

Police Policy Committee Minutes November 21, 2013 (Draft)

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 21, 2013 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:31 p.m. by Chair Kent Barker.

Attendees

Policy Committee Members:

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

Committee Members Absent:

Richard Evans, Oregon State Police, Superintendent
Joel Lujan, Oregon State Police Command Staff Representative

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Leon Colas, Professional Standards Coordinator/Investigator
Kristen Hibberds, Professional Standards Coordinator/Investigator
Linsay Hale, Standards and Certification Manager
Sharon Huck, JTA Coordinator
Debbie Graves, Administrative Operations Supervisor
Kristy Witherell, Administrative Support
Bob Sigleer, DOC/BCC Compliance Auditor
Theresa King, DOC/BCC Audit Program Coordinator

Guests:

Craig Johnson, Assistant Attorney General
Dennis Swanberg
Toni Tracy
Brett Smith, Chief, Canby Police Department
Maxine Bernstein, Oregonian
Steve Beck, Oregon Council of Police Associations
Jeff Staples, Salem Police Department

1. DOJ Contested Case Review

Craig Johnson – Assistant Attorney General

Assistant Attorney General Craig Johnson addressed committee members about the contested case process and the denial/revocation of public safety officer certification involving discretionary disqualifying misconduct. The discussion highlighted legal concerns, recent Administrative Law Judge (ALJ) rulings, and some changes to the discretionary process that are being implemented by DPSST Professional Standards staff. (Executive Session to consider confidential legal advice.)

2. Proposed Order in the Matter of Dennis Swanberg – DPSST #13706

Craig Johnson – Assistant Attorney General

Determine whether to accept or amend the proposed order issued by the Office of Administrative Hearings. (Executive Session to consider confidential legal advice)

*Craig Halupowski moved that the Police Policy Committee recommend that the Board **approve** the proposed order in its entirety as the record. Tom Bergen seconded the motion. **The motion carried** unanimously.*

3. *Minutes of August 15, 2013 Meeting

Approve minutes from the August 15, 2013 meeting.

To see a complete record of the August 15, 2013 Police Policy Committee minutes, please go to:

http://www.oregon.gov/dpsst/BD/Policy_Committee_Minutes/PPC_Minutes/PPCminutes8-15-13.pdf

- *Mike Wells moved that the committee **approve** the minutes of the August 15, 2013 Police Policy Committee meeting. Craig Halupowski seconded the motion. **The motion carried** unanimously.*

4. Larry Johnson, Oregon State Police – DPSST #29145

Presented by Kristen Hibberds

*See **Appendix A** for details*

Ñ *Ryan Halupowski moved that the Police Policy Committee **adopts** the staff report as the record upon which its recommendations are based. James Hunter seconded the motion. **The motion carried** unanimously.*

Ñ By discussion and consensus:

- a. Identify and articulate the **misconduct that is specific to this case**. *Sexual activity on duty and allegations of untruthfulness.*
- b. The identified conduct **did not** involve **Dishonesty**

- c. The identified conduct **did not** involve a **Disregard for the Rights of Others**
- d. The identified conduct **did not** involve **Misuse of Authority**.
- e. The identified conduct **did** involve **Gross Misconduct**

*Ryan Humphrey moved that the Police Policy Committee finds JOHNSON's conduct **did** involve Gross Misconduct for sexual activity on duty. Mike Wells seconded the motion. **The motion carried** unanimously.*

*Craig Halupowski moved that the Police Policy Committee determined JOHNSON's conduct **does** rise to the level to warrant **revocation** of his certifications. Tom Bergin seconded the motion. **The motion carried** eight to one.*

*Craig Halupowski moved that the Police Policy Committee recommends to the Board JOHNSON's certifications be revoked for a period of five years. James Hunter seconded the motion. **The motion carried** seven to two. Tom Bergin opposed on the length of time chosen.*

- f. The identified conduct **did** involve **Misconduct**

*Larry Blanton moved that the Police Policy Committee finds JOHNSON's conduct **did** involve Misconduct for sexual activity on duty. Craig Halupowski seconded the motion. **The motion carried** eight to one.*

*Larry Blanton moved that the Police Policy Committee determined JOHNSON's conduct **does** rise to the level to warrant revocation of his certifications and Tom Bergin seconded the motion. **The motion carried** eight to one.*

*Craig Halupowski moved that the Police Policy Committee recommends to the Board JOHNSON's certifications be revoked for a period of 3 years. Mike Wells seconded the motion. **The motion carried** seven to two.*

- g. The identified conduct **did not** involve **Insubordination** by consensus of the policy committee.
- h. By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances.

By consensus the policy committee did not note any aggravating or mitigating circumstances.

- *Larry Blanton moved that the Police Policy Committee finds JOHNSON's conduct **does rise** to the level to warrant the revocation of his certifications and, therefore, recommends to the Board that these certifications be revoked. Tom Bergin seconded the motion. **The motion carried** unanimously.*

5. Joseph Hanousek, Portland Police Bureau – DPSST #10230

Presented by Kristen Hibberds

See Appendix B for details

Ñ *Mike Wells moved that the Police Policy Committee **adopts** the staff report as the record upon which its recommendations are based. James Hunter seconded the motion. **The motion carried** unanimously.*

Ñ By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**. *Violations of agency policies related to unsatisfactory performance and untruthfulness.*

b. The identified conduct **did** involve **Dishonesty**

*Mike Wells moved that the Police Policy Committee finds HANOUSEK's conduct **did** involve Dishonesty as described in the staff analysis (HANOUSEK's reporting of the incident and witness statements). Craig Halupowski seconded the motion. **The motion carried** unanimously.*

*Craig Halupowski moved that the Police Policy Committee finds that HANOUSEK's conduct **does** rise to the level of revocation, therefore, recommends to the Board that HANOUSEK's certifications be revoked for Dishonesty with a lifetime disqualifier. Ryan Humphrey seconded the motion. **The motion carried** unanimously.*

