

Private Security/ Investigator's Policy Committee
Minutes
February 19, 2013

The Private Security/Investigator Policy Committee of the Board on Public Safety Standards and Training held a regular scheduled meeting on February 19, 2013, at the Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317. The meeting was called to order by Chair Jeff Martin at 1:33pm.

Attendees:

Policy Committee Members:

Jeff Martin, Chair
Phil Agrue, Private Investigators (via phone)
Jim Gibson, Private Investigators (via phone)
Justin Walker, Hospitality (via phone)
Judy Pongratz, Retail (via phone)
Ernie Loy, Private Business
Bob Smith, Health Care
Jim Essam, Alarm Monitors (via phone)
Chuck Wade, Unarmed (via phone)
Paul Castleberry, Armed (via phone)
Bill Geiger, Manufacturing (via phone)

Committee Members Absent:

Shawn Cardwell, Vice Chair

DPSST Staff:

Eriks Gablicks, Director
Linsay Hale, Rules Coordinator
Karen Evans, PSPI Investigator
Suzy Herring, PSPI Investigator
Julie Johnson, Compliance Specialist
Heather Hatch, Licensing Specialist

Guests:

Pat Higgins, Private Investigator (via phone)
Ron Miller, Private Investigator (via phone)
Craig Olsen, Private Investigator (via phone)
Mark Lucas, Securitas Security (via phone)
Kelly Kabaci, Private Investigator (via phone)

I. Chair's Report and Administrative Announcements

"This is a public meeting, subject to public meeting law and it will be digitally recorded."

II. Public Comment

No public comment at this time

III. Consent Agenda

a. Minutes

Approve minutes from the September 27, 2012 meeting

To see the complete record of the September 27, 2012 meeting, please go to:

http://www.oregon.gov/dpsst/BD/Policy_Committee_Minutes/PSIPIC_Minutes/PSIPC092712.pdf

Jim Gibson motioned to approve the consent agenda. Phil Agrue seconded the motion. The motion carried unanimously.

IV. OAR Chapter 259, Division 60 – Proposed Rule – Private Security (Housekeeping/Clarification Updates)

Presented by Linsay Hale

See Appendix A for details

This rule set was updated November 1st 2012. Staff recently went through the entire rule set again to correct any typographical errors, omissions, or ambiguous language that was in the rule set. There are no substantial changes. Most of the changes in this proposed rule are to correct errors made in the original rewrite. We changed some form names, added some things to the application packet that were omitted, clarified the 180 day training requirement, and clarified some of the denial and revocation rule.

Ernie Loy brought up a concern about the high school diploma requirement. The rule currently states that an applicant who is certified on or before November 1st is exempt from the education requirements. The intent was for an applicant to be exempt as long as they maintained their certification. Currently, if an applicant is expired more than four years, they would need to reapply. The high school information is part of the application process. Linsay will look at this section for more clarification.

Jim Essam brought up a concern regarding the removal of 'direct supervision' in OAR 259-060-0010. That definition was listed to further define a section of rule that was omitted. When that reference was omitted, the definition should have come out as well. Direct supervision is being redacted for housekeeping as it is not tied to anything currently. This discussion did not address Jim's concern and he would like it added to the next meeting as an agenda item.

Ernie Loy has a concern regarding OAR 259-060-0030 temporary assignments. The current rule reads that an employing manager may only issue a PS20 upon review of the application packet.

Ernie was concerned about applicants who have previously submitted their application packets to the Department. The committee would like the rule to read 'A PS20 form must accompany an application packet as prescribed in OAR 259-060-0025 unless such application has already been filed and is currently in process.'

Ernie Loy motioned to recommend the filing of the proposed language for OAR 259-060 as it has been amended today with the Secretary of State as a proposed rule and file as a permanent rule with said amendments if no comments are received. Bob Smith seconded the motion. Motion carried unanimously. No significant fiscal impact.

V. **OAR 259-061-0020 –Proposed Rule – Application for Private Investigator Licensure**

Presented by Lindsay Hale

See Appendix B for details

This rule update was reviewed by the committee in August 2012 and approved by the Board in October 2012. The rule was open for comment and was ultimately filed as a permanent rule on January 2, 2013. Since it was filed permanent, staff has discovered a handful of errors and omissions inadvertently filed permanent with the rule. This proposed rule is to correct those errors and omissions and to re-file.

Bob Smith motioned to file OAR 259-061-0020 with the Secretary of State as a proposed rule and file as a permanent rule if no comments are received. Ernie Loy seconded the motion. Motion carried unanimously. No significant fiscal impact.

VI. **OAR 259-061-0040 & 259-061-0030 - Proposed Rule – Private Investigator Moral Fitness**

Presented by Lindsay Hale

See Appendix C, D, and E for details

Staff recently met with the Private Investigator subcommittee to develop a private investigator moral fitness rule. We have tried to model what was done on the private security side. A flow chart was created indicating what the denial/revocation process will look like.

Ernie Loy brought up a concern regarding 259-061-0040(4) because the language is confusing. He would like to see the language state that failure to meet the minimum standards or falsifying information on an application be a mandatory disqualifier, rather than a discretionary disqualifier. The way that the minimum standards are constructed currently staff would have to change them, because an applicant could potentially fail to meet the definitions of minimum standards but the Policy Committee could determine that it does not rise to the level of denial or revocation. Staff will take another look and compare to the private security moral fitness section for any other issues. This item will be brought back as an item agenda.

