

Corrections Policy Committee Minutes February 16, 2010

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, February 16, 2010 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 1:36 p.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Raimond Adgers, Oregon Sheriff's Jail Command Council
Brian Belleque, Designee for Director of Department of Corrections
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Department of Corrections Security Manager
Amanda Rasmussen, Non-Management Corrections Officer
Ida Rovers, Department of Corrections, Women's Correctional Facility
Diana Simpson, Oregon State Sheriff's Association
Mitchell Southwick, Oregon State Sheriffs' Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative

Committee Members Absent:

Scott Brewen, Department of Corrections Training Division Director
Shane Hagey, Oregon Assoc. of Community Corrections Directors

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorance, Certification and Records Supervisor
Kristen Turley, Professional Standards Coordinator
Carolyn Kendrick, Administrative Specialist



1. Minutes (November 17, 2009)

Approve the minutes of the November 17, 2009 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved to approve the minutes of the November 17, 2009 Corrections Policy Committee meeting as written. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

2. OAR 259-008-0005(18) – Proposed Rule Change

Definition(s) – “Leave”

Presented by Marilyn Lorange

See Appendix B for details.

Staff asked the committee to bear with the long background as it is the background for all the subsequent rule changes and suggested the option of combining all the rule changes into one motion.

3. OAR 259-008-0020 – Proposed Rule Change

Personnel Action Reports related to “Leave”

Presented by Marilyn Lorange

See Appendix C for details.

4. OAR 259-008-0030 – Proposed Rule Change

Extension of Time Limit related to “Leave”

Presented by Marilyn Lorange

See Appendix D for details

5. OAR 259-008-0060 – Proposed Rule Change

Public Safety Officer Certification related to “Leave”

Presented by Marilyn Lorange

See Appendix E for details

6. OAR 259-008-0067 – Proposed Rule Change

Lapsed Certification related to “Leave”

Presented by Marilyn Lorange

See Appendix F for details

To expedite the voting process Chair Todd Anderson combined agenda items 2-6 in one motion and one consensus.

Michael Gower moved that the committee approve filing the proposed language for OAR 259-008-0005(18), OAR 259-008-0020, OAR 259-008-0030, OAR 259-008-0060, and OAR 259-008-0067 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Thomas Wright seconded the motion. The motion carried unanimously by all present.

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

7. Adelina Garcia – DPSST #48093

Presented by Kristen Turley

See Appendix G for details

- *Michael Gower moved that the the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Marie Tyler seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based on the original application process, the tier checks, and the use of the state email data base for personal use.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others. Rights and safety of inmates**
 - d. The identified conduct *did* involve **Misuse of Authority based on the loss of public trust and using the data base for personal use.**
 - e. The identified conduct *did* involve **Gross Misconduct. The committee stated Garcia's behavior was very devious.**
 - f. The identified conduct *did* involve **Misconduct based on the abuse 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 did not identify any mitigating circumstances. The committee found Garcia's personal relationships with inmates and parolees very aggravating.*
- *Marie Tyler moved that the Corrections Policy Committee finds GARCIA's 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. Brian Belleque seconded the motion. The motion carried unanimously by all present.*
- *Raimond Adgers moved that the Corrections Policy Committee recommends to the Board that GARCIA's misconduct was a lifetime disqualifier; she may never reapply to the policy committee for certification(s). Diana Simpson seconded the motion. The motion carried unanimously by all present.*

8. Richie Goss – DPSST #17319

Presented by Kristen Turley

See Appendix H for details

- *Brian Belleque moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Marie Tyler seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.

- b. The identified conduct *did* involve **Dishonesty based on his misrepresentation of information and the lack of verification of his stated home visits.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based on the victim/suspect situation.**
 - d. The identified conduct *did* involve **Misuse of Authority based on the loss of public and judicial trust.**
 - e. The identified conduct *did* involve **Gross Misconduct based on the victim issue and the sanction of 33 days rather than 45 days.**
 - f. The identified conduct *did* involve **Misconduct.**
 - g. The identified conduct *did* involve **Insubordination based on GOSS's previous written reprimand and his blatant disregard for policy.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee did not identify any mitigating circumstances. The committee stated GOSS's previously addressed misconduct in so many areas of the job function and lack of improved performance as aggravating circumstances.*
 - *Brian Belleque moved that the Corrections Policy Committee finds GOSS' conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) be revoked. Ida Rovers seconded the motion. The motion carried unanimously by all present.*
 - *Michael Gower moved that the Corrections Policy Committee recommend to the Board that GOSS's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Thomas Wright seconded the motion. The motion carried unanimously by all present.*

