

Police Policy Committee

Minutes

September 1, 2011

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on September 1, 2011 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 Kent Barker.

Attendees

Policy Committee Members:

Kent Barker, Oregon Association Chiefs of Police
Tom Bergin, Oregon State Sheriffs' Association
Chris Brown, Oregon State Police, Superintendent
Richard Evans, Oregon State Police Command Officer
Robert Gordon, Oregon State Sheriffs' Association
Craig Halupowski, Non-Management Law Enforcement
Eric Hendricks, Portland Police Bureau (Designee for Chief Mike Reese)
Ryan Humphrey, Non-Management Law Enforcement
James Hunter, Oregon Association Chiefs of Police
Marc Tisher, Non-Management Law Enforcement
Mike Wells, Non-Management Law Enforcement
Mathew Workman, Oregon Association Chiefs of Police

Committee Members Absent

Glen Scruggs, Non-Management Law Enforcement
Holly Russell, Oregon State Sheriffs' Association

Guests

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Specialist
Marilyn Lorance, Standards and Certification Program Supervisor
Leon Colas, Professional Standards Coordinator/Investigator



1. Minutes of May 19, 2011 Meeting

Approve minutes from the May 19, 2011 meeting.

See Appendix A for details

- *Tom Bergin moved to approve the minutes from the May 19, 2011 Police Policy Committee meeting. Erik Hendricks seconded the motion. The motion carried unanimously.*

2. Scott E. Hoffert, Sherwood Police Department – DPSST #44378

Presented by Leon Colas

See Appendix B for details

- ***Craig Halupowski 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:
 - a. Identify the conduct that is at issue, specific to this case: ***Dishonesty***
 - b. The identified conduct ***did*** involve ***Dishonesty based on HOFFERT's misrepresentation of facts, false statements regarding act, and his dishonesty with his Sergeant and co-workers.***
 - c. The identified conduct ***did not*** involve a ***Disregard for the Rights of Others.***
 - d. The identified conduct ***did*** involve ***Misuse of Authority. HOFFERT used his position to meet and establish relationships. This abuses the public trust. He also used his position to interfere in a DUI case.***
 - e. The identified conduct ***did*** involve ***Gross Misconduct based on HOFFERT's failure to respond to a call for back up.***
 - f. The identified conduct ***did*** involve ***Misconduct. The entire situation of transporting civilians without reporting in, or using CAD, is a gross deviation of the standard of practice generally followed by public safety personnel.***
 - g. The identified conduct ***did*** involve ***Insubordination based on HOFFERT's continued involvement in another officer's case after being told to stand down.***
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. ***The policy committee members noted as aggravating circumstances the severity of the offenses, HOFFERT's minimization of the situation, his refusal to accept responsibility, and his referral to his untruthfulness as a "difference of opinion".***

No mitigating circumstances were identified by the policy committee.

- ***Craig Halupowski moved that the Police Policy Committee finds HOFFERT'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.***
- ***Chris Brown moved that the Police Policy Committee recommends to the Board that HOFFERT's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; HOFFERT may never reapply for certification. Craig Halupowski seconded the motion. The motion carried unanimously.***

3. Scott L. Whitehead, Carlton Police Department – DPSST #19266

Presented by Leon Colas

See Appendix C for details

For the record Mathew Workman, Richard Evans, Kent Barker, and Rob Gordon noted they have all worked with WHITEHEAD however they are able to remain unbiased in their decision.

- *Craig Halupowski moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Chris Brown seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Dishonesty*
 - b. The identified conduct did involve **Dishonesty**. *WHITEHEAD admitted his transgressions to DPSST however lied to his Chief. WHITEHEAD stated he did not share or view items on the website, however forensics proved he did. There were several occasions of lying by omission. It was deceptive of WHITEHEAD to have his Chief write a letter on his behalf without the Chief knowing all the information.*
 - 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 compromised efficiency of the agency; a gross deviation from the standard of practice followed by public safety officers.**
 - f. The identified conduct did involve **Misconduct based on WHITEHEAD'S inappropriate use of the agency computer and his abuse of public trust.**
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee noted WHITEHEAD's hiding behind nondisclosure, the minimization of responsibility in his letter, and the fact WHITEHEAD drug his current Chief unknowingly into deception as aggravating circumstances.*

The only mitigating circumstance noted by the policy committee is that WHITEHEAD does a good job on the streets.

- *Mathew Workman moved that the Police Policy Committee finds WHITEHEAD'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. Chris Brown seconded the motion. The motion carried unanimously.*
- *Craig Halupowski moved that the Police Policy Committee recommends to the Board that WHITEHEAD's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; WHITEHEAD*

may never reapply for certification. Mike Wells seconded the motion. The motion carried unanimously.

4. Law Enforcement Memorial Wall Nomination

Officer Christopher Kilcullen, City of Eugene Police Department
Presented by Eriks Gabliks

See Appendix D for details

- *Tom Bergin moved that the Police Policy Committee recommends to the Board the addition of Christopher Kilcullen's name to the Oregon Fallen Officer Memorial Wall. Craig Halupowski seconded the motion. The motion carried unanimously.*

5. Law Enforcement Memorial Wall Nomination

Deputy Sheriff J.F. Lewis, Lake County Sheriff's Office
Presented by Eriks Gabliks

See Appendix E for details

- *Craig Halupowski moved that the Police Policy Committee recommends to the Board the addition of J.F. Lewis' name to the Oregon Fallen Officer Memorial Wall. Chris Brown seconded the motion. The motion carried unanimously.*

6. Additional Business

Director's Report

2011-2013 Budget Recap

The Oregon Legislative Assembly has completed its work on DPSST's 2011-2013 budget. The largest reduction was in the Criminal Fines and Assessments Account with a reduction of 13 employees and two Basic Police classes. In its original budget reduction proposal, DPSST had proposed elimination of the DOC Audit Program. As the legislative process unfolded, DPSST was able to find other reductions that allowed this valuable program to remain intact. DPSST was able to mitigate much of the impact of the personnel cuts by keeping vacant positions open. Unfortunately three positions were lost due to lay-offs. The Legislature did give DPSST permission to request the restoration of the lost Basic Police Classes if hiring trends require additional classes be offered at the Academy. The Fire and 9-1-1 Programs did not take any reductions as they are from dedicated funds. The fee increase proposed in the Private Security licenses was approved by the Legislature but at a lesser amount than approved by the constituents. The amount will allow the DPSST Private Security Program to remain whole during the 2011-2013 biennium. Eriks thanked all of the PPC members and the various public safety organizations for their support of DPSST programs and employees during the session.

