

OREGON DPSST
ETHICS BULLETIN
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The Board on Public Safety Standards and Training (BPSST) has the legislative mandate to establish and enforce minimum standards for all law enforcement officers, fire service professionals, telecommunicators and emergency medical dispatchers in the state. This requirement also defines the procedure for the Department and Board to use when denying or revoking certification of an individual who has fallen below the minimum standards.

The Ethics Bulletin is published to provide insight into the types of misconduct that could result in revocation or denial of certification. The following cases have resulted in consideration of **revocation or denial** of certifications by DPSST in **June 2011**.

The Department continues to ensure that certified public safety officers and those seeking certification who abuse the public's trust will be held accountable for their actions.

June Statistics

Cases Opened	010	Of the 45 Cases Closed:	
Cases Closed	045	Revoked	021
Cases Pending	174	Denied	000
Reinstated	000	No Action	024

Officer A was discharged for cause after an internal investigation revealed that he had failed to respond appropriately after being notified about an upset inmate and repeated calls for help from his coworkers. Additionally, Officer A was repeatedly untruthful about his recollections of the events and his observations. Officer A was served with a Notice of Intent to Revoke Certifications. Officer A made a timely request for a hearing. DPSST sought a Motion for Summary Determination before the Office of Administrative Hearings asserting there was no material fact at issue. The ALJ granted DPSST's Motion and issued a Proposed Order. Officer A did not file legal exceptions to the Proposed Order. DPSST filed a Final Order. Officer A's misconduct ended his 11-year career.

Officer A's Basic, Intermediate and Advanced Corrections Certifications were Revoked.

Officer B was discharged for cause after an internal investigation revealed that he had falsified tier checks and was untruthful during the investigation. Officer B was served with a Notice of Intent to Revoke Certification. Officer B did not make a timely request for a hearing and his certification was revoked by Default. Officer B's misconduct ended his 2-year career.

Officer B's Basic Corrections Certification was Revoked.

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Officer C resigned during an internal investigation for conduct violating agency policies, including conducting a warrantless search, making a traffic stop for other than official purposes, not appearing in court when subpoenaed and being untruthful during the investigation. Officer C was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer C engaged in Dishonesty, Disregard for the Rights of Others, Misuse of Authority, and Misconduct. Aggravating was that Officer C demonstrated a pattern of misconduct that he was then dishonest about, in an effort to minimize or avoid discipline. The PPC determined that Officer C's conduct rose to the level to warrant lifetime revocation. Officer C was issued a Notice of Intent to Revoke. DPSST closed the case by Default; Officer C did not request a hearing. Officer C's misconduct ended his 2-year career.

Officer C's Basic Police Certification was Revoked

Officer D resigned in lieu of termination after an internal investigation revealed he violated agency policies by engaging in sexual contacts while on duty and by his usage of agency equipment and facilities in the furtherance of his misconduct. Officer D was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer D engaged in Dishonesty, Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct and Misconduct. Aggravating was that Officer D was a supervisor who created a harmful culture in the agency. The PPC determined that Officer D's conduct rose to the level to warrant lifetime revocation. Officer D was issued a Notice of Intent to Revoke. DPSST closed the case by Default; Officer D did not request a hearing. Officer D's misconduct ended his 16-year career.

Officer D's Basic, Intermediate and Advanced Police Certifications were Revoked

Officer E resigned during an internal investigation which revealed that he violated agency policies by being untruthful with a supervisor about his whereabouts, purpose for his whereabouts and failing to timely respond to a call for service. Officer E was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer E engaged in Dishonesty and Misconduct. Aggravating was that Officer E's letter to the PPC minimized his misconduct, was self-serving and attempted to divert his misconduct to others. The PPC determined that Officer E's conduct rose to the level to warrant lifetime revocation. Officer E was issued a Notice of Intent to Revoke. DPSST closed the case by Default; Officer E did not request a hearing. Officer E's misconduct ended his 9-year career.

Officer E's Basic, Intermediate and Advanced Police Certifications were Revoked

Officer F retired during an internal investigation which revealed he violated agency policies by repeatedly making on and off-duty unwanted advances on a female. Officer F was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer F engaged in Disregard for the Rights of Others, Misuse of Authority and Misconduct. Aggravating was that Officer F had engaged in a prior similar incident involving a civilian. The PPC determined that Officer F's conduct rose to the level to warrant a 15-year initial period of ineligibility to reapply for certification, the maximum possible for the

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categories. Officer F was issued a Notice of Intent to Revoke. DPSST closed the case by Default; Officer F did not request a hearing. Officer E's misconduct ended his 22-year career.

