

Police Policy Committee

Minutes

February 16, 2012

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 16, 2012 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:30p.m. by Chair Kent Barker.

Attendees

Policy Committee Members:

Kent Barker, Oregon Association Chiefs of Police
Tom Bergin, Oregon State Sheriffs' Association
Larry Blanton, Oregon State Sheriffs' Association
Richard Evans, Oregon State Police Command Officer
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
Mathew Workman, Oregon Association Chiefs of Police

Committee Members Absent

Eric Hendricks, Portland Police Bureau (Designee for Chief Mike Reese)
Holly Russell, Oregon State Sheriffs' Association
Mike Wells, Non-Management Law Enforcement

DPSST Staff:

Eriks Gabliks, Director
Kristy Witherell, Office Specialist II
Carolyn Kendrick, Administrative Specialist
Marilyn Lorange, Standards and Certification Program Supervisor
Leon Colas, Professional Standards Coordinator/Investigator
Sharon Huck, JTA Coordinator Research Analyst III
Teresa Plummer, Private Security/ Private Investigations Supervisor
Suzzane Weinart, Private Security Compliance Specialist II
Karen Evans, Investigator Trainer

Guests:

Steve Beck, Oregon Council of Police Associations



1. Minutes of November 17, 2011 Meeting

Approve minutes from the November 17, 2011 meeting.

See Appendix A for details

- *James Hunter moved to approve the minutes from the November 17, 2011 Police Policy Committee meeting. Tom Bergin seconded the motion. The motion carried unanimously.*

2. SB412 Implementation Update

Discussion Item

- *Marilyn Lorance updated the Police Policy Committee on the implementation glitch that was identified in SB412 relating to our loss of ability to continue certifying any tribal public safety officers if their agencies weren't already fully implementing SB412. The bill was amended in the Senate to include that tribal fix as well as a remedy sought by the FBI special agent in charge seeking to make that position a non-voting one. The Senate made the changes, the bill moved unanimously to the Senate floor, and was passed out of the Senate unanimously. House Judiciary unanimously voted it to the House Floor this morning. The bill that will allow DPSST to continue certifying Tribal law enforcement will have a floor vote on the House side either Friday or Monday morning.*

3. Chance L. Dixon, Umatilla County Sheriff's Office – DPSST #41699

Presented by Leon Colas

See Appendix C for details

- *Ryan Humphrey 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.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. Untruthfulness, violation of department policies.**
 - b. The identified conduct did involve **Dishonesty based on DIXON's omission of events leading to accusations of him groping a female in a public setting.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on DIXON groping a female in a public setting and making derogatory comments about coworkers.**
 - d. The identified conduct did involve **Misuse of Authority when DIXON used his badge while under the influence of alcohol to get special treatment for him and his friends.**
 - e. The identified conduct did involve **Gross Misconduct based on DIXON groping a female in public on duty. DIXON's demeanor toward employees and his department. DIXON was intoxicated while on duty.**
 - f. The identified conduct did involve **Misconduct based on everything discussed above under Gross Misconduct.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact that DIXON did not answer questions appropriately when being interviewed by the department. DIXON did not respond to DPSST or the Police Policy Committee when contacted about possible revocation.*

No mitigating circumstances were identified.

- *Craig Halupowski moved that the Police Policy Committee finds DIXON's conduct does rise to the level to warrant the revocation of his certifications(s) and, therefore, recommends to the Board that these certification(s) be revoked. Rich Evans seconded the motion. The motion carried unanimously.*
- *Mathew Workman moved that the Police Policy Committee recommends to the Board that DIXON receive the maximum on all counts identified above with a focus on DISHONESTY which carries a lifetime disqualifier; he may never reapply for certification. Craig Halupowski seconded the motion. The motion carried in an 8-2 vote with James Hunter and Glen Scruggs voting no.*

4. Andrew C. Elliott, Warm Springs Police – DPSST #41699

Presented by Leon Colas

See Appendix D for details

- *Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. DUII conviction**
 - 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 not involve **Gross Misconduct.**
 - f. The identified conduct did involve **Misconduct based on ELLIOTT's DUII conviction.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The Policy Committee noted as mitigating circumstances that ELLIOTT's DUII arrest happened prior to employment. ELLIOTT fully disclosed the DUII during the hiring process.*
- *Rich Evans moved that the Policy Committee finds ELLIOTT's conduct does not rise to the level to warrant the denial of his certifications(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Ryan Humphrey seconded the motion. The motion carried unanimously.*

