

OREGON DPSST
ETHICS BULLETIN
Volume No. 63



The Board on Public Safety Standards and Training (BPSST) has the legislative mandate to establish and enforce minimum standards for all law enforcement officers, fire service professionals, 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 individual who has fallen below the minimum 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 have resulted in consideration of **revocation or denial** of certifications by DPSST in **December 2008**.

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.

2008 Statistics

Cases Opened	479	Of the 476 Cases Closed:	
Cases Closed	476	Revoked	73
Cases Pending	188	Denied	3
		No Action	400

Officer A resigned in lieu of termination after an internal investigation revealed that he had repeatedly violated agency policy regarding cross-gender searches. Officer A's case was subsequently heard before the Corrections Policy Committee and the Board. After considering the fact pattern, the Committee determined that Officer A's conduct fell below the minimum standards for Oregon public safety officers and recommended Officer A's certification be revoked. The Board affirmed the Committee's recommendation. Officer A was issued a Notice of Intent to Revoke Certification. Officer A made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Officer A's certification. DPSST issued a Final Order Revoking Certification. Officer A's misconduct ended his 1-year career.

Officer A's Basic Corrections Certification was Revoked.

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Telecommunicator B was discharged for cause after an internal investigation revealed that she had engaged in a pattern of misconduct which involved the abuse of alcohol and untruthfulness on a urine analysis. In one instance, Telecommunicator B was involved in a Hit and Run; this was dismissed on a civil compromise. In another instance, Telecommunicator B was arrested for DUII and placed on diversion; she violated the diversion and this led to a conviction. In a third instance, Telecommunicator B was arrested for DUII and she tried to use her position to influence officers and then threatened officers. Under a subsequent settlement agreement, Telecommunicator B was allowed to change her discharge to a resignation. Telecommunicator B's case was subsequently heard before the Telecommunications Policy Committee and the Board. After considering the fact pattern, the Committee determined that Telecommunicator B's conduct fell below the minimum standards for Oregon public safety officers and recommended Telecommunicator B's certification be revoked. The Board affirmed the Committee's recommendation. Telecommunicator B was issued a Notice of Intent to Revoke Certification. Telecommunicator B did not make a timely request for a hearing. DPSST issued a Final Order Revoking Certification. Telecommunicator B's misconduct ended her 5-year career.

Telecommunicator B's Basic Emergency Medical Dispatcher and Telecommunicator Certifications were Revoked.

Officer C resigned in lieu of termination after an internal investigation revealed that she was untruthful with her superiors about her Oregon driver's license status; the license had been suspended. DPSST mailed Officer C a letter advising that her case would be heard before the Corrections Policy Committee and allowed her an opportunity to provide mitigating circumstances on her behalf for their consideration. DPSST routinely encloses a Stipulated Order Revoking Certification that the affected officer may consider. In this case, Officer C voluntarily signed the Stipulated Order Revoking Certification. Officer C's misconduct ended her 6-year career.

Officer C's Basic Corrections Certification was Revoked.

Officer D was discharged for cause after an internal investigation revealed that she was untruthful about events involving in-service training and injuries sustained in the training. During this investigation, additional evidence of numerous instances of untruthfulness on Officer D's employment application came to light. In making his determination the employer asserted, "Truthfulness is a core organizational value that can never be compromised or negotiated." Officer D was issued a Notice of Intent to Revoke Certification. Officer D made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Officer D's certification. DPSST issued a Final Order Revoking Certification. Officer D's misconduct ended her 7-year career.

Officer D's Basic Corrections Certification was Revoked.

Officer E resigned in lieu of termination after an internal investigation revealed that he engaged in sexual harassment of a subordinate on more than one occasion. Officer E's conduct included initiating and continuing sexually-focused conversations after being asked not to, commenting on the subordinate's body, and exposing his genitals to the subordinate. DPSST mailed Officer E a letter advising that his case would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances on his behalf for their consideration. DPSST routinely encloses a Stipulated Order Revoking Certification that the affected officer may consider. In this case, Officer E voluntarily signed the Stipulated Order Revoking Certification. Officer E's misconduct ended his 12-year career.

Officer E's Basic, Intermediate and Advanced Corrections Certifications were Revoked.

Officer F resigned after an investigation revealed that he had engaged in conduct involving domestic violence. As a part of a plea agreement with the District Attorney's office that the misdemeanor criminal charge not be filed, Officer F agreed to forfeit his law enforcement certification and never to apply for a position as a police officer in Oregon. Officer F voluntarily signed a Stipulated Order Revoking Certifications. Officer F's misconduct ended his 7-year career.

Officer F's Basic, Intermediate and Advanced Police Certifications, and DPSST Instructor Certifications were Revoked.

