

Fire Policy Committee Minutes November 21, 2013

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting at 9:00 a.m. on November 21, 2013, at the Oregon Public Safety Academy in Salem, Oregon. Chair Joe Seibert called the meeting to order at 9:10 a.m.

Attendees

Committee Members:

Alan Ferschweiler, Oregon State Fire Fighters Council
Erin Janssens, Portland Fire & Rescue – via teleconference
Dave Jones, Oregon Fire District Directors Association
Jeff Jones, Oregon Fire Chiefs Association, Vice Chair
Johnny Mack, Community College Fire Programs
Jamie Paul, Oregon Department of Forestry
Dan Petersen, Oregon Fire Instructors Association – via teleconference
Joe Seibert, Non-Management Firefighter, Chair
Stacy Warner for Mark Wallace, Oregon State Fire Marshal

Committee Members Absent:

Michael Silva, Oregon Fire Marshals Association
Scott Stanton, Oregon Volunteer Firefighters Association

DPSST Staff:

Eriks Gabliks, Director
Julie Olsen-Fink, Fire Certification Supervisor
Tina Diehl, Fire Certification Specialist
Barbara Slinger, Fire Certification Coordinator
Kristen Hibberds, Standards & Compliance Coordinator
Leon Colas, Professional Standards Coordinator
Linsay Hale, Standards/Certification Program Manager
Theresa King, DOC BCC Audit Program Coordinator
Mark Ayers, Fire Program Supervisor

Guests:

John Patterson, Jackson County Fire District No.3 – via teleconference



1. **Minutes from May 22, 2013 meeting**

Dave Jones moved to approve the minutes from the May 22, 2013 Fire Policy Committee meeting. Jamie Paul seconded the motion. The motion carried unanimously.

2. **Revisions to OAR 259-009-0005 & OAR 259-009-0062**

NFPA 1001 Fire Fighter Professional Qualifications – Public Comment Received
Presented by Julie Olsen-Fink

BACKGROUND:

The Fire Certification Program of the Department of Public Safety Standards and Training (DPSST) was authorized by the Fire Policy Committee (FPC) to review the NFPA 1001 Standard for Fire Fighter Professional Qualifications, 2013 Edition. The Task Force met and concluded their work on April 16, 2013. The Task Force unanimously determined, after reviewing the 2013 Edition, it would benefit Oregon Fire Service Professionals to adopt the 2013 standard and remain current with the NFPA standards. The Task Force further recommended the Entry Level Fire Fighter component be removed permanently from the NFPA Fire Fighter task book. It is their intent to encourage the fire service to be compliant with the NFPA standards and not rely upon an outdated Oregon-specific standard that no longer exists for the purpose of certification.

This was approved by the FPC and moved to the Board, then opened for a Public Comment period. During that time one (1) comment was received. *(The public comment is unaltered)*

PUBLIC COMMENT:

From: Michael Valoppi [mailto:mvaloppi@cloverdalefire.com]
Sent: Friday, September 20, 2013 11:14 AM
To: HALE Linsay
Subject: Regarding public comments for OAR 259-009-0005 and 259-009-0062 (Fire Fighter Professional Qualifications.)

Greetings Linsay,

In regards to Deletion of:

Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

As a Fire Training Officer, in a rural community, the deletion of Entry Level Fire Fighter would greatly impact our department and operations. With the decline in volunteerism, and the increase in needed training to bring those interested in volunteering in their community to Fire Fighter I, will reduce our ability to maintain staffing levels needed to provide effective and appropriate personnel responses to our constituents.

Do to the location of our district most of our volunteers do not work within the boundaries of our district, which impacts the time available for training, our volunteers have. In having to increase the amount of training a new volunteer would have to acquire, before having the ability to respond to emergency situations, has the potential negative effect of directly impacting their decision to become a volunteer with our organization.

My voice and that of our Fire Chief, Thad Olsen, in this matter speaks to not deleting the Entry Level Fire Fighter, as a professional qualification, within the language for OAR 259-009-005 and 259-009-0062.

