

Corrections Policy Committee

Minutes

November 13, 2012

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 13, 2012, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Diana Simpson called the meeting to order at 1:32 p.m.

Attendees:

Committee Members:

Diana Simpson, Oregon State Sheriff's Association, Chair
Rick Angelozzi, Department of Corrections Superintendent
Daryl Borello, Department of Corrections Training Division
Brian Burger, Department of Corrections AFSCME Representative
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Tami Jackson, Non-Management DOC
Andy Long, Oregon State Sheriff's Association
Joseph Pishioneri, Non-Management Law Enforcement
Amanda Rasmussen, Non-Management Corrections Officer
Lisa Settell, Parole and Probation Officer
Barbara Shipley, Oregon Sheriff's Jail Command Council
Linda Yankee, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Jeff Wood, Oregon Association of Community Corrections Directors

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Leon Colas, Professional Standards Coordinator/Investigator
Ryan Keck, Academy Class Coordinator
Theresa King, Professional Standards Coordinator/Investigator
Marilyn Lorange, Standards and Certifications Supervisor
Kristy Witherell, Administrative Support

Guests:

Steve Beck, Oregon Council of Police Association
Michael Vokral, Snake River Correctional Institute



1. Minutes of August 14, 2012 Meeting

Approve the minutes of the August 14, 2012 Corrections Policy Committee meeting.

See Appendix A for details.

- *Joseph Pishioneri moved that the committee approve the minutes of the August 14, 2012 Corrections Policy Committee meeting. Michael Gower seconded the motion. The motion carried unanimously.*

Update on House Bill 2712

Presented by Marilyn Lorange

The workgroup representing telecommunications, corrections, and police met and reviewed the content of all of the crimes that had been identified as a part of HB2712 and made recommendations that will be coming back to the committees. In the course of the conversation, they wanted to answer a more global question about whether there will be a way to better address crimes that are only in the misconduct category. That required Lorraine Anglemier to go back and work on comparing existing crimes that are only in the misconduct category. They are in the category because they violate the law, not the other minimum standards definitions. Lorraine is still doing the comparison work. We hope to have information by early December for the workgroup members to make decisions that will come back to the policy committees in February.

2. Quarterly Review of DOC Basic Corrections Course by the DPSST Audit Team

Presented by Theresa King

See Appendix B for details.

- *The reporting period was July through September of 2012.*
- *There were a limited number of audits due to fewer training.*
- *The next scheduled class for 2012 started in October, so the next reporting period will have a lot of audits of the new curriculum.*
- *The 2011 audit of the DOC BCC program meets the minimum training standards for the certification of corrections officers.*

3. Basic Corrections Local Update

Presented by Ryan Keck

See Appendix C for details.

- *Ryan Keck showed a video of the students' six week training overview in the Basic Corrections Local class.*
- *There has been positive student feedback.*
- *Students have been responding well to scenarios.*

- *There has been a 30% overall academic improvement.*

4. Removal/Replacement of Curriculum in Basic Parole & Probation Academy

Presented by Ryan Keck

See Appendix D for Details

- *The Oregon Case Management System class is now obsolete due to changes in how to assess risk. The Public Safety Checklist (PSC) has been created. With addition to a Risk Management class, this will include new curriculum that will include some references to the PSC.*
- *Michael Gower moved that the committee recommend to the Board removal of the Oregon Case Management class and replace it with a Risk Management class in the Basic Parole & Probation Academy. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

5. William Brotton, Marion County Sheriff's Office – DPSST #32156

Presented by Leon Colas

See Appendix E for details.

- *Brian Burger moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify and articulate the misconduct that is specific to this case. *DUII arrest, overuse of agency computer, and failure to supervise his caseload.*
 - b. The identified conduct did not involve **Dishonesty**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on BROTTON's failure to conduct assessments and failure to supervise his caseload. BROTTON did not protect potential victims.**
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did involve **Gross Misconduct based on BROTTON's failure to act created a danger or risk to persons and the efficient operation of the agency. BROTTON spent six times longer on the computer than any other officers in the office. BROTTON admitted that he did not work for two months and hadn't been in the field for three months.**
 - f. The identified conduct did involve **Misconduct based on BROTTON's overuse of the agency computer and his failure to supervise his caseload. BROTTON was arrested for DUII while on a last chance agreement. The incident that involved BROTTON smelling of alcohol at the courthouse.**

- g. The identified conduct did involve **Insubordination based on BROTTON not meeting contact standards with his caseload. He violated the last chance agreement.**

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The committee noted as mitigating circumstances BROTTON's unusually highly stressful personal life. He was honest when questioned. BROTTON was a 17 year employee who met expectations up until two years before his termination.

The committee noted as aggravating circumstances BROTTON smelling of alcohol when he arrived at the courthouse. He used Facebook for personal reasons on agency computers. BROTTON's letter to the committee was aggravating. He did not take responsibility for his actions.

- *Lisa Settell moved that the Corrections Policy Committee finds BROTTON's conduct does rise to the level to warrant the revocation of his certifications(s) and, therefore, recommends to the Board that these certification(s) be revoked. Andy Long seconded the motion. The motion carried unanimously.*
 - *Amanda Rasmussen moved that the Corrections Policy Committee recommends to the Board that BROTTON's conduct encapsulated the highest end of the categories noted above with a focus on Disregard for the Rights of Others, therefore recommending a 15 year disqualifier; BROTTON may reapply for certification 15 years from the date of revocation. Nancy Howton seconded the motion. The motion carried unanimously.*
6. **Gilbert K. Cordell, DOC/Douglas County Community Corrections – DPSST #32156**
Presented by Leon Colas
4/17/14 Staff Addendum: A final order was issued by DPSST on October 8, 2013 setting aside the Department's Contested Case Notice of Intent to Revoke, Opportunity to Be Heard and Final Order Revoking Certifications If No Request for Hearing Received related to this matter.

See Appendix F for details.

- *Erik Douglass moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case. *CORDELL's inappropriate off duty contact with a subordinate employee, taking items from a deceased officer's car, general unprofessionalism; he inappropriately touched a female officer during a defensive tactics training class, and made derogatory comments regarding professionals at the department.*
- b. The identified conduct did involve **Dishonesty based on CORDELL not being truthful when questioned about having the items from the car. CORDELL gave conflicting statements when interviewed.**
- c. The identified conduct did not involve a **Disregard for the Rights of Others.**
- d. The identified conduct did involve **Misuse of Authority based on CORDELL asking a subordinate to influence the undersheriff in regard to his daughter's trial service.**
- e. The identified conduct did involve **Gross Misconduct based on CORDELL's unprofessional acts, such as gossiping in the office and making disparaging comments about fellow coworkers. He was a detriment to the efficient operation of the office.**
- f. The identified conduct did involve **Misconduct based on CORDELL's inappropriate search of a subordinate during DT training. He did not follow protocol in regard to having possession of a knife that was taken from the car.**
- g. The identified conduct did involve **Insubordination based on CORDELL being directed by the Director not to get involved with the personnel matter involving PO Baker and doing so anyway.**

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The committee noted as mitigating circumstances that CORDELL had great employee reviews up until this incident. The committee noted that there may have been more to the relationship that lead CORDELL to believe his actions were acceptable. Coworkers submitted letters to DPSST in support of CORDELL.

