

Corrections Policy Committee Minutes February 17, 2009

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, February 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
Brian Belleque, Designee for Director of Department of Corrections
Scott Brewen, Department of Corrections Training Division Director
Mitchell Southwick, Oregon State Sheriffs' Association
Michael Gower, Department of Corrections Security Manager
Raimond Adgers, Oregon Sheriff's Jail Command Council
Shane Hagey, Oregon Assoc. of Community Corrections Directors

Committee Members Absent:

Ida Rovers, Department of Corrections, Women's Correctional Facility
Bryan Goodman, Non-Management Corrections Officer
Thomas Wright, DOC Bargaining Unit Representative
Marie Tyler, Oregon Sheriff's Jail Command Council

Guests:

Erik Douglass, Marion County Sheriff's Office

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorance, Certification and Records Supervisor
Bonnie Salle-Narvaez, Certification Coordinator
Cameron Campbell, Academy Training Director
Kristen Turley, Standards and Compliance Coordinator
Ryan Keck, Training Coordinator
Carolyn Kendrick, Administrative Specialist



1. Minutes (November 18, 2008)

Approve the minutes of the November 18, 2008 Corrections Policy Committee meeting.

See Appendix A for details.

The committee questioned whether the Charles Peters case would be heard during this meeting as stated in the November 18, 2008 policy committee meeting minutes. Staff stated that additional material is needed in order to present the case and it would probably be on the May 19, 2009 agenda.

Raimond Adgers moved to approve the minutes as written of the November 18, 2008 Corrections Policy Committee meeting. Shane Hagey seconded the motion. The motion carried unanimously by all present.

Prior to case review staff provided a brief summary of how staff proceeded in preparing these first cases under the new OAR rules which became effective January 1, 2009. Staff also explained the additional decision item that requires (in the case of a denial or revocation motion) the committee to determine a minimum initial period of ineligibility for an individual to reapply for certification.

2. Daren Kroon – DPSST #45576

Presented by Marilyn Lorance

See Appendix B for details.

- *Brian Belleque moved that the committee adopts the staff report as the record upon which its recommendations are based. Scott Brewen seconded the motion. The motion carried unanimously by all present.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue. *Dishonesty regarding the hunting incident, 2 guilty pleas, hunting without tags, unlawful transportation of game, minimization of facts to agency.*
 - b. The identified conduct did involve **Dishonesty**.
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did not involve **Gross Misconduct**.
 - f. The identified conduct did involve **Misconduct**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the committee must identify and consider any mitigating and aggravating circumstances. *The committee did not identify any mitigating circumstances. The aggravating circumstances included that he came forward only after circumstances forced his hand; that his initial intent to not be forthright continued through to his initial failure to contact his administration and ongoing failure to keep them informed; and that his misconduct and untruthfulness occurred in the presence of minor children.*
- *Brian Belleque moved that the committee finds KROON's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that KROON's certification(s) be revoked. Shane Hagey seconded the motion. The motion carried unanimously by all present.*
- *Shane Hagey moved that the committee recommends to the Board that KROON's misconduct was a lifetime disqualifier; he may never reapply to the Corrections Policy Committee seeking certification. Michael Gower seconded the motion. The motion carried unanimously by all present.*

3. Wava Miller – DPSST #31409

Presented by Marilyn Lorance

See Appendix C for details.

