

Telecommunications Policy Committee
Minutes
August 3, 2011

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 3, 2011 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Daniel Coulombe, Oregon Association Chiefs of Police
Rick Eisland, Oregon State Sheriffs' Association
Corinna Jacobs, Telecommunicator
Rich Leipfert, Oregon Fire Chiefs Association
Elizabeth Morgan, Emergency Medical Services and Trauma Systems

Committee Members Absent

Rachel Brudnock, Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Joe Raade, Oregon Fire Medical Administrators Association

Guests

Steve Beck, Oregon Council of Police Associations
Richard Culley, Oregon State Police

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorance, Standards and Certification Supervisor
Leon Colas, Professional Standards Investigator/Coordinator
Linsay Hale, Certification Coordinator
Jan Myers, Training Coordinator



1. Minutes from May 4, 2011 Meeting

Approve meeting minutes from May 4, 2011.

See Appendix A for details.

Rich Leipfert moved to approve the minutes from the May 4, 2011 Telecommunications Policy Committee meeting. Rick Eisland seconded the motion. The motion carried unanimously.

2. **Shelly C. Baugher, Medix Ambulance – DPSST #32950**

Presented by Marilyn Lorange

See Appendix B for details.

- *Corinna Jacobs moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rick Eisland seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Abandonment of job.*
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on failure to protect and serve the public by not showing up for work.**
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct. BAUGHER's absence created a danger or risk to the efficient operation of the agency.**
 - f. The identified conduct did involve **Misconduct. BAUGHER did not follow practices generally followed by public safety professionals.**
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *No additional mitigating or aggravating circumstances were identified by the Policy Committee.*
- *Elizabeth Morgan moved that the Telecommunications Policy Committee finds BAUGHERS's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Rich Leipfert seconded the motion. The motion carried unanimously.*
- *Elizabeth Morgan moved that the Telecommunications Policy Committee recommend to the Board that BAUGHER's misconduct encapsulated all of the categories noted above with a focus on the lowest end of the Disregard for the Rights of Others category a five year disqualifier; BAUGHER may reapply for certification five years from the date of revocation. Rich Leipfert seconded the motion. The motion carried unanimously.*

3. **Cynthia M. Grundman, Bureau of Emergency Communications – DPSST #33256**

Presented by Marilyn Lorange

See Appendix C for details.

- *Rick Eisland moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Corinna Jacobs seconded the motion. The motion carried unanimously.*

- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Unprofessional call-taking, dishonesty, policy violation, non-performance and negligence of duties, and failure to provide appropriate pre-arrival instruction as per protocol.*
 - b. The identified conduct did involve **Dishonesty**. *GRUNDMAN was dishonest, feigning ignorance, regarding the conversation with her supervisor and caller on hold.*
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on inappropriateness with callers, failure to follow protocols, and feigned ignorance.**
 - d. The identified conduct did involve **Misuse of Authority based on abuse of public trust**. *GRUNDMAN failed to provide appropriate pre-arrival instruction.*
 - e. The identified conduct did involve **Gross Misconduct regarding the childbirth call**. *GRUNDMAN's instruction was contrary to agency protocol.*
 - f. The identified conduct did involve **Misconduct based on GRUNDMAN's failure to follow standards normally followed by public safety professionals.**
 - g. The identified conduct did not involve **Insubordination**. *Because of the difficulty in articulating the definition listed in the first article of Insubordination, the consensus of the Policy Committee is that there is no Insubordination.*
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The Policy Committee stated as an aggravating circumstance GRUNDMAN caused her peers and the public to reasonably doubt her Regard for the Rights of Others. No mitigating circumstances were identified.*
- *Rich Leipfert moved that the Telecommunications Policy Committee finds GRUNDMAN's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Rick Eisland seconded the motion. The motion carried unanimously.*
- *Rick Eisland moved that the Telecommunications Policy Committee recommend to the Board that GRUNDMAN's misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; GRUNDMAN may never reapply for certification. Rich Leipfert seconded the motion. The motion carried unanimously.*

4. **Linda Bevers, Springfield Police Department – DPSST #19893**

Presented by Linsay Hale

The Policy Committee convened in Executive Session at 11:40 a.m. to discuss matters exempt from public disclosure regarding the BEVERS' case.

