

Police Policy Committee Minutes

August 22, 2024

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 22, 2024, at the Oregon Public Safety Academy in Salem, Oregon. Chair, Scotty Nowning called the meeting to order at 10:00 a.m.

Committee Members:

Scotty Nowning, Chair, Non-Management Law Enforcement
Casey Coddling, Vice Chair, Superintendent, Oregon State Police
Shanon Anderson, Oregon Association of Chiefs of Police
DaNeshia Barret, Non-Management Law Enforcement (Teams)
Anel Ceric, Non-Management Law Enforcement (Teams)
Mark Daniel, Oregon Association of Chiefs of Police
Kevin Dresser, Non-Management Law Enforcement(Teams)
Alex Gardner, Oregon State Police Command Staff Representative
Patricia Lofgren, Public Member
Terry Rowan, Oregon State Sheriff's Association (Teams)
Megan Townsend, Non-Management Law Enforcement (Teams)
Rob Wood, Public Member

Committee Members Absent:

Angela Brandenburg, Oregon State Sheriff's Association
Christopher Gjovik, Portland Police Bureau (Designee for Chief Bob Day)
Michelle Duncan, Oregon State Sheriff's Association
Doug Olsen, SAC, Federal Bureau of Investigation

Guests:

Evan Wallace
Rachel Bonine
Tyler Whitely

DPSST Staff:

Phil Castle, Director
Kathy McAlpine, Professional Standards Division Director
Kathy Fink, Standards and Certification Program Manager
Melissa Lang-Bacho, Professional Standards Compliance Coordinator
Jennifer Levario Professional Standards Compliance Coordinator
Cindy Park, Professional Standards Compliance Coordinator
Jennifer Howald, Administrative Rules Coordinator
Sam Tenney, Public Information Officer
Isabel Funk, Statesman Journal
Erica Riddell, Criminal Justice Support Specialist
Juan Lopez-Hernandez, Executive Support Specialist
Shelby Wright, Executive Assistant



1. Introductions

Introductions of members, guests and staff.

2. Approve May 16, 2024 Meeting Minutes

A consensus was reached to approve the May 16, 2024, meeting minutes as written.

3. Administrative Closure Consent Agenda

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

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

a) Baten, Christopher (60421) Police

On September 30, 2022, Christopher Baten resigned from the Portland Police Bureau (PPB) while under investigation for an officer-involved shooting that resulted in the arrest of a wanted suspect that occurred on August 16, 2022. Baten is currently employed with the Department of Justice.

An overview of the incident was provided to the Portland Police Bureau's Internal Affairs, the Portland City Auditor's Independent Police Review, and the City of Portland Attorney's Office. An analysis of the incident was provided by the Portland Police Bureau Training Division and a follow-up report of the case was provided to the Multnomah County District Attorney.

All reviews concurred that the officers, including Baten, acted "within policy" in every aspect of the incident. After a review of the existing evidence, the Multnomah County District Attorney determined that the incident would not be reviewed by the District Attorney's office any further and no evidence warranted a grand jury review of the officers' use of force.

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

b) Hoover, Justin (64161) Police

On September 7, 2023, Justin Hoover separated from his probationary position with the Oregon City Police Department (OCPD) following an investigation into allegations of misconduct. Hoover's separation was preceded by complaints about his ability to conduct himself professionally. The complaints were investigated by the OCPD and resulted in a sustained policy violation for Non-Discrimination and Anti-Harassment. The policy violation was for a dirty joke Hoover told when he and his Field Training Officer (FTO) were traveling in a vehicle together. A citizen vehicle was following very closely behind them, and when the FTO noted the citizen following them closely, Hoover stated, "If you're going to ride my ass, at least pull my hair." The FTO said Hoover's comment made them feel "weird" and that there was a "vibe" his comment was directed at them. Hoover indicated he was trying to be funny and stated his comment was "wildly inappropriate." The OCPD also investigated additional instances of misconduct that did not rise to the level of policy violations and allegations that were not sustained.

