

Police Policy Committee

Minutes

May 17, 2012

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 17, 2012 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:37 p.m. by Chair Kent Barker.

Attendees

Policy Committee Members:

Kent Barker, Chair, Oregon Association Chiefs of Police
Tom Bergin, Oregon State Sheriffs' Association
Larry Blanton, Oregon State Sheriffs' Association
Craig Halupowski, Non-Management Law Enforcement
Eric Hendricks, Portland Police Bureau (Designee for Chief Mike Reese)
Ryan Humphrey, Non-Management Law Enforcement
James Hunter, Oregon Association Chiefs of Police
Holly Russell, Oregon State Sheriffs' Association
Glen Scruggs, Non-Management Law Enforcement
Mike Wells, Non-Management Law Enforcement
Mathew Workman, Oregon Association Chiefs of Police

Committee Members Absent:

Richard Evans, Oregon State Police Command Officer
Marc Tisher, Non-Management Law Enforcement

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorange, Standards and Certification Program Supervisor
Leon Colas, Professional Standards Coordinator/Investigator
Linsay Hale, Rules and Compliance Coordinator
Kristy Witherell, Administrative Support

Guests:

Steve Beck, Oregon Council of Police Associations
Cory Simons, Oregon State Police
Ramona Rodamaker, Oregon State Police
Robbie Graves, Milwaukie Police Employees Association



1. Minutes of February 16, 2012 Meeting

Approve minutes from the February 16, 2012 meeting.

See Appendix A for details

- *Tom Bergin moved to approve the minutes from the February 16, 2012 Police Policy Committee meeting. James Hunter seconded the motion. The motion carried unanimously.*

2. **OAR 259-008-0060 – Proposed Rule**

Presented by Linsay Hale

See **Appendix B** for details

- *James Hunter moved that the Police Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0060 with the Secretary of State as a proposed rule. Mike Wells seconded the motion. **The motion carried unanimously.***
- *James Hunter moved that the Police Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0060 with the Secretary of State as a permanent rule if no comments are received. Mike Wells seconded the motion. **The motion carried unanimously.***

It is the consensus of the committee there is no significant fiscal impact on small business.

3. **John W. Slyter**

Request for Medical Waiver

Presented by Linsay Hale

- *Without going into executive session, James Hunter moved that the Police Policy Committee recommend approval of a medical waiver for John Slyter. Mike Wells seconded the motion. **The motion carried unanimously.***
- *James Hunter moved that the Police Policy Committee forward the approval of a medical waiver to the Executive Committee. Mike Wells seconded the motion. **The motion carried unanimously.***

4. **James A. Bailey, Albany Police Department – DPSST #48125**

Presented by Leon Colas

See **Appendix C** for details

- *Craig Halupowski moved that the Police Policy Committee **adopts** the staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. **The motion carried unanimously.***
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case.** *The Police Policy committee does not find conduct that rises to revocation.*
 - b. The identified conduct **did not** involve **Dishonesty.**
 - c. The identified conduct **did not** involve a **Disregard for the Rights of Others.**
 - d. The identified conduct **did not** involve **Misuse of Authority.**

- e. The identified conduct **did not** involve **Gross Misconduct**.
 - f. The identified conduct **did not** involve **Misconduct**.
 - g. The identified conduct **did not** involve **Insubordination**.
- *Since the Police Policy Committee did not find conduct that rises to revocation, James Hunter moved that BAILEY's certifications not be revoked. Mike Wells seconded the motion. The motion carried unanimously.*

5. **Henry E. Filipponi, Ontario Police Department – DPSST #49765**

Presented by Leon Colas

The policy committee has heard FILLIPONI's case in November for a DUII conviction, which the policy committee voted not to revoke his certifications. Since that case was heard, FILIPPONI was convicted of a probation violation.

See Appendix D for details

- *Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- *Tom Bergin moved that the Police Policy Committee not rescind the original motion that was brought before the committee and let the original decision stand. Craig Halupowski seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. FILIPPONI's contempt of court conviction based on a probation violation.**
 - b. The identified conduct **did not** involve **Dishonesty**.
 - c. The identified conduct **did not** involve a **Disregard for the Rights of Others**.
 - d. The identified conduct **did not** involve **Misuse of Authority**.
 - e. The identified conduct **did not** involve **Gross Misconduct**.
 - f. The identified conduct **did** involve **Misconduct based on FILIPPONI's contempt of court misdemeanor conviction and probation violation.**
 - g. The identified conduct **did not** involve **Insubordination**.

- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The committee noted as mitigating circumstances that FILIPPONI was dealing with personal issues. He notified his work as soon as the arrest happened. He has been cooperative throughout the whole process. He has taken responsibility for his actions. Before this incident, FILIPPONI had been sober for 8 months.

The policy committee did not identify any aggravating circumstances.

- *Craig Halupowski moved that the Policy Committee finds FILIPPONI's conduct does not rise to the level to warrant the denial of his certifications(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Tom Bergin seconded the motion. The motion carried unanimously.*

6. Zachary B. Firestone, Grants Pass Police Department – DPSST #49765

Presented by Leon Colas

See Appendix E for details

- *James Hunter moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**. *The Police Policy Committee does not find misconduct that rises to revocation in this case*
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did not involve **Gross Misconduct**.
 - f. The identified conduct did not involve **Misconduct**.
 - g. The identified conduct did not involve **Insubordination**.
- *Since the Police Policy Committee did not find conduct that rises to revocation, Larry Blanton moved that FIRESTONE's certifications not be revoked. Mike Wells seconded the motion. The motion carried unanimously.*

7. **Kirk C. Flerchinger, Umatilla Tribal Police Department – DPSST #26897**

Presented by Leon Colas

See Appendix F for details

- *Glen Scruggs moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Craig Halupowski seconded the motion. The motion carried unanimously with Ryan Humphrey abstaining.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**. *The Police Policy Committee does not find misconduct that rises to revocation in this case*
 - b. The identified conduct **did not** involve **Dishonesty**.
 - c. The identified conduct **did not** involve a **Disregard for the Rights of Others**.
 - d. The identified conduct **did not** involve **Misuse of Authority**.
 - e. The identified conduct **did not** involve **Gross Misconduct**.
 - f. The identified conduct **did not** involve **Misconduct**.
 - g. The identified conduct **did not** involve **Insubordination**.
- *Since the Police Policy Committee did not find conduct that rises to revocation, James Hunter moved that **FLERCHINGER's** certifications not be revoked. Holly Russell seconded the motion. The motion carried unanimously with Ryan Humphrey abstaining.*

8. **Naymon E. Frank, Oregon State Police – DPSST #50173**

Presented by Leon Colas

See Appendix G for details

- *Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Ryan Humphrey seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **Dishonesty**
 - b. The identified conduct **did** involve **Dishonesty based on FRANK lying about the frequency of texts between him and a female. FRANK also lied about using LEDS for personal use.**

- c. The identified conduct did involve a **Disregard for the Rights of Others based on FRANK being intimate on duty with a female. The female told FRANK to stop contacting her and he continued.**
 - d. The identified conduct did involve **Misuse of Authority based on FRANK using LEDS for personal use.**
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on the totality of the circumstances combined. Gross deviation of the standard of care.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The committee noted as mitigating circumstances that FRANK was investigated by the agency he worked for, for a crime. The investigation was conducted on agency property. FRANK was not afforded any of the standard protections given to an employee being investigated.

The committee noted as aggravating circumstances that FRANK did not write a letter to the committee explaining his circumstances.

- *Larry Blanton moved that the Police Policy Committee finds FRANK's conduct does rise to the level to warrant the revocation of his certification(s), and therefore, recommends to the Board that these certification(s) be revoked. Holly Russell seconded the motion. The motion carried unanimously.*
- *Craig Halupowski moved that the Police Policy Committee recommends to the Board that FRANK's conduct encapsulated the highest end of the categories noted above with a focus on DISHONESTY, therefore recommending a lifetime revocation; FRANK may never reapply for certification. Mike Wells seconded the motion. The motion carried unanimously.*

9. Sean M. Gilhousen, Coburg Police Department – DPSST #37612

Presented by Leon Colas

This case was heard by the policy committee in November of 2011. At that time the committee recommended a lifetime revocation of GILHOUSEN's certifications. Before the case was turned over to the board, GILHOUSEN's attorney claimed that GILHOUSEN did not receive any notifications regarding this case. GILHOUSEN's attorney requested for DPSST to present the case to the policy committee again along with GILHOUSEN's response.