The Policy Committee reconvened in Regular Session at 11:49 a.m. to take action on matters regarding the BEVERS' case.

- *Rich Leipfert moved that the committee recommend to the Board the approval of a medical waiver of the hearing standards based on information provided by medical professionals. Tami Atkinson seconded the motion. The motion carried unanimously.*

The Policy Committee asked staff to look into updating the rule to make the standard consistent with other law enforcement disciplines.

5. Nicholas J. Coker, Seaside Police Department – DPSST #48176

Presented by Leon Colas

See Appendix D for details.

- *Rick Eisland moved that the committee send its original recommendation of COKER's revocation and period of ineligibility, with the supplemental exhibits to the Board for their consideration. Rich Leipfert seconded the motion. The motion carried unanimously.*

6. Additional Business

Presented by Eriks Gabliks

Budget: DPSST was one of the earlier state budgets to be approved. DPSST has made all recommended reductions. The Telecommunications Program stayed intact.

Legislative Update:

- There were not any bills passed in this session pertaining to Use of Force statutes. There was only one hearing regarding the Use of Force.
- The University of Oregon is very interested in creating a police department. In order to do this state statute needed to be changed. The caveat within that statute is a University can only form a police department with approval from the Board of Higher Education. The University of Oregon is working with the Board of Higher Education and Central Lane Communications.
- Tribal Law Enforcement: DPSST is pleased to have in statute that if any tribal officer is going to have state peace officer powers off of the reservation, every officer on the reservation will have to comply with all of DPSST standards.

Listening Tour: Overall feedback from the state listening tour has been very positive. An issue DPSST is in the process of addressing is the Middle Management/Supervisor training reporting process. Staff is streamlining the process to make reporting this training more user-friendly and will be beta testing the new proposed process the middle of August.

DPSST has received good feedback about the APCO/NENA grants which enabled us to partner to provide training to mid-level and senior telecommunicators. We will be jointly providing training again this biennium.

DPSST has also received notification from Oregon Emergency Management regarding \$40,000 that needs to be spent by the end of November for telecommunications training related to Homeland Security. DPSST has offered to host training from the SEIC and provide meals and lodging.

DPSST is working with APCO/NENA to find a suitable replacement for Tami Atkinson who will be termed out at the end of the year.

7. Next Telecommunications Policy Committee Meeting Date

November 2, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 12:04 p.m.

Appendix A

Telecommunications Policy Committee Minutes (Draft) May 4, 2011

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 4, 2011 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Rachel Brudnock, Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Daniel Coulombe, Oregon Association Chiefs of Police
Richard Culley, Oregon State Police
Rick Eisland, Oregon State Sheriffs' Association
Corinna Jacobs, Telecommunicator
Rich Leipfert, Oregon Fire Chiefs Association
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Joe Raade, Oregon Fire Medical Administrators Association

Guests

Indy Robertson
James Lucas

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Investigator/Coordinator
Linsay Bassler, Certification Coordinator



1. Minutes from February 2, 2011 Meeting

Approve meeting minutes from February 2, 2011.

See Appendix A for details.

Rick Eisland moved to approve the minutes from the February 2, 2011 Telecommunications Policy Committee meeting. Dan Coulombe seconded the motion. The motion carried unanimously.

2. **OAR 259-008-0010 and OAR 259-008-0011**

Presented by Linsay Bassler

See Appendix B for details.

Corrina Jacobs moved that the policy committee recommend filing the proposed language for OAR 259-008-0010 and OAR 259-008-0011 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Rick Eisland seconded the motion. The motion carried unanimously.

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

3. **Nicholas J. Coker, Seaside Police Department – DPSST #48176**

Presented by Theresa King

See Appendix C for details.