9. **Tina M. Holbrook – DPSST #34808**

Presented by Kristen Turley

See Appendix I for details

- *Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as it is written. Brian Belleque seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based on the misrepresentation of letters sent under fictitious names and lies to Troopers.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based on the fact she was in a relationship with an inmate which puts other staff at risk.**
 - d. The identified conduct *did* involve **Misuse of Authority.**
 - e. The identified conduct *did* involve **Gross Misconduct.**

- f. The identified conduct *did* involve **Misconduct based on her violation of the law and policies.**
- g. The identified conduct *did* involve **Insubordination based on the fact she did not comply with rules and directives.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The letter HOLBROOK wrote was stated as mitigating as well as aggravating by the committee. The committee stated as further aggravating circumstances was her complete lack of self responsibility, denial of truth, and went out of her way to cover her tracks.*
- *Diana Simpson moved that the Corrections Policy Committee finds HOLBROOK's 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. Marie Tyler seconded the motion. The motion carried unanimously by all present.*
- *Marie Tyler moved that the Corrections Policy Committee recommend to the Board that HOLBROOK's misconduct was a lifetime disqualifier; she may never reapply to the policy committee for certification(s). Erik Douglass seconded the motion. The motion carried unanimously by all present.*

10. Christopher G. Maestas – DPSST #40074

Presented by Kristen Turley

See Appendix J for details

- *Brian Belleque moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Marie Tyler seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based his lies about not being the driver.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based on his operation of a vehicle in his impaired state and injury of passenger.**
 - d. The identified conduct *did not* involve **Misuse of Authority.**
 - e. The identified conduct *did not* involve **Gross Misconduct.**
 - f. The identified conduct *did not* involve **Misconduct.**
 - 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 stated as aggravating circumstances MAESTAS's driving while suspended, attempt to blame the passenger, and other multiple offenses. No mitigating circumstances were noted.*

- *Marie Tyler moved that the Corrections Policy Committee finds MAESTAS's conduct does rise to the level to warrant the revocation of his Basic and Intermediate Corrections certifications, and therefore recommends to the Board that MAESTAS's certification(s) be revoked. Diana Simpson seconded the motion. The motion carried unanimously by all present.*
- *Marie Tyler moved that the Corrections Policy Committee recommend to the Board that MAESTAS's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Michael Gower seconded the motion. The motion carried unanimously by all present.*

11. Richard M. Mitchell – DPSST #41867

Presented by Kristen Turley

See Appendix K for details

For the record Amanda Rasmussen abstained from voting as she was MITCHELL's union representative.

- *Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Raimond Adgers seconded the motion. The motion carried unanimously by all voting, with Amanda Rasmussen abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based on the falsification of tier check records and lies regarding lack of supervision of day rooms.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others regarding the safety of colleagues and inmates.**
 - d. The identified conduct *did* involve **Misuse of Authority regarding the flash (exposure) points.**
 - e. The identified conduct *did* involve **Gross Misconduct based on the danger or risk to persons.**
 - f. The identified conduct *did* involve **Misconduct by violating practices and standards.**
 - g. The identified conduct *did* involve **Insubordination regarding conversations with supervisor on multiple occasions about leaving the unit unattended.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee finds as aggravating circumstances the depth of personal medical information shared, as well as his expectations of inmates. MITCHELL's letter stating his duress due to being under investigation for such a long period of time was noted as a mitigating circumstance.*
- *Marie Tyler moved that the Corrections Policy Committee finds MITCHELL's conduct does rise to the level to warrant the revocation of his Basic Corrections certification, and therefore*

recommends to the Board that MITCHELL's Basic Corrections certification be revoked. Brian Belleque seconded the motion. The motion carried unanimously by all voting with Amanda Rasmussen abstaining.

- *Michael Gower moved that the Corrections Policy Committee recommend to the Board that MITCHELL's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Diana Simpson seconded the motion. The motion carried unanimously by all voting with Amanda Rasmussen abstaining.*

12. Lisa K. Phillips – DPSST #35703

Presented by Kristen Turley

See Appendix L for details

- *Diana Simpson moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Marie Tyler seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based on conflicting answers on her affidavit regarding borrowing money from colleagues, and continued behavior of writing NSF checks.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others; businesses were affected and the damage to the reputation of the agency.**
 - d. The identified conduct *did* involve **Misuse of Authority based on the fact PHILLIPS borrowed money from colleagues and subordinates.**
 - e. The identified conduct *did not* involve **Gross Misconduct.**
 - f. The identified conduct *did* involve **Misconduct based on the continued abuse of writing NSF checks.**
 - 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 stated as a mitigating circumstance the length of employment with no prior issues. The continual pattern of behavior was considered an aggravating circumstance by the committee.*
- *Brian Belleque moved that the Corrections Policy Committee finds PHILLIPS's conduct does rise to the level to warrant the revocation of her Basic Corrections certification, and therefore recommends to the Board that PHILLIPS's Basic Corrections certification be revoked. Marie Tyler seconded the motion. The motion carried unanimously by all present.*
- *Brian Belleque moved that the Corrections Policy Committee recommend to the Board that PHILLIPS's misconduct was a lifetime disqualifier; she may never reapply to the policy committee for certification(s). Diana Simpson seconded the motion. The motion carried unanimously by all present.*