Officer F's Basic, Intermediate and Advanced Police Certifications were Revoked

Officer G retired while under internal investigation which revealed that he violated agency policies by repeated contact with vulnerable persons he came into contact with for other than official purposes. Officer G was untruthful during the investigation. Officer G was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer G engaged in Dishonesty, Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct and Misconduct. The PPC determined that Officer G's conduct rose to the level to warrant lifetime revocation. Officer G was issued a Notice of Intent to Revoke. Officer G did not make a timely request for a hearing and his certifications were revoked by Default. Officer G's misconduct ended his 24-year career.

Officer G's Basic, Intermediate and Advanced Police Certifications were Revoked

Officer H resigned in lieu of termination after an internal investigation revealed he violated agency policies by misconduct with a vulnerable victim of domestic violence with whom he had come into contact during his official duties. Officer H also attempted to get his co-workers to contact the victim's husband to protect himself from a complaint against him. Officer H was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer H engaged in Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct and Misconduct. The PPC determined that Officer H's conduct rose to the level to warrant revocation and that the initial period of ineligibility to reapply for certification would be 15 years, the maximum possible for the involved categories. Officer H was issued a Notice of Intent to Revoke. Officer H did not make a timely request for a hearing and his certification was revoked by Default. Officer H's misconduct ended his 15-year career.

Officer H's Basic Police Certification was Revoked

Officer I retired in lieu of termination after an internal investigation revealed that he did not accurately portray an agency investigation to affected subordinates and when he did not follow a direct order of his superior. Officer I was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer I engaged in Dishonesty and Insubordination. The PPC determined that Officer I's conduct rose to the level to warrant a lifetime revocation. Officer I was issued a Notice of Intent to Revoke. Officer I did not make a timely request for a hearing and his certifications were revoked by Default. Officer I's misconduct ended his 24-year career.

Officer I's Basic, Intermediate, Advanced, Supervisory and Management Police Certifications were Revoked

Officer J resigned after an internal investigation revealed that he knowingly missed a court date which caused the case to be dismissed, and then failed to meet with his supervisor when ordered to do so. Officer J was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer J engaged in Disregard for the Rights of Others, Misconduct and Insubordination. The PPC determined that Officer J's conduct

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rose to the level to warrant revocation and that the initial period of ineligibility to reapply for certification would be 15 years, the maximum possible for the involved categories. Officer J was issued a Notice of Intent to Revoke. Officer J did not make a timely request for a hearing and his certification was revoked by Default. Officer J's misconduct ended his 15-year career.

Officer J's Basic Police Certification was Revoked

Officer K resigned under a Settlement Agreement after an internal investigation revealed that he had misrepresented a number of incidents occurring both on and off duty. Officer K did not protect vulnerable children as it related to alcohol and access to a vehicle; one incident resulted in a serious motor vehicle accident where injuries were sustained. Officer K was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer K engaged in Dishonesty, Disregard for the Rights of Others, Gross Misconduct and Misconduct. The PPC determined that Officer K's conduct rose to the level to warrant lifetime revocation. Officer K was issued a Notice of Intent to Revoke. Officer K did not make a timely request for a hearing and his certifications were revoked by Default. Officer K's misconduct ended his 10-year career.

Officer K's Basic and Intermediate Police and Corrections Certifications were Revoked

Officer L resigned during an internal investigation which revealed that he violated agency policies by associating with a known felon, providing a public safety facility restricted security code to the known felon and disseminating confidential information for other than official purposes. Officer L was untruthful during the investigation. Officer L was notified that his conduct would be reviewed by the Police Policy Committee (PPC) and invited to provide a response for their consideration. The PPC reviewed the matter and determined that Officer L engaged in Dishonesty, Misuse of Authority, Gross Misconduct, Misconduct and Insubordination. The PPC determined that Officer L's conduct rose to the level to warrant lifetime revocation. Officer L was issued a Notice of Intent to Revoke. Officer L did not make a timely request for a hearing and his certifications were revoked by Default. Officer L's misconduct ended his 18-year career.

