

Police Policy Committee

Minutes

November 12, 2008

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 12, 2008 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 10:02 a.m. by Chair Andrew Bentz.

Attendees

Policy Committee Members:

Andrew Bentz, Chair, Oregon State Sheriffs' Association
Rob Gordon, Oregon State Sheriffs' Association
Brandon Kaopuiki, Non-Management Law Enforcement
Eric Hendricks, Portland Police Bureau Commander
Tim McLain, Superintendent, Oregon State Police
Edward Mouery, Oregon State Police
Steven Piper, Non-Management Law Enforcement
Raul Ramirez, Oregon State Sheriffs' Association

Committee Members Absent

Mike Healy, Oregon Association Chiefs of Police
Gordon Huiras, Oregon Association Chiefs of Police
Robert King, Non-Management Law Enforcement
Dave Miller, SAC FBI, Oregon
Stuart Roberts, Oregon Association Chiefs of Police

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Coordinator
Bonnie Salle-Narvaez, Certification Coordinator
Steve Winegar, Curriculum Research and Development
Carolyn Kendrick, Administrative Specialist



1. Minutes of August 12, 2008 Meeting

Approve minutes from the August 12, 2008 meeting.

See Appendix A for details

Tim McLain moved to approve the minutes from the August 12, 2008 meeting. Steven Piper seconded the motion. The motion carried unanimously by all present.

2. Robert L. Krieger – DPSST #21486

Presented by Theresa King

See Appendix B for details

Convene in Executive Session at 10:15 a.m.

To discuss matters exempt from disclosure under ORS 92.660(2)(f) related to matters within the Robert Krieger case.

Reconvene in Regular Session at 10:19 a.m.

To take final action regarding a determination of whether to recommend to the Board the revocation of Robert Krieger's certifications based on a violation of the moral fitness standards.

Rob Gordon moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Steven Piper seconded the motion. The motion carried unanimously by all present.

Rob Gordon moved the committee does not recommend revocation of Robert L. Krieger's certifications. Brandon Kaopuiki seconded the motion. The motion carried unanimously by all voting.

3. **Jess H. Wills – DPSST #46833**

Presented by Theresa King

See Appendix C for details

Tim McLain moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Rob Gordon seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Untruthfulness regarding intimate relationship with an inmate and risk issues created for the county.*
- b. What specific grounds do the facts relate to? *Moral Fitness as stated in OAR 259-008-0010(6)(b)(E).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to show WILLS engaged in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed WILLS' conduct constitutes grounds for revocation based on the moral fitness standard.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed WILLS' conduct does rise to the level that warrants revocation based on the moral fitness standard.*

Steven Piper moved the committee recommend to the board the revocation of Jess H. WILLS' certification based on the moral fitness standard. Rob Gordon seconded the motion. The motion carried unanimously by all present.

4. **Earl G. McGee – DPSST #30279**

Presented by Theresa King

See Appendix D for details

Ed Mouery moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Raul Ramirez seconded the motion. The motion carried unanimously by all present.

The committee agreed although there are clear issues showing substandard work, MCGEE'S conduct does not rise to the level of revocation. Rob Gordon moved the committee does not recommend to the board the revocation of Earl G. MCGEE'S certification. Eric Henderson seconded the motion. The motion carried unanimously by all present.

5. Sean D. Oelke – DPSST #44784

Presented by Theresa King

See Appendix E for details

Tim McLain moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Rob Gordon seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? Dishonesty and failure to attend court.*
- b. What specific grounds do the facts relate to? Moral Fitness as stated in OAR 259-008-0010(6)(b)(E).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct. The committee agreed there is enough evidence to find that OELKE did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? The committee agreed OELKE'S conduct was prejudicial to the administration of justice and constitutes grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? The committee agreed OELKE'S conduct does rise to the level that warrants revocation.*

Rob Gordon moved to recommend to the board the revocation of Sean D. OELKE'S certification based on a violation of the moral fitness standard. Raul Ramirez seconded the motion. The motion carried unanimously by all present.

6. Thomas E. Blackman – DPSST #35590

Presented by Theresa King

See Appendix F for details.

Rob Gordon moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Tim McLain seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? Honesty.*
- b. What specific grounds do the facts relate to? Moral Fitness as stated in OAR 259-008-0010(6)(b)(E).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? The committee agreed there is enough evidence to find BLACKMAN did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? The committee agreed BLACKMAN'S conduct does constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? The committee agreed BLACKMAN'S conduct does rise to the level that warrants revocation.*

Raul Ramirez moved to recommend to the board the revocation of Thomas E. BLACKMAN'S certification based on a violation of the moral fitness standard. Ed Mouery seconded the motion. The motion carried unanimously by all present.

7. **Mathew Bevens – DPSST #36615**

Presented by Theresa King

See Appendix G for details.

Steven Piper moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Tim McLain seconded the motion. The motion carried unanimously by all present.

The committee agreed that BEVENS' misconduct was handled appropriately by his agency and believes his conduct does not rise to the level of revocation. Rob Gordon moved the committee does not recommend to the board the revocation of Mathew BEVENS' certification. Brandon Kaopuiki seconded the motion. The motion carried unanimously by all present.

8. **The committee did not convene in Executive Session** to discuss matters exempt from disclosure under ORS 92.660(2)(f) related to matters within the Mathew Bevens case.

9. **Harold R. Aragon III – DPSST #39319**

Presented by Theresa King

See Appendix H for details.

Rob Gordon moved the committee adopts the staff report and related documents as the record on which the recommendation is based. Raul Ramirez seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Truthfulness and lack of cooperation.*
- b. What specific grounds do the facts relate to? *Moral Fitness as stated in OAR 259-008-0010(6)(b)(E).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that ARAGON did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed that ARAGON'S conduct and the public's loss of confidence in his ability to perform competently do constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed that ARAGON'S conduct does rise to the level that warrants revocation.*

Rob Gordon moved the committee recommend to the board the revocation of Harold R. ARAGON'S certification based on a violation of the moral fitness standard. Steven Piper seconded the motion. The motion carried unanimously by all present.

The committee broke session for lunch at 11:13 a.m. and reconvened at 12:04 p.m.

10. OAR 259-001-0005 – Proposed Rule

Housekeeping Changes to Administrative Rulemaking Process
Presented by Bonnie Salle-Narvaez

See Appendix I for details.

Brandon Kaopuiki moved to recommend filing the proposed language for OAR 259-001-0005 with the Secretary of State as a proposed rule. Steven Piper seconded the motion. The motion carried unanimously by all present.

Brandon Kaopuiki moved to recommend filing the proposed language for OAR 259-001-0005 with the Secretary of State as a permanent rule if no comments are received. Rob Gordon seconded the motion. The motion carried unanimously.

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

11. OAR 259-008-0010(8) – Proposed Rule

Requirement of physical examination after separation due to physical inability to perform essential tasks of a law enforcement officer.
Presented by Bonnie Salle-Narvaez

See Appendix J for details.

After discussion and clarification by staff, Tim McLain moved to recommend filing the proposed language for OAR 259-008-0010(8) with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Raul Ramirez seconded the motion. The motion carried unanimously by all present.

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

12. OAR 259-008-0020 – Proposed Rule

Issuance of DPSST Number
Presented by Bonnie Salle-Narvaez

See Appendix K for details.

Following in-depth discussion about the wording of this rule, possible fiscal ramifications, and committee members wanting to get feedback from their colleagues, Steven Piper moved this proposed rule be tabled until staff can rework the wording. Ed Mouery seconded the motion. The motion carried unanimously by all present.

13. OAR 259-008-0025 – Proposed Rule

Career Officer Development Course – Remediation
Presented by Bonnie Salle-Narvaez

See Appendix L for details.

Steven Piper moved to recommend filing the proposed language for OAR 259-008-0025 as a temporary rule, a proposed rule, and a permanent rule if no comments are received. Brandon Kaopuiki seconded the motion. The motion carried unanimously by all present.

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

14. OAR 259-008-0060 – Proposed Rule

College Credit – Basic Training Conversion

Presented by Bonnie Salle-Narvaez

See Appendix M for details.

Rob Gordon moved to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Tim McLain seconded the motion. The motion carried unanimously by all present.