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Blessings...

Michael L. Valoppi
District Captain / Training Officer / EMT
Cloverdale Rural Fire Protection District
541-948-1399 cell

TASK FORCE MEMBERS:

Richard Cearns (Chair)	Black Butte Ranch Rural Fire Protection District
Dave Blakely (Vice Chair)	Jackson County Fire District No. 3
Don Willis	Sunriver Service District Fire Department
Terry Riley	Marion County Fire District No. 1
Jeff Pricher	Scappoose Fire District
Jake Campbell	Redmond Fire and Rescue
Jay Alley	Stayton Fire District

DPSST STAFF:

Eriks Gabliks	Director
Julie Olsen-Fink	Fire Certification Supervisor
Allison Sebern	Fire Certification Coordinator
Barbara Slinger	Fire Certification Support Specialist

RECOMMENDATION:

The NFPA Fire Fighter Task Force recognized issues may arise with the removal of Entry Level from the task book. Therefore, they created a recommendation guide for Entry Level Fire Fighter called "Student Prerequisites for Live Fire Training". This document follows NFPA 1403, Edition 2012 and Oregon OSHA's identified 11 core competencies. If fire service professionals follow the 11 core competencies outlined in the guide they would be able to participate in live fire training evolutions.

The Task Force remains confident in their recommendation that it would benefit the Oregon fire service to adopt the NFPA 1001 Standard for Fire Fighter Professional Qualifications, 2013 Edition.

The following language for OAR 259-009-0005 and OAR 259-009-0062 contains recommended deletions (~~striketrough~~) and additions (**bold and underlined text**). For ease of review, only the recommended new language has been included. (If proposed language is adopted subsequent sections of the current rule will be renumbered as required).

259-009-0005

Definitions

(10) "Department" means the Department of Public Safety Standards and Training.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

~~(12) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period an entry level fire fighter is in a training and indoctrination period under constant supervision by a more senior member of a fire service agency.~~

~~(13)~~**(12)** "Field Training Officer" means an individual who is authorized by a fire service agency of by the Department to sign as verifying completion of tasks required by task books.

~~(14)~~**(13)** "Fire Company" means a group of fire fighters, usually 3 or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

~~(15)~~**(14)** "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(15) "Fire Fighter I" is a term used to describe a person, at the first level of progression, who has demonstrated the knowledge and skills to function as an integral member of a fire-fighting team under direct supervision in hazardous conditions.

(16) "Fire Fighter II" is a term used to describe a person, at the second level of progression, who has demonstrated the skills and depth of knowledge to function under general supervision.

~~(16)~~**(17)** "Fire Ground Leader" means a Fire Service Professional who is qualified to lead emergency scene operations."

~~(17)~~ **(18)** "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2008 Edition, entitled "Fire Fighter Professional Qualifications";

(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(B) Delete section 1.3.1.

NOTE: This references NFPA 1500.

(C) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

~~(D) Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.~~ **For certification as Fire Fighter II, the applicant must be certified at NFPA 1001 Fire Fighter I, as defined by the Department, and meet the job performance requirements defined in Sections 6.1 through 6.5.5 of this Standard.**

(E) Before an applicant can qualify for certification, the applicant must complete either a Task Performance Evaluation or a Department approved Task Book for Fire Fighter I and Fire Fighter II, signed off by the Agency Head or Training Officer.

ACTION ITEM I: Consider public comment and staff recommendation to determine whether to recommend filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as permanent rule.

Alan Ferschweiler moved to recommend filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as permanent rules. Dave Jones seconded the motion. The motion carried unanimously.