13. Shane Scarborough – DPSST #49815

Presented by Kristen Turley

See Appendix M for details

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Brian Belleque seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based on lies regarding viewing pornography on agency computers.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based upon disregard for colleagues who may have had to view or may possibly be blamed for accessing.**
 - d. The identified conduct *did* involve **Misuse of Authority based upon SCARBOROUGH viewing this while on duty, and misuse of public trust.**
 - e. The identified conduct *did* involve **Gross Misconduct based on creating danger/risk to colleagues and inmates by being distracted from job duties.**
 - f. The identified conduct *did* involve **Misconduct regarding not following policy and procedures.**
 - 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. *No mitigating circumstances were noted by the committee. The committee stated the facts that SCARBOROUGH was new but had finished his on-the-job training, and bringing in his own hard drive to circumvent the system as aggravating circumstances.*
- *Diana Simpson moved that the Corrections Policy Committee finds SCARBOROUGH'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 by all present.*
- *Marie Tyler moved that the Corrections Policy Committee recommend to the Board that SCARBOROUGH's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Ida Rovers seconded the motion. The motion carried unanimously by all present.*

Diane Simpson stated she had a previous appointment and needed to leave the committee meeting.

14. Mary M. Tanner – DPSST #34397

Presented by Kristen Turley

See Appendix N for details

- *Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based as written. Raimond Adgers seconded the motion. The motion carried unanimously by all present.*

The committee discussed at length why the Corrections Policy Committee was hearing this case being that TANNER was a police officer at the time of the offense. Staff stated that the standards are the same for police and corrections. The Administrative Rule identifies that if one certification is revoked within criminal justice it applies to all of the certifications held. The Corrections Policy Committee agreed to hear this case.

- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* involve **Dishonesty based on TANNER not responding to a call after stated she would.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based on her failure to respond to a call – dereliction of duty.**
 - d. The identified conduct *did* involve **Misuse of Authority regarding public mistrust.**
 - e. The identified conduct *did* involve **Gross Misconduct regarding public mistrust.**
 - f. The identified conduct *did* involve **Misconduct regarding violation of protocol and procedure.**
 - g. The identified conduct *did* involve **Insubordination regarding the disobedience of a direct order about not sharing information.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee stated TANNER’s admission of lying as an aggravating circumstance and noted no mitigating circumstances.*
- *Michael Gower moved that the Corrections Policy Committee finds TANNER’s 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. Brian Belleque seconded the motion. The motion carried unanimously by all present.*
- *Thomas Wright moved that the Corrections Policy Committee recommend to the Board that TANNER’s misconduct was a lifetime disqualifier; she may never reapply to the policy committee for certification(s). Ida Rovers seconded the motion. The motion carried unanimously by all present.*

15. Additional Business

Presented by Eriks Gabliks

- *Budget: Staff stated DPSST is still waiting to see if any further reductions need to be made. There is still a budget shortfall in the state budget however, DPSST has requested and received funding for two additional basic police classes.*

- *The feedback from the first class of Basic Corrections Local was very positive. We are getting ready to start another class in March. DPSST is not seeing a backlog of students for this class.*
- *DPSST has all people interviewed and offers on the table for the DOC Audit Program. Theresa King will be leading that section and will not be the Professional Standards Coordinator any more. We are currently recruiting to replace that position.*
- *Bonnie Narvaez retired from state service after 25 years. We are interviewing for the Rules Coordinator position.*
- *DPSST is working with OSSA, OACP, OSP, and DOC on a week-long leadership symposium here at DPSST with keynotes and breakout sessions based on what the different disciplines do. The dates will be announced soon.*
- *Staff reassured the committee the incident involving the previous director is being addressed. The work of the agency continues and DPSST is working with the Department of Justice to be sure everything is resolved.*
- *Chair Todd Anderson welcomed and thanked all the new members for their commitment.*
- *DPSST will offer Board training as a webinar with slides and flowcharts to new committee members.*
- *Brian Belleque was recognized for his dedication and wished well as this is his last Corrections Policy Meeting due his promotion. Superintendent Nancy Howton will be replacing Brian on this committee.*