Ernie would also like to change 259-061-0300(4)(b)(B) to read 'if the Department determines that a private investigator **has** engaged in discretionary disqualifying misconduct, the case **will** be presented to the Board...' Initially the moral fitness committee wanted applicants with

discretionary crimes to be reviewed by the Policy Committee rather than staff. Because of the amount of private security cases, it would be unrealistic. Private investigator numbers are much lower allowing for staff to present the discretionary disqualifiers to the Policy Committee. Staff would like to take another look at this section for clarification. This item will also be brought back as an agenda item.

The Policy Committee established a subcommittee to assist staff with reviewing the moral fitness sections for Private Security and Private Investigators. The subcommittee will be tasked with maintaining consistency with wording making sure that there are no discrepancies between ORS and OAR. Ernie Loy, Jim Gibson, Phil Agrue, and Jeff Martin will be on the subcommittee. Ernie will be the chair.

VII. Subcommittee Reports

- a. Curriculum-Judy Pongrantz
 - i. Reviewed and categorized the Job Task Analysis
 - ii. Developing a resource guide
- b. Armed-Paul Castleberry
 - i. Nothing new to report
- c. Alarm Monitor-Jim Essam
 - i. The Alarm monitor training manual is currently being updated
 - ii. Currently researching if there is the potential for DPSST to act as a conduit between government agencies and private security companies, particularly with alarm monitor companies
 - iii. Looking for a replacement chair
 - iv. Keeping a close eye on federal legislation regarding licensing standards
 - v. Alerting the committee with the fact that alarm installers may come under regulation by the Oregon Burglar and Fire Association under a proposed bill
- d. Investigator-Phil Agrue
 - i. Currently reviewing the admin rules

VIII. Department Updates

Presented by Eriks Gablicks

Legislature is in full swing and the bail bond agent bill is back. The Department will be keeping a close eye on this bill. The budget is current service level. The Department has not been asked to make any reduction to the unit because the fees cover the costs. The Department has been involved in some active shooter trainings as a sign of the times. Tara Mathews has transferred back to Academy Training and Mike James will be coming back on Monday. Brian will remain as the interim manager until we receive further clarification with the budget.

IX. Next meeting scheduled May 21st at 1:30pm

- a. Meeting adjourned at 3:05pm

Appendix A

Department of Public Safety Standards and Training
Memo

Date: February 19, 2013
To: Private Security and Investigator Policy Committee
From: Linsay Hale
Rules & Compliance Coordinator
Subject: OAR Chapter 259, Division 60 – Proposed Rule
Housekeeping / Clarification

Issue: The entire private security rule set was recently re-written and filed as permanent rule with the Secretary of State's office effective November 1, 2012. Since, the rule set was again reviewed by staff for typographical errors, omissions and ambiguous language. This proposed rule change addresses these issues and provides additional clarification for the private security industry. The following revised language for OAR Chapter 259, Division 060 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~). For ease of reading, only relevant sections of the rule set are included.

259-060-0010

Definitions

~~(12) "Direct Supervision" means actively monitoring work by the ongoing and uninterrupted presence of a certified private security professional, or a licensed executive or supervisory manager.~~

The following revised language for OAR 259-060-0015 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

259-060-0015

Private Security Provider Responsibilities

(5) Change of Information.

(a) An applicant or private security provider must notify the Department within 14 calendar days of any change of address using the Form PS-23 (Private Security Services Provider Change of Information.)

(b) Executive managers ~~may~~ **must** use the Form PS-23 to advise the Department of **the hiring or terminations of employment. private security providers using the Form PS-23.**

The following revised language for OAR 259-060-0020 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

259-060-0020

Minimum Standards for Certification or Licensure

(2) Education.

(a) Applicants for certification or licensure must provide documentary evidence of one of the following:

(A) A high school diploma;

(B) Successful completion of the General Education Development (GED) test; or

(C) A four-year, post-secondary degree issued by an accredited degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

~~(C) Other documentation verifying a high school education or GED, which may be accepted at the discretion of the Department.~~

(b) Evidence of the above will consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted at the discretion of the Department.

(c) Individuals who were certified or licensed on or before November 1, 2012 are exempt from the education requirements identified in subsection (2)(a).

The following revised language for OAR 259-060-0025 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

259-060-0025

Application for Certification and Licensure

(b) The application packet for renewing certification or licensure as a private security provider must be completed in its entirety and must include:

(D) All applicants for renewal of instructor certification must submit a Form PS-8 (**Private Security Instructor** Continuing Education-~~Form~~); and

(E) A Form PS-20 if currently employed and submitting the renewal packet less than 30 days prior to the expiration of certification or licensure.

~~(E)~~ **F** Nonrefundable renewal certification or licensure fees as prescribed by OAR 259-060-0500;

(c) The application packet for adding certification or licensure as a private security provider must be completed in its entirety and must include:

(D) A completed Form PS-27 affirming moral fitness and professional standards.

(d) The application packet for upgrading from unarmed private security professional to an armed private security professional must be completed in its entirety and must include:

(C) A completed Form PS-27 affirming moral fitness and professional standards.

(3) Timelines.

~~(e) If a renewal applicant is currently employed and submits a renewal application packet less than 30 days prior to the expiration of certification or licensure, the submission of a Form PS-20 is required to continue providing private security services while the application packet is being processed.~~

259-060-0030

Temporary Assignments

(1) Temporary Work Permits. Employing, licensed managers may issue Temporary Work Permits to private security providers upon verification that all application requirements have been completed.

(a) Temporary work permits must be requested on a Form PS-20 (Temporary Work Permit) **and must accompany an application packet as prescribed in OAR 259-060-0025.** The Form PS-20 is a three-page document which requires an original signature on all three pages.