3. Revisions to OAR 259-009-0005 and OAR 259-009-0062

NFPA 1035 Fire and Life Safety Educator, Public Information Officer, and Juvenile Firesetter Intervention Specialist Professional Qualifications
Presented by Julie Olsen-Fink

BACKGROUND:

The Fire Certification Program of the Department of Public Safety Standards and Training (DPSST) was authorized by the Fire Policy Committee (FPC) to review the NFPA 1035 Standard for Fire and Life Safety Educator, Public Information Officer, and Juvenile Firesetter Intervention Specialist, 2010 Edition. At the direction of Chair Joe Siebert, public notification was posted for Fire Service Professionals interested in participating.

TASK FORCE MEMBERS:

John Patterson, Chair	Jackson County Fire District 3
Claire McGrew, Vice Chair	Office State Fire Marshal
Chris Paul	Oregon Department of Forestry
Krista Fischer	Office State Fire Marshal
Gert Zoutendijk	Lake Oswego Fire Department
Russ Jones	Oregon State Police
Bill Eddy	Gearhart Volunteer Fire Department

DPSST STAFF:

Julie Olsen-Fink	Fire Certification Supervisor
Allison Sebern	Fire Certification Coordinator
Barbara Slinger	Fire Certification Support Specialist

The Task Force met and concluded their work on June 26, 2013, at the Oregon Public Safety Academy. After reviewing the 2005 and 2010 Editions, the Task Force unanimously determined that it would benefit Oregon Fire Service Professionals to adopt the 2010 standard and remain current with the NFPA standards.

RECOMMENDATION:

The Task Force recognized the standard did not change comparatively in content between the two editions; however, they requested changes be made to the task book to increase accountability for those verifying completion. The Task Force requested a signature page be added (similar to the verification page in the Rescue Technician task book; and that additional lines be added in the task book adjacent to the requisite knowledge and skills sections. The Task Force felt these changes would help ensure that certified individuals verify the task books.

Finally, the Task Force recommended adding the definitions of Fire and Life Safety Educator, Public Information Officer, and Juvenile Firesetter Intervention Specialist to the Oregon Administrative Rules (OAR), mirroring the NFPA definition for each respective area. The Task Force recommends their request be presented to the Board for final approval.

The following language for OAR 259-009-005 and OAR 259-009-0062 contains recommended deletions (~~striketrough~~) and additions (**bold and underlined text**). For ease of review, only the recommended new language has been included. (If proposed language is adopted subsequent sections of the current rule will be renumbered as required).

259-009-0005

Definitions

(14) “Fire and Life Safety Educator I” means a person who has demonstrated the ability to coordinate and deliver existing education programs and information.

(15) “Fire and Life Safety Educator II” means a person who has demonstrated the ability to prepare educational programs and information to meet identified needs.

(16) “Fire and Life Safety Educator III” means a person who has demonstrated the ability to create, administer, and evaluate educational programs and information.

(25) “Juvenile Firesetter Intervention Specialist I” means a person who has demonstrated the ability to conduct an intake/interview with a firesetter and his or her family using prepared forms and guidelines and who, based on program policies and procedures, determines the need for referral for counseling and/or implements educational intervention strategies to mitigate effects of fire setting behavior.

(26) “Juvenile Firesetter Intervention Specialist II” means a person who has demonstrated the ability to manage juvenile firesetting intervention program activities and the activities of Juvenile Firesetter Intervention Specialist I.

(69) “Public Information Officer” means a person who has demonstrated the ability to conduct media interviews and prepare news releases and media advisories.

259-009-0062

Fire Service Personnel Certification

(g) The provisions of the NFPA Standard No. 1035, Edition of 2000, **2010** entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

~~(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon amended, will be adopted with the following changes:~~

~~(i) Change the following definitions:~~

~~(I) 1-4.4 Change the definition of "Assessment" to read, "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."~~

~~(II) 1-4.11 Change the title of "Fire Screener" to "Fire Screening" and the definition to read, "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."~~