The committee noted as aggravating circumstances CORDELL being a supervisor and using poor judgment. He perpetuated gossip in the workplace. CORDELL did not take accountability for his actions in the letter he submitted. He resigned from his position in the middle of the investigation.

- *Michael Gower moved that the Corrections Policy Committee finds CORDELL'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. Daryl Borello seconded the motion. The motion carried unanimously.

- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that CORDELL's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; CORDELL may never reapply for certification. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

7. Chris J. Dunsworth, Department of Corrections – DPSST #49672

Presented by Leon Colas

See Appendix G for details.

- *Brian Burger moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously.*
- *It is the consensus of the committee that the case brought before them did not have enough information to find any misconduct.*
- *Michael Gower moved to once again postpone hearing DUNSWORTH's case until further information is provided. Amanda Rasmussen seconded the motion. The motion carried unanimously.*

8. Donald R. Ross – DPSST #28318

Presented by Leon Colas

See Appendix H for details.

- *Brian Burger moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Tami Jackson seconded the motion. The motion carried unanimously.*
- *By discussion and consensus:*
 - a. Identify the conduct that is at issue: **ROSS' certifications were revoked in 2002 based on dishonesty. ROSS is now eligible to reapply for recertification.***
 - b. The identified conduct did involve **Dishonesty based on ROSS falsifying documents to renew his polygraph license.***
 - 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 ROSS falsifying documents.**
- The identified conduct **did not** involve **Insubordination.**
By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
The committee noted as mitigating circumstances the letters that coworkers submitted to DPSST in support of ROSS. He took responsibility for his actions.
The committee noted as aggravating circumstances that ROSS was determining the truthfulness of others. The polygraphs he administered were poorly done and incomplete. He had a lack of understanding. ROSS' credibility was diminished.
- *Amanda Rasmussen moved that the Corrections Policy Committee recommends to the Board that ROSS' eligibility for recertification not be restored. Rick Angelozzi seconded the motion. The motion carried unanimously.*

9. **Michael A. Vokral, Snake River Correctional Institution – DPSST #37004**
Presented by Leon Colas

See Appendix I for details.

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Andy Long seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue: **2012 hit and run and disturbing the peace conviction.**
 - b. The identified conduct **did not** involve **Dishonesty.**
 - c. The identified conduct **did** involve a **Disregard for the Rights of Others based on VOKRAL damaging private property.**
 - 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 VOKRAL's hit and run conviction.**
 - g. The identified conduct **did not** involve **Insubordination.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
The policy committee noted as mitigating circumstances VOKRAL being present at the corrections policy meeting. He notified his employer of the hit and run. He is seeking treatment. His employer gave him a written reprimand and VOKRAL was demoted from captain to lieutenant.

The policy committee noted as aggravating circumstances that this was VOKRAL's second time before the CPC. He was arrested in 2006. VOKRAL left the scene of the accident because he had been drinking and did not want to be caught.

- *Andy Long moved that the Corrections Policy Committee finds VOKRAL's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Linda Yankee seconded the motion. The motion carried unanimously.*
- *Brian Burger moved that the Corrections Policy Committee recommends to the Board that VOKRAL's conduct encapsulated the lowest end of the categories noted above with a focus on Misconduct, therefore recommending a three year disqualifier; VOKRAL may reapply for certification in three years. Erik Douglass seconded the motion. The motion carried unanimously.*

10. Staff Update

- *Kim Fulton, our Parole and Probation Coordinator, is leaving DPSST and going back into the field of P&P. She accepted a supervisor position at Lane County Sheriff's Office.*
- *DPSST is in early stages of adding an extra week in the Basic Parole and Probation curriculum. The projected date for implementation is July 2014.*
- *The intermediate and advanced matrix has moved forward from the Board and has been adopted.*
- *There has been an uptick in students coming through the basic corrections local class. The next class is full. DPSST has been in contact with jail command staff to see if there is a need to add another class between the January and July classes.*
- *There has been interest in running another Police to Corrections class. As of right now, there hasn't been enough students interested to run a class.*
- *DPSST is working with DOC on the sunset of the training program. The program sunsets in 2013. We are working with DOC to get the legislation adopted.*
- *Marilyn Lorange is retiring at the end of December. She has agreed to stay on during the legislative session to help with the transition.*

11. Next Scheduled Meeting – February 12, 2013 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 4:33 p.m.

Appendix A

**Corrections Policy Committee
Minutes
August 14, 2012**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, August 14, 2012, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Diana Simpson called the meeting to order at 1:32 p.m.

Attendees:

Committee Members:

Diana Simpson, Oregon State Sheriff's Association, Chair
Brian Burger, Department of Corrections AFSCME Representative
Daryl Borello, Department of Corrections Training Division
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Nancy Howton, Department of Corrections Security Manager
Andy Long, Oregon State Sheriff's Association
Joseph Pishioneri, Non-Management Law Enforcement
Amanda Rasmussen, Non-Management Corrections Officer
Barbara Shipley, Oregon Sheriff's Jail Command Council
Linda Yankee, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Tami Jackson, Non-Management DOC
Lisa Settell, Parole and Probation Officer
Jeff Wood, Oregon Association of Community Corrections Directors

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Steve Beck, Oregon Council of Police Association
Leon Colas, Professional Standards Coordinator/Investigator
Linsay Hale, Certification Coordinator
Theresa King, Professional Standards Coordinator/Investigator
David Kirby, Clackamas County Sheriff's Office
Marilyn Lorance, Standards and Certifications Supervisor
Bob Sigleer, Certification & Compliance Coordinator
Kristy Witherell, Administrative Support



12. Minutes of May 8, 2012 Meeting

Approve the minutes of the May 14, 2012 Corrections Policy Committee meeting.

See Appendix A for details.

