

# Professional Standards Ethics Bulletin

## Criminal Justice



### STATISTICS:

#### Cases Opened 21

##### Mandatory Disqualifiers

- Police 2
- Corrections 5
- Tele/EMD 1
- P & P 0

##### Discretionary Disqualifiers

- Police 4
- Corrections 7
- Tele/EMD 1
- P & P 1

#### Cases Pending 111

##### Mandatory Disqualifiers

- Police 15
- Corrections 11
- Tele/EMD 1
- P & P 2

##### Discretionary Disqualifiers

- Police 39
- Corrections 32
- Tele/EMD 10
- P & P 1

#### Cases Closed 6

- Revoked 1
- Denied 0
- No Action 5

To increase the public's trust, the Oregon legislature has mandated the Board on Public Safety Standards and Training establish minimum standards that are required to be met and maintained by Oregon's providers of public safety, including police officers, corrections officers, parole and probation officers, telecommunicators (9-1-1), emergency medical dispatchers, public safety instructors and OLCC regulatory specialists. The Department of Public Safety Standards and Training is responsible for certifying public safety professionals who meet all of the Board-established standards, and for denying or revoking the certification of those who do not meet or fall below the standards.

In addition to physical and intellectual standards, the Board has adopted minimum standards of moral fitness. Public safety professionals and applicants for public safety positions who have been convicted of a crime or have engaged in behavior that is deemed to fall below the minimum standards are subject to review as prescribed in Oregon Administrative Rule 259-008-0070. The sole purpose of this review is to determine if the Board's standards of moral fitness have been violated and if proceeding to deny or revoke public safety certification should be initiated. The review specifically looks for behavior that appears to involve dishonesty, disregard for the rights of others, misuse of authority, gross misconduct, misconduct, insubordination and incompetence.

The Professional Standards Ethics Bulletin has been developed as an educational tool aimed at providing insight and transparency into situations involving public safety professionals that may violate the Board's standard of moral fitness. The bulletin details the conduct and the resulting DPSST action. The names and agencies of the individuals in this report have been omitted to ensure focus remains on the behavior.

Questions about these incidents or about DPSST's processes and procedures can be directed to DPSST: (503) 378-2100 or [oregon.dpsst@state.or.us](mailto:oregon.dpsst@state.or.us).

The following cases have resulted in consideration of **revocation or denial** of certifications by DPSST in **January, 2016**.

#### Leadership:

A leader is one who knows the way, goes the way, and shows the way.

-John Maxwell

**Officer A** resigned as a Chief of Police in 2000. In 2014 Officer A was convicted of five counts of First Degree Encouraging Child Sex Abuse, felony crimes. DPSST served Officer A with a Notice of Intent to Revoke and he failed to request a timely hearing. Officer A's police certifications were revoked by default. Officer A had thirty years of service prior to resigning in 2000.

**Officer A's Basic, Intermediate, Advanced, Supervisory, Management and Executive Certifications were Revoked.**

**Officer B** was discharged for cause for a series of incidents of misconduct. These incidents include that he stated he watched an entire surveillance video when he had not, which resulted in an arrest without sufficient probable cause. He misrepresented his actions in other criminal investigations to the point that cases had to be dismissed by the District Attorney. Officer B also violated department policies regarding development and use of informants; failed to confiscate drug evidence but instead improperly destroyed it and did not document it; failed to appropriately document his use of force in an incident; failed to properly document the results of a photo-lineup, and failed to write complete and accurate reports in other investigations. Officer B acknowledged some of the conduct but claimed he had good reasons for doing it or that he was not clear about the policy. DPSST served Officer B with a Notice of Intent to Revoke Certification based on the discharge for cause, and through his attorney, Officer B made a timely request for a hearing. Prior to the hearing, DPSST submitted a Motion for Summary Determination on the basis that there was no genuine issue as to any material fact relevant to the resolution of the legal issue. Officer B did not file a response to the motion. The Administrative Law Judge (ALJ) issued a Ruling and Proposed Order in favor of DPSST. Officer B did not file exceptions to the Proposed Order, and DPSST issued a Final Order revoking Officer B's certification. Officer B's misconduct ended his six-year career.