~~(III) 1-4.14 Include "insurance" in list of agencies.~~

~~(IV) 1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services."~~

~~(V) 1-4.16 Change "person" to "youth" and change age from 21 to 18.~~

~~(VI) 1-4.17 Add "using state approved prepared forms and guidelines."~~

~~(VII) 1-4.22 Add "...or by authority having jurisdiction."~~

~~(VIII) 1-4.24 Add "...or as defined by the authority having jurisdiction."~~

~~(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person will meet the requirements for NFPA Public Fire and Life Safety Educator I prior to being certified as a NFPA Juvenile Firesetter Intervention Specialist I."~~

~~(BA) A task book will be completed prior to certification as a NFPA Public Fire and Life Safety Educator I, II or III. **The Task Book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.**~~

~~(CB) A task book will be completed prior to certification as a NFPA Public Information Officer. **The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.**~~

~~(DC) A task book will be completed prior to certification as a NFPA Juvenile Firesetter Intervention Specialist I and II. **The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.**~~

ACTION ITEM I: Determine whether to recommend approval to the Board to file the proposed rule language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as proposed rules (Note: the remaining definitions would be numbered sequentially.)

ACTION ITEM II: Determine whether to recommend filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as permanent rules if no comments are received.

ACTION ITEM III: Pursuant to ORS 183.333, determine whether there is a significant fiscal impact on small business. *No fiscal impact by consensus.*

Jeff Jones moved to recommend to the Board filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Stacy Warner seconded the motion. The motion carried unanimously.

4. Revocation Case Review for David Anderson #5176 – Clackamas County Fire Dist. #1
Presented by Kristen Hibberds

OVERVIEW:

On July 25, 2013, Anderson notified DPSST of his conviction of Fourth Degree Assault, a discretionary disqualifying crime. Staff confirmed the following conviction requiring review by the committee:

Fourth Degree Assault, Constituting Domestic Violence, ORS 163.160, a Class A Misdemeanor.

STAFF ANALYSIS:

After reviewing all the information related to Anderson's conviction of the identified crime, staff has identified by a preponderance of evidence that Anderson's misconduct violates the core values of *Honesty, Professionalism and Justice*.

Honesty: Includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

Anderson was not straightforward with arresting officers. Anderson was asked if the victim's black eye came from him restraining her and he replied that it obviously did and then he would say he didn't know how the injury happened.

Anderson reported that the incident at the Marriott hotel only lasted for a second. However, several witnesses heard commotion and arguing that went on for 15-20 minutes.

Anderson denied any intentional hitting, slapping, choking, or head pounding. Anderson admitted that the injuries the victim sustained were dramatic and graphic.

Anderson admitted to telling the victim sorry that he was the one that injured her in the fight.

Professionalism: Includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

Anderson's conduct surrounding his conviction violates the core value of professionalism for Fire Service Professionals. Fire Service Professionals have unrestricted access to vulnerable persons and their property and engaging in the conduct that led to his conviction is not representative of the professionalism expected from Fire Service Professionals.

Justice: Includes just treatment, the quality or characteristics of being just, impartial, or fair.

Per OAR 259-009-0070(4) the crime of Fourth Degree Assault, Constituting Domestic Violence, ORS 163.160, violates Justice based on the elements of the crime.

*A copy of the staff analysis was provided to Anderson for the purposes of allowing mitigation.

COMMITTEE DISCUSSION:

- I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.
- II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

Jeff Jones moved that the Committee adopts the staff report as the record on which their recommendations are based. Johnny Mack seconded the motion. The motion carried unanimously.

CASE SUMMARY:

- a. Misconduct that is specific to this case, considered by the Committee:
 - ***Fourth Degree Assault, Constituting Domestic Violence, ORS 163.160, a Class A Misdemeanor.***
- b. The identified conduct **did** involve Honesty.
- c. The identified conduct **did** involve Professionalism.
- d. The identified conduct **did** involve Justice.
- e. Identified aggravating circumstances:
 - History of alcohol abuse.
 - History of domestic violence for the individuals involved.
- f. Identified mitigating circumstances:
 - Incident was self-reported.
 - Claimed seven months of sobriety and is trying to rectify the alcohol abuse.
 - The requirements imposed by the Oregon Health Division.
 - Have complied with all of the court requirements to date.
 - Job history and position with Clackamas County Fire District #1.