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

15. OAR 259-008-0065 – Proposed Rule

Certification Recall – Failing to Maintain First Aid/CPR

Presented by Bonnie Salle-Narvaez

See Appendix N for details.

Steven Piper moved to recommend filing the proposed language for OAR 259-008-0065 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Raul Ramirez seconded the motion. The motion carried unanimously by all present.

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

16. OAR 259-008-0068 – Proposed Rule

Fee Increase for Certified Retired Officer Program

Presented by Bonnie Salle-Narvaez

See Appendix O for details.

The committee agreed this issue should be tabled until next quarter when all members are present for further discussion on the benefits of this program. Staff stated they would bring this proposed rule back to the committee with revised language at the next committee meeting in February 2009.

17. Next Police Policy Committee Meeting

Tuesday, February 10, 2009 at 1:30 p.m.

18. Additional Business

Presented by Eriks Gabliks

Eriks gave a brief overview of the upcoming budget.

With no further business before the committee, Tim McLain moved to adjourn the meeting. Steven Piper seconded the motion. Motion carried unanimously by all voting. The meeting adjourned at 1:20 p.m.

Appendix A

Police Policy Committee Minutes (Draft) August 12, 2008

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 12, 2008 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:32 p.m. by Chair Andrew Bentz.

Attendees

Policy Committee Members:

Andrew Bentz, Chair, Oregon State Sheriffs' Association
Rob Gordon, Oregon State Sheriffs' Association
Mike Healy, Oregon Association Chiefs of Police
Brandon Kaopuiki, Non-Management Law Enforcement
Brian Martinek, Portland Police Bureau Assistant Chief
Tim McLain, Superintendent, Oregon State Police
Steven Piper, Non-Management Law Enforcement
Stuart Roberts, Oregon Association Chiefs of Police
Raul Ramirez, Oregon State Sheriffs' Association

Committee Members Absent

Robert King, Non-Management Law Enforcement
Dave Miller, SAC FBI, Oregon
Edward Mouery, Oregon State Police

Guests:

Maxine Bernstein, The Oregonian
Cheryl Pellegrini, Assistant Attorney General, Oregon Department of Justice

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorange, Standards and Certification Supervisor
Bonnie Salle-Narvaez, Certification Coordinator
Theresa King, Professional Standards Coordinator
Steve Winegar, Curriculum Research and Development
Kristen Turley, Standards and Compliance Coordinator
Carolyn Kendrick, Administrative Specialist



1. Minutes of May 13, 2008 Meeting

Approve minutes from the May 13, 2008 meeting.

See Appendix A for details

Staff noted an error in the transcription of Appendix B1. There are two places where there is an erroneous citation whereas comments by Assistant Attorney General Darin Tweedt were attributed to Deputy Chief Martinek on pages 7 and 8.

Tim McLain moved to approve the minutes as amended. Mike Healy seconded the motion. The motion carried unanimously by all voting.

2. OAR 259-008-0060 – Proposed Rule

Creditable Service Time

Presented by Bonnie Salle-Narvaez

See Appendix B for details

Tim McLain moved to recommend filing OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Brian Martinek seconded the motion. The motion carried unanimously by all voting.

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

3. OAR 259-008-0065 – Proposed Rule

Certification Recall – Failing to Maintain First Aid/CPR

This amended item was not brought before the committee due to technical difficulties and will be brought back to the table at the November 11, 2008 meeting.

Mike Healy brought forward a comment from a Chief (not on the committee) regarding the possibility of certain administrative positions being exempt from this rule. The committee disagreed with that idea, the main reason being that the public expects all officers, regardless of rank, to have basic training for police.

It is the consensus of the committee that no further amendments be made to this proposed rule that will be brought before the committee at the November 11th meeting.

4. OAR 259-008-0010 – Hearing Officer’s Report and Recommendation

Denial and Revocation

Presented by Bonnie Salle-Narvaez

See Appendix C for details

Rob Gordon moved to adopt the proposed rule language previously submitted to the Police Policy Committee, amending OAR 259-008-0010 as a permanent rule. Brian Martinek seconded the motion. The motion carried unanimously by all voting.

5. OAR 259-008-0070 – Hearing Officer’s Report and Recommendation

Denial and Revocation

Presented by Bonnie Salle-Narvaez

See Appendix D for details

Tim McLain moved to adopt OAR 259-008-0070 as a permanent rule with the identified additional modifications to the original proposed rule language. Stuart Roberts seconded the motion. The motion carried in an 8 to 1 vote with Brandon Kaopuiki voting no.

6. Convene in Executive Session

To discuss matters exempt from disclosure under ORS 92.660(2)(f) related to whether medical waivers for Chad Arnold and Robert Jordan should be recommended to the Board.

7. Reconvene in Regular Session

See Appendix E for details.

Chad Arnold – Medical Waiver

Rob Gordon moved to approve the medical waiver with the provision that Chad Arnold be required to pass an independent exam by an examiner of the agency's choosing.

After further discussion about the wording of the medical examination, Rob Gordon withdrew his motion.

Rob Gordon then moved to deny the request of a medical waiver for Chad Arnold but communicate to him that the committee would reconsider the waiver upon his completion of an independent medical exam that states in an affirmative way that he can in fact accomplish the essential functions of a police officer. Tim McLain seconded the motion. The motion carried in a 5-4 vote with Brandon Kaopuiki, Brian Martinek, Steve Piper, and Stuart Roberts voting no.

Robert Jordan – Medical Waiver

Steve Piper moved to recommend approving the medical waiver for Robert Jordan. Brian Martinek seconded the motion. The motion carried unanimously by all voting.

7.5. Discussion with Department of Justice

Presented by Cheryl Pellegrini, Assistant Attorney General

Due to cases that have gone to contested case hearings which have had no insight into what the policy committee was thinking or factors it considered when the initial determination to recommend revocation of certification was made, the Department of Justice would like to recommend the following:

- *Policy committee to vote to adopt the staff report and the exhibit list and make it part of the record; and*
- *State on the record, after consideration of the report, the specific basis in the event the committee votes to revoke or not, and to cite what factors were considered – both aggravating and mitigating – and relate specific facts in the report to specific provisions in Administrative Rules.*

8. Sjon Charles CLEMONS – DPSST #39482

Presented by Theresa King

See Appendix F for details.

1. The Police Policy Committee adopts the Staff report as the record upon which its recommendations are based. *Rob Gordon moved to adopt the staff report and exhibits as the record from which recommendations are based. Raul Ramirez seconded the motion. The motion carried unanimously by all voting.*
2. The Police Policy Committee believes:
 - a. CLEMONS' actions *do* cause a reasonable person to have doubts about his honesty, respect for the rights of others, and respect for the laws of the land *based on the report submitted by Oakridge Police Department which includes interviews of other police officers; private citizens who witnessed the conduct on the forest service road; and the incident involving the young man using the police officer's pickup and the statement that the officer checked the young man's driving record which proved to be false.*

Committee members pointed out that the wording in the above statement should say "... and/or respect for the laws of the land", to give the option of agreeing with all, or part of the reasons listed. Staff stated that the OAR does read "or".

- b. CLEMONS' conduct *did* involve dishonesty, fraud, deceit, or misrepresentation.
 - c. CLEMONS' conduct *was* prejudicial to the administration of justice.
 - d. CLEMONS' conduct *did* adversely reflect on his fitness to perform as a police officer.
 - e. CLEMONS' actions *do* make him inefficient or otherwise unfit to render effective service because of the agency's and the public's loss of confidence in his ability to perform competently.
3. The Police Policy Committee finds CLEMONS' conduct *does* rise to the level to warrant the revocation of his certifications, and therefore recommends to the Board that CLEMONS' certifications *be revoked*.

Rob Gordon moved to approve items 2 (a-e) in the affirmative based on the following: speed racing in a marked vehicle while on duty which is a violation of the law; loaning agency vehicle to private citizen; lying to another officer; and involvement as a supervisor in an inappropriate relationship with a recruit and believes that Clemons' conduct does rise to the level to warrant the revocation of his certifications and therefore recommends to the Board that Clemons' certifications be revoked. Tim McLain seconded the motion. The motion carried unanimously by all voting.

