

OREGON DPSST  
***ETHICS BULLETIN***  
Volume No. 75



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 2009**.

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.

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**2009 Statistics**

<b>Cases Opened</b>	<b>401</b>	<b>Of the 414 Cases Closed:</b>	
<b>Cases Closed</b>	<b>414</b>	<b>Revoked</b>	<b>98</b>
<b>Cases Pending</b>	<b>179</b>	<b>Denied</b>	<b>05</b>
		<b>Reinstated</b>	<b>01</b>
		<b>No Action</b>	<b>311</b>

**Officer A** was convicted of one count of Menacing, fifteen (15) counts of First Degree Official Misconduct and five (5) counts of Telephonic Harassment. After being notified of Officer A's arrest DPSST provided the District Attorney with a Stipulated Order to be used as part of any plea agreement. Officer A signed the Stipulated Order, ending his 4- year career.

**Officer A's Basic Police Certification was Revoked.**

**Officer B**, an agency head, voluntarily signed a Stipulated Order Revoking Certifications after an investigation revealed he had engaged in conduct unbecoming an officer and was untruthful with investigators. Officer B's misconduct ended his 32-year career.

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

**Officer C** received a probationary discharge from his employer after an investigation revealed that while he was attending training at the DPSST Academy he violated Academy policy and was untruthful with Academy staff. Officer C was advised that his misconduct

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would be reviewed by the Police Policy Committee and he voluntarily signed a Stipulated Order Revoking Certifications. Officer C's misconduct ended his 3-year career.

**Officer C's Basic Emergency Medical Dispatcher and Basic Telecommunicator Certificates were Revoked.**

**Officer D** was discharged for cause after an internal investigation revealed he violated numerous agency policies, which involved criminal conduct and untruthfulness. Officer D was mailed a Notice of Intent to Revoke. He made a timely request for a hearing through his legal counsel based on a pending arbitration. Prior to arbitration the union withdrew their representation of Officer D and the grievance. DPSST re-contacted Officer D and allowed him an additional (20) days to request a hearing. Officer D did not make a timely request for hearing and was subsequently issued a Default Final Order Revoking Certification. Officer D's misconduct ended his 9-year career.

**Officer D's Basic and Intermediate Police and Basic and Intermediate Corrections Certifications were Revoked.**

**Officer E** was discharged for cause from his employment with a public safety agency. Due to the nature of his employment responsibilities his case was required to be presented to the Police Policy Committee. Officer E was contacted by DPSST and advised that his case would be reviewed by the Police Policy Committee. Officer E was allowed an opportunity to provide mitigating circumstances on his behalf and was also offered a Stipulated Order Revoking Certifications. After the Policy Committee reviewed the case, they voted to recommend that Officer E's certifications be revoked and that this be a five-year disqualifier. The Board affirmed the Committee's recommendation. Officer E was mailed a Notice of Intent to Revoke. He made a timely request for a hearing. Prior to going to hearing Officer E contacted DPSST and signed a Stipulated Order Revoking his certifications. Officer E's misconduct ended his 15-year career.

**Officer E's Basic, Intermediate, Advanced, Supervisory & Management Police Certifications were Revoked.**

**Officer F** voluntarily signed a Stipulated Order Revoking Certifications while being investigated by the employer for inappropriate contact with an inmate involving the distribution of contraband. Officer F's misconduct ended his 4-year career.

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

**Officer G** was discharged for cause after an internal investigation revealed that he engaged in a series of incidents involving poor performance, poor judgment and violation of agency policies. These incidents included engaging in unbecoming conduct during a personal matter while on duty, pointing a Taser at a citizen's head as a practical joke, and using poor judgment and unprofessional conduct during an on-duty call. DPSST issued Officer G a Notice of Intent to Revoke Certifications. Officer G made a timely request for a hearing. DPSST filed a Motion for Summary Determination, asserting there were no material facts at issue. Officer G filed a Reply to the Motion and DPSST filed a Response to the Reply. The Administrative Law Judge affirmed DPSST's Motion and issued a Proposed Order that Officer G's certifications be revoked. Officer G did not file timely exceptions. Officer G's misconduct ended his 5-year career.