- *Rick Eisland moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Raade seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue: *Viewing of inappropriate material while on duty and untruthfulness.*
 - b. The identified conduct did involve **Dishonesty based on lies in COKER's letter and when speaking to the Chief.**
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**
 - d. The identified conduct did not involve **Misuse of Authority**
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on viewing inappropriate material at work, which is especially grievous being a lead worker.**
 - g. The identified conduct did not involve **Insubordination**
- By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *The committee noted as a possible mitigating circumstance the fact it took two years for the incident to be reported. If the photo was offensive, it should have been reported earlier. The committee stated as aggravating the fact that COKER violated the separation agreement by speaking negatively about the department.*
- *Rick Eisland moved that the Telecommunications Policy Committee finds COKER's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Dan Coulombe seconded the motion. The motion carried unanimously.*

- *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that COKER's misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; COKER may never reapply for certification. Rich Leipfert seconded the motion. The motion carried unanimously.*

4. Belinda DeVaney, Washington County 911 – DPSST 43457

Presented by Theresa King

See Appendix D for details.

- *Rick Eisland moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Elizabeth Morgan seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Falling asleep while on duty.*
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on failure to serve and protect the public and endangerment of officers while sleeping on the job.**
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct based on failure to perform duties. Sleeping on the job creates a danger to the officers she is responsible for while on duty.**
 - f. The identified conduct did involve **Misconduct. It is agency expectation that employees stay awake on the job.**
 - g. The identified conduct did involve **Insubordination based on repeated instances of her falling asleep on duty and DeVANNEY's refusal to comply with disciplinary letters and coaching regarding failure to stay awake.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the facts that DeVANNEY was clearly coached through disciplinary letters—she didn't comply, DeVEANY blamed administration for targeting her because of a worker's compensation claim, and that the agency tried very hard to help correct her behavior. No mitigating circumstances were identified.*
- *Elizabeth Morgan moved that the Telecommunications Policy Committee finds DeVANNEY's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Rachel Brudnock seconded the motion. The motion carried unanimously.*

- *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that DeVANEY's misconduct encapsulated all but two of the categories noted above with a focus on the highest end of the Disregard for Rights of Others category; DeVANEY may reapply for certification 15 years from the date of revocation. Pam Collett seconded the motion. The motion failed in a 5 to 6 vote with Rob Poirier, Rachel Brudnock, Pam Collett, Dan Coulombe, and Rick Eisland voting yes.*
- *After further discussion, Elizabeth Morgan moved that the Telecommunications Policy Committee recommend to the Board that DeVANEY's misconduct encapsulated all but two of the categories noted above averaging the highest end of said categories; DeVANEY may reapply for certification 10 years from the date of revocation. Joe Raade seconded the motion. The motion carried in a 10 to 1 vote with Pam Collett voting no.*

5. **Indy Robertson, American Medical Response Northwest – DPSST #27509**

Presented by Theresa King

See Appendix E for details.

Rob Poirier noted for the record that in 1993-94 he was a co-worker (not supervisor) with ROBERTSON.

Richard Culley noted for the record that he was ROBERTSON's Field Training Officer and did her background.

The committee *convened in Executive Session* at 12:00 p.m. to discuss information exempt from public disclosure and *reconvened in Regular Session* at 12:10 p.m. to take action in the matter of Indy ROBERTSON.

- *Corrina Jacobs moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rich Leipfert seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *DUII and history of DUII*
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others: driving while intoxicated**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct based on the presumptive category in OAR for DUII based on the elements of the crime**.
 - f. The identified conduct did involve **Misconduct based on violation of the law**.
 - h. The identified conduct did not involve **Insubordination**

- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as mitigating circumstances successful treatment as identified by ROBERTSON's doctors and counselors, her consistent sobriety, and the fact ROBERTSON has very much support from her co-workers and agency. The aggravating circumstances noted by the committee are the facts that ROBERTSON has been in treatment before and this is her second DUII.*
- *Rich Liepfert moved that the Telecommunications Policy Committee finds ROBERTSON's conduct does not rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Rick Eisland seconded the motion. The motion carried unanimously.*

6. Tiffany Spaulding, Lincoln County Communications Agency – DPSST #50341

Presented by Theresa King

See Appendix F for details.

Tami Atkinson recused herself from voting on this case.