ACTION ITEM 1:

By vote, determine if ANDERSON's conduct rises to the level to warrant the revocation of his certifications. Recommend to the Board that these certifications *be revoked/not be revoked*.

ACTION ITEM 2:

(Required only if the Committee recommends to the Board that certification be denied or revoked).

Dan Peterson moved that the Committee finds that ANDERSON'S conduct, after considering the mitigating and aggravating circumstances identified by the committee, rises to the level to warrant revocation of his certifications and therefore recommends to the Board that ANDERSON'S certifications be revoked. Erin Janssens seconded the motion. The motion passed with a seven-to-two vote.

Dan Peterson moved that the Committee recommends to the Board that ANDERSON'S initial minimum period of ineligibility to re-apply for certifications would be at the completion of probation July 16, 2015. Dave Jones seconded the motion. The motion passed with a seven-to-two vote.

5. Denial Case Review for Kenny L. Lemmonds #31070 – Siuslaw Valley Fire & Rescue
Presented by Leon Colas

OVERVIEW:

In July 2013, Lemmonds submitted an Application for Certification for Wildland Interface Fire Fighter. A records check revealed Lemmonds was convicted of the following crimes:

May 2013, ORS 166.220 - Unlawful Use of a Weapon. This is a Class C Felony, but was reduced to a Class A Misdemeanor by the District Attorney's Office. It is a discretionary disqualifying crime requiring review by the committee.

In June 2013, Lemmonds was arrested for DUII, Reckless Driving, Hit and Run – Property Damage, and Recklessly Endangering.

He was convicted only of Reckless Driving. This is a misdemeanor offense and not a discretionary disqualifying crime requiring review by the committee. The information is provided for background for the committee's consideration.

STAFF ANALYSIS:

After reviewing all the information related to Lemmonds' conviction of the identified crimes, staff has identified by a preponderance of evidence that Lemmonds' misconduct violates the core value of *Professionalism*.

Honesty: Includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

Staff did not find evidence that Lemmonds' conduct violated the core value of Honesty.

Professionalism: Includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

Per OAR 259-009-0070(4) the crime of Unlawful Use of a Weapon, ORS 166.220, violates the core value of Professionalism, based on the elements of the crime.

Justice: Includes just treatment, the quality or characteristics of being just, impartial, or fair.

Staff did not find evidence that Lemmonds' conduct violated the core value of Justice.

*A copy of the staff analysis was provided to Lemmonds for the purposes of facilitating mitigation.

COMMITTEE DISCUSSION:

- I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.
- II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

Johnny Mack moved that the Committee adopts the staff report as the record on which their recommendations are based. Dave Jones seconded the motion. The motion carried unanimously.

CASE SUMMARY:

- a. Misconduct that is specific to this case, considered by the Committee:
 - *Unlawful Use of a Weapon. This is a Class C Felony, but was reduced to a Class A Misdemeanor.*
- b. The identified conduct **did not** involve **Honesty**.
- c. The identified conduct **did** involve **Professionalism**.
- d. The identified conduct **did not** involve **Justice**.
- e. Identified aggravating circumstances:
 - Lack of cooperation when the officers arrested him.
 - Subsequent Reckless Driving matter soon after this incident.
- f. Identified mitigating circumstances:
 - Wrote a letter to the Fire Policy Committee.
 - Some members of the committee questioned the circumstances leading to the conviction.

ACTION ITEM 1:

By vote, determine if LEMMONDS' conduct rises to the level to warrant the denial of his certifications. Recommend to the Board that these certifications *be denied/not be denied*.

ACTION ITEM 2:

(Required only if the Committee recommends to the Board that certifications be denied or revoked).