16. Next Regularly Scheduled Meeting

The next regularly scheduled meeting is May 18, 2010 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 4:36 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) November 17, 2009

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 17, 2009 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 1:34 p.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Raimond Adgers, Oregon Sheriff's Jail Command Council
Brian Belleque, Designee for Director of Department of Corrections
Scott Brewen, Department of Corrections Training Division Director
Michael Gower, Department of Corrections Security Manager
Shane Hagey, Oregon Assoc. of Community Corrections Directors
Mitchell Southwick, Oregon State Sheriffs' Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative

Committee Members Absent:

Ida Rovers, Department of Corrections, Women's Correctional Facility

Guests:

Eric Douglass, Marion County Sheriff's Office

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorance, Certification and Records Supervisor
Scott Willadsen, Professional Standards Coordinator
Carolyn Kendrick, Administrative Specialist



1. Minutes (September 3, 2009)

Approve the minutes of the September 3, 2009 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved to approve the minutes of the September 3, 2009 Corrections Policy Committee meeting. Brian Belleque seconded the motion. The motion carried unanimously.

2. OAR 259-001-0017 – Proposed Rule

Records Retention

Presented by Marilyn Lorange

See Appendix B for details.

Mitchell Southwick moved that the committee approve filing the proposed language for OAR 259-001-0017 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.

3. OAR 259-008-0040 – Proposed Rule

Period of Service

Presented by Marilyn Lorange

See Appendix C for details.

Marie Tyler moved that the committee approve filing the proposed language for OAR 259-008-0040 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Scott Brewen seconded the motion. The motion carried unanimously.

4. Laure D. Akers – DPSST #19823

Presented by Scott Willadsen

See Appendix D for details

- *Raimond Adgers moved that the 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**. *Lied to Sergeant; falsification of log entries*
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others**. *Pitting staff against inmates; Inmate placed in solitary confinement as result of AKERS' lie.*
 - 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**. *Created attitude of distrust*
 - g. The identified conduct *did* involve **Insubordination**. *Disrespect towards superior; Did not comply with work plan set in place for her.*
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The policy committee did not identify any mitigating circumstances. However, the policy committee stated several aggravating factors including: AKERS' inclusion of several coworkers by her displacement of blame and her refusal to accept responsibility for her actions; she was involved in eight separate instances*

of misconduct; the fact she was placed on a work plan; and the seven month period of time in which this all took place.

- *Brian Belleque moved that the policy committee finds AKERS' conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that her certification(s) be revoked. Shane Hagey seconded the motion. The motion carried unanimously.*
- *Marie Tyler moved that the committee recommend to the Board that AKERS' misconduct was a lifetime disqualifier; she may never reapply to the policy committee for certification(s). Michael Gower seconded the motion. The motion carried unanimously.*

5. **Steven J. Fast – DPSST #40295**

Presented by Scott Willadsen

See Appendix E for details

- *Michael Gower moved that the 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. Statements made, theft**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others. Theft, concept behind the tobacco issue**
 - d. The identified conduct *did* involve **Misuse of Authority. Access to visitors and inmates**
 - e. The identified conduct *did* involve **Gross Misconduct.**
 - f. The identified conduct *did* involve **Misconduct.**
 - g. The identified conduct *did not* involve **Insubordination.**
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The policy committee did not identify any mitigating circumstances. The facts that FAST was caught on camera, his continuing premeditated behavior, and that the misconduct not only occurred inside the facility but outside as well were listed as aggravating circumstances by the policy committee.*
- *Scott Brewen moved that the policy committee finds FAST's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) be revoked. Mitchell Southwick seconded the motion. The motion carried unanimously.*
- *Brian Belleque moved that the committee recommend to the Board that FAST's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Shane Hagey seconded the motion. The motion carried unanimously.*

6. **Andrew Harris – DPSST #34656**

Presented by Scott Willadsen

See Appendix F for details

- *Marie Tyler moved that the policy committee adopts the staff report as the record upon which its recommendations are based. Scott Brewen 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. People have a right to not be harassed**
 - 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. Repetitive nature of sexual harassment**
 - g. The identified conduct *did* involve **Insubordination. Disregard of policy**
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The policy committee did not state any mitigating circumstances. The aggravating circumstances listed by the policy committee include HARRIS' attempt to point blame elsewhere and the fact he had left another agency under the same circumstances.*
- *Michael Gower moved that the policy committee finds HARRIS' conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that HARRIS' certification(s) be revoked. Marie Tyler seconded the motion. The motion carried unanimously.*
- *Due to HARRIS' pattern of behavior, Michael Gower moved that the committee recommend to the Board that the minimum period of ineligibility to reapply for certification(s) will be fifteen years from the date of revocation. Shane Hagey seconded the motion. The motion carried unanimously.*

7. Additional Business

The committee inquired of Department of Corrections how the new DOC Training Program was running? Scott Brewen stated that training is going very well and is very well received with good student feedback. Theresa King has started auditing the DOC training that has already taken place and is very impressed with the structure of the classes.