2011 Legislative Session Recap

There were three bills that DPSST was involved in that had an impact on the Police Policy Committee. The first is the Tribal Law Enforcement Officer Bill which will allow tribal officers the ability to have peace officer powers off tribal lands. The legislation requires that all members of the

tribal law enforcement agency comply with DPSST standards if the agency is to have state peace officer powers. The bill also requires that tribal law enforcement agencies submit proof of insurance as well as proof that no tribal law enforcement officers have tribal criminal convictions. DPSST will be asking the Board (BPSST) to adopt Temporary Administrative Rules to start the program while staff works with the PPC and the Board to adopt Permanent Administrative Rules. The second bill involves University Police Officers. The Oregon University System will now have the ability to establish law enforcement agencies and law enforcement officers with the permission of the Chancellor and the Board of Higher Education. DPSST is working with the university system on this process and administrative rules will come to the PPC as they are developed. The University System is taking this new statute very seriously and will only give a university permission to establish a law enforcement agency if it can demonstrate financial ability, proper oversight and leadership, and established policies and procedures which will govern the employees. Finally, the legislature approved the Law Enforcement Medal of Ultimate Sacrifice that will honor fallen peace officers and the families they left behind. DPSST staff is working with the Medal of Honor Commission to establish rules and process for the award of this new medal.

Listening Tour

Members of the DPSST Leadership Team recently visited more than a dozen communities across the state to meet with stakeholders. The attendance was very good as was the information that was provided. DPSST asked what we are doing well, what needed to be improved, and what we are not currently doing that should be considered. The comments are being transcribed into a comprehensive document and will be shared with constituents as soon as they are completed. DPSST will provide feedback to the attendees and also post the comments received as well as actions either taken or in progress to address what was heard from the field. One area of concern statewide was the current process used for Supervision and Middle-Management training. Based on the feedback, DPSST staff is working on solutions that will address the concerns and improve the process.

Certification Matrix Work Group

DPSST Staff continues to work with police, corrections, parole and probation, and telecommunications professions to review and update the certification matrix used to award upper levels of certification (Intermediate, Advanced, Supervisor, etc.). This issue was raised during our last Listening Tour and a number of work groups have been working on this for over two years. A meeting was held on August 17, 2011 at DPSST to discuss progress as well as challenges. It is important to note that no changes have been made to date and that the respective Committees and the Board will see any proposals before they are sent out for public comment as part of the Administrative Procedures Act.

Instructor Standards

At last week's meeting of the Board, a question arose regarding DPSST's oversight of instructors. The issue arose because an instructor provided incorrect information to an agency which potentially exposed them to liability. DPSST staff only has oversight over instructors that have either DPSST certification as an officer, or those who instruct in mandated classes. Due to budget reductions, DPSST no longer certifies non-mandated DPSST classes or instructors. DPSST staff continues to provide information to agencies statewide reminding them that they need to vet the instructors they are using to ensure that they are qualified and capable to deliver the class.

Review of 16-Week Basic Police Course

As DPSST begins its 50th year of service, and as the 16-week Basic Police Course turns five years old, it's time to bring in our constituents to review the Basic Police Course from front to back to ensure that we (DPSST) are meeting the needs of our stakeholders. Eriks asked each organization (OSSA, OACP, PPB, OSP, OPOA, OCPA) to submit the names of two representatives to serve on the sub-committee. The sub-committee will submit its report and recommendations to the Police Policy Committee for review and consideration. Eriks asked that representatives not work for DPSST as part-time employees so that the review process can remain pure. The PPC asked Eriks to contact the Executive Directors of the respective organizations to request participants. DPSST hopes to have a thorough review completed by the end of the year with changes hopefully implemented at the beginning of 2012.

Fallen Public Safety Officer License Plates

While not a DPSST issue, here is an update on the Fallen Public Safety Officer License Plate Program. This program provides financial assistance to family members of firefighters and law enforcement officers (including corrections and parole & probation officers) killed in the line of duty when they attend the national ceremony the year their loved one is added. The license plates have been available for almost six months. Under the leadership of Mary Nunnenkamp and the use of social media, over \$35,000 has been raised to date for this fund. The fund is managed by DPSST but under the oversight of a 501C3 Board of Directors.

Line of Duty Death (LODD) Resource Guide

For over a year, DPSST has worked with OACP, OSSA, OSP, DOC, OPOA, OCPA, and COPS to develop an L-O-D-D Resource Guide that can be used by law enforcement agencies if they have either an on-duty or off-duty death. The guide is completed and will be presented to chiefs and sheriffs at their annual joint meeting at DPSST later this month. The guide will also be made to all of the partner organizations electronically so that it can be accessible on-line when needed. Eriks thanked all of the agencies for their assistance with the development of this valuable tool.

7. Next Police Policy Committee Meeting – November 17, 2011 at 1:30 p.m.

With no further business before the committee, Rob Gordon moved that the Police Policy Committee meeting be adjourned. Tom Bergin seconded the motion. The motion carried unanimously and the meeting adjourned at 3:50 p.m.

Appendix A

Police Policy Committee Minutes (Draft) May 19, 2011

The Police Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 19, 2011 in the Governor Victor G. Atiyeh Boardroom of the Oregon Public Safety Academy. The meeting was called to order at 1:33 p.m. by Chair Andrew Bentz.