- *Joseph Pishioneri moved that the committee approve the minutes of the August 14, 2012 Corrections Policy Committee meeting. Daryl Borello seconded the motion. The motion carried unanimously.*

13. House Bill 2712

Presented by Leon Colas

See Appendix B for details

- *DPSST requests the Corrections Policy Committee identify two members to participate in a single workgroup meeting to review the recommendations and report back to the Policy Committee in November.*
- *Joseph Pishioneri and Daryl Borello volunteered to participate in the workgroup.*
- *Marilyn Lorange will contact everyone involved in the workgroup to set up a meeting in September.*
- *The proposal will come back to the committee in November for formal approval of the proposed rule.*

14. OAR 259-008-0005, 259-008-0060 & 259-008-0066 – Proposed Rules

Presented by Linsay Hale

See Appendix C for details

- *Brian Burger moved that the Corrections Policy Committee recommends to the Board filing the proposed language for OAR 259-008-0005, 259-008-0060, & 259-008-0066 with the Secretary of State as a proposed rule and make it permanent if no comments are received. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

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

15. Final Order that Differs from Proposed Order Issued by Administrative Law Judge

Presented by Marilyn Lorange

See Appendix D for details.

16. Quarterly Review of DOC Basic Corrections Course by the DPSST Audit Team

Presented by Theresa King

See Appendix E for details.

Theresa King stated the 2011 audit of the DOC BCC program meets the minimum training standards for the certification of corrections officers.

17. Oregon Department of Corrections Basic Corrections Course 2012

Presented by Theresa M. King

See Appendix F for details.

- *Daryl Borello stated the 2012 DOC curriculum has been enhanced to be in compliance with the statewide requirements of an additional 51 hours of reality based and scenario training. DOC has been making enhancements to their online testing processes. The sequencing of classes has been changed to flow with the Basic Corrections Local class at DPSST.*
- *Brian Burger moved that the Oregon Department of Corrections Basic Corrections Course 2012 does meet the minimum standard required for equivalency. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

18. Corey Basford, Department of Corrections – DPSST #40544

Presented by Leon Colas

See Appendix G for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried unanimously.*
- *By discussion and consensus:*
 - h. *Identify and articulate the misconduct that is specific to this case. **Two DUII convictions in 2004 and 2006, warrant for arrest, contempt of court, failure to comply, and suspended license.***
 - i. *The identified conduct did involve **Dishonesty based on BASFORD's denial of drinking alcohol when questioned by the arresting officer.***
 - j. *The identified conduct did not involve a **Disregard for the Rights of Others.***
 - k. *The identified conduct did not involve **Misuse of Authority.***
 - l. *The identified conduct did involve **Gross Misconduct Based on BASFORD's two convictions of DUII.***

- m. The identified conduct ***did*** involve **Misconduct based on BASFORD driving while suspended and a probation violation.**
- n. 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 mitigating circumstances his apologetic behavior in the end. BASFORD was not employed at the time of the two arrests.

The committee noted as aggravating circumstances BASFORD's failure to complete the requirements of his conviction, his lack of cooperation with the arresting officer, and his disrespectful communication with the arresting officers. His blood alcohol levels were almost three times the legal limit at the time of the two arrests. BASFORD mixed medication with alcohol.

- *Brian Burger moved that the Corrections Policy Committee finds BASFORD'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. Michael Gower seconded the motion. The motion carried unanimously*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that BASFORD's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; BASFORD may never reapply for certification. Nancy Howton seconded the motion. The motion carried unanimously.*

19. Jeffery J. Bilyeu, Oregon State Penitentiary – DPSST #31396

Presented by Leon Colas

See Appendix H for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - h. Identify and articulate the misconduct that is specific to this case. ***BILYEU's 2007 DUII diversion and 2012 DUII conviction.***
 - i. The identified conduct ***did not*** involve **Dishonesty.**

- j. The identified conduct ***did not*** involve a **Disregard for the Rights of Others**.
- k. The identified conduct ***did not*** involve **Misuse of Authority**.
- l. The identified conduct ***did*** involve **Gross Misconduct based on BILYEU's DUII conviction**.
- m. The identified conduct ***did*** involve **Misconduct based on BILYEU's two DUII arrests**.
- n. 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 mitigating circumstances BILYEU's employment record with no disciplinary actions. BILYEU's letter to the committee took responsibility for his actions. Four letters of support were submitted from coworkers. BILYEU took responsibility for his actions at the time of his arrests.

The committee noted as aggravating circumstances BILYEU's blood alcohol levels were .23 and .25 at the time of arrests.

- 2. ***Brian Burger moved that the Corrections Policy Committee finds BILYEU'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. Amanda Rasmussen seconded the motion. The motion carried unanimously.***

20. Chris J. Dunsworth, Department of Corrections – DPSST #49672
Presented by Leon Colas

See Appendix I for details.

- ***Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Brian Burger seconded the motion. The motion carried unanimously.***
- ***It is the consensus of the committee that the case brought before them did not have enough information to find any misconduct.***
- ***Michael Gower moved to postpone hearing DUNSWORTH's case until further information is provided. Amanda Rasmussen seconded the motion. The motion carried unanimously.***

21. Daniel R. Gonzales, Oregon Department of Corrections – DPSST #35139

Presented by Leon Colas

See Appendix J for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Eric Douglass seconded the motion. The motion carried unanimously with Michael Gower abstaining.*
- By discussion and consensus:
 - g. Identify the conduct that is at issue: *GONZALES left an inmate at a worksite and moved to another one, inaccurate log entries, abuse of computer time while on duty, did not do security checks when out on detail.*
 - h. The identified conduct did not involve **Dishonesty**.
 - i. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - j. The identified conduct did not involve **Misuse of Authority**.
 - k. The identified conduct did involve **Gross Misconduct based on GONZALES not properly keeping track of an inmate**.
 - l. The identified conduct did involve **Misconduct based on GONZALES not properly keeping track of his work crew**.
- The identified conduct did not involve **Insubordination**

By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

The committee noted as mitigating circumstances GONZALES' long term employment with Department of Corrections. GONZALES had medical and mental health issues.

The committee noted as aggravating circumstances the embarrassment for the department having to pick up a stranded inmate. GONZALES depended on his watch to write in log times knowing his watch was fast.