The committee discussed the new City/County Basic Corrections course at DPSST. All-in-all it went very well. Good student feedback and great participation with agency loaned instructors.

The support of both programs by the Chief's, Sheriff's, and Department of Corrections has lead to the success of both training programs.

Chair Todd Anderson thanked Sheriff Mitchell Southwick for his service on the Corrections Policy Committee. He is termed out and Sheriff Diana Simpson-Godfrey of Benton County will be replacing him at the next policy committee meeting in February.

8. Additional Business

Presented by Eriks Gabliks

- *Budget update: DPSST has been requested to submit another 10 percent budget reduction which equates to roughly \$2.9 million. If this reduction becomes necessary it will happen in two 5 percent steps. The first step would include the loss of 7 positions including the elimination of the DOC Auditing Program. As of now this is only an exercise.*
- *HB2790 passed meaning 2 additional non-management corrections officers will be added to this committee after the first of the year when the bill goes into effect. We have canvassed the state for interested persons and applications are coming in from every corner of the state.*
- *Michael Gower was approved for a second term on this committee. Bryan Goodman resigned from the committee as he is moving forward to management.*
- *Corrections Physical Ability Test: Staff has found a CORPAT test out of Canada. It uses a lot of the same elements of ORPAT however it drops a few items like the jump. We are looking at that right now and will keep you posted. At least this gives a physical abilities tool we can look at for both corrections and parole and probation.*
- *DPSST is working with the Chiefs and Sheriffs, OSP, and DOC on Supervision and Middle Management courses. The Chiefs and Sheriffs have a committee actively working on establishing training programs they can offer. We have also met with Portland State University which is interested in offering classes in that area as well. As previously stated this is a cost shift to local agencies. OEDI is partnering with George Fox College this year and will be offering college credits.*

9. Next Regularly Scheduled Meeting

The next regularly scheduled meeting is February 16, 2010 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 2:44 p.m.

Appendix B

Department of Public Safety Standards and Training Memo

Date: January 19, 2010
To: Corrections Policy Committee
From: Bonnie Narváez
Rules Coordinator
Subject: OAR 259-008-0005(18) - Proposed Administrative Rule Change
Definition(s) – “Leave”

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to “leave,” “leave of absence,” “special assignment leave” or “on leave” in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term “leave” in OAR 259-008-0005.

For ease of review, only the relevant portion(s) of the revised text is included.
The following revised language contains recommended deletions (~~strike through text~~) and additions (**bold and underlined text**):

259-008-0005

Definitions

* * *

(18) "~~Leave of absence~~" means: **a** a leave granted by the employing agency from the public safety officer's certifiable position as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one-half years, **to a law enforcement officer from a law enforcement unit; or b) a leave granted to a telecommunicator or emergency medical dispatcher from a public or private safety agency.**

(19) "Middle Manager" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between first level supervisor and department head position and is primarily responsible for management and/or command duties. A middle manager position does not include a position with limited, or acting middle management duties.

(20) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties described in statutes and administrative rules for public safety personnel for 80 hours per month, or less, for a period of more than 90 consecutive calendar days.

(21) "Parole and Probation Officer" means

(a) Any officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformatory services for adult parolees or probationers, or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

(22) "Police Officer" means an officer or member of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide enhanced law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, or the Governor, or a member of the Department of State Police who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security; and any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.651.

(23) "Public or private safety agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, police, ambulance or emergency medical services.

(24) "Public safety personnel" and "Public safety professional" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, and telecommunicators.

(25) "Recall" means the administrative inactivation of a certificate issued by the Department until maintenance requirements are met and certification is restored.

(26) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(27) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(28) "Reserve Officer" means an officer or member of a law enforcement unit:

(a) Who is a volunteer or who is employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police;

(b) Who is armed with a firearm; and

(c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(29) "Seasonal employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.

~~(30) "Special assignment leave" is leave from the law enforcement officer's certifiable position, as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one-half years, for such duties as determined by the law enforcement unit administrator. Examples of such leave include, but are not limited to, strategic planning, budget preparation, special task force, or other similar duties.~~

(31) **(30)** "Staff" are those employees occupying full-time, part-time, and/or temporary positions with the Department.

(32) **(31)** "Telecommunicator" means any person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 401.720.