The Department determined that Hoover's conduct that led to his separation from the OCPD did not violate the Board's moral fitness standards. Hoover's comment made to his FTO was inappropriate but did not rise to the level of a moral fitness violation because no harm was threatened or caused by his comment.

c) May, William (45613) Police

On June 12, 2020, William May resigned from the Talent Police Department (TPD) while on extended paid administrative leave and later sick leave. May resigned from employment with TPD with a severance/voluntary separation agreement while under investigation for several alleged policy violations. The TPD investigation into misconduct was suspended with May's resignation. The TPD investigator noted that additional interviews and investigation would be required to come to any conclusion on the listed incidents. May did not provide his version of the events.

The Department determined May's conduct may violate the Board's moral fitness standards as defined in the Oregon Administrative Rule. However, a full investigation into the allegations, including May's version of events, was not conducted. Additionally, a nexus linking May's conduct and an inability to continue to meet the Board's minimum standards of a certifiable law enforcement officer could not be found. Therefore, the Department could not provide substantial evidence to support a moral fitness violation.

d) Walker, Keenan (59762) Police

Keenan Walker was hired by the Reedsport Police Department (RPD) on March 1, 2023. On February 15, 2024, Keenan Walker was terminated during his probationary period from the RPD for failing to follow policy and directives.

Based on the information provided, the Department has determined Walker's separation is largely a performance issue and does not violate the Board's moral fitness standards defined in Oregon Administrative Rule.

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

4. Bonine, Rachel (56768) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On May 3, 2022, Rachel Bonine resigned from the Lake County Sheriff's Office (LCSO) while under an internal review for multiple incomplete misconduct investigations. Bonine allegedly neglected to act upon eleven citations and four arrests that were found in her desk after her resignation. Due to the nature of the misconduct, the LCSO requested that the Oregon State Police (OSP) conduct a criminal investigation.

On August 12, 2022, after her resignation from the LCSO, Rachel Bonine received a criminal citation for Assault in the Fourth Degree, Recklessly Endangering Another Person, and Maintaining a Dangerous Dog (all Class A Misdemeanors). Bonine entered a plea of Not Guilty on September 12, 2022, to all three charges.

On March 9, 2023, the court removed all three charges from the charging instrument and Bonine entered into a civil compromise, adding the violation of Maintaining a Dog That is a Public Nuisance, a Class B Violation. Bonine entered a plea of Guilty to this violation and was convicted. Bonine agreed to a stipulation that any future act by the dog as a potentially dangerous dog shall mean the dog will be forfeited to the Lake County Sheriff for placement or disposal. Additionally, Bonine was ordered to pay \$1,300.00 to the Lakeview Animal Hospital related to impound fees.

Rachel Bonine provided verbal mitigation for committee consideration.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			
<p>The Police Policy Committee, in a unanimous vote, recommended all three moral fitness violations brought by the Department be negated citing the impact of the mitigation, a finding that the conduct was primarily performance-based, and a lack of evidence to sustain the violations.</p> <p>The Department recommended the following moral fitness violations:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: The Department did not identify elements of dishonesty. • Misuse of Authority: The Department did not identify elements of misuse of authority. • Misconduct: Bonine harmed the efficient operations of the LCSO by neglecting to act upon eleven citations and four arrests promptly, or at all, resulting in charges being dropped and delaying the prosecutions of others. Bonine violated criminal law by being convicted of <i>Maintaining a Dog That is a Public Nuisance</i> and bringing harm to another who encountered the dog. <p>The Police Policy Committee found the following aggravating and mitigating factors:</p> <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • The committee did not identify any aggravating factors. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • The Violation was not a conviction of criminal law • Bringing dogs into an establishment such as she did was not reckless or dangerous conduct. • Bonine took responsibility for her actions • The conduct was that of performance, not moral fitness. • There was not sufficient evidence to sustain a misconduct violation. • The OSP did a comprehensive investigation and the LCSO appropriately handled the information related to the reports appropriately. • The profession should take care of its officers who encounter stressful situations in the community every day. 			
A consensus was reached to confirm the identified aggravating and mitigating factors.			
Rob Wood moved that the Police Policy Committee negate the moral fitness violations as presented.	Casey Codding	12 ayes; 0 nays	Motion Passed Unanimously