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

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

e. The identified conduct **did** involve **Gross Misconduct**

*Mike Wells moved that the Police Policy Committee finds HANOUSEK's conduct **did** involve Gross Misconduct as described in the staff report (HANOUSEK's negligence in handling his firearm off duty created a danger or risk to persons and property and to the efficient operation of the agency. This is recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance.) Craig Halupowski seconded the motion. **The motion carried** eight to one.*

*James Hunter moved that the Police Policy Committee **does not** find that HANOUSEK's Gross Misconduct rises to the level of revocation of HANOUSEK's certifications. Mike Wells seconded the motion. **The motion carried** unanimously.*

- f. The identified conduct **did** involve **Misconduct**

*Mike Wells moved that the Police Policy Committee does finds HANOUSEK's conduct **did** involve Misconduct by his negligence in handling his firearm off duty. He violated the practice and standards generally followed in an Oregon Public Safety profession. James Hunter seconded the motion. **The motion carried** unanimously.*

*Craig Halupowski moved that the Misconduct **does not** rise to the level of revocation of his certifications. Ryan Humphrey seconded the motion. **The motion carried** unanimously.*

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

- h. By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances.

By consensus the Police Policy Committee did not note any mitigating circumstances. The Police Policy Committee found as aggravating circumstances the fact that HANOUSEK's honesty has been questioned numerous times throughout his career and the Brady issue listed in the staff report.

6. Raymond McNeely, Coquille Police Department – DPSST #46177

Presented by Leon Colas

See Appendix C for details

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

Ñ By discussion and consensus:

- a. Identify and articulate the **misconduct that is specific to this case**. *Sleeping on duty as a result not being available for duty.*

- b. The identified conduct **did** involve **Dishonesty**

*Tom Bergin moved that the Police Policy Committee found MCNEELY's conduct **did** involve Dishonesty for reporting to the Chief information that differed from what he reported to fellow officers. Craig Halupowski seconded the motion. **The motion carried** eight to one.*

*Mike Wells moved that the Police Policy Committee **does not** find the conduct rises to the level to revocation of MCNEELY's Certifications. Ryan Humphrey seconded the motion. **The motion carried** six to three.*

- c. The identified conduct **did not** involve a **Disregard for the Rights of Others**
- d. The identified conduct **did not** involve **Misuse of Authority**
- e. The identified conduct **did** involve **Gross Misconduct**.

*Craig Halupowski moved that the Police Policy Committee finds MCNEELY's conduct **did** involve Gross Misconduct. By sleeping on duty MCNEELY was unable to respond to calls. This is a gross deviation from the standard of care that a reasonable public safety professional would observe.*

*Craig Halupowski moved that the Police Policy Committee finds that MCNEELY's conduct **does rise** to the level to warrant the revocation of his certifications and, therefore, recommends to the Board that these certifications **be revoked** for a period of 10 years. Tom Bergin seconded the motion. **The motion carried** five to four.*

*After further discussion, Craig Halupowski moved to amend the length of period of revocation of MCNEELY's certifications to five years. Tom Bergin seconded the motion. **The motion carried** five to four.*

- f. The identified conduct **did** involve **Misconduct**.

*Tom Bergin moved that the Police Policy Committee **did** find MCNEELY's conduct as Misconduct. Sleeping on duty and being unavailable to respond to calls constitutes a violation of the practices or standards generally followed in the Oregon public safety profession. Craig Halupowski seconded the motion. **The motion carried** unanimously.*

*James Hunter moved that MCNEELY's conduct **does not** rise to the level to warrant revocation of his certifications. Mike Wells seconded the motion. **The motion carried** eight to one.*

- g. The identified conduct **did not** involve **Insubordination**
- h. By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances.

By consensus, the Police Policy Committee found as mitigating circumstances that the agency has a new chief and poor supervision within the agency. The Police Policy Committee found no aggravating circumstances.

7. Law Enforcement Memorial Wall Nominee
Officer Robert Libke, Oregon City Police Department

See Appendix D

*Larry Blanton moved to **recommend** to the Board to include Officer Robert Libke's name on the Oregon Fallen Law Enforcement Officer Memorial. James Hunter seconded the motion. **The motion carried** unanimously.*

8. SFST Curriculum Changes

See Appendix E

*James Hunter moved to **recommend** to the Board approval of the SFST Curriculum Changes as revised by the IACP DRE Technical Advisory Panel (TAP) Curriculum Committee. Mike Wells seconded the motion. **The motion carried** unanimously.*

9. Staff Updates

Presented by Eriks Gabliks

HB3194 implementation for DPSST gave us two positions in the Center for Policing Excellence. As a result, DPSST will be offering Supervision and Middle Management training again after the first of the year. Steve Winegar has been hired as the Leadership Training Coordinator. Steve has been active in developing the program. Ryan Keck has been hired in the other position to lead the transition in curriculum from PowerPoint to problem-based learning.

Two additional positions were approved in HB3194 for regional training. One will be based in Medford and the other in the valley. We have extended an offer to an individual for the valley position which will start after the first of the year. The Southern Oregon position candidate is in background.

With that program, DPSST is working with Portland State University and Western Oregon University in a research component where we can embrace college students who need practicum assignments and can do some of the research we and other law enforcement agencies need done.

There are no delays in Basic courses.

Our physician advisor, Dr. John Juitt, at OHSU has approved the request from our staff to add some tactical care elements into our Survival Skills Program. The two additions we are going to implement are use of tourniquets and use of Quick-Clot bandages. You are probably aware of the officer involved shooting last year in Benton County. The officer is

alive today because of the actions taken by personnel on scene that knew how to perform tactical care. We have been given permission to add that to the curriculum. You will get to see that for approval before implementation. We are working on the OLCC job-task analysis. That will be adding their certification to the agency and will be under your committee because it fits closest to the law enforcement profession but these are not police officers. These are OLCC liquor enforcement inspectors.

