

Police Policy Committee Minutes February 8, 2006

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 8, 2006 at the Hamersly Library on the campus of Western Oregon University in Monmouth, Oregon. Chair Bob Tardiff called the meeting to order at 1:30 p.m.

Attendees

Policy Committee Members:

Robert Tardiff, Oregon Association Chiefs of Police, Chair
Andrew Bentz, Oregon State Sheriffs' Association
Dave Burrigh, Oregon State Sheriffs' Association
Dan Durbin, Oregon State Police Command Officer
Derrick Foxworth, Chief, Portland Police Bureau
Mike Healy, Oregon Association Chiefs of Police
Robert King, Non-management Law Enforcement
Steven Piper, Non-management Law Enforcement
Lane Roberts, Oregon Association Chiefs of Police
Glen Scruggs, Jr., Non-management Law Enforcement

Policy Committee Members Absent:

Rob Gordon, Oregon State Sheriffs' Association
Robert Jordan, Federal Bureau of Investigation – Oregon
Ronald Ruecker, Superintendent, Oregon State Police

DPSST Staff:

Lorraine Anglemier, Legal Services Coordinator
Eriks Gabliks, Deputy Director
Cameron Campbell, Training Division Director
Marilyn Lorange, Certification and Records Supervisor
Theresa King, Revocation and Denial Coordinator
Bonnie Salle, Rules and Certification Coordinator
Rose Mann, Executive Assistant
Rosemary Neal, Executive Assistant

Guests:

Nicole Braiman, Hatfield School of Government, Portland State University
Linda Gilbert, Department of Administrative Services
Mike Leoff, Portland Police Bureau



Agenda Changes

The following Agenda changes were noted:

- Agenda Item # 9 Proposed Rule Change OAR 259-008-0070 represented Item #2. All other items followed consecutively.
- Agenda Item #6 Sean Valdez was removed as Mr. Valdez wants to submit additional information.

1. Minutes of November 9, 2005 meeting

Dave Burrignt moved to approve the minutes from the November 9, 2005 meeting. Robert King seconded the motion. The motion carried in a unanimous vote.

2. Proposed Rule Change OAR 259-008-0070 – Denial Revocation

Theresa King provided the Committee with an overview of the Discretionary Disqualifying Workgroup’s efforts and insights.

In January 2001, a list of mandatory disqualifying crimes was proposed and adopted into Oregon Administrative Rule (OAR 259-008-0070). All other crimes were considered “discretionary” disqualifying crimes. Since the inception of that rule, numerous law changes have occurred which require updating the current list of disqualifying crimes.

Early in 2005, the Police Policy Committee, Corrections Policy Committee and Telecommunications Policy Committee appointed representatives to serve on a Disqualifying Convictions Workgroup. After a thorough review and much discussion, the workgroup prepared a list of amendments that included the removal and addition of many mandatory disqualifying crimes. That list was disseminated to all Oregon public safety constituents for review and consideration. In addition to evaluating and incorporating all comments received from constituents, staff made further housekeeping amendments to the rules to improve formatting, readability and consistency.

Staff’s revisions were submitted to the workgroup in December 2005 for final review and comment.

On January 11, 2006, the workgroup approved forwarding the following proposed rule language to all Policy Committees.

The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**):

259-008-0070 - Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, ~~in such a way~~ to insure the highest levels of professionalism and discipline. ~~(a) These standards shall be upheld at all times unless there is a specific finding of substantial and compelling reason that demonstrates~~ **the Board determines** that neither the safety of the public or respect of the profession ~~will be~~ **is** compromised ~~by a waiver~~.

