

Police Policy Committee

Minutes

August 10, 2010

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 10, 2010 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:34 p.m. by Chair Andrew Bentz.

Attendees

Policy Committee Members:

Andrew Bentz, Oregon State Sheriffs' Association, Chair
Stuart Roberts, Oregon Association Chiefs of Police, Vice Chair
Kent Barker, Oregon Association Chiefs of Police
Richard Evans, Oregon State Police Command Officer
Craig Halupowski, Non-Management Law Enforcement
Eric Hendricks, Portland Police Bureau (Designee for Mike Reese)
Ryan Humphrey, Non-Management Law Enforcement
James Hunter, Oregon Association of Chiefs of Police
Tim McLain, Oregon State Police, Superintendent
Holly Russell, Oregon State Sheriffs' Association
Glen Scruggs, Non-Management Law Enforcement
Mike Wells, Non-Management Law Enforcement

Committee Members Absent

Arthur Balizan, Federal Bureau of Investigation-Oregon
Rob Gordon, Oregon State Sheriffs' Association
Marc Tisher, Non-Management Law Enforcement

Guests

Brady Stickler
Cheri Stickler

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Specialist
Marilyn Lorange, Certification and Records Supervisor
Theresa King, Professional Standards Investigative Coordinator



1. Minutes of May 11, 2010 Meeting

Approve minutes from the May 11, 2010 meeting.

See Appendix A for details

Stuart Roberts moved to approve the minutes from the May 11, 2010 meeting. Kent Barker seconded the motion. The motion carried unanimously.

2. **Christopher ERNST – DPSST #49096 RE-CONSIDERATION**

Presented by Theresa King

See Appendix B for details

Kent Barker recused himself from the discussion and voting on this case as ERNST was a former employee.

- *Stuart Roberts moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tim McLain seconded the motion. The motion carried unanimously by all voting, with Kent Barker abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on the facts involving the handling of evidence.**
 - 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 the act or failure to act creating a danger or risk to the efficient operation of the agency.**
 - f. The identified conduct did involve **Misconduct based on deviation from the standard of practice that a reasonable public safety professional would observe.**
 - 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. *Mitigating circumstances noted by the committee include the letter submitted by ERNST's agency head stating no untruthfulness was found and the fact that there was a primary officer on the scene—ERNST was the back-up officer. No aggravating circumstances were stated by the committee.*
- *Tim McLain moved that the Police Policy Committee finds ERNST'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 by all voting, with Kent Barker abstaining.*
- *Tim McLain moved that the Police Policy Committee recommends to the Board that ERNST's misconduct is a lifetime disqualifier; he may never reapply for certification. James Hunter seconded the motion. The motion carried in a 9-2 vote with Craig Halupowski and Glen Scruggs voting no, and Kent Barker abstaining.*

3. **Brock A.K. AMEELE – DPSST #51429**

Presented by Theresa King

See Appendix C for details

- ***Kent Barker moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tim McLain seconded the motion. The motion carried unanimously.***
- By discussion and consensus:
 - a.) Identify the conduct that is at issue.
 - 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 Police Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The letter written by the Chief of Corvallis Police Department supporting AMEELE and the fact that AMEELE is doing everything required to rectify the mistake were noted as mitigating circumstances by the committee. No aggravating circumstances were noted.***
- ***Kent Barker moved that the Police Policy Committee finds AMEELE's conduct does not rise to the level to warrant the denial of his Application for Training and subsequent certification(s); and therefore recommends to the Board that AMEEL's Application for Training and subsequent certification(s) not be denied. Tim McLain seconded the motion. The motion carried unanimously.***

4. Timothy AZBILL – DPSST #22819

Presented by Theresa King

See Appendix D for details

- ***Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Stuart Roberts seconded the motion. The motion the motion carried unanimously.***
- By discussion and consensus:
 - a.) Identify the conduct that is at issue:
 - b.) The identified conduct ***did*** involve **Dishonesty based on the lies and inconsistencies in interviews, the lie about writing on a poster.**
 - c.) The identified conduct ***did*** involve a **Disregard for the Rights of Others**
 - d.) The identified conduct ***did*** involve **Misuse of Authority based on the fact that AZBILL gave individuals confidential information during an open investigation.**
 - e.) The identified conduct ***did*** involve **Gross Misconduct based on the act or failure to act creating a danger or risk to the efficient operation of the agency.**
 - f.) The identified conduct ***did*** involve **Misconduct based on deviation from the standard of practice that a reasonable public safety professional would observe.**
 - 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. *Several aggravating circumstances were noted by the committee including: The statement from federal prosecutors saying they would not be able to proceed on any case where AZBILL was involved; the lie about the poster; lies and inconsistencies in interviews; AZBILL's conduct interfered in an ongoing investigation; and the fact that AZBILL did not respond to requests from DPSST. No mitigating circumstances were noted by the committee.*
- *Rich Evans moved that the Police Policy Committee finds AZBILL's misconduct 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.*
- *Kent Barker moved that the Police Policy Committee recommends to the Board that AZBILL's misconduct is a lifetime disqualifier; he may never reapply for certification. Ryan Humphrey seconded the motion. The motion carried unanimously.*

5. David Ball – DPSST #44732

Presented by Theresa King

See Appendix E for details

Ryan Humphrey recused himself from participating in discussion and voting on this case.