Attendees

Policy Committee Members:

Andrew Bentz, Oregon State Sheriffs' Association, Chair
Kent Barker, Oregon Association Chiefs of Police
Tom Bergin, Oregon State Sheriffs' Association
Chris Brown, Oregon State Police, Superintendent
Richard Evans, Oregon State Police Command Officer
Eric Hendricks, Portland Police Bureau (Designee for Chief Mike Reese)
Ryan Humphrey, Non-Management Law Enforcement
Stuart Roberts, Oregon Association Chiefs of Police, Vice Chair
Holly Russell, Oregon State Sheriffs' Association
Glen Scruggs, Non-Management Law Enforcement
Marc Tisher, Non-Management Law Enforcement
Mike Wells, Non-Management Law Enforcement

Committee Members Absent

Arthur Balizan, Federal Bureau of Investigation-Oregon
Craig Halupowski, Non-Management Law Enforcement
James Hunter, Oregon Association Chiefs of Police

Guests

Chief Mathew Workman, Warrenton Police Department
Lieutenant Bill Steele, Washington County Sheriff's Office
Steve Beck, Oregon Council of Police Associations

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Specialist
Marilyn Lorange, Standards and Certification Program Supervisor
Theresa King, Certification and Compliance Coordinator
Linsay Bassler, Compliance Coordinator



1. Minutes of February 17, 2011 Meeting

Approve minutes from the February 17, 2011 meeting.

See Appendix A for details

- *Thomas Bergin moved to approve the minutes from the February 17, 2011 Police Policy Committee meeting. Chris Brown seconded the motion. The motion carried unanimously.*

2. Discussion Item: Certification Chart Workgroup Recommendations

Presented by Linsay Bassler

See Appendix B for details

Committee members shared their appreciation for all staff has done to facilitate this project. Staff asked the committee for input, direction, and additional people for the workgroup. Once the product content is adjusted, the next phase for the workgroup would be determining implementation strategies. The committee agreed that once the certification chart is implemented, it would only affect officers from the date of implementation. Glenn Scruggs volunteered to be part of the workgroup.

This information is being presented at the Sheriff's meeting the beginning of June. All input and feedback is to be directed to Linsay Bassler at DPSST.

3. OAR 259-008-0010 – Proposed Rule

Presented by Marilyn Lorance

See Appendix C for details

- *Kent Barker moved that the Police Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0010 with the Secretary of State as a proposed rule. Chris Brown seconded the motion. The motion carried unanimously.*
- *Kent Barker moved that the Police Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0010 with the Secretary of State as a permanent rule if no comments are received. Chris Brown seconded the motion. The motion carried unanimously.*

It is the consensus of the committee that there is no significant fiscal impact on small businesses.

4. Herman B. Barnes, Washington County Sheriff's Office – DPSST #29514

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. Kent Barker seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Misuse of funds.*
 - b. The identified conduct did involve **Dishonesty based on untruthfulness regarding explanation of the misuse of funds.**

- c. The identified conduct did involve a **Disregard for the Rights of Others**. *BARNES discussed with a subordinate how the use of funds was to be presented. This placed the subordinate in a very difficult position.*
 - d. The identified conduct did involve **Misuse of Authority based on misuse of funds and encouraging a subordinate to lie for him.**
 - e. The identified conduct did involve **Gross Misconduct based on misuse of investigative funds which is a gross deviation of the standard of practice.**
 - f. The identified conduct did involve **Misconduct based on violation of standard of practice.**
 - g. The identified conduct did involve **Insubordination**. *BARNES violated an order not to discuss information.*
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as aggravating circumstances BARNES' refusal to sign a stipulated order, no apology was made, no remorse was shown, and no reason was given for misusing the funds.*

No mitigating circumstances were identified by the committee.

- *Kent Barker moved that the Police Policy Committee finds BARNES' 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. Mike Wells seconded the motion. The motion carried unanimously.*
- *Chris Brown moved that the Police Policy Committee recommends to the Board that BARNES' conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; BARNES may never reapply for certification. Kent Barker seconded the motion. The motion carried unanimously.*

5. Joshua Bradley, Clackamas County Sheriff's Office – DPSST #29514

Presented by Theresa King

See Appendix E for details

- *Mike Wells moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Richard Evans seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *BRADLEY searched a purse without owner's consent, missed court and lied about the reason, failed to report a theft, and was untruthful regarding a traffic stop.*
 - b. The identified conduct did involve **Dishonesty based on untruthfulness in initial interview with supervisor about the traffic stop and subsequent untruthfulness regarding missing court and reporting a theft.**

- c. The identified conduct did involve a **Disregard for the Rights of Others based on BRADLEY's unwarranted search of the purse.**
 - d. The identified conduct did involve **Misuse of Authority. BRADLEY violated the public's trust regarding the unwarranted search of the purse and his attempt to cover his mistake, and the traffic stop made without probable cause.**
 - e. The identified conduct did not involve **Gross Misconduct.**
 - f. The identified conduct did involve **Misconduct based on missing court, improper search, and failure to report, all of which are deviations in the standard of practice for public safety officers.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as aggravating circumstances the clear pattern of behavior, progressive discipline, no rebuttal, lack of regard for court appearance, and as BRADLEY makes mistakes, he tries to lie his way out of them.*
 - *Mike Wells moved that the Policy Committee finds BRADLEY'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. Chris Brown seconded the motion. The motion carried unanimously.*
 - *Ryan Humphrey moved that the Police Policy Committee recommends to the Board that BRADLEY's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; BRADLEY may never reapply for certification. Kent Barker seconded the motion. The motion carried unanimously.*

6. Scott Cunningham, Canby Police Department – DPSST #28956

Presented by Theresa King

See Appendix F for details

- *Kent Barker moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based, with the correction of Canby Police Department being the employing agency. Tom Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Numerous instances of sexual acts and misconduct while on duty, dereliction of duty as an officer and sergeant, untruthful by own admission.*
 - b. The identified conduct did involve **Dishonesty based on untruthfulness during 2002 and 2009 internal investigations.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others by not being available for calls due to on duty affairs that occurred on and off city**

property, direct failure to protect and serve the citizens, and the hostile work environment he created.

- d. The identified conduct **did** involve **Misuse of Authority based on CUNNINGHAM's encouragement of subordinates to engage in inappropriate acts.**
 - e. The identified conduct **did** involve **Gross Misconduct based on gross deviation of normal practice and failure to supervise subordinates.**
 - f. The identified conduct **did** involve **Misconduct based on gross deviation of normal practice, repeated instances of sexual misconduct, and failure to supervise subordinates.**
 - g. The identified conduct **did not** involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact no letter was received from CUNNINGHAM, no indication of remorse, as a supervisor he put subordinates in an awkward position, and he encouraged similar misconduct in others.*

No mitigating circumstances were noted by the committee.

