

Corrections Policy Committee

Minutes

August 12, 2014

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, August 12, 2014, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Lisa Settell called the meeting to order at 1:30p.m.

Attendees:

Committee Members:

Lisa Settell, Parole and Probation Officer, Chair
Rick Angelozzi, Department of Corrections Superintendent
Brian Burger, Department of Corrections AFSCME Representative
Michael Gower, Designee for Director of Department of Corrections
Jeff Hernandez, Non-Management DOC
Jeanine Hohn, Department of Corrections Training Division
Tami Jackson, Non-Management DOC – Coffee Creek
Andy Long, Oregon State Sheriff’s Association
Jason Myers, Oregon State Sheriff’s Association
Donna Pettit, Non-Management Corrections Officer
Joseph Pishioneri, Non-Management Law Enforcement
Barbara Shipley, Oregon Sheriff’s Jail Command Council
Jeff Wood, Community Corrections Directors
Jeff Wheeler, Oregon Sheriff’s Jail Command Council

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Leon Colas, Professional Standards Coordinator/Investigator
Kristen Hibberds, Professional Standards Coordinator/Investigator
Linsay Hale, Professional Standards Division Director
Theresa King, Audit Program Coordinator
Sharon Huck, Rules Coordinator
Debbie Anderson, Certification & Compliance Specialist
Tia Turnipseed, Professional Standards Assistant
Bob Sigleer, Audit Program



1. Minutes of May 13, 2014 Meeting

Approve the minutes of the May 13, 2014 Corrections Policy Committee meeting.

To see a complete record of the May 13, 2014 Corrections Policy Committee minutes, please go to:

http://www.oregon.gov/dpsst/BD/Policy_Committee_Minutes/CPC_Minutes/CPC_minutes051314.pdf

Jeff Hernandez noted that the voting record of the Catto case was recorded inaccurately. Specifically that he voted nay in regards to the ineligibility period for the category of Disregard for the Rights of Others.

Brian Burger moved that the committee approve the minutes of the May 13, 2014 Corrections Policy Committee meeting with the correction to the voting record. Michael Gower seconded the motion. The motion carried unanimously.

2. Joshua Heldt – Medical Waiver

Presented by Debbie Anderson

Debbie reported on June 18, 2014, DPPST received a letter from Joshua W. Heldt requesting a waiver of the depth perception standards.

Michael Gower moved that the Corrections Policy Committee recommends approving a waiver of the depth perception standards for corrections officers for Joshua Heldt. Jeff Hernandez seconded the motion. The motion carried unanimously.

3. Tani Lumague – Medical Waiver

Presented by Debbie Anderson

Debbie reported on July 11, 2014, DPSST received a letter from the Multnomah County Sheriff's Office requesting a waiver of the Visual Acuity standards for Tani Lamague.

Jeff Hernandez moved that the Corrections Policy Committee recommends approving a waiver of the Visual Acuity standards for corrections officers for Tani Lumague. Tami Jackson seconded the motion. The motion carried unanimously.

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

Presented by Theresa King

Theresa King reported the audit period was April through June of 2014. The audit team continues to do performance based audits and the ultimate finding was that DOC BCC meets most of the minimum training standards approved by the Board for Corrections officers. Because scenarios in section B didn't allow students to consistently demonstrate prior learning in multiple components, the Auditors were not able to determine if the BCC met standards in all areas.

Lisa Settell inquired if the Audit team is unable to determine if all the standards were met, where they go from here.

Theresa explained that DPSST and DOC Professional Development Unit are having ongoing discussions about scenarios and scenario training as well as the construct of them, and she expects that they will have additional information on the next quarterly report.

Eriks Gabliks explained that DPSST will continue to do spot audits at DOC and the Committee will continue to get quarterly reports.

5. OAD-259-008-0010 and 259-008-0011 – Proposed Rule Change

Academic Proficiency Standard Exception presented by Sharon Huck

In November of 2013, the Corrections Policy Committee (CPC) agreed to have the same academic proficiency requirement in rule that is currently in place for Police and Telecommunications. The new rule would go into effect on January 1, 2015. DPSST's current rule doesn't exempt individuals previously certified in a public safety discipline re-entering the public safety field from this requirement.

This proposed rule change adds an exception to the rule that individuals, who have been certified in the discipline in which they are applying for training, are exempt from the academic proficiency testing requirement. If approved, this rule change will also apply to the Corrections Academic Proficiency Standard that becomes effective January 1, 2015.

