

Police Policy Committee Minutes August 14, 2007

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 14, 2007 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 Andrew Bentz.

Attendees

Policy Committee Members:

Andrew Bentz, Chair, Oregon State Sheriffs' Association
Andrew Jordan, Oregon Association Chiefs of Police
Dan Nielsen, Federal Bureau of Investigation – Oregon
Dave Burright, Oregon State Sheriffs' Association
Rob Gordon, Oregon State Sheriffs' Association
Mike Healy, Oregon Association Chiefs of Police
Rosie Sizer, Portland Police Bureau Chief
Steven Piper, Non-Management Law Enforcement
Stuart Roberts, Oregon Association Chiefs of Police
Tim McLain, Superintendent, Oregon State Police

Policy Committee Members Absent:

Robert King, Non-Management, Law Enforcement
Ray Gruby, Oregon Council of Police Associations

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Coordinator
Bonnie Salle, Certification Coordinator
Carolyn Kendrick, Administrative Assistant

Guests:

Christine Chute, Attorney-in-Charge Government Services & Education, Oregon Dept. of Justice
Jenifer Johnston, City of Portland
Major Ed Mouery, Oregon State Police



1. *Minutes of May 8, 2007 Meeting

Approve minutes from the May 8, 2007 meeting.

Mike Healy moved to correct the minutes from the May 8, 2007 Police Policy Committee meeting. Dave Burright seconded the motion. The motion carried unanimously.

It was noted in item 8 the committee comments were inaccurate. The corrected paragraph (with changes underlined) is as follows:

The Committee noted that the agency was in error for hiring an un-qualified person for the position. Not seeing Gary L. Longhorn Jr.'s side of the story, the Committee members did not see grounds for revocation. Robert King moved to recommend to the Board the revocation of Gary L. Longhorn Jr.'s certifications not be revoked because issue was one of competence rather than willful deception. Robert Gordon seconded the motion. Robert Jordan opposed. Stuart Roberts abstained from voting. The motion was carried.

It was also noted in item 15 that several committee members brought up this issue. The corrected paragraph (with changes underlined) is as follows:

Members discussed whether the Committee should be hearing some of the cases presented as many appear that the individual agencies could/should rectify the issues. DPSST staff reminded the Committee that many more cases receive administrative closure than are presented before the Committee and that extensive investigation is completed before presentation to the Committee.

Rob Gordon moved to approve the aforementioned changes to the minutes from the May 8, 2007 Police Policy Committee meeting. Tim McLain seconded the motion. The motion carried unanimously.

2. *Proposed Rule Change - OAR 259-008-0060

Training/Education Credit presented by Bonnie Salle.

See Appendix A for details of Proposed Rule Change – OAR 259-008-0060

Staff identified that the proposed rule was developed as requested by the policy committees, to alleviate a current problem while the multi-discipline workgroup established by the Committees works on a long-term solution to the outdated certification chart. One of the challenges DPSST Standards and Certification has is that some individuals will take their training record to different colleges and each college gives them a different amount of credit and all Standards and Certification receives is a college transcript saying credit for prior learning. There is no way to identify if it is duplicate use of training hours. The current rule provides that educational hours can be converted to training points if the applicant has more college credits and is short on training points. However, current rules do not provide a process for eliminating duplicate credit for conversion of training points to educational credits. This rule will address that problem.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a permanent rule if no comments are received.

Chair Andrew Bentz suggested the committee combine the first 2 Action Items into one motion. Dave Burrigh moved to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule and to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a permanent rule if no comments are received. Andrew Jordan seconded the motion. The motion carried unanimously.

ACTION ITEM 3: Pursuant to HB 3238, determine whether there is a significant fiscal impact on small businesses.

The consensus of the committee is that there is no fiscal impact on small businesses.

3. Policy Discussion

Recalled Certification – Maintenance Training Deficiency *presented by Bonnie Salle and Marilyn Lorance.*

See Appendix B for details of Policy Discussion on Recalled Certification – Maintenance Training Deficiency.

