

Corrections Policy Committee Minutes February 8, 2011

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, February 8, 2011 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Todd Anderson called the meeting to order at 1:30 p.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Raimond Adgers, Oregon Sheriff's Jail Command Council
Tom Cramer, Department of Corrections Training Division Director
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Nancy Howton, Department of Corrections Security Manager
David Nielsen, Non-Management Corrections
Amanda Rasmussen, Non-Management Corrections Officer
Ida Rovers, Department of Corrections, Women's Correctional Facility
Lisa Settell, Parole and Probation Officer
Diana Simpson, Oregon State Sheriff's Association
Marie Tyler, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Jeff Wood, Oregon Association of Community Corrections Directors

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorange, Certification and Records Supervisor
Carolyn Kendrick, Administrative Specialist
Theresa King, Professional Standards Coordinator/Investigator
Bob Sigleer, DOC-BCC Auditor
Debbie Anderson, DOC-BCC Administrative Support
Linsay Bassler, Rules and Compliance Coordinator
Ryan Keck, Training Coordinator



1. Minutes (November 16, 2010)

Approve the minutes of the November 16, 2010 Corrections Policy Committee meeting.

See Appendix A for details.

Diana Simpson moved that the committee approve the minutes of the November 16, 2010 Corrections Policy Committee meeting as written. Marie Tyler seconded the motion. The motion carried unanimously.

Michael Gower asked that the committee pay homage to Officer Dodds who was badly injured, Chief Painter and the **Officer Jamie Biendl** in Washington that were killed in the line of duty. A moment of silence was observed by the committee.

2. DPSST Update: Basic Corrections Local and Police-to-Corrections Classes

Presented by Ryan Keck

See Appendix B for details

- *The Curriculum Committee for the Basic Corrections Local (BCL) classes met recently and noted a 91.6% success rate and approves of this program. No significant increase in injury was noted by adding 7 hours of personal training and CORPAT to the program. It is the consensus of the Curriculum Committee to continue the fitness training in the BCL classes. Increased scenario training in the BCL classes is necessary and desired. The Curriculum Committee is entertaining the idea of extending/expanding the BCL program. This idea has been brought before the constituents and the Curriculum Committee is waiting for feedback.*
- *Feedback from the first Police-to-Corrections basic class has been positive. Several supervisors and upper management from various agencies took part in this class. They stated the training was relevant and exceeded expectation. The participants suggested more emphasis placed on liability issues and less on conceptual ideas. Overall, the class was a success.*

3. Quarterly Review of DOC BCC by the DPSST Audit Team

Presented by Theresa King and Robert Sigleer

See Appendix C for details

- *An inter-agency agreement has been put in place between DPSST and DOC for DOC to use the DPSST ORPAT trailer. CORPAT has not been validated for Corrections as of yet, DOC is still collecting data. Corrections Policy Committee members asked that the CORPAT data collection show DOC and BCL results separately.*
- *It is the finding of the Audit Team that DOC meets and in some areas exceeds the minimum standards in training.*

4. Enrique Enriquez – DPSST #40977

Presented by Theresa King

See Appendix D for details

- *Erik Douglass moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did not involve **Gross Misconduct**.
 - f. The identified conduct did involve **Misconduct based on violation of the law**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as mitigating circumstances*

ENRIQUEZ's letter taking responsibility for his actions, and his good standing in employment for 9 years. Also identified as mitigating is that if ENRIQUEZ held a regular license instead of a commercial license, he would have been eligible for diversion classes in which event this case would not have been brought before the Corrections Policy Committee.

No aggravating circumstances were identified.

- *Marie Tyler moved that the Corrections Policy Committee finds ENRIQUEZ's conduct does not rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Ida Rovers seconded the motion. The motion carried unanimously.*

5. Leonard Fugate – DPSST #38214

Presented by Theresa King

See Appendix E for details

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on his lie regarding lack of training.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on continued emails to his ex-wife's work after asked not to.**
 - d. The identified conduct did involve **Misuse of Authority based on the abuses under the colors of office.**
 - e. The identified conduct did involve **Gross Misconduct based on deviation of policy regarding the standard of care: The sheer amount of time spent sending emails and not fulfilling duties, and the negative reference to inmates.**
 - f. The identified conduct did involve **Misconduct based on violation of law.**
 - g. The identified conduct did involve **Insubordination based on blatant disregard of standards set, policy violation, and inappropriate use of agency computers.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact FUGATE was before this committee previously and is again, the pattern of behavior for sexually related misconduct, FUGATE's mocking of this committee, his letter minimizing his conduct, and lack of change in behavior.*

No mitigating circumstances were identified.

- *Amanda Rasmussen moved that the Corrections Policy Committee finds FUGATE's conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Marie Tyler seconded the motion. The motion carried unanimously.*
- *Based on FUGATE's pattern of behavior and lack of change, Marie Tyler moved that the Corrections Policy Committee recommends to the Board that FUGATE's misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category-a lifetime*

disqualifier; FUGATE may never reapply for certification. Erik Douglass seconded the motion. The motion carried unanimously.

6. Marc Grupe – DPSST #46232

Presented by Theresa King

See Appendix F for details.

- *Raimond Adgers moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Diana Simpson seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on his lie regarding a doctor's appointment.**
 - c. The identified conduct did not involve a **Disregard for the Rights of Others.**
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did not involve **Gross Misconduct.**
 - f. The identified conduct did involve **Misconduct based on violation of standard of practice - honesty.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact that GRUPE can no longer be used as a witness because of his dishonesty.*

No mitigating circumstances were noted.

- *Diana Simpson moved that the Corrections Policy Committee finds GRUPE's conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Marie Tyler seconded the motion. The motion carried in a 8 to 4 vote with Erik Douglass, David Nielsen, Lisa Settell, and Ida Rovers voting no.*
- *Marie Tyler moved that the Corrections Policy Committee recommends to the Board that GRUPE's conduct encapsulated both of the categories noted above with a focus on the highest end of the Dishonesty category-a lifetime disqualifier; GRUPE may never reapply for certification. Diana Simpson seconded the motion. The motion failed in an 8 to 4 vote with Todd Anderson, Marie Tyler, Diana Simpson and Amanda Rassmussen voting yes.*
- *David Nielsen moved that the Corrections Policy Committee recommends to the Board that GRUPE's conduct encapsulated both of the above categories suggesting a 7 year period of ineligibility for Dishonesty and a 7 year period of ineligibility for Misconduct. Nancy Howton seconded the motion. The motion failed in a 7 to 5 vote with Todd Anderson, Erik Douglass, Marie Tyler, Diana Simpson, Michael Gower, Raimond Adgers, and Lisa Settell voting no.*
- *After much discussion, David Nielsen moved that the Corrections Policy Committee vote separately on the recommended period of ineligibility for each area of misconduct noted above and recommend to the Board that GRUPE's conduct rated on the lower end of Dishonesty suggesting a 7 year period of ineligibility; GRUPE may reapply for certification after seven years of revocation. Nancy Howton seconded the motion. The motion failed in a 10 to 1 vote with Nancy Howton voting yes and David Nielsen not voting.*

- *David Nielsen moved that the Corrections Policy Committee recommend to the Board that GRUPE's conduct reached the highest end of the Misconduct category – a 7 year period of ineligibility. Nancy Howton seconded the motion. The motion carried in a 9 to 3 vote with Erik Douglass, Amanda Rassmussen, and Lisa Settell voting no.*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that GRUPE's conduct in the area of Dishonesty reached a 15 year period of ineligibility from the date of revocation. Tom Cramer seconded the motion. The motion failed in a 9 to 3 vote with Michael Gower, Tom Cramer, and Nancy Howton voting yes.*
- *After further serious and lengthy discussion, Michael Gower moved that the Corrections Policy Committee recommends to the Board that GRUPE's conduct reached the highest level of Dishonesty – a lifetime disqualifier; GRUPE may never reapply for certification. Amanda Rassmussen seconded the motion. The motion carried in a 9 to 3 vote with Erik Douglass, David Nielsen, and Lisa Settell voting no.*

7. Breanna Reyes – DPSST #48250

Presented by Theresa King

See Appendix F for details

- *Erik Douglass moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Marie Tyler seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on the level of deception, and writing under an assumed name.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on inappropriate relationship and writing up an inmate without reason.**
 - d. The identified conduct did involve **Misuse of Authority –abuse of authority.**
 - e. The identified conduct did involve **Gross Misconduct based on gross deviation of procedure—putting officers in danger.**
 - f. The identified conduct did involve **Misconduct based on the letters, violated policy, and falsifying information.**
 - g. The identified conduct did involve **Insubordination based on violation of directives and policy.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as aggravating circumstances the fact that REYES was blatantly open about wrong doing, that the community knew about the relationship, and the embarrassment the department suffered as a result of her behavior.*

No mitigating circumstances were identified.