- *Eric Hendricks moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tim McLain seconded the motion. The motion carried unanimously by all voting, with Ryan Humphrey abstaining.*
- By discussion and consensus:
 - 1.) Identify the conduct that is at issue.
 - 2.) The identified conduct did not involve **Dishonesty**.
 - 3.) The identified conduct did involve a **Disregard for the Rights of Others based on trespassing after seeing posted notification.**
 - 4.) The identified conduct did involve **Misuse of Authority based on his interfering with an officer.**
 - 5.) The identified conduct did involve **Gross Misconduct**
 - 6.) The identified conduct did involve **Misconduct**
 - 7.) The identified conduct did involve **Insubordination regarding BALL's lack of compliance in completing a report after being asked to do so.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as mitigating circumstances the Chief's letter stating that the disregard for the rights of others was not intentional and this was possibly a training issue; and BALL could serve as a corrections officer even though he may not be suited for police work. Aggravating circumstances noted by the committee include: BALL's lack of acceptance of responsibility; He signed an*

agreement to not seek additional clarification; and the letter from BALL's co-workers saying they were having to defend suspects from BALL.

- *Kent Barker moved that the Police Policy Committee finds BALL's misconduct 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. Stuart Roberts seconded the motion. The motion carried unanimously by all voting, with Ryan Humphrey abstaining.*
- *Kent Barker moved that the Police Policy Committee recommend to the Board that the minimum period of ineligibility to reapply for certification will be ten years from the date of revocation. Glen Scruggs seconded the motion. The motion failed unanimously by all voting, with Ryan Humphrey abstaining.*
- *Eric Hendricks moved that the Police Policy Committee recommend to the Board that the minimum period of ineligibility to reapply for certification will be fifteen years from the date of revocation. Stuart Roberts seconded the motion. The motion carried unanimously by all voting, with Ryan Humphrey abstaining.*

6. Russell C. CARR – DPSST #39689

Presented by Theresa King

See Appendix F for details

- *Stuart Roberts moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Kent Barker seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on the contradictions in the letter sent to DPSST.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others regarding the sexual contact with a minor and the abuse of public trust.**
 - d. The identified conduct did not involve **Misuse of Authority**
 - e. The identified conduct did involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on violation of the law – harassment.**
 - 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 committee stated as aggravating circumstances the following: CARR was disciplined regarding a previous relationship; He has been an officer for many years; CARR knew the female was a minor; and the attempted swaying of the female's statement. There were no mitigating circumstances stated.*
- *Rich Evans moved that the Police Policy Committee finds CARR'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. James Hunter seconded the motion. The motion carried unanimously.

- *Based on the totality of the factors, Rich Evans moved that the Police Policy Committee recommends to the Board that CARR's misconduct was a lifetime disqualifier; he may never reapply for certification. Craig Halupowski seconded the motion. The motion carried unanimously.*

7. Douglas DILLER – DPSST #35913

Presented by Theresa King

See Appendix G for details

- *Tim McLain 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.
 - b. The identified conduct did 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**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee stated there was not enough information to make a decision.*
- *Kent Barker moved that the Police Policy Committee finds that DILLER'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.*

8. Clay T. DUNN – DPSST #51431

Presented by Theresa King

See Appendix H for details

- *Kent Barker moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Tim McLain seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.

- 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**
 - 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 committee stated as a mitigating factor the letter from the Sheriff saying the misconduct was 8 years ago and DUNN took responsibility in rectifying the situation. No aggravating circumstances were noted.*
 - *Tim McLain moved that the Police Policy Committee finds DUNN's conduct does not rise to the level to warrant the denial of his Application for Training and subsequent certification(s); and therefore recommends to the Board that DUNN's Application for Training and subsequent certification(s) not be denied. Rich Evans seconded the motion. The motion carried unanimously.*

9. **Erika D. GRISSOM – DPSST #36922**

Presented by Theresa King

See Appendix I for details

- *Tim McLain 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.
 - b. The identified conduct did involve **Dishonesty –Lied by omission**
 - 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 by enhancing a danger or risk to persons—GRISSOM was closest in proximity to respond to a call for back up and did not do so.**
 - f. The identified conduct did involve **Misconduct based on gross deviation from standard agency operation.**
 - 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 committee noted as a very aggravating circumstance that GRISSOM cannot be counted on for back-up due her failure to respond. No mitigating circumstances were noted.*
- *Glen Scruggs moved that the Police Policy Committee finds GRISSOM'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. Rich Evans seconded the motion. The motion carried unanimously.

- *Glen Scruggs moved that the Police Policy Committee recommends to the Board that GRISSOM's misconduct was a lifetime disqualifier; she may never reapply for certification. Kent Barker seconded the motion. The motion carried unanimously.*

10. Christopher RUSSELL – DPSST #46419

Presented by Theresa King

See Appendix J for details

- *Tim McLain moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Stuart Roberts seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty**—*RUSSELL told two different stories to two different supervisors; His story changed a couple times then at the end he recanted one of the stories; he also lied about the repair amount*
 - 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**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee found it aggravating that RUSSELL blamed the Sergeant for unfair treatment rather than taking responsibility for his own actions. No mitigating circumstances were noted.*
- *Rich Evans moved that the Police Policy Committee finds RUSSELL'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.*
- *James Hunter moved that the Police Policy Committee recommends to the Board that RUSSELL's misconduct was a lifetime disqualifier; he may never reapply for certifications. Tim McLain seconded the motion. The motion carried unanimously.*

11. Brady STICKLER – DPSST #41270

Presented by Theresa King

See Appendix K for details

- *Tim McLain moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Kent Barker seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on STICKLER's denial that his Chief told him to cease contact with the person, and STICKLER claimed he only had contact with the person three times when in actuality it was many more times than that.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on the act of stalking.**
 - d. The identified conduct did involve **Misuse of Authority based on STICKLER'S use of his position to come up with reasons to contact the person.**
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct, the act or failure to act created a risk or danger to persons.**
 - g. The identified conduct did involve **Insubordination: STICKLER did not cease contact after his Chief told him to do so.**
- By discussion and consensus, the Police Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee stated as aggravating circumstances the letter written and the amount of continued contact. There were no mitigating circumstances noted by the committee.*
- *Mike Wells moved that the Police Policy Committee finds STICKLER's conduct does rise to the level to warrant the denial of his certification(s), and therefore recommends to the Board that these certification(s) be denied. Craig Halupowski seconded the motion. The motion carried unanimously.*
- *Tim McLain moved that the Police Policy Committee recommends to the Board that STICKLER's misconduct was a lifetime disqualifier; he may never reapply for certification. James Hunter seconded the motion. The motion carried unanimously.*

12. DUII Related Discretionary Cases

Presented by Marilyn Lorance

See Appendix L for details.

