

LODD Criteria

PROCEDURE AND CRITERIA FOR THE INCLUSION OF NAMES OF OFFICERS ON THE WASHINGTON STATE LAW ENFORCEMENT MEMORIAL (February 17, 2011)

The Washington State Law Enforcement Memorial (the “Memorial”) has been created to provide one way to honor officers in Washington State who are killed in the line of duty. The Memorial will provide a lasting tribute to those brave officers and tangible recognition of our deep appreciation of their sacrifice. The individuals whose names are carved into the Memorial must be “law enforcement officers” who have been “killed in the line of duty.”

To maintain the dignity and sanctity of the Memorial, a procedure has been established to ensure that proper deliberation is given in selecting the individuals who will be listed on the Memorial. This procedure will be periodically reviewed and may be changed from time to time, with or without notice, to any individuals or entities to assure that due consideration is given and the correct criteria are applied to each individual considered for inclusion on the Memorial.

PROCEDURE FOR INCLUSION OF OFFICERS

Decisions concerning which names will be included on the Memorial are made by Behind the Badge Foundation, a Washington non-profit corporation, or its successor entities (the “Foundation”) based upon criteria and definitions adopted by the Board of Directors of the Foundation and applied by the Memorial Committee of the Board (the “Memorial Committee”).

Petitions for Addition of Names

The Foundation has spent a considerable amount of time and study to select the names that will initially appear on the Memorial based upon the criteria in this procedure. Additional names will be considered upon petition to the Foundation. Petitions for the inclusion of names on the Memorial may be made at any time after an officer is killed in the line of duty by his or her department, fellow officers, family members or friends and by victims and the general public by presenting a written request to the Memorial Committee of the Board. Such request shall include the name of the officer and general information about him or her and the circumstances under which the petitioner believes he or she died in the line of duty.

Investigations and Decision by the Memorial Committee

The Memorial Committee will perform such investigations concerning the information presented as it deems necessary and appropriate. Upon request from the Memorial Committee, the petitioner shall provide such other reasonable information as the Committee requires including contact information for and introductions to witnesses, fellow officers and department members and contemporaneous reports prepared concerning the incident that are available.

The Memorial Committee will meet concerning the petition and decide whether the individual proposed in the petition was a “law enforcement officer” who was “killed in the line of duty” as such terms are defined in the applicable procedures and criteria adopted by the Foundation. In its investigations, the Memorial Committee will research and investigate such things as the means available to verify the officer's eligibility status, his or her job description, his or her training, the circumstances of his or her death, the correct spelling of his or her name and applicable federal, tribal, state and local statutes. Such efforts will include having the name verified by the law enforcement agency of record and surviving family members.

The Memorial Committee will attempt to render a decision within 90-days after it has received all of the information that it requires to support the decision. The decision will be rendered in writing and, if the request is denied, will include a short description of the reasons for the denial. In order to insure that all due respect and honor are given, the Memorial Committee has been directed to apply criteria and definitions for inclusion of names and applicable definitions very strictly, but if the Memorial Committee determines there is only reasonable doubt with respect to the individual's status as a law enforcement officer or whether his or her death was in the line of duty under the applicable definitions, the Memorial Committee has been asked to include the name. Also, a law enforcement officer will be added to the Memorial if his or her department certifies that he or she was a law enforcement officer who was killed in the line of duty and there is no information found by the Memorial Committee to cause the Committee to believe otherwise.

Appeal Procedure

In cases where the Memorial Committee has decided a name should not be included on the Memorial, the individuals who petitioned may appeal the decision to the Foundation's Board of Directors for reconsideration within 30 days after receipt of the written denial of inclusion. Upon receipt of a written request for reconsideration, the Board of Directors will convene a separate Appeals Committee that will conduct a second review of the information gathered by the Memorial Committee, any additional information provided by the petitioner or others on behalf of the officer in question and the decision by the Memorial Committee. The Appeals Committee shall then render its assessment of the applicable issues and definitions to the Board of Directors of the Foundation. The Board of Directors will make the final determination as to whether the officer should be added to the Memorial and that decision shall be final and non-appealable.

APPLICABLE DEFINITIONS

In making the decision as to whether a name should be included on the Memorial, the Foundation and its committees will decide based upon the information it has and its investigations whether an individual named in a petition is a "law enforcement officer" who has suffered "death in the line of duty." These terms are defined as follows:

Definition of Law Enforcement Officer

The term "**law enforcement officer**" shall mean an individual in the State of Washington involved in crime enforcement, control or reduction who is (a) directly employed primarily for such purposes on a full-time or part-time basis by a local, county, state, tribal or federal law enforcement agency, with or without compensation, and (b) duly sworn with full arrest powers.

Military Police Officers. A military police officer may be deemed to be a "law enforcement officer" under this definition only if at the time of his or her death he or she was experiencing similar hazards and performing similar duties as those normally experienced and performed by non-military personnel in connection with crime enforcement, control and reduction. In such cases, eligibility will be determined after review of all issues determined to be relevant by the Foundation, such as whether the military officer was receiving combat, imminent danger or hazardous pay; his or her job description; whether the military officer was responding to a law enforcement situation in his or her area of jurisdiction; and the circumstances of the death. A military police officer serving in a combat situation will not be considered a "law enforcement officer" under this definition.