Staff provided Committee members with a summary of certifications that had been recalled, and how many have now been reinstated, and identified that the original police maintenance rule does not provide specific guidance regarding how to address the status of officers or agencies with officers whose certifications have been recalled but are still employed, change employers, or remain recalled for extended periods.

Discussion included whether a fee should be imposed to cover staff time, and the statutory authority to impose civil penalties on agencies for failure to comply with basic certification requirements.

Chair Andrew Bentz asked if the matter needed to be addressed in the current meeting or whether staff and members could work together on options before the next meeting and give staff direction at this time.

Marilyn Lorance requested volunteers to assist staff; Chief Rosie Sizer will request that Capt. Eric Hendricks participate; Committee member Steve Piper volunteered also.

Supt. Tim McLain asked if staff needed additional guidance in addressing inquiries in the meantime; staff will inform those who inquire that the Committee is working on a solution. Chair Andrew Bentz asked if the committee could work on this for another quarter. This is a fundamental shift in relationship of the agencies and this department and we need to attend to more pressing matters. In the meantime we can gather information on if we can charge a fee in addition to or instead of something that would be a civil penalty.

4. Convene in Executive Session:

The executive session was held pursuant to ORS 192.660(2)(f) and (h), which allows the Committee to meet in executive session for the purpose of considering information or records that are exempt by law from public inspection, and to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. The Committee discussed legal process questions and requests for medical waivers returned by the Board for further Committee consideration.

The committee convened in Executive Session at 2:15 p.m. to discuss information or records that are exempt by law from public inspection and to consult with counsel concerning legal rights and duties with regard to current litigation or litigation likely to be filed.

5. *Reconvene in Regular Session:

For possible final action in the aforementioned matters.

The committee reconvened at 2:55 p.m. for further discussion and to take action on the topic discussed.

Tim McLain stated that in the May committee meeting it was already voted to deny the medical waivers. In his opinion, the necessary decision to be made was whether to allow contested case hearings in the cases discussed.

The committee discussed whether there was another fix other than the medical waivers discussed for the agency concerned. The answer from the agency involved stated there was not a different fix that wouldn't be a grave disadvantage to the individuals involved. Any change on the agency's part would require a charter change and a vote of the people of the city.

Dave Burrigh stated that this isn't an issue of compassion. It is an issue where a city is asking the State of Oregon to unravel its system in order to fix the issue at hand, rather than the city changing their policy.

Dave Burrigh made the motion to deny the medical waivers. Tim McLain seconded the motion. The motion was carried with a 7 to 1 vote. Rosie Sizer voted no.

Dave Burrigh also motioned to recommend to the board to allow contested case hearings in the discussed cases. Mike Healy seconded the motion. The motion carried unanimously.

6. ***MEYERS, Frank T. DPSST #34202**
Presented by Theresa King.

See Appendix C for details on Frank T. Meyers.

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and recommend to the Board whether MEYERS' corrections certification should be revoked and his police certification should be denied based on a violation of the moral fitness standard, or the discretionary disqualifying crimes, or both.

Members briefly discussed the additional information that staff provided for the current meeting that had not been available when the Committee reviewed this matter at its May meeting. Robert Gordon moved to recommend to the board that MEYER's corrections certification be revoked and his police certification be denied based on a violation of the moral fitness standards. Tim McLain seconded the motion. The motion carried unanimously.

7. ***PUCKETT, Joseph W. DPSST #22820**
Presented by Theresa King

See Appendix D for details on Joseph W. Puckett.

ACTION REQUESTED:

Staff requests the Police Policy Committee review the matter and recommend to the Board whether PUCKETT's certification should be revoked based on violation of the moral fitness standard.

After policy committee discussion there was consensus that although Puckett demonstrated a lack of competency and leadership skills for the position he held, there was enough vagueness among the various versions of his actions surrounding his leaving the scene of the major incident that it could not be proven by a preponderance of evidence that he was willfully deceptive.