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

**Fire Service Professional H** was convicted of two counts of Felon in Possession of a Firearm on February 4, 2008, a discretionary disqualifying conviction for fire service professionals. Fire Service Professional H was contacted by DPSST and advised that his case would be reviewed by the Fire Policy Committee. Fire Service Professional H was allowed an opportunity to provide mitigating circumstances on his behalf and was also offered a Stipulated Order Revoking Certifications. After the Policy Committee reviewed the case, they unanimously voted to recommend that Fire Service Professional H's certifications be revoked and denied and that the initial minimum period of ineligibility to re-apply for certifications would be March 1, 2011. The Board affirmed the Committee's recommendation. Fire Service Professional H was mailed a Notice of Intent to Revoke and Deny. He did not make a timely request for a hearing and was subsequently issued a Default Final Order Revoking and Denying Certification.

**Fire Service Professional H's NFPA Fire Fighter, Wildland Interface Fire Fighter and First Responder Operations Certifications were Revoked and his NFPA Driver Apparatus Operator Certification was Denied.**

**Fire Service Professional I** was convicted of First Degree Theft on August 14, 2007, a discretionary disqualifying conviction for fire service professionals. Fire Service Professional I was contacted by DPSST and advised that her case would be reviewed by the Fire Policy Committee. Fire Service Professional I was allowed an opportunity to provide mitigating circumstances on her behalf. After the Policy Committee reviewed the case, in a 7 to 1 vote they recommended that the Fire Service Professional I's certification be denied and that the initial minimum period of ineligibility to re-apply for certifications would be September 1, 2010. The Board affirmed the Committee's recommendation. Fire Service Professional I was mailed a Notice of Intent to Deny. She did not make a timely request for a hearing and was subsequently issued a Default Final Order Denying Certification.

**Fire Service Professional I's NFPA Fire Fighter Certification was Denied.**

**Fire Service Professional J** was convicted of First Degree Theft on June 29, 2007, a discretionary disqualifying conviction for fire service professionals. Fire Service Professional J was contacted by DPSST and advised that his case would be reviewed by the Fire Policy Committee. Fire Service Professional J was allowed an opportunity to provide mitigating circumstances on his behalf. After the Policy Committee reviewed the case, they unanimously voted to recommend that Fire Service Professional J's certification be denied and that the initial minimum period of ineligibility to re-apply for certifications would be July 1, 2011. The Board affirmed the Committee's recommendation. Fire Service Professional J was mailed a Notice of Intent to Deny. He did not make a timely request for a hearing and was subsequently issued a Default Final Order Denying Certification.

**Fire Service Professional J's NFPA Fire Fighter Certification was Denied.**

**Fire Service Professional K** was convicted of Possession of a Controlled Substance on November 16, 2004; Driving While Suspended on April 21, 2005; Possession of a Controlled Substance, Manufacturing or Delivery of a Controlled Substance and Felon in Possession of a Firearm on December 8, 2005, all discretionary disqualifying convictions for fire service

professionals. Fire Service Professional K was contacted by DPSST and advised that his case would be reviewed by the Fire Policy Committee. Fire Service Professional K was allowed an opportunity to provide mitigating circumstances on his behalf. After the Policy Committee reviewed the case, they unanimously voted to recommend that Fire Service Professional K's certification be denied and that the initial minimum period of ineligibility to re-apply for certifications would be two years. The Board affirmed the Committee's recommendation. Fire Service Professional K was mailed a Notice of Intent to Deny. He did not make a timely request for a hearing and was subsequently issued a Default Final Order Denying Certification. Fire Service Professional K's misconduct resulted in him being ineligible for certification in the State of Oregon.