5. **Matthew A. Harikian, Clackamas County Sheriff's Office – DPSST #35577**

Presented by Leon Colas

See Appendix E for details

- ***Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Rich Evans seconded the motion. The motion carried unanimously.***
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. *Violation of department policies.***
 - b. The identified conduct ***did*** involve **Dishonesty based on HARIKIAN writing false and misleading letters to the Under Sheriff. HARIKIAN lied by omission about his use of prescription drugs.**
 - 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 based on HARIKIAN coming to work under the influence which created a risk/ danger to others; gross deviation of standard practice by a public safety officer.**
 - f. The identified conduct ***did*** involve **Misconduct based on conduct identified under Gross Misconduct.**
 - g. The identified conduct ***did*** involve **Insubordination based on HARIKIAN's violation of his last chance agreement.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The Policy Committee identified as aggravating circumstances that HARIKIAM was on duty operating a patrol car while under the influence. HARIKIAM was under the influence at the range firing a weapon. The Policy Committee noted as mitigating circumstances the fact that HARIKIAM resigned immediately after he violated his last chance agreement.***
- ***James Hunter moved that the Police Policy Committee finds HARIKIAN's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Ryan Humphrey seconded the motion. The motion carried unanimously.***
- ***Craig Halupowski moved that the Police Policy Committee recommends to the Board that HARIKIAM receive the maximum on all counts identified above with a focus on DISHONESTY which carries a lifetime disqualifier; he may never reapply for certification. Tom Bergin seconded the motion. The motion carried unanimously.***

6. Shelley L. Prince, Redmond Police Department – DPSST #24228

Presented by Leon Colas

See Appendix F for details

- *James Hunter moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case. *Violation of department policies.***
 - b. The identified conduct did not involve **Dishonesty.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on PRINCE's failure to act on a domestic violence situation.**
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did involve **Gross Misconduct based on failing to arrest in a mandatory domestic violence situation.**
 - f. The identified conduct did involve **Misconduct based on PRINCE's failure to make a mandatory arrest in a domestic violence situation. PRINCE was in gross deviation on the standard of practice by a public safety officer.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee identified as mitigating circumstances PRINCE's lengthy career without instance except for the last two years. These issues should have been initially addressed by the agency and weren't. The Chief wrote a letter to DPSST and the Board that supported PRINCE.*
- *Ryan Humphrey moved that the Police Policy Committee finds PRINCE's conduct does not rise to the level to warrant the revocation of her certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Craig Halupowski seconded the motion. The motion carried unanimously.*

7. Matthew E. Rae, Linn County Sheriff's Office – DPSST #41026

Presented by Leon Colas

See Appendix G for details

- *James Hunter moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *resignation in lieu of termination for misconduct involving violations of department policies, including untruthfulness.*

- b. The identified conduct did involve **Dishonesty based on previous omissions and denial of relationship with a minor cadet female.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on RAE's violation of request from parents of minor for no contact. RAE spent hours on the phone with the minor while on duty. RAE frequented the minor's place of employment while on duty. RAE failed to protect and serve the community.**
 - d. The identified conduct did involve **Misuse of Authority based on the perception that RAE had authority over the minor female cadet. RAE violated the public's trust by not protecting and serving.**
 - e. The identified conduct did involve **Gross Misconduct based on gross deviation of the standard of practice by a public safety officer for reason stated above.**
 - f. The identified conduct did involve **Misconduct based on reasons stated above.**
 - g. The identified conduct did involve **Insubordination based on RAE's failure to follow the no contact order.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The policy committee identified as aggravating circumstances the letter RAE addressed to DPSST and the policy committee. He did not take responsibility for his actions. RAE placed the blame on the minor.***
 - ***Craig Halupowski moved that the Police Policy Committee finds RAE's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Rich Evans seconded the motion. The motion carried unanimously.***
 - ***The Police Policy Committee voted on the categories listed below and recommends to the Board that RAE's conduct receive the following periods on ineligibility:***
 - Category I: Dishonesty (5 years to Lifetime). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a lifetime revocation based on dishonesty. Craig Halupowski seconded the motion. The motion carried unanimously.***
 - Category II: Disregard for the Rights of Others (5 years to 15 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 15 year revocation based on Disregard for the Rights of Others. Craig Halupowski seconded the motion. The motion carried unanimously.***
 - Category III: Misuse of Authority (5 years to 10 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 5 year revocation based on Misuse of Authority. Craig Halupowski seconded the motion. The motion carried unanimously.***
 - Category IV: Gross Misconduct (5 years to 10 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 10 year revocation based on Gross Misconduct. Craig Halupowski seconded the motion. The motion carried unanimously.***
 - Category V: Misconduct (3 years to 7 years). ***Ryan Humphreys moved that the Police Policy Committee recommend to the Board a 7 year revocation based on Misconduct. Craig Halupowski seconded the motion. The motion carried unanimously.***

Since the Police Policy Committee voted for the highest level of the Dishonesty category—a lifetime disqualifier, RAE may never reapply for certification.