- *Amanda Rassmussen moved that the Corrections Policy Committee finds REYES' conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Ida Rovers seconded the motion. The motion carried unanimously.*
- *Nancy Howton moved that the Corrections Policy Committee recommend to the Board that REYES' conduct reached the highest end of the dishonesty category – a lifetime disqualifier;*

REYES may never reapply for certification. Ida Rovers seconded the motion. The motion carried unanimously.

- *Marie Tyler moved that the Corrections Policy Committee recommend to the Board that REYES' conduct also reached the highest levels of all the other categories noted above. David Nielsen seconded the motion. The motion carried unanimously.*

8. OAR 259-008-0010 – Proposed Rule

Presented by Linsay Bassler

See Appendix G for details.

Marie Tyler moved that the Corrections Policy Committee recommend to the Board filing the language of OAR 259-008-0010 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Diana Simpson seconded the motion. The motion carried unanimously.

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

9. OAR 259-008-0060 – Proposed Rule

Presented by Linsay Bassler

See Appendix H for details.

Erik Douglass moved that the Corrections Policy Committee recommend to the Board filing the language of OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously.

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

10. OAR 259-008-0070 – Proposed Rule (New Process)

Presented by Linsay Bassler

See Appendix I for details.

Marie Tyler moved that the Corrections Policy Committee recommend to the Board filing the language of OAR 259-008-0070 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Amanda Rasmussen seconded the motion. The motion carried unanimously.

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

11. OAR 259-008-0070 – Proposed Rule (Additional Identified Criminal Statutes)

Presented by Linsay Bassler

See Appendix J for details.

Diana Simpson moved that the Corrections Policy Committee recommend to the Board filing the language for OAR 259-008-0070 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously.

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

12. Additional Business

Presented by Eriks Gabliks

- *DPSST's budget presentation is scheduled for the week of February 20. Under the Governor's Balanced Budget we take a 5% reduction from our 25% list. Unfortunately, that entails cutting 7 positions, 3 of which are from the DOC Audit Program. That is the recommendation from the Governor. Everyone on this committee understands the impact this has. If DPSST cannot audit the DOC training, how can DPSST certify the people? Constituents should not look at the budget reduction as an indication that the audit program does not have value. DPSST worked with stakeholders to create its reduction proposal. Each DPSST program has value and the budget reductions are reflective of the fiscal challenges faced by the state and DPSST. We will keep you posted. As part of DOC's budget presentation, DPSST will be presenting a report from the audit team.*
- *Senate Bill 76 has gone to work session. This bill clarifies the definition of "Corrections Officer" that includes people who are supervisors. DPSST is working with DOC on the language for this definition.*
- *DPSST has received notice that the Oregon Supreme Court declined review of the Lister case. The Lister case came out of Molalla where the police officer had been terminated. Lister prevailed in the appeal of termination on the labor side. The Police Policy Committee and the Board moved to revoke him based on his untruthfulness. The courts said he should get his job back because the agency did not follow due process. With the Oregon Supreme Court not hearing the case, the case is over. This was a very big issue, which encompassed two different parts: the employment side and the licensing side.*
- *The Fallen Law Enforcement Memorial is scheduled for May 5, 2011. We have a request for the Police Policy Committee to approve adding Chief Painter's name to the wall. That should move forward and be added prior to the ceremony.*
- *The Public Safety Memorial Fund Board approved \$25,000 immediate assistance to Chief Painter's family with additional benefits to follow. This is the initial state outreach. They will also receive a Federal Public Safety Officer Benefit (PSOB).*

13. Next Scheduled Meeting – May 10, 2011 at 1:30 p.m.

With no further business before the committee, Marie Tyler moved to adjourn the meeting. Amanda Rasmussen seconded the motion. The meeting adjourned at 3:57 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) November 16, 2010

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 16, 2010 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Pro-Tem Lisa Settell called the meeting to order at 1:32 p.m.

Attendees:

Committee Members:

Raimond Adgers, Oregon Sheriff's Jail Command Council
Tom Cramer, Department of Corrections Training Division Director
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Nancy Howton, Department of Corrections Security Manager
David Nielsen, Non-Management Corrections
Amanda Rasmussen, Non-Management Corrections Officer
Lisa Settell, Parole and Probation Officer
Diana Simpson, Oregon State Sheriff's Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Jeff Wood, Oregon Assoc. of Community Corrections Directors

Committee Members Absent:

Ida Rovers, Department of Corrections, Women's Correctional Facility
Todd Anderson, Oregon State Sheriff's Association, Chair

Guests

Paul Peloquin

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorance, Certification and Records Supervisor
Carolyn Kendrick, Administrative Specialist
Bob Sigleer, DOC-BCC Auditor
Debbie Anderson, DOC-BCC Administrative Support
Linsay Bassler, Rules and Compliance Coordinator



Lisa Settell acted as Chair Pro-Tem due to Chair Todd Anderson's unavailability to attend this meeting.

1. Minutes (August 17, 2010)

Approve the minutes of the August 17, 2010 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved that the committee approve the minutes of the August 17, 2010 Corrections Policy Committee meeting as written. Michael Gower seconded the motion. The motion carried unanimously.

2. Tyron BIRDSONG – DPSST #35394

Presented by Marilyn Lorance

See Appendix B for details

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report, with amendments, as the record upon which its recommendations are based. Raimond Adgers seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve Dishonesty.
 - c. The identified conduct did involve a Disregard for the Rights of Others by exposing the young barista to inmates.
 - d. The identified conduct did involve Misuse of Authority based on the fact that *BIRDSONG* was in uniform using the staff entrance to the coffee shop, going behind the counter, and asking for speedy service while hinting for free coffee.
 - e. The identified conduct did involve Gross Misconduct based on deviation of practice by making an unscheduled stop with inmates.
 - f. The identified conduct did involve Misconduct - violation of policy.
 - g. The identified conduct did not involve Insubordination.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the letter from the Sheriff regarding BIRDSONG's continued poor judgment; lack of personal accountability; the letter to the Sheriff with the statement "BIRDSONG does off the wall things all the time."; and the letter of reprimand along with two letters of caution in the last three years.*

One committee member noted as a possible mitigating circumstance, the fact that BIRDSONG did leave one officer with the inmates while he went in for coffee.