- **Brian Belleque moved that the committee adopts the staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously by all present.**
- **By discussion and consensus:**
 - a. Identify the conduct that is at issue. **Dishonesty**
 - b. The identified conduct **did** involve **Dishonesty**.
 - c. The identified conduct **did** involve a **Disregard for the Rights of Others**.
 - d. The identified conduct **did** involve **Misuse of Authority**.
 - 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 committee must identify and consider any mitigating and aggravating circumstances. The committee found that nothing in MILLER's letter mitigated her conduct. They identified as an aggravating circumstance her long period of service in the profession, including a period as a supervisor.**
- **Mitchell Southwick moved that the committee finds MILLER's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that MILLER's certification(s) be revoked. Scott Brewen seconded the motion. The motion carried unanimously by all present.**
- **Mitchell Southwick moved that the committee recommends to the Board that MILLER's misconduct was a lifetime disqualifier; she may never reapply to the Corrections Policy Committee seeking certification. Raimond Adgers seconded the motion. The motion carried unanimously by all present.**

4. **James Pitman – DPSST #22603**

Presented by Marilyn Lorance

See **Appendix D** for details.

- **Shane Hagey moved that the committee adopts the staff report as the record upon which its recommendations are based. Brian Belleque seconded the motion. The motion carried unanimously.**
- **By discussion and consensus:**
 - a. Identify the conduct that is at issue. **Dishonesty**
 - b. The identified conduct **did** involve **Dishonesty**.
 - c. The identified conduct **did** involve a **Disregard for the Rights of Others**.
 - d. The identified conduct **did** involve **Misuse of Authority**.
 - 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 committee must identify and consider any mitigating and aggravating circumstances. The committee acknowledged the medical information that PITMAN provided for the committee's consideration but did not find it as mitigation for this intentional behavior. The committee identified as aggravating the lack of a reasonable explanation for an individual to travel to the middle of the yard to urinate and the disregard for the health and safety of inmates and staff that could have come in contact with the basketball on which PITMAN urinated.**
- **Brian Belleque moved that the committee finds PITMAN's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board**

that PITMAN's certification(s) be revoked. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

- *Brian Belleque moved that the committee recommends to the Board that PITMAN's misconduct was a lifetime disqualifier; he may never reapply to the Corrections Policy Committee seeking certification. Shane Hagey seconded the motion. The motion carried unanimously by all present.*

5. & 6. The committee DID NOT convene in Executive Session

7. Penny Tompkins – DPSST #35651

See Appendix E for details

- *Mitchell Southwick moved that the committee adopts the staff report as the record upon which its recommendations are based. Brian Belleque seconded the motion. The motion carried unanimously by all voting.*
- *By discussion and consensus:*
 - a. Identify the conduct that is at issue. *Dishonesty—when she tipped off an offender of impending charges before it got to the Grand Jury level.*
 - b. The identified conduct did involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others**.
 - d. The identified conduct did involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct**.
 - f. The identified conduct did involve **Misconduct**.
 - g. The identified conduct did involve **Insubordination**.
- *By discussion and consensus, the committee must identify and consider any mitigating and aggravating circumstances. The committee agreed there was not one mitigating issue, however aggravating circumstances include a previous Last Chance Agreement which involved similar conduct with another offender. This also invalidated her argument of inadequate training.*
- *Scott Brewen moved that the committee finds TOMPKINS' conduct does rise to the level to warrant the revocation of her Corrections certification(s), and therefore recommends to the Board that TOMPKINS' certification(s) be revoked. Raimond Adgers seconded the motion. The motion carried unanimously by all present.*
- *Shane Hagey moved that the committee recommends to the Board that TOMPKINS' misconduct was a lifetime disqualifier; she may never reapply to the Corrections Policy Committee seeking certification. Brian Belleque seconded the motion. The motion carried unanimously by all voting.*

8. Charles Mangus – Medical Waiver

Presented by Bonnie Salle-Narvaez

See Appendix F for details

Raimond Adgers moved to recommend to the Board that a medical waiver of the depth perception standard be approved for Charles Mangus. Scott Brewen seconded the motion. The motion carried unanimously by all present.

9. The committee DID NOT convene in Executive Session

10. OAR 259-008-0015 – Proposed Rule

Background Investigation
Presented by Bonnie Salle-Narvaez

See Appendix G for details

It is the consensus of the committee to take this information back to their respective peers and gather feedback before proceeding. The Department of Corrections needs to discuss the financial impact this rule would create. The committee requested tabling this issue until the next Correction Policy Committee meeting on May 19, 2009.