- *Amanda Rasmussen moved that the Corrections Policy Committee finds GONZALES' conduct did 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. Brian Burger seconded the motion. The motion carried unanimously with Michael Gower abstaining.*

22. Jeff T. Manley, Clackamas County Sheriff's Office – DPSST #36502

Presented by Leon Colas

See Appendix K for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion. The motion carried unanimously.*

- By discussion and consensus:
 - h. Identify the conduct that is at issue: *Lack of attention to duties, falsification of records, untruthfulness.*
 - i. The identified conduct did involve **Dishonesty based on MANLEY falsifying his records.**
 - j. The identified conduct did involve a **Disregard for the Rights of Others based on MANLEY not completing tier checks which posed a risk to inmates and staff. MANLEY also did not supervise the meal distribution.**
 - k. The identified conduct did involve **Misuse of Authority Based on abuse of public trust.**
 - l. The identified conduct did involve **Gross Misconduct. MANLEY's failure to act created a dangerous situation to others. Gross deviation of the standard of care.**
 - m. The identified conduct did involve **Misconduct based on MANLEY operating contrary to state statute by not making tier checks.**
 - n. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

The policy committee noted as mitigating circumstances MANLEY stating that he had several personal issues.

The policy committee noted as aggravating circumstances MANLEY had been addressed on teamwork and work performance in his performance reviews. MANLEY did not take responsibility for his actions. MANLEY did not perform tier checks multiple times on one shift which made him predictable to inmates.

- *Amanda Rasmussen moved that the Corrections Policy Committee finds MANLEY's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- *Joseph Pishioneri moved that the Corrections Policy Committee recommends to the Board that MANLEY's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; MANLEY may never reapply for certification. Brian Burger seconded the motion. The motion carried unanimously.*

23. Dewayne L. Woody, Northern Oregon Correctional Facility – DPSST #35139
Presented by Leon Colas

See Appendix L for details.

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Erik Douglass seconded the motion. The motion carried unanimously.*

- By discussion and consensus:
 - a. Identify the misconduct that is at issue: ***WOODY's inappropriate relationship with a known criminal, misuse of LEDS, gave money to girlfriend to buy drugs, took drugs from the institution he worked at and gave them to the girlfriend.***
 - b. The identified conduct ***did*** involve ***Dishonesty based on WOODY lying about watching girlfriend use drug. WOODY lied about how many times he ran LEDS. WOODY lied about cutting off the relationship with girlfriend. Untruthful throughout his interview.***
 - c. The identified conduct ***did*** involve a ***Disregard for the Rights of Others*** ***WOODY associated himself with known criminals and did not turn them in and he left his girlfriend unattended in a police officer's home.***
 - d. The identified conduct ***did*** involve ***Misuse of Authority based on WOODY's misuse of LEDS. Released sensitive information to his girlfriend.***
 - e. The identified conduct ***did*** involve ***Gross Misconduct based on WOODY associating with known felons including the "fantasia bandit" and not turning them in. Misuse of LEDS.***
 - f. The identified conduct ***did*** involve ***Misconduct based on misuse of LEDS which violated the law. WOODY's behavior in general was conduct that would violate the practices and standards generally followed in the Oregon public safety capacity.***
 - 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 as mitigating circumstances WOODY giving his side of the story.

The policy committee noted as aggravating circumstances WOODY's involvement in criminal behavior while he was a corrections officer and WOODY's denial of a sexual relationship with the female.

- h. ***Michael Gower moved that the Corrections Policy Committee finds WOODY's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Amanda Rasmussen seconded the motion. The motion carried unanimously.***
- i. ***Brian Burger moved that the Corrections Policy Committee recommends to the Board that WOODY's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; WOODY may never reapply for certification. Andy Long seconded the motion. The motion carried unanimously.***

24. Next Scheduled Meeting – November 13, 2012 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 3:20 p.m.

Appendix B

Department of Public Safety Standards and Training

DATE: November 13, 2012

TO: Eriks Gabliks, Director

THRU: Marilyn Lorange
Standards and Certification Manager

FROM: Theresa M. King
DOC BCC Audits Unit Coordinator

SUBJECT: Quarterly Review of DOC BCC by DPSST Audit Team

Issue:

Is the 2011 DOC BCC meeting the established standards for Basic Corrections Training?

Background:

The concept of Oregon Department of Corrections (DOC) providing its own training as an alternative to the DPSST 200-hour Basic Corrections Course (BCC) was proposed in the 2009 Governors' Recommended Budget as a cost saving for DOC. This concept was given statutory approval for a period of four years with the requirement that it meets or exceeds the DPSST BCC, that DPSST audit the DOC BCC and that DPSST provide a written report to the legislature in 2011.

Since 2010, the Audit Team has provided the Corrections Policy Committee with quarterly updates of the DOC BCC. Within the quarterly updates, the Audit Team has identified areas in which the DOC BCC has met the minimum standards or has exceeded the minimum standard. In cases in which the DOC BCC has not met the minimum standards, the Audit Team has identified the areas of non-compliance and the required remedy.

During this reporting period, **July through September 2012**, the Audit Team conducted a series of audits of the 2011 DOC BCC, which included Administrative Records Audits and On-Site Training Audits. Each audit includes Audit Team determinations of whether the training did not meet the standards, met the standards, or exceeded the standards. Additional observations and recommendations were made in areas of concern.

Audit Program Overview

DOC BCC Training

During this reporting period, DOC BCC did not conduct any new BCC. Five classes were still in progress at some phase of their BCC training.¹

DOC COD

During this reporting period, DOC submitted no applications for Career Officer Development (COD) to DPSST.

DOC BCC Testing Results

Because there were no new BCC classes within this reporting period, Test #1 was not delivered. During this reporting period, the cumulative average for Test #2 was 90.5% with 85% being the lowest score and 95% being the highest score.²

DOC Training Failures

During this reporting period DOC BCC has experienced no academic failures requiring remediation. DOC BCC experienced one skills (firearms) failure requiring remediation.³

Firearms

During this reporting period DOC's firearms failure rate has reduced significantly; we anticipate an ongoing and continuing increase in the qualification rate.⁴

Basic Corrections Certifications

DOC BCC Basic Corrections certifications issued

During this reporting period DOC PDU has submitted 39 applications for certification. 28 applications have been approved for certification and 11 are held pending release of class notebooks.

¹ Ex 21 Information from DOC PDU

² Ex 20, Ex 27 Information from DOC PDU

³ Ex 22 Information from DOC PDU

⁴ Ex 23

Curriculum/Instructors

2012 DOC BCC Curriculum

On August 14, 2012, the CPC reviewed and approved the new six week 2012 DOC BCC. This new program was subsequently approved by the Executive Committee. The first 2012 DOC BCC is scheduled for October 1, 2012.

Instructor Training and Certification

Instructor Development Courses

DOC PDU has delivered three Instructor Development classes within this reporting period.

Instructor Applications

During this reporting period no new DOC instructors were certified for the 2012 BCC program.