Andy Long moved that the Corrections Policy Committee recommends to the Board filing the proposed language for OAR 259-008-0010 and 259-008-0011 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Joseph Pishioneri seconded the motion. The motion carried unanimously.

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

6. OAD 259-008-0005 and 259-008-0060 – Proposed Rule Change

CPR/First Aid Requirements, Leave Clarification, and Housekeeping presented by Sharon Huck

In February 2014, the CPC reviewed a constituent concern relating to the lack of a CPR Maintenance requirement for Corrections and Parole & Probation disciplines. The committee requested that a workgroup review the issue. In April 2014, that workgroup met and discussed the issue. After their review, the workgroup suggested adding to rule the requirement that a valid CPR certification should be required at the time of application for any level of certification. Additionally, this proposed rule contains updates regarding military leave and extensive housekeeping.

Brian Burger moved that the Corrections Policy Committee recommends to the Board filing the proposed language for OAR 259-008-0005 and 259-008-0060 with the Secretary

of State as proposed rules and as permanent rules if no comments are received. Joseph Pishioneri seconded the motion. The motion carried unanimously.

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

7. OAR 259-008-0015 and 259-009-0015 – Proposed Rule Changes

Presented by Sharon Huck

In February 2014, a member of the Police Policy Committee (PPC) expressed concern regarding the lack of consistency between the agencies when conducting pre-employment background investigations. The committee recommended that DPSST present this issue to the Board. The Board looked at the historical information and decided that a workgroup should be formed regarding background investigation language. The workgroup met on July 28, 2014 and August 5, 2014. The workgroup developed additional requirements for background investigations on individuals seeking employment as a public safety officer.

Michael Gower moved that the Corrections Policy Committee recommends to the Board filing the proposed language for OAR 259-008-0015 and 259-009-0015 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Jeff Hernandez seconded the motion. The motion carried unanimously.

There was some discussion as to the potential financial impact on agencies who aren't currently conducting this level of background investigation on their applicants. The consensus was that this impact is indeterminate, and wouldn't be significant.

8. Peter Hayes – DPSST# 30789

Presented by Leon Colas

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

By discussion and consensus, the committee identified the following behaviors by HAYES being considered in this case as:

- Dishonesty;
- His conduct surrounding the crime of theft in the third degree.

By discussion and consensus, the committee determined that HAYES' behavior did not involve Insubordination.

By discussion and consensus, the committee identified HAYES' behavior did involve Misconduct as defined in Administrative Rule based on the crime of theft in the third degree that he admitted to and was found guilty of.

Jeff Hernandez moved that the Corrections Policy Committee finds that HAYES' Misconduct does rise to the level to warrant revocation when considered alone. Brian Burger seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that HAYES' behavior did not involve Gross Misconduct.

By discussion and consensus, the committee determined that HAYES' behavior did not involve Misuse of Authority.

By discussion and consensus, the committee determined that HAYES' behavior did not involve Disregard for the Rights of Others.

By discussion and consensus, the committee identified HAYES' behavior did involve Dishonesty as defined in Administrative Rule when he took the items from the store stating he intended to pay for it, but admitted in his report with security staff that he had planned on taking the items, the act of theft being inherent to dishonest behavior, and he pled guilty to the crime.

Jeff Hernandez moved that the Corrections Policy Committee finds that HAYES' Dishonesty does rise to the level to warrant revocation when considered alone. Joseph Pishioneri seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- He was identified as a known thief;
- He did not take his medication because he didn't feel safe having it on his person and felt safer having it in the car, but when the officer went to the vehicle to retrieve his keys, his medication was laying on the seat, he made excuses rather than being concerned with the safety of his medication;
- He repeatedly stated he was going to go back and pay for the items before the officer had a chance to read the report from loss prevention, but signed the statement from loss prevention admitting to the theft;
- Worked for the Inspector General's Office at Department of Corrections

By discussion and consensus, the committee did not identify any Mitigating Circumstances.

After considering the totality of the circumstances, Michael Gower moved that the Committee recommends to the Board that HAYES' certification be revoked. Jeff Wheeler seconded the motion. The motion carried unanimously.

Brian Burger moved that the Committee recommends to the Board that HAYES' Misconduct warrants for an ineligibility period to reapply for certification of seven years. Tami Jackson seconded the motion. The motion carried unanimously.

Jeff Hernandez moved that the Committee recommends to the Board that HAYES' Dishonesty warrants an ineligibility period to reapply for certification of lifetime. Andy Long seconded the motion. The motion carried unanimously.