There was miscommunication in the media on Officer Libke and benefits available for reserve officers. The Public Safety Memorial Fund Board did have an emergency meeting and they did approve full state death benefits to his family. The media had reported that reserve officers do not get the same benefits. DPSST has made efforts to correct those reports. Reserves get the same state benefit and the same federal benefit, but there are other benefits, i.e. worker's compensation, that do have different rules.

The dates have been scheduled for the 2014 meetings and you should have received this information. If something comes up, please let us know.

10. Next Police Policy Committee Meeting – February 20, 2014 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 5:07 pm

Appendix A

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

DATE: November 21, 2013

TO: Police Policy Committee

FROM: Kristen Hibberds
Standards and Compliance Coordinator

SUBJECT: Johnson, Larry, DPSST #29145
Basic, Intermediate & Advanced Police Certifications
Oregon State Police

OVERVIEW: DPSST was notified via F-4 Personnel Action Form on May 22, 2012, that the Oregon State Police discharged Senior Trooper Johnson for cause effective April 12, 2012. (Ex. A2)

DPSST requested all the information relating to Johnson's discharge and subsequently issued a Notice of Intent to Revoke on August 1, 2012. Staff determined that Johnson's conduct involved Dishonesty and Gross Misconduct, as defined in OAR 259-008-0070(3)(a)(A) Discharge for Cause. Johnson requested a hearing and a hold pending resolution of the grievance his union attorney filed on his behalf. (Ex. A25, A26)

On June 10, 2013, Staff received an F-4 Personnel Action Form amending Johnson's separation from a discharge for cause to a resignation under a settlement agreement, along with a copy of the settlement agreement. (Ex. A27)

On September 3, 2013, Staff served Johnson with a Withdrawal of Notice and Termination of Proceedings, based on his resignation. Along with this Notice, Staff notified Johnson that the conduct related to his separation of employment would be reviewed by the Policy Committee. (Ex. A28)

STAFF ANALYSIS: After reviewing the internal investigation received from the Oregon State Police, staff has identified by a preponderance of evidence that Johnson engaged in misconduct involving violations of agency policies related to his on duty sexual activity. Staff has determined that the misconduct involves **Dishonesty, Gross Misconduct and Misconduct.**

Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification.

On or about Thursday, October 20, 2011, Sergeant Gordon Larson received a phone call from Damon Rand, alleging that Johnson was engaging in a sexual relationship with his (Rand's) wife. Sgt. Larson called Johnson regarding the allegation and Johnson stated that it was true but it had only happened once. (Ex A8, pg. 4 of 9)

On December 1, 2011, during an investigative interview Johnson admits to having sex on duty on three separate occasions. (Ex. A16 pg. 1, 5-6)

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 or serve the public.

Staff could not find evidence that Johnson disregarded the rights of others as defined above.

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

Staff could not find evidence that Johnson misused his authority as defined above.

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.

On December 1, 2011, during an investigative interview Johnson admits to having sex on duty on three separate occasions. This conduct violated his agencies policies and procedures and created a danger or risk to the efficient operation of the agency and is recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe.

Additionally, Johnson was engaging in on duty sexual conduct with the wife of a John Day Police Department Officer. The Oregon State Police and John Day Police Department provide services to a rural community. There are times when both these agencies will respond to calls for service. Johnson's conduct could have negatively impacted the working relationship of these two agencies.

Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.

On December 1, 2011, during an investigative interview Johnson admits to having sex on duty on three separate occasions. Johnson acknowledged that he was aware policies were in place that prohibited sexual activities while on duty.

This conduct violated his agencies policies and procedures and violates practices and standards generally followed in the Oregon Public safety profession.

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.

Staff could not find evidence that Johnson engaged in insubordination as defined above.

*A copy of the staff analysis was provided to Johnson for the purposes of allowing mitigation. (Ex. A29, A31)

COMMITTEE DISCUSSION:

I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.

II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

CASE SUMMARY:

Misconduct that is specific to this case, considered by the Committee:

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

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

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

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

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

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

Identified aggravating circumstances:

Identified mitigating circumstances:

ACTION ITEM 1:

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

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

Using the following ineligibility grid and the categories of identified misconduct, by vote, determine and recommend to the Board an *initial* minimum period of ineligibility to apply for certification:

- Dishonesty (5 years to Lifetime).
- Disregard for Rights of Others (5 years to 15 years).
- Misuse of Authority (5 years to 10 years).
- Gross Misconduct (5 years to 10 years).
- Misconduct (3 years to 7 years).
- Insubordination (3 years to 7 years).

Appendix B

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

DATE: November 21, 2013

TO: Police Policy Committee

FROM: Kristen Hibberds
Professional Standards Investigator/Coordinator

SUBJECT: Hanousek, Joseph, DPSST #10230
Basic, Intermediate & Advanced Police Certifications
Portland Police Bureau

OVERVIEW: DPSST was notified via F-4 Personnel Action Form on September 19, 2012, that Portland Police Bureau Officer Joseph Hanousek retired effective September 19, 2012. On or about December 19, 2012, DPSST opened a case after receiving news clipping “Cop retires after firearm query”. DPSST requested and received a copy of the internal investigation from Portland Police Bureau that led to Hanousek’s retirement.

At issue in this case is Hanousek’s violations of agency policies relating to unsatisfactory performance and untruthfulness.

STAFF ANALYSIS: After reviewing the internal investigation received from Portland Police Bureau and incident reports from Multnomah County Sheriff’s Office, staff has identified by a preponderance of evidence that Hanousek engaged in misconduct involving violations of agency policies related to unsatisfactory performance and untruthfulness. Staff has determined that the misconduct involves **Dishonesty, Gross Misconduct and Misconduct.**

Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification.

On September 17, 2012, Multnomah County Deputy Maurry contacted Hanousek via telephone regarding the allegations. Hanousek stated he disembarked the bus and was digging for his keys when he dropped his gun. Hanousek stated the firearm did not discharge and described the noise as a possible backfire or firecracker.