Audits

Training On-Site Audits

During this reporting period, the Audit Team conducted 19 on-site audits. Training on-site audits included observation of the training, review of the lesson plans, student handout materials, instructor presentation, student participation, skills sheets or online courses and student surveys.⁵

Class Notebook Audits

During this reporting period, 19 class notebooks were reviewed by the Audit Team; 11 have been approved and eight are awaiting reconciliation of documents by PDU.⁶

Administrative Records Audits

During this reporting period, the Audit Team conducted two administrative records audit, of BCC 018 (Eastside) and BCC 017 (Westside). Administrative records audits include reviewing the timekeeping records and shift assignments of both the trainees and the trainers, as well as training documentation.

⁵ Ex 1 – 19 and Exhibit 24

⁶ Exhibit 26

In general, for purposes of documentation of training, the recordkeeping meets standards. The following were observations identified:

Based on a review of the timekeeping records, post assignments, and related documents, it appears that DOC BCC 018⁷ records reflect an accurate recording of training.

DOC BCC 017⁸ records may reflect an inaccurate recording of training based upon the coding of timesheets and post assignments

CORPAT Data Collection:

During this reporting period, no CORPAT were delivered.

Findings

In general, the 2011 DOC BCC *meets* the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

Attachments:

- Ex 1** Reporting Period July – September 2012 Audit Overview
- Ex 2** 07 09 12 BCC 043/048 Medical Escorts and Restraints
- Ex 3** 07 09 12 BCC 043/048 DT 4 Edged Weapon
- Ex 4** 07 10 12 BCC 043/048 DT 4 RBT
- Ex 5** 07 11 12 BCC 048 CORPAT
- Ex 6** 07 12 12 BCC 043/048 Cell Extraction
- Ex 7** 07 12 12 BCC 043/048 RBT #1
- Ex 8** 07 13 12 BCC 043/048 RBT #2
- Ex 9** 08 28 12 BCC 052 Firearms Day 2
- Ex 10** 09 28 12 BCC 052 Firearms Day 3
- Ex 11** 09 10 12 BCC 043/048 Firearms Day 1 - 3
- Ex 12** 09 17 12 Medical Escorts and Restraints
- Ex 13** 09 18 12 DT 4 Edged Weapon
- Ex 14** 09 18 12 DT 4 RBT
- Ex 15** 09 19 12 CORPAT
- Ex 16** 09 19 12 IPC 3
- Ex 17** 09 20 12 Cell Extraction
- Ex 18** 09 20 12 RBT #1
- Ex 19** 09 20 12 RBT #2
- Ex 20** DOC Master Calendar
- Ex 21** DOC Student Training (Tracking)
- Ex 22** DOC Corrective Action (Remediation)
- Ex 23** Audit Firearms Tracking
- Ex 24** Audit Team Student Survey compilation
- Ex 25** BCC 018 Administrative Audit

⁷ Exhibit 25

⁸ Exhibit 28

- Ex 26** Class Notebook Tracking
- Ex 27** Student Progress Reports
- Ex 28** BCC 017 Administrative Audit

Appendix C

Overview:

In January 2012 DPSST implemented the 6-week Basic Corrections Local academy (BCL), a revised program designed specifically for city and county corrections professionals. Since then, 65 students have successfully graduated from the BCL academy (3 classes total).

In August 2012 the Corrections Curriculum Committee shared and evaluated program feedback from students, instructors and constituents. In addition, DPSST continually collects and analyzes student and instructor performance.

Feedback/Results:

- Curriculum Committee members expressed overall satisfaction with the new BCL academy. The members agreed that the program was a noticeable improvement to previous corrections programs.
- A review by committee members of the current academic testing standards and procedures concluded that the practices in place for the BCL academy are relevant to the corrections profession and meet the needs of constituents.
 - 94.4 % of enrolled students succeed academically
 - Success rates are improving compared to the previous 5-Week program
 - Only 4 academic failures out of 72 enrolled students
 - Average of 30.6 % improvement in overall knowledge measured from Pre-test to Post-test
 - Medical Awareness: 57.2 % improvement
 - Mental Health: 40.5 % improvement
 - Inmate Rights: 41.5 % improvement
 - Use of Force: 44.5 % improvement
- A review by committee members of the newly implemented scenario-based training components concluded that the practices in place for the BCL academy are relevant to the corrections profession and meet the needs of constituents.
 - There has been a noticeable improvement in student confidence related to job tasks
 - Students are successfully utilizing previously learned tactics in complex/stressful situations
 - Scenarios provide great opportunities for self-awareness and personal growth in students
- A review by committee members of the current skills training components (Physical Fitness, Defensive Tactics, Firearms) concluded that the practices in place for the BCL academy are relevant to the corrections professions and meet the needs of constituents.
 - There has been no significant change in the deficiency rate of students
 - There has been no significant change in the injury rate of students

NOTE: Please see Page 2 for a summary of student feedback

Response:

DPSST and the Curriculum Committee will continue with current standards and procedures.

SUMMARY OF BCL STUDENT FEEDBACK:

Experience

"I expected to mostly have classroom time, but we were up and applying what we learned A LOT."

"I feel more confident in myself and am ready to start training in my facility."

"The scenarios were a huge asset, and very realistic for issues we will face in the future."

"The academy helped me identify areas for personal development; I am definitely more prepared."

"I experienced a lot of new and challenging situations; this course is a good foundation for a career in corrections."

Curriculum

Scenario-based trainings supplemented the classroom work and discussions very well.

- Want even more "hands-on" training
- Great way to practice decision making, problem solving and interpersonal skills
- Challenged students to utilize learned tactics as well as adapt to real-life circumstances
 - Comment from BCL graduate:
"I like the way scenarios make you think about how you do things."

Problem Based Learning Exercises (PBLE) were very beneficial although overwhelming.

- Caused students to apply the Oregon Jail Standards and other information learned
- Would like more time to network and research
- Great opportunity to gain administrative insight and perspectives from different Oregon jails
 - Comment from BCL graduate:
"Assuming the role of a jail commander was eye-opening."

Would like more practice in:

- Report writing
- Coordinating tasks with multiple deputies (searches, crisis intervention)
- Radio communication

Classroom curriculum needs more multimedia presentations (i.e. video of actual incidents).

Instruction

Summary of student comments:

- Value the knowledge and experience of the instructors as well as their ability to relate
- Prefer instructors that facilitate dialogue with, and between, students
- Would like more consistency between scenario evaluations
- Appreciate the varied perspectives from multiple agencies/facilities in Oregon

Appendix D

Department of Public Safety Standards and Training

DATE: 11/13/12

TO: Corrections Policy Committee

FROM: Kim Fulton, Academy Training Coordinator

SUBJECT: Removal/replacement of curriculum in Basic Parole & Probation Academy

Issue:

Proposed removal of the class “Oregon Case Management System” from the current Basic P&P curriculum, to be replaced with “Risk Management.”