- *Marie Tyler moved that the Corrections Policy Committee finds BIRDSONG's conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Amanda Rasmussen seconded the motion. The motion carried unanimously.*
- *Diana Simpson moved that the Corrections Policy Committee recommends to the Board that BIRDSONG's misconduct reached the top level of all categories noted above with a focus on Disregard for the Rights of Others-a fifteen year minimum period of ineligibility; BIRDSONG may reapply for certification after fifteen years from the date of revocation. Raimond Adgers seconded the motion. The motion carried unanimously.*

3. Samuel LEIDIG – DPSST #49033

Presented by Marilyn Lorance

See Appendix C for details

- Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried unanimously.
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve Dishonesty based on lies to the officer, then changing his story, and the lie in his letter about his cooperation and honesty.
 - c. The identified conduct did not involve a Disregard for the Rights of Others
 - d. The identified conduct did not involve Misuse of Authority
 - e. The identified conduct did not involve Gross Misconduct.
 - f. The identified conduct did involve Misconduct based on violation of the law—illegal fireworks.
 - g. The identified conduct did not involve Insubordination
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as an aggravating circumstance the lies within LEIDIG's letter. However, in the same letter, the fact that LEIDIG seemed remorseful was noted as a mitigating circumstance.*
- Amanda Rasmussen moved that the Corrections Policy Committee finds LEIDIG's conduct does rise to the level to warrant the revocation of his certification(s) based on his dishonesty and therefore recommends to the Board that these certification(s) be revoked. Marie Tyler seconded the motion. The motion carried in a 9-2 vote with Erik Douglass and David Nielsen voting no.
- Nancy Howton moved that the Corrections Policy Committee recommend to the Board that LEIDIG's misconduct reached the top level of the Dishonesty category—a lifetime disqualifier; LEIDIG may never reapply for certification. Amanda Rasmussen seconded the motion. The motion carried in a 9-2 vote, with Erik Douglass and David Nielsen voting no.

4. Breanna REYES – DPSST #48250

Presented by Theresa King

See Appendix D for details

- Diana Simpson moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion.

After further discussion regarding missing reports, Diana Simpson withdrew the motion and Nancy Howton withdrew the second.

Michael Gower moved to post-pone this case until the next Corrections Policy Committee meeting to allow staff time to collect additional information. Marie Tyler seconded the motion. The motion carried unanimously.

5. Timothy GALLAGHER, Jr. – DPSST #49465

Presented by Marilyn Lorance

See Appendix E for details

The committee took a 15-minute break to review additional last-minute information regarding the GALLAGHER case.

- *Erik Douglass moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Raimond Adgers seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve Dishonesty.
 - c. The identified conduct did not involve a Disregard for the Rights of Others
 - d. The identified conduct did not involve Misuse of Authority.
 - e. The identified conduct did not involve Gross Misconduct.
 - f. The identified conduct did involve Misconduct *based on conviction for the crime of unlawful taking of a game animal.*
 - g. The identified conduct did not involve Insubordination.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact that since this was in the newspapers it was a public embarrassment to the DOC community, his father was a fish and game officer so GALLAGHER clearly knew better, and the fact that there was no response to DPSST from GALLAGHER.*

No mitigating circumstances were noted.
- *David Nielsen moved that the Corrections Policy Committee finds GALLAGHER's conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Diana Simpson seconded the motion. The motion carried unanimously.*
- *Marie Tyler moved that the Corrections Policy Committee recommends to the Board that GALLAGHER's misconduct reached the top level of the Misconduct category-a seven year minimum period of ineligibility; GALLAGHER may reapply for certification after seven years from the date of revocation. Michael Gower seconded the motion. The motion carried unanimously.*

The committee did not convene in Executive Session and did not discuss matters exempt from public disclosure relating to the Gregory BURROUGHS case.

6. Gregory BURROUGHS – DPSST #19971

Presented by Linsay Bassler

- *Michael Gower moved that the Corrections Policy Committee recommends to the Board the approval of a waiver of the depth perception standard for Gregory BURROUGHS. Marie Tyler seconded the motion. The motion carried unanimously.*

7. **Quarterly Review of DOC BCC by the DPSST Audit Team**

Presented by Marilyn Lorange

See Appendix F for details

A committee member asked about the student exit surveys. Staff reminded the committee that this is the first class that was taught and surveys are a tool to better the course.

- *After hearing the quarterly review and discussing changes that have been made, Diana Simpson moved that the Corrections Policy Committee recommends to the Board and the Executive Committee that the Oregon Department of Corrections Basic Corrections Course 2011 meets or exceeds the minimum standard required for equivalency of the DPSST Basic Corrections Course. Erik Douglass seconded the motion. The motion carried unanimously.*

8. **OAR 259-008-0025 – Proposed Administrative Rule Change**

Presented by Linsay Bassler

See Appendix G for details

Diana Simpson moved that the Corrections Policy Committee recommend to the Board the filing of OAR 259-008-0025 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously.

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

9. **Additional Business**

Presented by Eriks Gabliks

- At the next Corrections Policy Committee meeting, staff will deliver reports from DPSST's Basic Corrections Local classes as well as the quarterly review of DOC BCC.
- DPSST just finished the first Police to Corrections class. We will have analysis and review at the next Corrections Policy Committee meeting.
- Intermediate and Advanced Certification Matrix: This work was delayed due to the uncertainty with the legislature over the last couple of years. The individual discipline subcommittees have finished their work on definitions. The large group Matrix Committee met to look at the work from each discipline subcommittee to cross-reference rules, etcetera for consistency. We hope to have reports for the Policy Committees soon.

10. **Next Scheduled Meeting – February 8, 2011 at 1:30 p.m.**

With no further business before the committee, the meeting adjourned at 4:00 p.m.

Appendix B

DPSST UPDATE: Basic Corrections Local

Overview:

In October 2009 DPSST began offering the Basic Corrections Local academy (BCL), a program designed specifically for city and county corrections professionals. Since then, 120 students have successfully graduated from the BCL academy (4 classes total).

On January 6, 2011 the Corrections Curriculum Committee shared and evaluated program feedback from students, instructors and constituents. The Committee also reviewed the existing curriculum and discussed potential modifications.

Feedback/Results:

- Curriculum Committee members expressed overall satisfaction with the current BCL academy. The members agreed that the program was a noticeable improvement to previous corrections programs.
- A review by committee members of the current academic testing standards and procedures concluded that the practices in place for the BCL academy are relevant to the corrections profession and meet the needs of constituents.
 - 91.6 % of BCL students succeed academically
(there have been 6 academic failures out of 131 enrolled students)
- A review by committee members of the current physical fitness components concluded that the practices in place for the BCL academy are relevant to the corrections professions and meet the needs of constituents.
 - There has been no significant change in the injury rate of students since incorporating seven hours of physical fitness training and CORPAT.
- The Curriculum Committee identified topic areas in which students need more confidence and/or training; most notably:
 - Radio operation and communication
 - Interpersonal skills
 - Transportation
 - Court security
 - Conflict resolution
- Committee members indicated interest in expanding the BCL academy to six weeks in duration in order to provide students with:
 - Additional training in high-risk correctional job tasks
 - Reality-based training similar to the Basic Police academy

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

Response:

DPSST and the Curriculum Committee will continue to work to meet the needs of the constituents.

SUMMARY OF BCL FEEDBACK

Experience

“The academy was an outstanding experience for me. I am taking away much more than I expected.”

“Situational awareness, professional reporting and an internal moral compass; after the academy, I apply all three daily.”

“Now I feel confident in my ability to be an effective asset to my department.”

“I have continued to be fitness minded post academy. The workouts at DPSST are very important to being physically, and mentally fit.”

“I have already noticed my training in my personal life, and look forward to applying it in my work environment.”

Curriculum

Incorporating the Oregon Jail Standards has been a valuable resource

- Serves as an additional tool for student reference
- Helps maintain consistency in course development, student discussion, instructor presentation
- Instructors are noticing students cite OJS more, and factoring OJS into their decision-making

- Comment from BCL graduate 6 months post academy:

“I use my knowledge of the OJS daily; especially when handling questions from inmates.”