11. OAR 259-008-0020 – Proposed Rule

Issuance of DPSST Number
Presented by Bonnie Salle-Narvaez

See Appendix H for details

Brian Belleque moved to recommend filing the proposed language for OAR 259-008-0020 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Michael Gower seconded the motion. The motion carried unanimously by all present.

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

12. Additional Business

Presented by Eriks Gabliks.

Eriks Gabliks gave an update on budget impacts. He shared that under the Governors recommended budget the training of Department of Corrections (DOC) basic classes leaves DPSST as of July 1, 2009 and becomes the responsibility of DOC. The committee discussed DOC's deliverance of their basic training and what that might look like.

13. Additional Business

Presented by Bonnie Salle-Narvaez

Staff brought to the committee's attention the inaccuracies of item number 18 on the November 18, 2008's minutes.

Michael Gower moved to amend the November 18, 2008 minutes in reference to attributing the color vision standards to Brian Kinney and the visual acuity issues to Karl Johnson and secondly restating the ruling to say "the motion failed", rather than "was denied". Brian Belleque seconded the motion. The motion carried unanimously by all present.

See Appendix I for the revised November 18, 2008 minutes

14. Next Regularly Scheduled Meeting

Tuesday, May 19, 2009 at 1:30 p.m.

With no further business before the committee, Scott Brewen moved to adjourn the meeting. Mitchell Southwick seconded the motion. The motion carried unanimously and the meeting adjourned at 3:24 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) November 18, 2008

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 18, 2008 scheduled for 9:00 a.m. 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 9:50 a.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Brian Belleque, Designee for Director of Department of Corrections
Scott Brewen, Department of Corrections Training Division Director
Bryan Goodman, Non-Management Corrections Officer
Ida Rovers, Department of Corrections, Women's Correctional Facility
Mitchell Southwick, Oregon State Sheriffs' Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative
Michael Gower, Department of Corrections Security Manager
Raimond Adgers, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Shane Hagey, Oregon Assoc. of Community Corrections Directors

Guests:

Charles Peters, Oregon State Penitentiary
Carl Miller, Oregon State Penitentiary
Chris VanCleave, Snake River Correctional Institution
Brenda Britton
Erik Douglass, Marion County Sheriff's Office

DPSST Staff:

Marilyn Lorance, Certification and Records Supervisor
Bonnie Salle-Narvaez, Certification Coordinator
Theresa King, Professional Standards Coordinator
Steve Winegar, Research and Development
Cameron Campbell, Director of Training
Ryan Keck, Training Coordinator
Jan Myers, Training Coordinator
Carolyn Kendrick, Administrative Specialist



Staff requested that agenda item number 18 be moved to number 11 so that all revocation and denial cases are considered together. The committee agreed.

The Department of Corrections requested that agenda item 6 be moved to the next policy committee meeting due to the ongoing investigation in which Mr. Peters has yet to have due process on. The committee agreed.

1. Minutes (August 19, 2008)

Approve the minutes of the August 19, 2008 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved to approve the minutes of the August 19, 2008 Corrections Policy Committee meeting. Mitchell Southwick seconded the motion. The motion carried unanimously by all present.

2. Amy McBride (a.k.a. Amy Zepeda) – DPSST #39980

Presented by Theresa King

See Appendix B for details.