- *Thomas Bergin moved that the Police Policy Committee finds CUNNINGHAM'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. Kent Barker seconded the motion. The motion carried unanimously.*
- *Mike Wells moved that the Police Policy Committee recommend to the Board that HARRISON's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, a lifetime disqualifier; CUNNINGHAM may never reapply for certification. Kent Barker seconded the motion. The motion carried unanimously.*

7. Brent M. Earhart, Aurora Police Department – DPSST #42940

Presented by Theresa King

See Appendix G for details

- *Mike Wells moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Thomas Bergin seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case. ***Untruthfulness regarding having an attorney.***
 - b. The identified conduct **did** involve **Dishonesty based on EARHART's lie regarding having an attorney, the perpetuation of that lie, and additional untruthfulness in his rebuttal letter.**
 - 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** involve **Insubordination based on refusal to comply with the City Manager’s request to supply documents which was a furtherance of the lie told.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the improper completion of EARHART’s background investigation prior to his being hired, his letter addressed to this committee furthered his lie, and the mere fact of EARHART being Chief—he should know better.*

The mitigating circumstances identified by the committee were the letters written by the Mayor and an Attorney.

- *Chris Brown moved that the Police Policy Committee finds EARHART’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. Mike Wells seconded the motion. The motion carried unanimously.*
- *Ryan Humphrey moved that the Police Policy Committee recommends to the Board that EARHART’s conduct encapsulated the highest end of two categories noted above with a focus on Dishonesty, a lifetime disqualifier; EARHART may never reapply for certification. Chris Brown seconded the motion. The motion carried unanimously.*

8. Gregory A. Fetsch, Roseburg Police Department – DPSST #25450

Presented by Theresa King

See Appendix H for details

Chris Brown noted for the record that he has worked with FETSCH in the past but that he could be non-biased in voting.

- *Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Holly Russell seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Failure to document in the past, prior letter regarding inappropriate relationship, off-duty texting between FETSCH and probationary officer.*
 - 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 not*** involve **Misconduct**.
 - g. The identified conduct ***did not*** involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The committee noted as a mitigating FETSCH's impeccable honesty.***

No aggravating circumstances were identified.

- ***Thomas Bergin moved that the Police Policy Committee finds FETSCH'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. Mike Wells seconded the motion. The motion carried unanimously.***

9. DPSST Update

The Ways and Means Subcommittee met and recommended DPSST take the reductions originally stated in the Governor's Recommended Budget plus an additional 2 Basic Police classes. This results in the additional loss of 6 positions. The Training Division will be restructured. DPSST will lose a total of 13 positions this biennium: seven of which are management and six are represented. The Ways and Means also took 6.5% reduction from services and supplies. DPSST appreciates the support of this agency by all the constituent groups.

A Law Enforcement Officer Safety Initiative seminar is being held in partnership with the U.S. Attorney's Office and the U.S. Marshall's Service on June 8, at DPSST. These federal agencies will share their information. There will also be sessions on Use of Force and Returning Veterans. DPSST will provide lunch and lodging.

Troy Abney will be joining DPSST as the new Training Director beginning June 1. He recently retired as a Deputy Chief with the California Highway Patrol.

Officer Chris Kilcullen died in the line of duty a few weeks ago. The Public Safety Memorial Fund Board, in less than three days, took action and provided assistance to the family. Sheriff Anderson delivered a check to the family. At the next Police Policy Committee meeting, you will have the opportunity to approve his name to be added to the memorial wall for next year's ceremony.

Basic Police class #326 starts next week. There are still 3 spaces left and only 4 enrolled in the August class. We know the realities of local budgets are very similar to the state budget. Staff thanked the committee again for all the efforts of their organizations with the legislature on behalf of DPSST.

10. Edward L. Friend, West Linn Police Department – DPSST #44285

Presented by Theresa King

See Appendix I for details

- *Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Eric Hendricks seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Excessive breaks taken resulting in performance issues, negligence of duty – did not take call, and FRIEND’s minimizing everything.*
 - b. The identified conduct did involve **Dishonesty**. *FRIEND was caught by his Sergeant leaving his girlfriend’s apartment whereas FRIEND lied about his relationship and duty time.*
 - 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 standard practice by constant texting, excessive breaks, and not responding to a call.**
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances FRIEND’s minimalizing the seriousness of the issue, his attempt to deflect blame onto the Sergeant, the attempt to lie and hide a bag of food from his Sergeant, FRIEND didn’t check out with the department at the apartments in an attempt to hide his location, and FRIEND’s letter was self-serving and didn’t help his situation.*
No mitigating circumstances were identified.
- *Eric Hendricks moved that the Police Policy Committee finds FRIEND’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. With no second on the motion, the died.*
- *Ryan Humphrey moved that the Police Policy Committee finds FRIEND’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. Kent Barker seconded the motion. The motion carried in an 11 to 1 vote with Eric Hendricks voting no.*
- *Mike Wells moved that the Police Policy Committee recommend to the Board that FRIEND’s conduct encapsulated the highest end of two categories noted above with a focus on Dishonesty, a lifetime disqualifier; FRIEND may never reapply for certification. Kent Barker seconded the motion. The motion carried unanimously.*

11. Mark Humble, Douglas County Sheriff’s Office – DPSST #18997

Presented by Theresa King

See Appendix J for details

- ***Ryan Humphrey 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, specific to this case: ***Unwanted advances on people.***
 - b. The identified conduct ***did not*** involve **Dishonesty.**
 - c. The identified conduct ***did*** involve a **Disregard for the Rights of Others based on HUMBLE's unwanted advances (on duty and off).**
 - d. The identified conduct ***did*** involve **Misuse of Authority. The witness testified she was scared. HUMBLE's first advance was when he was in uniform which created an intimidation factor.**
 - e. The identified conduct ***did not*** involve **Gross Misconduct.**
 - f. The identified conduct ***did*** involve **Misconduct based on violation of standard practice by constant texting, excessive breaks, and not responding to a call.**
 - g. The identified conduct ***did not*** involve **Insubordination.**
 - By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The committee noted as aggravating circumstances the husband of witness called HUMBLE to ask him not to call again—HUMBLE disregarded the request, his quick resignation raised suspicion of guilt, this was the second civilian incident, and that the agency's reputation was damaged by HUMBLE's actions.***
- No mitigating circumstances were identified.***
- ***Kent Barker moved that the Police Policy Committee finds HUMBLE's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommend to the Board that these certification(s) be revoked. Chris Brown seconded the motion. The motion carried unanimously.***
 - ***Mike Wells moved that the Police Policy Committee recommend to the Board that HUMBLE's conduct encapsulated the highest end of the three categories noted above with a focus on Disregard for the Rights of Others; HUMBLE may reapply for certification fifteen years from the date of revocation. Chris Brown seconded the motion. The motion carried unanimously.***