Brandon Kaopuiki voiced his discomfort in the procedure. It was his understanding there would be discussion after the motion and prior to the vote. He is uncomfortable with the background investigator having the same weight as the first hand information through affidavits, Brandon would have proposed an amendment to the previous motion that the committee's recommendation be based only on dishonesty and disregard for the law in the instance of the forest service road conduct and the traffic stop conduct and not consider the allegations regarding the inappropriate relationship.

Chair Andrew Bentz said Brandon could offer the aforementioned as a competing motion. Brandon Kaopuiki so moved.

Rob Gordon was not willing to withdraw the previous vote unless the majority of the committee wished to do so. He stated that the allegations of an inappropriate relationship are indeed relevant to the recommendation to revoke Clemons' certifications.

After further discussion Brandon Kaopuiki concedes the end result would be no different and withdrew his motion.

9. ORPAT Maintenance Standard for Police

Presented by Steve Winegar

See Appendix G for details.

10. Law Enforcement Memorial Wall Nomination

Presented by Eriks Gabliks

See Appendix H for details.

Tim McLain moved to add Robert Riley's name to the Law Enforcement Memorial Wall. Rob Gordon seconded the motion. The motion carried unanimously by all voting.

11. Next Police Policy Committee Meeting is November 11, 2008

With no further business before the committee, Robert Gordon moved to adjourn the meeting. Michael Healy seconded the motion. Motion carried unanimously by all voting. The meeting adjourned at 3:44 p.m.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Robert L. KRIEGER DPSST #21486

ISSUE:

Should Robert L. KRIEGER's Basic, Intermediate and Advanced, and Basic and Intermediate Police certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010,?

Note: This Staff Report contains personal medical information that, if discussed, must be discussed during an Executive Session.

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to Krieger:

On January 19, 1988, KRIEGER was hired by the Klamath County Sheriff's Office (KCSO) as corrections officer.

On August 15, 1990, KRIEGER signed an F-11, Criminal Justice Code of Ethics.

On July 28, 1992, KRIEGER was granted his Basic Corrections certification.

On July 1, 1992, KRIEGER was reclassified as a police officer.

On June 21, 1993, KRIEGER was granted his Intermediate Corrections certification.

On August 29, 1994, KRIEGER was granted his Basic Police Certification.

On August 29, 1994, KRIEGER was granted his Intermediate Police Certification.

On June 26, 1998, KRIEGER was granted his Advanced Police Certification.

On September 8, 2006, KRIEGER retired from KCSO.

On February 9, 2007, DPSST received information that KRIEGER may have retired as the result of an internal investigation of allegations of misconduct.

On March 13, 2007, DPSST requested information from KCSO relating to a KRIEGER's retirement during an internal investigation. Subsequent to this DPSST received the requested information. These documents include:

- 1. A 19-page 2006 IA which was handled by an outside investigator.*
- 2. 2006 IA related documents which include transcripts.*
- 3. June 2004 RODRIGUEZ citizen complaint, internal investigation, related documents and remedial training.*
- 4. February 2004 Letter of instruction related to POWERS and ROSE complaint.*
- 5. Policy Manual sign-off sheets.*
- 6. Medical and psychological evaluations.*
- 7. Disciplinary determination.*
- 8. Conflict notification.*
- 9. Termination determination.*

On March 22, 2007, DPSST mailed KRIEGER a letter advising him that his case would be heard before the Police Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. On March 29, 2007, DPSST received the Certified Mail return receipt. On April 17, 2007, DPSST received a 3-page response from KRIEGER along with letters of recommendation. Staff asks that the PPC read this in its entirety. These documents include:

- 1. 3-page letter for the PPC's consideration.*
- 2. 13 character references.*
- 3. Psychiatric examination.*

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

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.

DISCRETIONARY DISQUALIFYING CONDUCT

OAR 259-008-0070 specifies discretionary disqualifying conduct, which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, “All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently.”

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke KRIEGER's certifications, based on a violation of the established moral fitness standards using the following guidelines:

1. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which the recommendation is based.
2. By *discussion and consensus*:
 - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)
 - b. What specific grounds do the facts relate to? (*The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and articulate which subsection(s) apply.*)
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
 - d. Does the conduct constitute grounds for revocation? (*There may be one or more separate events.*)
 - e. Does the conduct rise to the level that warrants revocation? (*The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.*)
3. By *vote*, the Committee *recommends/does not recommend* revocation.

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator

SUBJECT: Jess H. WILLS - DPSST #46833

ISSUE:

Should Jess WILLS' Basic Police certification be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to WILLS:

On April 11, 2006, WILLS was hired by the Curry County Sheriff's Office (CCSO) as police officer.

On February 27, 2007, WILLS was granted his Basic Police certification.

On July 31, 2006, WILLS signed an F-11, Criminal Justice Code of Ethics.

On May 2, 2008, WILLS resigned from CCSO.

On July 1, 2008, DPSST requested information from CCSO relating to WILLS' resignation during an internal investigation. Subsequent to this DPSST received the requested information. These documents include a five-page internal investigation regarding allegations that WILLS engaged in a sexual relationship with a former inmate.

On August 4, 2008, DPSST mailed WILLS a letter advising him that his case would be heard before the Police Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. On August 8, 2008, DPSST received the Certified Mail return receipt. On September 3, 2008, DPSST received a two-pg letter from WILLS. DPSST asks that the Policy Committee members review this document in its entirety.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

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.

DISCRETIONARY DISQUALIFYING CONDUCT

OAR 259-008-0070 specifies discretionary disqualifying conduct, which includes criminal convictions and violations of the established moral fitness standards. This rule provides for

Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, "All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently."

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke WILLS' certifications, based on violation of the established moral fitness standards using the following guidelines:

1. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which its recommendation is based.
2. By *discussion and consensus*:
 - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)
 - b. What specific grounds do the facts relate to? (*The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and applicable discretionary disqualifying crimes, and articulate which subsection(s) apply.*)
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
 - d. Does the conduct constitute grounds for revocation? (*There may be one or more separate events.*)
 - e. Does the conduct rise to the level that warrants revocation? (*The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.*)
3. By *vote*, the Committee *recommends/does not recommend* revocation.

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator

SUBJECT: Earl G. McGee DPSST #30279

ISSUE:

Should Earl G. McGee's Basic, Intermediate and Advanced Police certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to McGEE:

On June 22, 1994, McGEE was hired by the Burns Police Department (BPD).

On February 1, 1999, McGEE signed an F-11, Criminal Justice Code of Ethics.

On March 17, 2000, McGEE was granted a Basic Police certification.

On December 1, 2006, McGEE was granted an Intermediate Police certification.

On December 1, 2006, McGEE was granted an Advanced Police certification.

On October 24, 2007, DPSST received a number of news clippings regarding McGEE's resignation during an investigation.

On December 3, 2007, DPSST mailed a letter to the employer requesting information.

On February 5, 2008, DPSST mailed a second request for the information. Subsequent to this DPSST received the requested information. These documents include:

- 1. Notice of investigation, which included allegations of failure to make immediate custody arrest for violation of a domestic violence restraining order, unbecoming conduct and knowledge of laws and regulations.*
- 2. An executive summary of an internal investigation that was completed by Sgt. Schmitz, Aumsville Police Department. Within this summary it was determined that rather than making a required arrest for violation of a restraining order as required by statute, McGEE ordered the removal of the handcuffs that had been applied by a cover officer; McGEE was the primary officer. The investigator determined that McGEE's explanation for his failure to make the mandatory arrest was not supported by the facts of the case or his actions. Additionally, the investigator determined that McGEE had engaged in a pattern of failing to make mandatory arrests which had resulted in past discipline and counseling, as well as creating poor working relationships with other agencies. The investigator determined that McGEE not only committed the crime of not making a mandatory arrest but also that of Official Misconduct in the Second Degree.*
- 3. A supplemental report in which McGEE described the arrest of the suspect for violation of the restraining order by an officer from an adjoining jurisdiction.*

On June 17, 2008, DPSST mailed McGEE a letter advising him that his case would be heard before the Police Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. On June 23, 2008, DPSST received the Certified Mail return receipt. On July 18, 2008, DPSST received a faxed one-page response.

On August 22, 2008, DPSST mailed McGEE a second letter allowing him to provide relevant information to the Policy Committee.

