

Telecommunications Policy Committee
Minutes
November 4, 2010

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 4, 2010 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:04 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Rachel Brodnock, Line Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Molly Cotter, Oregon State Police
Corinna Jacobs, Line Telecommunicator

Committee Members Absent:

Tom Clemo, Oregon Fire Chiefs' Association
Daniel Coulombe, Oregon Association Chiefs' of Police
Rick Eisland, Oregon State Sheriff's Association
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Joe Raade, Oregon Fire Medical Administrators' Association

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Investigator/Coordinator



1. Minutes from August 5, 2010 Meeting

Approve meeting minutes from August 5, 2010.

See Appendix A for details

Corrina Jacobs moved to approve the minutes from the August 5, 2010 Telecommunications Policy Committee meeting. Tami Atkinson seconded the motion. The motion carried unanimously.

2. Luanne Merkley – DPSST #45036

Presented by Theresa King

Due to MERKLEY signing a Stipulated Order, this case was pulled from the agenda.

3. Brittney D. Rice – DPSST #45994

Presented by Theresa King

See Appendix B for details

- *Tami Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Pam Collett seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue. *False accusations of misconduct and the act of posting inappropriate information on the internet which identified herself as a Supervisor of the Police Department.*
 - b. The identified conduct did involve **Dishonesty based on trying to turn the blame to an innocent person and multiple lies to employer during the investigation.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on RICE falsely accusing an innocent person and involving additional people during the investigation.**
 - 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 the inappropriate behavior and representation of herself as a member of a law enforcement agency.**
 - g. The identified conduct did involve **Insubordination based violation of policy by engaging in unprofessional behavior.**
- By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *The Policy Committee only identified aggravating circumstances. They include: RICE was a supervisor who should have known better and held herself to a higher standard; the fact that the information was placed in a public forum for all to view; and RICE's multiple lies committed throughout the investigation. There were no mitigating circumstances noted by the committee.*
- *Rachel Brudnock moved that the Telecommunications Policy Committee finds RICE'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. Corrina Jacobs seconded the motion. The motion failed in a 4-2 vote with Rachel Brodnock and Corrina Jacobs voting yes.*
- *Pam Collett moved that the Telecommunications Policy Committee finds RICE's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Molly Cotter seconded the motion. The motion passed in a 5-1 vote with Corrina Jacobs voting no.*

- *Rachel Brodnock moved that the Telecommunications Policy Committee recommend to the Board that RICE's misconduct reached the lowest level of all categories noted above with a focus on Dishonesty-a five year minimum period of ineligibility; RICE may reapply for certification after five years from the date of revocation. With no second, the motion failed.*
- *Tami Atkinson moved that the Telecommunications Policy Committee recommend to the Board that RICE's misconduct encapsulated all three categories noted above with a focus on the lower end of the Dishonesty category recommending a seven year minimum period of ineligibility; RICE may reapply for certification after seven years from the date of revocation. Molly Cotter seconded the motion. The motion carried unanimously.*

4. Additional Business

Presented by Eriks Gabliks

- There is a change in the Telecommunications Policy Committee membership. Mike Kee retired will no longer be on the committee. The Oregon Association Chiefs of Police chose Chief Daniel Colombe to be his replacement.
- DPSST is working with APCO/NENA regarding grant funds, which will provide for additional training. DPSST will try to offer approximately 10 various classes through June 2011. These classes will be free of charge. Lodging and food will be available for class participants at the Oregon Public Safety Academy.
- Intermediate and Advanced Matrix Chart: This work was delayed due to the uncertainty with the legislature. The subcommittees have finished their work on definitions. We are reconstituting a large group meeting to look at the work from each discipline subcommittee to cross-reference rules, etcetera for consistency. The next large group meeting is November 15, 2010. We hope to have reports for the Policy Committees soon.
- Chair Rob Poirier welcomed Rachel Brodnock to the Telecommunications Policy Committee and thanked her for her commitment and participation.

5. Next Telecommunications Policy Committee Meeting Date

February 2, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 12:00 p.m.