(33) **(32)** "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(34) **(33)** "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

(35) **(34)** "Waiver" means to refrain from pressing or enforcing a rule.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0005 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0005 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 C

Department of Public Safety Standards and Training Memo

Date: January 19, 2010
To: Corrections Policy Committee
From: Bonnie Narváez
Rules Coordinator
Subject: OAR 259-008-0020 - Proposed Administrative Rule Change
Personnel Action Reports related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0020.

For ease of review, only the relevant portion(s) of the revised text is included.
The following revised language contains recommended deletions (~~strikethrough text~~) and additions (**bold and underlined text**):

259-008-0020

Personnel Action Reports

* * *

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, ~~take a~~ **is on** leave ~~of absence~~, or transfer within a law enforcement unit, or private or public safety agency, the department head shall report this information to the Department on a Personnel Action Report (DPSST Form F-4) within ten (10) business days of the action.

(3) All applicable sections of the Personnel Action Report (DPSST Form F-4) must be completed and signed by the department head or an authorized representative.

(4) All applicants shall furnish to the Department on a Personnel Action Report (DPSST Form F-4) their social security number. The social security number is used to accurately identify the applicant during computerized criminal history (CCH) and Department record checks and to verify information provided by public safety officers under the Act in connection with revocation proceedings.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0020 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0020 with the Secretary of State as a permanent rule if no comments are received.

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

Appendix D

Department of Public Safety Standards and Training Memo

Date: January 19, 2010
To: Corrections Policy Committee
From: Bonnie Narváez
Rules Coordinator
Subject: OAR 259-008-0030 - Proposed Administrative Rule Change
Extension of Time Limit related to “Leave”

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to “leave,” “leave of absence,” “special assignment leave” or “on leave” in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term “leave” in OAR 259-008-0030.

The following revised language contains recommended deletions (~~striketrough text~~):

259-008-0030

Extension of the Time Limit for Course Completion

The Department may grant an extension of time limit for completion of any course required by OAR 259-008-0025 upon presentation of evidence by a law enforcement unit or public or private safety agency that a law enforcement officer, telecommunicator, or emergency medical dispatcher was unable to complete the required course within the time limit prescribed due to a ~~leave of absence for illness, injury, military service, special duty assignment,~~ or any other reasonable cause as determined by the Department, except where such extensions are limited by ORS 181.652(2), 181.653(2), 181.665(2), and 181.644(2).

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0030 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0030 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 E

Department of Public Safety Standards and Training Memo

Date: January 19, 2010
To: Corrections Policy Committee
From: Bonnie Narváez
Rules Coordinator
Subject: OAR 259-008-0060 - Proposed Administrative Rule Change
Public Safety Officer Certification related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0060 as well as a modification to the rule to address USERRA implications.

For ease of review, only the relevant portion(s) of the revised text is included.
The following revised language contains recommended deletions (~~strike through text~~) and additions (**bold and underlined text**):

259-008-0060

Public Safety Officer Certification

* * *

(11) Experience/Employment:

(a) Experience acquired 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 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." ~~This includes, but is not limited to, medical leave, a leave of absence or military leave;~~

(C) Notwithstanding section (B) of this rule, a public safety professional may submit a written request for credit for military time served upon return from a **his or her** military **duty** leave. ~~The Department may approve credit for military time served if the public safety professional's military duties are determined to be equivalent to the duties the public safety professional was performing prior to the public safety professional's military leave.~~ **The Department will evaluate each written request to determine whether** **Any an individual is eligible for any** credit received for time served ~~will be at the discretion of the Department.~~

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

(E) 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, 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 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.

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 F

Department of Public Safety Standards and Training Memo

Date: January 19, 2010
To: Corrections Policy Committee
From: Bonnie Narváez
Rules Coordinator
Subject: OAR 259-008-0067 - Proposed Administrative Rule Change
Lapsed Certification related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0067.

The following revised language contains recommended deletions (~~strikethrough text~~) and additions (**bold and underlined text**):

259-008-0067

Lapsed Certification

(1)(a) The certification of any police officer, corrections officer, parole and probation officer who does serve as a police officer, corrections officer, parole and probation officer, or any certified reserve officer who is not utilized as a certified reserve officer, for any period of time in excess of three consecutive months is lapsed. Upon reemployment as a police officer, corrections officer, parole and probation officer, or recommencing service as a reserve officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

(b) Notwithstanding paragraph (a) of this subsection, the certification of a police officer, corrections officer, parole and probation officer or certified reserve officer does not lapse if the officer:

~~(A) Is is on leave from a law enforcement unit; or~~

~~(B) Is an honorably retired police officer who meets the requirements established by the Department for maintaining certification.~~

(2) The certification of any telecommunicator or emergency medical dispatcher who is not utilized as a telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months, unless the telecommunicator or emergency medical dispatcher is on leave from a public or private safety agency, is lapsed. Upon reemployment as a telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0067 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0067 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 G

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Adelina GARCIA, DPSST #48093

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

BACKGROUND and OVERVIEW

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

On March 12, 2007, GARCIA was hired by the Oregon Department of Corrections as a corrections officer.