Students need more confidence and/or training in several high-risk correctional job tasks

- Transportation
- Court security
- Self-defense against armed threats
- Area searches
- De-escalating hostile, emotional or difficult interpersonal conflicts

Curriculum lacks scenario-based training, hands-on activities and practical application exercises

Instruction

Summary of student comments

- Value the knowledge and experience of the instructors as well as their ability to relate
- Motivated by the genuine interest instructors’ display in the students’ career success
- Acknowledge the benefit of including instructors with varied perspectives from all over Oregon

Instructor development

- Positive improvements noticed by students and DPSST staff
 - Instructors more comfortable with academy setting, coursework, activities, etc.
- Identified areas which need improvement
 - Soliciting and relating student experiences to instructional objectives

- Reducing reliance on PowerPoint and written materials
- Expanding knowledge of OJS

Overview:

In October 2010 DPSST offered the first Police-to-Corrections academy (POLCOR). This two week program was designed to allow currently certified police officers to become dual certified in corrections, in order to meet the working needs of numerous county and municipal jails in Oregon.

The curriculum for POLCOR was developed with the following considerations:

1. The Non-physical Critical and Essential Tasks identified in DPSST's most current Job Task Analysis (JTA) for corrections.
 2. Minimizing redundancies as a result of previous police training at DPSST.
 3. Maintaining consistent standards of training with the Basic Corrections Local (BCL) academy.
- Please see Pages 4-6 for a breakdown of the POLCOR curriculum and learning goals.

33 students enrolled in POLCOR Class # 1; the class was comprised of:

- 11 county administrators/supervisors
- 7 municipal administrators/supervisors
- 3 county deputies (average experience: 1 year)
- 12 municipal officers (average experience: 7 years)

Feedback/Results:

All 33 students successfully completed the POLCOR academy.

The majority of direct feedback and course surveys from students expressed that:

- The program met the perceived needs for dual certification
- DPSST's testing measures were relevant (final examination, skill sheets)

Students also provided multiple suggestions for improvement to the POLCOR curriculum.

Most notably:

- Content should address smaller, municipal jails in more detail
- More practical corrections policy and procedures should be included (meals, supplies)
- Certain course materials and scenario exercises were too basic, considering student experience levels. For example:
 - Confrontational Simulation
 - Crimes in Custody
 - Discretionary Decision Making
- The largest benefit was in legal discussions related to liability issues in corrections

Response:

DPSST and the Corrections Curriculum Committee will continue to evaluate the POLCOR curriculum to meet the needs of constituents.

POLCOR Learning Goals

Section 1: Law and Legal Topics

Operational Statutes and Standards

4 hours

To know those Oregon Revised Statutes and Oregon Jail Standards most directly related to the general operation of a correctional facility.

Civil Liability and Civil Rights Violations

4 hours

To develop knowledge of corrections-related activities that could expose corrections professionals to civil liability and/or constitute civil rights violations.

Inmate Rights and Responsibilities

6 hours

To understand the basic sources and application of law regarding the rights and responsibilities of inmates, with an emphasis on the Bill of Rights of the United States Constitution.

Use of Force Law for Corrections/Decision Making Update

4 hours

To understand relevant state statutes as well as state and federal case law concerning corrections use of force. To update prior training concerning use of force decision making.

Crimes in Custody

2 hours

To develop the ability to recognize offenses which may occur in a local correctional facility.

Section 2: Community Relations and Human Behavior

Ethics and Professionalism

6 hours

To develop an understanding of ethical decision making, ethical behavior and the necessity for standards of conduct for corrections professionals.

Conflict Resolution

4 hours

To describe processes necessary for conflict resolution in a correctional setting.

Games Inmates Play

4 hours

To understand concepts relating to how inmates manipulate corrections professionals and how corrections professionals can protect themselves against manipulation.

Emotional Survival

4 hours

To provide students with exposure to the concept of emotional survival.

Section 3: Security

Security Principles

2 hours

To develop the knowledge and understanding of basic procedures, methods and purposes of security within a correctional facility.

Inmate Management

4 hours

To understand physical elements of a correctional facility relating to inmate supervision as well as conceptual principles of effective inmate management.

Discretionary Decision Making

2 hours

To enhance corrections professionals' decision making skills related to facility operations, inmate management and officer safety.

OSP Fingerprinting

2 hours

To enhance fingerprint pattern recognition and understand the importance of quality fingerprinting procedures.

Intake and Release Procedures

4 hours

To provide corrections professionals with an understanding of proper intake and release procedures.

Contraband and Searches

4 hours

To understand how corrections professionals can appropriately address the threat posed by contraband within a correctional facility, as well as how and when to search inmates, cells and other physical building areas.

Section 4: Health and Safety

Health and Fitness

2 hours

To develop a positive attitude toward fitness and to understand the relationship between physical fitness, productivity, health and safety.

Medical Awareness

4 hours

To become aware of constitutional rights related to health care within a correctional facility and corrections professionals' role in the routine, and emergency, provision of medical care.

Section 5: Mental Health

Suicide Awareness and Prevention

4 hours

To understand the potential risks of suicide and interventions for prevention in a correctional setting.

Section 6: Skills - Survival

Confrontational Simulation

4 hours

To demonstrate the ability to correctly apply the proper force option, the appropriate verbal commands, and the proper use of available cover when given a confrontational simulation scenario in a correctional setting.

Range 3000

4 hours

To develop knowledge and understanding of the critical role of personal communication and physical force during confrontation in a correctional setting.

Appendix C

Department of Public Safety Standards and Training

Memo

DATE: February 8, 2011
TO: Eriks Gabliks, Director
THRU: Marilyn Lorance
Standards and Certification Manager
FROM: Theresa King,
DOC BCC Audits Unit Coordinator
SUBJECT: Quarterly Review of DOC BCC by DPSST Audit Team

Issue:

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

Background:

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

In May, August and November 2010, the Audit Team provided the Corrections Policy Committee a quarterly update of the 240-hour DOC BCC. In each report, the Audit Team found that the DOC BCC met the minimum standards as an equivalent to the DPSST Basic Corrections Course, and in some areas exceeded the minimum standard. Additionally, a supplemental November Staff Report was submitted that addressed the DOC BCC curriculum, which was updated for 2011 due to DPSST's update to the Basic Corrections local course and the staff audit of the DOC BCC course content.

During this reporting period, between November and January 2010, the Audit Team conducted a series of audits of the DOC BCC, which included Administrative Records Audits, Administrative on-site Audits, and Training On-Site Audits. After each audit, the results were provided to DOC Professional Development Unit (PDU) for review prior to forwarding to the institution. Each audit includes Audit Team determinations of whether the training did not meet the standards, met the standards, or exceeded the standards. Additional observations and recommendations were made in areas of concern.

Audit Program Overview

DOC BCC Training

DOC BCC in-session classes

During this reporting period, DOC BCC began 2 new BCC, making a total of 16 classes in some phase of training. A total of 117 students are attending some phase of the BCC. Of the 16 classes, BCC-002 graduated on December 14, 2010.

DOC BCC testing results

The cumulative average for Test #1 was 90% with 75% being the lowest score and 100% being the highest score. To date, the cumulative average for Test #2 is 89% with 87% being the lowest score and 97% being the highest score.

DOC Training Failures

DOC BCC has experienced no academic failure requiring remediation. DOC BCC has experienced 24 skills failures requiring remediation; all but six students have remediated and five of those students are scheduled to attend remediation. Attached is an overview of the DOC remediation status.

DOC BCC training completed

During this reporting period 76 students have completed the DOC BCC program and are now working on their Field Training Manual. These students must submit to a nine-month internal review conducted by field training officers, the field training supervisor, and command staff to determine, based on the students' progress and achievements, whether they will continue in their trial service. It is at the 12-month mark that DOC will submit the F-7 along with documentation for DPSST Basic Corrections certification. It is important to note that after Test #2 all of the requirements of the DOC BCC have been met, for purposes of DPSST certification. While completion of the Field Training Manual is a requirement for certification, the methodology used is at the discretion of DOC, as it is with any other public safety agency.