~~(b) In the event that a waiver of denial or revocation is granted the decision shall be made in writing.~~

(2) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:

~~(a) The Department shall~~ **must** deny or revoke the certification of any ~~police officer, corrections officer, parole and probation officer, telecommunicator, emergency medical dispatcher~~ **public safety professional** or instructor after written notice and hearing, based upon a finding that:

~~(a) (A) The~~ **public safety professional** ~~officer, telecommunicator, or emergency medical dispatcher~~ has been discharged for cause from employment as a **public safety professional** ~~police officer, corrections officer, parole and probation officer, telecommunicator, or emergency medical dispatcher~~. ~~(b) For purposes of (a) above, this rule, "discharged for cause," means an employer-~~initiated termination of employment for any of the following reasons:

~~(A) (i) Gross Negligence:~~ means ~~where~~ the public safety professional's act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance;

~~(B) (ii) Insubordination:~~ means a refusal by a public safety professional to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the public or private safety agency and where the public safety professional's refusal to comply with the rule or order constitutes a substantial breach of that person's duties; or

~~(C) (iii) Incompetence or Gross Misconduct:~~ in determining what constitutes "incompetence or gross misconduct," sources the Department may take into account include but are not limited to practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the fields of law enforcement, telecommunications, or emergency medical dispatch.

~~(e) (B) The~~ ~~officer, telecommunicator, emergency medical dispatcher~~ **public safety professional** or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

~~(d)~~ **(C)** The ~~officer, telecommunicator, emergency medical dispatcher,~~ **public safety professional** or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

~~(e)~~ **(D)** The ~~officer, telecommunicator, emergency medical dispatcher,~~ **public safety professional** or instructor has been convicted in this state ~~of violating~~ **of any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:**

162.075 (False swearing),

162.085 (Unsworn falsification),

162.145 (Escape in the ~~Third~~ **second** degree),

162.175 (Unauthorized departure),

162.195 (Failure to appear in the second degree),

162.235 (Obstructing governmental or judicial administration),

162.247 (Interfering with a peace officer),

162.257 (Interfering with a firefighter or emergency medical technician),

162.295 (Tampering with physical evidence),

162.305 (Tampering with public records),

162.315 (Resisting arrest),

162.335 (Compounding a ~~felony~~),

~~162.355 (Simulating legal processes)~~

162.365 (Criminal impersonation),

162.369 (Possession of false law enforcement **identification** ~~ID~~-card),

162.375 (Initiating a false report),

162.385 (Giving false information to a ~~police~~ **peace** officer **for a citation or arrest warrant**),

~~162.405 (Official misconduct 2nd degree),~~

162.415 (Official misconduct **in the first degree** ~~1st degree~~),

163.200 (Criminal mistreatment **in the second degree** ~~2nd degree~~),

~~163.207 (Female genital mutilation),~~
~~163.208 (Assaulting public safety officer),~~
~~163.212 (Unlawful use stun gun/tear gas/mace 2nd degree),~~
~~163.415 (Sexual abuse 3rd degree),~~
~~163.435 (Contributing to sexual delinquency of minor),~~
~~163.445 (Sexual misconduct),~~
~~163.465 (Public indecency),~~
~~163.545 (Child neglect 2nd degree),~~
~~163.575 (Endangering welfare of a minor,~~
~~163.675 (sale or exhibition of visual reproduction of sexual conduct by a child),~~
~~163.687 (Encouraging child sexual abuse in the third degree 3rd degree),~~
~~163.693 (Failure to report child pornography),~~
163.732 (Stalking),
~~164.045 (Theft in the second degree 2nd degree),~~
164.085 (Theft by deception),
164.095 (Theft by receiving),
164.125 (Theft of services),
~~164.170 (Laundering a monetary instrument),~~
~~164.172 (Engaging in financial transaction in property derived from unlawful activity),~~
~~164.235 (Possession of a burglary's tools or theft device),~~
164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment)
~~165.007 (Forgery in the second degree 2nd degree),~~
~~165.017 (Criminal possession of a forged instruments in the second degree 2nd degree),~~
~~165.037 (Criminal simulation),~~
~~165.042 (Fraudulently obtaining a signature),~~
165.047 (Unlawfully using slugs),
165.055 (Fraudulent use of a credit card),

165.065 (Negotiating a bad check),

- 165.080 (Falsifying business records),
- 165.095 (Misapplication of entrusted property),
- 165.100 (Issuing a false financial statement),
- 165.102 (Obtain execution of documents by deception),
- ~~165.577 (Cellular counterfeiting 3rd degree),~~
- ~~165.800 (Identity theft),~~