Robert Gordon moved to recommend PUCKETT's certifications not be revoked. Tim McLain seconded the motion. The motion was carried with a 9-1 vote. Chair Andrew Bentz voted no.

ADDITIONAL ITEM:

Marilyn Lorance stated as a matter of interest for this committee that the Phase 2 Discretionary Disqualifying Convictions Workgroup that had been working on time periods of ineligibility for discretionary convictions redefining some of the terms for misconduct had its last workgroup meeting 1.5 weeks ago. At their meeting the group incorporated into its work product some of the recommendations of the Certification Review Workgroup regarding moral fitness language and vague definitions. Staff anticipates that draft language will be submitted at the next policy committee meeting in November and ready for review by the Board in January.

ADDITIONAL ITEM:

Tim McLain announced that Ed Mouery was promoted to Major and that a letter was submitted to Mr. Minnis requesting Board approval to have Major Mouery join the Police Policy Committee as the second member for Oregon State Police.

Chair Andrew Bentz welcomed Major Ed Mouery to the Police Policy Committee pending the Board's approval.

ADDITIONAL ITEM:

Eriks Gabliks updated members regarding ORPAT, which became a required standard for all basic Police students as of July 1, 2007. The first class subject to the standard all passed ORPAT within the given time on the first try.

With no further business before the committee the meeting was adjourned at 3:48pm.

Appendix A:

***Proposed Rule Change - OAR 259-008-0060**

Issue: All upper levels of certification require a combination of training, education and experience. Current administrative rules do not address instances where an individual may receive educational credit from a college for “prior learning experience” based on previous training received, and the training is also included as training hours completed on an applicant’s official training record.

Recommendation: Staff recommendation is to amend the current rule to provide for the exclusive use of training or educational credits, whichever is to the advantage of the applicant. This would effectively eliminate an applicant’s ability to receive duplicate credit for training hours which have been converted into educational credits through an accredited college.

An additional rule change is proposed in (5) on page two which includes reference to the recently adopted minimum employment standards established in OAR 259-008-0011. This is a procedural clarification only, for purposes of rule consistency among disciplines.

The following revised language contains the recommended additions (**bold and underlined text**) and deletions (~~strikethrough text~~) to the current rule:

259-008-0060

Public Safety Officer Certification

(1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.

(2) Basic certification is mandatory and shall be acquired by all police officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.

(3) To be eligible for the award of a certificate, law enforcement officers shall be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.

(4) To be eligible for the award of a certificate, law enforcement officers shall meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.

(5) To be eligible for the award of a certificate, telecommunicators must meet the Board’s prescribed minimum employment standards as established by OAR 259-008-0011.

~~(5)~~ **(6)** To be eligible for the award of a certificate, law enforcement officers shall subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers shall subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T).

~~(6)~~ **(7)** Application for certification must be submitted on Form F7, with all applicable sections of the form completed. The form shall be signed by the applicant. In order to insure that the applicant does or does not meet the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision shall be specified in writing and shall accompany the Application for Certification (Form F7).

~~(7)~~ **(8)** When a department head is the applicant, the above recommendation shall be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

~~(8)~~ **(9)** In addition to the requirements set forth above, each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate, shall have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall equal one (1) education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall equal one and one half (1-1/2) education credits.

(c) All college credits shall be supported by certified true copies of official transcripts.

~~(9)~~ **(10)** Training Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)

(a) Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved.

(b) The Department may award training points for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented may be accepted, subject to staff evaluation and approval. These records shall include the subject, date, and classroom hours, and shall be certified true copies of the original.

(d) With proper documentation, instructors may claim course completion for law enforcement classes instructed. Training points for repeat instruction of the same class within a 12-month period shall not be awarded.

(e) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or ~~its~~ **its** designated staff may award training points for correspondence courses.