(c) Employing, licensed managers may only issue one Temporary Work Permit per employee. **Upon expiration of a Temporary Work Permit,** subsequent Temporary Work Permits may be issued by contacting the Department and receiving approval.

(d) ~~Upon request, an~~ **An** employing, licensed manager may replace a Temporary Work Permit that has been lost or destroyed.

259-060-0060

Minimum Standards for Training

(1) All private security ~~training~~ courses and examinations will be based upon a curriculum approved by the Board.

(2) All required training and testing must be conducted by a certified private security instructor as defined in OAR 259-060-0010 or by a Department designee.

(3) All required firearms ~~training~~ **courses** must be administered by a certified private security firearms instructor.

(4) ~~The~~ **Only the** Department **or a designee** will deliver **instructor courses, firearms private security instructor courses and manager courses** ~~orientation training to managers and instructors.~~

(5) All training must be delivered in English and assessments and written exams must be completed in English, without assistance.

(6) The Department website will provide names of instructors who have requested on a Department-approved form that their names be available to applicants.

(7) Only a certified private security instructor delivering the training on-site may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(8) It is the responsibility of the applicant or private security provider to submit the original Form PS-6 to the Department upon completion of training courses as specified in these rules. The Form PS-6 must be signed by the certified instructor who administered the training course and enclosed in a tamper-proof bag, sealed by the instructor.

(9) To satisfy the training requirements for private security certification or licensure, training must be ~~completed and submitted to the Department on a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results)~~ within 180 days of the training being completed.

(10) Private Security Course Descriptions.

(a) Basic Classroom Instruction. Basic classroom consists of live classroom instruction which may include use of a subject matter expert, audio and visual instruction. Instructors must provide individuals with a manual of the basic curriculum. Applicants must complete a closed-book written examination.

(b) Assessment Module. The assessment module is a hands-on, practical exercise given to private security professionals that will reinforce the knowledge and techniques presented during classroom instruction. The module consists of evaluation and includes, but is not limited to, scenarios requiring application of task-related skills learned in the basic classroom instruction.

(c) Basic Firearms Training Course. Basic Firearms training course must include:

(A) A minimum of 24 hours of instruction and an open-book written examination covering firearms instruction materials;

(B) A safe gun handling test; and

(C) A marksmanship qualification using firearms qualification standards and targets.

(d) Instructor Course. The instructor course teaches curriculum, instructing techniques, and Department policies and procedures. The course includes classroom instruction, an assessment module and a written examination. ~~Training must be delivered by the Department or designee.~~ Instructor applicants must use a Board-approved manual to review the training course in a self-study environment; and

(e) Firearms Private Security Instructor Course. The Firearms Private Security Instructor course teaches armed professional curriculum instruction, instructing techniques, practical application and Department policies and procedures. The course includes classroom instruction, marksmanship qualification, safe handgun handling and a written examination. Instructor applicants must use a Board-approved manual to review the course in a self-study environment.

(e f) Manager Course. The manager course trains on Department policies and procedures. The course includes classroom instruction, an assessment module and a written examination. Private

security manager applicants must use a Board-approved manual to review the training in a self-study environment.

(11) Private Security Certification and Licensure Maintenance Course Descriptions.

(a) Annual Firearms Marksmanship Requalification and Refresher Course includes an annual firearms marksmanship requalification and the annual armed 4-hour classroom refresher course and closed-book written examination.

(b) Biennial ~~Refresher~~ **Renewal** Training includes ~~a~~ four hours of biennial **renewal course** ~~refresher training~~ related to the current level of certification and in accordance with OAR 259-060-0120, 259-060-0130, and 259-060-0135.

(c) Annual Firearms Instructor Marksmanship Qualification includes an annual firearms marksmanship requalification.

259-060-0120

Private Security Professional Certification and Responsibilities

(3) Alarm Monitor Private Security Professional.

(a) A certified private security alarm monitor professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) Basic training consists of successful completion of eight hours of alarm monitor basic classroom instruction and exam and a four-hour alarm monitor assessment.

(c) Biennial alarm monitor renewal training consists of a four-hour alarm monitor renewal course and exam. ~~To satisfy the renewal training requirements, training must be completed no more than 180 days before the expiration of the current certification.~~

(4) Unarmed Private Security Professional.

(a) A certified unarmed private security professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) Basic training consists of successful completion of eight hours of unarmed basic classroom instruction and exam and a four-hour unarmed assessment.

(c) Biennial unarmed renewal training consists of a four-hour unarmed renewal course and exam. ~~To satisfy the renewal training requirements, training must be completed no more than 180 days before the expiration of the current certification.~~

(5) Armed Private Security Professional.

(a) A certified armed private security professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) In addition to the minimum standards for unarmed certification, armed professionals must also be in compliance with the firearms standards listed in OAR 259-060-0020.

(c) Basic training consists of successful completion of:

(A) Eight hours of unarmed basic classroom instruction, exam and four-hour unarmed assessment; and

(B) Basic firearms ~~training~~ **course** as defined in OAR 259-060-0060 which consists of a minimum 24 hours of basic armed instruction, a written examination, safe gun handling test and marksmanship qualification.

(d) Armed annual refresher ~~training~~ **course** consists of a minimum of four hours including the armed refresher course and exam and firearms marksmanship requalification. ~~To satisfy the training requirements, armed annual refresher training must be completed no more than 180 days before the certification anniversary or expiration of the current certification.~~

(e) In addition to the annual refresher ~~training~~ **course**, armed private security professionals must complete an unarmed renewal ~~training~~ **course** biennially. ~~Renewal training must be completed no more than 180 days before the expiration of the current certification.~~

(6) Department-accredited ~~training~~ **courses** may satisfy the training requirements listed above.