DOC COD

During this reporting period, DOC did not submit any applications for Career Officer Development (COD) to DPSST based on prior-established criteria.

DOC Class Notebooks

In compliance with DPSST requirements, when the portion of BCC that DPSST oversees concludes its training, DOC PDU is required to prepare a Class Notebook that is submitted to DPSST and which DPSST retains based on its Records Retention Schedule, similar to all other mandatory classes for which certification is issued.

Instructor Training and Certification

Instructor Development Courses

During this reporting period, DOC has conducted seven Instructor Development Courses (IDC). In total, 73 instructors were trained.

Instructor Applications

During this reporting period, DOC has submitted 14, F-9 Instructor Applications, all of which were approved. A total of 274 DOC instructors are now certified for the BCC program.

Audits

Administrative Records Audits

*During this reporting period, the Audit Team conducted two administrative records audits. Administrative records audits include reviewing the timekeeping records and shift assignments of both the trainees and the trainers, as well as training documentation. The two audits included **BCC 007** (Westside) at Salem and **BCC 011** (Eastside).*

Administrative Records Audit Findings:

BCC 007 (Westside)

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

Based on a review of the timekeeping records, post assignments, and related documents, it appears that DOC BCC 007 records do not reflect an accurate recording of training. After the Audit Team identified discrepancies, explanations of the actual training timeframes were provided by CCCF and DOC PDU that the actual training did occur.

BCC 011 (Eastside)

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

Based on a review of the timekeeping records, post assignments, and related documents, it appears that DOC BCC 011 records *did not* reflect an accurate recording of training. Findings also included completion of skills sheets *prior* to the start date of DOC BCC 011, a deviation from the WAAG and from the DOC BCC program methodology of “learn, practice, demonstrate.” After the Audit Team identified discrepancies, explanations of the training timeframes and skills sheets were provided by TRCI and DOC PDU. As noted in the Compliance section of this report, a non-compliance letter was issued.

Training On-Site Audits

During this reporting period, the Audit Team conducted two multi-day training on-site audits.

- 1. Reality Based Training, Day 1 and 2*
- 2. Week 1, BCC 023*

Training on-site audits included observation of the training, review of the lesson plans, student handout materials, instructor presentation, student participation, and related areas.

Training On-site Audit Findings:

DOC BCC Training On-site Audits resulted in ultimate determinations that the training meets or exceeds the DPSST BCC course. The concept of “learn, practice, demonstrate” is being carried throughout the training phases of the DOC BCC program and the six-month phase culminates in a week-long class that includes Reality Based Training (RBT).

Training On-site Audit Team concerns:

During this reporting period, there were two concerns that arose relating to the DOC BCC training; both stemming from the Student Survey results.

The first concern was derived from student survey results and related to firearms training. In substance, DOC historically has provided in-service training for officers who have already been provided basic and fundamental skills at DPSST.

Now DOC's role is to train new students who often have not handled a firearm which address a different set of skills which focus on the fundamentals of weapons handling and diagnosing shooting issues. This concern was ultimately resolved by DPSST offering a Firearms Instructor Development Course to DOC firearms instructors, which will focus on providing students with basic firearms skills and diagnosing shooting problems and incorrect target shot placement.

The second concern was derived from student survey results and related to whether the "front search of inmates" technique is the safest and most effective technique. Uniquely, Oregon DOC is the only state surveyed which requires a front search. The Audit Team conducted nationwide research on the search techniques and provide this information to DOC for its consideration.

Compliance concerns

During this reporting period, the Audit Team identified one non-compliance issue for the DOC BCC training which was discovered during an Administrative Audit. In substance, one institution significantly deviated from the approved BCC program as it relates to the "learn, practice, demonstrate" training methodology; they allowed students to complete their Skills Sheets prior to any classroom training.

Student Surveys

During this reporting period, 21 student surveys were conducted. The surveys assessed students' confidence level based on training received and effectiveness of the training received. The surveys continue to demonstrate an increased level of confidence in students' abilities to perform the tasks of a correctional officer as the training phases continue.

Curriculum and Course Hour Updates

In November the DOC BCC 2011 updated curriculum was presented to the Corrections Policy Committee, which after review unanimously recommended that the DOC BCC 2011 be approved. This recommendation was taken to the Executive Board in December in order to allow the training to be implemented on January 1, 2011, prior to the Board meeting in January. The Executive Committee approved the DOC BCC 2011. The Audit Team determined that the DOC BCC 2011 exceeds the minimum standards required.

CORPAT data collection

During this reporting period, an Interagency Agreement has been developed to allow DOC BCC students to use the CORPAT equipment at DPSST for the purpose of data-collection by DPSST. On December 20, 2010, an updated interagency agreement was forward to DOC for their approval.

Findings

Based on the information and audit results to date, the DOC BCC meets the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections, and exceeds the minimum standards in several areas.

Attachments:

Attachment 1 3-pg Audit Team Tracking List

Attachment 2 4-pg Firearms Training Audit, Class BCC 014
Attachment 3 4-pg Firearms Qualification Audit, Class BCC 014
Attachment 4 4-pg Firearms Training Audit, Class BCC 018
Attachment 5 4-pg Firearms Qualification Audit, Class BCC 018
Attachment 6 10-pg Defensive Tactics Audit, Class BCC 014/017
Attachment 7 10-pg Reality Based Training Audit, Day 1, Class BCC 014/017
Attachment 8 10-pg Reality Based Training Audit, Day 2, Class BCC 014/017
Attachment 9 4-pg Oregon Accountability Model Audit, BCC 023
Attachment 10 4-pg Security Threat Management Audit, BCC 023
Attachment 11 4-pg Respectful Workplace Audit, BCC 023
Attachment 12 4-pg Use of Force Audit, BCC 023
Attachment 13 4-pg Boundaries Audit, BCC 023
Attachment 14 5-pg Inmate Prohibited Conduct Audit, BCC 023
Attachment 15 4-pg Interpersonal Communication Skills, Pt 1, Audit, BCC 023
Attachment 16 4-pg Memo, Student Participant Survey results relating to Firearms
Attachment 17 2-pg Firearms Analysis
Attachment 18 2-pg email, request for Firearms Instructor Development Course
Attachment 19 2-pg Firearms Training Familiarization for DOC Course
Attachment 20 3-pg Search of Inmate Technique research
Attachment 21 1-pg Search of Inmate Technique statistics
Attachment 22 6-pg Comparison of Search of Innate Techniques, National Survey
Attachment 23 18-pg DOC BCC Student Progress Reports
Attachment 24 2-pg DOC BCC Remediation results
Attachment 25A 10-pg Administrative Records Audit BCC 007
Attachment 25B 9-pg response from DOC on Administrative Records Audit BCC 007
Attachment 25C 1-pg email to/from CRAMER/KING
Attachment 26A 11-pg Administrative Records Audit BCC 011
Attachment 26B 9-pg response from DOC on Administrative Records Audit BCC 011
Attachment 26C 9-pg WAAG
Attachment 27 DOC Instructor Development Courses for reporting period and future forecast
Attachment 28 Class Notebook Checklist
Attachment 29 November 16, 2010 Corrections Policy Committee Staff Report
Attachment 30 2-pg Non-compliance letter of DOC BCC 011 Administrative Audit and resolution response from PDU

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: February 8, 2011
TO: Corrections Policy Committee
FROM: Theresa M. King
Professional Standards Investigator/Coordinator

SUBJECT: Enrique ENRIQUEZ DPSST #40977

ISSUE:

Should Enrique ENRIQUEZ' Basic Corrections certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to ENRIQUEZ:

On July 9, 2001, ENRIQUEZ was hired by the Oregon Department of Corrections as a corrections officer.