The committee thanked staff for the work on this valuable project.

13. Additional Business

Presented by Eriks Gabliks

The committee and staff thanked Superintendent Tim McLain for all his dedication and hard work on this committee and the Board.

Basic Police Class Scheduling: Bi-weekly updates continue to be sent to the Chiefs, Sheriffs, and Association Executives through the listserv. DPSST is floating Basic Police classes around to meet hiring demands. Right now there is more supply than demand. The Basic Police class starting in September still has space available. That being the case, we have moved the October class to November and our goal is to run a new Basic Police class every 60 to 90 days so new hires will still be able to go through academy within the mandated time period.

MILO Range 3000: DPSST is the largest user of the MILO Range 3000 system in the United States with the exception of the US Coast Guard. As this program has proven to be a benefit to our Regional Training program as well as local agencies, DPSST has elected to upgrade the MILO equipment.

ORPAT Times as Employment Standard: City County Insurance raised the question about local agencies using ORPAT times as an employment standard. The Justice Department dictates that DPSST cannot set an employment standard. Individual agencies are responsible for their own employment standards. DPSST uses the ORPAT time standard as an academy graduation requirement. Staff along with OACP and OSSA will be involved in the conference call addressing this question.

Portland Water Bureau continues to seek law enforcement status. They found a statute that deals with water constables. DPSST does not believe that statute meets the definition of a law enforcement officer. We will keep you posted on the continued work regarding this request.

Committee Member Changes:

Superintendent Tim McLain has announced his retirement and will no longer be serving on the Board or the Police Policy Committee;

New members:

Mike Wells represents Non-Management Law Enforcement taking the place of Steve Piper; Craig Halupowski represents Non-Management Law Enforcement taking the place of Brandon Kaopuiki; Chief James Hunter represents OACP; Assistant Chief Eric Hendricks has been designated by Chief Mike Reese to serve on this committee replacing Larry O'Dea. This committee is now fully staffed.

14. Next Police Policy Committee Meeting

The next regularly scheduled Police Policy Committee meeting is November 9, 2010 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 4:06 p.m.

Appendix A

Police Policy Committee Minutes (Draft) May 11, 2010

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 11, 2010 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:32 p.m. by Chair Andrew Bentz.

Attendees

Policy Committee Members:

Andrew Bentz, Oregon State Sheriffs' Association, Chair
Stuart Roberts, Oregon Association Chiefs of Police, Vice Chair
Kent Barker, Oregon Association Chiefs of Police
Rob Gordon, Oregon State Sheriffs' Association
Michael Healy, Oregon Association of Chiefs of Police
Ryan Humphrey, Non-Management Law Enforcement
Holly Russell, Oregon State Sheriffs' Association
Glen Scruggs, Non-Management Law Enforcement
Marc Tisher, Non-Management Law Enforcement

Committee Members Absent

Arthur Balizan, Federal Bureau of Investigation-Oregon
Richard Evans, Oregon State Police Command Officer
Brandon Kaopuiki, Non-Management Law Enforcement
Tim McLain, Oregon State Police, Superintendent
Larry O'Dea, Portland Police Bureau, Asst. Chief (Designee for Rosie Sizer)
Steven Piper, Non-management Law Enforcement

Guests

Craig Halupowski, Woodburn Police Department

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorance, Certification and Records Supervisor
Mindy Tucker, Professional Standards Investigative Coordinator
Carolyn Kendrick, Administrative Specialist



15. Minutes of February 18, 2010 Meeting

Approve minutes from the February 18, 2010 meeting.

See Appendix A for details

Kent Barker moved to approve the minutes from the February 18, 2010 meeting. Rob Gordon seconded the motion. The motion carried unanimously.

The committee convened in executive session at 1:35 p.m. to discuss matters exempt from disclosure under ORS 192.660(1)(h) related to the Roger L. KADELL case.

The committee reconvened in regular session at 1:43 p.m. to take final action regarding the recommendation to the Board the restoration of KADELL's eligibility to apply for public safety certification.

16. Roger L. Kadell – DPSST #15106

Presented by Mindy Tucker

See Appendix B for details

- *Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Kent Barker seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - h. Identify the conduct that is at issue.
 - i. The identified conduct did not involve **Dishonesty**.
 - j. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - k. The identified conduct did involve **Misuse of Authority based on the girl's involvement in the cadet program**.
 - l. The identified conduct did involve **Gross Misconduct**.
 - m. The identified conduct did involve **Misconduct**.
 - n. 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 committee noted the letters showing KADELL's treatment and that there have been no further issues in his public service career.***
- *Based on the period of time and efforts toward rehabilitation, Rob Gordon moved that the Police Policy Committee finds KADELL's eligibility to apply for public safety certification be restored and recommends such to the Board. Ryan Humphrey seconded the motion. The motion carried unanimously.*

17. Travis D. Caulder – DPSST #41972

Presented by Mindy Tucker

See Appendix C for details

- *Kent Barker 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:
 - h.) Identify the conduct that is at issue.