165.825 (Sale of drugged horse),

166.065(1)(b) (Harassment),

- 166.155 (Intimidation in the second degree 2nd degree),

166.270 (Possession of weapons by certain felons),

- 166.350 (Unlawful possession of armor-piercing ammunition),
- 166.416 (Providing false information in connection with a transfer of a firearm regarding gun transfer),
- 166.418 (Improperly transferring a firearm handgun),
- ~~166.425 (Unlawful purchase of firearm),~~
- ~~166.427 (Register of transfers of used firearms),~~

166.470 (Limitations and conditions for sales of firearms),

- ~~166.480 (Sale/gift of explosives to children),~~
- 167.007 (Prostitution),
- ~~167.062 (Sodomasochistic abuse or sexual conduct/ in live show),~~
- 167.065 (Furnishing obscene materials to minors),
- 167.070 (Sending obscene materials to minors),
- 167.075 (Exhibiting an obscene performance to a minor),
- 167.080 (Displaying obscene materials to minors),
- ~~167.087 (Disseminating obscene materials),~~
- ~~167.090 (Public display of nudity/sex for advertising),~~
- ~~167.122 (Promoting gambling 2nd degree),~~

167.132 (Possession of gambling records in the second degree ~~2nd degree~~),

167.147 (Possession of a gambling device),

167.222 (Frequenting a place where controlled substances are ~~is~~ used),

167.262 (Adult using minor in commission of controlled substance offense),

167.320 (Animal abuse in the first degree ~~1st degree~~),

167.330 (Animal neglect in the first degree),

167.332 (Prohibition against possession of domestic animal),

167.333 (Sexual assault of animal),

167.337 (Interfering with law enforcement animal),

~~167.352 (Interfere with assisted search or rescue of animal),~~

167.355 (Involvement in animal fighting),

167.370 (Participation in dogfighting),

167.431 (Participation in cockfighting),

167.820 (Concealing the birth of an infant),

475.525 (Sale of drug paraphernalia),

475.950 (Failure to report precursor substances transaction),

475.955 (Failure to report missing precursor substances),

~~475.960 (Illegally selling drug equipment), any misdemeanor involving any acts of domestic violence as defined in ORS 135.230, or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.~~

475.965 (Providing false information on precursor substances report or record),

475.969 (Unlawful possession of phosphorus),

475.971 (Unlawful possession of anhydrous ammonia),

475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropanolamine; unlawful distribution),

475.975 (Unlawful possession of iodine in its elemental form),

475.976 (Unlawful possession of iodine matrix),

475.981 (Falsifying drug test results),

475.982 (Providing drug test falsification equipment),

475.986 (Application of controlled substance to the body of another person),

475.991 (Unlawful delivery of imitation controlled substance),

475.992 (Manufacture or deliver a controlled substance),

475.993 (Unlawful acts, registrant delivering or dispensing controlled substance),

475.994 (Prohibited acts involving records and fraud),

475.995 (Distribution of controlled substance to minors),

475.999 (Manufacture or delivery of controlled substance within 1,000 feet of school),

807.520 (False swearing to receive license),

807.620 (Giving false information to police officer),

Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

~~(A) There is not an option of waiver for the crimes listed above.~~

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

~~(A)~~ **(a)** The **public safety professional** officer, telecommunicator, emergency medical dispatcher or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

~~(B)~~ **(b)** The **public safety professional** officer, telecommunicator, emergency medical dispatcher or instructor has been convicted of **an offense, punishable as a** crime, other than a mandatory **disqualifying crime listed in subsection (2)** denial or revocation as listed above, in this state or any other jurisdiction. **In determining whether to take action on a conviction, the Department must use the following guidelines:**

~~(i)~~ **(A)** In making a decision on a discretionary denial or revocation, **the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.** ~~the policy committees may use the criminal disqualifier and decision matrix approved by the Board. (Exhibit A)~~

(B) The Department will not take action on a discretionary conviction that occurred prior to January 1, 2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(C) The Department may take action on any discretionary disqualifying conviction that occurred after January 1, 2001.