8. William E. Stowell, La Grande Police Department – DPSST #13559

Presented by Leon Colas

See Appendix H for details

- ***Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Matt Workman seconded the motion. The motion carried unanimously by all voting, with Tom Bergin abstaining.***

- By discussion and consensus:
 - a. Identify the conduct that is at issue, **specific to this case: STOWELL was arrested and convicted of DUII in 2011.**
 - 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 based on STOWELL creating a risk/danger to others while driving under the influence.**
 - f. The identified conduct **did** involve **Misconduct based on STOWELL's DUII conviction.**
 - g. The identified conduct **did not** involve **Insubordination.**

- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The Police Policy committee identified as mitigating circumstances the letter STOWELL wrote to DPSST and the Policy Committee was remorseful. STOWELL was very cooperative throughout the DUII process. STOWELL was not eligible for diversion due to holding a CDL.*

- ***Craig Halupowski moved that the Police Policy Committee finds STOWELL's conduct does not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. James Hunter seconded the motion. The motion carried unanimously by all voting, with Tom Bergin abstaining.***

9. John H. Thorndike, Umatilla Tribal Police Department – DPSST #42494

Presented by Leon Colas

See Appendix I for details

- ***Matt Workman 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 by all voting, with Ryan Humphrey abstaining.***

- By discussion and consensus:

- a. Identify and articulate the **misconduct that is specific to this case**.
 - 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 not*** involve **Gross Misconduct**.
 - f. The identified conduct ***did not*** involve **Misconduct**.
 - g. The identified conduct ***did not*** involve **Insubordination**.
- ***The Police Policy Committee came to a consensus that THORNDIKE's misconduct did not involve any of the categories that would lead to revocation.***

10. Additional Business

Director's Report

This will be Carolyn Kendrick's last meeting. Carolyn has accepted a promotion with DOJ. Kristy Witherell will be filling in temporarily while DPSST seeks a replacement for Carolyn's position.

Private Security and Private Investigation are sitting in on this meeting as well as the Corrections Policy Committee meeting. The Private Security industry is looking at moral fitness discussions and how the Policy Committee administers those.

Earlier, Marilyn gave you the update on SB412. We are also tracking Judicial Marshall's, which will allow three employees in the safety and security section of the Oregon Judicial Department to have peace officer powers. If that bill does move forward, they will be coming into the Basic Police class at DPSST.

There is still discussion with OLCC to have their agents trained and certified by DPSST but not as police officers. It will be a separate category of certification, but as Marilyn and I looked at this, it probably lines up best to have their standards come through the Police Policy Committee.

Budget discussions are ongoing. DPSST has received initial notification from Legislative Fiscal Office that they will be taking six positions, which is our first 3.5% reduction. That also takes away our Child Abuse training program. We also know as of last night that there are discussions going on between the Governor and the Leadership about those reductions. We don't know if they will happen. We hope they don't, but we have received at least initial indication from LFO that they will take those positions.

Basic Police class 330 starts February 27th and the class is full. We have another Basic Police class scheduled for March and April. We are pushing the March class back somewhere into the biennium and just run the April class. Because of the economy, we just don't think there is enough need right now. We are watching the federal trend with the discussion on O&C timber funds possibly coming back and help fund public safety again.

May 8th is the Fallen Officer Law Enforcement Memorial here at the Academy. Officer Kilcullen, Deputy Lewis, and Officer Buddy Herron will be added to the Memorial wall this year.

The Curriculum group that will be giving you a report later down the road has had their first meeting. They will be meeting again in March. They will be looking at the 16-week basic class as well as the Police COD course and give you a report.

Last week the Intermediate and Advanced Matrix workgroup met. That standard hasn't been looked at for years. That is what is required for intermediate and advanced certification. Coming back to the PPC by your next meeting will be a report that brings Police, Corrections, and Parole and Probation into the same matrix. Telecom will have a separate matrix.

We will be working with Sheriff Simpson who sits on the Board and the Corrections Policy Committee with some issues that have come up with POL/COR, also known as Police to Corrections Class. This is for Officers or Deputies who have law enforcement certification but also have interest in having corrections certification and/or training. Officers and deputies would come to this 2-week class to obtain multi-certification. The concerns raised are two-part; first, is the training class itself. Second is getting certified if you complete the class as a corrections officer as well as a police officer. The certification standard requires that the officer or deputy go through another physical exam because they have to meet the entry standard of the basic officer. One of the issues is the cost of having incumbent officers, some of which are command staff, get another medical evaluation. Some will result in waivers coming in front of the policy committee because some of the officers/deputies have been working for 20 to 25 years and their vision or hearing may not be what it once was when they first started their career. DPSST wanted to share this information with the committee to see if there are any questions, concerns, or thoughts. The class doesn't have a physical element, so it is not a requirement to have a physical exam prior to signing up for the class. If a person wants to take the class and subsequently become multidiscipline-certified, they are required to have a current physical in order to meet the standard. It would take a rule change to say that somebody could transfer disciplines without meeting the minimum physical standard for basic certification.