- *Pam Collett moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rachel Brudnock seconded the motion. The motion carried unanimously with Tami Atkinson abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Dereliction of duty by not using resources correctly to notify the public.*
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on failure to competently perform duty**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct based on act, or failure to act, which creates a danger or risk to persons**.
 - f. The identified conduct did involve **Misconduct**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as a mitigating circumstance the fact that SPAULDING had no intention of hurting anyone.*
- *Rick Eisland moved that the Telecommunications Policy Committee finds SPAULDING's conduct does rise to the level to warrant the revocation of her*

certifications, and therefore recommends to the Board that these certifications be revoked. Pam Collett seconded the motion. The motion carried in a 5 to 4 vote with Rachel Brodnuck, Pam Collett, Dan Coulombe, Rick Eisland, Elizabeth Morgan voting yes. Tami Atkinson and Rob Poirier abstained from voting.

- *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that SPAULDING's misconduct encapsulated three of the six categories noted above with a focus on the lowest end of Disregard for the Rights of Others; SPAULDING may reapply for certification 5 years from the date of revocation. Dan Coulombe seconded the motion. The motion carried in an 8 to 2 vote with Joe Raade and Rick Eisland voting no. Tami Atkinson abstained from voting.*

7. Discussion Item: Certification Workgroup

Presented by Linsay Bassler

See Appendix H for details.

The committee thanked Tami Atkinson and the sub-workgroup for all the hard work on the certification matrix. Staff stated that the product completed by the Telecommunications discipline met the intent of the larger certification group. Feedback and direction for the workgroup in the next phase, which includes implementation, would be greatly appreciated.

Once the portfolio is put together (by the Telecommunicator) and signed off by the Director of the agency it will come before the Telecommunications Policy Committee for recommendation for certification. Staff suggested the policy committee consider creating a screening subcommittee once the certification review process begins.

Staff requested additional participants for the sub-workgroup. Chair Poirier suggested a document stating the time commitment and what the workgroup is looking for in the implementation process could be placed on the APCO/NENA listserv.

8. Additional Business

Staff shared that the classes funded in partnership with APCO/NENA have been very well received. There are about a dozen including Stress Management for the Telecommunicator, Management, and Tactical Dispatch classes. The feedback has been very positive.

9. Next Telecommunications Policy Committee Meeting Date

August 3, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 1:25 p.m.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE: August 3, 2011

TO: Telecommunications Policy Committee

FROM: Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT: SHELLEY C. BAUGHER DPSST #32950

Medix Ambulance

ISSUE:

Should Shelley BAUGHER's Basic Emergency Medical Dispatcher, Basic Telecommunications and Basic Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

The issue in this case involves BAUGHER's resignation through abandonment of her job.

BACKGROUND and OVERVIEW

- 1. During the years of 1997 through 2010, BAUGHER served as a Telecommunicator and emergency medical dispatcher, attended Basic Emergency Dispatcher and Telecommunicator courses, signed her Code of Ethics and obtained her Basic Emergency Medical Dispatcher and Telecommunicator Certificates. For a short period of time, 1998 - 2000, BAUGHER was reclassified as a police officer, attended training and obtained her Basic Police Certificate.*
- 2. In July 2010, BAUGHER resigned through abandonment of her job. Subsequent to this, DPSST sought and obtained information relating to her resignation.*
- 3. In June 2011, DPSST notified BAUGHER via certified mail that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. BAUGHER has not provided a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

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

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

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

3. By discussion and consensus:

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

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

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

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

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

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

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

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

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

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

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

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

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

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: August 3, 2011

TO: Telecommunications Policy Committee

FROM: Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT: CYNTHIA M. GRUNDMAN DPSST #33256

Bureau of Emergency Communications

ISSUE:

Should Cynthia GRUNDMAN's Basic Emergency Medical Dispatcher and Basic Telecommunications certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

The issue in this case involves GRUNDMAN's resignation in lieu of termination.