5. Mayberry, Steven (22901) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On October 31, 2019, Steven Mayberry retired from the Salem Police Department (SPD) while under investigation. After his retirement, the SPD continued the investigation and sustained findings that Mayberry used the city-owned computers and confidential law enforcement databases to conduct inquiries for his personal gain and exhibited stalking-like behavior towards his ex-wife.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Scotty Nowning recused himself due to a conflict of interest.			
A consensus was reached to adopt the record.			
<p>The Police Policy Committee recommended, by an 11 to 1 (recusal) vote, to negate the Department’s moral fitness violation for Dishonesty citing insufficient evidence of intent.</p> <p>The Department recommended the following moral fitness violations:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: Mayberry intentionally falsified a complaint against the ex-wife (complainant) to her employer. • Misuse of Authority: Mayberry intentionally used his position, while on duty as a public safety professional, to access confidential law enforcement databases for personal gain, to look up persons not associated with any business purpose to harm the complainant and her family and friends. • Misconduct: Mayberry’s use of confidential law enforcement databases to access information related to the complainant, and not for legitimate business amounted to “stalking”, harming the complainant and her friends and family. Mayberry’s filing of a false claim against the complainant to her employer caused harm to the complainant and her family. <p>The Police Policy Committee found the following aggravating and mitigating factors:</p> <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • Mayberry engaged in numerous LEADS confidentiality violations. It appears he thought he would never get caught. • Mayberry may have been investigated for criminal domestic violence had he remained employed. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • The committee did not identify any mitigating factors 			
A consensus was reached to confirm the identified aggravating and mitigating factors.			
Rob Wood moved that the Police Policy Committee modify the moral fitness violations as discussed.	Kevin Dresser	11 ayes; 0 nays; 1 recused (Nowning)	Motion Passed Unanimously

Kevin Dresser violations of the Board’s moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Mayberry’s certifications.	Alex Gardner	11 ayes; 0 nays; 1 recused (Nowning)	Motion Passed Unanimously
Rob Wood moved, after considering the totality of the case, that Mayberry be ineligible to hold public safety certification for 10 years.	Mark Daniel	11 ayes; 0 nays; 1 recused (Nowning)	Motion Passed Unanimously

6. Medeiros, Nathaniel (58231) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

The Department received a notice that Nathaniel Medeiros received a criminal citation on January 1, 2022, and was charged with three (3) counts of Taking, Angling, Hunting, or Trapping in Violation of Wildlife Law or Rule, all Class A Misdemeanors. On February 15, 2022, Medeiros pleaded Not Guilty to all charges. On January 9, 2023, after completing 20 hours of community service as part of the plea agreement, Medeiros entered an amended plea of No Contest to count two (2) and was convicted of Taking, Angling, Hunting, or Trapping in Violation of Wildlife Law or Rule. Counts one (1) and three (3) were dismissed. Medeiros’ fishing license was suspended for three (3) years for angling only.

On January 31, 2022, Medeiros was terminated from the Independence Police Department (IPD) after being untruthful when interviewed by the Oregon State Police (OSP) during the fishing violation and this information was forwarded to the Polk County District Attorney for review of potential Brady issues.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			
The Police Policy Committee found the following moral fitness violations and factors: <i>Moral Fitness Violations:</i>			
<ul style="list-style-type: none"> • Dishonesty: Medeiros admitted he was intentionally dishonest on multiple occasions during the OSP investigation into his criminal Angling citation. • Misuse of Authority: The committee did not identify elements of misuse of authority. • Misconduct: Medeiros engaged in misconduct by violating criminal law and harmed the efficient operations of the IPD by violating the Criminal Justice Code of Ethics and harming the reputation of the agency by violating criminal law and lying to OSP investigators. 			