Officer L's Basic, Intermediate and Advanced Police Certifications were Revoked

Officer M resigned in lieu of termination after an internal investigation revealed that he had engaged in an intimate relationship with a co-worker and was untruthful about it. Officer M was notified that his conduct would be reviewed by the Corrections Policy Committee (CPC) and invited to provide a response for their consideration. The CPC reviewed the matter and determined that Officer M engaged in Dishonesty, Disregard for the Rights of Others and Misconduct. The CPC determined that Officer M's conduct rose to the level to warrant lifetime revocation. Officer M was issued a Notice of Intent to Revoke. Officer M did not make a timely request for a hearing and his certification was revoked by Default. Officer M's misconduct ended his 8-year career.

Officer M's Basic Corrections Certification was Revoked

Officer N was discharged for cause after an internal investigation revealed that he failed to conduct required tier checks and did not accurately document his actions. DPSST issued a Notice of Intent to Revoke Certifications based on the discharge. Officer N grieved the discharge and asked DPSST to stay the case pending arbitration. An arbitrator sustained the misconduct but deemed the sanction too severe. Officer N was reinstated and resigned.

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DPSST issued a Withdrawal of Proceedings, based on the discharge. Because the misconduct was sustained, Officer N was notified that his conduct would be reviewed by the Corrections Policy Committee (CPC) and invited to provide a response for their consideration. The CPC reviewed the matter and determined that Officer N engaged in Dishonesty, Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct, Misconduct and Insubordination. The CPC determined that Officer N's conduct rose to the level to warrant lifetime revocation. Officer N was issued a Notice of Intent to Revoke. Officer N did not make a timely request for a hearing and his certification was revoked by Default. Officer N's misconduct ended his 11-year career.

Officer N's Basic Corrections Certification was Revoked

Officer O resigned in lieu of termination after an internal investigation revealed that he violated agency policies by an inappropriate relationship with a subordinate and being untruthful during the investigation. Officer O was notified that his conduct would be reviewed by the Corrections Policy Committee (CPC) and invited to provide a response for their consideration. The CPC reviewed the matter and determined that Officer O engaged in Dishonesty, Disregard for the Rights of Others, Misuse of Authority and Misconduct. The CPC determined that Officer O's conduct rose to the level to warrant lifetime revocation. Officer O was issued a Notice of Intent to Revoke. Officer O did not make a timely request for a hearing and his certifications were revoked by Default. Officer O's misconduct ended his 14-year career.

Officer O's Basic and Intermediate Corrections Certifications were revoked

Telecommunicator P resigned under a Settlement Agreement after an internal investigation revealed that he violated agency policies by viewing and sharing inappropriate materials with co-workers while on duty. Telecommunicator P was then untruthful during the investigation. Telecommunicator P was notified that his conduct would be reviewed by the Telecommunications Policy Committee (TPC) and invited to provide a response for their consideration. The TPC reviewed the matter and determined that Telecommunicator P engaged in Dishonesty and Misconduct. The TPC determined that Telecommunicator P's conduct rose to the level to warrant lifetime revocation. Telecommunicator P was issued a Notice of Intent to Revoke. Telecommunicator P did not make a timely request for a hearing and his certifications were revoked by Default. Telecommunicator P's misconduct ended his 5-year career.

Telecommunicator P's Basic Telecommunications and Emergency Medical Dispatcher Certifications were revoked

Telecommunicator Q resigned during an internal investigation which revealed that she violated agency policies relating to not using her resources and effectively communicating with others and this may have contributed to the death of a citizen. Telecommunicator Q was notified that his conduct would be reviewed by the Telecommunications Policy Committee (TPC) and invited to provide a response for their consideration. The TPC reviewed the matter and determined that Telecommunicator Q engaged in Disregard for the Rights of Others, Gross Misconduct and Misconduct. The TPC determined that Telecommunicator Q's conduct rose to the level to warrant revocation and that the initial period of ineligibility to reapply for certification would be 5 years. Telecommunicator Q was issued a Notice of Intent to Revoke. Telecommunicator Q did not make a timely request for a hearing and his

certifications were revoked by Default. Telecommunicator Q's misconduct ended her 1-year career.

Telecommunicator Q's Basic Telecommunications and Emergency Medical Dispatcher Certifications were revoked

Fire Service Professional R was discharged for cause based on his conduct that led to his arrest and conviction of Second Degree Burglary and two counts of Unauthorized Use of a Vehicle. Fire Service Professional R was served with a Notice of Intent to Revoke Certifications. Fire Service Professional R did not make a timely request for a hearing and his certifications were revoked by Default.

Fire Service Professional R's NFPA driver and NFPA Fire Fighter I Certifications were Revoked.