See Appendix H for details

- *Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*

- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: ***Dishonesty***
 - b. The identified conduct ***does*** involve ***Dishonesty based on the same reasons the committee voted on when this case was brought to the Police Policy Committee previously.***
 - c. The identified conduct ***does not*** involve a ***Disregard for the Rights of Others. The agency that conducted the investigation showed no evidence of GILHOUSEN making illegal traffic stops.***
 - d. The identified conduct ***does*** involve ***Misuse of Authority***
 - e. The identified conduct ***does*** involve ***Gross Misconduct***
 - f. The identified conduct ***does*** involve ***Misconduct***
 - g. The identified conduct ***does not*** involve ***Insubordination.***

- ***Glen Scruggs moved that the Police Policy Committee finds GILHOUSEN's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Craig Halupowski seconded the motion. The motion carried unanimously.***

- ***Glen Scruggs moved that the Police Policy Committee let the term of revocation stay the same as previously voted with an amendment to Disregard for the Rights of Others. Craig Halupowski seconded the motion. The motion carried unanimously.***

10. Dean Meisner, Beaverton Police Department – DPSST #18594

Presented by Leon Colas

See Appendix I for details

- ***Mike Wells moved that the Police Policy Committee adopts the staff report and the video provided as the record upon which its recommendations are based. Craig Halupowski seconded the motion. The motion carried in a 9-2 vote with Kent Barker and Eric Hendricks abstaining.***

- By discussion and consensus:
 - a. Identify and articulate the ***misconduct that is specific to this case. Dishonesty***
 - b. The identified conduct ***did*** involve ***Dishonesty based on MEISNER's intent to steal the item from Safeway.***
 - c. The identified conduct ***did not*** involve a ***Disregard for the Rights of Others.***
 - d. The identified conduct ***did not*** involve ***Misuse of Authority.***
 - e. The identified conduct ***did not*** involve ***Gross Misconduct.***

- f. The identified conduct **did** involve **Misconduct based on MEISNER's theft charge.**
 - g. The identified conduct **did not** involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
The policy committee identified as aggravating circumstances that MEISNER was in attire that identified him as a member of the Beaverton Police Department. MEISNER's statement to the committee was also noted as aggravating.

The policy committee noted as mitigating circumstances MEISNER's polygraph.
 - *Larry Blanton moved that the Police Policy Committee finds MEISNER's conduct does rise to the level to warrant the revocation of his certification(s), and therefore, recommends to the Board that these certification(s) be revoked. Craig Halupowski seconded the motion. The motion carried unanimously with Kent Barker and Eric Hendricks abstaining.*
 - *Glen Scruggs moved that the Police Policy Committee recommends to the Board that MEISNER's conduct encapsulated the highest end of the categories noted above with a focus on DISHONESTY, therefore recommending a lifetime revocation; MEISNER may never reapply for certification. Craig Halupowski seconded the motion. The motion carried unanimously with Kent Barker and Eric Hendricks abstaining.*

11. Thomas Perritt, Newberg-Dundee Police Department – DPSST #20049

Presented by Leon Colas

See Appendix J for details

- *James Hunter moved that the Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. *Drinking alcohol while on duty.***
 - b. The identified conduct **did** involve **Dishonesty based on being untruthful in his initial statement.**
 - c. The identified conduct **did not** involve a **Disregard for the Rights of Others**
 - d. The identified conduct **did not** involve **Misuse of Authority.**

- e. The identified conduct did involve **Gross Misconduct based on PERRITT drinking while on duty. He was operating a patrol vehicle while under the influence.**
 - f. The identified conduct did involve **Misconduct based on the same issues stated above.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
The committee noted as mitigating circumstances that PERRITT is an alcoholic which he has admitted to when interviewed. He has given a full account of his alcoholism. PERRITT has taken steps and responsibility to change his behavior. When he was untruthful to his supervisor about drinking, it was while he was under the influence.

The policy committee did not note any aggravating circumstances.
 - *Mike Wells moved that the Police Policy Committee finds PERRITT's conduct does rise to the level to warrant the revocation of his certification(s), and, therefore, recommends to the Board that these certification(s) be revoked. Holly Russell seconded the motion. The motion carried in a 10-1 vote with Glenn Scruggs voting no.*
 - *James Hunter moved that the Police Policy Committee revoke PERRITT's certification for five years based on the minimum period of ineligibility under the Dishonesty category. Craig Halupowski seconded the motion. The motion carried in a 9-2 vote with Glen Scruggs voting no. Mike Wells voting no based on him wanting to seek a lifetime disqualifier.*
 - *Craig Halupowski moved that the Police Policy Committee revoke PERRITT's certification 10 years under Gross Misconduct and 7 years under the Misconduct category. Holly Russell seconded the motion. The motion failed.*
 - *Larry Blanton moved that the Police Policy Committee revoke PERRITT's certifications for five years on both Gross Misconduct and Misconduct. James Hunter seconded the motion. The motion carried in a 9-2 vote with Glen Scruggs voting no and Craig Halupowski voting no based on him wanting to seek the maximum period of ineligibility.*

12. Corey J. Simons, Oregon State Police – DPSST #35370

Presented by Leon Colas

See Appendix K for details

- *Craig Halupowski moved that the Policy Committee adopts the Staff report as the record upon which its recommendations are based. Ryan Humphrey seconded the motion. The motion carried unanimously.*

- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. 2012 conviction of recklessly endangering another.**
 - b. The identified conduct did not involve **Dishonesty.**
 - c. The identified conduct did not involve a **Disregard for the Rights of Others.**
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did involve **Gross Misconduct based on firing a weapon.**
 - f. The identified conduct did involve **Misconduct based on the same reasons listed under Gross Misconduct. Conviction of recklessly endangering another.**
 - g. The identified conduct did not involve **Insubordination.**

- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The policy committee noted as mitigating circumstances SIMONS' mental and emotional health that was stated in the report at the time of the incident. SIMONS' has sought treatment for his mental and emotional health. The policy committee noted that the letter SIMONS' wrote was very compelling. The letters from Dr. Corey and the judge showed support of SIMONS'. SIMONS' asked for help from his lieutenant and he did not get it. SIMONS' attended the Police Policy Committee meeting. SIMONS' provided two letters from two separate individuals from post trauma treatment in support of him.

The policy committee noted as aggravating circumstances SIMONS' firing his weapon.

- *Larry Blanton moved that the policy committee finds SIMONS' conduct does rise to the level to warrant the revocation of his certification(s), and therefore, recommends to the Board that these certification(s) be revoked. Mike Wells seconded the motion. The motion failed.*

13. Howard R. Webb – DPSST #17552

Presented by Leon Colas

See Appendix L for details

- *Mike Wells moved that the Policy Committee adopts the Staff report as the record upon which its recommendations are based. Larry Blanton seconded the motion. The motion carried in a 9-2 vote with Mathew Workman and Ryan Humphrey abstaining.*

- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. Dishonesty.**
 - b. The identified conduct did involve **Dishonesty based on WEBB misrepresenting what he had done to credibly establish his ability to certify K-9's.**
 - c. The identified conduct did not involve a **Disregard for the Rights of Others.**
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did not involve **Gross Misconduct.**
 - f. The identified conduct did involve **Misconduct based on WEBB violating practices and standards generally followed in the profession. WEBB failed to cease and desist as notified.**
 - g. The identified conduct did not involve **Insubordination.**

- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances.
The policy committee noted as aggravating circumstances WEBB backdating K-9 certificates. WEBB is still coming into Oregon and teaching classes. WEBB did not respond to DPSST's letter.

The policy committee did not note any mitigating circumstances.

- *Mike Wells moved that the policy committee finds WEBB's conduct does rise to the level to warrant the revocation of his certification(s), and therefore, recommends to the Board that these certification(s) be revoked. Craig Halupowski seconded the motion. The motion carried unanimously with Mathew Workman and Ryan Humphrey abstaining.*

- *Glen Scruggs moved that the Police Policy Committee recommends to the Board that WEBB's conduct encapsulated the highest end of the categories noted above with a focus on DISHONESTY, therefore recommending a lifetime revocation; WEBB may*

never reapply for certification. Craig Halupowski seconded the motion. The motion carried unanimously with Mathew Workman and Ryan Humphrey abstaining.

14. Additional Business

Marilyn Lorange:

Marilyn has been working to set up a workgroup meeting in mid-June. There has been an unofficial concern raised around the subject of terminology used in maintenance training, specifically the use of certification recalls. DPSST does not have explicit authority in our statute to do a recall even though it's considered an administrative action. DPSST has statutory authority to deny, suspend, and revoke certification. DPSST believes it's a terminology issue not a substantive issue. The meeting will tentatively be held on June 18, 2012.

Director's Report:

The elections took place this week, which showed a spike in the number of people running for sheriff.

There are currently two Basic Police classes in session. We are following Portland's budget discussions as well as OSP, and O&C timber-funded counties such as Lane, Linn, Curry, and Josephine. We are not seeing a back log of students. We are adjusting the classes to run every 90 days to be financially prudent.

The Basic Police and Career Officer Development Review Committee continues. They are scheduled to meet next month. We will try to get a report back to you by the next policy committee meeting. The committee is 90% solid and 10% is looking at seeing if too much time is spent in certain areas. The committee is looking at extending the hours taught for the Mental Health curriculum.

DPSST will be testifying on Monday, May 21 at the Senate Judiciary Committee along with The Chief's Association and the District Attorney's on eyewitness identification. They have an interest in seeing what the state of Oregon is doing to train officers.