Background:

Up until September 2012, the Oregon Case Management System (OCMS) was the risk assessment tool used state-wide for purposes of offender classification and funding. As such, there was a two-hour curriculum in the Basic Parole & Probation academy devoted to teaching new officers how to score the OCMS risk assessment tool.

On September 1st, 2012, the OCMS was replaced with the Public Safety Checklist (PSC). As a result, the OCMS class has become inapplicable, and must be replaced with a new curriculum that, at the very least, includes some reference to the PSC.

On September 26th, 2012, the Parole & Probation Curriculum Committee met to discuss future curriculum goals. This committee is comprised of agency directors, supervisors, officers, and DPSST staff. The group concurred that the OCMS class must be removed from the curriculum. At that point the group engaged in a lengthy discussion regarding what should be taught in its place. The committee decided that since the PSC is largely “auto-filled,” there was very little instruction needed on how to score the tool. Therefore, the group agreed that a course familiarizing new officers with the multiple risk assessment tools used by community corrections (including the PSC) would be more useful.

This new curriculum, tentatively titled “Risk Assessment,” is supported by the 2011 JTA, specifically non-physical task numbers 3, 6, 10, 13, 19 and 24.

Action Item:

By a vote, determine if the Oregon Case Management System class should be removed from the Basic Parole & Probation curriculum, and replaced with a Risk Assessment familiarization class.

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: November 13, 2012

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: WILLIAM N. BROTTON DPSST #32156
Marion County Sheriff's Office**

ISSUE:

Should William N. Brotton's Basic, Intermediate and Advanced Parole and Probation certifications and his Basic, Intermediate and Advanced Corrections 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 BROTTON's resignation in lieu of termination after an agency investigation sustained violations of agency policies regarding failure to properly manage his client caseload, and improper use of agency internet services.

BACKGROUND and OVERVIEW:

1. *On June 7, 1994, BROTTON was hired by the Marion County Corrections Department as a corrections officer. In September 1998, BROTTON transferred to the Marion County Sheriff's Office as a deputy sheriff.⁹ He attended training, signed his Code of Ethics,¹⁰ and ultimately received Basic, Intermediate and Advanced Corrections certifications and Basic, Intermediate and Advanced Parole and Probation certifications.¹¹*
2. *In January 2012, DPSST received a form F-4 Personnel Action Report showing that BROTTON had resigned in lieu of termination.¹² DPSST requested and received the information related to the resignation.¹³*

⁹ Ex A1

¹⁰ Ex A2

¹¹ Ex A1

¹² Ex A3

¹³ Ex A4 – A5

3. *In September 2012, DPSST notified BROTTON via certified mail that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*¹⁴
4. *BROTTON submitted a response.*¹⁵

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, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements of the crime. Other categories may apply based on the conduct leading to the conviction; . . .

** * **

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

¹⁴ Ex A6

¹⁵ Ex A7 (note – DPSST is not bound by rulings in Employment Department cases)

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification; (Comment: Conduct underlying the mandatory disqualifying misdemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category II offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category III offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category IV offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category V offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.) 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. (Note: There are no category VI crimes.)

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

** * **

(see rule for list)

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 BROTTON's certifications based on violation of the established moral fitness standards:

- 2. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
- 3. 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 **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**.

4. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

5. By vote, the Policy Committee finds BROTTON'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.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix F

**Department of Public Safety Standards and Training
Memorandum**

DATE: November 13, 2012

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: GILBERT K. CORDELL DPSST #15176
DOC / Douglas County Community Corrections**

ISSUE:

Should Gilbert K. Cordell's Basic, Intermediate and Advanced Parole & Probation 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 Cordell's conduct surrounding his resignation pursuant to a settlement agreement after an internal investigation sustained violations of agency policies.

BACKGROUND and OVERVIEW:

5. *From August 20, 1984 to February 2, 2001, CORDELL was employed by an out-of-state agency as a police officer.¹⁶ On May 14, 2002, CORDELL was hired by the Douglas County Community Corrections Department as a parole and probation officer. He completed training,¹⁷ signed his Code of Ethics¹⁸ and ultimately obtained his Basic, Intermediate and Advanced Parole & Probation certifications.¹⁹*
6. *In November 2011 DPSST received a form F-4 Personnel Action Report from DOC/Douglas County Department of Community Corrections indicating that CORDELL had been discharged for cause from the agency.²⁰ Then in February 2012 DPSST received another F-4 showing that CORDELL had resigned from the agency pursuant to a Settlement*

¹⁶ Ex A1

¹⁷ Ex A1

¹⁸ Ex A2

¹⁹ Ex A1

²⁰ Ex A3

Agreement.²¹ Subsequently, DPSST sought and obtained the information related to the resignation.²²

7. In September 2012, DPSST notified CORDELL via certified mail that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.²³
8. CORDELL submitted a response.²⁴
9. Upon receipt of the items in CORDELL's response packet, DPSST contacted some of the individuals he mentioned to obtain their recollections of the incidents to which CORDELL refers.²⁵

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, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements

²¹ Ex A4

²² Ex A5

²³ Ex A6

²⁴ Ex A7

²⁵ Ex A8

of the crime. Other categories may apply based on the conduct leading to the conviction; . . .

** * **

(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; (Comment: Conduct underlying the mandatory disqualifying misdemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category II offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category III offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category IV offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category V offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.) 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. (Note: There are no category VI crimes.)

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

** * **

(See rule for list)

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 CORDELL's certifications based on violation of the established moral fitness standards:

6. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
7. 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 **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**.

8. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

9. By vote, the Policy Committee finds CORDELL'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.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE: November 13, 2012

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: CHRIS J. DUNSWORTH DPSST #49672
Dept. of Corrections – Coffee Creek Correctional Facility

ISSUE:

Should Chris J. Dunsworth's Basic Corrections 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?

This case involves DUNSWORTH's resignation during an internal investigation for violations of agency policies regarding relationships with former inmates.