259-060-0135

Private Security Instructor Certification and Responsibilities

(4) Private security instructors are authorized to instruct and deliver private security professional courses based on the approved or accredited private security professional course content and materials provided by the Department.

(a) Private security instructors must remediate or fail applicants as necessary.

(b) Private security instructors must provide all applicants with appropriate training manuals.

(c) Only a certified private security instructor delivering ~~the~~ training on-site may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(d) Certified private security instructors are responsible for verifying the identity of all applicants using government-issued identification.

~~(d)~~ **(e)** Only private security firearms instructors are authorized to instruct and administer basic and renewal firearms ~~training~~ **courses**.

(7) Firearms Private Security Instructor.

(a) Basic training consists of the successful completion of:

(A) Basic unarmed classroom instruction and exam;

(B) Basic unarmed assessment;

(C) Basic firearms ~~training~~ **course**;

(D) Department-administered firearms private security instructor course and Department-approved marksmanship qualification; and

(E) Proof of successful completion of training from one or more of the following sources no more than five years prior to the time of application:

(i) The National Rifle Association Law Enforcement Firearms Instructor Development School;

(ii) A firearms instructor through the Federal Law Enforcement Training Center;

(iii) A Department-certified law enforcement or criminal justice firearms instructor course;

(iv) A firearms instructor through the Federal Bureau of Investigation;

(v) A private security firearms instructor through the Washington Criminal Justice Training Center; or

(vi) A qualified instructor certification or ~~training~~ course as determined by the Department.

(b) Firearms private security instructors must successfully complete annual firearms instructor marksmanship qualifications. Instructors must qualify on a target authorized by the Department, within three attempts in one day.

(c) Biennial renewal consists of:

(A) Successful completion of the firearms private security instructor course, written exam, and marksmanship qualifications.

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills.

259-060-0300

Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Mandatory Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure

(2) The Department must deny or revoke a certification or license of any applicant or private security provider after written notice and hearing, **if requested**, upon a finding that the applicant or private security provider:

(a) Has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 **in effect on April 27, 2012** or any crime with similar elements in any other jurisdiction;

(b) Is required to register as a sex offender under ORS 181.595, 181.596, 181.597 or 181.609; or

(c) Has, within a period of ten years prior to application or during certification or licensure, been convicted of the following:

(A) Any felony other than those described in subsection (a) above **or any crime with similar elements in** ~~in this or~~ any other jurisdiction;

(B) A person **class A** misdemeanor as defined by the Criminal Justice Commission in OAR 213-003-0001 **in effect on April 27, 2012** or any crime with similar elements in any other jurisdiction;

(C) Any crime involving any act of domestic violence as defined in ORS 135.230 or any crime with similar elements in any other jurisdiction;

(D) Any misdemeanor or felony conviction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic, or dangerous drug in this or any other jurisdiction;

(E) Any misdemeanor arising from conduct while on duty as a private security provider; or

(F) Any of the following misdemeanors:

165.750570 (Improper Use of Emergency Reporting System)

Discretionary Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure

(4) The Department may deny or revoke the certification or licensure of any applicant or private security provider after written notice and hearing, **if requested**, upon finding that an applicant or private security provider:

(6) Denial and Revocation Procedure.

(b) Department Initiated **Request Review**: Upon receipt of factual written information from any source other than an employer, and pursuant to ORS 181.878, the Department may request that the Board deny, revoke or suspend the private security provider's certification or licensure.

(a) All applicants for reconsideration are required to submit a new application packet along with a Form PS-~~XX~~**30** Application for Reconsideration. The applicant may provide any mitigating information for the consideration of DPSST, Policy Committee, and Board.

259-060-0500

License Fees

(1) Payments to the Department are non-refundable, **non-transferable**, and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.

ACTION ITEM 1: If a consensus is reached, determine whether to recommend filing proposed language for OAR Chapter 259, Division 60 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR Chapter 259, Division 60 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Department of Public Safety Standards and Training
Memo

Date: February 19, 2013
To: Private Security and Investigator Policy Committee
From: Linsay Hale
Rules & Compliance Coordinator
Subject: OAR 259-061-0020 – Proposed Rule
Application for Private Investigator Licensure

Issue: This rule was recently updated, combining all of the private investigator application requirements into one rule. The section requiring an applicant to submit three letters of reference (formerly found in OAR 259-061-0080) was inadvertently omitted. This rule update remedies that oversight.

Additionally, the following minor changes are made:

- All references to “private investigators” were changed to “investigator” to include applicants for provisional licenses.
- The ability to scan fingerprints was recognized.
- Requirements for Errors and Omission Insurance were added.
- A statement was added prohibiting the submission of photocopies to satisfy the photograph requirement.
- A requirement was added to provide proof of a passing score on the PI Proficiency Exam.
- The requirement to report continuing education and supply updated photographs was added to the renewal application process.
- The re-application process following an administrative termination was clarified.
- A statement was added allowing the Department to grant exceptions to the application process.
- Form references, rule citations and typographical errors were corrected.

Private Investigator Subcommittee: On January 10, 2013, the Private Investigator Subcommittee met and discussed staff’s proposed amendments to OAR 259-061-0020. The Committee unanimously recommended approving the amended language to the Private Security and Investigator Policy Committee. Since that meeting it was determined by staff that the requirement for Investigators to notify the Department of any changes to contact information be removed from the Application rule. This information can currently be found in OAR 259-061-0180 (Maintaining Current Information.)