(f) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(g) College credit awarded based on training completed may be applied toward either training points or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the total number of training hours for which college credit was awarded.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(C) Notwithstanding subsection (f) and (g) above, no credit can be applied toward both an education credit and training point when originating from the same training event.

~~(10)~~ **(11)** Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, casual, seasonal, or temporary employment shall not qualify as experience toward certification. Experience as a certified part-time parole and probation officer, as defined under OAR 259-008-0005(22) and (23) and OAR 259-008-0066, shall count on a pro-rated basis.

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

~~(11)~~ **(12)** The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested.

(b) Applicants shall have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department.

(c) Applicants shall have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

~~(12)~~ **(13)** The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants shall possess a Basic Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

~~(13)~~ **(14)** The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants shall possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

~~(14)~~ **(15)** The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants shall possess or be eligible to possess the Advanced Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department approved supervisory level training within five (5) years prior to application for the Supervisory Certificate.

(d) Applicants shall be presently employed in, or have satisfactorily performed the duties associated with the position of a first level supervisor, as defined in ORS 181.610 and OAR 259-008-0005(16), as attested to by the applicant's department head during the time such duties were performed, for a period of one (1) year. The required experience shall have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

~~(15)~~ **(16)** The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants shall possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department approved management level training within five (5) years prior to application for the Management Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in ORS 181.610 and OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

~~(16)~~ **(17)** The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants shall possess or be eligible to possess the Management Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed 100 hours of Department approved executive level training within five (5) years prior to application for the Executive Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head.

~~(17)~~ **(18)** Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer shall meet the following requirements for the award of multi-discipline certification:

(a) Basic certification: A person who is certified in one discipline may apply for multi-discipline certification, if employed in or transferred to another discipline within the same law enforcement unit. The applicant shall demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9)

months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the EMD discipline since it only exists at the basic certification level.

(c) Retention of Multi-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For the EMD certificate; a minimum of four (4) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(B) For the Telecommunicator certification, a minimum of twelve (12) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(C) For all other disciplines, a minimum of twenty (20) hours of training, specific to each discipline in which certification is held, must be reported annually on a Form F-15M.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) Failure to comply with subsection (c) of this rule shall result in the recall of the multi-discipline certification by the Board.

(f) Upon documentation of compliance with subsection (c) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.

~~(18)~~ **(19)** Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

[ED. NOTE: Forms & Tables referenced are available from the agency.]

Appendix B

Policy Discussion

Recalled Certification – Maintenance Training Deficiency

Background: Beginning January 1, 2004, all certified police officers were required to complete 84 hours of mandatory maintenance training every three years. December 31, 2006, marked the end of the first reporting period. However, a one-time grace period of six-months was built in to the first reporting period, which ended June 30, 2007. The penalty for failing to complete the required training is the administrative recall of an officer's certification.

Police officers who failed to complete mandatory maintenance training required under OAR 259-008-0065 by June 30, 2007 have now had their certifications recalled effective July 1, 2007. Current requirements for re-certification following a recall include approval from the Department if the employing agency head requests recertification, provides justification of why the training was not completed on time and verifies that any training deficiencies have been made up. However, questions and concerns have arisen about some officer's eligibility to become re-certified and the process for reinstatement.

Issues:

Current rules impose different requirements on officers depending on whether their certification has been recalled, has lapsed, or if they return to work following a leave of absence.

The current procedure in administrative rule for recertification following a recall provides for the following:

- A. Employing agency head requests recertification, along with an explanation of why the training was not completed; and
- B. Verification that the missed training was completed.
- C. After 2 ½ years in a recalled status the police officer will be required to complete a Career Officer Development Course before s/he can be recertified; and
- D. After over five years in a recalled status, the police officer will be required to complete basic training in the appropriate discipline.

It is not clear whether the intent of the Policy Committee and the Board is to allow a police officer to maintain a recalled status indefinitely, without additional requirements to reactivate certification, or whether a deadline and additional requirements to reapply for certification after a recall should be established.