Bryan Goodman moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? **Felony use of methamphetamine, history of drug use, and failure to complete due process.***
- b. What specific grounds do the facts relate to? **Mandatory disqualifying conduct and moral fitness as stated in OAR 259-008-0010(6)(b).***
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? **The committee agreed there is enough evidence, along with MCBRIDE'S admitted use of methamphetamines, that MCBRIDE did engage in this conduct.***
- d. Does the conduct constitute grounds for revocation? **The committee agreed MCBRIDE'S conduct does constitute grounds for revocation.***
- e. Does the conduct rise to the level that warrants revocation? **The committee agreed MCBRIDE'S conduct does rise to the level that warrants revocation.***

Mitchell Southwick moved to recommend to the board the revocation of Amy MCBRIDE'S (a.k.a. Amy Zepeda) certification based on a violation of the moral fitness standard and mandatory disqualifying conduct. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

3. James D. Hepler – DPSST #26930

Presented by Theresa King

See Appendix C for details.

Ida Rovers stated for the record that she would abstain from voting as she works with James Hepler.

Michael Gower moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present with Ida Rovers abstaining.

By discussion and consensus:

- a. What conduct is at issue? *Untruthfulness at time of arrest and discretionary disqualifying conviction.*
- b. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that HEPLER did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed HEPLER'S conduct could constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation?

Bryan Goodman moved not to recommend to the board the revocation of James HEPLER'S certifications. Thomas Wright seconded the motion. The motion carried in a 6 – 3 vote with Todd Anderson, Raimond Adgers, and Marie Tyler voting no and Ida Rovers abstaining.

4. **Chris J. VanCleave – DPSST #32795**

Presented by Theresa King

See Appendix D for details.

Marie Tyler moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Brian Belleque seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Trespassing and discretionary disqualifying conviction.*
- b. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b), multiple police contacts, and the discretionary disqualifying conviction.*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that VANCLEAVE did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed VANCLEAVE'S conduct could constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee took into consideration the mitigating factors such as completion of restitution and keeping his record clean.*

Michael Gower moved not to recommend the revocation of Chris J. VANCLEAVE'S certifications. Bryan Goodman seconded the motion. The motion carried in a 7-3 vote with Raimond Adgers, Marie Tyler and Mitchell Southwick voting no.

5. **Koren V. Stills – DPSST #39797**

Presented by Theresa King

See Appendix E for details

Brian Belleque moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Untruthfulness, drug trafficking, and providing contraband to inmates.*

- b. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that STILLS did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed STILLS' conduct does constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed STILLS' conduct does rise to the level that warrants revocation.*

Raimond Adgers moved to recommend to the board the revocation of Koren V. STILLS' certification based on a violation of the moral fitness standard. Marie Tyler seconded the motion. The motion carried unanimously by all present.

6. Charles Peters – DPSST #24999 – This item was removed from this agenda and will be placed on the agenda for the February 17, 2009 Corrections Policy Committee meeting.

7. Monte McKague – DPSST #44165

Presented by Theresa King

See Appendix F for details

Bryan Goodman moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Disorderly conduct, resisting police, and mental health issues.*
- b. What specific grounds do the facts relate to? *Discretionary disqualifying conduct as stated in OAR 259-008-0070(3) and moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that MCKAGUE did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed MCKAGUE'S conduct could constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed MCKAGUE'S conduct does rise to the level that warrants revocation.*

Scott Brewen moved to recommend to the board the revocation of Monte MCKAGUE'S certifications based on a violation of the moral fitness standard and the discretionary disqualifying conviction. Brian Belleque seconded the motion. The motion carried unanimously by all present.

8. Marcello Monares – DPSST #39814

Presented by Theresa King

See Exhibit G for details

Michael Gower moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Intimate relationship with an inmate, truthfulness, and attempted resist of arrest.*
- b. What specific grounds do the facts relate to? *Discretionary disqualifying conviction as stated in OAR 259-008-0070(3) and moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that MONARES did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed that MONARES' conduct does constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed that MONARES' conduct does rise to the level that warrants revocation.*

Marie Tyler moved to recommend to the board the revocation of Marcello MONARES' certifications based on a violation of the moral fitness standard and the discretionary disqualifying conviction. Ida Rovers seconded the motion. The motion carried unanimously by all present.