On January 10, 2008, GARCIA signed her Criminal Justice Code of Ethics.

On March 12, 2008, GARCIA was granted a Basic Corrections Certificate.

On December 31, 2008, GARCIA resigned in lieu of termination.

DPSST sought and obtained the investigation that led to GARCIA's resignation.

In November 2009, DPSST sent a letter advising GARCIA that this matter would be heard before the Corrections Policy Committee and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

To date GARCIA has not provided a response for the Committee'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 Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke GARCIA's Basic Corrections 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 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 GARCIA's 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 Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Scott Willadsen
Professional Standards Coordinator
SUBJECT: Richie Goss DPSST #17319

ISSUE:

Should Richie GOSS's Basic Parole and Probation Certification be revoked based on his discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

BACKGROUND and OVERVIEW

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

In 2004 GOSS was employed with Multnomah County Department of Community Justice as a parole and probation officer. In 2005 GOSS received his basic parole and probation certification. GOSS signed his F11, Criminal Justice Code of Ethics in 2005.

DPSST sought and received the underlying investigations that led to GOSS' resignation and determined that this matter must be reviewed by the Corrections Policy Committee.

In September 2009, DPSST mailed GOSS a letter advising him that his case would be heard before the Corrections Policy Committee and invited him to provide mitigating circumstances on his behalf for the Committee's consideration. GOSS has yet to provide a written response for the Committee's consideration.

In October 2009, the Multnomah County Department of Community Justice mailed several letters to DPSST clarifying the circumstances of GOSS' separation from employment and included amended personal action reports.

In December 2009 DPSST requested and received clarifying information from the employer.

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 259-008-0010(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness.

(a) For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(A) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(B) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

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 for discretionary disqualifying conduct, 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 GOSS' Basic Parole and Probation Certification, based on his discretionary disqualifying misconduct.

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.
 - 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 GOSS' conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his 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(s) will be *identify period of time* from the date of revocation.

Appendix I

Department of Public Safety Standards and Training Memorandum

DATE: February 4, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Tina M. Holbrook DPSST #34808

ISSUE: Should Tina M. HOLBROOK'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 HOLBROOK:

On November 1, 1997, HOLBROOK was hired by the Oregon Department of Corrections as a corrections officer.

On July 23, 2008, HOLBROOK signed her Criminal Justice Code of Ethics.

On October 5, 1998, HOLBROOK was granted a Basic Corrections Certificate.

On August 12, 2008, HOLBROOK was granted an Intermediate Corrections Certificate.

On August 7, 2009, HOLBROOK resigned during an investigation.

DPSST sought and obtained information that led to HOLBROOK's resignation.

In December 2009, DPSST mailed HOLBROOK a letter advising her that her case would be heard before the Corrections Policy Committee and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

HOLBROOK contacted DPSST inquiring about the basis of the case going before the Policy Committee. This phone conversation was recorded and transcribed.¹ HOLBROOK subsequently provided a letter and supporting documentation for the Committee'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))

¹ Ex A8, HOLBROOK made partial admissions during this conversation.

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 HOLBROOK's Basic and Intermediate Corrections 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 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 HOLBROOK's 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 Police 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 J

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Christopher G. Maestas - DPSST #40074

ISSUE:

Should Christopher MAESTAS' 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 MAESTAS:

On October 17, 2000, MAESTAS was hired by the Oregon Department of Corrections (DOC).

On April 24, 2001, MAESTAS signed his Criminal Justice Code of Ethics.

On July 19, 2001, MAESTAS was granted a Basic Corrections certification.

On October 29, 2004, MAESTAS was granted an Intermediate Corrections certification.

On March 27, 2008, MAESTAS resigned from the Oregon Department of Corrections.

In May 2009 DPSST received a LEADS hit on a DUII arrest. The May 2009 DUII arrest resulted in a conviction. A records check showed that MAESTAS had a prior DUII conviction in 2006.

In July 2009 MAESTAS was again arrested for DUII which resulted in a conviction.

In September and again in October, DPSST mailed MAESTAS a letter advising him that his case would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

To date MAESTAS has not provided information for the Committee'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 Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke MAESTAS's Basic and Intermediate Corrections certifications 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 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 MAESTAS' conduct *does/does not* rise to the level to warrant the revocation of his Basic and Intermediate Corrections certifications, and therefore recommends to the Board that MAESTAS' 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 K

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Richard M. MITCHELL, DPSST #41867

ISSUE:

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

BACKGROUND and OVERVIEW

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

On February 11, 2002, MITCHELL was hired by the Oregon Department of Corrections (DOC).