On September 5, 2008, DPSST received a 29-page fax from McGEE. These documents include:

- 1. A 3-page letter from MCGEE providing explanation of the September 2007 incident. MCGEE also comments on a prior incident (March 2007) and Chief NOU's report on the March incident.*
- 2. A letter from City Manager BOONE regarding MCGEE's resignation.*
- 3. A March 2007 Incident Report with a related one-day suspension.*
- 4. A duplicate copy of the September 2007 Incident Report and Supplemental Report., which was the basis for the internal investigation that occurred just prior to MCGEE's resignation. (See Ex A10-A11)*

Staff asks that the PPC read these materials in their entirety.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

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.

DISCRETIONARY DISQUALIFYING CONDUCT

OAR 259-008-0070 specifies discretionary disqualifying conduct, which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, "All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently.

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke McGEE's certification, based on a violation of the established moral fitness standards using the following guidelines:

1. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which the recommendation is based.
2. By *discussion and consensus*:
 - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)
 - b. What specific grounds do the facts relate to? (*The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and applicable discretionary disqualifying crimes, and articulate which subsection(s) apply.*)
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?

- d. Does the conduct constitute grounds for revocation? (*There may be one or more separate events.*)
- e. Does the conduct rise to the level that warrants revocation? (*The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.*)

3. By *vote*, the Committee *recommends/does not recommend* revocation.

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator

SUBJECT: Sean D. OELKE DPSST #44784

ISSUE:

Should Sean D. OELKE's Basic Police certification be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to OELKE:

On September 23, 2004, OELKE was hired by the Portland Police Bureau (PPB).

On July 20, 2005, OELKE signed an F-11, Criminal Justice Code of Ethics.

On August 4, 2005, OELKE was granted a Basic Police certification.

On February 12, 2007, DPSST received a F-4, Personnel Action Report on OELKE showing that he had resigned "pending termination.

On March 12, 2007, DPSST sent a letter to Chief SIZER requesting the underlying investigation that led to OELKE's resignation. Subsequent to this DPSST received the requested documents. These documents included:

- 1. A report from OELKE's co-worker to a supervisor that OELKE was aware of his grand jury subpoena and that he may not show up; OELKE was venting about the time of the grand jury as it related to his work schedule. When OELKE did not appear at the grand jury, the co-worker was advised by the DA that OELKE had called them asserting a conflict with a Beaverton Court. The co-worker contacted the Court Coordinator's Office and determined that OELKE did not have court in Beaverton as he had asserted to the court and later in an internal memorandum.*
- 2. A memo from BROOKS in which he required OELKE to provide an explanation for not showing up for grand jury; BROOKS' follow up on overtime slips and with DMV to determine if OELKE had a DMV case.*
- 3. Interview documents which include notices and transcripts to witnesses and to OELKE.*
- 4. Performance Review for OELKE citing five allegations of his untruthfulness.*
- 5. Memorandum proposing discipline of termination for failure to appear at grand jury and for untruthfulness.*

On October 5, 2007, DPSST mailed OELKE a letter advising him that his case would be heard before the Police Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. On October 11, 2007, DPSST received the certified mail return receipt. To date, OELKE has not provided any response.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

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.

DISCRETIONARY DISQUALIFYING CONDUCT

OAR 259-008-0070 specifies discretionary disqualifying conduct which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, "All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

- (A) Illegal conduct involving moral turpitude;
- (B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;
- (D) Conduct that is prejudicial to the administration of justice;
- (E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently.

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke OELKE's certifications, based on violation of the established moral fitness standards, using the following guidelines:

1. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which their recommendation is based.
2. By *discussion and consensus*:
 - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)
 - b. What specific grounds do the facts relate to? (*The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and articulate which subsection(s) apply.*)
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
 - d. Does the conduct constitute grounds for revocation? (*There may be one or more separate events.*)
 - e. Does the conduct rise to the level that warrants revocation? (*The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.*)
3. By *vote*, the Committee *recommends/does not recommend* revocation.

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Thomas E. Blackman DPSST #35590

ISSUE:

Should Thomas E. Blackman's Basic Emergency Medical Dispatcher, Basic and Intermediate Telecommunicator and Basic and Intermediate Police certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010,?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to BLACKMAN:

On May 5, 1998, BLACKMAN was hired by the LaGrande Police Department (BPD) as a EMD and Telecommunicator.¹

On February 10, 2003, BLACKMAN was granted his Basic Emergency Medical Dispatcher certification.

On September 20, 1999, BLACKMAN was granted his Basic Telecommunicator certification.

On January 10, 2005, BLACKMAN was granted his Intermediate Telecommunicator Certification.

On January 8, 2001, BLACKMAN was transferred to a position within the agency as a police officer.

On January 29, 2001, BLACKMAN signed an F-11, Criminal Justice Code of Ethics.²

On November 27, 2001, BLACKMAN was granted his Basic Police Certification.

On January 10, 2005, BLACKMAN was granted his Intermediate Police Certification.

¹ Ex A2

² Ex A3

On April 2, 2008, BLACKMAN resigned from the LaGrande Police Department.

In April 2008, DPSST received information that BLACKMAN resignation during an investigation. Subsequent news clippings were received in May and June.³

On April 28, 2008, DPSST mailed a letter to the employer requesting information that led to BLACKMAN's resignation.⁴

On April 28, 2008, DPSST mailed a letter to the Union County District Attorney requesting information that he had regarding an allegation that BLACKMAN had falsified a police report.⁵

On May 29, 2008, DPSST mailed a second request to the employer requesting information that led to BLACKMAN's resignation.⁶ DPSST subsequently received the requested information. These documents include:

- 10. Resignation received and allegations sustained.⁷*
- 11. 3-page Recommendation of Termination and associated 8-page investigation.⁸*
- 12. 2-page letter from DA THOMPSON advising Chief COURTNEY of concerns about accuracy of information in a police report BLACKMAN prepared, and a request that COURTNEY investigate and advise him of the disposition, for purposes of the legal requirement to disclose exculpatory information.⁹*
- 13. Incident and Supplemental Reports of BLACKMAN.¹⁰*
- 14. Internal Investigations documents, including notifications, communications restrictions and transcripts.¹¹*
- 15. Supplemental Incident report of BLACKMAN, and second investigation regarding accuracy of that report.¹²*

August 5, 2008, DPSST mailed BLACKMAN a letter advising him that his case would be heard before the Police Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration.¹³ This letter was sent certified mail. On August 8, 2008, DPSST received a response from BLACKMAN's attorney.¹⁴

³ Ex A43

⁴ A4

⁵ Ex A6

⁶ Ex A8

⁷ Ex A9m A19

⁸ Ex A11, p 3, 8-pg associated investigation: "it is clear that the report was, on it's [sic] face, untruthful and inaccurate . . . the District Attorney does not believe Blackman can testify credibly in Union County in the future . . . Blackman's untruthfulness in the report and the interview, which was demonstrated clearly in the record, disqualify him from further employment as a police officer with this department."

⁹ Ex A12

¹⁰ Ex A13 – A15

¹¹ Ex A16 – A30

¹² Ex A31 – A42

¹³ Ex A45

¹⁴ Ex A47

On September 5, 2008, Blackman’s attorney mailed a cover letter to DPSST and included a two-page letter from retired Chief Courtney.¹⁵

On September 10, 2008, DPSST emailed Union County District Attorney Timothy Thompson, to determine BLACKMAN’s status as a state’s witness.¹⁶ On September 17, 2008, DPSST received a response from DA THOMPSON.¹⁷

On September 17, 2008, DPSST followed up on a previous conversation with Attorney BURCART, a member of the Defense Bar, who had expressed concerns about BLACKMAN’s credibility as a state’s witness. BURCART provided the basis for her concerns and how she would handle BLACKMAN as a state’s witness.¹⁸

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

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.

DISCRETIONARY DISQUALIFYING CONDUCT

OAR 259-008-0070 specifies discretionary disqualifying conduct, which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(c) 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. (moral fitness)

¹⁵ Ex A49 – A50

¹⁶ Ex A51

¹⁷ Ex A52 “this office has made a determination that no cases being reviewed for charging decisions (solely involving Mr. Blackman) would be charged . . .” When asked if DA THOMPSON would have a legal or ethical obligation to disclose BLACKMAN’s report or the results of the investigation, DA THOMPSON responded, “Absolutely.”