- i.) The identified conduct did involve **Dishonesty based on lies about being in court when he wasn't; misrepresentation in references letters, and lies about not applying for employment to other agencies.**
 - j.) The identified conduct did not involve a **Disregard for the Rights of Others.**
 - k.) The identified conduct did not involve **Misuse of Authority.**
 - l.) The identified conduct did involve **Gross Misconduct based on CAULDER not responding to a call to continue on the computer.**
 - m.) The identified conduct did not involve **Misconduct.**
 - n.) 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 committee did not state any mitigating circumstances. The committee viewed as aggravating the continued misconduct after the agency addressed the issue, misrepresentation of himself, and the letter from the district attorney stating that CAULDER's conduct was deceitful.*
 - *Kent Barker moved that the Police Policy Committee finds CAULDER'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. Rob Gordon seconded the motion. The motion carried unanimously.*
 - *Rob Gordon moved that the Police Policy Committee recommends to the Board that CAULDER's misconduct is a lifetime disqualifier; he may never reapply for certification Kent Barker seconded the motion. The motion carried unanimously.*

18. Christopher C. Ernst – DPSST #49096

Presented by Mindy Tucker

See Appendix D for details

Kent Barker recused himself from conversation and voting since ERNST was one of his officers.

- *Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Glen Scruggs seconded the motion. The motion the motion carried unanimously with Kent Barker abstaining.*
- By discussion and consensus:
 - h.) Identify the conduct that is at issue:
 - i.) The identified conduct did not involve **Dishonesty.**
 - j.) The identified conduct did not involve a **Disregard for the Rights of Others.**
 - k.) The identified conduct did not involve **Misuse of Authority.**
 - l.) The identified conduct did not involve **Gross Misconduct.**
 - m.) The identified conduct did not involve **Misconduct.**
 - n.) 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 committee did not identify any mitigating or aggravating circumstances.*
- *Rob Gordon moved that the Police Policy Committee finds ERNST'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. Ryan Humphrey seconded the motion. The motion carried unanimously with Kent Barker abstaining.*

19. Michael L. Throop – DPSST #16613

Presented by Mindy Tucker

See Appendix E for details

- *Rob Gordon moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Kent Barker seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - Identify the conduct that is at issue.
 - The identified conduct did involve **Dishonesty based on the election documents.**
 - The identified conduct did not involve a **Disregard for the Rights of Others.**
 - The identified conduct did involve **Misuse of Authority in that THROOP obtained a benefit.**
 - The identified conduct did involve **Gross Misconduct based on his lack of leadership and malicious intent.**
 - The identified conduct did involve **Misconduct based on violation of the law.**
 - 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 committee did not identify any mitigating circumstances. As an immensely aggravating circumstance the committee noted the fact that THROOP was Sheriff which makes the committed misconduct even more grievous.*
- *Rob Gordon moved that the Police Policy Committee finds THROOP's eligibility to apply for public safety certification not be restored and recommends such to the Board. Michael Healy seconded the motion. The motion carried unanimously.*

20. Additional Business

Presented by Eriks Gabliks

Question to Staff: When an officer is dual certified and misconduct occurs, which Policy Committee does the case go to? Staff said the question would be discussed and decided when the next Executive Committee meets.

Director Gabliks introduced Mindy Tucker as the new Professional Standards Coordinator who took over for Theresa King.

2011-13 Budget: The good news is that we are moving forward with the request for restoration of Regional and Leadership training. The bad news is that agencies with general funding are being asked to submit a 25% budget reduction in 5% increments. We are continuing to work through the process however nothing is finalized.

Legislative Update: There are two bills DPSST is tracking but is not involved in.

1. The Oregon University System is seeking to employ officers with full police authority on campus. This bill would impact approximately 60-100 officers.
2. Tribal law enforcement agencies are seeking legislation for police power off tribal land. Should this happen, they will have to comply with all of DPSST certification and training requirements. DPSST is not initiating the legislation but we are being asked to sit at the table to address what issues may arise.

Board and Policy Committees: Chief Michael Healy has announced his retirement and will no longer be serving on committee. OACP has nominated Chief Kent Barker to serve as its representative. This leaves a vacancy in which Chief James Hunter from Klamath Falls has been nominated to fill.

Brandon Kaopuiki has indicated he is not able to serve a second term due to his work commitments. Craig Halupowski of Woodburn Police Department has been nominated to serve in his place.

The Leadership Conference being put on jointly by Chiefs, Sheriff's, State Police, and Corrections will be taking place here at the academy the end of June. We are anticipating approximately 180 attendees.

Last week DPPST held the Law Enforcement Memorial and had over 300 participants attend as well as over 60 family members. The ceremony and family luncheon was well received.

The Fallen Law Enforcement and Firefighter License Plate fundraiser, spearheaded by Mary Nunnenkamp, has raised \$27,000 in about 6 weeks to make this project a reality. Ultimately proceeds from the sale of the license plates will help families attend the national memorial when their loved one's name is added to the wall.

The DPSST sponsored Media Use of Force Training Day was not well attended but very successful. Attendees participated in Range 3000, use of force scenarios with simunitions, and listened to a presentation on Senate Bill 111. The feedback from media participants and law enforcement agencies who were present was very positive. We anticipate offering this training for legislators in the future.

21. Next Police Policy Committee Meeting

The next regularly scheduled Police Policy Committee meeting is August 10, 2010 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 2:48 p.m.

Appendix B

DEPARTMENT OF PUBLIC SAFETY STANDARDS & TRAINING

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Kristen Turley
Standards & Compliance Coordinator

SUBJECT: CHRISTOPHER C. ERNST - DPSST #49096

ISSUE:

On July 22, 2010, the Board of Public Safety Standards and Training (BPSST) met and, after reviewing the facts of the case, OSP Superintendent Tim McLain requested that the matter be pulled from the Consent Agenda for discussion.

PPC RECOMMENDATION TO BOARD:

On May 11th, 2010, the Police Policy Committee (PPC) met and, after reviewing the facts of the case, unanimously voted, with one member, Kent BARKER, Tualatin Chief of Police recusing himself from discussion and voting, to recommend that ERNST's Basic Police certification ***not*** be revoked.