Under current laws and rules, an officer who leaves employment and whose certification lapses, or who returns from leave, is required to complete their eight-hour annual firearms/use of force maintenance training within 30 days of their return to a certifiable position. An officer in these categories is also required to complete a Career Officer Development Course when absent from a law enforcement agency for between 2 ½ and five (5) years.

If an officer leaves employment without completing maintenance training, or his/her certification is recalled with "Agency A" and the officer subsequently becomes employed with "Agency B," there is no provision for "Agency B" to require the officer to complete maintenance training deficiencies the officer may have incurred during employment at "Agency A."

It is not clear whether the intent of the Policy Committee and the Board is to require a police officer to complete previous deficiencies prior to recertification regardless of whether an officer changes employment.

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The current rules relating to these issues provide the following:

OAR 259-008-0065:
259-008-0065

Maintenance of Certification For Active Police Officers

(1)(a) The Board is responsible for setting the standards for active police officer training and the maintenance of certification. The Department is required to uphold those standards, while each agency determines what training will be provided to meet the standards.

(b) It is recommended that agencies provide training time and training opportunities to enable the active police officer to meet the required maintenance training hours.

(2) In order to maintain certification:

(a) All active police officers must maintain current First Aid/CPR certification.

(b) All active police officers must complete a total of at least eighty-four (84) hours of agency approved training every three (3) years. The eighty-four (84) hours will include:

(A)(i) Eight (8) CORE hours of training annually, from either the "Firearms" or "Use of Force" subject areas:

(ii) This training must be reported to the Department as twenty-four (24) hours of CORE training, once every three years.

(B)(i) Active police officers who hold a Supervision, Mid-Management or Executive certification, must complete at least twenty-four (24) hours of agency approved Leadership/Professional training, every three years:

(ii) This training must be reported to the Department as twenty-four (24) hours of agency approved Leadership/Professional training, once every three (3) years.

(C)(i) In addition to the CORE (A)(i) (required of all officers) and Leadership/Professional (B)(i) training hours (only required of officers with Supervision Certification and above), the remaining hours must be completed from the category of "General Law Enforcement" training in the recommended, but not limited to, subject areas of Law and Legal, Ethics and Communication, Investigations, Survival Skills, Child Abuse, Sex Abuse, and Elder Abuse:

(ii) These remaining training hours must be reported to the Department as "General Law Enforcement" training, once every three (3) years.

(3) Beginning on the date a police officer returns to work from any leave of absence, the following requirements must be met:

- (a) Maintenance Training Requirements as described in section (7) or (8) of this section;
 - (b) Proof of current First Aid and CPR cards;
 - (c) Any other applicable requirement for employment, training or certification as specified in OAR 259-008-0010, 259-008-0025 or 259-008-0060.
- (4)(a) The employing agency must maintain documentation of required training on each law enforcement officer;
- (b) Any training submitted to the Department on an F-6 Course Roster will be entered into each officer's DPSST training record.
 - (c) Maintenance training submitted on an F-6 will be credited towards the number of hours required for each maintenance training category in section (2) above.
 - (d) On or after January 2 of each year, the Department will identify all police officers who are deficient in maintenance training according to Department records and provide notification to the officer and his/her employing agency.
 - (e) Within 60 days of receipt of the notification in (d) above, the agency must notify the Department of the training status of all police officers identified as deficient in maintenance training by submitting a Form F-15M-Police to the Department, identifying the training completed during the previous three (3) year reporting period.
- (A) Maintenance training hours reported to the Department on an F-15M-Police will be used solely to verify completion of maintenance training requirements and will not be added to the officer's DPSST training record.
- (B) Failure to notify the Department of completion of the required training for officers with identified training deficiencies will result in a warning notification letter being sent to the agency head and the officer.
- (C) A six (6) month extension to complete maintenance training requirements or submit an F-15M-Police will be automatically authorized for officers reporting maintenance requirements due on December 31, 2006.
- (5) Failure to complete the training or submit the completed Form F-15M-Police, after the warning notification letter and before the six (6) month extension has expired, will result in the recall of the active police officer's certification.
- (a) A police officer with a recalled certification cannot work in a certified position.
 - (b) Recertification following a recall may be obtained at the approval of the Department by submitting the following:
 - (A) The employing agency head request certification, along with an explanation of why the training was not completed; and
 - (B) Verification that the missed training was completed.