¹⁸ Ex A53

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, "All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently."

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke BLACKMAN's certifications, based on a violation of the established moral fitness standards using the following guidelines:

4. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which the recommendation is based.
5. By *discussion and consensus*:
 - a. What conduct is at issue? *(The Committee should articulate what conduct) they are considering.)*
 - b. What specific grounds do the facts relate to? *(The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and applicable discretionary disqualifying crimes, and articulate which subsection(s) apply.)*
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
 - d. Does the conduct constitute grounds for revocation? *(There may be one or more separate events.)*
 - e. Does the conduct rise to the level that warrants revocation? *(The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.)*
6. By *vote*, the Committee *recommends/does not recommend* revocation.

Attachments

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator

SUBJECT: Mathew BEVENS - DPSST #36615

ISSUE:

Should Mathew BEVENS' Basic Corrections, Basic and Intermediate Police certifications and his Survival Skills and Firearms Instructor certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010?

Note: This Staff Report contains personal medical information that, if discussed, must be discussed during an Executive Session.

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to BEVENS:

On May 19, 1999, BEVENS signed an F-11, Criminal Justice Code of Ethics.

On May 5, 2000, BEVENS was granted his Basic Corrections certification.

On July 29, 2002, BEVENS was granted his Basic Police certification.

On November 8, 2005, BEVENS was granted his Intermediate Police certification.

On July 31, 2006, BEVENS was hired as a Corporal with the Department of Public Safety Standards and Training (DPSST).

On March 8, 2007, BEVENS was granted Firearms and Survival Skills Instructor certifications.

On June 16, 2008, BEVENS resigned in lieu of termination from DPSST.

On June 24, 2008, DPSST requested information from the employer relating to BEVENS' resignation during an internal investigation. Subsequent to this DPSST received the requested information. These documents include:

- 1. Acknowledgements of policies and procedures.*
- 2. Eight-page Amended Pre-dismissal Meeting Notice.*
- 3. Settlement Agreement.*
- 4. Resignation Notice.*
- 5. Two-page administrative leave letter from MINNIS to BEVENS.*
- 6. Three-page Fitness for Duty evaluation request, and associated documents.*
- 7. Two-page Fitness for Duty letter.*
- 8. Documents relating to fraternizing with students.*
- 9. Documents relating to interaction with Basic Police class.*
- 10. Performance evaluation and response.*
- 11. Written reprimand and related documents to interaction with superior officer.*
- 12. Letter of Expectations.*
- 13. Documents relating to off-duty incident involving a firearm.*
- 14. DPSST policies and Instructor Guide.*

On August 8, 2008, DPSST mailed BEVENS a letter advising him that his case would be heard before the Police Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. On August 12, 2008, DPSST received the Certified Mail return receipt.

During the month of August, there was correspondence between the employer, BEVENS' union representative, and DPSST Standards and Certification Program.

On September 4, 2008, DPSST received a four-page letter from BEVENS. DPSST asks that the Policy Committee members review this document in its entirety.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

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.

DISCRETIONARY DISQUALIFYING CONDUCT

OAR 259-008-0070 specifies discretionary disqualifying conduct, which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, "All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently."

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke BEVENS' certifications, based on violation of the established moral fitness standards using the following guidelines:

1. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which its recommendation is based.
2. By *discussion and consensus*:
 - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)
 - b. What specific grounds do the facts relate to? (*The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and applicable discretionary disqualifying crimes, and articulate which subsection(s) apply.*)
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
 - d. Does the conduct constitute grounds for revocation? (*There may be one or more separate events.*)
 - e. Does the conduct rise to the level that warrants revocation? (*The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.*)
3. By *vote*, the Committee *recommends/does not recommend* revocation.

Appendix H

Department of Public Safety Standards and Training Memorandum

DATE: November 11, 2008
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Coordinator

SUBJECT: Harold R. Aragon III, DPSST #39319

ISSUE:

Should Harold R. Aragon's Basic Police certification be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to ARAGON:

On May 11, 2000, ARAGON was hired by the Portland Fire Bureau (PFB).

On March 6, 2001, ARAGON signed an F-11, Criminal Justice Code of Ethics.

On August 21, 2001, ARAGON was granted a Basic Police certification.

On August 27, 2007, DPSST received a number of news clippings regarding ARAGON's arrest for attempt to elude and speed racing.

On March 19, 2008, DPSST mailed a request for a copy of the judgment to the Multnomah County Court. DPSST received a response showing the case was still open.

On June 16, 2008, DPSST mailed a request for a copy of the investigative report and related documents.

DPSST subsequently received the requested documents. These documents include:

- 1. An incident report in which PPB Officer JAMES:
 - a. Observed ARAGON and another motorcyclist speed racing, asserted both drivers heard his siren and looked back at him, nodded their acknowledgment and stopped in front of a tavern.*
 - b. Reported that he approached ARAGON, and asked to see his driver's license. When ARAGON asked why, JAMES stated it was for speed racing. As JAMES then confronted the other driver, ARAGON left the scene, leaving behind his helmet and jacket.**
- 2. BUSSE's follow up report that included the following:
 - a. Through subpoenaed telephone records and other investigative documents, a connection between ARAGON's cell phone records and the records of SMITH who was present at the traffic stop.*
 - b. BUSSE concluded that SMITH was speaking to ARAGON via cell phone after ARAGON left the scene*
 - c. JAMES determined that SMITH was talking to ARAGON and told SMITH to tell the rider [ARAGON] to get back to the stop immediately.*
 - d. Officer JENSEN corroborated he heard JAMES tell SMITH, "tell him he needs to get back here now."*
 - e. Mandy ROWLEY, a female who was with ARAGON and SMITH earlier in the evening, observed not only the traffic stop but SMITH speaking to someone on the phone that she believed was ARAGON.**

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committee and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.

Moral Fitness

OAR 259-008-0010(6) states, in part, "All law enforcement officers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the law enforcement officer's performance on the job which makes the law enforcement officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the law enforcement officer's ability to perform competently.

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke ARAGON's certification, based on violation of the established moral fitness standards using the following guidelines:

1. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which the recommendation is based.
2. By *discussion and consensus*:

- a. What conduct is at issue? *(The Committee should articulate what conduct they are considering.)*
 - b. What specific grounds do the facts relate to? *(The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0010, and applicable discretionary disqualifying crimes, and articulate which subsection(s) apply.)*
 - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
 - d. Does the conduct constitute grounds for revocation? *(There may be one or more separate events.)*
 - e. Does the conduct rise to the level that warrants revocation? *(The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.)*
3. By *vote*, the Committee *recommends/does not recommend* revocation.

Appendix I

Department of Public Safety Standards and Training Memo

Date: October 14, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator

Subject: OAR 259-001-0005 – Proposed Rule
Housekeeping Changes to Administrative Rulemaking Process

Issue: The Department of Justice (DOJ) has recommended amending OAR 259-001-0005 to include a reference to statutory language that retains the Department's ability to adopt the Attorney General's Model Rules without a formal rulemaking process.

DOJ has also recommended clarifying the Department's requirement to provide notice to interested parties as part of the proposed *permanent* rulemaking process. The Department is not currently required to provide notice to interested parties when filing temporary rules because temporary rules are not part of the proposed *permanent* rulemaking process.

The following revised language for OAR 259-001-0005 contains recommended additions (**bold and underlined**).

259-001-0005

Notice to Interested Persons on Proposals to Adopt, Amend, or Repeal any Administrative Rule Affecting Police Officers, Corrections Officers, or Parole and Probation Officers, Telecommunicators, Emergency Medical Dispatchers, Fire Service Professionals, Law Enforcement Units, and Public or Private Safety Agencies as Defined in ORS 181.610

In accordance with ORS 183.341(4), **and except as provided in ORS 183.341(1)**, to provide a reasonable opportunity for interested persons to be notified of the proposed actions affecting police officers, corrections officers, parole and probation officers, telecommunicators, emergency medical dispatchers, fire service professionals, law enforcement units, or public or private safety agencies, the Board and the Department shall give notice of the proposed **permanent** adoption, amendment, or repeal of rule(s):

(1) At least twenty-one (21) days prior to the effective date of the intended action, in the Secretary of State's Bulletin referred to in ORS 183.360.