Aggravating Factors:

- When Medeiros was approached by OSP he made up a story about the Fish and Game cell phone application not working and how his transaction did not go through, which was a lie.
- When the OSP trooper and he met up in a place where they had cell phone coverage, the trooper saw that Medeiros actually made the application transaction while on the road to meet up with the trooper and not beforehand, which was a lie.
- The OSP trooper gave Medeiros several opportunities to change his statements about what happened, but Medeiros continued to lie.
- When Medeiros admitted he had fished in the area before, he was caught in a lie.
- Medeiros continued to modify his story to accommodate being caught in lie after lie.
- Medeiros went to great lengths to present that he entered the tag earlier on the application and stated it must not have gone through when it was clearly identified as having happened on the road to meet up with the trooper.
- While Medeiros was telling lies to the trooper, he identified himself as a police officer which could have been seen as a ploy to influence the OSP trooper’s decision-making.

Mitigating Factors:

- The fact that Medeiros identified himself as a police officer to the trooper could be seen as an act of courtesy for safety reasons.

A consensus was reached to confirm the identified aggravating and mitigating factors.

Alex Gardner moved that the Police Policy Committee affirm the moral fitness violations as presented.	Scotty Nowning	12 ayes; 0 nays	Motion Passed Unanimously
Shanon Anderson moved, after considering the identified violations of the Board’s moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Medeiros’s certification.	Mark Daniel	12 ayes; 0 nays	Motion Passed Unanimously
Mark Daniel moved, after considering the totality of the case, that Medeiros be ineligible to hold public safety certification for 10 years.	Casey Codding	12 ayes; 0 nays	Motion Passed Unanimously

7. Needham, Brian (33137) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

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

On July 15, 2020, the Department opened a professional standards case under Oregon Administrative Rule (OAR) 259-008-0310 to determine whether the conduct occurring concurrent to the separation violates the moral fitness standards established by the Board.

Needham was investigated by the HCDA, where inconsistencies between evidence and testimony, violations of individuals' rights, and inaccuracies in written reports were investigated. This report was provided to HCSO Sheriff Dan Jenkins for review.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			
<p>The Police Policy Committee, in a unanimous vote, recommends that all three moral fitness violations be negated due to a lack of clear and substantial evidence supporting the violations.</p> <p>The Department presented the following moral fitness violations:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: Needham intentionally misrepresented the truth in his reporting of events that occurred during arrests and was untruthful in his testimony in court in several cases reviewed by the HCDA as part of a Brady Investigation • Misuse of Authority: Needham used coercive tactics with the intent to convince a suspect to consent to a search by utilizing his authority to leverage several other law enforcement officers to pressure the suspect into consenting and to obtain an advantage through this coercion for himself and his investigation. • Misconduct: Needham undermined the integrity of his position and the law enforcement profession by exhibiting a pattern of dishonest and coercive conduct during investigations. This conduct compromised his ability to be subpoenaed or testify as a law enforcement witness, thus compromising his certification standards and harming the efficient operations of the HCSO and the Harney County Courts. <p>Needham's conduct threatened to harm two individuals by causing loss or damage to their constitutional rights.</p> <p>The Police Policy Committee identified the following aggravating and mitigating factors:</p> <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • The committee did not identify any aggravating factors. <p><i>Mitigating Factors:</i></p>			