9. **George Ogden – DPSST #26505**

Presented by Theresa King

See Exhibit H for details

Mitchell Southwick moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Brian Belleque seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Failure to report DUI's, truthfulness, probation violations, non-compliance of court orders.*
- b. What specific grounds do the facts relate to? *Discretionary disqualifying conviction as stated in OAR 259-008-0070(3) and moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that OGDEN did engage in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed that OGDEN'S conduct does constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed that OGDEN'S conduct does rise to the level that warrants revocation.*

Marie Tyler moved to recommend to the board the revocation of George OGDEN'S certifications based on a violation of the moral fitness standard and the discretionary disqualifying conviction. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

10. **Aaron N. Whitmore – DPSST #31225**

Presented by Theresa King

See Exhibit I for details

Marie Tyler moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Brian Belleque seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Truthfulness and withholding of information from investigators during an investigation.*
- b. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b) and prejudice in the administration of justice.*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find WHITMORE engaged in this conduct.*
- d. Does the conduct constitute grounds for revocation? *The committee agreed that WHITMORE'S conduct does constitute grounds for revocation.*
- e. Does the conduct rise to the level that warrants revocation? *The committee agreed that WHITMORE'S conduct does rise to the level that warrants revocation.*

Brian Belleque moved to recommend to the board the revocation of Aaron N. WHITEMORE'S certifications based on a violation of the moral fitness standard. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

11. Joel M. Pyle – DPSST #49555

Presented by Theresa King

See Exhibit J for details.

Marie Tyler moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Michael Gower seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? *Sexual harassment, untruthfulness, and pattern of behavior.*
- b. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that PYLE did engage in this conduct.*
- d. Does the conduct constitute grounds for denial? *The committee agreed that PYLE'S conduct does constitute grounds for denial of training and subsequent certification.*
- e. Does the conduct rise to the level that warrants denial? *The committee agreed that PYLE'S conduct does rise to the level that warrants denial of training and subsequent certification.*

Bryan Goodman stated for the record he would abstain from voting as he supervises Joel Pyle.

Brian Belleque moved to recommend to the board the denial of training and subsequent certification for Joel M. PYLE. Marie Tyler seconded the motion. The motion carried unanimously by all present with Brian Goodman abstaining.

The committee broke session for lunch at 12:00 p.m. and reconvened at 12:36 p.m.

12. OAR 259-001-0005 – Proposed Rule

Housekeeping Changes to Administrative Rulemaking Process
Presented by Bonnie Salle-Narvaez

See Exhibit K for details.

Marie Tyler moved to recommend filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Brian Belleque seconded the motion. The motion carried unanimously by all present

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

13. OAR 259-008-0010(8) – Proposed Rule

Requirement of physical examination after separation due to physical inability to perform essential tasks of a law enforcement officer.
Presented by Bonnie Salle-Narvaez

See Exhibit L for details.

Mitchell Southwick moved to recommend filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Michael Gower seconded the motion. The motion carried unanimously by all present.

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

14. OAR 259-008-0020 – Proposed Rule

Issuance of DPSST Numbers
Presented by Bonnie Salle-Narvaez

See Exhibit M for details.

Staff advised the committee that the Police Policy Committee requested clarification on wording and about their concerns regarding a fiscal impact on some of the systems they use. The Corrections Policy Committee agreed and requested more information and time to meet with their colleagues on the impact this proposed rule may have.

Michael Gower moved to table OAR 259-008-0020 until the next meeting on February 17, 2009. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

15. OAR 259-008-0025 – Proposed Rule

Career Officer Development Course – Remediation
Presented by Bonnie Salle-Narvaez

See Exhibit N for details.

Michael Gower moved to recommend filing the proposed language of OAR 259-008-0025 with the Secretary of State as a temporary rule, a permanent rule, and as a permanent rule if no comments are received. Brian Belleque seconded the motion. The motion carried unanimously by all present.