Thank you from the Memorial Committee and from staff for all the agencies and associations that helped with the memorial on May 8. It was a great turn out. We honored three officers that you approved to be added to the memorial. There were over 80 family members in attendance. The Kilcullen family and the Painter family went back to Washington D.C. The license plate fund is paying for all of their expenses.

15. Next Police Policy Committee Meeting – August 16, 2012 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 4:10 p.m.

Appendix A

Police Policy Committee Minutes February 16, 2012

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 16, 2012 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:30p.m. by Chair Kent Barker.

Attendees

Policy Committee Members:

Kent Barker, Oregon Association Chiefs of Police
Tom Bergin, Oregon State Sheriffs' Association
Larry Blanton, Oregon State Sheriffs' Association
Richard Evans, Oregon State Police Command Officer
Craig Halupowski, Non-Management Law Enforcement
Ryan Humphrey, Non-Management Law Enforcement
James Hunter, Oregon Association Chiefs of Police
Glen Scruggs, Non-Management Law Enforcement
Marc Tisher, Non-Management Law Enforcement
Mathew Workman, Oregon Association Chiefs of Police

Committee Members Absent

Eric Hendricks, Portland Police Bureau (Designee for Chief Mike Reese)
Holly Russell, Oregon State Sheriffs' Association
Mike Wells, Non-Management Law Enforcement

DPSST Staff:

Eriks Gabliks, Director
Kristy Witherell, Office Specialist II
Carolyn Kendrick, Administrative Specialist
Marilyn Lorange, Standards and Certification Program Supervisor
Leon Colas, Professional Standards Coordinator/Investigator
Sharon Huck, JTA Coordinator Research Analyst III
Teresa Plummer, Private Security/ Private Investigations Supervisor
Suzzane Weinart, Private Security Compliance Specialist II
Karen Evans, Investigator Trainer

Guests:

Steve Beck, Oregon Council of Police Associations



1. Minutes of November 17, 2011 Meeting

Approve minutes from the November 17, 2011 meeting.

See Appendix A for details

- *James Hunter moved to approve the minutes from the November 17, 2011 Police Policy Committee meeting. Tom Bergin seconded the motion. The motion carried unanimously.*

2. SB412 Implementation Update

Discussion Item

- *Marilyn Lorange updated the Police Policy Committee on the implementation glitch that was identified in SB412 relating to our loss of ability to continue certifying any tribal public safety officers if their agencies weren't already fully implementing SB412. The bill was amended in the Senate to include that tribal fix as well as a remedy sought by the FBI special agent in charge seeking to make that position a non-voting one. The Senate made the changes, the bill moved unanimously to the Senate floor, and was passed out of the Senate unanimously. House Judiciary unanimously voted it to the House Floor this morning. The bill that will allow DPSST to continue certifying Tribal law enforcement will have a floor vote on the House side either Friday or Monday morning.*

3. Chance L. Dixon, Umatilla County Sheriff's Office – DPSST #41699

Presented by Leon Colas

See Appendix C for details

- *Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. James Hunter seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - h. Identify and articulate the **misconduct that is specific to this case.**
Untruthfulness, violation of department policies.
 - i. The identified conduct did involve **Dishonesty based on DIXON's omission of events leading to accusations of him groping a female in a public setting.**
 - j. The identified conduct did involve a **Disregard for the Rights of Others based on DIXON groping a female in a public setting and making derogatory comments about coworkers.**
 - k. The identified conduct did involve **Misuse of Authority when DIXON used his badge while under the influence of alcohol to get special treatment for him and his friends.**

- l. The identified conduct did involve **Gross Misconduct based on DIXON groping a female in public on duty. DIXON's demeanor toward employees and his department. DIXON was intoxicated while on duty.**
 - m. The identified conduct did involve **Misconduct based on everything discussed above under Gross Misconduct.**
 - n. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact that DIXON did not answer questions appropriately when being interviewed by the department. DIXON did not respond to DPSST or the Police Policy Committee when contacted about possible revocation.*

No mitigating circumstances were identified.

- *Craig Halupowski moved that the Police Policy Committee finds DIXON's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Rich Evans seconded the motion. The motion carried unanimously.*
- *Mathew Workman moved that the Police Policy Committee recommends to the Board that DIXON receive the maximum on all counts identified above with a focus on DISHONESTY which carries a lifetime disqualifier; he may never reapply for certification. Craig Halupowski seconded the motion. The motion carried in an 8-2 vote with James Hunter and Glen Scruggs voting no.*

4. Andrew C. Elliott, Warm Springs Police – DPSST #41699

Presented by Leon Colas

See Appendix D for details

- *Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - h. Identify and articulate the **misconduct that is specific to this case. DUI conviction**
 - i. The identified conduct did not involve **Dishonesty.**
 - j. The identified conduct did not involve a **Disregard for the Rights of Others.**
 - k. The identified conduct did not involve **Misuse of Authority.**

- l. The identified conduct **did not** involve **Gross Misconduct**.
- m. The identified conduct **did** involve **Misconduct based on ELLIOTT's DUII conviction**.
- n. The identified conduct **did not** involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The Policy Committee noted as mitigating circumstances that ELLIOTT's DUII arrest happened prior to employment. ELLIOTT fully disclosed the DUII during the hiring process.***
- ***Rich Evans moved that the Policy Committee finds ELLIOTT's conduct does not rise to the level to warrant the denial of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Ryan Humphrey seconded the motion. The motion carried unanimously.***

5. Matthew A. Harikian, Clackamas County Sheriff's Office – DPSST #35577

Presented by Leon Colas

See Appendix E for details

- ***Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Rich Evans seconded the motion. The motion carried unanimously.***
- By discussion and consensus:
 - h. Identify and articulate the **misconduct that is specific to this case. *Violation of department policies.***
 - i. The identified conduct **did** involve **Dishonesty based on HARIKIAN writing false and misleading letters to the Under Sheriff. HARIKIAN lied by omission about his use of prescription drugs.**
 - j. The identified conduct **did not** involve a **Disregard for the Rights of Others**.
 - k. The identified conduct **did not** involve **Misuse of Authority**.
 - l. The identified conduct **did** involve **Gross Misconduct based on HARIKIAN coming to work under the influence which created a risk/ danger to others; gross deviation of standard practice by a public safety officer.**
 - m. The identified conduct **did** involve **Misconduct based on conduct identified under Gross Misconduct.**
 - n. The identified conduct **did** involve **Insubordination based on HARIKIAN's violation of his last chance agreement.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The Policy Committee identified as aggravating circumstances that HARIKIAN was on duty operating a patrol car while under the influence. HARIKIAN was under the influence at the range firing***

a weapon. The Policy Committee noted as mitigating circumstances the fact that HARIKIAM resigned immediately after he violated his last chance agreement.

- *James Hunter moved that the Police Policy Committee finds HARIKIAN's conduct does rise to the level to warrant the revocation of his certifications(s) and, therefore, recommends to the Board that these certification(s) be revoked. Ryan Humphrey seconded the motion. The motion carried unanimously.*
- *Craig Halupowski moved that the Police Policy Committee recommends to the Board that HARIKIAM receive the maximum on all counts identified above with a focus on DISHONESTY which carries a lifetime disqualifier; he may never reapply for certification. Tom Bergin seconded the motion. The motion carried unanimously.*

6. Shelley L. Prince, Redmond Police Department – DPSST #24228

Presented by Leon Colas

See Appendix F for details

- *James Hunter moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. Violation of department policies.**
 - b. The identified conduct did not involve **Dishonesty.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on PRINCE's failure to act on a domestic violence situation.**
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did involve **Gross Misconduct based on failing to arrest in a mandatory domestic violence situation.**
 - f. The identified conduct did involve **Misconduct based on PRINCE's failure to make a mandatory arrest in a domestic violence situation. PRINCE was in gross deviation on the standard of practice by a public safety officer.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee identified as mitigating circumstances PRINCE's lengthy career without instance except for the last two years. These issues should have been initially addressed by the agency and weren't. The Chief wrote a letter to DPSST and the Board that supported PRINCE.*
- *Ryan Humphrey moved that the Police Policy Committee finds PRINCE's conduct does not rise to the level to warrant the revocation of her certifications(s) and,*

therefore, recommends to the Board that these certification(s) not be revoked. Craig Halupowski seconded the motion. The motion carried unanimously.