The following revised language for OAR 259-061-0020 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-061-0020

Application for Private Investigator Licensure

(1) All applicants for licensure must meet all minimum standards for licensure as described in OAR 259-061-0040.

(2) Applications for new licensure as a ~~private~~ **an** investigator must include:

(a) A completed Form ~~PS-4~~ **PI-1** (Application for Licensure ~~as a Private Investigator~~);

(b) A completed fingerprint packet. A fingerprint packet must include a pre-printed FBI fingerprint card and a Form ~~PS-4~~ **PI-4** (Affidavit of Person Rolling Fingerprints) completed by the person rolling or scanning the fingerprints. The card and form must be enclosed in a tamper-proof bag and sealed by the person who rolled **or scanned** the fingerprints before the packet is returned to the applicant. The Department will supply pre-printed FBI fingerprint cards and tamper-proof bags;

(A) The Department will only accept fingerprint cards correctly rolled and completed by private or public safety personnel trained to roll **or scan** fingerprints, or a person who is employed and trained by a private business that provides fingerprinting services.

(B) If a fingerprint card is rejected twice by the Federal Bureau of Investigation (FBI), the applicant will be ~~charged~~ **charged** a fee for a third submittal of a fingerprint card.

(c) Proof of a corporate surety bond, an irrevocable letter of credit issued by an Oregon commercial bank as defined in ORS 706.008, or errors and omission insurance in the amount of at least \$5,000;

(A) Bonds and letters of credit must have the applicant's name listed as the principal.

(B) Proof of surety bonds must be submitted on a Department-approved form and will not be valid for the purposes of licensure unless filed with the Department within 60 days of the signature on the bond.

(C) An irrevocable letter of credit submitted to the Department is subject to approval by the Department prior to the issuance of a license.

(D) Errors and Omission insurance must have the applicant's name listed on the Certificate of Liability or include a letter from the employing agency or insurance company confirming the applicant is covered as an employee.

(d) Two identical, passport-quality photographs for identification;

(A) Photographs must be in color with a solid-colored background and must be a cropped head shot. The applicant's face must be clearly visible and free from shadows or other obstacles.

Photocopies will not be accepted.

(B) The applicant's head in the photograph must **be** no be more than 1" wide and 1.25" high.

(C) Photographs must have been taken not more than six months prior to filing of the application for licensure.

(D) Photographs may be submitted to the Department digitally in the format prescribed on the Form PI-1.

(e) A completed Form PI-27 (~~Private~~ Investigator Professional Code of Ethics) affirming moral fitness and professional standards; and

(f) Three professional letters of reference, none of which may be from a person who is related to the applicant by blood or marriage.

(g) Proof of a passing score on the Private Investigator Proficiency Exam administered by the Department.

(~~f~~ **h**) Non-refundable application fees as prescribed by OAR 259-061-0010.

(3) Applications for renewing licensure as a ~~private~~ **an** investigator must include:

(a) A Form PI-21 (~~Private~~ Investigator Renewal Application) completed in its entirety;

(b) A completed Form PI-6 (Continuing Education Summary.)

(c) Two identical, passport-quality photographs for identification in accordance with subsection (2)(d) of this rule.

(~~b~~ **d**) A completed Form PI-27 (~~Private~~ Investigator Professional Code of Ethics) affirming moral fitness and professional standards; and

(e) Proof of a corporate surety bond, an irrevocable letter of credit issued by an Oregon commercial bank as defined in ORS 706.008, or errors and omission insurance in the amount of at least \$5,000 in accordance with this rule; and

(~~e~~ **f**) Non-refundable renewal application fees as prescribed by OAR 259-061-0010.

(4) Timelines.

(a) A completed application packet must be mailed to the Department and postmarked prior to the applicant performing any ~~private investigator services~~ **investigatory work**.

(b) Renewal application documents must be received by the Department within 90 days prior to the expiration date of the licensure to allow for processing of the forms and criminal history check.

(c) A late submission fee will be assessed as prescribed by OAR 259-061-0010 if reapplying after the license expiration date of the licensure.

(d) Applicants renewing their licensure more than 30 days after the expiration date of the original license must submit **the following:**

(A) a new application packet in accordance with subsection (2) of this rule.;

(B) A Form PI-6.

(6 **5**) Applicants for licensure who were previously licensed in Oregon must provide proof of completion of continuing education requirements or a written explanation detailing why continuing education requirements were not met and a written plan detailing how the continuing education will be made up, including a time line. The Department, at its discretion, may accept the plan in place of completed continuing education.

(7 **6**) Submission of any false information in connection with an application, supporting documentation or attachments for a license or registration may be grounds for discipline, criminal penalty, or civil penalty.

(8 **7**) The Department may administratively terminate, ~~upon written notification to the applicant,~~ the application process, **upon written notification to the applicant,** if the Department for any of the following reasons:

(a) The Department has reason to believe that the applicant has committed an act that constitutes ground for denial of a license as described in OAR 259-061-~~0300~~**0040**. The termination of an application due to criminal conviction disqualification is subject to the contested case procedures set ~~for~~ **forth** in OAR 259-061-~~0300~~**0040**;

(b) The application or any required documentation is incomplete or the Department is unable to satisfactorily verify application information due to non-response or non-compliance of the application;

(c) The fingerprint cards of an applicant have been rejected and returned by the Oregon State Police or Federal Bureau of Investigation;

(9 **8**) The Department may administratively terminate the application process after exhausting the following efforts:

(a) A letter will be mailed by the Department to the applicant at the last known mailing address identifying the deficiencies in the application process. The applicant will have 21 calendar days from the date of the mailing to notify the Department that the deficiencies are corrected. The Department may extend the time for compliance upon good cause shown by the applicant.