9. Desirae Wallace – DPSST# 48878

Presented by Leon Colas

Brian Burger moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Jeff Wood seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following behaviors by WALLACE being considered in this case as:

- Her conduct surrounding the conviction of Disorderly Conduct in the second degree;
- Assault and battery of three victims which initiated the police contact.

By discussion and consensus, the committee determined that WALLACE's behavior did not involve Insubordination.

By discussion and consensus, the committee identified WALLACE's behavior did involve Misconduct as defined in Administrative Rule by committing the crime of Disorderly Conduct, the act of assault in the fourth degree, and battery of three victims.

Jason Myers moved that the Corrections Policy Committee finds that WALLACE's Misconduct does rise to the level to warrant revocation when considered alone. Michael Gower seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified WALLACE's behavior did involve Gross Misconduct as defined in Administrative Rule based on her conviction of Disorderly Conduct in the second degree, the conduct of assault and putting others, specifically the three individuals who were assaulted, at risk.

Michael Gower moved that the Corrections Policy Committee finds that WALLACE's Gross Misconduct does rise to the level to warrant revocation when considered alone. Joseph Pishioneri seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that WALLACE's behavior did not involve Misuse of Authority.

By discussion and consensus, the committee determined that WALLACE's behavior did involve Disregard for the Rights of Others as defined in Administrative Rule when she failed to respect the rights of the three people she assaulted, and was convicted of Disorderly Conduct in the second degree.

Andy Long moved that the Corrections Policy Committee finds that WALLACE's Disregard for the Rights of Others does rise to the level to warrant revocation when considered alone. Tami Jackson seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that WALLACE's behavior did involve Dishonesty as defined in Administrative Rule when she indicated she couldn't remember assaulting the victims.

Michael Gower moved that the Corrections Policy Committee finds that WALLACE's Dishonesty does rise to the level to warrant revocation when considered alone. Jeanine Hohn seconded the motion. The motion carried 12-2 with Settell, Angelozzi, Gower, Hohn, Jackson, Long, Myers, Pettit, Pishioneri, Shipley, Wood and Wheeler voting aye; and Hernandez and Burger voting nay.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- She held the rank of sergeant;
- The video suggests that the three victims were not aggressive toward her, they had their hands up and were backing away;
- The conviction of disorderly conduct in the second degree.

By discussion and consensus, the committee identified the following Mitigating Circumstances:

- Letters of support from two Lieutenants and the Chief of Police at the Warm Springs Police Department;
- Assault charges were dismissed;
- She has taken accountability for her actions.

Michael Gower moved that the Corrections Policy Committee finds that the Mitigating Circumstances do not outweigh the Aggravating Circumstances. Jason Myers seconded the motion. The motion carried 11-3 with Settell, Angelozzi, Gower, Jackson, Long, Myers, Pettit, Pishioneri, Shipley, Wood and Wheeler voting aye; Burger, Hohn and Hernandez voting nay.

After considering the totality of the circumstances, Jeff Wheeler moved that the Committee recommends to the Board that WALLACE's certification be revoked. Michael Gower seconded the motion. The motion carried with Settell, Angelozzi, Gower, Hohn, Jackson, Long, Myers, Pettit, Pishioneri, Shipley, Wood and Wheeler voting aye; Burger and Hernandez voting nay.

Brian Burger moved that the Committee recommends to the Board that WALLACE's Misconduct warrants an ineligibility period to reapply for certification of three years. Jeff Hernandez seconded the motion. The motion carried unanimously.

Andy Long moved that the Committee recommends to the Board that WALLACE's Gross Misconduct warrants an ineligibility period to reapply for certification of five years. Tami Jackson seconded the motion. The motion carried unanimously.

Jeff Hernandez moved that the Committee recommends to the Board that WALLACE's Disregard for the Rights of Others warrants an ineligibility period to reapply for certification of five years. Andy Long seconded the motion. The motion carried unanimously.

Brian Burger moved that the Committee recommends to the Board that WALLACE's Dishonesty warrants an ineligibility period to reapply for certification of five years. Jeff Hernandez seconded the motion. The motion failed with Bugar and Hernandez voting aye; Settell, Angelozzi, Gower, Hohn, Jackson, Long, Myers, Pettit, Pishioneri, Shipley, Wood and Wheeler voting nay.