<ul style="list-style-type: none"> • The bodycam video was difficult to hear due to wind making it hard to sustain the moral fitness violations. • It is hard to hear what is happening in the video because multiple officers are at the scene, as well as the wind. • The tone of the conversations appeared to be investigative. • When the subject said “no” to Needham, what was the subject saying “no” to? It is unclear if it was to consent to search or something else. • It is difficult to discern what is performance-based and what is lying on the part of Needham. • Small-town policing takes on certain nuances. • What would be Needham’s benefit in lying? • Perhaps the inconsistencies are an error in memory on Needham’s part and not lying. At worst, perhaps it is embellishment. • It isn't easy to complete a thorough investigation after time has lapsed. • It is clearly clumsy police work but does not necessarily mean coercion took place. This is a town where everyone knows everyone. • In a narcotics investigation, the conversations are different due to different levels of cooperation obtained. 			
A consensus was reached to confirm the identified aggravating and mitigating factors.			
Rob Wood moved that the Police Policy Committee negate the moral fitness violations as presented.	Kevin Dresser	12 ayes; 0 nays	Motion Passed Unanimously

8. Sansom, Quinn (62175) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On January 17, 2023, Quinn Sansom resigned from the Corvallis Police Department (CPD) during his probationary period, two days prior to CPD recommending termination. An internal investigation was generated upon review of a written report by Sansom which indicated potential misconduct. The investigation found that Sansom showed a continual pattern of poor performance after receiving copious training that exposed the CPD to liability and negatively impacted the public’s perception of the organization's ability to effectively investigate criminal activity.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Casey Coddling moved that the Police Policy Committee modify the staff report as discussed.	Scotty Nowning	12 ayes; 0 nays	Motion Passed Unanimously
The Police Policy Committee, in a unanimous vote, recommends that the moral fitness violations be negated citing that the conduct is performance-related.			
The Department presented the following moral fitness violations:			

<i>Moral Fitness Violations:</i>			
<ul style="list-style-type: none"> • Dishonesty: The Department did not identify elements of dishonesty. • Misuse of Authority: The Department did not identify elements of misuse of authority. • Misconduct: Sansom’s arrest of an individual without probable cause and poor investigative work harmed the arrestee by violating his rights and threatened the efficient operations of the CPD by exposing it to liability, and potentially the District Attorney’s ability to bring Measure 11 charges in the case. 			
The Police Policy Committee identified the following aggravating and mitigating factors.			
<i>Aggravating Factors:</i>			
<ul style="list-style-type: none"> • The committee did not identify any aggravating factors. 			
<i>Mitigating Factors:</i>			
<ul style="list-style-type: none"> • Some committee members could not hear or play two of the videos submitted as evidence with the staff report. • In Sansom’s written mitigation he stated all his evaluations prior to this incident reflected he met agency expectations. • Sansom took responsibility for his mistake as soon as he realized what he had done. • Sansom was a newer officer at the time of the conduct and rectified the situation. 			
A consensus was reached to confirm the identified aggravating and mitigating factors.			
Casey Coddling moved that the Police Policy Committee negate the moral fitness violations as presented.	Shanon Anderson	12 ayes; 0 nays	Motion Passed Unanimously

9. Wallace, Evan (59773) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On February 4, 2022, Evan Wallace resigned from the Tillamook County Sheriff’s Office (TCSO) while under investigation for misconduct related to a game-complaint investigation conducted by the Oregon State Police (OSP). Wallace was reportedly dishonest with the OSP investigators during the initial investigation. Wallace was issued two criminal citations as a result of the investigation; Exceeding Daily Limit of Fish and Fail to Immediately Validate Harvest Card, both are class A misdemeanors. Neither resulted in charges being brought by the Tillamook County District Attorney (TCDA).

Evan Wallace provided verbal mitigation for committee consideration.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			

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

Moral Fitness Violations:

- Dishonesty: Wallace was intentionally dishonest when he misrepresented the truth and attempted to deceive OSP troopers who were investigating a game complaint.
- Misuse of Authority: The Department did not identify elements of misuse of authority.
- Misconduct: Wallace was issued two criminal citations for game violations and his dishonesty during the investigation threatened the efficient operations of the OSP and harmed the reputation of the TCSO and the police profession.