11. Next Police Policy Committee Meeting – May 17, 2012 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 3:37 p.m.

Appendix A

Police Policy Committee Minutes November 17, 2011

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 17, 2011 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:30 p.m. by Chair Kent Barker.

Attendees

Policy Committee Members:

Kent Barker, Oregon Association Chiefs of Police
Tom Bergin, Oregon State Sheriffs' Association
Chris Brown, Oregon State Police, Superintendent
Richard Evans, Oregon State Police Command Officer
Robert Gordon, Oregon State Sheriffs' Association
Craig Halupowski, Non-Management Law Enforcement
Eric Hendricks, Portland Police Bureau (Designee for Chief Mike Reese)
Ryan Humphrey, Non-Management Law Enforcement
James Hunter, Oregon Association Chiefs of Police
Holly Russell, Oregon State Sheriffs' Association
Glen Scruggs, Non-Management Law Enforcement
Mike Wells, Non-Management Law Enforcement
Mathew Workman, Oregon Association Chiefs of Police

Committee Members Absent

Marc Tisher, Non-Management Law Enforcement

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Specialist
Marilyn Lorance, Standards and Certification Program Supervisor
Leon Colas, Professional Standards Coordinator/Investigator
Linsay Hale, Rules and Compliance Coordinator
Sharon Huck, Job Task Analyst
Ray Rau, Academy Training Supervisor



1. Minutes of September 1, 2011 Meeting

Approve minutes from the September 1, 2011 meeting.

See Appendix A for details

- *Tom Bergin moved to approve the minutes from the September 1, 2011 Police Policy Committee meeting. Craig Halupowski seconded the motion. The motion carried unanimously.*

2. **OAR 2059-008-0005**

Presented by Linsay Hale
See Appendix B for details

- *Glen Scruggs moved that the Police Policy Committee recommend to the Board filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Chris Brown seconded the motion. The motion carried unanimously.*

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

3. **OAR 259-008-0069**

Presented by Linsay Hale

See Appendix C for details

- *Ryan Humphreys moved that the Police Policy Committee recommend to the Board filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. James Hunter seconded the motion. The motion carried unanimously.*

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

4. **OAR 259-008-0100**

Presented by Linsay Hale

See Appendix D for details

- *Craig Halupowski moved that the Police Policy Committee recommend to the Board filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Chris Brown seconded the motion. The motion carried unanimously.*

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

5. **Christopher Krigbaum – DPSST 51012**

Request for Medical Waiver
Presented by Linsay Hale

- *Tom Bergin moved that the Police Policy Committee recommend approval of a medical waiver for Christopher Krigbaum. Craig Halupowski seconded the motion. The motion carried unanimously.*
- *Tom Bergin moved that the Police Policy Committee forward the recommendation of a medical waiver to the Executive Committee. Craig Halupowski seconded the motion. The motion carried unanimously.*

6. Remediation of Skills Deficiencies

Presented by Marilyn Lorange

See Appendix E for details

The policy committee requested that staff revise the time frame of six months and criteria to be assessed case by case.

7. Jason M. Brown, Department of Public Safety Standards and Training – DPSST #40958

Presented by Leon Colas

See Appendix F for details

- *Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Rob Gordon seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **Dishonesty**
 - b. The identified conduct did involve **Dishonesty**. *BROWN lied by omission when he did not disclose the DUII arrest or his release. He was dishonest about his timesheet, about taking a polygraph test, and about being intoxicated. BROWN was also untruthful about changing his uniform and locking up his gun.*
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct based on the compromised efficiency of the agency; a gross deviation from the standard of practice followed by public safety officers. BROWN continued to compound his mistakes and continued mishandling a firearm against the request of a State Trooper.**
 - f. The identified conduct did involve **Misconduct based on violation of the law**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee noted BROWN' refusal to submit to an intoxilizer test, the fact he was a trainer of new cadets and held to a higher standard, and that BROWN did not take responsibility but blamed others for the circumstances as aggravating circumstances.*

No mitigating circumstances were noted by the policy committee.

- *Rob Gordon moved that the Police Policy Committee finds BROWN's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Craig Halupowski seconded the motion. The motion carried unanimously.*
- *Rich Evans moved that the Police Policy Committee recommends to the Board that BROWN's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; BROWN may never*

reapply for certification. Rob Gordon seconded the motion. The motion carried unanimously.