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

16. OAR 259-008-0060 – Proposed Rule

College Credit – Basic Training Conversion
Presented by Bonnie Salle-Narvaez

See Exhibit O for details.

Brian Belleque moved to recommend filing the proposed language of OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously by all present.

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

17. Convene in Executive Session

Discuss matters exempt from disclosure under ORS 92.660(2)(f) related to whether medical waivers for Karl Johnson and Brian Kinney should be recommended to the Board

18. Reconvene in Regular Session

Take final action regarding a determination of whether medical waivers for Karl Johnson and Brian Kinney should be recommended to the Board

See Exhibit P and Q for details.

Karl Johnson:

Brian Belleque moved to recommend approval to the Board for a waiver of the color vision standard for Karl Johnson. Marie Tyler seconded the motion. The motion carried unanimously by all present.

Brian Kinney:

Mitchell Southwick moved to recommend approval to the Board for a waiver of the visual acuity standard and depth perception standard for Brian Kinney. Ida Rovers seconded the motion. The waiver was denied in a 3-7 vote with Todd Anderson, Raimond Adgers, Brian Belleque, Bryan Goodman, Michael Gower, Marie Tyler, and Thomas Wright voting no.

19. ORPAT for Corrections – Additional Analysis

Discussion and Alternatives for Standards
Presented by Steve Winegar

See Exhibit R for details.

After extensive discussion, Marie Tyler moved to table any decision about implementing an ORPAT standard indefinitely to allow more time to collect sufficient data. Michael Gower seconded the motion. The motion carried unanimously by all present.

20. Next Regularly Scheduled Meeting

Tuesday, February 17, 2009 at 1:30p.m.

With no further business before the committee, the meeting was adjourned at 2:32 p.m.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE: February 17, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Daren Kroon DPSST #45576

ISSUE:

Should Daren KROON's Basic Corrections certifications 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 KROON:

KROON was employed by the Oregon Department of Corrections (ODOC) in 2005 and signed his Criminal Justice Code of Ethics that year. KROON obtained his Basic Corrections certification in 2006. In December 2006, KROON self-reported a hunting incident in Idaho which resulted in two misdemeanor convictions. In January 2007 the employer notified DPSST of KROON's misdemeanor convictions and in March 2007 KROON resigned from ODOC.

DPSST sought, and obtained information relating to KROON's hunting incident and convictions.

In substance, the documents provided include:

- 1. An incident report in which KROON initially lied to investigating officers and was later truthful with them.*
- 2. A memo to his employer in which KROON's self-reporting the hunting incident and his involvement, along with a subsequent memo to the employer on the disposition.*
- 3. Judgment and court documents of the conviction, along with follow-up contact with the court to determine if a conviction remained on KROON's record.*
- 4. Comparison statutes from Idaho and Oregon.*

On December 5, 2008, DPSST mailed KROON 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 by regular and certified mail. On December 12, 2008, DPSST received a Certified Mail Return Receipt. To date KROON 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 259-008-0010(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 KROON's Basic Corrections 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 KROON's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that KROON's 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 training and certification will be *identify period of time* from the date of revocation.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE: February 17, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Wava Miller DPSST #31409

ISSUE:

Should Wava MILLER's Basic, Intermediate and Advanced Corrections certifications be revoked based on her 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 MILLER:

MILLER was employed by the Oregon Department of Corrections in 1995 and remained there until 2007. During that time MILLER obtained her Basic, Intermediate and Advanced Corrections certifications. MILLER then became employed with the Clackamas County Sheriff's Office in 2007 and served there until May 2008 when she received a probationary discharge.

In June 2007 DPSST received notice of MILLER's probationary discharge. DPSST sought, and obtained information relating to MILLER's discharge. After a review of the investigation that led to MILLER's discharge, DPSST determined that it must move this matter forward for the review of the Corrections Policy Committee.