(D) The Board may reconsider any mandatory conviction which subsequently becomes a discretionary conviction, upon the request of the public safety professional or instructor.

(E) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

(F) Notwithstanding subsection (2)(b) of this section, all denial and revocation standards must apply to public safety professionals and instructors.

(G) A public safety professional or agency will not be held accountable for failing to report a discretionary conviction that occurred prior to January 1, 2003.

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

~~(ii) The matrix is designed as an aid in guidance to decision-making only and provides parameters for deviation.~~

~~(iii) Policy committees may consider aggravating and/or mitigating circumstances from the criminal disqualifier matrix for the parameters included but not limited to the list below:~~

~~(I) Was the conviction a felony, misdemeanor, or violation?~~

~~(II) How long ago did the conviction occur? (refer to the matrix)~~

~~(III) Was the person a minor at the time and tried as an adult?~~

~~(IV) Did it occur before, during, after, or in between employment in law enforcement?~~

~~(V) Did the individual serve time in prison/jail? If so, how long?~~

~~(VI) If restitution was involved, has the person met all obligations?~~

~~(VII) Was the individual on parole or probation? If so, when did the parole or probation end? Is the person still on parole or probation?~~

~~(VIII) Are there any aggravating or mitigating circumstances that should be considered?~~

~~(IX) Do the actions violate the rule definition of moral fitness (OAR 259-008-0010(5)), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that~~

would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation?

~~(X) How many other convictions does this person have? Over what period of time?~~

~~(XI) Has this person been convicted of this same crime more than once?~~

~~(XII) If a DUI, is this the first, second, or third time within the previous 10 years? (Has this DUI become a felony (it's a felony if this is the fourth conviction and the last three were within the previous ten year period)?)~~

~~(XIII) Does this conviction involve any domestic violence situation?~~

~~(C) The officer, telecommunicator, emergency medical dispatcher or instructor does not meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640(1)(a) to (d).~~

(4) Scope of Revocation. Whenever the Department **denies or** revokes the certification of any public safety professional, the **denial or** revocation shall embrace **will encompass** all certificates the Department has issued to that person.

(5) **Denial and** Revocation and ~~Denial~~ Procedure.

(a) Agency **Employer** Request: When the hiring authority having employed the **a** public safety professional's **employer** requests that the person's **a public safety professional's** certification be ~~revoked or denied~~ **or revoked**, it shall submit in writing to the Department **the employer must submit** the reason for the requested ~~revocation or denial~~ **or revocation** and all factual information supporting the request, **in writing, to the Department**.

(b) ~~DPSST~~ **Department** Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the person's **public safety professional's** certification be ~~revoked or denied~~ **or revoked**.

(c) Department Staff Review: **When the Department receives information, from any source, that a public safety professional may not meet the established standards for Oregon public safety professionals, the** The Department shall **will** review the request and the supporting factual information to determine if the request for ~~revocation or denial~~ **or revocation** meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for ~~revocation or denial~~ **or revocation** the Department shall ~~so~~ **will** notify the requestor.

(B) If the reason for the ~~revocation or denial~~ **request does** meets statutory and administrative rule requirements but is not supported by adequate factual information, the Department shall **will** request further information from the ~~requesting hiring authority~~ **employer** or conduct its own investigation of the matter.

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

(D) If the Department makes a determination that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee, person's certification should be revoked or denied, as a result of a conviction deemed to be discretionary, the request must be presented to the Board, through a Policy Committee, for review. If the Board should consider a request for waiver of the denial or revocation action, it is the responsibility of the applicant to present to the Board all information relative to the request for waiver, not less than fifteen days prior to the next scheduled Board meeting. The Board may consider a request for waiver under unique circumstances, and only if substantial and compelling reasons have been clearly demonstrated by the applicant.

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

(A) Was a conviction a felony, misdemeanor, or violation?

(B) How long ago did a conviction occur?