BACKGROUND and OVERVIEW:

10. *On May 19, 2008, DUNSWORTH was hired by the Department of Corrections as a corrections officer. He attended training, obtained his Basic Corrections certification²⁶ and signed his Code of Ethics.²⁷*
11. *In March 2012, DPSST received a Personnel Action Report form F-4 showing that DUNSWORTH had resigned during an investigation.²⁸ DPSST sought and obtained information relating to the resignation.²⁹*
12. *In May 2012, DPSST notified DUNSWORTH via certified mail that his case would be heard before the Corrections Policy Committee (CPC), and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.³⁰*
13. *DUNSWORTH did not provide a response.*

²⁶ Ex A1

²⁷ Ex A2

²⁸ Ex A3

²⁹ Ex A4

³⁰ Ex A5

14. On August 14, 2012, this matter was presented to the CPC. After review, the committee requested further investigation, having determined that there was not enough information on which to make a decision.³¹
15. In September, 2012, DPSST requested and obtained further information from the agency investigator.³² DDPSST also sent DUNSWORTH another letter via certified mail advising him of the committee's request, giving him another opportunity to provide mitigating circumstances for the committee's consideration, and requesting that he come in for an interview.³³ DUNSWORTH did not respond.

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, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements of the crime. Other categories may apply based on the conduct leading to the conviction; . . .

* * *

³¹ Ex A6

³² Ex A7- A9

³³ Ex A10

(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; (Comment: Conduct underlying the mandatory disqualifying misdemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category II offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category III offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category IV offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category V offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.) 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. (Note: There are no category VI crimes.)

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

** * **

(see rule for list)

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 DUNSWORTH's certification based on violation of the established moral fitness standards:

10. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

11. 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 **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**.

12. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

13. By vote, the Policy Committee finds DUNSWORTH's conduct *does/does not* rise to the level to warrant the revocation of his certifications(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.

Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix H

Department of Public Safety Standards and Training
Memorandum

DATE: November 13, 2012

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: DONALD R. ROSS DPSST #28318

ISSUE:

Should Donald R. Ross' eligibility to reapply for public safety certification be reinstated under OAR 259-008-0070(11) and through incorporation of OAR 259-008-0070?

This case involves the 2002 revocation of Ross' Basic, Intermediate and Advanced Parole and Probation Certifications and Polygraph Examiner Trainee License.

BACKGROUND and OVERVIEW:

16. *On June 1, 1993, ROSS was hired by the Coos County Community Corrections Department as a Parole and Probation Officer. He attended training, ultimately obtained his Basic, Intermediate and Advanced Parole and Probation certifications.³⁴*
17. *In early 1994, ROSS trained to become a polygraph examiner, completing a course at Western Oregon State College.³⁵ He then obtained a Polygraph Examiners License from DPSST and maintained that license through early 2001.³⁶*
18. *In 1999, questions arose about the number of polygraph examinations ROSS had conducted in previous years, because of discrepancies in the numbers he had reported on different forms. In January 2000, the Polygraph Licensing Committee (PLAC) sent ROSS a letter requesting he attend the May 18, 2000, PLAC meeting and bring his log, charts and records documenting polygraph exams that he had performed.³⁷*

³⁴ Ex A1

³⁵ Ex A1, A2

³⁶ Ex A3

³⁷ Ex A4

19. *At that meeting, the PLAC determined that the exams reported on ROSS's log did not match the numbers claimed on his reports.³⁸ ROSS admitted that he claimed he had completed more exams than he actually did.³⁹*
20. *As a result of this meeting and the committee determination, the PLAC recommended suspension of ROSS' polygraph trainee license, and sent the recommendation to the Director of DPSST for consideration.⁴⁰ The recommendation was then forwarded to the Board for review.⁴¹*
21. *On July 20, 2000, the Board on Public Safety Standards and Training (BPSST) met and reviewed the matter. The Board opposed the PLAC's suspension recommendation and requested that the committee reconsider the case and revoke ROSS' polygraph license.⁴²*
22. *On September 22, 2000, the PLAC met and reconsidered ROSS' case. They had obtained additional information from the Coos County Corrections Department on all polygraph exams conducted by ROSS and after review, recommended that ROSS' polygraph examiner trainee license be revoked.⁴³ Their recommendation was forwarded to the Certification Coordinator, who provided a memo to the Director of DPSST, Diane Middle. Ms. Middle directed that the revocation process should proceed.⁴⁴ Thereafter, the matter was also referred to the Corrections Advisory Committee (CAC) for consideration of revocation of ROSS' parole and probation certifications.⁴⁵ On November 14, 2000, the CAC reviewed the case and recommended to the Board the revocation of ROSS' parole and probation certifications.⁴⁶ DPSST staff referred the matter to the Board.⁴⁷*
23. *On January 18, 2000, the Board met, and after consideration, voted to revoke ROSS' parole and probation certifications.⁴⁸*
24. *DPSST sought legal guidance from the Department of Justice (DOJ) as to whether, under the circumstances, DPSST could proceed with revocation of ROSS' polygraph examiner trainee license and his parole and probation certifications. DOJ advised that DPSST could proceed with such an action at its discretion.⁴⁹ DOJ provided the Department with Contested Case Notices to serve on ROSS should the Board vote to revoke ROSS' certifications.⁵⁰ Those notices were served on ROSS and thereafter he availed himself of the contested case proceeding, with representation by counsel.⁵¹ DPSST prevailed in the hearing and the ALJ*

³⁸ Ex A5, A6

³⁹ Ex A6, A7

⁴⁰ Ex A6

⁴¹ Ex A7

⁴² Ex A8, p.8

⁴³ Ex A9, p. 2 (the polygraph exams reviewed by the committee are not provided here due to the confidential information contained in the exams.)

⁴⁴ Ex A10

⁴⁵ Ex A11

⁴⁶ Ex A12

⁴⁷ Ex A13

⁴⁸ Ex A14

⁴⁹ Ex A15

⁵⁰ Ex A15

⁵¹ Ex A15, A16

- issued a proposed order that ROSS' Basic, Intermediate and Advanced Parole and Probation certifications be revoked, but that his Polygraph Examiner Trainee License not be revoked.*⁵²
25. *After ROSS' attorney filed exceptions to the proposed order,*⁵³ *DPSST issued a Final Order revoking all of ROSS' certifications.*⁵⁴
26. *In July 2002, DPSST received a Personnel Action Report form F-4 showing that ROSS had resigned from the Coos County Corrections Department.*⁵⁵
27. *In July 2012, DPSST received a request from Adam GOULD, attorney for ROSS, requesting information on the process for ROSS to request reapplication for Parole and Probation certifications. GOULD stated that ROSS was not interested in reapplying for his polygraph trainee license. GOULD followed up with a letter requesting that the Corrections Policy Committee consider ROSS's reapplication for Parole and Probation certification.*⁵⁶
28. *In September 2012, DPSST notified ROSS via certified mail that his case would be heard before the Corrections Policy Committee (CPC), and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*⁵⁷
29. *ROSS provided a response.*⁵⁸

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

⁵² Ex A17

⁵³ Ex A18

⁵⁴ Ex A19

⁵⁵ Ex A20

⁵⁶ Ex A21

⁵⁷ Ex A22

⁵⁸ Ex A23

(C) The public safety professional or instructor has been convicted of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements of the crime. Other categories may apply based on the conduct leading to the conviction; . . .