(c) After 2 1/2 years in a recalled status the police officer will be required to complete an Career Officer Development Course before s/he can be recertified.

(d) After over 5 years in a recalled status the police officer will be required to complete basic training in the appropriate discipline.

(6) Agency heads of the employing agency may document "excused leave" in extreme circumstances for not completing the annual requirements but must provide documentation as to the reason and indicate when the missed training was completed.

(7) Maintenance Training Requirements for Police Officers on Leave of Absence.

(a) A police officer who is on leave of absence for any period between 90 to 180 days will have the same maintenance training deadline as the date established prior to the officer's leave of absence date.

(b) A police officer who is on leave of absence for more than 180 days, but less than one year will receive a one year extension from the maintenance training deadline established prior to the officer's leave.

(c) A police officer who is on leave of absence for more than one year, but less than 2 1/2 years will receive an extension of up to three years from the maintenance training deadline established prior to the officer's leave. The extension will be prorated, based on the duration of the officer's leave. Upon the officer's return to work, the officer must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

(d) Failure to meet the requirements of subsection (c) of this section will result in a warning notification or recall of a police officer's certification as described in subsection (4) or (5) of this section.

(8) Maintenance Training Requirements for Previously Certified Police Officers.

(a) Any police officer who has not been employed as a police officer for between one year and five years, or whose certification has lapsed following 2 1/2 years in a leave status, must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

Staff requests clarification and direction from the Committee on the following:

- I. Should the requirements for recertification following recall remain the same indefinitely if they remain employed with their agency; or should additional requirements be imposed? If a deadline is established and additional requirements developed, staff recommendation would be to require submission of an F-2 Medical Examination form, fingerprints, and an F-7 (Application for Certification), which is the current requirement for recertification following a lapse of a certification. These requirements would be in addition to verification that training deficiencies had been completed.
- II. Should an officer with recalled certification for up to 2 ½ years be required to complete maintenance training for the current period, within which their certification was recalled?
- III. Should officers who return to certifiable positions from a recalled status of up to five years be required to complete an 8-hour firearms/use of force component within 30 days (as well as COD for those with recalled certifications between 2 ½ and 5 years), as is currently required of those returning to employment or returning from a leave lasting up to five years?
- IV. Should an officer with a lapsed or recalled status who resumes employment with a different employer be required to complete any maintenance training deficiencies from a previous employer?
- V. What maintenance training cycle should an officer resume when re-entering public safety after an absence?

Appendix C

***MEYERS, Frank T. DPSST #34202**

Presented by Theresa King.

ISSUE:

Should Frank T. MEYERS' corrections certification be revoked, and his police certification denied, based on violation of the Moral Fitness standards defined in OAR 259-008-0010(6), or under the discretionary disqualifying convictions in OAR 259-008-0070, or both?

BACKGROUND:

On June 22, 2004, MEYERS was employed as a reserve police officer in the Elgin Police Department (EPD). On August 30, 2005, MEYERS was reclassified to police officer.

MEYERS holds a Basic Corrections certification. Prior to employment with EPD, MEYERS served as a corrections officer with the Union County Sheriff's Office for over eight (8) years, until he resigned while in good standing to pursue a police career.

On January 9, 2006, MEYERS signed his Criminal Justice Code of Ethics.

During the months of November and December 2006, DPSST and MEYERS communicated about a misdemeanor conviction.

DPSST mailed MEYERS a letter advising him that his case would be heard before the Police Policy Committee. MEYERS was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee's consideration. This letter was sent regular mail and certified mail, return receipt requested.

