

Integrity Bulletin

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The Kansas Commission on Peace Officers' Standards and Training (KSCPOST) is committed to providing the citizens of Kansas with qualified, trained, ethical, competent, and professional peace officers. It is also dedicated to adopting and enforcing professional standards for certification of peace officers to promote public safety and preserve public trust and confidence.

Anyone reading this Integrity Bulletin will recognize that KSCPOST is active in monitoring the actions of Kansas law enforcement and pursuing certification actions in appropriate cases. Kansas law enforcement officers should review and be thoroughly aware of the Kansas Law Enforcement Training Act (KLETA) and Kansas Administrative Regulations that regulate officer certifications. Both are readily available on our website. It is also important that officers understand how training act violations and investigations are managed by KSCPOST.

KLETA violations are most commonly reported to KSCPOST when an agency terminates an officer and sends the required Status Change form. When a KLETA violation is indicated on the form, KSCPOST investigators will open an administrative investigation. An investigator will then contact the terminating agency and request their investigative files. Investigators may also conduct interviews or collect information from a variety of sources.

Investigators only investigate and collect information and evidence to document the potential violation. They do not conduct criminal investigations. When complete, the investigation is presented to the Investigative Committee (IC) to determine if a certification action will be taken. The IC consists of three commissioners appointed via motion by the full commission to serve as the committee. The primary purpose of the IC is to determine which cases are pursued for certification action. Investigators, legal counsel, and the executive director do not determine what cases or actions will be pursued. Only the IC can make that determination.

The IC also determines the certification action that will be taken. Possible actions include revocation, suspension, reprimand, censorship, or conditioning. The IC does not make findings such as unfounded or unsubstantiated. If the IC determines no action will be taken, the investigation is closed and filed. It may be reopened if necessary or with new information.

When the IC determines that a certification action will be taken it is written into a Summary Order that contains the jurisdiction, facts of the case, and the action to be taken. The Summary Order is mailed to the respondent (officer involved). While several rules apply, the order generally becomes final in 18 days (15 days plus 3 days for mailing) if there is no response from the respondent. The respondent may challenge the Summary Order and request a hearing but it must be done before the expiration of the 18th day.

Like the IC, the Hearing Committee (HC) consists of three commissioners appointed by the full commission. The HC's primary purpose is to hear cases in which the respondent requests a hearing in the Summary Order from the IC. This hearing is usually at KSCPOST and is conducted very similarly to a courtroom hearing. KSCPOST is represented by legal counsel. Respondents may have counsel or represent themselves. The HC will hear the evidence presented by both parties to make a finding. The finding might be different than the original Summary Order. They might sustain all or part of the order and might change the recommended certification action. For example, they might find that a revocation is appropriate rather than a reprimand. The HC cannot set aside the criminal conviction of a respondent.

The HC is represented not by KSCPOST legal counsel but by an Assistant Attorney General. The AAG summarizes the decision of the HC in a Final Order which is effective on the date it is signed by the chair of the HC. The Respondent has 30 days to file for judicial review in the district court, with the option to ask for a stay of the order.

There is a third order that is used by KSCPOST. A respondent may also wish to simply relinquish their certification. This is done with a Consent Agreement and Order of Revocation. A Consent Agreement is a document that is prepared by KSCPOST legal counsel containing the facts of the case. When signed by both the respondent and legal counsel it is presented to the IC for approval. The Consent Agreement becomes final on the date the chair of the IC signs it. This process usually takes far less time than a Summary Order.

The description of the above process is simplified for the purposes of this Integrity Bulletin. The process is regulated by the Kansas Administrative Procedures Act (KAPA).

The process above also describes the three primary orders used by KSCPOST that are referred to in the case summaries that follow.

Case Summaries:

An officer pleaded nolo contendere and was convicted of two counts of misdemeanor theft in district court. He agreed to surrender his law enforcement certification as part of the plea agreement.

His certification was revoked by Consent Agreement and Order of Revocation for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-

5616(b)(5), K.A.R. 106-2-2a(a)(26) **shall not engage in conduct constituting a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (theft).**

A certified law enforcement officer working in a detention facility called for assistance on the radio. He declared that two inmates were missing and that he was locked in a cell. Responding officers quickly determined that the two inmates were in visitation and observed that the calling officer had a strong odor of consumed alcohol coming from his person. The officer was given a PBT that showed a reading of .149. Subsequent testing at a local hospital showed BAC readings of .114 and .107.

The officer admitted to consuming a large quantity of alcohol the night before his early morning shift and that he was "really impaired" that morning. The officer did not cooperate with the KS-CPOST investigation.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(3) **fail to cooperate in a commission investigation to determine a person's continued suitability for law enforcement certification**; K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(3) **Unprofessional Conduct – performing duties as an officer while using or under the influence of alcohol.**

An officer was convicted of one count of domestic battery in district court.

His certification was revoked by Summary Order for violations of K.S.A. 74-5605(b)(3) **misdemeanor crime of domestic violence.**

An officer was convicted of two counts of misdemeanor theft in district court. He also entered into a diversion agreement for one count of felony theft in the same district court. He agreed to surrender his law enforcement certification as part of the plea agreement.

His certification was revoked by Consent Agreement and Order of Revocation for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(26) **shall not engage in conduct constituting a felony and a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (theft).**

An officer was diagnosed with a mental condition which adversely affects the ability to perform the essential functions of a law enforcement officer with reasonable skill, safety and judgment

(PTSD, Major depression, Cognitive Disorder, Anxiety Disorder). A licensed psychologist stated that the officer's symptoms are at a level where he is no longer able to function as a law enforcement officer.