7. Matthew E. Rae, Linn County Sheriff's Office – DPSST #41026

Presented by Leon Colas

See Appendix G for details

- *James Hunter moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - h. Identify the conduct that is at issue, specific to this case: **resignation in lieu of termination for misconduct involving violations of department policies, including untruthfulness.***
 - i. The identified conduct did involve **Dishonesty based on previous omissions and denial of relationship with a minor cadet female.***
 - j. The identified conduct did involve a **Disregard for the Rights of Others based on RAE's violation of request from parents of minor for no contact. RAE spent hours on the phone with the minor while on duty. RAE frequented the minor's place of employment while on duty. RAE failed to protect and serve the community.***
 - k. The identified conduct did involve **Misuse of Authority based on the perception that RAE had authority over the minor female cadet. RAE violated the public's trust by not protecting and serving.***
 - l. The identified conduct did involve **Gross Misconduct based on gross deviation of the standard of practice by a public safety officer for reason stated above.***
 - m. The identified conduct did involve **Misconduct based on reasons stated above.***
 - n. The identified conduct did involve **Insubordination based on RAE's failure to follow the no contact order.***
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee identified as **aggravating circumstances the letter RAE addressed to DPSST and the policy committee. He did not take responsibility for his actions. RAE placed the blame on the minor.***
- *Craig Halupowski moved that the Police Policy Committee finds RAE's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Rich Evans seconded the motion. The motion carried unanimously.*

- ***The Police Policy Committee voted on the categories listed below and recommends to the Board that RAE's conduct receive the following periods on ineligibility:***

Category I: Dishonesty (5 years to Lifetime). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a lifetime revocation based on dishonesty. Craig Halupowski seconded the motion. The motion carried unanimously.***

Category II: Disregard for the Rights of Others (5 years to 15 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 15 year revocation based on Disregard for the Rights of Others. Craig Halupowski seconded the motion. The motion carried unanimously.***

Category III: Misuse of Authority (5 years to 10 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 5 year revocation based on Misuse of Authority. Craig Halupowski seconded the motion. The motion carried unanimously.***

Category IV: Gross Misconduct (5 years to 10 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 10 year revocation based on Gross Misconduct. Craig Halupowski seconded the motion. The motion carried unanimously.***

Category V: Misconduct (3 years to 7 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 7 year revocation based on Misconduct. Craig Halupowski seconded the motion. The motion carried unanimously.***

Since the Police Policy Committee voted for the highest level of the Dishonesty category—a lifetime disqualifier, RAE may never reapply for certification.

8. William E. Stowell, La Grande Police Department – DPSST #13559

Presented by Leon Colas

See Appendix H for details

- ***Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Matt Workman seconded the motion. The motion carried unanimously by all voting, with Tom Bergin abstaining.***
- By discussion and consensus:
 - h. Identify the conduct that is at issue, **specific to this case: STOWELL was arrested and convicted of DUII in 2011.**
 - i. The identified conduct **did not** involve **Dishonesty.**
 - j. The identified conduct **did not** involve a **Disregard for the Rights of Others.**

- k. The identified conduct **did not** involve **Misuse of Authority**
 - l. The identified conduct **did** involve **Gross Misconduct based on STOWELL creating a risk/danger to others while driving under the influence.**
 - m. The identified conduct **did** involve **Misconduct based on STOWELL's DUI conviction.**
 - n. The identified conduct **did not** involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The Police Policy committee identified as mitigating circumstances the letter STOWELL wrote to DPSST and the Policy Committee was remorseful. STOWELL was very cooperative throughout the DUI process. STOWELL was not eligible for diversion due to holding a CDL.*
 - *Craig Halupowski moved that the Police Policy Committee finds STOWELL's conduct **does not rise** to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) **not be revoked**. James Hunter seconded the motion. **The motion carried** unanimously by all voting, with Tom Bergin abstaining.*

9. John H. Thorndike, Umatilla Tribal Police Department – DPSST #42494

Presented by Leon Colas

See Appendix I for details

- *Matt Workman moved that the Police Policy Committee **adopts** the staff report as the record upon which its recommendations are based. James Hunter seconded the motion. **The motion carried** unanimously by all voting, with Ryan Humphrey abstaining.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case.**
 - b. The identified conduct **did not** involve **Dishonesty.**
 - c. The identified conduct **did not** involve a **Disregard for the Rights of Others.**
 - d. The identified conduct **did not** involve **Misuse of Authority.**
 - e. The identified conduct **did not** involve **Gross Misconduct.**
 - f. The identified conduct **did not** involve **Misconduct.**
 - g. The identified conduct **did not** involve **Insubordination.**
- *The Police Policy Committee came to a consensus that THORNDIKE's misconduct did not involve any of the categories that would lead to revocation.*

10. Additional Business

Director's Report

This will be Carolyn Kendrick's last meeting. Carolyn has accepted a promotion with DOJ. Kristy Witherell will be filling in temporarily while DPSST seeks a replacement for Carolyn's position.

Private Security and Private Investigation are sitting in on this meeting as well as the Corrections Policy Committee meeting. The Private Security industry is looking at moral fitness discussions and how the Policy Committee administers those.

Earlier, Marilyn gave you the update on SB412. We are also tracking Judicial Marshall's, which will allow three employees in the safety and security section of the Oregon Judicial Department to have peace officer powers. If that bill does move forward, they will be coming into the Basic Police class at DPSST.

There is still discussion with OLCC to have their agents trained and certified by DPSST but not as police officers. It will be a separate category of certification, but as Marilyn and I looked at this, it probably lines up best to have their standards come through the Police Policy Committee.

Budget discussions are ongoing. DPSST has received initial notification from Legislative Fiscal Office that they will be taking six positions, which is our first 3.5% reduction. That also takes away our Child Abuse training program. We also know as of last night that there are discussions going on between the Governor and the Leadership about those reductions. We don't know if they will happen. We hope they don't, but we have received at least initial indication from LFO that they will take those positions.

Basic Police class 330 starts February 27th and the class is full. We have another Basic Police class scheduled for March and April. We are pushing the March class back somewhere into the biennium and just run the April class. Because of the economy, we just don't think there is enough need right now. We are watching the federal trend with the discussion on O&C timber funds possibly coming back and help fund public safety again.

May 8th is the Fallen Officer Law Enforcement Memorial here at the Academy. Officer Kilcullen, Deputy Lewis, and Officer Buddy Herron will be added to the Memorial wall this year.

The Curriculum group that will be giving you a report later down the road has had their first meeting. They will be meeting again in March. They will be looking at the 16-week basic class as well as the Police COD course and give you a report.

Last week the Intermediate and Advanced Matrix workgroup met. That standard hasn't been looked at for years. That is what is required for intermediate and advanced certification. Coming back to the PPC by your next meeting will be a report that brings Police,

Corrections, and Parole and Probation into the same matrix. Telecom will have a separate matrix.

We will be working with Sheriff Simpson who sits on the Board and the Corrections Policy Committee with some issues that have come up with POL/COR, also known as Police to Corrections Class. This is for Officers or Deputies who have law enforcement certification but also have interest in having corrections certification and/or training. Officers and deputies would come to this 2-week class to obtain multi-certification. The concerns raised are two-part; first, is the training class itself. Second is getting certified if you complete the class as a corrections officer as well as a police officer. The certification standard requires that the officer or deputy go through another physical exam because they have to meet the entry standard of the basic officer. One of the issues is the cost of having incumbent officers, some of which are command staff, get another medical evaluation. Some will result in waivers coming in front of the policy committee because some of the officers/deputies have been working for 20 to 25 years and their vision or hearing may not be what it once was when they first started their career. DPSST wanted to share this information with the committee to see if there are any questions, concerns, or thoughts. The class doesn't have a physical element, so it is not a requirement to have a physical exam prior to signing up for the class. If a person wants to take the class and subsequently become multidiscipline-certified, they are required to have a current physical in order to meet the standard. It would take a rule change to say that somebody could transfer disciplines without meeting the minimum physical standard for basic certification.

11. Next Police Policy Committee Meeting – May 17, 2012 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 3:37 p.m.

Appendix B

Department of Public Safety Standards and Training Memo

Date: May 2012

To: Telecommunications Policy Committee
Corrections Policy Committee
Police Policy Committee

From: Linsay Hale
Rules Coordinator

Subject: OAR 259-008-0060 – Proposed Rule
Public Safety Officer Certification

Background: A multi-disciplined workgroup was formed in 2007 to evaluate the current Intermediate and Advanced certification charts (Att. A). The mission of the workgroup was to review the charts and update the minimum standards for achieving these upper levels of certification in the criminal justice profession. The workgroup was comprised of management and represented staff from each of the four disciplines – Police, Corrections, Parole & Probation, and Telecommunications.

Over the last several years, the workgroup met and developed updated charts which they felt better met the needs of the profession as well as the needs of public safety personnel. The group worked to develop discipline-specific certification charts which included some form of a competency evaluation. In 2011, these initial drafts were presented to the DPSST Policy Committees and provided to OSSA, OACP, APCO/NENA, and OACCD members for comment. Concern was expressed about the difficulties of enforcing multiple charts and the complexity of the proposed competency evaluations.

To address these concerns, the workgroup reconvened and updated the proposed charts to allow police, corrections, and parole & probation to work from the same chart, which adjusts the minimum years of experience and education required and also breaks the required training into specific categories (Att. B). Telecommunications would work from a chart specific to their needs, including updated years of experience, training, and education as well as a minimum competency requirement (Att. C).

These draft charts were distributed to workgroup member constituencies, OACP and OSA members, APCO-NENA members, and subscribers to the DPSST and DPSST Criminal Justice ListServes. Constituents were given until March 15, 2012 to make comments or voice any concerns regarding the proposed charts. On March 22, 2012, the workgroup reconvened to discuss the comments and finalize the proposed charts.