(b) If the Department is unable to determine a current address for the application, or if the applicant does not respond and correct the deficiencies within 21 calendar days, or such additional time authorized by the Department, the Department will list the applicant's status as "administratively ~~termination~~ **terminated**." The Department will notify the applicant at the last known address that the Department has administratively terminated the application process.

(c) Once the application process has been administratively terminated, the applicant ~~can~~ **must** reapply ~~at any time~~ by submitting a new completed application **packet with all deficiencies corrected, including new fees and proof of valid training.** ~~and fees to the Department.~~

~~(10) Applicants and licensed private investigators must notify the Department in writing of any changes to their name, home address, home phone number, mailing address, business name, business address, business phone number, or e-mail address within 10 days of a change.~~

(9) Any exception to the application process found in this rule must be approved by the Department.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-061-0020 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-061-0020 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Department of Public Safety Standards and Training
Memo

Date: February 19, 2013
To: Private Security and Investigator Policy Committee
From: Linsay Hale
Rules & Compliance Coordinator
Subject: OAR 259-061-0040 & 259-061-0300 – Proposed Rules
Private Investigator Moral Fitness

Background: ORS 703.465 and 703.480 authorize the Board on Public Safety Standards and Training, in consultation with the Private Security/Investigator Policy Committee (PSIPC), to develop rules outlining reasonable minimum standards of moral fitness to be upheld by licensed private investigators in the State of Oregon. The PSIPC, through the Board, must also develop rules establishing procedures which detail when and how private investigator licensure may be denied, suspended, or revoked.

Language was developed in a format which mirrors the recently approved moral fitness re-write for the Private Security industry. The language was tweaked fit the statutory framework specific to Private Investigators. A chart has been developed to illustrate the recommended process (Att. A.)

A Private Investigator subcommittee was convened to discuss the proposed language. As a result, core values were developed which subcommittee members believed were integral to the private investigator profession. It was also decided that all person felonies as defined by the Criminal Justice Commission would be automatic disqualifiers for licensure (Att. B.) Any other arrests or convictions committed by a licensed investigator or committed within 10 years of an application for licensure would be reviewed by the Private Security and Investigator Policy Committee on a case-by-case basis.

Subcommittee Recommendation: On January 31, 2013 the Private Investigator Subcommittee met and discussed the proposed amendments to OAR 259-061-0040 and 259-061-0300. The Subcommittee members unanimously recommended approving the amended language to the Policy Committee.

The following revised language for OAR 259-061-0040 contains recommended deletions (~~strikethrough text~~) and additions (**bold and underlined text**).

259-061-0040

Minimum Standards for Licensure

(1) An applicant for licensure as a private investigator must satisfy all license qualifications pursuant to ORS 703.415 and ORS 703.425.

(2) Moral Fitness (~~Professional Fitness~~). All private investigators must be of good moral fitness **as determined by criminal background check, department investigation, or other reliable sources.**

(a) ~~For purposes of this standard, lack **Lack** of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation.~~ **includes, but is not limited to, mandatory or discretionary disqualifying misconduct as described in OAR 259-061-0300.**

(b) The following are indicators of a lack of good moral fitness: **For the purposes of this standard, the Department, through the Policy Committee and Board, has defined core values that are integral to the private investigator profession. These values are:**

(A) Character. Good character includes being respectful and courteous, being faithful and diligent, using discretion demonstrating compassion and exhibiting courage;

(B) Honesty. Honesty includes integrity, credibility, acting honorably, adhering to the facts and maintaining confidences;

(C) Striving for Justice. Striving for justice includes just treatment, the quality or characteristics of being just, impartial, fair and non-discriminatory;

(D) Public Trust. Public trust includes maintaining public confidences, being law-abiding and adhering to recognized industry standards; and

(E) Respect for the laws and constitutions of this state and nation.

(A) ~~Illegal conduct involving moral turpitude;~~

(B) ~~Conduct involving dishonesty, fraud, deceit, or misrepresentation;~~

(C) ~~Intentional deception or fraud or attempted deception or fraud in any application, examination, interview, statement or other documentation for securing licensure, eligibility for licensure, or in the course of conducting business under one's license.~~

(D) ~~Conduct that is prejudicial to the administration of justice;~~

(E) ~~Conduct that adversely reflects on his or her fitness to perform as a private investigator. Examples include, but are not limited to: Intoxication while on duty, untruthfulness, failure to fulfill contractual commitments to clients, failure to provide supporting proof of investigative activities and/or services conducted for their clients, fraudulent billing practices, or a history of personal habits off the job which makes the private investigator both inefficient and otherwise unfit to render effective service because of a loss of confidence in the private investigator's ability to perform competently.~~

(c) If reliable evidence is received by the Board or Department that a private investigator lacks good moral fitness, a rebuttable presumption will be raised that the private investigator does not possess the requisite moral fitness to be a private investigator. The burden will be upon the private investigator to prove good moral fitness.

(3) The Department will conduct a review of any application on which disclosures have been made to determine if a license should be issued pursuant to ORS 703.415(3), 703.450, 703.465.

(4) Criminal History. An applicant for licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; Ors 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; Ors 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 153.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodom II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; Ors 163.670 Using Child in Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; Ors 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate in Possession of Weapon; ORS 1266.385(3), Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; Ors 167.017 Compelling Prostitution; ORS 468.951 Environmental Endangerment; ORS 475.984 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.986 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8 and 9 (OAR 213-019-0007, 213-019-0008 and 213-019-00011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; attempts or solicitations to commit any Class A or Class B person felonies, or an equivalent crime with similar elements in another jurisdiction.