Dan Peterson moved that the Committee finds that LEMMONDS' conduct, after considering the mitigating and aggravating circumstances identified by the committee, rises to the level to warrant the denial of his certifications and therefore recommends to the Board that LEMMONDS' certifications be denied. Jeff Jones seconded the motion. The motion carried unanimously.

Jeff Jones moved that the Committee recommends to the Board that LEMMONDS' initial minimum period of ineligibility to re-apply for certifications would be after May 14, 2015. Jamie Paul seconded the motion. The motion carried unanimously.

6. Denial Case Review for Andrew E. Litwin #31732 – Lewis & Clark RFPD

Presented by Leon Colas

OVERVIEW:

In August 2013, Litwin submitted an Application for Certification for Wildland Interface Firefighter (FFT2). A records check revealed Litwin was convicted of the following crimes:

August 8, 2012, Assault 3 - ORS 163.165(2A). This is a Class C Felony and a discretionary disqualifying crime requiring review by the committee.

STAFF ANALYSIS:

After reviewing all the information related to Litwin's conviction of the identified crime, staff has identified by a preponderance of evidence that Litwin's misconduct violates the core values of *Professionalism and Justice*.

Honesty: Includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

Staff did not find evidence that Litwin's conduct violated the core value of Honesty.

Professionalism: Includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

Litwin's conduct surrounding his conviction violates the core value of Professionalism. Engaging in the conduct that led to his conviction is not representative of the professionalism expected from Fire Service Professionals.

Justice: Includes just treatment, the quality or characteristics of being just, impartial, or fair.

Per OAR 259-009-0070(4) the crime of Assault 3, ORS 163.165(2A) violates the core value of Justice, based on the elements of the crime.

*A copy of the staff analysis was provided to Litwin for the purposes of facilitating mitigation.

COMMITTEE DISCUSSION:

- I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.
- II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

Alan Ferschweiler moved that the Committee adopts the staff report as the record on which their recommendations are based. Jamie Paul seconded the motion. The motion carried unanimously.

CASE SUMMARY:

- a. Misconduct that is specific to this case, considered by the Committee:
 - **Assault 3**
- b. The identified conduct **did not** involve **Honesty**.
- c. The identified conduct **did** involve **Professionalism**.
- d. The identified conduct **did** involve **Justice**.
- e. Identified aggravating circumstances:
 - The crime was a felony crime.
 - Sentenced to 60 days in jail.
- f. Identified mitigating circumstances:
 - The incident occurred before he entered the fire service.
 - Intent was to defend a family member, not to instigate a fight.
 - The victim, his cousin, did not press charges.

ACTION ITEM 1:

By vote, determine if LITWIN's conduct rises to the level to warrant the denial of his certifications. Recommend to the Board that these certifications *be denied/not be denied*.

ACTION ITEM 2:

(Required only if the Committee recommends to the Board that certifications be denied or revoked).

Dan Peterson moved that the Committee finds that LITWIN's conduct, after considering the mitigating and aggravating circumstances identified by the committee, rises to the level to warrant the denial of his certifications and therefore recommends to the Board that LITWIN's certifications be denied. Johnny Mack seconded the motion. The motion carried unanimously.

Jeff Jones moved that the Committee recommends to the Board that LITWIN's initial minimum period of ineligibility to re-apply for certifications would be through August 7, 2014. Alan Ferschweiler seconded the motion. The motion passed with a six-to-three vote.

7. Revocation Case Review for Jason Powell #16063 – Jefferson RFPD

Presented by Kristen Hibberds

OVERVIEW:

DPSST obtained information indicating Powell has been convicted of discretionary disqualifying crimes & staff confirmed the following convictions requiring review by the committee:

Second Degree Encouraging Child Sexual Abuse, two counts, ORS 163.686, a Class C Felony.

Attempt to Commit a Class A Felony – Using a Child to Display Sexually Explicit Conduct, reduced to a Class B Felony. ORS 163.670, Using a Child to Display Sexually Explicit Conduct is a Measure 11 crime. Because Powell was convicted of attempting to commit this crime the conviction is a discretionary disqualifier.