8. Donald A. Denison, Toledo Police Department – DPSST #15298

Presented by Leon Colas

See Appendix G for details

- *Mike Wells moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Chris Brown seconded the motion. The motion carried in a 12 to 1 vote with Rob Gordon voting no.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **Dishonesty**
 - b. The identified conduct did involve **Dishonesty**. *DENISON was dishonest about personal use of city laptops, use of personal facility for SWAT and Posse training, use of city funds for Explorer program, and did not disclose in writing potential conflicts which he was obligated to do.*
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did involve **Misuse of Authority based on use of his position to obtain a personal benefit**.
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on violation of ORS, personal use of city backhoe, and family use of city laptops**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee noted DENISON's last sentence in his letter "...my certifications have lapsed and are of no value..." shows he doesn't care if he is revoked or not. This is considered very aggravating by the policy committee.*

The fact DENISON took time to write a letter and that his intentions started out to benefit the Explorers program were noted as mitigating circumstances by the policy committee.

- *Mike Wells moved that the Police Policy Committee finds DENISON's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Chris Brown seconded the motion. The motion carried unanimously.*
- *Glen Scruggs moved that the Police Policy Committee recommends to the Board that DENISON's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; DENISON may never reapply for certification. Chris Brown seconded the motion. The motion carried unanimously.*

9. Andrew C. Elliott, Warm Springs Police Department – DPSST #51127

Presented by Leon Colas

- *Rob Gordon moved that the Police Policy Committee does not adopt the staff report as the record upon which its recommendations are based and to table this case until more information can be provided. Mike Wells seconded the motion. The motion carried unanimously.*

10. Henry E. Filipponi, Ontario Police Department – DPSST #49765

Presented by Leon Colas

See Appendix H for details

- *Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case:
 - 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 not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on violation of the law**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee noted that the Chief handled the issue well.*

No aggravating circumstances were noted by the policy committee.

- *Rob Gordon moved that the Police Policy Committee finds FILIPPONI's conduct does not rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Tom Bergin seconded the motion. The motion carried unanimously.*

11. Sean M. Gilhousen, Coburg Police Department – DPSST #37612

Presented by Leon Colas

See Appendix I for details

- *Rob Gordon 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.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **Dishonesty**

- b. The identified conduct did involve **Dishonesty**. *GILHOUSEN was not forthcoming until confronted by evidence, he lied about photos being taken and sent, lied about the car being at the trailer park, and about using city computers for personal use.*
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on violation of civil rights by making illegal traffic stops**.
 - d. The identified conduct did involve **Misuse of Authority based on violation of civil rights by making illegal traffic stops and personal use of city computers**.
 - e. The identified conduct did involve **Gross Misconduct based on the compromised efficiency of the agency by reputation; a gross deviation from the standard of practice followed by public safety officers. GILHOUSEN was on duty on public property taking inappropriate photos.**
 - f. The identified conduct did involve **Misconduct based on the compromised efficiency of the agency by reputation; a gross deviation from the standard of practice followed by public safety officers. GILHOUSEN was on duty on public property taking inappropriate photos.**
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee noted GILHOUSEN's lack of response to DPSST and that he was acting as Chief during the violations as aggravating circumstances.*

No mitigating circumstances were noted by the policy committee.

- *Mike Wells moved that the Police Policy Committee finds GILHOUSEN's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Chris Brown seconded the motion. The motion carried unanimously.*
- *Rob Gordon moved that the Police Policy Committee recommends to the Board that GILHOUSEN's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; GILHOUSEN may never reapply for certification. Mike Wells seconded the motion. The motion carried unanimously.*

12. Justin D. Morris, Hillsboro Police Department – DPSST #46101

Presented by Leon Colas

See Appendix J for details

Kent Barker and Rob Gordon recused themselves from voting on this case.

- *James Hunter moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously with Kent Barker and Rob Gordon abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case:

- 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*** involve **Misuse of Authority based on fact he met the girl while in uniform, took advantage of a vulnerable person, and violated the law of official misconduct.**
 - e. The identified conduct ***did*** involve **Gross Misconduct based on negligence of duty; a gross deviation from the standard of practice followed by public safety personnel. MORRIS' conduct impacted the efficient operation of the agency**
 - f. The identified conduct ***did*** involve **Misconduct based on violation of the law of official misconduct.**
 - g. The identified conduct ***did not*** involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The only mitigating circumstance noted by the policy committee was that MORRIS self-reported to the Deputy Chief.***
 - ***Mike Wells moved that the Police Policy Committee finds MORRIS' conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Holly Russell seconded the motion. The motion carried unanimously with Kent Barker and Rob Gordon abstaining.***
 - ***Craig Halupowski moved that the Police Policy Committee recommends to the Board that MORRIS' conduct encapsulated the highest end of the categories noted above with a focus on Gross Misconduct, therefore recommending a 10-year disqualifier; MORRIS may reapply for certification 10 years from the date of revocation. Glen Scruggs seconded the motion. The motion carried unanimously with Kent Barker and Rob Gordon abstaining.***