Barbara Shipley moved that the Committee recommends to the Board that WALLACE's Dishonesty warrants an ineligibility period to reapply for certification of lifetime. Rick Angelozzi seconded the motion. The motion carried unanimously.

10. Samuel Stinnett – DPSST# 53824

Presented by Kristen Hibberds

Jeanine Hohn moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Jeff Wheeler seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following behaviors by STINNETT being considered in this case as:

- His conviction of DUII.

By discussion and consensus, the committee determined that STINNETT's behavior did not involve Insubordination.

By discussion and consensus, the committee determined that STINNETT's behavior did involve Misconduct as defined in Administrative Rule when he violated the law.

Michael Gower moved that the Corrections Policy Committee find that STINNETT's Misconduct does rise to the level to warrant denial of his Application for Training when considered alone. Jeanine Hohn seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that STINNETT's behavior did involve Gross Misconduct as defined in Administrative Rule when he was convicted of DUII.

Joseph Pishioneri moved that the Corrections Policy Committee find that STINNETT's Gross Misconduct does rise to the level to warrant denial of his Application for Training when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that STINNETT's behavior did not involve Misuse of Authority.

By discussion and consensus, the committee determined that STINNETT's behavior did not involve Disregard for the Rights of Others.

By discussion and consensus, the committee determined that STINNETT's behavior did not involve Dishonesty.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- Refusal to take a breath test

By discussion and consensus, the committee identified the following Mitigating Circumstances:

- Letter of support of his agency;
- He was not employed as a law enforcement officer at the time of the incident;
- He successfully completed treatment requested;
- This was his first offense;
- There have been no incidents since.

Brian Burger moved that the Corrections Policy Committee finds that the Mitigating Circumstances do outweigh the Aggravating Circumstances. Jeff Hernandez seconded the motion. The motion carried unanimously.

After considering the totality of the circumstances, Brian Burger moved that the Committee recommend to the Board that STINNETT's Application for Training not be denied. Andy Long seconded the motion. The motion carried unanimously.

11. Timothy O'Brien – DPSST# 42723

Presented by Leon Colas

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, the committee identified the following Aggravating Circumstances:

- Original finding of dishonesty by the Corrections Policy Committee;

- Original finding of misconduct by the Corrections Policy Committee.

By discussion and consensus, the committee did not identify any Mitigating Circumstances.

Joseph Pishioneri moved that the Committee recommends to the Board that STINNETT's ability to reapply for certification should not be restored. Rick Angelozzi seconded the motion. The motion carried unanimously.

12. Staff Updates

Linsay Hale reported:

An update on the DPSST legislative concepts was about the ability of DPSST to require agencies utilizing reserve officers conduct background investigations, removing the sunset relating to the ability of PERS retirees to work full-time in the training division, and ability for the director to compel compliance with the requirement that agencies provide DPSST access to personnel records in cases where there may be certification issues. All concepts have been approved and drafted.

In July, DPSST hosted a discussion relating to the intermediate and advanced certification chart. While the group agreed that the intent of updating the charts to make the certifications more meaningful was valid, there continues to be concern surrounding the application process; specifically how and when training hours are accepted. Because it was the intent of the original workgroup to not include training hours that are used to earn or maintain basic certification, staff is requesting that participants form another workgroup.

DPSST had a minimum training standard workgroup formed at the direction of the Board to look at the minimum training requirements. The group met August 12, 2014 and is developing language relating to limited duration administrative positions. Once it has been decided, the language of the rule change will be brought to the committee for consideration. DPSST has also been asked to do some research into the 90-day lapse period found in statute.

The Academic Proficiency Standard which was recommended by the CPC and approved by the Board will become effective January 1, 2015.

Eriks Gabliks reported:

The Board approved the revised curriculum for Parole and Probation. The implementation will take place with the next class. This will also be the first class to test iPad technology for the complete five-week course. Administratively, DPSST is still working on connecting to the DOC AS400 system.

DPSST has seen an uptick in county and city corrections officer hiring. Because of this, an additional BCL class will be added in the spring of 2015.

The Board gave permission to move forward with the 2015-2017 Agency Request Budget. DPSST is requesting iPad technology for all of the basic training classes which will not affect Department of Corrections. Also in the request, DPSST is asking for two positions for mental health training specifically for public safety.

Eriks handed out the proposed quarterly committee meeting schedule for 2015.

13. Next Regularly Scheduled Meeting – November 4, 2014

Meeting Adjourned at 3:40 p.m.

** All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at dpsst.records@state.or.us.*