On February 18, 2002, MITCHELL signed his Criminal Justice Code of Ethics.

On December 6, 2002, MITCHELL was granted a Basic Corrections certification.

On September 21, 2009, MITCHELL resigned from the Oregon Department of Corrections, during an investigation.

In September DPSST sought and obtained the underlying documents that led to MITCHELL's resignation.

In November, DPSST mailed MITCHELL a letter advising him that his case would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. DPSST received the certified mail return receipt.

On November 25, 2009, MITCHELL called Scott WILLADSEN, DPSST Professional Standards Coordinator to discuss the letter he had received.

On December 10, 2009, MITCHELL emailed his response for the Committee's consideration and on December 11, 2009, this was faxed to DPSST.

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 MITCHELL's Basic Corrections 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 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 MITCHELL's conduct *does/does not* rise to the level to warrant the revocation of his Basic Corrections certification, and therefore recommends to the Board that MITCHELL's Basic Corrections certification *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 L

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Lisa K. PHILLIPS, DPSST #35703

ISSUE: Should Lisa PHILLIPS' 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 PHILLIPS:

On June 5, 1998, PHILLIPS was hired by the Douglas County Sheriff's Office as a corrections officer.

On October 21, 1998, PHILLIPS signed her Criminal Justice Code of Ethics.

On April 22, 1999, PHILLIPS was granted a Basic Corrections certification.

On May 4, 2009, PHILLIPS resigned from the Douglas County Sheriff's Office during an internal investigation.

DPSST sought and obtained the criminal investigation that led to PHILLIPS' resignation.

In June, I sought follow-up information from the employer on the internal investigation and from the investigating officer regarding "inconsistencies" during the internal investigation and potentially the criminal investigation. In November I sent second request for information regarding the "inconsistencies."

In November DPSST followed up with the Court on the NSF disposition; this matter was dismissed under a civil compromise.

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

To date PHILLIPS has not provided information for the Policy Committee's consideration.

In December 2009 a third request for information was made of Sheriff Hanlin. Subsequent to this I spoke with Lt. Mike Root, DCSO, who provided me with an affidavit addressing the "inconsistencies" issues.

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 PHILLIPS' Basic Corrections 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 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 PHILLIPS' conduct *does/does not* rise to the level to warrant the revocation of her Basic Corrections certification, and therefore recommends to the Board that PHILLIPS Basic Corrections certification *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 M

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Shane Scarborough, DPSST #49815

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

BACKGROUND and OVERVIEW

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

On June 17, 2008, SCARBOROUGH was hired by the Linn County Sheriff's Office as a corrections officer.

On November 10, 2008, SCARBOROUGH signed his Criminal Justice Code of Ethics.

On August 27, 2009, SCARBOROUGH was granted a Basic Corrections Certificate.

On November 4, 2009, SCARBOROUGH received a probationary discharge.

DPSST sought and obtained the investigation that led to SCARBOROUGH's resignation.

In December 2009, DPSST sent a letter advising SCARBOROUGH that this matter would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

To date SCARBOROUGH has not provided information for the Policy Committee'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 Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke SCARBOROUGH's Basic Corrections 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 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 SCARBOROUGH'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 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 N

Department of Public Safety Standards and Training Memorandum

DATE: February 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Mary M. TANNER DPSST #34397

ISSUE: Should Mary TANNER's Basic Corrections and Police 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 TANNER:

On August 18, 1997 TANNER was hired by the Washington County Sheriff's Office as a corrections officer. TANNER served there three years and she was reclassified to a police officer where she served until December 31, 2004 when she resigned.

In October 1997, TANNER signed her Criminal Justice Code of Ethics.

In June 2009, DPSST received an inquiry from the Hillsboro Police Department, which was conducting a preliminary background on TANNER, who had applied for a job with their agency. Hillsboro Police Department was seeking to determine if TANNER would be certifiable.

DPSST sought and obtained the investigation that led to TANNER's resignation. DPSST determined that this matter must be reviewed by the Corrections Policy Committee and mailed TANNER a letter advising her of the pending review and her opportunity to provide mitigating circumstances for the Committee's consideration. These documents were sent certified mail. TANNER did call DPSST and make inquiry into how DPSST had obtained the information and about the general review process. To date TANNER has not provided information for the Committee'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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke TANNER's Basic Corrections and Police certifications 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 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 TANNER's conduct *does/does not* rise to the level to warrant the revocation of her 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 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.