During PPB’s internal investigation witnesses to the incident were interviewed. The BOEC audio of the 911 call by Khabira Mcdow-Keefer was requested. Khabira Mcdow-Keefer stated

that “evidently he had a gun, it fell out of his pocket and it discharged and anyway.....”. Willaim Zawacki, a Tri-met bus driver who witnessed the incident was interviewed and stated that he had picked up the individual (Hanousek) in downtown Portland and after he got off the bus and walked towards the parking lot, he (Zawacki) heard a gunshot, then saw the subject reach down to the sidewalk and pick up a handgun. James Lauerman, a Tri-met bus driver who witnessed the incident was interviewed and stated that he was walking across the Sauvie Island Bridge when he heard a gunshot. Lauerman looked towards the parking lot where the shot seemed to come from and he saw a subject (Hanousek) reaching down to pick up what he believed to be a handgun.

At the scene, Lt. Scruggs found a small, obviously fresh hole in the concrete. The hole looked consistent with the impact of small arms fire. Lt. Scruggs stated he is “99 percent certain” the hole was caused by a gun firing.

Hanousek told Investigator Rhodes during the December 20, 2012 interview that he does not carry his off duty handgun with a round in the chamber. However, Hanousek did not mention this relevant fact to Deputy Maury during the investigation.

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 or serve the public.

Staff could not find evidence that Hanousek disregarded the rights of others as defined above.

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

Staff could not find evidence that Hanousek misused his authority as defined above.

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.

Three civilian witnesses, after hearing a gun shot, saw Hanousek pick a gun up off the pavement. Hanousek admitted that he dropped an un-holstered pistol onto the ground but denied that it had discharged. At the scene, Lt. Scruggs found a small, obviously fresh hole in the concrete. The

hole looked consistent with the impact of small arms fire. Lt. Scruggs stated he is “99 percent certain” the hole was caused by a gun firing.

Hanousek’s negligence in handling his firearm off duty created a danger or risk to persons, property, and to the efficient operation of the agency and is recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance.

Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.

Three civilian witnesses, after hearing a gun shot, saw Hanousek pick a gun up off the pavement. Hanousek admitted that he dropped an un-holstered pistol onto the ground but denied that it had discharged. At the scene, Lt. Scruggs found a small, obviously fresh hole in the concrete. The hole looked consistent with the impact of small arms fire. Lt. Scruggs stated he is “99 percent certain” the hole was caused by a gun firing.

Hanousek’s negligence in handling his firearm off duty violates practices or standards generally followed in the Oregon public safety profession.

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.

Staff could not find evidence that Hanousek misused his authority as defined above.

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

COMMITTEE DISCUSSION:

I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.

II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

CASE SUMMARY:

Misconduct that is specific to this case, considered by the Committee:

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

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

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

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

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

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

Identified aggravating circumstances:

Identified mitigating circumstances:

ACTION ITEM 1:

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

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

Using the following ineligibility grid and the categories of identified misconduct, by vote, determine and recommend to the Board an *initial* minimum period of ineligibility to apply for certification:

- Dishonesty (5 years to Lifetime).
- Disregard for Rights of Others (5 years to 15 years).
- Misuse of Authority (5 years to 10 years).
- Gross Misconduct (5 years to 10 years).
- Misconduct (3 years to 7 years).
- Insubordination (3 years to 7 years).

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: November 21, 2013

TO: Police Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: McNeely, Raymond DPSST #46177
Basic, Intermediate and Advanced Police certifications
Coquille Police Department

OVERVIEW: In June 2012, DPSST received a personnel action form F-4 showing that McNeely had resigned from the Coquille Police Department while under investigation. We obtained the investigation from the agency. The investigation had largely been independently conducted by the Local Government Personnel Institute (LGPI) through its investigator, Craig Stoelk. The investigation revealed job performance deficiencies on McNeely's part, substantial ill-will directed from him to the Chief of Police, and resistance to the Chief's directives to the point of insubordination. The investigation also revealed untruthfulness by McNeely prior to and during the investigation.

At issue in this case is McNeely's insubordination by disregarding the Chief's directives to remain within the city while on duty and not go home on breaks without authorization, and to conduct shift-change briefings and equipment exchanges at the police station rather than at home, and untruthfulness.

STAFF ANALYSIS: After reviewing the investigative documents and McNeely's response for the committee, staff has identified by a preponderance of evidence that McNeely engaged in misconduct involving **Dishonesty, Misconduct** and **Insubordination**. The committee is, of course, free to make its own determinations based on all the evidence presented.

Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification.

McNeely spent substantial amounts of duty time at home, which is outside of the city limits, and did not document on time cards that he was not on duty within his patrol area. He told the

investigator, Stoelk, that he had not been at home on duty time except for authorized breaks since a written memo was issued on that subject, but the evidence shows that was not true. McNeely told a fellow officer that he had clarified with the Chief that the face-to-face briefings at the station were only necessary for afternoon briefings, so that officer could continue going to McNeely's home for morning briefings. He also told another officer that he clarified with the Chief that face-to-face briefings only needed to be held if there was something important that needed to be discussed. Neither of those 'clarifications' were true. McNeely told Stoelk that he and a fellow officer met with City Manager O'Connor to voice only their own concerns regarding the Chief, but he states in his letter to the PPC that he met with O'Connor about "the whole department's concerns." McNeely's conduct involved falsification with respect to time claimed to have worked, and misrepresentation regarding his 'clarifications' of the Chief's directives, and these acts constitute Dishonesty as defined above. (Ex A5, A11, A12)

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 or serve the public.

Staff did not find evidence that McNeely disregarded the rights of others as defined above.

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

Staff did not find evidence that McNeely misused his authority as defined above.

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.

Staff did not find evidence that McNeely's conduct involved Gross Misconduct as defined above.

Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.

McNeely repeatedly went home and spent substantial periods of duty time there while he was supposed to be on patrol in the city. This conduct violates the practices and standards generally followed in the Oregon public safety profession and so constitutes Misconduct as defined above. (Ex A5)

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.