* * *

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-001-0005 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-001-0005 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 (see form attached).

Appendix J

Department of Public Safety Standards and Training Memo

Date: October 14, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator

Subject: OAR 259-008-0010(8) – Proposed Rule
Requirement of Physical Examination after separation due to physical inability to perform essential tasks of a law enforcement officer

Issue: The Department is responsible for ensuring all newly hired law enforcement officers meet minimum physical standards to perform the essential tasks of a law enforcement officer. Current law requires that the Department lapse the certification of a law enforcement officer on the 91st day after the officer separates employment from a certifiable position. Prior to 2006, all officers were required to complete an F-2 medical examination when employed, or re-employed, regardless of whether they were currently certified in this or another jurisdiction. A rule change was previously approved by the Board in October 2005, and became effective in 2006, that allowed certified law enforcement officers who separated from employment to return to a full-time, certifiable, position without completing a new physical examination if they return to employment within the 90 day period prior to lapsing. However, there are occasions when the reason an officer has separated from employment is due to a physical inability to perform the essential tasks of the position.

Staff is recommending an amendment to the current rule to require a law enforcement officer who is separated from employment due to a physical inability to perform the essential tasks of the position to complete a new F-2 (Physical Examination) if seeking re-employment or retired police officer certification, even if the officer's certification has not yet lapsed. This proposed rule would still allow an individual or agency to submit a request for a medical waiver under the normal waiver process.

The following revised language for OAR 259-008-0020 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~). For ease of review, only the relevant rule portions have been provided.

Minimum Standards for Employment as a Law Enforcement Officer

259-008-0010

* * *

(8) Physical Examination. All law enforcement officers and applicants must be examined by a licensed physician or surgeon.

(a) The medical examination shall be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and shall conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(b) Individuals who have had a successfully completed physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(c) **Except as provided in (e) below,** ~~the~~ Department will not require a new physical examination when a law enforcement officer obtains employment, or re-employment, in the same discipline if the officer:

(A) Has had a successfully completed a physical examination, and

(B) Is currently certified; or

(C) Is an officer currently employed full-time in another jurisdiction who has successfully completed a comparable physical examination in that jurisdiction.

(d) Notwithstanding subsection (c), a medical examination may be required by a hiring agency at its discretion.

(e) Notwithstanding subsection (c), any law enforcement officer who is separated from employment for a reason related to a physical inability to perform an essential task of a law enforcement officer must successfully complete a physical examination prior to obtaining re-employment in a certifiable position or applying for certified retired officer status.

* * *

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0010(8) with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0010(8) 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.

Appendix K

Department of Public Safety Standards and Training Memo

Date: October 14, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator

Subject: OAD 259-008-0020 – Proposed Rule
Issuance of DPSST Number

Issue: The Department is responsible for issuing a DPSST number to all newly appointed public safety professionals. However, the Department often receives personnel action reports for non-public safety personnel, some of whom may be eligible to obtain a DPSST number.

Staff recommends amending the current rule to clarify those instances when a DPSST number will be issued, when a DPSST number may not be issued and the process for requesting a DPSST number for a non-public safety employee.

The following revised language for OAD 259-008-0020 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0020

Personnel Action Reports

(1) All law enforcement units and public or private safety agencies ~~shall furnish to the Department~~ **must submit** the name, address, and other pertinent information concerning any newly appointed public safety professional **to the Department** on a Personnel Action Report (DPSST Form F-4) within ten (10) business days after employment.

(a) A Department (DPSST) number will be established for each newly appointed employee identified on a Personnel Action Report (DPSST Form F-4) if:

(A) The individual is employed in a certifiable position as a police officer, corrections officer, parole and probation officer, telecommunicator or emergency medical dispatcher;

(B) The individual is employed as a reserve police officer; or

(C) An individual's employer has submitted a written request identifying a demonstrated law enforcement need for an employee to obtain a DPSST number and the Department has approved the request. These positions may include, but are not limited to:

(i) An individual granted Federal Arrest Powers by the Department;

(ii) An individual who operates an Intoxilyzer or other law enforcement device for which a DPSST number is necessary; or

(iii) An individual who is required to file a police or other criminal justice report for which a DPSST number is necessary.

(b) No DPSST number will be assigned to an individual who has not been identified as a newly appointed public safety professional unless approved by the Department.

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, take a leave of absence, or transfer within a law enforcement unit, or private or

public safety agency, the department head shall report this information to the Department on a Personnel Action Report (DPSST Form F-4) within ten (10) business days of the action.

(3) All applicable sections of the Personnel Action Report (DPSST Form F-4) must be completed and signed by the department head or an authorized representative.

(4) All applicants shall furnish to the Department on a Personnel Action Report (DPSST Form F-4) their social security number. The social security number is used to accurately identify the applicant during computerized criminal history (CCH) and Department record checks and to verify information provided by public safety officers under the Act in connection with revocation proceedings.

[ED. NOTE: Forms referenced are available from the agency.]

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0020 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0020 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 (see form attached).

Appendix L

Department of Public Safety Standards and Training Memo

Date: October 15, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Subject: OAR 259-008-0025 – Proposed Rule
Career Officer Development Course – Remediation

Background: The Executive Committee met on September 11, 2008 and reviewed staff's request for policy to address the appropriate course of action to take when an individual fails to successfully pass a Career Officer Development Course.

The Executive Committee determined that an individual who failed to successfully complete a COD Course would be given one opportunity to re-test within 60 days or be required to attend the full Basic Course. The Executive Committee also approved the development of proposed rule language to reflect the implementation of this policy. (see **Attachment "A"**)

Staff is also requesting the policy committee's consideration of filing the proposed language as a temporary rule while the permanent rulemaking process is taking place.

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~). For ease of review, only the relevant portion of text has been provided.

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers shall satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion shall be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual shall be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and

OAR 259-008-0005, subsections (7), (19), (23), and (24), during the last five (5) years or more, shall satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18) and 259-008-0005(14) and (32) for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant shall provide proof of successful completion of prior equivalent training.

(C) The applicant shall provide documentation of the course content with hour and subject breakdown.

(D) The applicant shall obtain a minimum passing score on all written examinations for the course.

(E) The applicant shall demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant shall only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), (19), (23) and (24) over two and one-half (2-1/2) but less than five (5) years shall complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(i) Corrections and police officers who have not completed the Basic Course shall begin training at an academy operated by the Department within 90 days of their initial date of employment. A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) Training on the law, theory, policies and practices related to vehicle pursuit driving and vehicle pursuit training exercises shall be included in the basic course for police officers.

(A) This requirement is subject to the availability of appropriate facilities and funding.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2 1/2) and five (5) years, shall satisfactorily complete the Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course shall **must** also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

(A) A law enforcement officer who fails to achieve a minimum passing test score after completing a Career Officer Development Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(B) A law enforcement officer who fails achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(C) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing tests score within the timeframe set by the Department. Failure to successfully complete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position shall satisfactorily complete the prescribed Supervision Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred from within a department, or is appointed from an outside department, without having completed a prescribed Supervision Course, within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete the prescribed Middle Management Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred to a middle management position within a department, or employed from outside a department and appointed to a middle manager position without having completed a prescribed middle management course within the preceding five (5) years.

(5) Specialized Courses:

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. The staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, shall be trained on how to investigate and report cases of missing children.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs shall be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a temporary rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule.

ACTION ITEM 3: Determine whether to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 4: Determine whether there is a significant fiscal impact on small businesses.

Appendix M

Department of Public Safety Standards and Training Memo

Date: October 14, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator

Subject: OAR 259-008-0060 – Proposed Rule
College Credit – Basic Training Conversion

Issue: The Department currently allows public safety personnel to convert college education credits into training credit when applying for upper levels of certification.

The Department also provides Basic Police and Basic Corrections students the opportunity to obtain college credits for successfully completing the Basic Courses. Recent rule changes have eliminated the past practice of officers claiming both educational credit and training credit for the same training event. The current rule allows for a unilateral 1:20 ratio for conversion, which means the Department can grant 20 training hours for each college credit converted to training or deduct 20 training hours for each college credit obtained from training, whichever is to the advantage of an individual applying for upper levels of certification.