12. John Justema, Josephine County Sheriff's Office – DPSST #15028

Presented by Theresa King

See Appendix K for details

- ***Kent Barker moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Chris Brown seconded the motion. The motion carried unanimously.***
- By discussion and consensus does the new information provided by JUSTEMA change the Committee's February recommendation? Is there any new conduct identified in Dishonesty, Disregard for the Rights of Others, Misuse of Authority, Gross Misconduct, Misconduct, and Insubordination? ***It is the consensus of the committee that the previous recommendation remains the same.***
- By discussion and consensus, are there any new mitigating and aggravating circumstances the Committee would like to consider? ***The committee noted as mitigating circumstances the fact that prior to the misconduct JUSTEMA was involved in a shooting incident and back to work after only 4 days—he was under much stress, and that JUSTEMA did respond to DPSST.***

No additional aggravating circumstances were identified.

- Based on the information provided by JUSTEMA does the Committee's February recommendation to revoke JUSTEMA's certifications to the Board remain the same? ***Chris Brown moved that the Police Policy Committee stands by its February recommendation of revocation. Kent Barker seconded the motion. The motion carried unanimously.***
- ***Kent Barker moved that the new information does not change the Police Policy Committee's previous recommendation regarding minimum period of ineligibility. Mike Wells seconded the motion. The motion carried unanimously.***

Kent Barker moved that the Michael Kay case be moved to the end of the agenda. Ryan Humphrey seconded the motion. The motion carried unanimously.

13. Dennis Keena, Salem Police Department – DPSST #31362

Presented by Theresa King

See Appendix L for details

Kent Barker stated for the record that he does know KEENA but can still be unbiased in voting.

- ***Kent Barker 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, specific to this case: ***Untruthfulness during an internal investigation.***
 - b. The identified conduct ***did*** involve **Dishonesty**. ***KEENA lied during an internal investigation.***

- c. The identified conduct did involve a **Disregard for the Rights of Others based on his preying on vulnerable people (however they were not coerced) in several cases.**
 - d. The identified conduct did involve **Misuse of Authority. He was in uniform at the time.**
 - e. The identified conduct did involve **Gross Misconduct based on the gross deviation from the standard of practice.**
 - f. The identified conduct did involve **Misconduct based on violation of standard practice normally followed by public safety officers.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the pattern of behavior and KEENA was previously counseled on the issue. The committee identified as mitigating circumstances the fact KEENA owned up to his mistake and that his marriage and business were failing which diminished his ability to perform.*
 - *Mike Wells moved that the Police Policy Committee finds KEENA'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. Chris Brown seconded the motion. The motion carried unanimously.*
 - *Mike Wells moved that the Police Policy Committee recommends to the Board that KEENA's conduct encapsulated the highest end of the four categories noted above with a focus on Dishonesty-a lifetime disqualifier; KEENA may never reapply for certification. Chris Brown seconded the motion. The motion carried unanimously.*

14. Bradley W. King, Tualatin Police Department – DPSST #16251

Presented by Theresa King

See Appendix L for details

Kent Barker recused himself from voting as he was involved in the investigation.

Holly Russell recused herself from voting as she has known KING for many years.

Glen Scruggs recused himself from voting stating he is too close to the case.

- *Thomas Bergin 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 all voting with Kent Barker, Holly Russell, and Glen Scruggs abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **Untruthfulness**

- b. The identified conduct did involve **Dishonesty based his untruthfulness regarding discipline, interview, and posting overtime.**
 - 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 standard practice followed by public safety officers.**
 - g. The identified conduct did involve **Insubordination. KING did not follow a direct order from the Chief regarding the hiring of park cadets and erased recordings of the interview.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances KING's lie regarding the doctor's office, his incompetence with the park ranger issue—which he continues to deny, KING's statement saying he is lazy and it was more convenient to hold the interview at his house rather than the agency, and his ineffective pattern of behavior.*

No mitigating circumstances were identified.

- *Mike Wells moved that the Police Policy Committee finds KING'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. Thomas Bergin seconded the motion. The motion carried unanimously by all voting with Kent Barker, Holly Russell, and Glen Scruggs abstaining.*
- *Richard Evans moved that the Police Policy Committee recommend to the Board that KING's conduct encapsulated the highest end of the three categories noted above with a focus on Dishonesty, a lifetime disqualifier; KING may never reapply for certification. Ryan Humphrey seconded the motion. The motion carried unanimously by all voting with Kent Barker, Holly Russell, and Glen Scruggs abstaining.*

15. Scott A. King, Clackamas County Sheriff's Office – DPSST #27646

Presented by Theresa King

See Appendix M for details.

- *Richard Evans moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Chris Brown seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: ***Inappropriate relationship, videos, and inappropriate photos sent while on duty.***
 - b. The identified conduct did not involve **Dishonesty.**

- c. The identified conduct did involve a **Disregard for the Rights of Others based on the fact KING met the person while on a domestic violence call and he asked colleagues to contact the person's husband to have the complaint rescinded.**
 - d. The identified conduct did involve **Misuse of Authority. The victim clearly recognized KING as being a public safety officer.**
 - e. The identified conduct did involve **Gross Misconduct based on violation of standard practice followed by public safety officers.**
 - f. The identified conduct did involve **Misconduct based on violation of standard practice followed by public safety officers.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances KING preyed on a known victim and that the agency is now involved in civil court as a result.*
No mitigating circumstances were identified.
 - *Thomas Bergin moved that the Police Policy Committee finds KING'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. Kent Barker seconded the motion. The motion carried unanimously.*
 - *Kent Barker moved that the Police Policy Committee recommend to the Board that KING's conduct encapsulated the highest end of the four categories noted above with a focus on Disregard of the Rights of Others; KING may reapply for certification fifteen years from the date of revocation. Ryan Humphrey seconded the motion. The motion carried unanimously.*

16. Benito Rodriguez, Ontario Police Department – DPSST #27646

Presented by Theresa King

See Appendix N for details.