**Fire Service Professional K's NFPA Driver/Apparatus Operator Certification was Denied.**

### **Oregon Court of Appeals Action:**

In 2007 Ethics Bulletin 51-B cited the following case:

**Officer B** was discharged for cause after an internal investigation revealed he violated numerous agency policies. Officer B's union declined to take Officer B's case to arbitration. One example of Officer B's misconduct included his misrepresentation to people that he was an undercover officer assigned to a Task Force, which he was not. Officer B was sent a Notice of Intent to Revoke. Officer B made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Judgment) 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 issue for which a decision is sought. The ALJ issued a Proposed Order revoking Officer B's Basic and Intermediate Police certifications. Officer B filed exceptions to the Proposed Order, which DPSST considered. DPSST adopted the Judge's Proposed Order in its entirety and filed a Final Order. Officer B's misconduct ended his 4-year career.

**Officer B's Basic and Intermediate Police Certifications were Revoked.**

Subsequent to this Officer B filed a Petition for a Judicial Review with the Oregon Court of Appeals. On November 25, 2009, the Oregon Court of Appeals issued a Judgment Affirming Without Opinion DPSST's Final Order revoking this Officer's certifications.

For additional details, reference *Bryan E Witt v. Department of Public Safety Standards and Training, A137691.*

### **Withdrawal of Final Order and Reinstatement of Certification Action**

In 2006, Ethics Bulletin 36-D cited the following case:

#### **Case 4**

**Officer D** was discharged for cause after repeated attendance problems that resulted in progressive discipline. Ultimately, Officer D told his employer that he was planning on leaving work early and did so even after he was ordered not to. Officer D was discharged for cause, for insubordination. Officer D was issued a Notice of Intent to Revoke. He made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary

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Judgment) 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 issue for which a decision is sought. The ALJ issued a Proposed Order revoking Officer D's Basic Police certification. Neither Officer D nor his attorney filed exceptions to the Judge's Order. DPSST adopted the Judge's Proposed Order in its entirety and filed a Final Order. Officer D's conduct ended his 32-year career.

### **Officer D's Basic Police Certification was Revoked**

Officer D appealed his employment termination with the State of Oregon Worker's Compensation Board and with the Employment Department, but he did not prevail.

Officer D then filed a lawsuit against his prior employer asserting in part, wrongful discharge. A jury returned a verdict in Officer D's favor on his claims for failure to pay overtime under FLSA and wrongful discharge. Officer D subsequently appealed to DPSST to reinstate his certification. Because the discharge was ruled to have been wrongful, DPSST determined that the appropriate course of action was to withdraw its final order that had been based on the discharge for cause. After evaluating the elements of the underlying conduct that remained intact after the verdict, DPSST determined that the matter should be closed.

### **Officer D's Basic Police Certification was Reinstated.**

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#### **Without Integrity Nothing Else Matters**

*Trustworthiness is essential to personal credibility and public trust. Being a police officer has many job requirements, the most important one is the ability to provide credible testimony. The victim and our pursuit of justice depends on it. Not only is honesty a job requirement it is an expected responsibility for all employees of their department.*

*Every police officer has taken an oath, promising to live by the Code of Ethics. The oath in essence is a contract between the officer, his/her employer and the public.*

*To protect; the public, organizations and their members' ability to serve the public, we must defend and protect our commitment to integrity which includes honesty. Allowing dishonesty in the workplace when it involves interviews, testimony and reports cannot be tolerated. Agencies and officers' commitment to honesty is non-negotiable. Without integrity nothing else matters.*

#### **By Chief Randy Schoen, Medford Police Department**

Medford Police Chief, Randy Schoen began his law enforcement career with the Grants Pass Police Department in 1978. Chief Schoen joined the Medford Police Department in 1984 where he served in several positions prior to being appointed Chief of Police in 2007.

Chief Schoen holds a Bachelor's of Science Degree in Managerial Leadership from Northwest Christian College and is a graduate of the F.B.I. National Academy.

Chief Schoen has long been an advocate of transparent community policing, with strong commitments to: integrity, service and continuous improvement.

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