In substance, the documents provided include:

- 1. A termination notice advising of violation of agency policies.*
- 2. A memo outlining violation of agency policies which include the abuse of sick leave, untruthfulness, inappropriate language and conduct, and poor job performance.*
- 3. A memo outlining violation of agency policies and untruthfulness relating to knowledge of agency policy on tattoos and relating to suicide watch documentation.*

On December 11, 2008, DPSST mailed MILLER 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 by regular and certified mail. On December 23, 2008, DPSST received a Certified Mail Return Receipt. On December 26, 2008, MILLER contacted KING, asked procedural questions and provided an updated address.

On January 7, 2009, MILLER provided 56 pages for the Committee's consideration. Based on MILLER's information, DPSST followed up with the employer and obtained two Affidavits refuting her assertion that the employer gave assurances that her certifications would not be affected.

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.

- (b) For purposes of this standard, lack of good moral fitness includes, but is not limited to:
 - (C) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or
 - (D) 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 MILLER's Basic, Intermediate and Advanced Corrections certifications, based on her 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 MILLER's conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that MILLER's 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 training and certification will be *identify period of time* from the date of revocation.

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: February 17, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: James PITMAN DPSST #22603

ISSUE:

Should James PITMAN's Basic, Intermediate and Advanced Corrections certifications 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

NOTE: *This Staff Report contains personal medical information that, if discussed, must be discussed during an Executive Session.*

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

PITMAN was employed by the Marion County Sheriff's Office (MCSO) in 1989 and signed his Criminal Justice Code of Ethics in 1990. PITMAN subsequently obtained his Basic, Intermediate and Advanced Corrections certifications. In 2003 PITMAN resigned after an internal investigation.

In 2007, PITMAN was hired by Oregon Department of Corrections and subsequently received a probationary discharge 26 days after the employer discovered that he did not sign a release of information allowing the background investigator to access his MCSO personnel file. DPSST sought, and obtained information relating to PITMAN's resignation from MCSO.

In substance, the documents provided include:

- 1. Statement of Correctional Deputy Daniel LONG asserting that PITMAN had knowingly urinated on a basketball in the recreational yard.*
- 2. Statement of Internal Investigator Sergeant James BERKA after his interview of LONG.*
- 3. Two Incident Reports by PITMAN in which he asserts he did not see the basketball over the drain at first.*
- 4. Interview of PITMAN by BERKA in which PITMAN asserts he was checking on missing cleaning supplies at 0200, and that he did not see the basketball on the drain.*
- 5. Memo and handwritten notes.*
- 6. Memo of BERKA recapping interview with PITMAN interview.*
- 7. Memo of BERKA, recapping interview with MOZZILLO, PITMAN's supervisor, and handwritten notes.*
- 8. Memo of BERKA questioning PITMAN's interview statements which were inconsistent with the POD log documenting that the cleaning supplies were initially missing, but then accounted for, at 2310 hrs., prior to PITMAN's asserted 0200 check for the missing items.*
- 9. POD Activity Lists from C-4, medical unit which houses up to 17 (seventeen) inmates and C1- which houses up to 60 (sixty) inmates.*
- 10. General Orders and Standard of Conduct.*

On December 4, 2008, DPSST mailed PITMAN 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 by regular and certified mail. On December 10, 2008, DPSST received a Certified Mail Return Receipt.

On December 31, 2008, PITMAN sent an email inquiry to DPSST regarding the letter he had received and staff responded to his inquiry.

On December 31, 2008, DPSST received a request for an extension from PITMAN's attorney and granted the extension.

On January 5, 2009, DPSST received notification that PITMAN was represented by legal counsel.

On January 9, 2008, DPSST received information for the Policy Committee's consideration from PITMAN's legal counsel, which consisted of a two-page letter and five pages of medical-related documents.

On January 16, 2009, DPSST met with retired Sergeant BERKA and obtained an Affidavit from him regarding his recollections of the internal investigation and his observations. Based on BERKA's description of the recreation yard, staff prepared a schematic.