The PPC adopted the Staff Report and evidentiary documents as the record on which their recommendation was based.

The Police Policy Committee determined, by consensus, that ERNST's conduct did not involve ***Dishonesty, Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct, Misconduct or Insubordination.***

BOARD DISCUSSION:

At the Board meeting Superintendent McLain explained to Board members that he had been unable to attend the May PPC meeting but that in his review of the case he continued to have concerns related to Ernst's truthfulness, based on the officer's initial written report about the handling of evidence. He noted that the officer's statement pitted himself against the other officer whose report was different. He noted that regardless of training issues at the agency, the officer should have integrity.

Sheriff Todd Anderson concurred with the concerns and pointed out Exhibit A13, pg. 3 of 4. He noted that violation of policy 344.1.1 was sustained. Jeff Martin noted the same concern, as did District Attorney Dave Schutt. Schutt further stated that an officer lives and breathes honesty and that if a DA can't trust what they read in a report it weakens further cases.

Following the discussion, the Board unanimously voted to return the Ernst matter to the Police Policy Committee for reconsideration.

BACKGROUND and OVERVIEW

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

On January 22, 2008, ERNST was hired by the Tualatin Police Department as a police officer.

On April 7, 2009, ERNST was granted a Basic Police Certificate.

On September 17, 2009, ERNST resigned in lieu of a probationary discharge from the Tualatin Police Department.

DPSST sought and obtained information that led to ERNST's resignation in lieu of probationary discharge.

In November 2009, DPSST mailed ERNST a letter advising him that his case would be heard before the Police Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

In December 2009, ERNST called and made inquiry of the basis for the review. This conversation was condensed to a memorandum to file. Subsequent to this, ERNST provided information for the Policy Committee's consideration.

This case was reviewed before the Police Policy Committee on February 4, 2010. Member Kent BARKER, Tualatin Police Chief, recused himself from the discussion. Chief BARKER had previously informed staff that he had information he believed was relevant to the case. However, because he recused himself, his statements would have been provided as an individual involved in the matter, not as a Committee member. Because the policy committees do not take oral testimony, the Committee tabled the matter until Chief BARKER could provide his information in writing to the staff, for inclusion in the staff report and exhibits.

On or about March 24, 2010, DPSST requested and received the written information from Chief BARKER.

Due to the subsequent receipt of Chief BARKER's written information, DPSST staff prepared and presented the case for the PPC's review at its May 11, 2010 meeting.

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 of 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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke ERNST's Basic Police certification based on violation of the established moral fitness standards:

1. By vote, the Police 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 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 Police Policy Committee must identify and consider any mitigating and aggravating circumstances.
 4. By vote, the Police Policy Committee finds ERNST 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*.

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Brock A.K. AMEELE, DPSST #51429

ISSUE:

Should Brock AMEELE's Application for Training and subsequent certifications be denied based on his discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

BACKGROUND and OVERVIEW

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

1. On or about June 1, 2010, AMEELE was hired by the Corvallis Police Department as a police officer.
2. On or about May 19, 2010, DPSST received AMEELE's Application for Training.
3. During a routine records check DPSST located a 2007 criminal conviction in OJIN, Criminal Trespass with Firearm. Staff noted that the criminal conviction question on the F-5 was marked both "Yes" and "No," and the "Yes" response had been lined out.
4. DPSST sought and obtained a copy of the police report from the Benton County Sheriff's Office. DPSST also sought and obtained a copy of the court judgment from the Benton County Court.
5. On or about June 10, 2010, DPSST sent both regular and certified mail to AMEELE advising him that the Police Policy Committee (PPC) would hear the matter of his arrest and subsequent convictions from 2007. The Department afforded AMEELE an opportunity to provide mitigating circumstances for the Committee's consideration.
6. On June 21, 2010, the Department received AMEELE's information for the PPC's consideration.
7. On June 22, 2010, the Department received a letter from Chief Boldizar from the Corvallis Police Department in support of AMEELE for the PPC's consideration.

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 259-008-0010(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness.

- (a) For purposes of this standard, lack of moral fitness includes, but is not limited to:
 - (A) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or
 - (B) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

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:

- viii. Whether it was a misdemeanor or violation;
 - ix. The date of the conviction(s);
 - x. Whether the public safety professional or instructor was a minor at the time of and tried as an adult;
 - xi. Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
 - xii. Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
 - xiii. 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;
 - xiv. 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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to deny AMEELE's Application for Training and subsequent certification, based on his 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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. **By vote**, the Policy Committee finds AMEELE's conduct *does/does not* rise to the level to warrant the denial of his Application for Training and subsequent certification(s); and therefore recommends to the Board that AMEELE's Application for Training and subsequent certification(s) *be denied/not be denied*.

ACTION ITEM 2:

(Required only if the Committee recommends to the Board that the Application for Training and subsequent certification be denied):

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 training and certification will be *identify period of time* from the date of denial.

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: TIMOTHY AZBILL DPSST #22819

ISSUE:

Should Timothy AZBILL's Basic Police and Basic Corrections 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 AZBILL:

On May 15, 1989, AZBILL was hired by the Prineville Police Department as a corrections officer.

On March 2, 1990, AZBILL was granted a Basic Corrections Certificate.

On July 1, 1993, AZBILL was reclassified as a police officer.

On July 29, 1994, AZBILL was granted a Basic Police Certificate.

On July 31, 2001, AZBILL resigned from the Prineville Police Department.

On October 25, 2004, AZBILL was hired by the Warm Springs Police Department as a police officer.

On February 16, 2005, AZBILL signed his Criminal Justice Code of Ethics.