13. Ryan J. Murphy, Hillsboro Police Department – DPSST #43617

Presented by Leon Colas

See Appendix K for details

- ***Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Mike Wells seconded the motion. The motion carried unanimously.***
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case:
 - b. The identified conduct ***did not*** involve **Dishonesty**.
 - c. The identified conduct ***did not*** involve a **Disregard for the Rights of**.
 - d. The identified conduct ***did not*** involve **Misuse of Authority**.
 - e. The identified conduct ***did not*** involve **Gross Misconduct**.
 - f. The identified conduct ***did not*** involve **Misconduct**.
 - g. The identified conduct ***did not*** involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The policy committee noted as mitigating that***

MURPHY took action to remedy the alcohol issues.

- *Craig Halupowski moved that the Police Policy Committee finds MURPHY's conduct does not rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Rob Gordon seconded the motion. The motion carried unanimously.*

14. Christopher C. Noffsinger, Douglas County Sheriff's Office – DPSST #35989

Presented by Leon Colas

See Appendix L for details

- *Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Dishonesty*
 - b. The identified conduct did involve **Dishonesty**. *NOFFSINGER lied to his supervisor multiple times and was dishonest about the can drive.*
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did not involve **Misuse of Authority**. *The policy committee did not reach consensus.*
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on violation of the law**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee stated that once a public safety professional is dishonest they can no longer be used. This with the fact that NOFFSINGER was caught on film and still continued to lie was noted as aggravating circumstances.*

No mitigating circumstances were noted by the policy committee.

- *Mike Wells moved that the Police Policy Committee finds NOFFSINGER's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Ryan Humphrey seconded the motion. The motion carried unanimously.*
- *Glen Scruggs moved that the Police Policy Committee recommends to the Board that NOFFSINGER's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; NOFFSINGER may never reapply for certification. Craig Halupowski seconded the motion. The motion carried unanimously.*

15. Daniel M. Swain, Salem Police Department – DPSST #50263

Presented by Leon Colas

See Appendix M for details

- ***Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Ryan Humphrey seconded the motion. The motion carried unanimously.***
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case:
 - 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 not*** involve **Gross Misconduct**.
 - f. The identified conduct ***did*** involve **Misconduct based on violation of the law**.
 - g. The identified conduct ***did not*** involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The policy committee noted SWAIN's negative comments during stops, his lack of cooperation during the investigation, and his effort to make difficulties for the test as aggravating circumstances.***

Mitigating circumstances identified by the policy committee included the letter from the president of SWAIN's union, SWAIN's honesty during the interview and that he took responsibility and was willing to resign.

- ***Tom Bergin moved that the Police Policy Committee finds SWAIN's conduct does not rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Craig Halupowski seconded the motion. The motion carried unanimously.***

16. Additional Business

Director's Report

Questions have been asked of DPSST regarding OHSU and armed officers. DPSST is not the entity that makes decisions regarding this subject that was put into statute. We will facilitate discussions between Chiefs and Oregon Council of Police Associations and the Portland Police Bureau. This statute specifically states that OHSU officers are to be certified and trained by DPSST but cannot be armed while they are working.

Board of Higher Education

The Chancellor and the Board of Higher Education has granted permission to the University of Oregon to start their own police department. DPSST is will be working with them to transition to becoming a law enforcement agency. We anticipate this will happen over a number of years. They have hired a number of lateral officers that will be able to transition right away.

Budget Reduction Exercise

DPSST has been asked by legislative fiscal to prepare a 10.5% budget reduction exercise. This exercise is comprised of three 3.5% phases. If reductions are taken, the Training Division would be reorganized. The total number of positions to be eliminated are 21; 19 from Training and 3 from the DOC Audit Team. This has been shared with the Board and Executive Committee last week. We will not need to cut basic police classes. DPSST will still provide 13 basic police classes, 6 corrections classes and the Parole & Probation and Telecommunication classes remain whole. The risk is that we lose our Safety Coordinator and the student to staff ratio increases. We continue to do business as usual however it will be different business as usual.

Review of 16-Week Basic Police Course and Career Officer Development Course

DPSST is in the process of reviewing the Basic Police Course as well as the Career Officer Courses and Field Training Manuals from front to back to ensure that we (DPSST) are meeting the needs of our stakeholders. DPSST hopes to have a thorough review completed by spring 2012.

