

OREGON DPSST  
***ETHICS BULLETIN***

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The Board on Public Safety Standards and Training (BPSST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all law enforcement officers, telecommunicators and emergency medical dispatchers in the state.

This requirement also defines the procedure for the Department and Board to use when denying or revoking certification of an officer, telecommunicator or emergency medical dispatcher who has fallen below the moral fitness standards.

The Ethics Bulletin is published to provide insight into the types of misconduct that could result in revocation or denial of certification. The following cases of misconduct resulted in **revocation and denial** of certifications by DPSST in **November and December 2004**.

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**Case 1**

**Officer A** was discharged for cause after an internal investigation revealed that she had engaged in an inappropriate relationship with an inmate. Officer A obtained an out-of-state mailbox for the purpose of receiving mail from the inmate. Officer A used an alias name for the mailbox and in her communications with the inmate. During the investigation, Officer A was untruthful when she did not fully disclose her relationship with the inmate. Officer A requested a hearing to contest the revocation action. After hearing the matter, the Administrative Law Judge issued a Proposed Order to Revoke officer A's certification. Officer A's conduct ended her 2-year career.

**Officer A's Basic Corrections Certification was Revoked.**

**Case 2**

**Officer B** was arrested and convicted of Criminal Mischief in the Second Degree. While off-duty, Officer B engaged in a verbal argument that culminated in the victim driving away, but not before Officer B grabbed the victim's driver's side mirror, breaking it off. In a separate incident, Officer B phoned an employee of a health clinic about a \$10.00 bill and made threats to kill the Doctor and the entire staff. In this incident Officer B was convicted of Harassment. This matter was brought before the Corrections Policy Committee who recommended revocation of his certification. The Board affirmed the recommendation. Officer B requested a hearing to contest the revocation action. After hearing the matter, the Administrative Law Judge issued a Proposed Order to revoke Officer B's certifications. Officer B's conduct ended his 6-year career.

**Officer B's Basic Corrections Certification was Revoked.**

**“Integrity is NOT negotiable.”**

*Delattre, Edwin (Dec 2001) The New Police Officer – Integrity and Temptation / Retrieved from the National Executive Institute Associates, Major City Chiefs Association and Major County Sheriff's Association, <http://www.neiassociates.org/integrity.htm>*

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### **Case 3**

**Officer C** was arrested for numerous counts of Sexual Abuse in the First Degree and subsequently resigned. One of the victims in this case was his daughter. Officer C pled guilty to two counts of Sexual Abuse in the First Degree. Prior to sentencing, he absconded to Mexico, was caught at the border, and extradited back to Oregon where he was incarcerated. As a part of the sentencing, Officer C was required to sign a Stipulated Order revoking his Corrections Certification. Officer C's conduct ended his 3-year career.

**Officer C's Basic Corrections Certification was Revoked.**

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### **Court of Appeals Decisions**

There were two cases pending in the Court of Appeals. Both cases have been decided and in both cases, the Department prevailed.

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### **Case 6-B - update**

**This prior case returns to DPSST from the Court of Appeals.** In this case, the officer applied for an Intermediate Certification but did not disclose his Assault 4 conviction and the application had an incorrect date of birth. Prior to this, the officer had submitted his Basic Certification application with an incorrect date of birth, and did not disclose the Assault 4 conviction; therefore the conviction was not discovered until a name match search was conducted. This case was reviewed by the Police Policy Committee, who recommended revocation based on falsification. The Board affirmed their recommendation. The officer's conduct ended a 3-year career. The officer's Basic Police Certification was Revoked and his Intermediate Certification was Denied.

The officer sought a hearing to contest the denial and revocation action. An Administrative Law Judge issued a Proposed Order to deny the officer's Intermediate certification and revoke his Basic certification. After a Final Order was issued, the officer sought Judicial Review with the Court of Appeals.

The Court of Appeals heard the case and affirmed the lower court's decision. The petitioner argued that DPSST legally erred by concluding that falsification does not require "a higher mental state of intent to deceive." The Court held that, "The fact that the legislature knows how to specify a mental state for falsifying information, and did not do so in ORS 181.662(1)(a), convinces us that, at a minimum, the statute does not require a specific and heightened mental state such as "intent to deceive.".....we agree with DPSST that, at a minimum, the statute is satisfied if an applicant knowingly falsifies information in the application for police certification...." [ref A122262 Pierce v. Dept. of Public Safety Standards]

### **Case 4-D - update**

This prior case returns to DPSST from the Court of Appeals. In this case, the officer was left in charge of the agency while the Chief was out of town. The officer was to be on-call and available however the dispatcher was unable to find him on several occasions. When the officer did respond to the calls for service he did not have his uniform on, his police identification available, or his weapon with him. The officer was discharged for cause and sought a hearing to contest the revocation action. An Administrative Law Judge issued a Proposed Order to revoke the officer's certification. After a Final Order was issued, the officer sought Judicial Review with the Court of Appeals.

The Court of Appeals heard the case and affirmed the lower court's decision without opinion. This means that the Court of Appeals adopted the decision and underlying reasoning from the lower court and determined that there was no need to issue an opinion or validate their ruling. [ref. A120814 Sweek v. Department of Public Safety Standards and Training]

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