On February 10, 2006, AZBILL resigned from the Warm Springs Police Department (WSPD). Shortly thereafter, DPSST received a call from Chief Enes SMITH advising that AZBILL was under investigation by the FBI and the Oregon State Police (OSP) for criminal incidents which involved untruthfulness; SMITH advised that he believed AZBILL no longer meets the minimum standards for an Oregon public safety officer and requested that DPSST review the matter.

Between 2006 and 2008, DPSST monitored the status of the ongoing criminal investigation related to AZBILL, which was then turned over to the Crook County District Attorney's Office (CCDA). In 2008, CCDA determined that criminal charges would not be filed. DPSST then re-contacted WSPD to follow up on the resignation that led to AZBILL's resignation. Warm Springs Police Chief Jim SOULES indicated that the resignation was the result of AZBILL being a suspect in an active investigation. He further stated the United States Attorney's Office was made aware of the investigation and made a "ruling" that AZBILL would not be allowed to testify in Federal Court and that they would no longer accept cases that he was involved in. SMITH reiterated his and former Chief SMITH's recommendation that AZBILL's certifications be revoked.

In April 2009 DPSST contacted Chief Billy WILLIAMS, United States Attorney's Office to follow-up on the asserted determination that AZBILL would not be used as a state's witness. WILLIAMS advised that although their office did not make a "ruling," the "office made a decision, based upon prosecutorial discretion, to no longer accept cases that he was involved in as a member of the Warm Springs Police Department." When DPSST further inquired as to the basis of this decision, WILLIAMS advised it was for "witness credibility."

In December 2009, DPSST sought and obtained the criminal investigation that had been considered, and subsequently closed by the CCDA. After a review of this matter, DPSST followed up with the OSP Detective that had handled the investigation and asked questions specific to AZBILL's credibility and involvement as outlined in the Detective's search warrant.

In December 2009 DPSST confirmed information that had been received regarding AZBILL's prior resignation from the Prineville Police Department; that he had resigned while under investigation for misconduct which involved dishonesty.

In June 2010, AZBILL was mailed a letter advising him that his case would be reviewed by the Police Policy Committee and provided him an opportunity to offer mitigating circumstances. This letter was sent certified mail, return receipt. To date DPSST has not received a response from AZBILL.

During the preparation of this case, in July 2010, DPSST found that AZBILL had been involved in a single-vehicle traffic crash was subsequently found guilty of ORS 181.700 Failure to Perform Duties of a Driver. Failure to Perform Duties of a Driver is a Class B Misdemeanor and a discretionary disqualifying crime. This crime is identified in DPSST rules as a "Category V" crime, whose elements meet DPSST's definition of Misconduct and which carries a presumptive length of ineligibility of 3 to 7 years.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke AZBILL'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds AZBILL'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 Police 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: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: David Ball, DPSST #44732

ISSUE:

Should David BALL'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?

BACKGROUND and OVERVIEW

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

On October 3, 2005, BALL was hired by the Stayton Police Department (SPD) as a police officer.

On September 27, 2004, BALL signed his Criminal Justice Code of Ethics.

On August 14, 2006, BALL was granted a Basic Police Certificate.

In March 2009, BALL resigned during an investigation. DPSST sought and obtained the underlying investigation that led to the resignation.

In June 2010, DPSST sent a letter advising BALL that this matter would be heard before the Police Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

During 2009 BALL was unavailable due to his military assignment, and in June 2010 BALL provided his information for the Committee's consideration.

Subsequent to receipt of Ball's information DPSST followed up with Ball's former employer regarding assertions he made relating to disproving all of the allegations against him.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke BALL'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds BALL'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: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: RUSSELL C. CARR DPSST #39689

ISSUE:

Should Russell CARR's Basic and Intermediate 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?

BACKGROUND and OVERVIEW

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

On February 1, 2004, CARR was hired by the Roseburg Police Department as a police officer.

On February 2, 2004, CARR signed his Criminal Justice Code of Ethics.

On June 12, 2007, CARR resigned from the Roseburg Police Department (RPD). DPSST subsequently learned that CARR had resigned in lieu of termination. DPSST requested and received the investigation from RPD.

Related to the circumstances surrounding CARR's resignation, he was charged with Sexual Abuse, involving the touching of a minor child. In April 2010, CARR ultimately plead No Contest to ORS 166.065(3) Harassment. Harassment is a Class B Misdemeanor and a discretionary disqualifying crime.

In June 2010, CARR was mailed a letter advising him that his case would be reviewed by the Police Policy Committee and provided him an opportunity to offer mitigating circumstances. This letter was sent certified mail, return receipt. To date DPSST has not received a response from CARR.

During the preparation of this case, in July 2010, DPSST found that CARR had been arrested of DUII which led to a diversion on the DUII and a conviction for Refusal to take a Breath Test. Once CARR successfully completed the Diversion, the DUII was dismissed.

On July 12, 2010, CARR provided information for the Committee's consideration.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke CARR'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds CARR'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 Police 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: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Douglas Diller, DPSST #35913

ISSUE:

Should Douglas DILLER'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?

BACKGROUND and OVERVIEW

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

On December 7, 1999, DILLER was hired by the Oregon City Police Department as a police officer.

On or about February 2, 1999, DILLER signed his Criminal Justice Code of Ethics.

On August 18, 1999, DILLER was granted a Basic Police Certificate.

On August 25, 2000, DILLER was granted an Intermediate Police Certificate.

On August 31, 2004, DILLER was granted an Advanced Police Certificate.

On or about August 17, 2007, DILLER was discharged for cause from the Oregon City Police Department.

On September 20, 2007, DPSST requested the underlying investigation that led to DILLER's discharge and subsequently received it.

On October 8, 2007, DPSST issued a Notice of Intent to Revoke, based on the discharge for cause.

On October 16, 2007, DILLER made a timely request for a hearing.

On October 22, 2007, DPSST was advised that DILLER had been reinstated as a police officer with the Oregon City Police Department.