(b) Within the 10-year period prior to applying for, or during, licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction.

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465, Public Indecency; ORS 163.467 Private Indecency; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of a Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; Ors 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 475.986(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); attempts or solicitations to commit any Class C person felonies, or an equivalent crime with similar elements in another jurisdiction.

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance

Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction.

~~(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim.~~

~~(d) Have been convicted of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing and Delivering), 475.995 (Distribution to Minors), 475.999 (Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.~~

~~(e) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597.~~

~~(f) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction; 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction.~~

~~(5) Failure to disclose a criminal conviction, on an application for licensure, of any Misdemeanor or Felony crime is grounds for denial, suspension or revocation of a license, and may include criminal or civil penalties.~~

~~(a) Department Staff Review: The Department or its designated staff shall review the disclosure and shall request further information or conduct its own investigation of the matter. If there is grounds for a suspension, revocation or denial based on the statutory and administrative rule requirements, the department shall notify the applicant or license holder in writing.~~

~~(b) Initiation of Proceedings: The Department's designated staff shall determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the applicant or license holder.~~

~~(c) Contested Case Notice: The Department or its designated staff shall prepare a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure. The Department or its designated staff must serve a copy of the "Notice" on the person whose application or licensure is being affected.~~

~~(d) Emergency Suspension Order: Notwithstanding subsection (c), the Department may immediately suspend a person upon a report that a person has been arrested for, or charged with, any crime listed in OAR 259-061-0040(4). The report may be received in any form and from any source.~~

~~(e) An Emergency Suspension Order must be in writing. The order may be issued without prior notice to the individual and without a prior opportunity for a contested case hearing. An Emergency Suspension Order must:~~

~~(A) Generally describe the acts of the person and any circumstances that would be grounds for an Emergency Suspension Order under this rule; and~~

~~(B) Identify the person at the Department whom the individual may contact and who is authorized to make recommendations regarding issuance of the order.~~

~~(f) When the Department issues an Emergency Suspension Order, it shall be served on the individual either personally or by registered or certified mail and must contain the following information:~~

~~(A) The effective date of the Emergency Suspension Order;~~

~~(B) A statement of findings detailing the specific acts or omissions of the person that violate applicable laws or rules and which serve as the grounds for revocation or suspension;~~

~~(C) A reference to the sections of the statutes and rules involved;~~

~~(D) A statement indicating the individual has the right to request a hearing to contest the Emergency Suspension Order;~~

~~(E) A statement indicating the individual will have waived their right to a hearing regarding the Emergency Suspension Order if the request for a hearing is not received by the Department within 20 calendar days of the date of notice of the Emergency Suspension Order; and~~

~~(F) A statement indicating a hearing will be held as soon as is prudent and practicable if a timely request for a hearing is received.~~

~~(g) If the individual submits a timely request for a hearing, the Department will hold a hearing on the Emergency Suspension Order as soon as is prudent and practicable.~~

~~(A) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.~~

~~(B) The sole purpose of the hearing will be to determine whether the individual was charged with or arrested for a crime listed in OAR 259-061-0040(4). Upon a showing that an individual was not charged with or arrested for a crime in OAR 259-061-0040(4), the suspension of the~~

~~individual's certificate or license will be immediately lifted; otherwise, the suspension will remain in effect until final disposition of the charges or arrest.~~

~~(h) Response Time:~~

~~(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" must submit a written request for a hearing to the Department within 60 calendar days from the date of mailing or personal service of the notice.~~

~~(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with an Emergency Suspension Order must submit a written request for a hearing to the Department within 20 calendar days from the date of mailing or personal service of the notice. The Department may extend the time allowed for submission of the written request for a hearing for up to 30 calendar days upon request.~~

~~(i) Default Order: If a timely request for a hearing is not received by the Department, the Contested Case Notice or Emergency Suspension Order will become a final order revoking, suspending or denying certification pursuant to OAR 137-003-0075(5).~~

~~(j) When the Department revokes a certification or denies an applicant's license, an individual is ineligible to reapply for future certification or licensure for a period of three (3) years from the date of final Department action or order. Any applicant reapplying for licensure must reapply in accordance with the provisions of ORS 703.401-703.490~~

~~(k) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).~~

~~(6) A denial or revocation of a license pursuant to ORS 703.450(4) will cause the denial, suspension, or revocation of all licenses administered by the Department.~~

The following revised language for OAR 259-061-0300 contains recommended deletions (~~strikethrough text~~) and additions (**bold and underlined text**).

259-061-0300

Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Mandatory Grounds for Denying, Suspending or Revoking Private Investigator Licensure

(2) The Department must deny or revoke the license of any applicant or private investigator after written notice and hearing, upon finding that the applicant or private investigator has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on April 27, 2012 or any crime with similar elements in any other jurisdiction;

(3) Emergency Suspension Order: The Department may issue an emergency suspension order pursuant to OAR 137-003-0560 immediately suspending a private investigator's licensure upon finding that a person has been charged with any of the mandatory disqualifying crimes listed in section (2) of this rule. The report may be in any form and from any source.

(a) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license.

(b) The sole purpose of the emergency suspension hearing will be to determine whether the individual was charged with a mandatory disqualifying crime. Upon showing that an individual was not charged with a mandatory disqualifying crime, the suspension of the individual's license will be rescinded, otherwise the suspension will remain in effect until final disposition of the charges.