Andrew Bentz stated for the record that he was supervisor to RODRIGUEZ early in his career, but it would not affect his ability to be nonbiased.

- *Ryan Humphrey moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Richard Evans seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Failure to report for duty and failure to appear in court.*

- b. The identified conduct did involve **Dishonesty**. *The consensus of the committee is that RODRIGUEZ did lie about speaking with the District Attorney regarding not being able to attend court.*
 - c. The identified conduct did involve a **Disregard for the Rights of Others**. *People have a right to trial. RODRIGUEZ disregarded that right by failure to appear.*
 - 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 standard practice followed by public safety officers, he failed to appear in court.**
 - g. The identified conduct did involve **Insubordination**. *RODRIGUEZ was told to meet his Sergeant. He did not, using stress as a reason. He also failed to show for work.*
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as an aggravating circumstance RODRIGUEZ's lack of rebuttal.*

No mitigating circumstances were identified.

- *Thomas Bergin moved that the Police Policy Committee finds RODRIGUEZ'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. Glen Scruggs seconded the motion. The motion carried unanimously.*
- *Thomas Bergin moved that the Police Policy Committee recommend to the Board that RODRIGUEZ's conduct encapsulated the highest end of the four categories noted above with a focus on Disregard for the Rights of Others; RODRIGUEZ may reapply for certification fifteen years from the date of revocation. Glen Scruggs seconded the motion. The motion carried unanimously.*
- *Kent Barker moved that the Police Policy Committee recommend to the Board that RODRIGUEZ's conduct encapsulated the highest end of the four categories noted above with a focus on Dishonesty, a lifetime disqualifier; RODRIGUEZ may never reapply for certification. Chris Brown seconded the motion. The motion carried in a 9-3 vote with Glen Scruggs, Mike Wells, and Ryan Humphrey voting no.*

17. Richard Thompson, Roseburg Police Department – DPSST #35994

Presented by Theresa King

See Appendix O for details.

Chris Brown recused himself from voting as he was involved with THOMPSON's termination.

- *Kent Barker moved that the Police Policy Committee adopts the staff report as the record upon which its recommendations are based. Richard Evans seconded the motion. The motion carried unanimously by all voting with Chris Brown abstaining.*
- By discussion and consensus:

- a. Identify the conduct that is at issue, specific to this case: ***THOMPSON admittedly committed the crime of furnishing alcohol to minors.***
 - b. The identified conduct ***did*** involve ***Dishonesty based on false reports of person being home alone and people engaging in sexual acts in view of minors.***
 - c. The identified conduct ***did*** involve a ***Disregard for the Rights of Others based on THOMPSON's failure to protect the juvenile to whom he provided alcohol.***
 - d. The identified conduct ***did*** involve ***Misuse of Authority.***
 - e. The identified conduct ***did*** involve ***Gross Misconduct. THOMPSON created a danger or risk to persons and property.***
 - f. The identified conduct ***did*** involve ***Misconduct based on violation of standard practice followed by public safety officers, by THOMPSON furnishing alcohol to a minor and allowing juveniles to smoke and drink in his presence.***
 - g. The identified conduct ***did not*** involve ***Insubordination.***
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The committee noted as a mitigating circumstance THOMPSON taking in the juvenile rather allowing him to go into state custody.***
 - ***Kent Barker moved that the Police Policy Committee finds THOMPSON'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. Holly Russell seconded the motion. The motion carried unanimously by all voting with Chris Brown abstaining.***
 - ***Kent Barker moved that the Police Policy Committee recommends to the Board that THOMPSON's conduct encapsulated the highest end of the four categories noted above with a focus on Dishonesty, a lifetime disqualifier; THOMPSON may never reapply for certification. Thomas Bergin seconded the motion. The motion carried unanimously by all voting with Chris Brown abstaining.***

18. John A. Zbinden, Clackamas County Sheriff's Office – DPSST #22639

Presented by Theresa King

See **Appendix P** for details.

- ***Thomas Bergin 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, specific to this case: ***Inappropriate relationship.***
 - b. The identified conduct ***did*** involve ***Dishonesty based on ZBINDEN's denial of prior knowledge of probationary status when records show he previously looked up the information.***

- c. The identified conduct did involve a **Disregard for the Rights of Others based on intimidation with threats made by tapping his gun on his lap.**
 - d. The identified conduct did involve **Misuse of Authority. Dissemination of information and security code for police department to a suspect, and the threats made by tapping his gun on his lap.**
 - e. The identified conduct did involve **Gross Misconduct based on Supervisor's concern of possible violence.**
 - f. The identified conduct did involve **Misconduct based on ZBINDEN's misuse of LEADS and his inappropriate association with a felon.**
 - g. The identified conduct did involve **Insubordination. ZBINDEN was ordered not to have contact with his girlfriend however he shared information from a report with her.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the tone of the interviews being adversarial toward supervisors and co-workers, he did not have any objectivity or respect for the meaning of his position, and the threats made by tapping his gun on his lap.*
 - *Kent Barker moved that the Police Policy Committee finds ZBINDEN'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. Thomas Bergin seconded the motion. The motion carried unanimously.*
 - *Kent Barker moved that the Police Policy Committee recommend to the Board that ZBINDEN's conduct encapsulated the highest end of the all categories noted above with a focus on Dishonesty, a lifetime disqualifier; ZBINDEN may never reapply for certification. Ryan Humphrey seconded the motion. The motion carried unanimously.*

19. Michael A. Kay, Vernonia Police Department – DPSST #31362

Presented by Theresa King

See Appendix Q for details.