On July 17, 2001, ENRIQUEZ signed his Criminal Justice Code of Ethics.

On August 19, 2002, ENRIQUEZ was granted a Basic Corrections certificate.

On November 16, 2010, ENRIQUEZ submitted an F7, Application for Certification, for his Intermediate Certification. Within this document he noted that he had been convicted of DUII.

DPSST sought and obtained information relating to the conviction.

In December 2010, DPSST sent a certified letter to ENRIQUEZ advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.

ENRIQUEZ provided a response for the CPC's consideration. Staff included the DUII related discretionary cases research.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

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

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

- (vi) *Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;*
- (vii) *Whether the public safety professional or instructor has more than one conviction, and if so, over what period of time;*
- (C) *Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;*
- (D) *Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;*
- (E) *Whether the misconduct involved domestic violence;*
- (F) *Whether the public safety professional or instructor self reported the misconduct;*
- (G) *Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;*
- (H) *Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;*
- (I) *What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.*

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke ENRIQUEZ's certifications based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds ENRIQUEZ's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: February 8, 2011
TO: Corrections Policy Committee
FROM: Theresa M. King
Professional Standards Investigator/Coordinator

SUBJECT: Leonard FUGATE DPSST #38214

ISSUE:

Should Leonard FUGATE's Basic and Intermediate Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to FUGATE:

On October 4, 1999, FUGATE was hired by the Oregon Department of Corrections as a corrections officer.

On November 1, 1999, FUGATE signed his Criminal Justice Code of Ethics.

On July 31, 2000, FUGATE was granted a Basic Corrections Certificate.

On December 8, 2005, FUGATE was granted an Intermediate Corrections Certificate.

On August 18, 2009, the Corrections Policy Committee (CPC) heard a case involving FUGATE stemming from a Public Indecency conviction. Based on mitigating circumstances, the CPC recommended to the Board that FUGATE's certifications not be revoked. The Board affirmed the CPC recommendation. FUGATE was notified of this determination.

On June 29, 2010, FUGATE resigned during an internal investigation.

DPSST sought and obtained information relating to the resignation during investigation.

In November 2010, DPSST sent a certified letter to FUGATE advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.

In December 2010, FUGATE provided information for the CPC's consideration.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

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

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke FUGATE's certifications based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

4. By vote, the Policy Committee finds FUGATE's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: February 8, 2011
TO: Corrections Policy Committee
FROM: Theresa M. King
Professional Standards Investigator/Coordinator
SUBJECT: **Marc GRUPE DPSST #46232**

ISSUE:

Should Marc GRUPE's Basic and Intermediate Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to GRUPE:

On July 13, 2006, GRUPE was hired by the Klamath County Sheriff's Office as a corrections officer.

On April 26, 2007, GRUPE signed his Criminal Justice Code of Ethics.

On July 13, 2007, GRUPE was granted a Basic Corrections Certificate.

On November 5, 2008, GRUPE was granted an Intermediate Corrections Certificate.

On September 1, 2010, GRUPE resigned in lieu of termination.

DPSST sought and obtained information relating to the resignation.

In December 2010, DPSST sent a certified letter to GRUPE advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.

On December 10, 2010, GRUPE called me to ask about the upcoming CPC review. During that telephone conversation he admitted to me that he had lied to his supervisor about a doctor's appointment in order to get the day off that would have otherwise not be granted. This telephone call was transcribed.

In January 2011, GRUPE provided information for the CPC's consideration.

On February 4, 2010, GRUPE contacted DPSST and asked that the determination from the Employment Department be included as a part of the record for consideration by the CPC. Both the email correspondence and the Final Order were included in the record.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

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

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

- (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;*
- (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;*
- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;*
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;*
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;*
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;*
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;*
- (E) Whether the misconduct involved domestic violence;*
- (F) Whether the public safety professional or instructor self reported the misconduct;*
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;*
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;*
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.*

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke GRUPE's certifications based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.

3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds GRUPE's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE: November 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator
SUBJECT: Breanna REYES DPSST #48250

ISSUE:

Should Breanna REYES' Basic Corrections certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to REYES:

On May 13, 2007, REYES was hired by the Oregon Department of Corrections as a corrections officer.

On July 12, 2007, REYES signed her Criminal Justice Code of Ethics.

On March 18, 2008, REYES was granted a Basic Corrections Certificate.

On June 30, 2010, REYES resigned in lieu of termination. DPSST sought and obtained information relating to the resignation.

In September 2010, DPSST mailed REYES a letter advising her that her case would be heard before the Corrections Policy Committee (CPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

On November 16, 2010, the CPC reviewed the case and requested that staff obtain documents identified in the June 22, 2010 pre-dismissal letter. DPSST sought and obtained these documents. Subsequent to this, DPSST contacted the Lake County District Attorney's Office who advised that criminal charges have not been filed, to date.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

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

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke REYES' certification based on violation of the established moral fitness standards:

1. By vote, the Corrections Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Corrections Policy Committee finds REYES' conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy

Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Corrections Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix H

Department of Public Safety Standards and Training Memo

Date: February 8, 2011
To: Corrections Policy Committee
From: Linsay Bassler
Rules Coordinator
Subject: OAR 259-008-0010 – Proposed Rule
Minimum Education Standards for Employment as a Law Enforcement Officer

Issue: Currently, the minimum standards for employment as a law enforcement officer require applicants to furnish documentary evidence of a high school diploma or GED. On rare occasions an applicant has completed post-secondary education but has not completed high school or received a GED. This rule update adds language allowing law enforcement applicants to furnish documentary evidence of a four-year, post-secondary degree from an accredited college or university to satisfy the minimum education standard.

The following revised language for OAR 259-008-0010 contains recommended additions (**bold and underlined**) and deletions (~~striktthrough text~~).

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma; ~~or~~

(B) Successful completion of the General Educational Development (GED) Test; **or**

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

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

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

ACTION ITEM 1: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0010 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0010 with the Secretary of State as permanent rule if no comments are received.

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

Appendix I

Department of Public Safety Standards and Training Memo

Date: February 8, 2011
To: Corrections Policy Committee
From: Linsay Bassler
Rules Coordinator
Subject: OAR 259-008-0060 – Proposed Rule
Public Safety Officer Certification

Issue: This rule update would remove all reference to Forms F-15M (Multi-Discipline Maintenance Log) and F-15T (Telecommunications/EMD Maintenance Log) and replace with Form F-16 (Maintenance Training Log – Tele/EMD/Multi-Discipline). The maintenance process was changed for the 2009 – 2010 maintenance period, but the processes and form references in this rule were not updated. All references to training points were also removed as requirements to obtain and maintain certification reference training hours, rather than converting them to points. Other obsolete rule references regarding training were also removed. Finally, this update removes obsolete statutory references, updates OAR references, and makes minor housekeeping changes for clarity.

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0060

Public Safety Officer Certification

- (1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.
- (2) Basic certification is mandatory and ~~shall~~ **must** be acquired by all police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.
- (3) To be eligible for the award of a certificate, law enforcement officers ~~shall~~ **must** be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.
- (4) To be eligible for the award of a certificate, law enforcement officers ~~shall~~ **must** meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.
- (5) To be eligible for the award of a certificate, telecommunicators must meet the Board's prescribed minimum employment standards as established by OAR 259-008-0011.
- (6) To be eligible for the award of a certificate, law enforcement officers ~~shall~~ **must** subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers ~~shall~~ **must** subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T). ~~{Form not included. See ED. NOTE.}~~

(7) Application for certification must be submitted on Form F7 (**Application for Certification**), with all applicable sections of the form completed. The form shall **must** be signed by the applicant. In order to ~~insure~~ **ensure** that the applicant ~~does or does not~~ meets the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall **must** sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision shall **must** be specified in writing and shall **must** accompany the ~~Application for Certification (Form F7)~~. ~~[Form not included. See ED. NOTE.]~~

(8) When a department head is the applicant, the above recommendation shall **must** be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

(9) In addition to the requirements set forth above, ~~each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate,~~ shall **each applicant must** have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience **for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate.**

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall **will** equal one (1) education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall **will** equal one and one half (1-1/2) education credits.