**Officer B's Basic Police certification is Revoked.**

**Officer C** was last employed in a certified public safety position in 1983. He was arrested for DUI in 2014, and at that time DPSST learned that he had been convicted of Failure to Perform the Duties of a Driver Involved in an Accident (Property) in 2011. Officer C pled guilty to the DUI charge in 2015. DPSST notified him that both matters would be reviewed by the Corrections Policy Committee (CPC) and gave him the opportunity to provide mitigating circumstances for the Committee's consideration. Officer C did not provide a letter to the Committee. The CPC determined that Officer C's conduct involved Misconduct and Gross Misconduct for the commission of crimes that created a risk to persons or property. The Committee found aggravating circumstances of leaving the scene of the accident in one case, and in the DUI case his refusal to repeat a field sobriety test, a .17 BAC, no insurance, a suspended license, and a failure to be forthcoming about how much he had to drink. The Committee found no mitigating circumstances. The CPC determined that Officer C's misconduct rose to the level to warrant revocation of his certification with an initial period of ineligibility to reapply for certification for seven years for Misconduct and ten years for Gross Misconduct. DPSST served officer C with a Notice of Intent to Revoke, and he failed to request a hearing. After the Board affirmed the Committee's recommendation, Officer C's certification was revoked by default.

**Officer C's Basic Corrections certification is Revoked.**

**Officer D** submitted to DPSST a request for determination of eligibility to reapply for public safety certification. He had relinquished his basic police certification and resigned his employment in 2007 after a criminal conviction involving the assault of an individual during an arrest. He had the conviction and arrest record set aside in 2010, and under DPSST rules in effect in 2007, he became eligible to re-apply for certification in 2012. DPSST notified Officer D that his case would be reviewed by the Police Policy Committee (PPC) and gave him the opportunity to provide mitigating circumstances for the Committee's consideration, which he did. The PPC found as aggravating circumstance the effort and resources to investigate the crime itself, and they would have liked to see a letter from the victim. They found as mitigating circumstances the many accomplishments that Officer D made after his resignation and conviction – that he essentially “served his time” and became eligible for reinstatement in 2012, had good employment and military service, receiving an honorable discharge and a Bronze Star, and had no incidents since the original matter. After considering the totality of the case, including

the aggravating and mitigating circumstances, the PPC recommended to the Board that Officer D's eligibility to apply for public safety certification be restored. The Board affirmed the PPC's recommendation.

**Officer D's eligibility to reapply for certification is restored.**

**Officer E** retired from public safety in 2012, and in 2014 was arrested for DUII. After a jury trial in 2014, Officer E was convicted of the DUII and pled guilty to Refusing a Breath Test. DPSST notified Officer E that his case would be reviewed by the Police Policy Committee (PPC) and gave him the opportunity to provide mitigating circumstances, which he did. The CPC determined that Officer E's conduct involved Misconduct and Gross Misconduct for the commission of a crime that created a risk to persons or property. The PPC found as aggravating circumstances that Officer E used the same excuses in his letter to the Committee that he would have heard many times in his law enforcement career, that he showed no contrition, and although his BAC was just over .08%, he felt he was not impaired. Mitigating circumstances the Committee found were that Officer E completed treatment and did everything required by the Court. After reviewing the totality of Officer E's conduct along with aggravating and mitigating circumstances, the PPC recommended to the Board that his certifications not be revoked. The Board affirmed the PPC's recommendation.

**Officer E's Basic, Intermediate, Advanced and Supervisory certification, while lapsed, remain in good standing.**

**Important Information:**

OAR 259-008-0070 governs the denial and revocation of DPSST certification. This rule contains a list of crimes for which the conviction of will automatically lead to denial/revocation (mandatory disqualifiers), as well as a list of crimes for which the conviction of will result in Policy Committee and Board review (discretionary disqualifiers).

(Complete OAR language can be found here: [http://arcweb.sos.state.or.us/pages/rules/oars\\_200/oar\\_259/259\\_008.html](http://arcweb.sos.state.or.us/pages/rules/oars_200/oar_259/259_008.html))

Please note: The current rule states that the conviction of **any offense** involving **any act** of domestic violence is a **mandatory disqualifier** for which DPSST is required to initiate proceedings to deny or revoke certification. Domestic violence is defined by law as abuse between family or household members, including spouses, former spouses, adult persons related by blood or marriage, persons cohabiting with each other, persons who have cohabited with each other or who have been involved in a sexually intimate relationship, or unmarried parents of a minor child. [ORS 135.230]

Upon notification of any conviction, DPSST conducts a review to ensure that the crime did not involve any element of domestic violence. If it is determined that the crime involved the abuse of a family or household member, the crime will be treated as a mandatory disqualifier, regardless of the final court disposition.

Example: An officer is arrested after a physical altercation with a former spouse. The officer ultimately pleads guilty to Disorderly Conduct in the Second Degree. Although the conviction is of a crime listed on the discretionary disqualifier list, because the victim was a former spouse DPSST is required to treat the conviction as a mandatory disqualifier.

Any questions or concerns about this, or any other standard, can be directed to DPSST's Professional Standards Division.

**PLEASE DISSEMINATE THIS INFORMATION TO ALL  
PUBLIC SAFETY OFFICERS**

[www.dpsst.state.or.us](http://www.dpsst.state.or.us) 503-378-2100