(C) Was the public safety professional a minor at the time and tried as an adult?

(D) When did the conduct occur in relation to the public safety professional's employment in law enforcement (i.e., before, during, after)?

(E) Did the public safety professional serve time in prison/jail? If so, how long?

(F) If restitution was involved, has the public safety professional met all obligations?

(G) Was the public safety professional on parole or probation? If so, when did the parole or probation end? Is the public safety professional still on parole or probation?

(H) Do the actions violate the established moral fitness standards for Oregon public safety officers identified in OAR 259-008-0010(5), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that would cause a reasonable person to have substantial doubts about the public safety professional's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation?

(I) How many other convictions does this public safety professional have? Over what period of time?

(J) Has the public safety professional been convicted of the same conduct more than once? Is this a repeated violation or a single occurrence?

(K) Does the conduct involve domestic violence?

(L) Did the public safety professional self report the conduct?

~~(d)~~ **(e)** Initiation of Proceedings: Upon determination that the reason for ~~revocation or denial~~ **or revocation** is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice shall **will** be prepared.

~~(e)~~ **(f)** Contested Case Notice: The Department shall ~~prepare, or the Board shall cause the Department to prepare a~~ "Contested Case Notice" **will be prepared** in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department shall **will** have a copy of the notice served on the public safety professional.

~~(f)~~ **(g)** Response Time:

(A) A party who has been served with the a "Contested Case Notice of Intent to ~~Revoke~~ **Deny** Certification" shall ~~have~~ **has** ~~20~~ **60** days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to ~~Deny~~ **Revoke** Certification" shall ~~have~~ **has** ~~60~~ **20** days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

~~(g)~~ **(h)** Default Order: ~~In the absence of a timely request for a hearing,~~ **If a timely request for a hearing is not received,** the Contested Case Notice will become a final order ~~revoking~~ ~~or denying~~ **or revoking** certification pursuant to OAR 137-003-0075(5).

~~(h)~~ **(i)** Hearing Request: When a request for a hearing is received in a timely manner, the Department shall **will** refer the matter to the ~~Hearings Officer Panel~~ **Office of Administrative Hearings** in accordance with OAR 137-003-0515.

~~(i)~~ **(j)** Findings of Fact, Conclusions of Law and Proposed Final Order: The ~~presiding officer of the Hearings Officer Panel~~ shall **assigned Administrative Law Judge will** prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

~~(j)~~ **(k)** Exceptions **and Arguments:** ~~and Arguments to the Findings of Fact, Conclusions of Law and Proposed Final Order.~~ A party **must file specific written exceptions and arguments with the Department no later than** shall have 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order ~~to file specific written exceptions and arguments with the Department.~~

(A) The Department may extend the time within which the exceptions and arguments shall **must** be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments shall **must** serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will

invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(l) Final Order: A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional fails to file exceptions and arguments in a timely manner.

(m) Stipulated Order Revoking Certification: Any public safety professional who wishes to voluntarily terminate an administrative proceeding to revoke a certification, or voluntarily relinquish a certification, may enter a stipulated order with the Department, at any time, revoking his or her certification under the terms and conditions outlined in the stipulated order.

~~(k)~~ **(6) Appeal and Reapplication.**

~~(a)~~ An officer, telecommunicator, emergency medical dispatcher, **public safety professional** or instructor, aggrieved by the findings and order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

~~(b)~~ Any officer, telecommunicator, emergency medical dispatcher, **public safety professional** or instructor who has had **a** certification revoked pursuant to ORS 181.661, ~~and~~ **181.662 or subsection (a) of this section,** may reapply for certification but not sooner than four years after the date on which the Order of the Department revoking certification became final.

Dan Durbin moved to recommend to the Committee to file proposed language for OAR 359-008-0070 with the Secretary of State as a proposed rule. Dave Burrigh seconded the motion. The motion carried in a unanimous vote.

Dan Durbin moved to recommend to the Committee to file proposed language in OAR 259-008-0070 as a permanent rule with the Secretary of State if no public comment is received and no hearing is held. Dave Burrigh seconded the motion. The motion carried in a unanimous vote.