Aggravating Factors:

- Wallace repeatedly lied and only provided partial truth when given more opportunity until he finally provided the whole truth.
- The idea that there may have been a computer application problem with the tag reporting was not mitigating to the conduct.
- The severity of the offense and the willingness of Wallace to lie were aggravating

Mitigating Factors:

- Wallace eventually owned his mistake and showed contrition.
- Wallace’s presence and testimony at the committee attested to his accountability and contrition.

A consensus was reached to confirm the identified aggravating and mitigating factors.

Alex Gardner moved that the Police Policy Committee affirm the moral fitness violations as presented.	Kevin Dresser	12 ayes; 0 nays	Motion Passed Unanimously
Kevin moved, after considering the identified violations of the Board’s moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Wallace’s certification.	DeNeshia Barrett	12 ayes; 0 nays	Motion Passed Unanimously
Alex Gardner moved, after considering the totality of the case, that Wallace be ineligible to hold public safety certification for 5 years.	Shanon Anderson	12 ayes; 0 nays	Motion Passed Unanimously

10. Surmi, Daniel (55998) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On August 20, 2020, Daniel Surmi resigned from the Oregon State Police (OSP) while under investigation into allegations of dishonesty, and performance violations stemming from a personnel complaint filed on July 7, 2020. The investigation of the complaint was provided to the Josephine County District Attorney’s (JCDA) Office which determined Surmi would require a Brady designation.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			
<p>The Police Policy Committee, by a unanimous vote, recommends that all three moral fitness violations be negated citing the conduct was performance-related.</p> <p>The Department found the following moral fitness violations:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: Surmi intentionally misrepresented the truth in his report writing and interactions with dispatch, responding officers, and subjects during vehicle stops. • Misuse of Authority: Surmi intentionally used his position as a public safety professional to obtain the benefit of searching and seizing persons and property without following procedure and manipulated the facts to support his decisions in his reports. • Misconduct: Surmi harmed the efficient operations of the OSP by misrepresenting or omitting facts in his reports such that the JCDA placed him on a Brady list, thus undermining his future credibility and the credibility of the current cases brought before the court. <p>Surmi’s improper procedure related to search and seizure, Miranda rights, and his manipulation of facts during his investigations, harmed the civil rights of others and the integrity of his investigations.</p> <p>The Police Policy Committee identified the following aggravating and mitigating factors.</p> <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • The committee did not identify any aggravating factors. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • What did Surmi have to gain by lying? • You can hear Surmi say on the video, “Let me first advise you of your rights…” and then you cannot hear what happens afterward. This leaves it unclear as to whether Miranda rights were provided or not. • When Surmi stopped the video (which is commonplace when side conversations are taking place amongst officers) he may have simply forgotten to turn it back on. • The conduct depicted in this case appears to be performance-based and not moral fitness related. 			

Rob Wood moved that the Police Policy Committee negate the moral fitness violations as presented.	Shanon Anderson	2 ayes; 0 nays	Motion Passed Unanimously
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11. Topinka, Lewis (46866) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

The Department received a notice from Lewis Topinka that he was cited for Driving Under the Influence of Alcohol (DUII) and Fail to Obey Traffic Control Device on February 10, 2022. Topinka entered a plea of no contest, the Fail to Obey Traffic Control Device was dropped and the DUII case was diverted pending the completion of the diversion conditions. On July 14, 2023, the DUII was dismissed.