On January 29, 2007 and later on January 31, 2007, MEYERS provided information for the Policy Committee's consideration. Staff asks that Policy Committee members read this in its entirety.

On January 30, 2007, DPSST mailed a request for a copy of the judgment against MEYERS.

On January 30, 2007, Judge Mendiguren was interviewed by staff and provided his recollections for the policy committee's consideration.

On January 30, 2007, DPSST sent Oregon State Police a request for a copy of the incident report and subsequently received it.

On February 5, 2007, DPSST received a copy of the judgment, along with a letter written by District Attorneys Monte Lundington and Jason Larimer, on MEYERS' behalf.

On February 28, 2007, DPSST sent an inquiry to Oregon State Trooper Chandler, the arresting officer, and recapped a telephone interview with him.

During this investigation, DPSST learned that MEYERS resigned from the Elgin Police Department while under investigation for misconduct. DPSST followed up on MEYER's resignation (see case review).

On May 8, 2007, the Police Policy Committee met and reviewed MEYER's case. The Committee asked that staff follow up on the circumstances surrounding MEYERS' resignation from the Elgin Police Department.

On May 9, 2007, MEYERS and Chief LYNCH were mailed follow-up correspondence.

On May 21, 2007, Chief LYNCH prepared a written response to DPSST's questions.

On June 7, 2007, MEYERS provided an email response to DPSST's correspondence.

On July 10, 2007, DPSST sought input from the Union County District Attorney's Office as follow up on their original letter.

DISCUSSION:

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

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer's certification, regardless of its status.

MEYERS corrections certification is currently in a lapsed status and he has received an extension to apply for his police certification.

CASE REVIEW:

This case involves a 32-year old police officer who has served in public safety for over ten (10) years; eight (8) years in corrections and two (2) years in the police discipline.

The issues in this case initially involved a single illegal hunting incident which resulted in three (3) misdemeanor charges and one violation charge, and ultimately resulted in a Fish and Game Class A Misdemeanor.

During the staff investigation, MEYERS resigned while under investigation for misconduct. According to the employer, during the Chief's interview with MEYERS in which he outlined the allegations, MEYERS admitted to some misconduct and denied some misconduct. MEYERS admitted to having a relationship with a female with whom he had contact during a prisoner transportation. MEYERS admitted to a sexual relationship off duty, and admitted to sending sexually explicit text messages to the female while on duty. MEYERS also admitted to allowing the female to drink a beer while seated in his patrol vehicle on one occasion.

CONSIDERATIONS FOR THE POLICY COMMITTEE:

Under OAR 259-008-0010(6):

1. Would MEYERS' actions cause a reasonable person to have doubts about his honesty, respect for the rights of others, and respect for the laws of the state?

2. Did MEYERS' conduct involve dishonesty, fraud, deceit, or misrepresentation?
3. Was MEYERS' conduct prejudicial to the administration of justice?
4. Would MEYERS' conduct adversely reflect on his fitness to perform as a law enforcement officer and do his actions make him inefficient and otherwise unfit to render effective service because of the agency's and public's loss of confidence in his ability to perform competently?

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.

Appendix D

***PUCKETT, Joseph W. DPSST #22820**

Presented by Theresa King

ISSUE:

Should Joseph PUCKETT's certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010?

BACKGROUND:

On April 1, 1989, PUCKETT was employed as a police officer with the Jackson County Sheriff's Office (JCSO). PUCKETT holds Basic, Intermediate, Advanced and Supervisory Police certifications.

On August 19, 1991, PUCKETT signed a Criminal Justice Code of Ethics.

On July 7, 2005, PUCKETT resigned from the JCSO.

On August 16, 2005, DPSST received news clippings that indicated PUCKETT resigned after an internal investigation regarding his conduct.

On August 16, 2005, DPSST sent a letter to JCSO asking for the underlying investigation that led to PUCKETT's resignation.

On August 26, 2005, DPSST received the requested information with a cover letter from JCSO.