McNeely repeatedly refused to comply with the Chief's directives to not go home while on duty without authorization and to conduct face-to-face briefings with fellow officers at shift change. (Ex A5)

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

COMMITTEE DISCUSSION:

I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.

II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

CASE SUMMARY:

Misconduct that is specific to this case, considered by the Committee:

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

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

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

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

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

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

Identified aggravating circumstances:

Identified mitigating circumstances:

ACTION ITEM 1:

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

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

Using the following ineligibility grid and the categories of identified misconduct, by vote determine and recommend to the Board an initial minimum period of ineligibility to reapply for certification:

- (A) Dishonesty (5 years to Lifetime)
- (B) Disregard for Rights of Others (5 years to 15 years)
- (C) Misuse of Authority (5 years to 10 years)
- (D) Gross Misconduct (5 years to 10 years)

(E) Misconduct (3 years to 7 years)

(F) Insubordination (3 years to 7 years)

Appendix D

Department of Public Safety Standards and Training Memorandum

Date: November 18, 2013
To: BPSST/DPSST Police Policy Committee
From: Eriks Gabliks, Director 
Subject: Law Enforcement Memorial Wall Nomination
Officer Robert Libke – Oregon City Police Department

Background

Clackamas County Fire District #1 and Oregon City Police units were dispatched to a report of a house fire on November 3, 2013. Police were sent to deal with a report of an armed male at the fire scene. Reserve Officer Robert Libke (DPSST #51035) of the Oregon City Police Department was shot at the scene of the house fire. Officer Libke was transported to Emanuel Hospital in Portland where he died from his injuries on November 4, 2013. Officer Libke, age 41, leaves behind a wife and unborn child.

Officer Libke served as a reserve officer with the Oregon City Police Department since 2009. Officer Libke graduated from the 276-hour Clackamas County Reserve Officer Academy on February 11, 2010. Officer Libke grew up in Portland and graduated from Marshall High School in 1991. He worked as a general supervisor at Evraz Oregon Steel in Portland.

Staff Recommendation

The death meets the criteria for the Oregon Fallen Law Enforcement Officer Memorial. Oregon Administrative Rule 259-008-0100 (i) defines “In the line of duty death” as a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

Action Item(s)

Determine whether Officer Robert Libke’s name will be included on the Oregon Fallen Law Enforcement Officer Memorial.

Attachments

Email from OCPD to FBI Portland Office – November 4, 2013
The Oregonian/Oregon Live – November 4, 2013
Oregon City Police Department Webpage – November 4, 2013

OAR 259-008-0100 – Oregon Law Enforcement Officer Memorial

259-008-0100

Miscellaneous Activities of the Board or Department

(7) In accordance with the Oregon Revised Statutes the Board, in consultation with the Department, designates the following classifications of public safety personnel killed in the line of duty who may be honored at the Law Enforcement Memorial Wall.

(a) Eligibility

(A) For the purpose of placing names, law enforcement officer includes, as defined in ORS 181.610, police officer, reserve officer, corrections officer, and parole and probation officer. Also included are federal law enforcement officers assigned to or performing law enforcement duties in Oregon.

(b) Criteria for placement on the Law Enforcement Memorial Wall:

(A) Officers who suffered an "in-the-line-of-duty" death.

(i) "In the line of duty death" means a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

(ii) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

(iii) Not included under this definition are deaths attributed to natural causes (except when a medical condition arises out of law enforcement action or law enforcement training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing his/her death during a continuous period of hospitalization immediately following the taking of law enforcement action). Deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death, and deaths attributed to an officer performing his/her duty in a grossly negligent manner at time of death are not included under this definition.

(iv) When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Board on Public Safety Standards and Training Executive Committee.

(c) Exclusions from the Law Enforcement Memorial Wall:

(A) Officers whose deaths are attributed to natural causes are not eligible for inclusion in the wall; or

(B) A death that is attributed to the officer's voluntary alcohol or substance abuse use; or

(C) Death caused by intentional misconduct of the officer; or

(D) Death caused by the officer's intention to bring about his or her own death; and

(E) Death attributed to an officer performing his or her duty in a grossly negligent manner at the time of death.

(d) When there is doubt arising from the circumstances of the officer's death or with respect to the individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Executive Committee.

(e) The costs of maintenance and relocation of the Law Enforcement Memorial Wall and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0080; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

Email sent from Lt. Shane Strangfield of the Clackamas County Sheriff's Office, on behalf of Chief Jim Band of the Oregon City Police Department, to Brenda Hamann at the FBI Portland Office for notification to their Violent Crimes Unit, Office of Victim Assistance, and LEOKA Unit.

From: Strangfield, Shane [<mailto:shanestr@co.clackamas.or.us>]
Sent: Monday, November 04, 2013 2:40 PM
To: Hamann, Brenda K.; GABLIKS Eriks
Cc: Palmer, Michael A.; Kevin, Erin E.; Plichta, Michael F.; Jones, Tom; Johnson, Chief Don
Subject: RE: Information needed

Reserve Officer Robert Allen Libke
Sworn in on 3/3/2010

Shortly after 1 p.m. on Sunday, Nov. 3, 2013 a fire was reported at 841 Linn Avenue in Oregon City, Oregon. During the initial dispatch, a report was broadcast of an armed male at the fire scene.

Oregon City Police and Clackamas Fire District #1 crews were dispatched -- with the police sent to deal with the reported armed individual.

The first responding unit was a two-man unit with one regular and one reserve Oregon City Police officer. Reserve Officer Libke was reportedly confronted by the suspect -- at which time the suspect shot Officer Libke.

A massive police response to an emergency call for help followed the shooting. Responding police units established a containment perimeter. Fire personnel were evacuated. Residents immediately surrounding the fire were also evacuated. Upon arrival of the Clackamas County Sheriff SWAT team, Reserve Officer Libke was evacuated and taken by LifeFlight to Legacy Emmanuel Hospital for treatment.