On October 31, 2022, Topinka was terminated from the Oregon State Police (OSP) after a complaint was filed alleging Topinka violated OSP policies regarding Truthfulness and Code of Conduct related to his DUII arrest.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			
The Police Policy Committee found the following moral fitness violations and factors:			
<i>Moral Fitness Violations:</i>			
<ul style="list-style-type: none"> • Dishonesty: Topinka was intentionally deceptive and misleading during his <i>DUII</i> arrest and personnel investigation • Misuse of Authority: The Department did not identify elements of misuse of authority. • Misconduct: Topinka’s driving while over the legal limit of alcohol, threatened harm to the passengers in his vehicle, pedestrians, and other drivers. <p>Topinka left his vehicle during his DUII arrest, resisted, and disrupted the BPD <i>DUII</i> arrest procedures, and was placed in a patrol car to de-escalate his disruptive behavior at the BPD, resulting in multiple additional calls for officer backup. All of this conduct harmed the efficient operations of the BPD and brought harm to the reputation of the OSP and the police profession.</p>			
<i>Aggravating Factors:</i>			
<ul style="list-style-type: none"> • The fact that Topinka was in a downtown area, driving under the influence, and ran a red light that had three pedestrians at the entrance to the crosswalk was egregious. • Topinka was dishonest about the amount of alcohol he had to drink. • Topinka got out of his vehicle during the traffic stop which he knew was not a good idea. • Topinka was disrespectful to the BPD which he also knew was not a good idea. 			

- Topinka manipulated the DUII process in a way only a police officer could; he “played the game” by delaying the process, chewing gum, coughing, etc.
 - Topinka was a danger to the passengers in his vehicle.
 - Topinka’s disruptive behavior caused multiple officers to respond, including a supervisor.
 - Topinka’s incessant pounding on the jail door was disruptive and he knew it was.
 - Topinka’s only having a .14% BAC suggests he had the mental capacity to know what he was doing.
 - When Topinka was interviewed by his agency and sober, he took no responsibility for his actions.
 - Topinka was critical of the BPD during his internal interview which was unbecoming of a police officer.
- Mitigating Factors:*
- It is not an expectation that a “drunk” will behave well.
 - Even if Topinka was limitedly impaired, he is not expected to make the best decisions.
 - Perhaps Topinka is not a heavy drinker so the .14% BAC would have a greater impact on his mental capacity than a heavy drinker.

A consensus was reached to confirm the identified aggravating and mitigating factors.

Shanon Anderson moved that the Police Policy Committee affirm the moral fitness violations as presented.	Patricia Lofgren	12 ayes; 0 nays	Motion Passed Unanimously
Kevin Dresser moved, after considering the identified violations of the Board’s moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that Board action should be taken against Topinka’s certification.	Scotty Nowning	12 ayes; 0 nays	Motion Passed Unanimously
Rob Wood moved, after considering the totality of the case, that Topinka be ineligible to hold public safety certification for 10 years.	DeNeshia Barrett	11 ayes; 1 nays	Motion Passed Unanimously

12. Whitely, Tyler (52170) Certification Review: {Police}

Presented by Jennifer Levario, Professional Standards Compliance Coordinator

Reason for Discretionary Review

On January 3, 2023, Tyler Whitely resigned from the Washington County Sheriff’s Office (WCSO) while under investigation for WCSO policy violations after a complaint was filed alleging Whitely was under the influence of intoxicants while on duty.

Tyler Whitely provided verbal mitigation for committee consideration.

<i>Police Policy Committee Discussion/Consensus/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
A consensus was reached to adopt the record.			
<p>The Police Policy Committee (PPC), in a unanimous vote, recommends that the word “potentially” be added as a modification to the second sentence under the moral fitness violation for misconduct, after “Whitely’s conduct...”.</p> <p>The Police Policy Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: The Department did not identify elements of dishonesty. • Misuse of Authority: The Department did not identify elements of misuse of authority. • Misconduct: Whitely (<i>potentially</i>) harmed the efficient operations of the WCSO by reporting to duty while under the influence of alcohol in violation of Oregon Administrative Rule (OAR) 265-010-0030. • Whitely’s conduct threatened to harm others when he provided a .058% Blood Alcohol Content (BAC) sample while on duty, which is over two times the definition of impairment on duty as written in the Oregon Administrative Rule <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • Whitely’s being under the influence of intoxicants while on duty (even light duty) could interfere with his interactions with the public. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • Alcoholism is a disease, and certain behaviors are associated with it. Whitely decided to seek the care of a professional to address this issue. • Whitely was not armed or subject to deployment at the time of the occurrence. • There were no signs of impairment other than the odor of alcohol and the BAC reading. • The totality of the circumstances; not feeling or showing signs of impairment, exhibiting appropriate responses. • He sought counseling for the issue on his own. • The checks and balances at work. • A .058% BAC would not be a crime if he were driving. • It is not clear what the risk to the public was. 			
A consensus was reached to confirm the identified aggravating and mitigating factors.			