On December 14, 2005, DPSST mailed PUCKETT a letter advising him that his case would be heard before the Police Policy Committee. PUCKETT was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee's consideration, by January 15, 2006. This letter was sent regular mail and certified mail, return receipt requested.

On December 22, 2005, DPSST received a letter from PUCKETT's legal counsel asserting that PUCKETT wished to make a verbal presentation and requesting all documentation DPSST had received on the case.

On December 22, 2005, DPSST referred the PUCKETT matter to our legal counsel, the Oregon Department of Justice, for review and advice on PUCKETT's requests. On or about March 24, 2006, DPSST received attorney/client privileged information regarding PUCKETT's requests.

DPSST posed two questions for legal advice, and received the following, *in italics*:

1. Whether a failure to allow an oral presentation to the Board violated Mr. PUCKETT's due process rights under the United States and Oregon Constitutions. “. . . *I conclude that the Board's process of allowing a person to submit only written materials to the Board during the initial investigative process as to whether to proceed to an administrative contested case hearing complies with constitutional requirements of due process.*”

2. Whether DPSST is required to produce the prior employing agency's personnel requested by PUCKETT, through his attorney. *“ . . . I conclude that Mr. Puckett's personnel records would be exempt from disclosure under ORS 192.501(12). . . . I conclude that until DPSST proceeds to a contested case administrative hearing and issues a Notice of Intent to Revoke Certification, neither Mr. Puckett nor his legal representative are entitled to the records transferred to DPSST by the Jackson County Sheriff's Office as a matter of discovery or procedural due process. However, in the event DPSST does issue a Notice of Intent to Revoke Certification, DPSST must, as a matter of procedural due process, disclose to Mr. Puckett any information DPSST intends to rely on in revoking his public safety officer certification.”*

On May 19, 2006, Oregon Department of Justice sent a response to PUCKETT denying him a verbal presentation to the Police Policy Committee, and advising him that DPSST would provide him a copy of the staff report prepared for the Police Policy Committee from which he could provide relevant written material for committee and the Board consideration.

On March 21, 2007, DPSST mailed PUCKETT a copy of the DRAFT staff report.

On March 31, 2007, DPSST received an email response from PUCKETT, through his attorney, John HOAG. An additional response was received on June 25, 2007. HOAG asserts that because DPSST will not provide “discovery”, they cannot provide a more detailed response.

On July 9, 2007, DPSST sought and obtained an Affidavit from Sheriff Michael Winters, asserting that PUCKETT and his attorney had prior access for a significant period of time to the *entire* JCSO investigation on which this revocation matter is based.

DISCUSSION:

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

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer's certification, regardless of its status.

PUCKETT's certifications are currently in a lapsed status.

Case Review

This case involves a 41-year old police officer who resigned after an internal investigation regarding his conduct prior to, during, and after a pursuit that resulted in a double fatal crash. The investigation involved allegations of violation of agency policies, including Neglect of Duty, Untruthfulness, Disobedience of Policy and Procedures and Conduct Unbecoming an Employee. According to the investigation:

1. Sheriff WINTERS sought an outside agency, the Oregon State Police, to conduct the investigation.

2. This case stemmed from a pursuit initiated by an officer with another agency, which resulted in a double fatality.
3. At issue were PUCKETT's action(s), or inaction(s), during the pursuit; his actions at the crash scene; and his later actions relating to the incident.

CONSIDERATIONS FOR THE POLICY COMMITTEE:

Under OAR 259-008-0010(6):

5. Would PUCKETT's actions cause a reasonable person to have doubts about his honesty, respect for the rights of others, and respect for the laws of the state?
6. Did PUCKETT's conduct involve dishonesty, fraud, deceit, or misrepresentation?
7. Was PUCKETT's conduct prejudicial to the administration of justice?
8. Would PUCKETT's actions adversely reflect on his fitness to perform as a police officer and do his actions make him inefficient and otherwise unfit to render effective service because of the agency's and public's loss of confidence in his ability to perform competently?

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.