Issue: Once implemented, these new charts are to be phased in by allowing officers to apply for intermediate or advanced certification under either the current or the proposed chart for a period of two years after the effective date of the proposed chart. Although, DPSST will have the final say on the appropriateness of completed training fulfilling the required training requirement, the current DPSST Standardized Course List was categorized to serve as a reference for law enforcement officers and agencies (Att. D). A Form F-7WS Intermediate/Advanced Certification Supplemental Worksheet (Att. E) was created as a vehicle for police, corrections, or parole & probation officers to report training at the time of application for an upper level of certification. Portfolios from telecommunicators requesting upper levels of certification will be presented to the Telecommunications Policy Committee for approval.

Staff is requesting approval to update the administrative rule governing public safety officer certification to reflect the updated requirements for achieving intermediate/advanced certification for law enforcement officers.

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

259-008-0060

Public Safety Officer Certification

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants must possess a Basic Certificate in the field in which certification is requested; and

(b) Applicants must have acquired the ~~following~~ combinations of education hours and training hours combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience **as identified on the chart effective through September 30, 2012.** [Table not included. See ED. NOTE.]

(14) **Effective October 1, 2012:**

(a) Applicants for an Intermediate Certificate in police, corrections or parole and probation must have acquired the combinations of education hours and training hours

combined with the prescribed years of experience, or the college degree designated combined with the prescribed years of experience as identified on the chart effective October 1, 2012. [Table not included. See ED. NOTE.]

(b) Applicants for an Intermediate Certificate in telecommunications must have acquired the following combinations of education hours, training hours, prescribed years of telecommunications experience, and competency: [Table not included. See ED. NOTE.]

(c) The years of experience must be full-time employment within the discipline for which Intermediate certification is being applied.

(d) The training hours originating from a single training event that are used to meet the training hour requirement for Intermediate certification cannot be applied towards future levels of certification.

(e) The required years of experience are for the purpose of developing and demonstrating competency at the Intermediate level. The signature of the agency head or designee on an F-7 Application for Certification at the Intermediate level represents the agency's attestation that the applicant is performing at a level of competence expected at that certification level.

(15) Applicants for Intermediate certification may apply by satisfying the requirements described in subsection (13) or the requirements described in subsection (14) through September 30, 2014.

(14 16) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants must possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested; and

(b) Applicants must have acquired the following combinations of education and training hours combined with the prescribed years of corrections, parole and probation, police,

telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(17) Effective October 1, 2012:

(a) Applicants for an Advanced Certificate in police corrections or parole and probation must have acquired the following combinations of education and training hours combined with the prescribed years of experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(b) Applicants for an Advanced Certificate in telecommunications must have acquired the following combinations of education hours, training hours, prescribed years of telecommunications experience, and competency: [Table not included. See ED. NOTE.]

(c) The years of experience must be full-time employment within the discipline from which Advanced certification is being applied.

(d) The training hours originating from a single training event that are used to meet the training hour requirement for Advanced certification cannot be applied towards future levels of certification.

(e) The required years of experience are for the purpose of developing and demonstrating competency at the Advanced level. The signature of the agency head or designee on an F-7 Application for Certification at the Advanced level represents the agency's attestation that the applicant is performing at a level of competence expected at that certification level.

(18) Applicants for Advanced certification may apply by satisfying the requirements described in subsection (16) or the requirements described in subsection (17) through September 30, 2014.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Attachments:

Attachment A – Current Intermediate/Advanced Certification Charts

Attachment B – Proposed Intermediate/Advanced Certification Charts (Police, Corrections, Parole & Probation)

Attachment C – Proposed Intermediate/Advanced Certification Charts/Portfolio (Telecommunications)

Attachment D – Sample Categorized Course List

Attachment E – Form F-7WS – Intermediate/Advanced Certification Supplemental Worksheet (Police/Corrections/Parole & Probation)

Attachment A - Current Intermediate/Advanced Certification Charts:

INTERMEDIATE CERTIFICATION							
Minimum Years of Experience	8 years	7 years	6 years	5 years	4 years	4 years	2 years
Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses)	15 (300 hours)	23 (460 hours)	30 (600 hours)	38 (760 hours)	45 (900 hours)	DPSST Basic Course	DPSST Basic Course
Minimum College Education Credits	15	23	30	38	45	Assoc. Degree	Bachelor Degree

ADVANCED CERTIFICATION								
Minimum Years of Experience	12 years	11 years	10 years	9 years	8 years	9 years	6 years	4 years
Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses)	30 (600 hours)	35 (700 hours)	40 (800 hours)	45 (900 hours)	60 (1200 hours)	DPSST Basic Course	DPSST Basic Course	DPSST Basic Course
Minimum College Education Credits	30	35	40	45	60	Assoc. Degree	Bachelor Degree	Master Degree

- Allows training hours to “roll-over”
e.g. An officer who is awarded a basic certificate after completing 200 hours of Basic Training can again use those 200 hours to reach the minimum required training level to achieve the intermediate certificate.
- Time served can cross disciplines. For example, an officer with no experience in a new discipline may qualify for all levels of certification based solely on their years of experience in a different discipline.
- Topics of training required to receive upper level certifications are not specified.
- There is no minimum “waiting” period between obtaining Intermediate certification and Advanced certification

**Attachment B - Proposed Intermediate/Advanced Certification Charts
(Police/Corrections/Parole & Probation):**

INTERMEDIATE POLICE/CORRECTIONS/P&P CERTIFICATION ONLY

In addition to Basic Training, a police/corrections/P&P officer must meet the following minimum requirements for Intermediate Certification (Hours from Basic Training/FTM completion do not apply):

MIN. YEARS EXPERIENCE	3 years	4 years	5 years	6 years
EDUCATION	Bachelor Degree	Assoc. Degree	45 Credits	None
	+ 80 Training Hours:	+ 120 Training Hours:	+ 160 Training Hours:	+ 200 Training Hours
Communications	16	28	40	52
Advanced Technical Skills	40	60	80	100
Leadership	16	20	24	28
Risk Management	8	12	16	20
TOTAL TRAINING HOURS	80	120	160	200

ADVANCED POLICE/CORRECTIONS/P&P CERTIFICATION ONLY

In addition to Basic Training and Intermediate Certification, a police/corrections/P&P officer must meet the following minimum requirements for Advanced Certification. There is a minimum period of two years between obtaining Intermediate Certification and obtaining Advanced Certification. Training hours reset after receiving intermediate certification.

MIN. YEARS EXPERIENCE	6 years	7 years	9 years	11 years	13 years
EDUCATION	Master's Degree	Bachelor Degree	Assoc. Degree	45 Credits	None
	+ 80 Training Hours:	+ 120 Training Hours:	+ 160 Training Hours:	+ 200 Training Hours	+ 240 Training Hours
Communications	16	28	40	52	64
Advanced Technical Skills	40	60	80	100	120
Leadership	16	20	24	28	32
Risk Management	8	12	16	20	24
TOTAL TRAINING HOURS	80	120	160	200	240

- Training hours reset after certification is awarded
After a basic or intermediate certificate is awarded, an officer must achieve the prescribed training hours for the next level of certification starting from zero. (This does NOT mean that the number of training hours in the officer's DPSST Training Record is changed; only that the officer may not count the same hours towards each subsequent level of certification. The number of training hours required at each level in the charts is substantially reduced to reflect this change.)
- The minimum years' experience must be within the discipline for which Intermediate or Advanced certification is being applied.
- Number of training hours needed is reduced but broken into four required categories: Communications, Advanced Technical Skills, Leadership, and Risk Management.

**Attachment B (cont.)- Proposed Intermediate/Advanced Certification Charts
(Police/Corrections/Parole & Probation):**

Training Categories:

Risk Management: Training that provides law enforcement officers with tools to recognize risks, the type of risks and effective tactics to manage risks.

Communication: Training that provides law enforcement officers with tools to effectively communicate with members of the public, individuals suspected of criminal activity, individuals under supervision, individuals with special needs, as well as managers and co-workers.

Leadership: Training that enhances leadership ability, teaches effective leadership styles, or encourages the adoption of effective leadership behaviors.

Advanced Technical Skills: Discipline-specific training that enhances technical or tactical skills as a law enforcement officer. This does not include courses that are required to maintain the basic level of certification.