Correctional Employees. A correctional employee may be deemed to be a "law enforcement officer" if he or she is recognized as being involved in crime enforcement, control or reduction by his or her employing jurisdiction whether or not he or she is duly sworn and has full arrest powers. Other correctional employees who are not involved in crime enforcement, control or reduction by their employing jurisdiction, but who do have a primary or limited responsibility for the custody and security of suspected or convicted criminal offenders, and are employed by a local, county, state or federal correctional agency may also be deemed to be "law enforcement officers", but if enforcement, control or reduction of crime are not a correctional employee's primary function (e.g. correctional employees who also do maintenance work, farm work, food service work

and similar duties), then to be a “law enforcement officer” for the purposes of this definition, that person must be engaged in his or her law enforcement duties at the time he or she dies.

Definition of Death in the Line of Duty

The term "**killed in the line of duty**" shall mean the death of a law enforcement officer arising out of and in the performance of that person’s assigned duties, including all normal and special assignments as ordered by his or her superiors or assignments undertaken while acting as a law enforcement officer under laws, rules, directions or regulations promulgated by the appropriate employing authority, within or outside of normal duty hours.

Law enforcement officers who are “killed in the line of duty” shall include law enforcement officers who die (a) while in an off-duty capacity (i) acting in response to a crime enforcement, control or reduction situation, or (ii) en route to or from a law enforcement emergency or responding to a particular request for law enforcement assistance, or (iii), as required or authorized by law or condition of employment, driving his or her employer's vehicle to or from work or driving his or her personal vehicle while at work; and (b) as a result of infectious disease contracted, or by exposure to hazardous materials or conditions, while performing official duties.

Heart attacks and strokes:

A death due to heart attacks and strokes are defined as killed in the line of duty without the presumption of injury if all of the following criteria are met:

(1) Cause of death: The public safety officer died as the direct and proximate result of a heart attack or stroke.

(2) Type of line-of-duty activity: While on duty, the public safety officer either (1) engaged in line-of duty activity that included law enforcement, fire suppression, rescue activity, hazardous material response, emergency medical services, disaster relief activity, or other emergency response activity, or (2) participated in a formal training exercise. Behind the Badge Foundation specifically excludes activities that are of a clerical, administrative, or non-manual nature.

(3) Non-routine stressful or strenuous physical activity: The line-of-duty activity or participation in a formal training exercise involved non-routine stressful physical activity or non-routine strenuous physical activity.

- Non-routine stressful physical activity is activity that:
 - Is not performed as a matter of routine
 - Entails non-negligible physical exertion
 - For line-of-duty activity, poses or appears to pose significant threats or hazards or involves reasonably foreseeable risks of such threats or hazards
 - For training exercises, realistically simulates significant threats or hazards; and
 - Provokes or causes an unusually high level of alarm, fear, or anxiety.
- Non-routine strenuous physical activity means activity that:
 - Is not performed as a matter of routine; and
 - Entails an unusually high level of physical exertion.

(4) Timing of the heart attack or stroke: The heart attack or stroke occurred while the public safety officer was engaging in this activity or participating in this training, while on the same duty shift, or within 24 hours after the conclusion of this activity or training.

The term “killed in the line of duty” shall not include:

(1) deaths attributed to natural causes except when the death arises out of non-routine stressful or strenuous physical exertion, while on duty, that is required by law or as a condition of employment. Whether a death attributed to natural causes arises from “non-routine stressful or strenuous physical exertion, while on duty, that

is required by law or as a condition of employment” will be determined by the Foundation based upon all of the surrounding facts and circumstances and will include such things as:

- (a) a physical struggle with a suspected or convicted criminal;
- (b) performing a search and rescue mission that requires rigorous physical activity;
- (c) performing or assisting with emergency medical treatment;
- (d) responding to a violation of the law or emergency situation that involves a serious injury or death;
- (e) a situation that requires either a high speed response or pursuit on foot or in a vehicle;
- (f) running or other types of exercise involving non-routine stressful or strenuous physical activity being performed as part of training programs administered by the employing agency;
- (g) fitness tests involving non-routine stressful or strenuous physical activity administered by the employing agency; and
- (h) lifting of heavy objects involving non-routine stressful or strenuous physical activity.

A death attributed to natural causes shall still be deemed to have arisen out of “non-routine stressful or strenuous physical exertion, while on duty, that is required by law or as a condition of employment” if it arises from such a specific stressful or strenuous physical exertion situation and causes a law enforcement officer's death immediately or within 24 hours of the occurrence of the situation, or causes his or her death following a continuous period of hospitalization that commences immediately following the situation.

- (2) deaths attributed to voluntary alcohol or controlled substance abuse;
- (3) deaths caused by the intentional misconduct of the law enforcement officer;
- (4) deaths caused by the law enforcement officer's intention to bring about his or her own death; and
- (5) deaths attributed to a law enforcement officer performing his or her duties in a grossly negligent manner at the time of death.