As Reserve Officer Libke was being rescued, SWAT team members reportedly encountered the armed suspect and subsequently shot him. The suspect died at the scene.

Results of the autopsy have not yet been received. A definitive cause and manner of death will be released when available. The deceased suspect has been identified as Lawrence Cambra, age 88, of Oregon City.

The officer shot in this incident is Officer Robert Libke. Officer Libke is a 41-year-old Reserve Police Officer for the Oregon City Police Department. He has faithfully served the department since his hire date in 2009.

Chief Jim Band
Oregon City Police Department
320 Warner Milne
Oregon City, OR 97045
503-657-4964

Oregon City shooting: Officer Robert Libke dies from gunshot wounds

The Oregonian By **The Oregonian**

on November 04, 2013 at 2:39 PM, updated November 04, 2013 at 2:58 PM

Libke was shot Sunday when he responded to a 911 call reporting a house fire in the 800 block of Linn Avenue in Oregon City. Other responding officers shot and killed the shooting suspect and owner of the burned home, Lawrence Cambra, 88.

Oregon City Police Chief James Band will hold a press briefing at 4 p.m. today at City Hall. Libke's body will be escorted from Emanuel Hospital to Lincoln Memorial Park Funeral Home later today, Oregon City police reported.

Libke, 41, has served since 2009.

The incident began shortly after 1 p.m. on Sunday, when a fire was reported at 841 Linn Ave. During the initial dispatch, a report was broadcast of an armed male at the fire scene.

Oregon City Police and Clackamas Fire District #1 crews were dispatched -- with the police sent to deal with the reported gunman.

The first responding unit was a two-officer unit with one regular and one reserve Oregon City Police officer. Cambra confronted and shot Libke, police reported.

Officers who came to Libke's aid encountered and shot Cambra, Oregon City police reported.

The Oregon City Police Department Reserve Unit was established to supplement and assist patrol officers in their duties. The unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels. The reserve unit has traditionally consisted of about 10 reserve police

officers who volunteer their time, police said. All reserves attend and complete an Interagency Police Academy in Clackamas County.

Libke is the first Oregon City Police Officer shot in the line of duty since 1906, when Officer George Hanlon was shot by a burglary suspect.

The two deputies involved in the shooting of the suspect are Sgt. Matt Swanson and Dep. Jesse Unck, both SWAT members. Sergeant Swanson has been with the Clackamas County Sheriff's Office for 13 1/2 years and Deputy Unck 4 years. Both are on paid administrative leave which is standard protocol for this type of incident.

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OCPD Update 2 @ 2pm: Monday, November 4, 2014

We regret to inform you that Officer Libke has died as a result of his injuries.

Oregon City Police Chief James Band would like to address the media at 4pm at City Hall, 625 Center St. Oregon City, with updates on Officer Libke.

Traffic Advisory: Officer Libke will be escorted from Emmanuel Hospital to Lincoln Memorial Park Funeral Home at 4pm. Expect traffic delays during this escort.

OCPD Update 1

Shortly after 1 p.m. on Sunday, Nov. 3, 2013 a fire was reported at 841 Linn Avenue in Oregon City, Oregon. During the initial dispatch, a report was broadcast of an armed male at the fire scene.

Oregon City Police and Clackamas Fire District #1 crews were dispatched -- with the police sent to deal with the reported armed individual.

The first responding unit was a two-man unit with one regular and one reserve Oregon City Police officer. Reserve Officer Libke was reportedly confronted by the suspect -- at which time the suspect shot Officer Libke.

A massive police response to an emergency call for help followed the shooting. Responding police units established a containment perimeter. Fire personnel were evacuated. Residents immediately surrounding the fire were also evacuated. Upon arrival of the Clackamas County Sheriff SWAT team, Reserve Officer Libke was evacuated and taken by LifeFlight to Legacy Emmanuel Hospital for treatment.

As Reserve Officer Libke was being rescued, SWAT team members reportedly encountered the armed suspect and subsequently shot him. The suspect died at the scene.

Results of the autopsy have not yet been received. A definitive cause and manner of death will be released when available. The deceased suspect has been identified as Lawrence Cambra, age 88, of Oregon City.

The officer shot in this incident is Officer Robert Libke. Officer Libke is a 41-year-old Reserve Police Officer for the Oregon City Police Department. He has faithfully served the department since his hire date in 2009.

The Oregon City Police Department Reserve Unit was established to supplement and assist patrol officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels. The reserve unit has traditionally consisted of about 10 reserve police officers who volunteer their time. All reserves attend and complete an Interagency Police Academy in Clackamas County.

This is a very difficult time for Officer Libke's family and for the Oregon City Police Department. It is requested that media respect the family's need to focus on Officer Libke's care and each other during this trying time. Media will be notified when family or department members are prepared to speak about this tragic situation.

This is the first Oregon City Police Officer shot in the line of duty since the early 1900s. In April 1906, Officer George Hanlon was shot and fatal wounded while trying to arrest a burglary suspect named Frank Smith.

The two deputies involved in the shooting of the suspect are Detective Sergeant Matt Swanson and Deputy Jesse Unck, both SWAT members. Sergeant Swanson has been with the Clackamas County Sheriff's Office for 13 1/2 years and Deputy Unck 4 years. Both are on paid administrative leave which is standard protocol for this type of incident.

The Clackamas County's Special Weapons and Tactics Team (SWAT) and Hostage Negotiations Team (HNT) are specially trained to deal with crisis situations and responded to this incident.

The Clackamas County Sheriff's SWAT is an interagency team. Team members include officers from the Oregon City, Milwaukie, Canby, and Milwaukie Police. For more info on the SWAT team, visit <http://www.clackamas.us/sheriff/swat.html>

There is a massive investigative effort underway. The investigation has three major components:

1. Investigation of the fire
2. Investigation of the shooting of the Oregon City Police officer
3. Investigation of the use of force by members of the Clackamas County SWAT team.