Based on information from Oregon community colleges, the 1:20 ratio in DPSST's rule has been determined to be appropriate for "practical" or "skills based training, because it is comparable to the general ratios the colleges use. However, community colleges typically grant credit for "academic" learning at an approximate ratio of one credit per 10 hours of comparable learning.

Conversion at a 1:20 ratio for basic police and basic corrections students who receive college credit for successfully completing the Basic Course currently results in deducting a disproportionate number of training hours than are granted for either the Basic Police or Basic Corrections courses.

For example, the following list depicts current training hours given for course completion, as well as the number of eligible college credits a student may apply for and the current conversion of credits to training utilizing a 1:20 ratio conversion.

<u>Basic Course</u>	<u>Total Training Hours</u>	<u># College Credits</u>	<u>Conversion of credits to training hours:</u>
Basic Police	640 hours	21	(21 credits x 20 trg. Hours = 420 hours)
Basic Corrections	200 hours	12	(12 credits x 20 trg. Hours = 240 hours)

Staff is proposing to adopt the following conversion table to represent the deductions to be made from any training hours converted from college credit earned during attendance at the Basic Police or Basic Corrections course when applied toward upper levels of certification:

Program	Transferable Credit (convert at 1:10)	Non-Transferable credit (convert at 1:20)	Total Training Hour Deduction
Basic Police	9 (90)	12 (240)	330
Basic Corrections	6 (60)	6 (120)	180

Staff also recommends amending the current rule to clarify those instances when staff will convert transferable credits at a ratio of 1:10, and when staff will convert non-transferable credits at a ratio of 1:20.

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~). For ease of review, only the relevant portion of text has been provided.

259-008-0060

Public Safety Officer Certification

* * *

(e) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(f) College credit awarded based on training completed may be applied toward either training points or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the ~~total number of training hours for which~~ **number of college credits** was awarded **based on training attended**.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(i) Any college credit received for practical or skills-based training attended will be calculated at a ratio of 1:20 hours for each quarter credit, for purposes of training hour deductions.

(ii) Any college credit received for academic training attended will be calculated at a ratio of 1:10 hours for each quarter credit, for purposes of training hour deductions.

~~(C)~~ **(g)** Notwithstanding subsection ~~(f)~~ **(e)** and ~~(g)~~ **(f)** above, no credit can be applied toward both an education credit and training point when originating from the same training event.

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.

Appendix N

Department of Public Safety Standards and Training Memo

Date: October 14, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator

Subject: OAR 259-008-0065 – Proposed Rule
Certification Recall – Failing to Maintain First Aid/CPR

Issue: Pursuant to OAR 259-008-0065, in order to maintain certification, all active police officers must maintain current First Aid/CPR certification and complete a total of at least 84 hours of agency approved training every three years. However, the current rules only provide for recall of certification for failing to meet the mandatory training portion of this requirement.

Staff recommends amending the current rule to clarify the reporting requirements and provide for the recall of certification for officers who fail to maintain current first aid/CPR certification under OAR 259-008-0065.

Police Policy Committee Recommendation: The Police Policy Committee previously met and reviewed proposed amendments to these rules on May 13, 2008. After much discussion, the committee requested that staff bring this back to the Committee with additional language, specifying that First Aid/CPR certification should be reported consistent with an officer's regular maintenance training reporting cycle.

The following revised language for OAR 259-008-0065 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0065

Maintenance of Certification for Active Police Officers

(1)(a) The Board is responsible for setting the standards for active police officer training and the maintenance of certification. The Department is required to uphold those standards, while each agency determines what training will be provided to meet the standards.

(b) It is recommended that agencies provide training time and training opportunities to enable the active police officer to meet the required maintenance training hours.

(2) In order to maintain certification:

(a) All active police officers must maintain current First Aid/CPR certification.

(b) Proof of First Aid/CPR certification renewal must be reported to the Department once every three years as part of each officer's mandatory maintenance training cycle. Proof includes submission of the following:

(A) An F-6 Course Roster received by the Department prior to the end of an officer's maintenance reporting period that verifies completion of training and identifies certification expiration dates. This will result in credit for training hours and update of the officer's First Aid/CPR certification expiration dates; or

(B) A photocopy of the front and back of an officer's current First Aid/CPR certification card prior to the end of the maintenance period. This will result in an update of the officer's First Aid/CPR expiration dates only. No training hours will be added to the officer's record, unless accompanied by an F-6 Course Roster; or

(C) An F-15 Maintenance-Police form identifying new expiration dates. The F-15 Maintenance-Police form must be submitted in accordance with subsection (5) of this section, following the end of the officer's maintenance period.

~~(b)~~ **(c)** All active police officers must complete a total of at least eighty-four (84) hours of agency approved training every three (3) years. The eighty-four (84) hours will include:

(A)(i) Eight (8) CORE hours of training annually, from either the "Firearms" or "Use of Force" subject areas:

(ii) This training must be reported to the Department as twenty-four (24) hours of CORE training, once every three years.

(B)(i) Active police officers who hold a Supervision, Mid-Management or Executive certification, must complete at least twenty-four (24) hours of agency approved Leadership/Professional training, every three years:

(ii) This training must be reported to the Department as twenty-four (24) hours of agency approved Leadership/Professional training, once every three (3) years.

(C)(i) In addition to the CORE (A)(i) (required of all officers) and Leadership/Professional (B)(i) training hours (only required of officers with Supervision Certification and above), the remaining hours must be completed from the category of "General Law Enforcement" training in the recommended, but not limited to, subject areas of Law and Legal, Ethics and Communication, Investigations, Survival Skills, Child Abuse, Sex Abuse, and Elder Abuse:

(ii) These remaining training hours must be reported to the Department as "General Law Enforcement" training, once every three (3) years.

(3) Beginning on the date a police officer returns to work from any leave of absence, the following requirements must be met:

(a) Maintenance Training Requirements as described in section (7) or (8) of this section;

(b) Proof of current First Aid and CPR cards;

(c) Any other applicable requirement for employment, training or certification as specified in OAR 259-008-0010, 259-008-0025 or 259-008-0060.

(4)(a) The employing agency must maintain documentation of required training **and First Aid/CPR certification** on each ~~law enforcement~~ **police** officer;

(b) Any training submitted to the Department on an F-6 Course Roster will be entered into each officer's DPSSST training record.

(c) Maintenance training submitted on an F-6 will be credited towards the number of hours required for each maintenance training category in section (2) above.

(d) On or after January 2 of each year, the Department will identify all police officers who are deficient in maintenance training **or First Aid/CPR certification** according to Department records and provide notification to the officer and his/her employing agency.

(e) Within ~~60~~ **30** days of receipt of the notification in (d) above, the agency must notify the Department of the training status **or First Aid/CPR certification** of all police officers identified as deficient ~~in~~

~~maintenance training~~ by submitting a Form F-15M-Police to the Department, identifying the training **or First Aid/CPR certification** completed during the previous three (3) year reporting period.

(A) Maintenance training **and First Aid/CPR training** hours reported to the Department on an F-15M-Police will be used solely to verify completion of maintenance training requirements and will not be added to the officer's DPSST training record.

(B) Failure to notify the Department of completion of the required training for officers with identified training deficiencies will result in a ~~warning~~ notification **of recall** letter being sent to the agency head and the officer.

~~(C) A six (6) month extension to complete maintenance training requirements or submit an F-15M-Police will be automatically authorized for officers reporting maintenance requirements due on December 31, 2006.~~

(5) **The Department will recall a police officer's certification for:**

(a) Failure to complete the any required maintenance training or maintain First Aid/CPR certification during the maintenance period identified in section (2); or

(b) Failure to ~~or~~ submit the completed Form F-15M-Police, **within 30 days** after the ~~a~~ warning notification letter **has been sent**, and before the six (6) month extension has expired, will result in the recall of the active police officer's certification.

~~(a)~~ **(6)** A police officer with a recalled certification cannot work in a certified position.