Ray Rau: Overview of Some Changes Occurring at the Academy

Some of the changes being implemented in our Training Division include onsite remediation, and attention to detail. Attention to detail, accountability, and holding students responsible for decisions they are making. All basic students wear the same uniform regardless of discipline. This is not to create robots but to build students who have pride in public safety. Now students march from venue to venue rather than milling about. Marching is an efficient way to get a group of people from one place to another but it also serves the purpose of building camaraderie, self-discipline and pride of the profession. The two classes we have implemented these expectations in have shown increased academic scores and increased skills. We have set high benchmarks and the students are rising to these levels.

The Police Policy Committee was appreciative of the update and supportive of the actions being taken by DPSST staff.

17. Next Police Policy Committee Meeting – February 16, 2011 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 4:05 p.m.

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: CHANCE L. DIXON DPSST #41699
Umatilla County Sheriff's Office

ISSUE:

Should Chance L. Dixon's Basic, Intermediate and Advanced Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves DIXON's resignation during an internal investigation for violations of department policies, including untruthfulness.

BACKGROUND and OVERVIEW:

- 1. Between 2002 and 2011, DIXON was employed as a public safety officer, first with the Boardman Police Dept., then with the Umatilla County Sheriff's Office. He attended training, signed his Code of Ethics, and received Basic, Intermediate and Advanced Police certifications.*
- 2. In April 2011, DPSST received an F-4, Personnel Action Report, showing DIXON resigned during an internal investigation. DPSST sought and obtained information relating to the resignation.*
- 3. In December 2011 DPSST notified DIXON that his case would be heard by the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. DIXON did not provide a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT:

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds DIXON's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: ANDREW C. ELLIOTT DPSST #51127
Warms Springs Police Dept.

ISSUE:

Should Andrew C. ELLIOTT's Basic Police certification be denied based on discretionary disqualifying misconduct as defined in OAR 259-008-0070(4), and as referenced in OAR 259-008-0010?

The issue in this case involves ELLIOTT's 2003 conviction for DUII in Washington State.

BACKGROUND and OVERVIEW:

1. *In August 2010, ELLIOTT was hired as a police officer by the Warm Springs Police Dept. He signed his Code of Ethics, and completed the Basic Police Course at DPSST.*
2. *In May 2011, DPSST received ELLIOTT's Application for Certification for Basic Police Certification. On this form he acknowledged he had been convicted of a crime. This information conflicted with his initial Application for Training form, submitted in August of 2010. Subsequently, DPSST sought and obtained the information leading to ELLIOTT's conviction, as well as the discrepancy about the conviction on the forms. That discrepancy was determined to be a clerical error. A previous application to the one not indicating conviction did include the acknowledgment of a criminal conviction for this same offense.*
3. *In September 2011, DPSST notified ELLIOTT via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*
4. *ELLIOTT provided a response*
5. *On November 17, 2011 this case was presented to the PPC for their consideration. After review and discussion, the committee determined that more information was necessary to make a decision. Specifically, the committee questioned whether ELLIOTT's signature on the documents was authentic. The committee also wanted a separate statement from the supervisor, Lt. TIAS, that his signature on ELLIOTT's response to the PPC was his own, and separate statements from Lt. TIAS and Lt. WHITE that the issue was a clerical error on the part of the administration.*
6. *On November 22, 2011, DPSST advised Warm Springs P.D. of the PPC's concerns and their request for more information.*
7. *On January 17, 2012 DPSST received the requested information from Warm Springs Police Dept.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT:

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

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

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

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

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

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

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

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

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

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

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

SPECIFIC TO THIS CASE:

OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of DUII as a Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.

POLICY COMMITTEE AND BOARD REVIEW:

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

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

STANDARD OF PROOF:

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

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to deny ELLIOTT's certification based on discretionary disqualifying misconduct:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds ELLIOTT's conduct *does/does not* rise to the level to warrant the denial of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: MATTHEW A. HARIKIAN DPSST #35577
Clackamas County Sheriff's Office

ISSUE:

Should Matthew A. Harikian's Basic, Intermediate and Advanced Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves HARIKIAN's resignation during an internal investigation for violations of department policies, including untruthfulness.

BACKGROUND and OVERVIEW:

1. *Between 1997 and 2011, HARIKIAN was employed as a public safety officer, first with the West Linn Police Dept., then the Oregon City Police Dept., and finally with the Clackamas County Sheriff's Office. He attended training, signed his Criminal Justice Code of Ethics and received a Basic, Intermediate and Advanced Police certifications.*
2. *In July 2011, DPSST received an F-4, Personnel Action Report, showing HARIKIAN resigned during an internal investigation. DPSST sought and obtained information relating to the resignation.*
3. *In October 2011 DPSST notified HARIKIAN that his case would be heard by the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. HARIKIAN provided a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT:

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction, and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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

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

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

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

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

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: SHELLEY L. PRINCE DPSST #24228
Redmond Police Department

ISSUE:

Should Shelley L. Prince's Basic, Intermediate and Advanced Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves PRINCE's resignation while under investigation for violation of department policies and procedures.