The fire investigation is underway. The investigation is being conducted by the Oregon State Police, Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Fire Marshal of the Clackamas Fire District #1. Initial statements from witnesses cause investigators to believe that this fire was set intentionally. Arson investigations are time-consuming and hazardous -- frequently requiring investigators to wear specialized protective gear and requiring a combination of investigative techniques. It is likely that the completion of the fire investigation will take 24 to 48 hours.

The other two investigations are being conducted by the Clackamas County Major Crimes Team, which is led by the District Attorney of Clackamas County. Investigators assigned to these two efforts are from the Oregon State Police, Clackamas County Sheriff's Office, Portland Field Office of the Federal Bureau of Investigation (FBI), Oregon City Police, Happy Valley Police, Gladstone Police, Canby Police, Molalla Police, Sandy Police, West Linn Police, Milwaukie Police, and Clackamas County Interagency Task Force (CCITF).

Investigators are looking into all aspects of the events that led to the two shootings. Their effort is designed to produce a comprehensive, impartial and thorough investigation that will allow the district attorney and police agencies to carefully review these incidents.

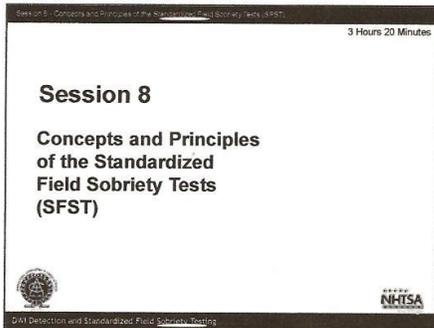
2013 Standardized Field Sobriety Testing (SFST) Curriculum Revisions Overview

The following is an overview of the major revisions and updates approved by the IACP DRE Technical Advisory Panel (TAP) Curriculum Committee and included in the 2013 SFST curriculum. This overview does not include minor revisions such as spelling, grammar and punctuation corrections that were also completed during the update.

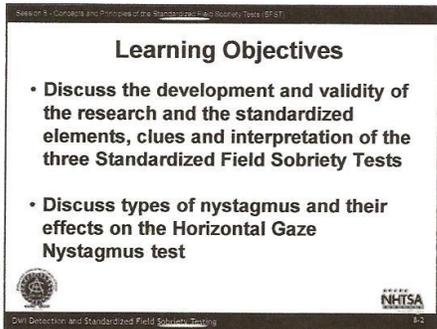
The curriculum is in a new PDF format. The Instructor Guide includes all of the information contained in the Participant Manual, including each of the PowerPoint slides. The Participant Manual does not include the bolded and italicized instructor notes found only in the Instructor Guide.

Example of the new manual format (Participant Manual):

Participant Manual SFST – Session 8 Concepts and Principles of the Standardized Field Sobriety Tests (SFST)

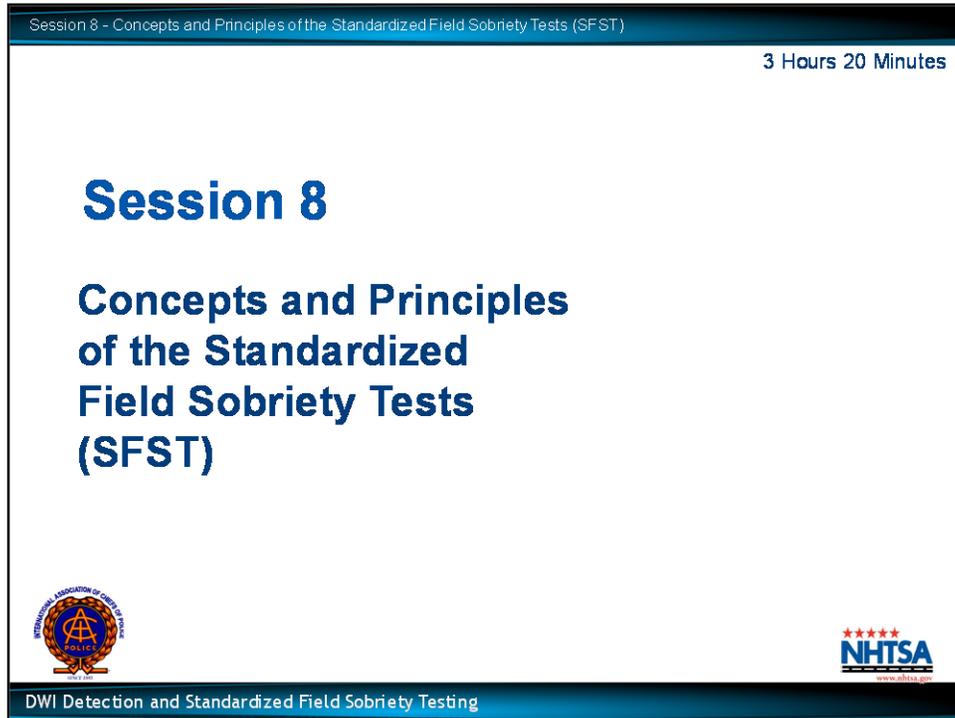


Notes: _____



Notes: _____

Example of revised PowerPoint slides:



Session I:

Old 2008 data and statistical information was updated with 2010 and 2011 data using the NHTSA Fact Sheets and Substance Abuse and Mental Health Services Administration (SAMSHA) data.

Session II:

The word "many" was replaced with "all" when referring to states with .08 DWI limit.

The data and the definition related to an "alcohol-related crash" were revised to read: *"Alcohol-impaired crash" per NHTSA, refers to a driver with a .08 percent BAC or higher. In 2010, 28% of all fatally injured motorcycle operators had BAC of .08 or higher. In 2010, the 25-34 year old group constituted 34 percent of all alcohol-impaired driving fatalities in the U.S. (NHTSA Traffic Safety Facts, 2010 Data, DOT HS 811 606."*

The information regarding traffic fatalities was revised to read that on the average, a traffic fatality occurs every 51 minutes. Source: NHTSA Traffic Safety Facts, 2010 Data, Alcohol-Impaired Driving, DOT HS 811 606, April 2012.

