county, DA Hummel found that Ameele was not dishonest about his failure to submit a use of force report, or failure to place photographs into evidence, or the reason for the deletion of text messages. DA Hummel did state, however, that due process requires defendants to be informed of the BPD's findings, namely that Ameele was untruthful. Therefore, DA Hummel found that including Ameele in the Tier 2 Brady listing was appropriate.

DA Hummel concluded that his Brady review does not reflect his opinion of the City of Bend's decision to terminate Ameele. DA Hummel agreed with the BPD determination that Ameele's actions on April 9, 2022, constituted a seizure that lacked reasonable suspicion and that the subsequent arrest lacked probable cause. Furthermore, DA Hummel agreed with the BPD that unreasonable force was used to effectuate the arrest.

Relevant Circumstances for Consideration

Ameele obtained Basic, Intermediate, and Advanced Police certifications.

Ameele has been employed in public safety for 12 years.

FORCE EVENTS:

Between 2017 and 2022, Ameele was directly involved in 17 force events. Eight of those events were similar in nature to this event and involved takedown as a force response. The reports showed that Ameele knew that he needed to report force to supervisors, thoroughly document his actions in a report, and inquire about and document injuries.

Exhibits Reference

DPSST Employee Profile Report	A1
F4s Personnel Action Separation Form	A2
Case Report	A3
Internal Investigation Report	A4
Captain Review of Investigation	A5
Chief's Findings	A6

Disposition Letter to Ameele	A7
Proposed Discipline Letter	A8
Imposed Discipline Letter	A9
Text Messages	A10
Transcripts of Interviews	A11
Economic Sanction	A12
ORS 814.070	A13
Audio and Video Files	A14
Letter from District Attorney regarding Brady Investigation	A15
Mitigation	A16

¹The DPSST utilizes “substantial evidence” or the “preponderance of evidence” as the standard of proof in its determination of moral fitness violations as authorized in Oregon Administrative Rule.