Attachment C - Proposed Intermediate/Advanced Certification Charts/Portfolio (Telecommunications):

INTERMEDIATE TELECOMMUNICATOR CERTIFICATION

Minimum Years of Experience	6 years	5 years
Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses)	DPSST Basic Course + 200 hours post certificate training	DPSST Basic Course + 160 hours post certificate training
Minimum College Education Credits	None	45
Minimum Competency	3 portfolio points	3 portfolio points

ADVANCED TELECOMMUNICATOR CERTIFICATION

Minimum Years of Experience	10 years	9 years	8 years	7 years
Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses)	Intermediate Certificate + 240 hours post certificate training	Intermediate Certificate + 200 hours post certificate training	Intermediate Certificate + 160 hours post certificate training	Intermediate Certificate + 120 hours post certificate training
Minimum College Education Credits	None	45	Assoc. Degree	Bachelor Degree
Minimum Competency	6 portfolio points	6 portfolio points	6 portfolio points	6 portfolio points

- Telecommunicator chooses from the Portfolio Items List to include in his or her application. (Application must include at least two separate categories for intermediate and three separate categories for advanced certification requests.)
- Telecommunicator completes and provides documentation of the applicable Portfolio Items to the agency head (include detailed description, transcripts, recordings of calls for service, and other supporting documentation).
- Agency head reviews and makes recommendation for approval to DPSST.
- DPSST (Telecommunications Policy Committee) reviews the portfolio and makes final approval.
- The Portfolio Items List is non-inclusive. Other categories may be suggested for consideration for agency director and Telecommunications Policy Committee review.
- Years of experience must be within the discipline.

Attachment C (cont.) - Proposed Intermediate/Advanced Certification Charts/Portfolio (Telecommunications):

INTERMEDIATE/ADVANCE TELECOMMUNICATOR PORTFOLIO

CATEGORY	PORTFOLIO ITEM	POINTS
Leadership	Policy Writing/Revision	1 point
Leadership	APCO/NENA Membership (active participation within past 2 years)	½ point
Leadership	APCO/NENA Leadership (Hold Office, Committee Chair, National Committee, etc. within past 5 years)	1 point
Leadership	Agency Leadership Role (agency defined)	1 point
Leadership	Professional Development (agency defined)	1 point
Calls for Service*	Multi-jurisdictional (cross-dispatch) events	¼ point
Calls for Service*	Mass casualty events	¼ point
Calls for Service*	Major Media Events	¼ point
Calls for Service*	Incident dispatch team member	¼ point
Calls for Service*	Unusual or Exemplary call for service (agency defined)	¼ point
Awards	Agency/local award recipient	½ point
Awards	State award recipient	1 point
Awards	National award recipient	2 points
Training	1 year Communications Training Officer (within past 5 years)	½ point
Training	2+ years Communications Training Officer (within past 5 years)	1 point
Training	Industry, DPSST or Agency Instructor (within past 2 years)	1 point
Training	Attend industry related training course – 8 hour minimum (does not count toward yearly certification hours)	1 point
Longevity	Every year as an Agency Head	1 point
Longevity	Every two years as a mid-level manager	1 point
Longevity	Every three years as a first line supervisor	1 point
Longevity	Every four years as a lead worker	1 point

* Calls for Service Category: (Requires significant participation in high impact calls for service)

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: JAMES A. BAILEY DPSST #48125
Albany Police Department**

ISSUE:

Should James A. Bailey's Basic and Intermediate Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves Bailey's conduct surrounding his resignation in lieu of termination for violations of department policies, including untruthfulness.

BACKGROUND and OVERVIEW:

1. *From April 2, 2007 until January 22, 2011, BAILEY was a police officer with the Newport Police Department. On January 24, 2011, BAILEY was hired by the Albany Police Department as a police officer.¹ He signed his Criminal Justice Code of Ethics² and obtained Basic and Intermediate Police certifications.³*
2. *In July 2011, DPSST received an F-4 Personnel Action Report, showing BAILEY resigned in lieu of termination.⁴ DPSST sought and obtained information relating to the resignation.⁵*
3. *In December 2011, DPSST notified BAILEY via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.⁶*
4. *BAILEY has provided a response.⁷*

¹ Ex A1

² Ex A2

³ Ex A1

⁴ Ex A3

⁵ Ex A4, A5

⁶ Ex A6

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke BAILEY's certifications based on violation of the established moral fitness standards:

2. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

3. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others.**

d. The identified conduct *did/did not* involve **Misuse of Authority.**

e. The identified conduct *did/did not* involve **Gross Misconduct.**

f. The identified conduct *did/did not* involve **Misconduct.**

g. The identified conduct *did/did not* involve **Insubordination.**

4. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
5. By vote, the Policy Committee finds BAILEY's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments

Information Only - SUBSEQUENT DUE PROCESS:

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix D

Department of Public Safety Standards and Training
Memorandum

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinators

SUBJECT: HENRY E. FILIPPONI DPSST #49765
Ontario Police Dept.

ISSUE:

Should Henry E. FILIPPONI's Basic, Intermediate and Advanced Police certifications be revoked based on discretionary disqualifying misconduct as defined in OAR 259-008-0070(4), and as referenced in OAR 259-008-0010?

The issue in this case involves FILIPPONI's discretionary disqualifying misconduct, including but not limited to his 2012 misdemeanor conviction for Probation Violation in Idaho.

BACKGROUND and OVERVIEW:

1. *During the years 2004 to 2008, FILIPPONI was employed out of state as a police officer. In June 2008 FILIPPONI was hired by the Ontario Police Dept. as a police officer.⁸ He attended the DPSST Basic Police COD Course,⁹ signed his Code of Ethics,¹⁰ and ultimately was granted his Basic, Intermediate and Advanced Police Certifications.¹¹*
2. *In April 2011, DPSST received information that FILIPPONI had been arrested in Payette County, Idaho for DUII and later convicted of Inattentive Driving, the equivalent to Oregon's Reckless Driving crime. DPSST conducted an investigation, presented the case to the PPC on November 17, 2011, and the Committee voted to recommend that FILIPPONI's certifications not be revoked.¹²*

⁸ Ex A1

⁹ Ex A1

¹⁰ Ex A2

¹¹ Ex A1

¹² Ex A3

3. *FILIPPONI's case was set to be reviewed by the Board on January 26, 2012. Shortly prior to that date, DPSST learned that FILIPPONI had been arrested for violating the terms of his probation for his original conviction of Inattentive Driving.¹³ DPSST sought and obtained the information relating to the arrest.¹⁴*
4. *Due to this new matter, FILIPPONI's case was pulled from the Board agenda pending the new investigation so the committee could review the information. FILIPPONI pled guilty to the Probation Violation charge on January 20, 2012.¹⁵*
5. *In February 2012, DPSST notified FILIPPONI via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.¹⁶*
6. *FILIPPONI has provided a response, including letters from his wife.¹⁷*
7. *The exhibits from the November 17, 2011 PPC meeting have been included in this packet for the Committee's reference.¹⁸*

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

¹³ Ex A4

¹⁴ Ex A4, A5

¹⁵ Ex A5

¹⁶ Ex A6

¹⁷ Ex A7

¹⁸ Ex B1

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke FILIPPONI's certifications based on discretionary disqualifying misconduct:

- 6. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
- 7. By vote, the Policy Committee must determine whether (A) to rescind their prior vote to recommend that FILIPPONI's certifications not be revoked, and to consider all convictions and conduct as part of their case review today, OR (b) to let the prior vote stand, and to consider the current conviction and conduct, with the prior case as aggravating and mitigating circumstances.
- 8. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case.**

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

d. The identified conduct *did/did not* involve **Misuse of Authority**.

e. The identified conduct *did/did not involve* **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

g. The identified conduct *did/did not* involve **Insubordination**.

9. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

10. By vote, the Policy Committee finds FILIPPONI's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix E

**Department of Public Safety Standards and Training
Memorandum**

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: ZACHARY B. FIRESTONE DPSST #43702
Grants Pass Dept. of Public Safety**

ISSUE:

Should Zachary B. Firestone's Basic Police certification be revoked based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves Firestone's conduct surrounding his 2012 probationary discharge for violations of department policies, including truthfulness.

BACKGROUND and OVERVIEW:

8. *In May 2010, FIRESTONE was hired by the Grants Pass Dept. of Public Safety as a police officer.¹⁹ He signed his Criminal Justice Code of Ethics²⁰ and ultimately obtained his Basic Police Certification.²¹*
9. *In September 2011, DPSST learned that FIRESTONE's employment had been terminated by a probationary discharge.²² DPSST requested and received the information leading to the discharge.²³*
10. *In December 2011, DPSST notified FIRESTONE via certified mail that his case would be heard before the Police Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.²⁴*

¹⁹ Ex A1

²⁰ Ex A2

²¹ Ex A1

²² Ex A3

²³ Ex A4, A5

11. FIRESTONE provided a response.²⁵

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety

²⁴ Ex A6

²⁵ Ex A7

professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

- (A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);*
- (B) If the misconduct resulted in a conviction:*
 - (i) Whether it was a misdemeanor or violation;*
 - (ii) The date of the conviction(s);*
 - (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;*
 - (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;*
 - (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;*
 - (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;*
 - (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;*
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;*
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;*
- (E) Whether the misconduct involved domestic violence;*
- (F) Whether the public safety professional or instructor self reported the misconduct;*
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;*
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;*
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.*

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke FIRESTONE’s certification based on violation of the established moral fitness standards:

11. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

12. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

b. The identified conduct *did/did not* involve **Dishonesty.**

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others.**

d. The identified conduct *did/did not* involve **Misuse of Authority.**

e. The identified conduct *did/did not* involve **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

g. The identified conduct *did/did not* involve **Insubordination**.

13. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

14. By vote, the Policy Committee finds FIRESTONE's conduct *does/does not* rise to the level to warrant the denial of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: KIRK C. FLERCHINGER DPSST #26897
Umatilla Tribal Police Department**

ISSUE:

Should Kirk C. Flerchinger's Basic, Intermediate, Advanced and Supervisory Police certifications and his Basic and Intermediate Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves Flerchinger's conduct surrounding his resignation in lieu of termination for violations of department policies, including insubordination and untruthfulness.

BACKGROUND and OVERVIEW:

5. *Between 1992 and 2011, FLERCHINGER was employed as a public safety officer, first with the Umatilla County Sheriff's Office as a corrections officer, then with the Umatilla Tribal Police Department as a police officer, and then with the Pendleton Police Department as a police officer.²⁶ He signed his Criminal Justice Code of Ethics²⁷ and received Basic and Intermediate Corrections certifications and Basic, Intermediate, Advanced and Supervisory Police certifications.²⁸*
6. *In November 2011, DPSST received an F-4, Personnel Action Report, showing FLERCHINGER had resigned in lieu of termination.²⁹ DPSST sought and obtained information relating to the resignation.³⁰*

²⁶ Ex A1

²⁷ Ex A2

²⁸ Ex A1

²⁹ Ex A3

³⁰ Ex A4

7. *In January 2012 FLERCHINGER was re-hired by the Umatilla Tribal Police Department as a police officer.*³¹
8. *In February 2012 DPSST notified FLERCHINGER that his case would be heard by the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*³²
9. *FLERCHINGER provided a response.*³³

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

³¹ Ex A1

³² Ex A5

³³ Ex A6

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke FLERCHINGER's certifications based on violation of the established moral fitness standards:

15. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

16. By discussion and consensus:

- a. Identify and articulate the **misconduct that is specific to this case.**

- b. The identified conduct *did/did not* involve **Dishonesty.**

- c. The identified conduct *did/did not* involve **Disregard for the Rights of Others.**

- d. The identified conduct *did/did not* involve **Misuse of Authority.**

- e. The identified conduct *did/did not involve* **Gross Misconduct.**

- f. The identified conduct *did/did not* involve **Misconduct.**

g. The identified conduct *did/did not* involve **Insubordination**.

17. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

18. By vote, the Policy Committee finds HARIKIAN's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

(A) Category I: Dishonesty (5 years to Lifetime).

(B) Category II: Disregard for Rights of Others (5 years to 15 years).

(C) Category III: Misuse of Authority (5 years to 10 years).

(D) Category IV: Gross Misconduct (5 years to 10 years).

(E) Category V: Misconduct (3 years to 7 years).

(F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments

Information Only - SUBSEQUENT DUE PROCESS:

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: NAYMON E. FRANK DPSST #50173
Oregon State Police

ISSUE:

Should Naymon E. Frank's Basic Police certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves FRANK's conduct surrounding his resignation during an investigation for criminal charges of Telephonic Harassment, which were ultimately resolved by civil compromise.

BACKGROUND and OVERVIEW:

10. In January 2009, FRANK was hired by the Oregon State Police as a police officer.³⁴ He signed his Criminal Justice Code of Ethics³⁵ and received a Basic Police certification.³⁶
11. In March 2011, DPSST received an F-4 Personnel Action Report, showing FRANK had resigned during a criminal investigation.³⁷ DPSST sought and obtained information relating to the resignation.³⁸
12. As the matter progressed, DPSST learned that the charges against FRANK had been dismissed pursuant to a civil compromise.³⁹ DPSST sought the information for several months attempting to obtain the records on the civil compromise, without success. We have been informed that the records cannot be located.⁴⁰

³⁴ Ex A1

³⁵ Ex A2

³⁶ Ex A1

³⁷ Ex A3

³⁸ Ex A4, A5, A5.1

³⁹ Ex A6

⁴⁰ Ex A7

13. In August 2011, DPSST notified FRANK that his case would be heard by the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.⁴¹

14. FRANK did not provide a response.

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

⁴¹ Ex A8

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke FRANK's certification based on violation of the established moral fitness standards:

19. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

20. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

d. The identified conduct *did/did not* involve **Misuse of Authority**.

e. The identified conduct *did/did not involve* **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

- g. The identified conduct *did/did not* involve **Insubordination**.

21. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

22. By vote, the Policy Committee finds FRANK's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments:

Information Only - SUBSEQUENT DUE PROCESS:

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix H

Department of Public Safety Standards and Training Memorandum

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: SEAN M. GILHOUSEN DPSST #37612
Coburg Police Dept.**

ISSUE:

Should Sean M. GILHOUSEN's Basic Police certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

This case involves GILHOUSEN's conduct surrounding his resignation during an internal investigation.

BACKGROUND and OVERVIEW

12. Between 1999 and 2011, GILHOUSEN was employed by the Coburg Police Dept. as a police officer, and at one point was acting Chief of Police.⁴² He signed his Code of Ethics,⁴³ attended training, and ultimately obtained his Basic Police certification.⁴⁴
13. In February 2011, DPSST received information that GILHOUSEN resigned during an internal investigation.⁴⁵ Subsequently, DPSST requested and received the investigation that led to GILHOUSEN'S resignation.⁴⁶
14. In June 2011, DPSST notified GILHOUSEN via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.⁴⁷
15. GILHOUSEN did not provide a response.

⁴² Ex A1

⁴³ Ex A2

⁴⁴ Ex A1

⁴⁵ Ex A3

⁴⁶ Ex A4

⁴⁷ Ex A5

16. On November 17, 2011, this case was presented to the Police Policy Committee, which recommended revocation of Gilhousen's certifications.⁴⁸
17. On November 28, 2011 DPSST issued GILHOUSEN a Notice of Intent to Revoke Certifications.⁴⁹
18. This case was ready to be presented to the Board on January 26, 2011. On December 14, 2011 I was contacted by an attorney, Jeff BOILER, who indicated he represented GILHOUSEN. BOILER stated that GILHOUSEN had never received notice of the proceedings involving his certifications prior to the Notice of Intent to Revoke. BOILER stated that GILHOUSEN learned of the proceedings when the mailman delivered the NOI to him from the Lane Council of Governments. I advised BOILER to send a letter to DPSST outlining his concerns.
19. On December 14, 2011 BOILER e-mailed a letter requesting a contested case hearing, but also requesting another opportunity to have the case presented to the PPC with mitigating circumstances.⁵⁰ DPSST agreed to pull the case from the Board agenda and grant an extension to GILHOUSEN to allow another presentation to the PPC.⁵¹
20. GILHOUSEN, through his attorney Mr. BOILER, has provided a response for the PPC's consideration.⁵²

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

- (4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;*
- (B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or*

⁴⁸ Ex A6, p. 5-6

⁴⁹ Ex A7

⁵⁰ Ex A8

⁵¹ Ex A9

⁵² Ex A10

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

- (v) *Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;*
- (vi) *Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;*
- (vii) *Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;*
- (C) *Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;*
- (D) *Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;*
- (E) *Whether the misconduct involved domestic violence;*
- (F) *Whether the public safety professional or instructor self-reported the misconduct;*
- (G) *Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;*
- (H) *Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;*
- (I) *What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.*

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke GILHOUSEN's certifications based on violation of the established moral fitness standards:

23. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

24. By discussion and consensus:

- a. Identify and articulate the **misconduct that is specific to this case.**

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

d. The identified conduct *did/did not* involve **Misuse of Authority**.

e. The identified conduct *did/did not* involve **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

g. The identified conduct *did/did not* involve **Insubordination**.

25. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

26. By vote, the Policy Committee finds GILHOUSEN's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix I

**Department of Public Safety Standards and Training
Memorandum**

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: DEAN J. MEISNER DPSST #18594
Beaverton Police Department**

ISSUE:

Should Dean J. Meisner's Basic, Intermediate, Advanced, Supervisory, Management and Executive Police certifications be revoked based on discretionary disqualifying misconduct as defined in OAR 259-008-0070(4), and as referenced in OAR 259-008-0010?

The issue in this case involves MEISNER's discretionary disqualifying misconduct, including but not limited to his 2012 conviction for Theft III - violation.