Additional Alcohol Facts were added to reflect the current statistics and the involvement of high BAC drivers (0.15+).

Sessions III:

More details were added concerning Illegal Per Se laws. Also, major court decisions concerning the admissibility of HGN testimony were added to the PowerPoint slides.

Session IV:

Additional PowerPoint slides were added concerning note-taking and report writing.

Session V:

The acronym "DUI" in this session and in other areas of the curriculum was changed to "DWI" to be consistent throughout.

The descriptive information for the "Sliding Sports Car" was revised to be consistent with the new version of this video. New information was added for the instructors to solicit from the students as it relates to the sliding sports car during the driving and stopping sequence.

Session VI:

The word "roadblock" in bold at the bottom of page was replaced with the word "checkpoint" to be consistent with Sobriety Checkpoints.

The video of the "Busy Businessman" was replaced and the information listed in this session was revised to be consistent with the new video.

The video of "Busy Businessman Exiting" was also updated with a new video. The descriptive information was replaced with the new information related to the new video.

Session VII:

The words "driver" and "drivers" were replaced with the word "subject" to be consistent with other areas of the curricula.

The photo of an officer doing the Modified Romberg Balance test in the PPT slide was replaced with an officer administering the One Leg Stand test. The Modified Romberg Balance test is a test used for DRE and not SFST.

References directing the instructor to show "extras" referring to an additional video were removed as there are no extra videos.

All references to "Romberg balance" were changed to "Modified Romberg Balance" to be consistent with ARIDE and DRE.

Session VIII:

Information regarding the field validation studies parameters concerning correct vs. incorrect decisions was added to help clarify the methodology of the studies.

Additional information was added regarding the San Diego, CA SFST study entitled, "Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 Percent," U.S. Department of Transportation, National Highway Traffic Safety Administration Final Report DOT-HS-808-839. More emphasis is being placed on the San Diego Study because of the higher accuracy rates for HGN, Walk and Turn and One Leg Stand and because it is the most recent study.

The reference to the combining of HGN and the Walk and Turn test was removed.

The word "pathology" in this session was changed to "pathological."

A bolded instructor note regarding resting nystagmus was added and reads as follows: *"Remind the participants that if Resting Nystagmus is observed they can continue with the remainder of the test to check for other possible indicators of impairment and any possible indicators of a medical condition."*

The marble rolling across a polished pane of glass analogy for describing Lack of Smooth Pursuit was removed and the only analogy is now the windshield wiper on a wet windshield versus a dry windshield.

Additional wording was added to clarify how to properly score an improper turn during the Walk and Turn Test if the subject being tested turns on the right foot instead of the left foot. The clarification wording added is:

Note: There may be times when the suspect takes a wrong number of steps or begins the heel-to-toe walk with the wrong foot resulting in a turn on the right foot instead of the left. If this occurs the suspect would normally be assessed a clue for an incorrect number of steps and not assessed a clue for an improper turn if the turn was made using a series of small steps as instructed and the suspect did not lose his/her balance while attempting the turn. This scoring is consistent with the original research and training conducted by the Southern California Research Institute and with the administration and scoring of the Walk and Turn test in the San Diego Field Study.

Additional information concerning the test limitations was added to both the Walk and Turn and the One Leg Stand tests. The additional information added is:

The original SCRI studies suggested that individuals over 65 years of age or people with back, leg or inner ear problems had difficulty performing this test. Less than 1.5% of

the test subjects in the original studies were over 65 years of age. Also, the SCRI studies suggest that individuals wearing heels more than 2 inches high should be given the opportunity to remove their shoes. Officers should consider all factors when conducting SFSTs.

The words "foot pointed out" were removed from the PowerPoint slides when giving the instructions for the One Leg Stand test. The correct instructions are "with your raised foot parallel to the ground." This revision was made to be consistent with other areas of the curriculum and with ARIDE and DRE. Advising to point the foot out was not part of the original OLS instructions.

The instructor note regarding how officers are to handle those situations where the subject puts his/her foot down during the test was bolded in the Instructor Guide, which matches the description in the SFST guides:

An instructor note has been added reminding the instructor to instruct the students that if the suspect puts his/her foot down during the test to advise the suspect to pick their foot up and to continue counting from where the foot touched the ground/floor. This is not one of the instructions and should only be given if or when the foot touches the ground.

All references to the third clue of the One Leg Stand test as being "Hops" were replaced with the word "Hopping".

A reference was added to address how to properly ensure that a suspect is not facing an officer's strobe lights and reads as follows: "NOTE: Try to face the subject away from flashing or strobe lights that could cause visual or other distractions that could impede the test."

Session IX:

References to a NHTSA video entitled "Extras" were removed from this session and from the PowerPoint slides.

Sessions X, XI, and XII:

No major revisions.

Session XIII:

No major revisions.

Session XIV:

No major revisions.

Session XV:

References to showing the video "Extras" were removed.

Introduction to Drugged Driving Session

The following revisions were also made to the "Introduction to Drugged Driving" session:

The Glossary of Terms was updated to be consistent with ARIDE and where applicable with DRE. As an example, the Hippus definition was removed.

The definition of drug was corrected to reflect ARIDE and the DRE definition.

The references to "major drug categories" was revised to the "seven drug categories"

Dextromethorphan (DXM) was added the Dissociative Anesthetics drug category.

Synthetic Cannabinoids was added to the Cannabis category.

Drug use data and statistics were updated.

References to "normal" when addressing pupil size were changed to read, "will not be effected" to be consistent with ARIDE and DRE.

Wording for the four effects of drugs (Null, Overlapping, Additive and Antagonistic) was revised to be more consistent with ARIDE and DRE.

Chuck Hayes, IACP DEC Program

08/13

2013 SFST Curriculum Revisions Overview/Word/SFST/2013 Revisions