- *Thomas Bergin 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 carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **Dishonesty**
 - b. The identified conduct did involve **Dishonesty based on lies to the judge regarding juvenile community service, lies regarding dog certification, and the omission of material facts on application for employment.**

Glen Scruggs moved that the committee finds KAY was untruthful and displayed Gross Misconduct in relation to the job. Mike Wells seconded the motion. The motion carried unanimously.

- 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**. *KAY created a danger or risk to persons and property by using an uncertified dog.*
 - f. The identified conduct did not involve **Misconduct**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances KAY's glaring incompetency issues, pattern of behavior, and the repeated investigations involving KAY.*
 - *Mike Wells moved that the Police Policy Committee finds KAY'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. Thomas Bergin seconded the motion. The motion carried.*
 - *Ryan Humphrey moved that the Police Policy Committee recommend to the Board that KAY's conduct encapsulated the highest end of the two categories noted above with a focus on Dishonesty, a lifetime disqualifier; KAY may never reapply for certification. Chris Brown seconded the motion. The motion carried unanimously.*

20. Additional Business

As Andrew Bentz is termed out and retiring, a new Chairperson needs to be selected.

Thomas Bergin moved that the Policy Committee selects Kent Barker as the new Chair of the Police Policy Committee. Rich Evans seconded the motion. The motion carried unanimously.

Andrew Bentz moved that the Policy Committee select Glen Scruggs as the Vice-Chair of the Police Policy Committee. Mike Wells seconded the motion. The motion carried unanimously.

Chris Brown moved that DPSST staff looks into Howard Webb's certifications. Thomas Bergin seconded the motion. The motion carried unanimously.

21. Next Police Policy Committee Meeting – August 18, 2011 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 3:50 p.m.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2011
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: SCOTT E. HOFFERT DPSST #44378
Sherwood Police Department

ISSUE:

Should Scott HOFFERT'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?

The issue in this case involves HOFFERT's resignation after an internal investigation in 2007, and his applications for hire at a subsequent agency in 2008 and 2010.

BACKGROUND and OVERVIEW

1. *During the years of 2004 through 2007, HOFFERT was employed with the Sherwood Police Department as a police officer, attended the Basic Police course, signed his Code of Ethics and obtained his Basic Police Certification. HOFFERT resigned in 2007.*
2. *In February 2011, DPSST received information that HOFFERT had applied for employment with the Washington County Sheriff's Office (WCSO) and through their background process they determined that HOFFERT's resignation with Sherwood Police Department (SPD) involved untruthfulness, and he had been less than forthright with the WCSO background investigator.*
3. *DPSST requested and received the internal investigation from SPD that led to HOFFERT's resignation.*
4. *DPSST requested and received the background investigation from WCSO.*
5. *In June 2011, DPSST notified HOFFERT via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*
6. *In July 2011, DPSST received a response from HOFFERT.*

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))

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:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

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)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke HOFFERT'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 and articulate the **misconduct that is specific to this case.**

- 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 HOFFERT'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.

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2011
TO: Police Policy Committee
FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: SCOTT L. WHITEHEAD DPSST #19226
Carlton Police Dept.**

ISSUE:

Should Scott L. WHITEHEAD's Basic, Intermediate, Advanced and Management 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?

This case involves WHITEHEAD's resignation under a Settlement Agreement and subsequent employment in another agency.

BACKGROUND and OVERVIEW

1. Between 1987 and 2011, WHITEHEAD was employed as a police officer, attended training, obtained his Basic, Intermediate, Advanced and Management Police Certifications and signed his Code of Ethics.
2. In June 2010, DPSST received information that WHITEHEAD resigned from the North Plains Police Dept. under a Settlement Agreement after an internal investigation. Subsequent to this, DPSST requested and received the investigation that led to WHITEHEAD'S resignation.
3. On November 26, 2010 WHITEHEAD was hired by the Carlton Police Dept. as a police officer.
4. In June 2011, DPSST notified WHITEHEAD via certified mail that his case would be heard before the Police Policy Committee (PPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. WHITEHEAD has provided a response. Based on WHITEHEAD's response, DPSST followed up with his current employer, Carlton Police Dept. Carlton Police Chief Middleton provided information refuting assertions in WHITEHEAD's response and asserting additional misrepresentations by WHITEHEAD.
5. DPSST also followed up with the investigator who conducted WHITEHEAD's pre-employment background investigation for the City of Carlton. The investigator refuted WHITEHEAD's claim that he fully disclosed the circumstances of his resignation from North Plains Police Dept.

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))

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:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

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)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke WHITEHEAD 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 and articulate the **misconduct that is specific to this case.**

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 WHITEHEAD'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.

Appendix D

Department of Public Safety Standards and Training Memorandum

Date: May 28, 2011
To: BPSST/DPSST Police Policy Committee
From: Eriks Gabliks, Director 
Subject: Law Enforcement Memorial Wall Nomination
Deputy Sheriff J. F. Lewis – Lake County Sheriff's Office

Background

On Saturday, March 11, 1882, Deputy J. F. Lewis of the Lake County Sheriff's Office was guarding a prisoner (H.C. Laws) in Greenman's Hotel in Linkville (now Klamath Falls). H.C. Laws was the leader of a group known as the Bonanza Regulators, a group that sought to keep people who were not members from settling in the area or from grazing stock on public lands. Laws was being held for trial for the murder of a 15 year old young man who had been searching for his families missing cattle. A group of masked men attempted to take the prisoner from Deputy Lewis with the intention to lynch Laws. When Deputy Lewis refused to give up the prisoner a gunfight ensued. Deputy Lewis was shot in the thigh, cutting the femoral artery. Deputy Lewis died a few minutes later. One of the masked men was also shot during the exchange of gunfire and died later.

This information was provided to DPSST by Chief Deputy Terry Baker (Retired) of the Dallas County Sheriff's Office, Dallas, Texas. Chief Deputy Baker researches law enforcement line of duty deaths across the nation. Because of his efforts dozens of law enforcement officers who have died in the line of duty have been honored. Chief Deputy Baker's research has been confirmed by Sheriff Phillip A. McDonald of the Lake County Sheriff's Office.