STAFF ANALYSIS:

After reviewing all the information related to Powell’s conviction of the identified crimes, staff has identified by a preponderance of evidence that Powell’s misconduct violates the core values of ***Honesty, Professionalism and Justice.***

Honesty: Includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

On September 4, 2008, Powell was interviewed by investigating officers and when asked if any of his electronic devices might contain illegal items, he responded “No”. Powell was asked if he was having sex with the identified victim, he responded “No, I’m not”. Powell was asked if he had previously had sex with the victim, he responded “No”. The investigating officer told Powell that they knew he had sex with the victim at least four times and asked Powell if that was true? He responded “Ya”. Powell was asked if there was any oral sex? He responded that he didn’t remember. Investigating officers asked him again and he responded that it was a possibility. Powell was asked about anal sex, and he responded “Well it didn’t happen.” He further stated “Maybe we tried, but it didn’t happen.” He stated that “it may have started to hurt her so they stopped.”

Powell was not truthful or straightforward in answering questions during the criminal investigation. When investigating officers confronted him with his untruthfulness, he admitted to the conduct.

Powell was untruthful to investigating officers when he was asked if any illegal items would be found on his electronic devices. Officers reviewed all of the images found on his electronic devices and found the following:

- 46 images and all but one contain girls of varying ages engaged in sexually explicit conduct.
- One graphic image of what appeared to be a traffic crash victim.
- Many of the images appeared to be sexually explicit images that he may have taken himself.
- At least one of the images appeared to be a juvenile female under the age of 13.

Professionalism: Includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

Powell’s conduct surrounding his convictions violates the core value of professionalism for Fire Service Professionals. Fire Service Professionals have unrestricted access to persons and property and engaging in the conduct that led to his convictions is not representative of the professionalism expected from Fire Service Professionals.

Justice: Includes just treatment, the quality or characteristics of being just, impartial, or fair.

Per OAR 259-009-0070(4) the crime of Second Degree Encouraging Child Sexual Abuse, ORS 163.686, violates Justice based on the elements of the crime.

*A copy of the staff analysis was provided to Powell for the purposes of allowing mitigation.

COMMITTEE DISCUSSION:

- I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.
- II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

Alan Ferschweiler moved that the Committee adopts the staff report as the record on which their recommendations are based. For the record, Dave Jones indicated he has a potential conflict of interest and excused himself. Jeff Jones seconded the motion. The motion carried unanimously.

CASE SUMMARY:

- a. Misconduct that is specific to this case, considered by the Committee:
 - ***Second Degree Encouraging Child Sexual Abuse***
 - ***Using a Child to Display Sexually Explicit Conduct***
- b. The identified conduct **did** involve **Honesty**.
- c. The identified conduct **did** involve **Professionalism**.
- d. The identified conduct **did** involve **Justice**.
- e. Identified aggravating circumstances:
 - Received 30 months in prison.
 - Required to register as a sex offender.
 - Required to complete 10 years of probation.
 - Victims were targeted from within his agency.
- f. Identified mitigating circumstances:
 - None were identified.

ACTION ITEM 1:

By vote, determine if POWELL's conduct rises to the level to warrant the revocation of his certifications. Recommend to the Board that these certifications *be revoked/not be revoked*.

ACTION ITEM 2:

(Required only if the Committee recommends to the Board that certifications be denied or revoked).

Alan Ferschweiler moved that the Committee finds that POWELL's conduct, after considering the mitigating and aggravating circumstances identified by the committee,

rises to the level to warrant revocation of his certifications and therefore recommends to the Board that POWELL's certifications be revoked. Jamie Paul seconded the motion. The motion carried unanimously with one abstained.

Alan Ferschweiler moved that the Committee recommends to the Board that POWELL's initial minimum period of ineligibility to re-apply for certification would be the maximum of seven years. Dan Peterson seconded the motion. The motion carried unanimously with one abstained.