HB 3238: The Committee did not identify any significant fiscal impact on small businesses pertaining to HB 3238.

3. LISTER, Ronald (DPSST #22562)

Theresa King reviewed the case before the Committee.

On March 27, 1989, LISTER was employed as a police officer with the Molalla Police Department. LISTER holds Basic and Intermediate Police certifications

On January 25, 2005, DPSST received a F-4, Personnel Action Report, from the Molalla Police Department showing that LISTER had been “discharged for cause”.

On March 16, 2005, DPSST issued a Notice of Intent To Revoke Certifications to LISTER.

This matter comes before the Police Policy Committee for consideration of whether Mr. Lister violated the moral fitness standards outlined in administrative rule.

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct, or crimes for which a conviction require denial or revocation. In the cases of all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

OAR 259-008-0070(3) specifies discretionary disqualifying conduct.

Policy Committee members were presented with mitigating circumstances relevant to this matter.

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

Dave Burrigh moved to recommend to the Board that the certification of Ronald Lister be revoked for violation of OAR 259-008-0010 Moral Fitness. Dan Durbin seconded the motion. The motion carried 7-2. Andy Bentz, Dave Burrigh, Dan Durbin, Mike Healy, Steve Piper, Lane Roberts and Bob Tardiff voted aye. Glen Scruggs and Robert King voted nay.

4. MITCHELL, Edgar (DPSST #22419)

Theresa King reviewed the case before the Committee.

On November 1, 2001, MITCHELL was employed as a police officer with the Portland Police Bureau. Prior to this, MITCHELL had been employed with the Portland Public School Police, in a certified position, for twelve (12) years.

On November 2, 1989, MITCHELL received his Basic Police Certificate. On March 13, 1991, MITCHELL received his Intermediate Police Certificate. On March 13, 1995, MITCHELL received his Advanced Police Certificate.

On September 28, 2004, the Portland Police Bureau sent DPSST an F-4, Personnel Action Report, showing that MITCHELL had been “discharged for cause”. This resulted in DPSST issuing a Notice of Intent to Revoke Certifications, based on the “discharge for cause”.

This matter comes before the Police Policy Committee for consideration of whether Mr. Mitchell’s certifications be revoked based on the discretionary disqualifying convictions.

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the crimes for which a conviction requires denial or revocation. In the cases of all other convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

OAR 259-008-0070(3) specifies discretionary disqualifying conduct.

Policy Committee members were presented with mitigating circumstances relevant to this matter.

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

Glen Scruggs moved to recommend to the Board that the certification of Edgar Mitchell not be revoked for violation of OAR 259-008-0070(3)(a)(B), discretionary disqualifying crimes. Steve Piper seconded the motion. The motion carried 9-1. Dave Burright, Dan Durbin, Derrick Foxworth, Mike Healy, Robert King, Steve Piper, Lane Roberts, Glen Scruggs and Bob Tardiff voted aye. Andy Bentz voted nay.

5. MULFORD, Brent (DPSST #28389)

Theresa King reviewed the case before the Committee.

On June 14, 1993, MULFORD was employed as a police officer with the Tillamook County Sheriff's Office. MULFORD holds a Basic Police certification.

On February 10, 2005, the Tillamook County Sheriff's Office sent an F-4, Personnel Action Report showing that MULFORD had been "discharged for cause".

On March 30, 2005, DPSST issued a Notice of Intent to Revoke Certification to MULFORD.

This matter comes before the Police Policy Committee for consideration of whether Mr. Mulford violated the moral fitness standards outlined in administrative rule.

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct, or crimes for which a conviction require denial or revocation. In the cases of all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

OAR 259-008-0070(3) specifies discretionary disqualifying conduct.

Policy Committee members were presented with mitigating circumstances relevant to this matter.

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

Lane Roberts moved to recommend to the Board the certification of Brent A. Mulford be revoked for violation of OAR 259-008-0010 Moral Fitness. Andy Bentz seconded the motion. The motion carried in a unanimous vote.