On October 23, 2007, DPSST issued a Withdrawal of Notice and Termination of Proceedings.

On September 11, 2009, DILLER resigned in lieu of termination. DPSST sought and obtained the investigation that led to DILLER's resignation.

In December 2009, DPSST sent a letter advising DILLER that this matter would be heard before the Police Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. DILLER then contacted DPSST asking for documents relating to the resignation; however DPSST

determined that DILLER and his attorney had been provided all related documents during his pre-dismissal hearing.

DPSST sought additional information from the Oregon City Police Department regarding a 2007 discharge for cause against DILLER in which he was later returned to work.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke DILLER'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
 4. By vote, the Policy Committee finds DILLER'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 Police 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.

Attachments

Appendix H

Department of Public Safety Standards and Training Memorandum

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Clay T. Dunn DPSST #51431

ISSUE:

Should Clay DUNN's Application for Training and subsequent certifications be denied based on his discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

BACKGROUND and OVERVIEW

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

1. On June 1, 2010, DUNN was hired by the Washington County Sheriff's Office as a Deputy Sheriff for patrol.
2. On May 21, 2010, DUNN signed a completed F-5 Application for Training form indicating he was charged with reckless driving by Vancouver Police Department (Washington State) in February 2002.
3. On June 9, 2010, DPSST sought and obtained a copy of the police report involving DUNN from Vancouver Police Department records.
4. On June 10, 2010, DPSST sent both regular and certified mail to DUNN advising him that the Police Policy Committee (PPC) would hear the matter of his arrest and subsequent convictions from 2002. The Department afforded DUNN an opportunity to provide mitigating circumstances for the Committee's consideration.
5. On June 15, 2010, the Department received the requested Vancouver Police Department report. This report did not include the officer's narrative which provided the basis for the cited crimes.
6. On June 29, 2010, the Department received correspondence from Sheriff Gordon from the Washington County Sheriff's Office for consideration.
7. During the month of June 2010, DPSST sought information from DUNN relating to the officer's narrative of the incident report.
8. On July 7, 2010, DPSST followed up with Clark County Sheriff's Office (Washington) to obtain the officer's narrative.
9. On July 8, 2010, DUNN signed his Criminal Justice Code of Ethics and provided it to DPSST.
10. On July 13, 2010, DUNN provided information for the Committee's consideration.

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 259-008-0010(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness.

- (b) For purposes of this standard, lack of moral fitness includes, but is not limited to:
 - (C) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or
 - (D) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

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:
 - xv. Whether it was a misdemeanor or violation;
 - xvi. The date of the conviction(s);
 - xvii. Whether the public safety professional or instructor was a minor at the time of and tried as an adult;
 - xviii. Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
 - xix. Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
 - xx. 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;
 - xxi. 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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to deny DUNN's Application for Training and subsequent certification, based on his 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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
 4. **By vote**, the Policy Committee finds DUNN's conduct *does/does not* rise to the level to warrant the denial of his Application for Training and subsequent certification(s); and therefore recommends to the Board that DUNN's Application for Training and subsequent certification(s) *be denied/not be denied*.

ACTION ITEM 2:

(Required only if the Committee recommends to the Board that the Application for Training and subsequent certification be denied):

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 training and certification will be *identify period of time* from the date of denial.

Appendix I

Department of Public Safety Standards and Training Memorandum

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Erika D. Grissom, DPSST #36922

ISSUE:

Should Erika Grissom'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?

BACKGROUND and OVERVIEW

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

On January 4, 1999, GRISSOM was hired by the Keizer Police Department as a police officer.

On June 4, 2001, GRISSOM signed her Criminal Justice Code of Ethics.

On or about May 5, 2009, GRISSOM resigned from the Keizer Police Department during an internal investigation and under a Settlement Agreement.

DPSST sought and obtained the underlying investigation and related documents that led to GRISSOM's resignation.

In September 2009, DPSST sent a letter advising GRISSOM that this matter would be heard before the Police Policy Committee and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

In October 2009, GRISSOM provided documents for the Committee's consideration.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke GRISSOM'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds GRISSOM'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 Police 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 J

Department of Public Safety Standards and Training Memorandum

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Christopher Russell, DPSST #46419

ISSUE:

Should Christopher Russell's Basic and Intermediate 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?

BACKGROUND and OVERVIEW

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

On December 30, 2005, RUSSELL was hired by the Hillsboro Police Department as a police officer.

On January 30, 2006, RUSSELL signed his Criminal Justice Code of Ethics.

On February 7, 2007, RUSSELL was granted a Basic Police Certificate.

On February 3, 2009, RUSSELL was granted an Intermediate Police Certificate.

On November 10, 2009, RUSSELL resigned from the Hillsboro Police Department.

DPSST sought and obtained the investigation that led to RUSSELL's resignation.

In December 2009, DPSST sent a letter advising RUSSELL that this matter would be heard before the Police Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

In January 2010 RUSSELL and his legal counsel provided information for the Policy Committee's consideration.

In July 2010, DPSST sought and obtained a review and analysis of RUSSELL's information.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke RUSSELL'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds RUSSELL'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.

Attachments

Appendix K

Department of Public Safety Standards and Training Memorandum

DATE: August 10, 2010
TO: Police Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Brady Stickler, DPSST #41270

ISSUE:

Should Brady STICKLER's Basic Police certification be denied, 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 STICKLER:

On January 18, 2007, STICKLER was hired by the Stanfield Police Department as a police officer.

On April 4, 2007, STICKLER signed his Criminal Justice Code of Ethics.

On or about April 15, 2008, STICKLER was discharged for cause from the Stanfield Police Department.

On May 7, 2008, an administrative law judge (ALJ) in an employment hearing ruled that STICKLER was not willfully untruthful in a pre-disciplinary hearing; the basis of the discharge.