His certification was revoked by Consent Agreement and Order of Revocation pursuant to K.S.A. 74-5616(b)(1) and K.S.A. 74-5605(b)(7) **be free of any physical or mental condition which adversely affects the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment.**

An officer was convicted of two counts of assault, one count of interference with a law enforcement officer, and one count of false impersonation in district court.

The officer used his personal Facebook profile to post on a stranger's Facebook page. The comment referred to the stranger's five-year-old daughter and said, "We'll see how much her life matters soon...better be careful leaving your info open where she can be found :) hold her close tonight, it'll be the last time." The officer's Facebook profile showed photos of him in his law enforcement uniform and indicated his employing agency. During the departmental investigation, the officer lied to investigators about the Facebook post. After the officer was terminated, he attempted to gain information about his pending criminal case by placing a call and representing that he was an actively employed law enforcement officer.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(5), K.A.R. 106-2-2a(a)(35), K.A.R. 106-2-2a(a)(41) **shall not engage in conduct constituting a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (assault, interference with law enforcement, false impersonation), K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(1) Unprofessional Conduct – Intentionally using a false or deceptive statement in any official document or official communication.**

An officer entered a plea of nolo contendere and was convicted of three counts of assault in district court.

The officer was off-duty and hosting a party at his residence. During the party, the officer became angry at some of his guests because they were spilling drinks on the carpet, coming in and out of the residence and slamming his door, and there were some people smoking marijuana in front of his residence. The officer grabbed his service weapon, held it above his head, racked the slide, and yelled, "Everyone get the fuck out!" This frightened some of the officer's guests. During the departmental investigation, the officer initially denied that the gun

he pulled was his service weapon. He agreed to surrender his law enforcement certification as part of the plea agreement.

His certification was revoked by Consent Agreement and Order of Revocation for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(5) **shall not engage in conduct constituting a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (assault)**, K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(1) **Unprofessional Conduct – Intentionally using a false or deceptive statement in any official document or official communication.**

An officer checked himself in-service by radio. The Sheriff noted that the officer was reporting for duty a little late, which was unusual for this officer. The Sheriff met the officer in the hallway of the administration building and immediately smelled an odor of alcohol on the officer's breath. The officer also had unusually puffy eyes. The officer was given a PBT that showed a reading of 0.067 and a second reading of 0.068. The officer admitted to consuming alcohol the night before his early morning shift.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(3) **Unprofessional Conduct – performing duties as an officer while using or under the influence of alcohol.**

An officer was convicted of embezzlement and mail fraud in the United States District Court.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5605(b)(3) **not have been convicted of a crime that would constitute a felony.**

An officer was convicted of one count of disorderly conduct in district court. The officer was ordered to complete a domestic violence offender assessment. The charge resulted from the officer grabbing and spitting on his girlfriend during an argument as he tried to keep her from leaving the residence with their child.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(50) **shall not engage in conduct which, if charged as a crime, would constitute a misdemeanor crime of domestic violence or a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (DV and Disorderly Conduct).**

An officer submitted and was paid overtime for an in-service training that he did not attend. The officer was untruthful about his attendance at the training. He did not cooperate with the KS-CPOST investigation.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(26) **shall not engage in conduct constituting a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (theft)**, K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(1) **Unprofessional Conduct – Intentionally using a false or deceptive statement in any official document or official communication**; K.S.A. 74-5616(b)(3) **fail to cooperate in a commission investigation to determine a person's continued suitability for law enforcement certification.**

An officer was involved in an altercation with his girlfriend resulting in his arrest. Although no criminal prosecution ensued, there was clear and convincing evidence that the officer's conduct constituted battery and criminal restraint against his girlfriend. The officer was untruthful in the criminal investigation and the departmental investigation. The officer did not cooperate with the KS-CPOST investigation.

His certification was revoked by Summary Order for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(4), K.A.R. 106-2-2a(a)(6) **shall not engage in conduct which, if charged as a crime, would constitute a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant (Criminal Restraint and Battery)**; K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(1) **Unprofessional Conduct – Intentionally using a false or deceptive statement in any official document or official communication**; K.S.A. 74-5616(b)(3) **fail to cooperate in a commission investigation to determine a person's continued suitability for law enforcement certification.**

An officer was in an argument with his wife at his residence. The officer chased his wife through the living room, grabbed her arms, and threw her to the ground. The officer was dishonest during the criminal investigation.

His certification was revoked by Consent Agreement and Order of Revocation for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**; K.S.A. 74-5616(b)(5) **engage in conduct which, if charged as a crime, would constitute a misdemeanor crime of domestic violence**, K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(1) **Unprofessional Conduct –**

Intentionally using a false or deceptive statement in any official document or official communication.

An officer was on-duty and damaged his patrol vehicle while making a U-turn. The officer was dishonest when reporting how the patrol vehicle was damaged. He was also dishonest about when he discovered the damage and the location of the accident. The officer continued to provide false information in an employment hearing regarding his termination.

The officer requested a hearing which was held before the KS-CPOST Hearing Panel. The three-member Hearing Panel found that the officer engaged in Unprofessional Conduct and failed to maintain the minimum requirement of good moral character. The Hearing Panel stated in their Order that the officer "is now in an untenable position of having to either admit to the intentional false statements or to rationalize them by claiming incompetence. He has chosen the latter. However, his inconsistent statements show a lack of credibility and an intent to conceal the truth rather than incompetence." The Hearing Panel also found, "Where, as here, a law enforcement officer deliberately provides false information to another law enforcement officer conducting an investigation—not once but on multiple occasions—it shows the officer has not maintained good moral character sufficient to warrant the public trust; specifically, the officer lacks honesty, integrity, and taking responsibility for his conduct."

His certification was revoked by Order from the Hearing Panel for violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**, K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(j)(1) **Unprofessional Conduct – Intentionally using a false or deceptive statement in any official document or official communication.**

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