

OREGON DPSST
ETHICS BULLETIN
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The Board on Public Safety Standards and Training (BPSST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all law enforcement officers, telecommunicators and emergency medical dispatchers in the state. This requirement also defines the procedure for the Department and Board to use when denying or revoking certification of an officer, telecommunicator or emergency medical dispatcher who has fallen below the moral fitness standards.

The Ethics Bulletin is published to provide insight into the types of misconduct that could result in revocation or denial of certification. The following cases of resulted in consideration of **revocation or denial** of certifications by DPSST in **January 2007**.

The Department continues to ensure that certified public safety officers and those seeking certification who abuse the public's trust will be held accountable for their actions.

Ethics Bulletin change: Ethics Bulletins will now include a summary of cases heard before a Policy Committee and the Board where the decision is NOT to deny or revoke a certification.

Case 1

Officer A was arrested and subsequently convicted of "Disturbing the Peace," a misdemeanor in Idaho. In this case, while intoxicated, he attempted to grab his car keys from his wife. Officer A was compliant with the responding police officers, was forthright with his employer about the arrest incident, and took responsibility for his actions. Officer A demonstrated his remorsefulness and made appropriate apologies to the arresting officers and the neighbors. Officer A also voluntarily resigned his position with the Honor Guard, believing that he did not represent the ideals for which the Honor Guard stands. Officer A had not previously engaged in misconduct and has taken concrete steps to ensure that the conduct does not reoccur. This misdemeanor conviction case was heard before the Corrections Policy Committee which considered all of the mitigating and aggravating circumstances including Officer A's truthfulness about the incident. Ultimately the Corrections Policy Committee recommended NOT to revoke Officer A's certification. This recommendation was then forwarded to the Board which affirmed the Policy Committee's recommendation. **This matter is closed and Officer A's corrections certification remains in good standing.**

Case 2

Officer B retired during an investigation involving an allegation that he struck a handcuffed prisoner. In this case, Officer B handcuffed one of two individuals engaged in a physical

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altercation and moved him away from the other party. According to Officer B, and corroborating officers, Officer B raised the prisoner's chin and with his hand 4-5 inches from the prisoner's face, slapped him. The action left no mark, nor was it forceful enough to move the prisoner's head. Officer B was forthright about his conduct and wrote a letter of apology to the prisoner. In his 30-years of service, Officer B had no prior similar sustained complaints against him. This case was heard before the Police Policy Committee, which considered all of the mitigating and aggravating circumstances, including Officer B's truthfulness about the incident. Ultimately the Police Policy Committee recommended NOT to revoke Officer B's certification. This recommendation was then forwarded to the Board which affirmed the Policy Committee's recommendation. **This matter is closed and Officer B's lapsed police certification remains in good standing.**

Case 3

Officer C was arrested and subsequently convicted of DUII. Later, Officer C was convicted of Driving While Suspended. DUII and DWS are discretionary disqualifying crimes for purposes of revocation. In each case Officer C was stopped for a minor traffic violation. Officer C was forthright with his employer about the arrest incidents, took responsibility for his actions and has taken concrete steps to ensure that the conduct does not reoccur. Officer C voluntarily resigned his position with the Tactical Team because he was no longer able to drive. According to Officer C's employer, he has fully accepted responsibility for the DUII and DWS incidents; he has spoken openly about his mistakes and has served as a role model for them on how to conduct oneself when things are not going well. Officer C's employers believe that he has restored his professional credibility and their confidence in him, and he has earned back privileges and opportunities that he had lost. This case was heard before the Corrections Policy Committee, which considered all of the mitigating and aggravating circumstances, including Officer C's truthfulness about the incident. Ultimately the Corrections Policy Committee recommended NOT to revoke Officer C's certification. This recommendation was then forwarded to the Board, which affirmed the Policy Committee's recommendation. **This matter is closed and Officer C's corrections certification remains in good standing.**

Case 4

Officer D resigned in lieu of termination after an internal investigation revealed that he had consumed alcohol while on duty during a paid lunch hour, following other incidents involving the misuse of alcohol by Officer D. On a prior occasion, Officer D arrived at an off-duty meeting with colleagues intoxicated, continued drinking, and attempted to drive after the meeting. On another occasion, Officer D was intoxicated while on duty and sought assistance with his investigation from another officer who realized that Officer D was intoxicated. Officer D had been counseled by his employer and had obtained other counseling. Officer D was notified that his case would be heard before the Police Policy Committee and he could provide any mitigating circumstances he wished to have considered. The Police Policy Committee reviewed the matter and recommended revoking his certification. The Board affirmed the Committee's recommendation. Officer D was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer D's conduct ended his 15-year career.

Officer D's Basic Police Certification was Revoked.