BACKGROUND and OVERVIEW

- 1. Between 1998 and 2011 PRINCE was employed as a police officer with the Redmond Police Dept. She attended training, signed her Criminal Justice Code of Ethics and received Basic, Intermediate and Advanced Police certifications.*
- 2. In April 2011, DPSST received an F4, Personnel Action Report, showing PRINCE retired while under investigation. After the agency was informed that PRINCE was not yet of retirement age, the agency submitted an amended F-4 showing PRINCE resigned while under investigation. DPSST sought and obtained information relating to the resignation.*
- 3. In August 2011, DPSST notified PRINCE via certified mail that her case would be heard before the Police Policy Committee (PPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. PRINCE provided a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction, and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds PRINCE's conduct *does/does not* rise to the level to warrant the revocation of her certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: MATTHEW E. RAE DPSST #41026
Linn County Sheriff's Office

ISSUE:

Should Matthew E. Rae's Basic, Intermediate and Advanced Police certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves RAE's resignation in lieu of termination for misconduct involving violations of department policies, including untruthfulness.

BACKGROUND and OVERVIEW:

- 1. On September 4, 2001, RAE was hired by the Linn County Sheriff's Office as a deputy sheriff. He attended training, signed his Criminal Justice Code of Ethics and received Basic, Intermediate and Advanced Police certifications.*
- 2. In October 2011, DPSST received an F4, Personnel Action Report, showing RAE resigned in lieu of termination. DPSST sought and obtained information relating to the resignation.*
- 3. In December 2011, DPSST notified RAE via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. RAE provided a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction, and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds RAE's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix H

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: WILLIAM E. STOWELL DPSST #13559
LaGrande Police Dept.**

ISSUE:

Should William E. Stowell's Basic, Intermediate and Advanced Police certifications be revoked based on discretionary disqualifying misconduct as defined in OAR 259-008-0070(4), and as referenced in OAR 259-008-0010?

The issue in this case involves STOWELL's 2011 conviction for DUII.

BACKGROUND and OVERVIEW:

- 1. Between 1981 and 1998, STOWELL was employed as a police officer, first in Astoria, then in LaGrande, Oregon. He has not been employed in public safety in Oregon since 1998.*
- 2. In July 2011, DPSST was notified that STOWELL had been arrested for DUII and Recklessly Endangering in Cornelius, Oregon. DPSST requested and received the information leading to the arrest. The case proceeded to court only on the DUII charge. In September 2011, STOWELL was convicted of the DUII charge after a jury trial. DPSST sought and obtained the information on the conviction.*
- 3. In December 2011, DPSST notified STOWELL via certified mail that his case would be heard before the Police Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. STOWELL provided a response.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT:

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

- (4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;*
- (B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or*
- (C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.*

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

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

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

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

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

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

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

SPECIFIC TO THIS CASE:

OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of DUII as a Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

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

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to deny STOWELL's certifications based on discretionary disqualifying misconduct:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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

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

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

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

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

Appendix I

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2012
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: JOHN H. THORNDIKE DPSST #42494
Umatilla Tribal Police Department

ISSUE:

Should John H. Thorndike's Basic Police certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

The issue in this case involves THORNDIKE's discharge for cause and his subsequent reinstatement by the Tribal Court.

BACKGROUND and OVERVIEW:

- 1. In 2007 THORNDIKE was hired by the Umatilla Tribal Police Dept. as a police officer. He attended training, signed his Criminal Justice Code of Ethics and received a Basic Police certification.*
- 2. In March 2011, DPSST received an F-4, Personnel Action Report, showing THORNDIKE was discharged for cause from the department. DPSST sought and obtained information relating to the discharge.*
- 3. In August 2011 DPSST sent THORNDIKE a Notice of Intent to Revoke Certifications. THORNDIKE subsequently requested a stay of the proceedings pending resolution of his appeal to the Tribal Court, and a request for hearing if the stay was not granted. DPSST granted the stay. On November 9, 2011, THORNDIKE's appeal was granted and he was reinstated to his employment with the Umatilla Tribal Police Dept.*
- 4. In December 2011, DPSST issued THORNDIKE a Withdrawal of Proceedings on the discharge for cause, and notified THORNDIKE via certified mail that his case would be heard before the Police Policy Committee (PPC). He was allowed the opportunity to provide mitigating circumstances for the Committee's consideration. THORNDIKE submitted a response, with attachments.*

DISCUSSION:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

STANDARD OF PROOF:

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

ACTION ITEM 1:

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

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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

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

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

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

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