6. SCHABERT, Stephen M. (DPSST #19427)

Theresa King reviewed the case before the Committee.

On October 1, 1989, SCHABERT was employed as a police officer with the Lincoln County Sheriff's Office. SCHABERT holds a Basic Police certification.

On May 13, 2004 resigned from the Deschutes County Sheriff's Office.

On May 26, 2005, DPSST received the underlying investigation that led to SCHABERT's resignation.

This matter comes before the Police Policy Committee for consideration of whether Mr. Schabert violated the moral fitness standards outlined in administrative rule.

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

OAR 259-008-0070(3) specifies discretionary disqualifying conduct.

Policy Committee members were presented with mitigating circumstances relevant to this matter.

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

Robert King moved to recommend to the Board the certification of Stephen M. Schabert be revoked for violation of OAR 259-008-0010 Moral Fitness. Dave Burright seconded the motion. The motion carried in a unanimous vote.

7. WEST, James (DPSST #24028)

Theresa King reviewed the case before the Committee.

On June 7, 1990, WEST was employed as a police officer with the Phoenix Police Department. WEST holds a Basic Police certification.

On April 15, 1999, WEST resigned from the Phoenix Police Department.

On April 29, 1999, DPSST began to track WEST's criminal charges of Assault 4, Official Misconduct in the First Degree, and Harassment in OJIN. Another charge of Contempt of Court, relating to a domestic situation also was pending.

On October 19, 2000, a warrant was issued for WEST for Contempt of Court.

On November 26, 1999, a warrant was issued for WEST for Failure to Appear on the Assault 4, Official Misconduct, and Harassment charges.

Numerous attempts have been made to locate WEST to advise him that his case would be heard at the Police Policy Committee and allow him an opportunity to provide mitigating circumstances. To date WEST remains wanted on two outstanding warrants.

This matter comes before the Police Policy Committee for consideration of whether Mr. West violated the moral fitness standards outlined in administrative rule.

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

OAR 259-008-0070(3) specifies discretionary disqualifying conduct.

Policy Committee members were presented with mitigating circumstances relevant to this matter.

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

Andy Bentz moved to recommend to the Board the certification of James West be revoked for violation of OAR 259-008-0010 Moral Fitness. Derrick Foxworth seconded the motion. The motion carried in a unanimous vote.

8. WILLIVER, Sterling T. (DPSST #27916)

On January 1, 1998, WILLIVER was employed as a police officer with the Deschutes County Sheriff's Office. WILLIVER holds a Basic Police certification.

On January 7, 2002, WILLIVER resigned from the Deschutes County Sheriff's Office.

On January 31, 2002, DPSST received WILLIVER's F4, Personnel Action Report, along with his letters of resignation and relinquishing his DPSST certification. The F4 indicated, "resignation in lieu of termination".

This matter comes before the Police Policy Committee for consideration of whether Mr. Williver violated the moral fitness standards outlined in administrative rule.

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct, or crimes for which a conviction require denial or revocation. In the cases of all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

OAR 259-008-0070(3) specifies discretionary disqualifying conduct.

Policy Committee members were presented with mitigating circumstances relevant to this matter.

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

Robert King moved to recommend to the Board the certification of Sterling Williver be revoked for violation of OAR 259-008-0010 Moral Fitness. Dave Burright seconded the motion. The motion carried in a unanimous vote.

9. Basic Police Course

The Committee was presented with an update on the 16 week Basic Police schedule.

10. Strategic Planning

Representatives of the Hatfield School of Government at Portland State University provided an overview of the strategic planning process for DPSST/BPSST and began an initial work session with committee members. Committee members were tasked with an assignment for their respective organizations and were asked to provide their expectations of DPSST, BPSST, and the various policy committees.

11. Police Department Certification

Discussion was held regarding annual basic certification of police departments. DPSST will begin to formalize the process and develop proposed OAR language signifying that each law enforcement agency should be certified annually.

There being no further business before the Committee the meeting adjourned at 3:40pm.