Discretionary Grounds for Denying, Suspending or Revoking Private Investigator Licensure

(4) The Department may deny or revoke the licensure of any applicant or private investigator after written notice and hearing, upon finding that an applicant or private investigator:

(a) Fails to meet the minimum standards for licensure as a private investigator as defined in OAR 259-061-0040;

(b) Has falsified any information submitted on the application for licensure, including failing to disclose any criminal convictions, or any other documents submitted to the Department pertaining to private investigator licensure;

(c) Has violated any of the conditions of a temporary or provisional license as described in ORS 703.401-703.995 and these rules;

(d) Has failed to submit properly completed forms or documentation in a time frame as designated by the Department;

(e) Has failed to pay a civil penalty or fee imposed by the Department when due;

(f) Has failed to comply with any provisions found in ORS 703.401-703.995 or these rules;

(g) Has engaged in any of the conduct described in ORS 703.450; or

(h) Lacks moral fitness. For the purposes of this standard, the Department, through the Policy Committee and Board, has defined lack of moral fitness as:

(A) Lack of Character. Lack of character includes, but is not limited to, being disrespectful, failing to be faithful and diligent to an investigative charge, and failing to use discretion or compassion;

(B) Dishonesty. Lack of honesty includes, but is not limited to, untruthfulness, dishonesty by admission or omission, deception, misrepresentation or falsification;

(C) Failure to strive for justice. Failing to strive for justice includes, but is not limited to, unjust treatment or being partial, unfair or discriminatory;

(D) Lack of Public Trust. Failure to maintain public trust and confidence includes, but is not limited to, acting in an unlawful manner or not adhering to industry standards; or

(E) Lack of Respect for the Laws of this State or Nation. Lack of respect for the laws of this state and nation includes behavior which leads to an arrest or conviction within a ten-year period prior to application or during licensure.

Procedure for Denial or Revocation of Licensure

(3) Scope of Revocation. Whenever the Department revokes the licensure of a private investigator under the provisions of this rule, the revocation will encompass all private investigator licenses the Department has issued to that person.

(4) Denial and Revocation Procedure.

(a) Department Initiated Review: Upon receipt of factual written information from any source the Department may request that the Board deny, revoke or suspend the private investigator's licensure.

(b) Department Staff Review:

(A) When the Department receives information, from any source, that a private investigator may not meet the established standards for Oregon private investigators, the Department will review the request and supporting factual information to determine if a sufficient factual basis exists to support the request for denial, suspension or revocation of a private investigator license under ORS 703.401-703.995 and these rules.

(B) If the Department determines that a private investigator may have engaged in discretionary disqualifying misconduct, the case may be presented to the Board, through the Private Security and Investigator Policy Committee. The Department will seek input from the affected private investigator by allowing the individual to provide, in writing, information for the Policy Committee and Board's review.

(c) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (d) of this rule based on discretionary disqualifying misconduct, the Policy Committee and Board will consider mitigating and aggravating circumstances.

(d) Initiation of Proceedings: Upon determination that a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private investigator license under ORS 703.401-703.995 or these administrative rules, the Department will prepare and serve a contested case notice on the private investigator.

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the private investigator prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the contested case notice.

(C) Applicants who choose to withdraw their application forfeit their application fees.

(e) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Licensure has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing or a written request withdrawing their application from consideration with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Licensure has 20 days from the date of the mailing or personal service in which to file a written request for hearing with the Department.

(f) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking licensure pursuant to OAR 137-003-0672.

(g) Final Order:

(A) A final order will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015 if a private investigator fails to file exceptions and arguments within 20 days of issuance of the proposed order.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(h) Stipulated Order Revoking Licensure: The Department may enter a stipulated order revoking licensure of a private investigator upon the person’s voluntary agreement to terminate an administrative proceeding to revoke a license, or to surrender a license, under the terms and conditions provided in the stipulated order.

Appeals, Ineligibility Period and Reconsideration

(5) Appeal Procedure: Applicants and private investigators aggrieved by the findings and Order of the Department may file an appeal with the Court of Appeals from the Final Order of the Department, as provided in ORS 183.480.

(6) Upon denial or revocation of a licensure, an individual is ineligible to reapply for future licensure for a period of three years from the date of the final order issued by the Department.

(a) Any applicant reapplying for licensure must reapply in accordance OAR 259-061-0020.

(b) Pursuant to ORS 703.465(4), an applicant reapplying for licensure must prove by a preponderance of the evidence that the grounds for the denial or revocation no longer exist.

(c) In reconsidering the application of an applicant whose certification or licensure was previously denied or revoked for discretionary grounds, the Department, the Policy Committee and the Board may consider mitigating and aggravating circumstances.

(d) The Board’s decision to deny an application for reconsideration will be subject to the contested case procedure described under subsection (4) of this rule.

Attachments:

ATTACHMENT A – Proposed PI Denial/Revocation Procedure Flowchart

ATTACHMENT B – Oregon Criminal Justice Commission OAR 213-003-0001(14) – Definition “Person Felony”

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-061-0040 and 259-061-0300 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-061-0040 and 259-061-0300 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix D

213-003-0001

Definitions

(14) "Person felonies" are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3), Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, 0008, and 0011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5), Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); 2011 Or Laws ch 598, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy, ORS 97.982 Alteration of a Document of Gift; Subjecting Another Person to Involuntary Servitude I ORS 163.264, and II ORS 163.422, Trafficking in Persons; ORS 166.149 Aggravated Vehicular Homicide; ORS 167.057 Luring a Minor; Online Sexual Corruption of a Child I ORS 163.433, and II 163.422; ORS 166.070 Aggravated Harassment; 163.196; Aggravated Driving While Suspended or Revoked ORS 475.840(6)(a); Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

**ATTACHMENT A – PI
Denial/Revocation Flowchart**