(c) The Department must receive sealed official transcripts from a college prior to entering college credit on an individual's official record.

(10) ~~Training: Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)~~

(a) ~~Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved~~ **by the Board.**

(b) The Department may award **record** training **points hours** for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall **must** include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented, may be accepted, subject to staff evaluation and approval. These records shall **must** include the subject, date, and classroom hours, and shall **must** be certified true copies of the original.

~~(d) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or its designated staff may award training points for correspondence courses.~~

(e **d**) College credits earned may be counted for either training **points hours** or education credits, whichever is to the advantage of the applicant.

(f **e**) College credit awarded based on training completed may be applied toward either training **points hours** or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the number of college credits awarded based on training attended.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(i) Any college credit received for practical or skills-based training attended will be calculated at a ratio of 1:20 hours for each quarter credit, for purposes of training hour deductions.

(ii) Any college credit received for academic training attended will be calculated at a ratio of 1:10 hours for each quarter credit, for purposes of training hour deductions.

~~(g f)~~ Notwithstanding subsection (e) and (f) above, no **No** credit can be applied toward both an education credits and training ~~point~~ **hours** when originating from the same training event.

(11) Experience/Employment:

(a) Experience ~~acquired~~ **gained** as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, creditable service time for experience will ~~cease to~~ **not** accrue under the following circumstances:

(A) When an individual is employed in a casual, seasonal, or temporary capacity;

(B) When an individual is on "leave;"

~~(C)~~ Notwithstanding section (B) of this rule, a **A** public safety professional may submit a written request for credit for military time served upon return from his or her military duty. The Department will evaluate each written request to determine whether an individual is eligible for any credit for time served;

~~(D C)~~ From the date a public safety professional's certification is recalled until it is reinstated by the Department; **or**

~~(E D)~~ When a public safety professional fails to obtain Basic certification within a mandated timeframe and is prohibited from being employed as a public safety professional;

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Experience acquired as a certified part-time telecommunicator; **or** emergency medical dispatcher as defined in OAR 259-008-0005(12) and (32) respectively, or part time parole and probation officer; as defined under 259-008-0005(20) and (21) and 259-008-0066, shall **will** count on a pro-rated basis.

(d) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

(12) The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall **must** have completed a period of service of not less than nine (9) months with one or more law enforcement units; or public or private safety agencies in a certifiable position; in the field in which certification is being requested;

(b) Applicants shall **must** have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department; **and**

(c) Applicants shall **must** have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants ~~shall~~ **must** possess a Basic Certificate in the field in which certification is requested-; **and**

(b) Applicants ~~shall~~ **must** have acquired the following combinations of education **hours** and training ~~points~~ **hours** combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(14) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested-; **and**

(b) Applicants ~~shall~~ **must** have acquired the following combinations of education and training ~~points~~ **hours** combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(15) The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Advanced Certificate in the field in which certification is requested-;

(b) Applicants ~~shall~~ **must** have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule-;

(c) Applicants ~~shall~~ **must** have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department-approved supervisory level training within five (5) years prior to application for the Supervisory Certificate-; **and**

(d) Applicants ~~shall~~ **must** be presently employed in, or have satisfactorily performed the duties associated with, the position of a first-level supervisor, as defined in ~~ORS 181.610 and OAR 259-008-0005(16)(13)~~, **and** as attested to by the applicant's department head during the time such duties were performed; for a period of one (1) year. The required experience ~~shall~~ **must** have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

(16) The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested-;

(b) Applicants ~~shall~~ **must** have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule-;

(c) Applicants ~~shall~~ **must** have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department-approved management level training within five (5) years prior to application for the Management Certificate-; **and**

(d) Applicants ~~shall~~ **must** be presently employed in, and ~~shall~~ **must** have served satisfactorily in a Middle Management position, as an ~~Assistant~~ Department Head, or as a **Assistant** Department Head as defined in ~~ORS 181.610 and~~ OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

(17) The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Management Certificate in the field in which certification is requested.;

(b) Applicants ~~shall~~ **must** have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.;

(c) Applicants ~~shall~~ **must** have satisfactorily completed 100 hours of Department-approved executive level training within five (5) years prior to application for the Executive Certificate.;

(d) Applicants ~~shall~~ **must** be presently employed in, and ~~shall~~ **must** have served satisfactorily in a Middle Management position, as an ~~Assistant~~ Department Head, or as a **Assistant** Department Head as defined in OAR 259-008-0005; for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head.

(18) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, ~~259-008-0011~~, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer must meet the following requirements for the award of multi-discipline certification:

(a) Basic certification. A law enforcement officer who is certified in one discipline may apply for multi-discipline certification, if employed in or transferred to another discipline within the same law enforcement unit. The applicant must demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification. Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the ~~EMD~~ **emergency medical dispatcher** discipline since it only exists at the basic certification level.

(c) Retention of ~~M~~**multi**-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For a law enforcement officer who also holds ~~EMD~~ **emergency medical dispatcher** certification, a minimum of four (4) hours of training, specific to the ~~EMD~~ **emergency medical dispatcher** discipline, must be reported annually as required under OAR 259-008-0064.

(B) For a law enforcement officer who also holds ~~T~~telecommunicator certification, a minimum of twelve (12) hours of training, specific to the ~~T~~telecommunicator discipline, must be reported annually as required under OAR 259-008-0064.

(C) A minimum of twenty (20) hours of training, specific to each law enforcement discipline in which certification is held, must be reported annually as required under subsections (h) through (l) of this ~~rule~~ **section**.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) The maintenance training cycle for law enforcement officers who are certified in more than one discipline begins on July 1st of each year and ends on June 30th the following year.

(f) The employing agency must maintain documentation of all required maintenance training completed.

(g) If reported on an **Form F-6 (Course Attendance Roster)**, required maintenance training must be submitted to the Department by June 30th of each year. Training reported on an **Form F-6** will result in credit for training hours. No training hours will be added to a law enforcement officer's record, unless accompanied by an **Form F-6 Course Attendance Roster**.

(h) On or after July 1st of each year, the Department will identify all law enforcement officers who are deficient in maintenance training according to Department records and provide notification to the individual and ~~his/her~~ **the** employing agency.

~~(i)~~ Within 30 days of receipt of the notification in ~~(h)~~ above, the agency ~~or individual~~ must:

~~(A)~~ **N**otify the Department of the training status of any law enforcement officer identified as deficient in **by** submitting a **Form F-16 (Maintenance Training Log) F-15M or F-15T** to the Department; and

~~(B)~~ **S**ubmit an **Form F-16 F-15M, or F-15T** if multi-discipline includes certification as a telecommunicator or emergency medical dispatcher, identifying the maintenance training completed during the previous one (1) year reporting period.

~~(C)~~ **M**aintenance training hours reported to the Department on ~~an F-15M or F-15T~~ **a Form F-16** will be used solely to verify completion of maintenance training requirements and will not be added to an officer's ~~DPSST~~ training record.

~~(j)~~ Failure to notify the Department of completion of any required training for individuals with identified training deficiencies will result in a notification of recall letter being sent to the agency head and the officer.

~~(k)~~ The Department will recall a law enforcement officer's certification for:

(A) Failure to complete or report any required maintenance training ~~identified in section (e)~~ above on or before June 30th of each year; or

(B) Failure to submit a **Form F-16 F-15M or F-15T** within 30 days after a warning notification letter has been sent.