Officer G was discharged for cause after an internal investigation revealed he used unreasonable force against two citizens, exercised poor judgment failed to properly and thoroughly document his use of force, and made untruthful and misleading statements during the investigation into his conduct. In addition to unreasonable force on a second citizen, Officer G used his booted foot to kick the first citizen in the shin on more than one occasion while the citizen was under arrest, handcuffed and seated in the patrol vehicle. DPSST issued a Notice of Intent to Revoke. Officer G made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and affirmed DPSST's decision to revoke Officer G's certification. DPSST issued a Final Order Revoking Certification. Officer G's misconduct ended his 4-year career.

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

Officer H was discharged for cause after an internal investigation revealed that she engaged in an inappropriate relationship with an inmate under her supervision. Specifically, Officer H held hands with the inmate through his cell tray port and wrote him numerous letters with flirtatious and romantic content. DPSST issued a Notice of Intent to Revoke. Officer H made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Officer H's certifications. DPSST issued a Final Order Revoking Certification. Officer H's misconduct ended her 3-year career.

Officer H's Basic Emergency Medical Dispatcher and Basic Telecommunications Certifications were Revoked. (Note: Officer H had moved from her telecommunications discipline to the corrections discipline prior to her discharge.)

Firefighter I was discharged for cause after an internal investigation revealed that he stole a co-worker's property from the fire station where they were assigned. Firefighter I was subsequently convicted of Theft in the First Degree. DPSST issued a Notice of Intent to Revoke. Firefighter I made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Firefighter I's certifications. DPSST issued a Final Order Revoking Certification. Officer I's misconduct ended his 2-year career.

Firefighter I's NFPA Fire Fighter I and First Responder Operations certifications were Revoked.

Oregon Court of Appeals Action:

Ethics Bulletin 58-C cited the following case:

Officer C was discharged for cause after an internal investigation revealed that he used unreasonable force on a passenger of a vehicle that he had attempted to stop. Officer C initially sought to grieve his termination however his Union ultimately chose not to pursue the grievance. Officer C was issued a Notice of Intent to Revoke Certifications. Officer C made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. The ALJ issued a Proposed Order revoking Officer C's certifications. DPSST adopted the ALJ's Proposed Order in its entirety and filed a Final Order Revoking Certifications. Officer C's Misconduct ended his 9-year career.

Officer C's Basic, Intermediate and Advanced Police Certifications were Revoked.

Officer C made a petition for a judicial review with the Oregon Court of Appeals. On November 10, 2008, the Oregon Court of Appeals issued an Order of Dismissal and Appellate Judgment against Officer C.

For additional details, reference *Michael Shane Burke v. Department of Public Safety Standards and Training, A139853 (2008)*

Oregon Supreme Court Action:

In August 2003, the Corrections Policy Committee reviewed Paul Cuff's conduct when he purchased marijuana and smoked it for a period of approximately one month, tested positive in a urinalysis, and was initially untruthful with his employer. The Policy Committee recommended revocation of Cuff's certifications based on violation of the established moral fitness standards. In October 2003, the Board affirmed the Policy Committee's recommendation. In January 2004, DPSST issued Cuff a Notice of Intent to Revoke Certification. Cuff made a timely request for a hearing. In December 2004 a hearing was held before an Administrative Law Judge (ALJ). In March 2005, the ALJ issued an Order proposing that Cuff's certification be revoked. Exceptions were filed and reviewed; in January, 2006 DPSST issued Cuff a Final Order Revoking Certifications. DPSST granted Cuff a Stay of Final Order pending judicial review at the Oregon Court of Appeals. In June, 2007, the Oregon Court of Appeals reviewed and affirmed DPSST's revocation decision. Cuff then requested a review before the Oregon Supreme Court. On December 18, 2008, the Oregon Supreme Court affirmed the decision of the Oregon Court of Appeals. The Supreme Court noted, in part:

"We first observe that it is difficult to conceive of any viable way to evaluate a person's present moral fitness without considering the person's past conduct. A person's "past actions are relevant to his present character and fitness." In re *Beers*, 339 Or 215, 224, 118 P3d 784 (2005) . . . Moreover, nothing in the text of either ORS 181.662(1)(c) OAR 259-008-0010(6) expressly limits in any way the temporal scope of the evidence that DPSST may consider in evaluating an officer's present fitness in addition, context demonstrates that DPSST is expected to consider all relevant evidence in making its determination. . . . Nothing in the text or context . . . precludes DPSST from considering, in a certification revocation proceeding, any and all conduct that bears on petitioner's current moral fitness as a law enforcement officer, whenever that conduct occurred. That is the only issue before us. . ."

For additional details, reference *Paul D. Cuff v. Department of Public Safety Standards and Training*. CA132424; SC S055649 (2008)

While this matter was pending, this officer's Basic Corrections certification was revoked based on an unrelated incident. Reference Ethics Bulletin 62-J.

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