Rob Wood moved that the Police Policy Committee modify the moral fitness violations as discussed.	Casey Codding	12 ayes; 0 nays	Motion Passed Unanimously
Alex Gardner moved, after considering the identified violations of the Board's moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that no Board action should be taken against Whitely's certifications.	Rob Wood	12 ayes; 0 nays	Motion Passed Unanimously

13. Agency Updates

Presented by Phil Castle, Director

- DPSST campus is finally getting back to normal now that all the 60-person courses have been completed. We are preparing for the future, we know that there will be more 60-person courses to come, but we believe that we are better prepared now and know what we are up against the next time that we need to meet the challenge.
- DPSST is working on the class schedules for the upcoming 2025 training year. We are going to try a new process of overscheduling courses so that we can cancel courses throughout the year if they are not needed instead of adding courses when the need arises.
- With the new class scheduling model, DPSST will be more transparent with agencies about when classes will be available so planning can be done in advance of academy attendance. In addition, DPSST is working on improving the number of Corrections and Parole and Probation courses offered throughout the year so more officers have the opportunity to attend training in a timely manner.
- DPSST, like all State agencies, is diligently working with the Governor's Office on the next round of Policy Option Packets. DPSST is requesting the Legislature to look at three large requests that include a Learning Management System, some additional staffing for our regional training team, and some additional buildings on campus to approve.
- DPSST and the Director recognized Committee Member Alex Gardner for his time on the Police Policy Committee, his time on the committee has come to an end and we are grateful for all that he has brought to the committee and thankful for all of the hard work.

14. Division Updates

Presented by Kathy McAlpine, Professional Standards Division Director

- There will be more cases as we move forward that will have body worn camera footage that will be used as evidence for the professional standards cases. DPSST recognizes that additional time that this puts on committee members to review the material prior to the policy committee meetings so we will be cognizant of the

workload and try and allow for more time for committee members to review the material if a lot of video evidence is being presented.

- As the director mentioned, we will be asking for additional staff positions in our Policy Option Packets that are sent to legislature this year. One of those new positions will be another Professional Standards Compliance Coordinator position, so there may be even more cases coming forward to the committees in the future when our staffing allows us to start working through more cases on a day-to-day basis.

15. Section Updates

Presented by Kathy Fink, Standards and Certification Program Manager

- DPSST had a virtual training session in June for our constituent agencies throughout Oregon. The training session was very successful, and we were able to cover topics all the way from hiring to maintenance training and then to professional standards. We are looking forward to holding more of these in the future.
- Before the virtual training session, DPSST spent some time updating the F4s Separation Form and the F28 Criminal History Reporting Form. We are hoping that the updates to the forms make it easier for agencies to fill out and supply us with all the information that is needed for our review process.
- Outreach has been a top priority for the Standards and Certification team in the last few months. Members from the team travelled to the Klamath Tribal Police Department and met with individuals at the agency to discuss compliance and professional standards.
- In addition, some members from the team also travelled to the Warm Springs Police Department and met with individuals at the agency to discuss compliance and professional standards as well.

16. Next Police Policy Committee Meeting: November 21, 2024 at 10:00 a.m.

Administrative Notes:

These minutes reflect the order of the discussion/voting items as they appear on the official meeting agenda. The actual order in which they were discussed may vary.

All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at i.