~~(h)~~ A law enforcement officer with a recalled certification is prohibited from being employed in any position **for which the certification** ~~that~~ has been recalled.

~~(m) Upon documentation of compliance with subsection (i) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.~~

(l) Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) A written request from the employing agency head requesting recertification, along with a justification of why the maintenance training was not completed; and

(B) Verification that the missing training was completed.

(m) Failure to complete the required maintenance training may not result in a recall of certification if the law enforcement officer is on leave from a public or private safety agency.

~~(19) Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have~~ **has** the power to revoke or recall any certificate or award as provided in the Act.

[ED. NOTE: Forms & Tables referenced are available from the agency.]

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0060 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 J

Department of Public Safety Standards and Training Memo

Date: February 8, 2011
To: Corrections Policy Committee
From: Linsay Bassler
Rules Coordinator
Subject: OAR 259-008-0070 – Proposed Rule
Denial/Revocation

Issue: House Bill 2790 was passed during the 2009 legislative session. Section 3 of this bill amended ORS 181.661 which changed the order of due process for certification denials and revocations. Additional housekeeping changes were made for clarity.

The following revised language for OAR 259-008-0070 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

259-008-0070

Denial/Revocation

(9) Denial and Revocation Procedure.

(d) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (e) of this rule, based on discretionary disqualifying misconduct, the Policy Committees and Board will consider mitigating and aggravating circumstances, including, but not limited to, the following:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during, and after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire; **and**

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor; **and**

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared **and served on the public safety professional or instructor.**

(A) All contested case notices will be prepared in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

~~**(f) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or instructor.**~~

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the public safety professional or instructor prior to Board review. If the Board disapproves the policy committee's recommendation, the Department will withdraw the Contested Case Notice.

~~**(g-f)**~~ Response Time:

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

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

~~**(h g)**~~ Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0645.

~~**(i h)**~~ Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

~~**(j i)**~~ Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

~~**(k j)**~~ Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(k) Final Order:

(A) A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional or instructor fails to file exceptions and arguments in a timely manner.

(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.

(m) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking the certification of a public safety professional or instructor upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification, or to relinquish a certification, under the terms and conditions outlined in the stipulated order.

ACTION ITEM 1: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as permanent rule if no comments are received.

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

Appendix K

Department of Public Safety Standards and Training Memo

Date: February 8, 2011
To: Corrections Policy Committee
From: Linsay Bassler
Rules Coordinator
Subject: OAR 259-008-0070 – Proposed Rule
Denial/Revocation

Background: For the purposes of denial and revocation standards for criminal justice public safety professionals, conviction of any crime requires DPSST review for either mandatory or discretionary denial or revocation of certification. Between 2005 and 2008 a workgroup of DPSST criminal justice constituents, supported by DPSST staff members, conducted a comprehensive review of denial and revocation standards and disqualifying crimes. The two-part review resulted in the lists of mandatory and discretionary disqualifying crimes currently found in OAR 259-008-0070.

Once the workgroup had defined five categories of discretionary disqualifying misconduct, DPSST's Legal Services Coordinator, Lorraine Anglemier, analyzed the discretionary disqualifying crimes to identify a presumptive category for the conviction, based on the elements of each crime. The workgroup reviewed and finalized those categories, which were included in the list of discretionary disqualifying crimes subsequently adopted within OAR 259-008-0070.

Issue: Since the time the current list was adopted into OAR, some issues have been identified that staff believe should be addressed through amendments to the current rules:

First, a recent ruling made by the Ninth Circuit Court declared ORS 167.054 (Furnishing Sexually Explicit Material to a Child) unconstitutional. This crime remains listed as a mandatory disqualifier because the crime remains in the Criminal Code. But we recommend adding a notation to guide staff and constituents regarding this crime.

Second, staff recommends adding three ORS chapters. Crimes in ORS Chapter 97 (Rights and Duties Relating to Cemeteries, Human Bodies and Anatomical Gifts); and Chapter 609 (Animal Control; Exotic Animals; Dealers) were overlooked in the original workgroup review process. The workgroup did review Chapter 830 (Small Watercraft) and recommend this chapter for inclusion in the discretionary list, but the associated crimes were not previously categorized and added to this list.

Similarly, the workgroup discussed crimes associated with violation of ORS 496-498. These chapters deal with the administration and enforcement of hunting, angling and wildlife regulations. In addition to the three specifically identified crimes (which are included in the current list), an individual may be convicted of a misdemeanor for violating any of the provisions of these chapters with a culpable mental state. The workgroup determined that these criminal convictions should remain discretionary disqualifying convictions for the purposes of certification, to allow committee and Board review on a case-by-case basis. Although it is not practical to list every statute that may be violated, staff recommends replacing the current reference to three specific crimes with a broader reference to the relevant chapters in order to better inform our criminal justice constituents. The appropriate category would have to be determined on a case-by-case basis, when cases are brought to a policy committee for review.

The following revised language for OAR 259-008-0070 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0070

Denial/Revocation

Grounds for Mandatory Denial or Revocation of Certification

~~Oregon Laws 2007, Chapter 869, Sec. 2~~ **167.054** (Furnishing sexually explicit material to a child),

* **the above listed statute has been declared unconstitutional by the Ninth Circuit Court.**

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

97.931 (Registration of Salesperson for Endowment Care Cemeteries, Preconstruction Sales and Prearrangement Sales) – Category V,

97.933 (Certification of Provider of Prearrangement or Preconstruction) – Category V,

97.937 (Deposit of Trust Funds made by Endowment Care Cemeteries) – Category V,

97.941 (Prearrangement or Preconstruction Trust Fund Deposits) – Category V

97.990(4) (Maintaining a Nuisance) – Category V

Chapter 496 – 498 (When treated as a misdemeanor crime) – Category based on the elements of the specific crime,

~~496.994 (Obstruction to the Taking of Wildlife) – Category V,~~

~~496.996 (Attempt to Take Wildlife Decoy) – Category V,~~

~~498.164 (Use of Dogs or Bait to hunt Black Bears or Cougars) – Category V,~~

609.341 (Permit Requirement for Keeping of Exotic Animals; Breeding of Animal – Category V,

609.405 (Requirement for Destroying Dogs and Cats) – Category V,

609.505 (Unlawfully Obtaining Dog or Cat) – Category V

609.520(c) (Animal Dealer Failing to Turn Over Dog or Cat) – Category V

609.805 (Misrepresentation of Pedigree; Mutilation of Certificate or Proof of Pedigree) – Category

I

609.990(3)(a) (Violation of ORS 609.098 – Maintaining a Dangerous Dog) – Category IV

830.035(2) (Fleeing; Attempts to Elude) – Category IV,

830.053 (False or Fraudulent Report of Theft of Boat) – Category I,

830.315(1) (Reckless Operation) – Category IV,

830.325 (Operating a Boat while Under the Influence of Intoxicating Liquor or Controlled Substance) – Category IV,

830.383 (Person Required to Remedy Especially Hazardous Condition) – Category V,

830.460(2) (Prohibited Activities – Operating a Vessel that Fails to Comply with Equipment Requirements) – Category V,

830.460(3) (Prohibited Activities – Operating a Vessel without Liability Protection) – Category V,

830.475(1) (Failure to Perform the Duties of an Operator at Accident) – Category V,

830.730 (False Information) – Category I,

830.909 (Abandoning Boat, Floating Home or Boathouse) – Category V,

803.955(1) (Prohibition of Installation of Submersible Polystyrene Device) – Category V,

830.992 (Purchase of a Boat or Equipment from which Hull or Component Identification Number Removed) – Category V,

830.994 (Operates a Boat In Violation of a Court Order) – Category V

ACTION ITEM 1: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as permanent rule if no comments are received.

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