Staff Recommendation

The death meets the criteria for the Oregon Fallen Law Enforcement Officer Memorial. Oregon Administrative Rule 259-008-0100 (i) defines "In the line of duty death" as a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

Action Item(s)

Determine whether Deputy J. F. Lewis' name will be included on the Oregon Fallen Law Enforcement Officer Memorial.

Attachments

Galveston Daily News – *Lynchers Kill a Deputy Sheriff* - March 14, 1882
The Oregonian – *Particulars of the Killing of Deputy Sheriff Lewis* - March 15, 1882
Terry Baker - Letter and Application for Law Enforcement Memorial

OAR 259-008-0100 – Oregon Law Enforcement Officer Memorial

259-008-0100

Miscellaneous Activities of the Board or Department

(7) In accordance with the Oregon Revised Statutes the Board, in consultation with the Department, designates the following classifications of public safety personnel killed in the line of duty who may be honored at the Law Enforcement Memorial Wall.

(a) Eligibility

(A) For the purpose of placing names, law enforcement officer includes, as defined in ORS 181.610, police officer, reserve officer, corrections officer, and parole and probation officer. Also included are federal law enforcement officers assigned to or performing law enforcement duties in Oregon.

(b) Criteria for placement on the Law Enforcement Memorial Wall:

(A) Officers who suffered an "in-the-line-of-duty" death.

(i) "In the line of duty death" means a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

(ii) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

(iii) Not included under this definition are deaths attributed to natural causes (except when a medical condition arises out of law enforcement action or law enforcement training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing his/her death during a continuous period of hospitalization immediately following the taking of law enforcement action). Deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death, and deaths attributed to an officer performing his/her duty in a grossly negligent manner at time of death are not included under this definition.

(iv) When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Board on Public Safety Standards and Training Executive Committee.

(c) Exclusions from the Law Enforcement Memorial Wall:

(A) Officers whose deaths are attributed to natural causes are not eligible for inclusion in the wall; or

(B) A death that is attributed to the officer's voluntary alcohol or substance abuse use; or

(C) Death caused by intentional misconduct of the officer; or

(D) Death caused by the officer's intention to bring about his or her own death; and

(E) Death attributed to an officer performing his or her duty in a grossly negligent manner at the time of death.

(d) When there is doubt arising from the circumstances of the officer's death or with respect to the individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Executive Committee.

(e) The costs of maintenance and relocation of the Law Enforcement Memorial Wall and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund.


Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0080; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

Appendix E

Department of Public Safety Standards and Training Memorandum

Date: April 29, 2011
To: BPSST/DPSST Police Policy Committee
From: Eriks Gabliks, Director 
Subject: Law Enforcement Memorial Wall Nomination
Officer Christopher Kilcullen – City of Eugene Police Department

Background

Officer Chris Kilcullen (DPSST #35147) of the City of Eugene Police Department was fatally shot at approximately 4:30 p.m. during a traffic stop on I-105 and 52nd Street in Springfield, Oregon on Friday, April 22, 2011. The suspect was later apprehended. Officer Kilcullen, age 43, leaves behind a wife and two children.

Officer Kilcullen was a member of the Eugene Police Department for 12 years (1998-2011). He was a graduate of the University of Oregon where he received a Bachelor's of Arts Degree in Sociology and Psychology in 1994. At the time of his death, Kilcullen was a member of a Special Operations Section - Traffic Enforcement Unit. He had also served in the Rapid Deployment Unit, Crisis Negotiations Team, and Crisis Intervention Team. As a member of the Eugene Police Department, he received more than 85 commendations for his professional demeanor and positive interactions with the community. He held Advanced Police Certification from DPSST.

Staff Recommendation

The death meets the criteria for the Oregon Fallen Law Enforcement Officer Memorial. Oregon Administrative Rule 259-008-0100 (i) defines "In the line of duty death" as a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

Action Item(s)

Determine whether Officer Chris Kilcullen's name will be included on the Oregon Fallen Law Enforcement Officer Memorial.

Attachments

Eugene Police – News Release – *Fact Sheet on fallen Eugene Police Officer Chris Kilcullen – 4/23/2011*
Eugene Police – Media Advisory - *News Conference – 4/23/2011*
The Register Guard – Eugene, Oregon - *Officer shot dead during car chase – 4/23/2011*
NLETS Regional Broadcast – *Line of Duty Death Notification – 4/23/2011*

OAR 259-008-0100 – Oregon Law Enforcement Officer Memorial

259-008-0100

Miscellaneous Activities of the Board or Department

(7) In accordance with the Oregon Revised Statutes the Board, in consultation with the Department, designates the following classifications of public safety personnel killed in the line of duty who may be honored at the Law Enforcement Memorial Wall.

(a) Eligibility

(A) For the purpose of placing names, law enforcement officer includes, as defined in ORS 181.610, police officer, reserve officer, corrections officer, and parole and probation officer. Also included are federal law enforcement officers assigned to or performing law enforcement duties in Oregon.

(b) Criteria for placement on the Law Enforcement Memorial Wall:

(A) Officers who suffered an "in-the-line-of-duty" death.

(i) "In the line of duty death" means a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

(ii) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

(iii) Not included under this definition are deaths attributed to natural causes (except when a medical condition arises out of law enforcement action or law enforcement training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing his/her death during a continuous period of hospitalization immediately following the taking of law enforcement action). Deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death, and deaths attributed to an officer performing his/her duty in a grossly negligent manner at time of death are not included under this definition.

(iv) When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Board on Public Safety Standards and Training Executive Committee.

(c) Exclusions from the Law Enforcement Memorial Wall:

- (A) Officers whose deaths are attributed to natural causes are not eligible for inclusion in the wall; or
 - (B) A death that is attributed to the officer's voluntary alcohol or substance abuse use; or
 - (C) Death caused by intentional misconduct of the officer; or
 - (D) Death caused by the officer's intention to bring about his or her own death; and
 - (E) Death attributed to an officer performing his or her duty in a grossly negligent manner at the time of death.
- (d) When there is doubt arising from the circumstances of the officer's death or with respect to the individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Executive Committee.
- (e) The costs of maintenance and relocation of the Law Enforcement Memorial Wall and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund.

Stat. Auth.: ORS 181.640

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Hist.: PS 12, f. & ef. 12-19-77; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0080; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98