Appendix A

Telecommunications Policy Committee Minutes (Draft) August 5, 2010

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 5, 2010 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:05 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Mike Kee, Oregon Association Chiefs of Police
LeAnne Senger, Public Safety Telecommunicators
Joe Raade, Oregon Fire Medical Administrators' Association
Molly Cotter, Oregon State Police
Rick Eisland, Oregon State Sheriff's Association
Rachel Brodnock, Line Telecommunicator
Corinna Jacobs, Line Telecommunicator

Committee Members Absent:

Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Pam Collett, Association of Public Safety Communications Officers
Tom Clemo, Oregon Fire Chiefs' Association

Guests

Lieutenant Ben Silverman, Lebanon Police Department

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Kristen Turley, Professional Standards Coordinator
Theresa King, Professional Standards Investigator/Coordinator
Jan Myers, Training Coordinator



Chair Rob Poirier welcomed Corinna Jacobs as a new member to the committee.

6. Minutes from February 4, 2010 Meeting

Approve meeting minutes from February 4, 2010.

See Appendix A for details

Rick Eisland moved to approve the minutes from the February 4, 2010 Telecommunications Policy Committee meeting. Joe Raade seconded the motion. The motion carried unanimously.

7. DUII Related Discretionary Cases

Summary of DUII cases reviewed by policy committees and the Board
Presented by Marilyn Lorange

See Appendix B for details

The committee appreciated the chart as a tool for determining future cases.

8. Edith A. Hernandez – DPSST #48079

Presented by Kristen Turley

See Appendix C for details

Chair Rob Poirier stated for the record that he was involved with the initial investigation and recused himself from voting.

- *Tamara Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. LeAnne Senger seconded the motion. The motion carried unanimously by all voting, with Chair Rob Poirier abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue. **DUII**
 - b. The identified conduct did not involve **Dishonesty**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on her driving while under intoxicated.**
 - d. The identified conduct did not involve **Misuse of Authority**
 - e. The identified conduct did involve **Gross Misconduct being her misconduct created a danger or risk to persons and/or property**
 - f. The identified conduct did involve **Misconduct being her misconduct created a danger or risk to persons and/or property**
 - g. The identified conduct did not involve **Insubordination**
- By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *The committee stated as an aggravating circumstance the fact that this was HERNANDEZ's second DUII within 3 years. As mitigating circumstances the committee noted the support of her employer and co-workers as well as the fact that HERNANDEZ has complied fully with the court's requests.*
- *Tami Atkinson moved that the Telecommunications Policy Committee finds HERNANDEZ'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. LeAnne Senger seconded the motion. The motion carried in a 4 to 3 vote with Molly Cotter, Joe Raade, and Mike Kee voting no and Chair Rob Poirier abstaining.

9. Additional Business

- Joe Raade asked staff if any of the people being reviewed by the committee came to the committee meetings. Staff shared that yes, many people (mostly in other disciplines) have come to hear the decision of the committee. As these are public meetings, anyone may observe the proceedings, however, they are not allowed to participate in the discussion.
- The committee recognized and thanked LeAnn Senger for her service on the Telecommunications Policy Committee. Her term is over and this is her last meeting.

10. Next Telecommunications Policy Committee Meeting Date

November 4, 2010, at 10:00 a.m.

With no further business before the committee, the meeting adjourned at 11:42 a.m.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE:November 4, 2010

TO:Telecommunications Policy Committee

FROM:Theresa King

Professional Standards Investigator/Coordinator

SUBJECT:Brittney D. RICE DPSST #45994

ISSUE:

Should Brittney RICE's Basic Telecommunication and Emergency Medical Dispatcher 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?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to RICE:

On August 15, 2005, RICE was hired by the Klamath County 911 Communications as a Dispatcher.

On May 16, 1006, RICE was granted Basic Telecommunications Certificate and Basic Emergency Medical Dispatcher Certificates.

On August 27, 2006 RICE resigned from the Klamath County 911 Communications.

On May 11, 2009, RICE was hired by the Lebanon Police Department as a dispatcher.

On April 5, 2010, RICE resigned from the Lebanon Police Department, in lieu of termination. DPSST sought and obtained information relating to the resignation in lieu of termination.

In September 2010, DPSST mailed RICE a letter advising her that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

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))

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)]

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:

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.

ACTION ITEM 1:

Staff requests the Telecommunications Policy Committee review the matter and make a recommendation to the Board whether or not to revoke RICE's certifications based on violation of the established moral fitness standards:

1. By vote, the Telecommunications 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 the conduct that is at issue.
 - 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 Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Telecommunications Policy Committee finds RICE'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:

By vote, the Telecommunications 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.