8. Round Table/Staff Update

Mark Ayers reported:

- Fire Training is at 100% staffing after hiring two new Regional Fire Training Coordinators. Chris Griffin is based out of the Salem office and supports Yamhill, Marion and Polk counties. This week David Jensen started and will be working and supporting the Hood River to Pendleton area.

Julie Olsen-Fink reported:

- Julie introduced Barbara Slinger to the DPSST Fire Certification Program. Barbara is the new Fire Certification Coordinator and will be the main contact regarding all applications for certification, student rosters, initial review of F9F's, agency accreditation paperwork and wallet cards. Her contact information is 503-378-8909 or barbara.slinger@state.or.us.
- NFPA 1006, Technical Rescuer, Edition 2013 is currently up for review. DPSST will send out an announcement requesting interested fire service personnel to participate on the task force. Contact Julie Olsen-Fink at 503-378-2297 or julie.olsen-fink@state.or.us.
- Staff will begin preparation for the 2014 Maintenance Re-Certification process in June. This is an excellent time to review your agency records in accordance with state archive rules and regulations. This includes sending in Personnel Agency Forms (PAF) for those fire service professionals who are no longer affiliated with your agency or adding new fire service personnel to your records. Applications for certification that are in process should be submitted (if appropriate) to DPSST as soon as possible to reflect accurate levels of certification. If you have any questions please contact Tina Diehl directly. She can be reached at tina.diehl@state.or.us or 503-378-2254.

Eriks Gabliks reported:

- Assistance to Firefighters Grants (AFG) is now closed. 15 people from Oregon were selected as evaluators this time. If anyone is interested we will gladly submit your name when we receive the request for evaluators. People who have attended have become better grant writers. With the changes on Capitol Hill and the ability to apply for AFG grants in a separate category, DPSST is submitting a grant to purchase two mobile vent prop trailers that will be taken around the state to do ventilation training locally.
- Mark Ayers was the coordinator for a recent US Department of Transportation program which is in the works involving the Regional Training Coordinators, Portland Fire & Rescue, and Tualatin Valley Fire & Rescue. They met with the

Federal Highway Administration and Oregon Department of Transportation on Traffic Incident Management training for all of the emergency service responders, not just police, fire, and medical, but also tow truck organizations and highway responders so everyone is working off the same page and using the same language. They have developed a two-day train-the-trainer class that Oregon will be hosting in the near future.

- Rural agencies who do not have adequate law enforcement are asking us to assist them with training for their people on what they can do to defend themselves when they respond to incidents without law enforcement. Our recommendation is that they stage until trained law enforcement providers come to the scene. Oregon Fire Chiefs Association is working on a model protocol for what agencies can do.
- DPSST is tracking the changes proposed in ISO. Does our 911 training program match up with NFPA 1061 – the answer is yes.
- At the next FPC meeting there will be a number of Line of Duty Deaths (LODD) for addition to the Fallen Fire Fighters Memorial. This year there have been four deaths in Oregon. Three of those have been adopted by the National Fallen Fire Fighters Foundation already for inclusion on the Memorial next year in Emmetsburg, so they will be coming forward to the FPC. There are also two historic nominations that will probably be coming forward to the FPC.
- The tragic death of Officer Libke in Oregon City brought up the discussion that volunteers do not get the same death benefits as career personnel. Under our state benefits, it is the same. There is not a difference between public safety benefits for career or volunteer. The family does get immediate assistance of \$25,000. DPSST was honored to be able to help with this process.

Jamie Paul reported:

- Oregon State Fire Marshall (OSFM) Incident Management Team (IMT) training will take place April 1-3, 2014 at the Deschutes County Fairgrounds.

Joe Seibert reported:

- The Eugene Springfield Fire Department has three new training components that are up and running now: Command Training Center, Driving Simulator, Regional Aircraft Rescue and Firefighting (ARFF) re-certification Training Center.

The next scheduled meeting is February 26, 2014.

Meeting adjourned at 11:30 a.m.