Case 5

Officer E, the head of an agency, retired during an investigation which revealed that on numerous occasions he had approached a subordinate whom he knew had a prescription medication for her medical condition and asked for this medication for his own use. Officer E knew each of these acts was illegal. The employee felt compelled to provide the medication because of her subordinate position. Officer E was notified that his case would be heard before the Police Policy Committee and he could provide any mitigating circumstances he wished to have considered. The Police Policy Committee reviewed the matter and recommended revoking his certification. The Board affirmed the Committee's recommendation. Officer E was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer E's conduct tarnished his 23-year career.

Officer E's Basic Police Certification was Revoked.

Case 6

Officer F resigned after an internal investigation revealed that he engaged in sexual activity while on duty. Officer F engaged in this misconduct while he was being paid to perform his job and he used agency equipment in the furtherance of his misconduct. Officer F was also untruthful with investigators. Officer F was notified that his case would be heard before the Police Policy Committee and he could provide any mitigating circumstances he wished to have considered. The Police Policy Committee reviewed the matter and recommended revoking his certifications. The Board affirmed the Committee's recommendation. Officer F was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer F's conduct ended his 3-year career.

Officer F's Basic and Intermediate Police Certifications were Revoked.

Case 7

Officer G resigned in lieu of termination after an internal investigation revealed that he had discovered a superior's memo about alleged misconduct by another officer. Officer G then shared this memo with the officer who was the subject of the alleged misconduct. Officer G lied to his superiors about his conduct. Officer G was notified that his case would be heard before the Corrections Policy Committee and he could provide any mitigating circumstances he wished to have considered. The Corrections Policy Committee reviewed the matter and recommended revoking his certification. The Board affirmed the Committee's recommendation. Officer G was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer G's conduct ended his 1-year career.

Officer G's Basic Corrections Certification was Revoked.

Case 8

Officer H was discharged for cause while under investigation for embezzlement of inmates' funds. Officer H was ordered to meet with the employer and failed to do so. Instead, Officer H misused her sick leave and moved out of the area. Officer H was discharged for violating agency policies including insubordination. Officer H was mailed a Notice of Intent to Revoke. She did not make a timely request for a hearing. Officer H's conduct ended her 1-year career.

Officer H's Basic Corrections Certification was Revoked.

QUESTIONS FROM READERS:

Why are so many cases administratively closed without denial or revocation action?

In 2006 there were 385 professional standards cases closed and of these, only 62 resulted in revocation and 1 resulted in denial. This represents approximately 16% of the cases closed.

Cases may be closed without denial or revocation action for a number of reasons. For example, they may involve a misdemeanor crime beyond the recommended period of ineligibility, or an employer "discharge for cause" where the "cause" does not meet the DPSST criteria as defined in our rules. In other cases, discretionary convictions may be treated as a diversion or dismissed following completion of sentencing requirements. When a case requires policy committee and Board review, the committees and Board may recommend that a certification NOT be revoked following their review of discretionary disqualifying conduct

UPDATE ON INELIGIBILITY WORKGROUP EFFORTS>

As was summarized last year, **Phase I** focused on identifying criminal convictions that should be mandatory, for purposes of denial or revocation of certification. Their recommendation went to each Policy Committee and the Board and are now in Rule.

Phase II is focusing on clarifying other "discretionary" misconduct, including non-mandatory crimes, falsification and moral fitness. Discretionary misconduct goes before a Policy Committee, and mitigating aggravating circumstances are considered. The workgroup focused on bringing greater clarity regarding the *types or categories* of misconduct that may impact an individual's certification. With constituent input, the workgroup arrived at the categories of misconduct and their definitions. The workgroup then identified discretionary disqualifying crimes within the appropriate categories. Based on the categories, recommended periods of ineligibility were also developed, along with recommendations regarding the criteria and process for reapplication. The following categories of misconduct were identified:

- **Dishonesty** includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation and falsification. 5 years to Lifetime
- **Disregard for Rights** of Others includes constitutional violations, violations of the Code of Ethics regarding fairness, respect for the rights of others, protecting the vulnerable and the fundamental duty to protect and serve. In this category there is a victim. 5 to 15 years.
- **Misuse of Authority** includes abuse of public trust, obtaining a benefit or avoidance of detriment, and actions under the color of office. 5 to 10 years.
- **Gross Misconduct** includes acts or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, is recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in similar circumstances. 5 to 10 years.
- **Misconduct** includes immediately obvious misconduct, willfully ignoring a standard or law, poor judgment. 3 to 7 years.
- **Insubordination** includes refusal by a public safety professional 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 refusal to comply with the rule or order constitutes a substantial breach of that person's duties. 3 to 7 years.

What is the next step?

Draft Rules are being developed for workgroup review. The workgroup will then distribute these to associations and public safety constituents for input. After input, the Rules will be forwarded to the Policy Committees and then the Board, for the formal administrative rules adoption process.

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