Officer S resigned during an internal investigation which revealed that she violated agency policies by engaging in an inappropriate relationship with an inmate and being untruthful. Officer S was notified that her conduct would be reviewed by the Corrections Policy Committee (CPC) and invited to provide a response for their consideration. Officer S was offered a Stipulated Order Revoking Certifications, which she voluntarily signed. Officer S's misconduct ended her 3-year career.

Officer S's Basic Corrections Certifications was revoked

Officer T resigned in lieu of termination after an internal investigation revealed that he violated agency policies by bringing his cell phone inside the institution. Officer T had been previously disciplined for sleeping on duty. Officer T was notified that his conduct would be reviewed by the Corrections Policy Committee (CPC) and invited to provide a response for their consideration. Officer T was offered a Stipulated Order Revoking Certifications, which he voluntarily signed. Officer T's misconduct ended his 1-year career.

Officer T's Basic Corrections Certifications was revoked

Officer U was convicted of Second Degree Theft after shoplifting. Officer U was served with a Notice of Intent to Revoke Certifications. Officer U did not make a timely request for a hearing. Officer U's misconduct ended his 12-year career.

Officer U's Basic, Intermediate and Advanced Corrections Certifications were Revoked.

Agency Policies Imperative to Disclose *Brady v. Maryland* Materials to Prosecutors

Below is an *excerpt* from a March 2011 article in the International Association of Chiefs of Police magazine, "The Police Chief." To review the article in its entirety, please go to:

http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=2329&issue_id=32011

*"Does your law enforcement agency have a policy regarding the disclosure of Brady v. Maryland information to prosecutors? . . . Even though the Brady decision is nearly 50 years old, law enforcement agencies across the country are reluctant, if not defiant, to disclose potentially damaging information about police officers within their ranks. . . .As a result of the 1963 U.S. Supreme Court decision regarding Brady, prosecutors are required to provide all exculpatory information about their witnesses to defense attorneys prior to trial. Subsequent U. S. Supreme Court decisions in Giglio v. U.S. and U.S. V Agures further expanded the duty of prosecutors to provide this information to defense attorneys prior to trial, even if no prior request was made. However, the court's decision in Kyles v. Whitley has had the most significant impact on law enforcement agencies. It requires prosecutors to learn about any favorable information to the defendant that is known to others who are acting on behalf of the government, including information about police officers. This duty also extends to information about police officers contained in internal affairs files. But if prosecutors are unaware of that information or evidence, subsequent disclosures to defense attorneys can never occur. The result can be devastating for prosecutors, victims of crime and law enforcement agencies. . . .Law enforcement executives must recognize that an officer's past conduct can have a significant impact on criminal prosecution. Not only does a defendant have the right to review personnel files about an officer's past conduct that may discredit the officer's credibility, but the prosecutor has a constitutional duty to disclose it. To that end, law enforcement executives must be diligent in gathering that information and communicate it to prosecutors. . . .**The failure to disclose Brady information about all witnesses in a criminal case to defense attorneys can be used as a basis to overturn a conviction, release a defendant from prison, or to establish a civil lawsuit. At a minimum, the discovery of Brady information after a criminal trial has concluded will result in the review of all other criminal cases, pending or closed, in which the officer was involved.** . . .[emphasis added] . . .Last, but certainly not least, all law enforcement agencies should consider the establishment of strict policies to terminate the employment of any officer determined to be untruthful in any official report, testimony or investigative interview. The success of any law enforcement agency relies upon the integrity of the officers that compose its ranks. This element is necessary to maintain the confidence of the public and the employees of the agency. A dishonest police officer discredits the hard work of all law enforcement officers and jeopardizes the effectiveness of the criminal justice system."*

What have the recent results been for failure to disclose? To cite only a few examples:

- ✓ In San Francisco, SFPD disclosed to the prosecutor's office more than 135 names of officers with potential Brady issues. As a result, hundreds of felony and misdemeanor cases were jeopardized, both those waiting for trial and those in which the defendants had been convicted.
- ✓ In Maricopa County, Arizona, prosecutors have compiled a list of 328 names of police officers that were placed on the Brady list indicating that they may not be eligible to testify in court.
- ✓ In Boston, an investigation uncovered 19 cases in which officers were convicted of lying in official investigations, under oath, or in police reports.
- ✓ In Seattle, prosecutors were forced to establish their own list of officers with Brady problems because the local police departments failed to do so.
- ✓ In Tulsa, the police department announced a "no tolerance-for-lying policy after seven police officers were charged in federal court with perjury and corruption. As a result of those charges, 11 criminal suspects were either released from jail or had their cases dismissed.

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