BACKGROUND and OVERVIEW

- 1. During the years of 1997 through 2011, GRUNDMAN served as a telecommunicator and emergency medical dispatcher, attended Basic Emergency Dispatcher and Telecommunicator courses, signed her Code of Ethics and obtained her Basic Emergency Medical Dispatcher and Telecommunicator Certificates.*
- 2. In March 2011, GRUNDMAN resigned in lieu of termination. Subsequent to this, DPSST sought and obtained information relating to resignation.*
- 3. In June 2011, DPSST notified GRUNDMAN via certified mail that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. GRUNDMAN has not provided a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

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

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

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

2. By discussion and consensus:

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

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

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

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

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

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

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

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

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

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

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

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

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

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: August 3, 2011

TO: Telecommunications Policy Committee

FROM: Leon Colas

Professional Standards Investigator/Coordinator

SUBJECT: NICHOLAS J. COKER DPSST #48176

Seaside Police Department

ISSUE:

Should Nicholas COKER's Telecommunication and Emergency Medical Dispatcher's certifications be revoked based on violation of the moral fitness standards as outlined in OAR 259-008-0070(4)?

TPC RECONSIDERATION:

On May 4, 2011, the Telecommunications Policy Committee reviewed this matter and recommended revocation of COKER's certifications to the Board. The basis for the recommendation was dishonesty.

On July 28, 2011 the Board of Public Safety Standards and Training (BPSST) met. Prior to the Board meeting, this matter was pulled from the consent agenda for further discussion. At issue was whether COKER's conduct included dishonesty, as initially determined by the TPC. Ultimately, the Board returned the COKER matter for reconsideration on the sole element of dishonesty.

BACKGROUND:

- 1. In 2007, COKER was hired by Seaside Police Department as a dispatcher; he ultimately attended training, signed his Telecommunicator's Code of Ethics and received a Basic Emergency Medical Dispatcher and Basic and Intermediate Telecommunicator certifications.*
- 2. On January 12, 2011, after COKER was placed on notice of intent to discipline based on an internal investigation that sustained he had engaged in conduct which violated agency policy and included untruthfulness, he resigned under a Settlement Agreement.*
- 3. DPSST received an F4 Personnel Action Report on COKER showing that he had "resigned in lieu of termination." DPSST sought and obtained underlying information that led to the resignation.*

4. In March 2011, DPSST notified COKER via certified mail that his case would be heard before the Telecommunications Policy Committee (TPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration, via certified mail.
5. On April 11, 2011, DPSST received documentation from COKER for the Committee's consideration.

TPC RECOMMENDATION TO BOARD:

1. On May 4, 2011, the Telecommunications Policy Committee (TPC) reviewed this case.
2. In substance, the TPC adopted the Staff Report and associated documents as the record on which their recommendation was based.
3. On or about May 4, 2011, the TPC recommended revocation of COKER's certifications to the Board on the following basis:
4. The TPC determined that the issues in this case included that COKER viewed inappropriate material while on duty and that he was untruthful.
5. The TPC determined that COKER's misconduct involved *Dishonesty* when he was untruthful with investigators about showing inappropriate material to a coworker, and when he admitted in his letter to the TPC that he remembered showing an inappropriate photo to a coworker but he did not tell Chief Gross; and when he violated the terms of his separation agreement.
6. The TPC determined that COKER's misconduct did not involve *Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct or Insubordination*.
7. The TPC determined that COKER's misconduct involved *Misconduct* when he shared inappropriate materials while on duty and while he was in a lead worker role.
8. The TPC determined that there were no mitigating circumstances.
9. The TPC determined that aggravating circumstances included that COKER was in a lead worker role. The TPC also determined that COKER violated his Settlement Agreement when he spoke negatively and disparagingly about the members of the Seaside Police Department in his letter to the TPC.
10. In substance, the TPC adopted the Staff Report and associated documents as the record on which their recommendation was based.
11. The TPC determined that COKER's misconduct rises to the level to warrant the revocation of your certifications and recommended the same to the Board.
12. The TPC determined that COKER's misconduct is a lifetime disqualifier; he may never reapply to the TPC seeking certification.

BOARD DISCUSSION:

After discussion, the Board returned this matter for reconsideration by the TPC for clarification of what appeared to be a discrepancy between a January 4, 2011 letter from Chief Gross addressing a determination regarding truthfulness and later communications to the TPC in which he seemingly made a different determination. The Board asked staff to obtain clarification from Chief Gross. Chief Gross provided his clarifications via e-mail on July 28, 2011.

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

STANDARD OF PROOF:

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

ACTION ITEM 1:

Staff requests the Policy Committee review their initial recommendation pursuant to the Board's direction.

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

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

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