BACKGROUND and OVERVIEW:

21. *From 1985 to 1987, MEISNER was employed as a police officer with the Forest Grove Police Department.⁵³ He signed his Criminal Justice Code of Ethics⁵⁴ and completed training.⁵⁵ In December 1987, MEISNER was hired by the Beaverton Police Department as a police officer.⁵⁶ He ultimately obtained Basic, Intermediate, Advanced, Supervisory, Management and Executive Police certifications.⁵⁷*
22. *In December 2011, DPSST learned that MEISNER had been arrested for Theft III in Hillsboro, Oregon.⁵⁸ DPSST requested and received the information leading to the arrest.⁵⁹*

⁵³ Ex A1

⁵⁴ Ex A2

⁵⁵ Ex A1

⁵⁶ Ex A1

⁵⁷ Ex A1

⁵⁸ Ex A3

⁵⁹ Ex A4, A4.1

23. *On December 19, 2011, MEISNER was charged and arraigned on the Class C Misdemeanor crime of Theft III.⁶⁰ In January 2012, MEISNER was convicted of Theft III as a Class A Violation after pleading guilty to that reduced charge.⁶¹ DPSST sought and obtained the information on the conviction.⁶²*
24. *In February 2012, DPSST notified MEISNER via certified mail that his case would be heard before the Police Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.⁶³*
25. *MEISNER provided a response.⁶⁴*

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

⁶⁰ Ex A5

⁶¹ Ex A6

⁶² Ex A7

⁶³ Ex A8

⁶⁴ Ex A9

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

SPECIFIC TO THIS CASE:

OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of Theft III as a Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to deny MEISNER's certifications based on discretionary disqualifying misconduct:

27. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

28. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

d. The identified conduct *did/did not* involve **Misuse of Authority**.

e. The identified conduct *did/did not involve* **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

g. The identified conduct *did/did not* involve **Insubordination**.

29. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

30. By vote, the Policy Committee finds MEISNER's conduct *does/does not* rise to the level to warrant the denial of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix J

**Department of Public Safety Standards and Training
Memorandum**

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: THOMAS J. PERRITT DPSST #20049
Newberg-Dundee Police Department**

ISSUE:

Should Thomas J. Perritt's Basic, Intermediate and Advanced Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves Perritt's conduct surrounding his retirement while under investigation for violations of department policies regarding impairment on duty and untruthfulness.

BACKGROUND and OVERVIEW:

15. *On September 8, 1987, PERRITT was hired by the Newberg-Dundee Police Department as a police officer.⁶⁵ He signed his Criminal Justice Code of Ethics⁶⁶ and obtained Basic, Intermediate and Advanced Police certifications.⁶⁷*
16. *In August 2011, DPSST received an F-4 Personnel Action Report, showing PERRITT retired while under investigation.⁶⁸ DPSST sought and obtained information relating to the resignation.⁶⁹*
17. *In February 2012, DPSST notified PERRITT via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.⁷⁰*

⁶⁵ Ex A1

⁶⁶ Ex A2

⁶⁷ Ex A1

⁶⁸ Ex A3

⁶⁹ Ex A4, A5

⁷⁰ Ex A6

18. *PERRITT has provided a response.*⁷¹

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a

⁷¹ Ex A7

gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) *Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;*

(D) *Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;*

(E) *Whether the misconduct involved domestic violence;*

(F) *Whether the public safety professional or instructor self reported the misconduct;*

(G) *Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;*

(H) *Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;*

(I) *What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.*

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke PERRITT's certifications based on violation of the established moral fitness standards:

31. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

32. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

d. The identified conduct *did/did not* involve **Misuse of Authority**.

e. The identified conduct *did/did not involve* **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

g. The identified conduct *did/did not* involve **Insubordination**.

33. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

34. By vote, the Policy Committee finds PERRITT's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

(A) Category I: Dishonesty (5 years to Lifetime).

(B) Category II: Disregard for Rights of Others (5 years to 15 years).

(C) Category III: Misuse of Authority (5 years to 10 years).

(D) Category IV: Gross Misconduct (5 years to 10 years).

(E) Category V: Misconduct (3 years to 7 years).

(F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments

Information Only - SUBSEQUENT DUE PROCESS:

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix K

Department of Public Safety Standards and Training
Memorandum

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: COREY J. SIMONS DPSST #35370
Oregon State Police

ISSUE:

Should Corey J. Simons' Basic, Intermediate and Advanced Police certifications be revoked based on discretionary disqualifying misconduct as defined in OAR 259-008-0070(4), and as referenced in OAR 259-008-0010?

The issue in this case involves Simons' discretionary disqualifying misconduct, including but not limited to his 2012 conviction for Recklessly Endangering Another.

EXECUTIVE SESSION: If medical information is discussed, this matter must be moved to executive session.

BACKGROUND and OVERVIEW:

26. In March, 1998, SIMONS was hired by the Oregon State Police as a police officer.⁷² He signed his Criminal Justice Code of Ethics⁷³ and ultimately obtained his Basic, Intermediate and Advanced Police Certifications.⁷⁴
27. In August, 2011, DPSST learned that SIMONS had been arrested for Unlawful Use of a Weapon and for Recklessly Endangering Another stemming from an incident in Albany, Oregon.⁷⁵ DPSST requested and received the information leading to the arrest.⁷⁶

⁷² Ex A1

⁷³ Ex A2

⁷⁴ Ex A1

⁷⁵ Ex A3

⁷⁶ Ex A4

28. SIMONS was charged and arraigned on the Class C Felony and Class A Misdemeanor crimes on August 31, 2011.⁷⁷ On February 17, 2012, SIMONS was convicted of the misdemeanor Recklessly Endangering after pleading no contest, and the felony charge was dismissed.⁷⁸ DPSST sought and obtained the information on the conviction.⁷⁹
29. In February, 2012, DPSST notified SIMONS via certified mail that his case would be heard before the Police Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.⁸⁰
30. SIMONS provided a response.⁸¹

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

⁷⁷ Ex A5

⁷⁸ Ex A6

⁷⁹ Ex A7

⁸⁰ Ex A8

⁸¹ Ex A9

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

SPECIFIC TO THIS CASE:

OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of Recklessly Endangering Another as Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke SIMONS' certifications based on discretionary disqualifying misconduct:

35. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

36. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

b. The identified conduct *did/did not* involve **Dishonesty**.

c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

d. The identified conduct *did/did not* involve **Misuse of Authority**.

e. The identified conduct *did/did not involve* **Gross Misconduct**.

f. The identified conduct *did/did not* involve **Misconduct**.

g. The identified conduct *did/did not* involve **Insubordination**.

37. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

38. By vote, the Policy Committee finds SIMONS' conduct *does/does not* rise to the level to warrant the denial of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments:

Information Only - SUBSEQUENT DUE PROCESS:

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix L

**Department of Public Safety Standards and Training
Memorandum**

DATE: May 17, 2012

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: Howard R. Webb DPSST #17552

ISSUE:

Should Howard R. Webb's Basic, Intermediate and Advanced Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves a DPSST investigation of WEBB'S conduct, as requested by the PPC in May, 2011.

BACKGROUND and OVERVIEW:

19. Between 1984 and 2007 WEBB was employed as a public safety officer with various Oregon agencies, including the Department of Public Safety Standards and Training (DPSST).⁸² He ultimately attended training, signed his Criminal Justice Code of Ethics⁸³ and received Basic, Intermediate and Advanced Police certifications.⁸⁴ He has not been employed in public safety in Oregon since 2007, and his certifications have lapsed.⁸⁵

20. In December, 2009 DPSST received information that WEBB was claiming a college degree from LaSalle University of Louisiana, a known "diploma mill" while testifying in Oregon courts as an expert witness on police training. That information included a "Cease and Desist Warning Letter" from the Oregon Student Assistance Commission and advice that no

⁸² Ex A1

⁸³ Ex A2

⁸⁴ Ex A1

⁸⁵ Ex A1

*action would be taken against him by that office unless he claimed that degree in Oregon subsequent to the letter.*⁸⁶

21. *In November, 2010 DPSST received information that WEBB had again claimed his LaSalle University degree during a trial in the federal court in Portland, Oregon. DPSST obtained the information relating to that case and opened an investigation.*⁸⁷
22. *In May 2011, DPSST received information during the investigation of another police officer, Michael KAY, that WEBB had assisted KAY in falsifying police canine certifications for KAY and his police canine. After the KAY case was presented to the Police Policy Committee in May, 2011, the committee directed DPSST to open an investigation into WEBB's activities in that case.*⁸⁸ *DPSST then proceeded with both investigations.*⁸⁹
23. *In December, 2011, DPSST notified WEBB via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*⁹⁰ *WEBB did not provide a response.*

DISCUSSION:

ORS 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

⁸⁶ Ex A3

⁸⁷ Ex A4

⁸⁸ Ex A5

⁸⁹ Ex A7

⁹⁰ Ex A6

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

The standard of proof on this matter is a *preponderance of evidence*; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke WEBB’s certifications based on violation of the established moral fitness standards:

39. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

40. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

b. The identified conduct *did/did not* involve **Dishonesty.**

c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others.**

d. The identified conduct *did/did not* involve **Misuse of Authority.**

e. The identified conduct *did/did not involve* **Gross Misconduct**.

f. The identified conduct *did/did not involve* **Misconduct**.

g. The identified conduct *did/did not involve* **Insubordination**.

41. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

42. By vote, the Policy Committee finds WEBB's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

(A) Category I: Dishonesty (5 years to Lifetime).

(B) Category II: Disregard for Rights of Others (5 years to 15 years).

(C) Category III: Misuse of Authority (5 years to 10 years).

(D) Category IV: Gross Misconduct (5 years to 10 years).

(E) Category V: Misconduct (3 years to 7 years).

(F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.