On May 3, 2010, STICKLER was hired by the Amity Police Department as a police officer. Subsequent to this STICKLER submitted an F-7, Application for Certification, to DPSST and the application was reviewed based on the prior discharge. At that time a determination was made that the discharge from Stanfield would not preclude STICKLER from training and subsequent certification.

A subsequent routine record check revealed that STICKLER had been charged with Stalking based on a February 2008 incident. This ultimately led to a conviction of ORS 166.090, Telephonic Harassment. Telephonic Harassment is a Class B Misdemeanor and a discretionary disqualifying crime. This crime is identified in DPSST rules as a "Category II" crime, whose elements meet DPSST's definition of Disregard for the Rights of Others, and which carries a presumptive length of ineligibility of 5 to 15 years. Because this crime is punishable as a misdemeanor, although the district attorney elected to reduce it to a violation, this matter remains under the purview of the governing administrative rules for public safety officers and therefore must be reviewed by the Policy Committee.

In June 2010, DPSST sent a letter advising STICKLER that this matter would be heard before the Police Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. On July 15, 2010, STICKLER provided information for the Committee's consideration.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to deny STICKLER'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 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds STICKLER'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 denied/not be denied*.

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 Police 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 L

DEPARTMENT OF PUBLIC SAFETY STANDARDS & TRAINING

MEMORANDUM

DATE: July 8, 2010

TO: Marilyn Lorange
Standards & Certification Program Manager

FROM: Kristen L. Turley
Standards & Compliance Coordinator

SUBJECT: Table on DUII Related Discretionary Cases

On April 22, 2010 the Board on Public Safety Standards and Training requested the attached information be provided for their review and to all Policy Committees for information only. In response to the Board's request, I have prepared the attached table summarizing all the DUII cases that the policy committees and Board reviewed from 2008 until April 2010.



Table of DUII Related Discretionary Cases 2008-April 2010

Date	Name	Agency	Action	Verdict	Count	Offense(s)	Reasoning	Notes	Outcome
4/22/10	Mastus, Christopher	Corrections	Revoke	Unanimously	3	7-09 DUII 5-09 DUII 2006 DUII	1. Driving while suspended. 2. Two events three months apart. 3. Attempted to blame crash on the passenger	None	Lifetime-Disfranchisement
10/22/09	Leffmann, James	Police	Revoke	Unanimously	4	2009 DUII 2001 DUII 2000 DUII 1997 DUII	1. Multiple offenses for the same crime.	None	10 Yrs
10/22/09	Hubbard, Brian	Police	NOT be Revoked	Unanimously	2	2009 DUII Diversion 2009 Reckless Driving	None	1. Accepted responsibility for his actions. 2. His comments showed integrity and a willingness to work on his alcohol related issues. 3. Agency addressed the matter as an employer.	
4/23/09	Bloodworth, Ryan	Police	Revoke	Unanimously	2	2008-2 DUII Convictions	1. Repeated conduct within a year of obtaining certification and did not provide information or a response to the PPC or Board.	None	10 Yrs



Table of DUII Related Discretionary Cases 2008-April 2010

4/23/09	Gartbay, Michael	Police	NOT be Denied	Unanimously	2	2002-DUII 2008-DWS	None	1. Convictions occurred prior to entering public safety, demonstrated changes in his lifestyle, living alcohol free. 2. Took responsibility for his conduct, has made contribution to his community since then and the character references.	
4/23/09	Bellinger, Charles	Police	NOT be Revoked	Unanimously	1	2007-DUII Diversions 2007-Criminal Mischief II	None	1. Single event that occurred after serving 10-yrs in public safety. 2. Did not involve dishonesty and he took responsibility for his misconduct. 3. Agency remediated his conduct through discipline and a last chance agreement.	
4/23/09	Dowdy, Levi	Police	NOT be Denied	Unanimously	1	2006-Reckless Driving DUII-Dismissed		1. Single event that occurred prior to entering public safety; 2. He was honest and has not repeated the behavior. 3. Work performance and character information received from the agency.	
1/22/09	Ogden, George	Corrections	Revoke	Unanimously	1	2006-DUII	1. Untruthfulness by omission when he failed to notify his employer of his conviction. 2. Violated his probation on several occasions.	None	Prior to new rule implementation
1/22/09	Vandeky, Terry	Telecommunicator	Revoke	Unanimously	2	2006-DUII 2008-DUII	1. Failed to complete Diversion. 2. Multiple convictions, refused intoxlyzer test. 3. Untruthfulness.	None	Prior to new rule implementation
1/22/09	VanCleave, Chris	Corrections	NOT be Revoked	7 to 3	2	2006-DUII 2006-Trespass- Dismissed	1. Pattern of police contact involving alcohol. 3. Untruthfulness.	1. Completed drug treatment, received discipline through employer and accepted responsibility. 2. Initiated contact with EAP and his positive work performance.	



Table of DUII Related Discretionary Cases 2008-April 2010

Date	Name	Agency	Disposition	Panel	Members	Case History	Comments	Recommendation	Notes
1/22/09	Hepler, James	Corrections	NOT be Revoked	6 to 3	2	2005-DUII Diversion 2008-DUII	Concern was expressed over: 1. Untruthful with police but CPC recognized he was intoxicated and was not subsequently untruthful. 2. Received a 2 nd DUII following an earlier diversion. However he has not had a problem since the last incident.	1. 28-yr career in public safety. 2. Positive work performance, treatment and compliance with the court.	
10/23/08	Matthews, Lori	Telecommunicator	Revoke	Unanimously	4	7/2007-DUII 10/2007-DUII	1. Multiple contacts with law enforcement related to alcohol abuse. 2. Attempts to use her position as a dispatcher to threaten the arresting officer. 3. Lack of truthfulness with officers and employer.	None	Prior to new rule implementation