~~(b)~~ **(7)(a)** Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) ~~The employing agency head~~ **A written request for re-certification from the employing agency head**, along with an explanation of why the training **or First Aid/CPR certification** was not completed **obtained**; and

(B) ~~Verification~~ **An F-6 Course Roster verifying that the any missed training has been completed, and identifying the training as "Maintenance make-up" training was completed.; and**

(C) Verification of current First Aid/CPR certification, submitted as provided in subsection (2) (b) of this rule.

~~(c)~~ **(b)** After 2 1/2 years in a recalled status the police officer will be required to complete an Career Officer Development Course before s/he can be recertified.

~~(d)~~ **(c)** After ~~over~~ **more than** 5 years in a recalled status the police officer will be required to complete basic training in the appropriate discipline.

~~(e)~~ **(8)** Agency heads of the employing agency may document "excused leave" in extreme circumstances for not completing the annual requirements but must provide documentation as to the reason and indicate when the missed training was completed.

~~(f)~~ **(9)** Maintenance Training Requirements for Police Officers on Leave of Absence.

(a) A police officer who is on leave of absence for any period between 90 to 180 days will have the same maintenance training deadline as the date established prior to the officer's leave of absence date.

(b) A police officer who is on leave of absence for more than 180 days, but less than one year will receive a one year extension from the maintenance training deadline established prior to the officer's leave.

(c) A police officer who is on leave of absence for more than one year, but less than 2 1/2 years will receive an extension of up to three years from the maintenance training deadline established prior to the officer's leave. The extension will be prorated, based on the duration of the officer's leave. Upon

the officer's return to work, the officer must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

(d) Failure to meet the requirements of subsection (c) of this section will result in a warning notification or recall of a police officer's certification as described in subsection (4) or (5) of this section.

~~(8)~~ **(10)** Maintenance Training Requirements for Previously Certified Police Officers.

(a) Any police officer who has not been employed as a police officer for between one year and five years, or whose certification has lapsed following 2 1/2 years in a leave status, must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0065 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0065 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.

Appendix O

Department of Public Safety Standards and Training Memo

Date: October 14, 2008
To: Police Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator

Subject: OAR 259-008-0068 – Proposed Rule
Fee Increase for Certified Retired Officer Program

Issue 1: The Department currently charges a fee of \$40 to process a certified retired officer application. An additional fee (currently \$46) is charged to cover the cost of fingerprinting through Oregon State Police. After a recent discussion with the Oregon State Sheriff's Association and Oregon Association Chiefs of Police, a recommendation was made to increase the application fee for the retired officer program to more accurately reflect true costs to review and process applications and maintain the program. Staff recommends a fee increase from \$40 to \$200.00.

An increase in the current fee structure would require a fee approval through the legislative process if any administrative change is approved by the Police Policy Committee.

Issue 2: Staff has proposed housekeeping changes to the rule and modifications to include a requirement to complete a new physical examination, under certain circumstances. If current proposed changes to OAR 259-008-0010 are approved, a law enforcement officer who separates employment due to a physical inability to perform the essential tasks of the position would be required to complete a new F-2 (Physical Examination) prior to obtaining re-employment, or applying for retired police officer certification status, even if the officer's certification has not yet lapsed. Officers who apply for retired officer certification after their certifications have lapsed will also be required to complete a new F-2, consistent with current requirements for all other types of certification. The proposed rule would still allow an individual or agency to submit a request for a medical waiver under the normal waiver process.

Issue 3: Since the inception of the certified retired officer program, amendments have been made to the administrative rules governing mandatory maintenance training requirements for police officers. Because certified retired police officers are also required to complete the maintenance training requirements of an active full-time police officer in order to maintain certification, staff is proposing amendments to maintain consistency with the current maintenance training rules.

Issue 4: Currently, police officers who move to another state after retirement are not prohibited from obtaining or maintaining retired officer certification within Oregon. Staff proposes amendments to the rule language to require a police officer to remain a resident of Oregon to be eligible for certified retired officer status.

Issue 5: Oregon State Police no longer requires the submittal of two fingerprint cards for processing. Staff proposes to amend the rule language to require one fingerprint card. The Department will also adjust its fingerprint fee once Oregon State Police has adopted a new fee schedule for fingerprint processing.

The following revised language for OAR 259-008-0068 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~). For ease of review, only the relevant rule portions have been provided.

OAR 259-008-0068

Retired Police Officer Certification and Maintenance Standards

* * *

(4) Process for obtaining Retired Police Officer certification.

(a) To avoid a lapse of certification, upon retirement or within 90 days after retirement, an honorably retired police officer must submit a form F-7R with the required fees, ~~and two fingerprint cards,~~ **and a successfully completed physical examination if required under OAR 259-008-0010(8).**

(b) ~~After a lapse of certification (~~**When more than 90 days,**~~) but before **less than 2 1/2 years** ~~has~~ **passed from the date of retirement,** the honorably retired police officer must submit the application for Retired Police Officer certification with the required fees, ~~and two fingerprint cards,~~ **and a successfully completed physical examination.**~~

(c) ~~After a lapse of~~ **When more than 2 1/2 years,** but less than **five (5) years** ~~has~~ **passed from the date of retirement,** the honorably retired police officer must submit the application for Retired Police Officer certification, complete the DPSST Police Career Office Development (COD) training course; see OAR 259-008-0025(1)(f), submit the required fees, ~~and two fingerprint cards,~~ **and a successfully completed physical examination.**

(d) ~~After a lapse of more than 5 years,~~ the **An** honorably retired police officer **who has not been employed as a full-time police officer in Oregon for more than five years from the date of retirement** ~~is not longer eligible to obtain a Retired Police Officer certification.~~

(e) An honorably retired police officer must be a resident of Oregon to be eligible to obtain or maintain certification.

~~(e) For the honorably retired police officer whose certification has lapsed between October 29, 1999, and January 16, 2004, and who is not covered by (a) or (b) of this section, Certified Retired Police Officer status may be achieved by submitting a form F-7R, the required fees and two fingerprint cards, within 180 days from January 16, 2004, and provides evidence that:~~

~~(A) The police officer honorably retired between October 29, 1999, and January 16, 2004, see Definitions (1) for criteria; and~~

~~(B) The honorably retired police officer has had no disqualifying behavior since retirement as established by a CCH and/or other satisfactory evidence to refute an allegation(s) of disqualifying behavior if such is received by the Department from any source.~~

(5) Process for maintaining Certified Retired Police Officer certification.

(a) A new application must be submitted to DPSST every three years with:

(A) ~~Two~~ **One** fingerprint cards; and

(B) The required fees.

(b) Evidence must be provided on a form supplied by the Department that the maintenance training, as required by OAR 259-008-0065, has been met during the previous three-year period.

(A) Failure to notify the Department of the required training will result in a warning notification letter being sent to the certified honorably retired officer.

~~(B) A six (6) month extension will be automatically authorized.~~

~~(C) (B)~~ The honorably retired police officer must request recertification, along with an explanation of why the training was not completed; and

~~(D) (C)~~ Provide verification that the missed training was completed by submitting a form F-15.

~~(E) (D)~~ Failure to complete the training or submit the completed Form F-15, **within 60 days** after the warning notification letter and before the six (6) month extension has expired **been sent** will result in non-renewal of the Certified Retired Police Officer certification.

(c) It is the certified honorably retired police officer's responsibility to fund and coordinate training needs to meet the mandatory training requirements.

(d) The certified honorably retired police officer who maintains the retired certification will be excluded from the "lapsed" status and will not be required to retake any basic police training in order to re-certify as an active police officer.

(e) The renewal application, fingerprints, and fees will not be required if the honorably retired officer is employed in a full-time capacity.

(6) Denial or revocation of a Retired Police Officer Certification ~~shall~~ **will** be handled in the same manner as active police officer certification pursuant to OAR 259-008-0070.

(7) Fees. Payments to the Department are non-refundable, and must be paid by personal check, money order or cashier's check. No credit cards or cash will be accepted. The Department, in carrying out the provisions of OAR 259-008-0068, ~~shall~~ **will** charge the following fees.

(a) An **administrative processing** fee of \$40 ~~200~~ **shall must** be submitted with each application for a Certified Retired Police Officer certification.

(b) Appropriate fees ~~shall~~ **must also** be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs of the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by the FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0068 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0068 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.