** * **

(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; (Comment: Conduct underlying the mandatory disqualifying misdemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category II offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category III offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category IV offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category V offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.) 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. (Note: There are no category VI crimes.)

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

** * **

(see list for crimes)

REAPPLICATION PROCEDURE:

OAR 259-008-0070(11) details the reapplication process:

(a) Any public safety professional or instructor whose certification has been denied or revoked pursuant to section (4) of this rule, may reapply for certification within the applicable timeframes described in sections (4) through (6) of this rule. The initial minimum ineligibility period will

begin on the date an Order of the Department denying or revoking certification becomes final. The initial minimum ineligibility period will cease when the applicable timeframe stated in the Order has been satisfied.

(b) Any public safety professional or instructor whose certification has been denied or revoked based on discretionary disqualifying misconduct may not reapply for certification until:

(A) The initial minimum period of ineligibility stated in an Order of the Department denying or revoking certification has been satisfied;

(i) If the initial period of ineligibility for the individual was for a period of less than the maximum period identified in section (4) of this rule, and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not reapply for certification under the provisions of this rule until after the maximum initial period of ineligibility identified in (4) of this rule has been satisfied.

(ii) If the individual has satisfied the maximum initial period of ineligibility and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not submit any further requests for an eligibility determination, and the original denial or revocation remains permanent.

(B) A written request for an eligibility determination has been submitted to the Department and a Policy Committee has recommended that a public safety professional's or instructor's eligibility to apply for public safety or instructor certification be restored and the Board has upheld the recommendation;

(i) A request for an eligibility determination should include documentation or information that supports the public safety professional's or instructor's request for eligibility to apply for certification.

(ii) In considering a request for an eligibility determination, the Policy Committee and the Board may consider mitigating and aggravating circumstances identified in Section 9(d) of this rule.

(iii) After reviewing a written request for an eligibility determination, the Board, through a Policy Committee, may determine that the individual's eligibility to apply for certification be restored if the criteria for certification have been met; or determine that the factors that originally resulted in denial or revocation have not been satisfactorily mitigated and the individual must remain ineligible to apply for certification.

(C) The public safety professional or instructor is employed or utilized by a public safety agency; and

(D) All requirements for certification have been met.

PERIOD OF INELIGIBILITY:

In 2002, ORS 181.664 specified that the period of ineligibility for reapplication for certification was no less than four years:

(2) Any public safety officer or instructor who has had certification revoked pursuant to ORS 181.661[,]181.662 and subsection (1) of this section may reapply for certification [*but not sooner than four years after the date on which the order of the department revoking certification became final*] . . .

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;*

(l) 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 ROSS' eligibility to apply for public safety certification should be restored:

14. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

15. 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 **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**.

16. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

17. By vote, the Policy Committee finds ROSS' eligibility to apply for public safety certification be *restored/not be restored* and recommends the same to the Board.

Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.

Appendix I

**Department of Public Safety Standards and Training
Memorandum**

DATE: November 13, 2012

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

**SUBJECT: MICHAEL A. VOKRAL DPSST #37004
Snake River Correctional Institution**

ISSUE:

Should Michael A. Vokral's Basic and Intermediate Corrections certifications be revoked, based on discretionary disqualifying conduct as defined in OAR 259-008-0070(4)(b), and as referenced in OAR 259-008-0010?

This case involves VOKRAL's conduct surrounding a motor vehicle hit-and-run incident in Idaho. VOKRAL was ultimately convicted of a reduced charge of Disturbing the Peace, a misdemeanor crime equivalent to Oregon's ORS 166.025, Disorderly Conduct in the Second Degree, a Class B misdemeanor. This is VOKRAL's second conviction in Idaho for Disturbing the Peace. The Oregon equivalent of Idaho's hit-and-run statute is ORS 811.700, Fail to Perform the Duties of a Driver When Property is Damaged, a Class A misdemeanor.

BACKGROUND and OVERVIEW:

30. *On January 19, 1999, VOKRAL was hired by the Department of Corrections as a corrections officer. He completed training,⁵⁹ signed his Code of Ethics⁶⁰ and ultimately obtained his Basic and Intermediate Corrections certifications.⁶¹*
31. *In June 2012, DPSST received an e-mail notification from the Snake River Correctional Institution, Captain RODRIQUEZ, that VOKRAL had been convicted of Disturbing the Peace in Idaho. RODRIQUEZ sent the agency's Unusual Incident Report and the Payette Police Dept. investigation documents with the e-mail.⁶² DPSST requested and received the*

⁵⁹ Ex A1

⁶⁰ Ex A2

⁶¹ Ex A1

⁶² Ex A3

*court judgment and the full agency investigative documents, and the final disciplinary documents.*⁶³

32. *In September 2012, DPSST notified VOKRAL via certified mail that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.*⁶⁴
33. *VOKRAL submitted a response.*⁶⁵
34. *In September 2012 DPSST checked with the Payette County District Court and determined that VOKRAL had paid in full the court fees and restitution in this case.*⁶⁶
35. *VOKRAL was convicted of Disturbing the Peace in Idaho in 2006. DPSST presented that case to the CPC and the Board in 2006, and VOKRAL's certifications were not revoked. That case is included here for background purposes.*⁶⁷

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, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements

⁶³ Ex A4

⁶⁴ Ex A5

⁶⁵ Ex A9

⁶⁶ Ex A6

⁶⁷ Ex A7

of the crime. Other categories may apply based on the conduct leading to the conviction; . . .

** * **

(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; (Comment: Conduct underlying the mandatory disqualifying misdemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category II offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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. (Comment: Conduct underlying the Category III offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category IV offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(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; (Comment: Conduct underlying the Category V offenses in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.) 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. (Note: There are no category VI crimes.)

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

** * **

166.025 (Disorderly Conduct in the Second Degree) – Category IV.

811.700 (Failure to Perform the Duties of a Driver when Property is Damaged) – Category V.

SPECIFIC TO THIS CASE:

OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of Disorderly Conduct as Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years. The disqualifying misconduct of Failure to Perform the Duties of a Driver When Property is Damaged is a Category V, Misconduct, based on the elements of the crime.

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 VOKRAL’s certifications based on violation of the established moral fitness standards:

18. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

19. 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 **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**.

20. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

21. By vote, the Policy Committee finds VOKRAL's conduct *does/does not* rise to the level to warrant the revocation of his certifications(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.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

Due process is an important part of the contested case hearing. Every public safety professional has the right to:

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.