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.

- (c) For purposes of this standard, lack of good moral fitness includes, but is not limited to:
 - (E) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or
 - (F) 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 PITMAN's Basic, Intermediate and Advanced Corrections certifications, 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 PITMAN's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that PITMAN's 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 training and certification will be *identify period of time* from the date of revocation.

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: February 17, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Penny Tompkins DPSST #35651

ISSUE:

Should Penny Tompkins' Basic Parole and Probation certification be revoked based on her 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 TOMPKINS:

TOMPKINS was employed by the Multnomah County Community Justice in 1998 and obtained her Basic Parole and Probation certification. In July 2008, DPSST received a letter from TOMPKINS relinquishing her certification. DPSST then contacted the employer seeking an updated F4, Personnel Action Report. DPSST also mailed a letter to TOMPKINS, along with a Stipulated Order to formalize her request to relinquish her certification. The employer provided an F4 showing that TOMPKINS had resigned during an investigation. DPSST then sought, and obtained, the investigation that led to TOMPKINS' resignation.

In substance, the documents provided include:

- 1. A 2004 Last Chance Agreement which included an agreement not to have contact with a specific individual while he was on post prison supervision or to have a non-work related relationship with criminal offenders.*
- 2. A 14-page investigation outlining TOMPKINS' misconduct, which included releasing information and evidentiary details to two offenders, and interfering with a sex crimes investigation. This investigation also sustained that TOMPKINS had violated her Last Chance Agreement.*
- 3. A Separation Agreement between TOMPKINS and her employer.*

On December 4, 2008, DPSST mailed TOMPKINS 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 by regular and certified mail. On December 8, 2008, DPSST received a Certified Mail Return Receipt. To date TOMPKINS has not provided any 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 259-008-0010(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness.

- (d) For purposes of this standard, lack of good moral fitness includes, but is not limited to:
 - (G) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or
 - (H) 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 TOMPKINS' Basic Parole and Probation certification, based on her 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 TOMPKINS' conduct *does/does not* rise to the level to warrant the revocation of her Corrections certification(s), and therefore recommends to the Board that TOMPKINS' 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 training and certification will be *identify period of time* from the date of revocation.

Appendix F

Department of Public Safety Standards and Training Memo

Date: January 13, 2009
To: Corrections Policy Committee
From: Bonnie Sallé-Narváez
Subject: Medical Waiver – Charles Mangus

Issue: The Springfield Police Department is requesting a waiver of the medical requirements for correctional applicant Charles Mangus. OAR 259-008-0010 allows the Board to "waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of co-workers."

Background: The Springfield Police Department hired Charles Mangus in a civilian position as a Corrections Supervisor on December 15, 2008. However, the agency is requesting a waiver of the visual acuity standards to allow Charles Mangus to become re-certified as a correctional officer. He was previously employed as a correctional officer for Lane County Sheriff's office for over 18 years, retiring on May 28, 2008. His corrections certifications automatically lapsed on August 28, 2008. OAR 259-008-0010(8)(A) requires all law enforcement officer applicants to be examined by a licensed physician and pass a visual acuity test.

Item #1: The Springfield Police Department is requesting a review of the visual acuity standard for Charles Mangus. As part of the hiring process, he was referred to Cascade Occupational Health on November 25, 2008 for a physical examination (see **Exhibit B**). His examination revealed deficiencies in the area of depth perception. Because he did not meet the minimum requirements for depth perception he consulted Dr. John Polansky, an ophthalmologist who has been treating Charles Mangus for the past 15 years. Dr. Polansky indicated in a letter dated December 18, 2008 that, "Charles Mangus has a lifelong history of mild amblyopia of his left eye and a mild left esotropia. The consequence of this condition is that he has less than 60 seconds arc on stereo testing, but he does have gross stereopsis. His less than complete stereopsis has never interfered with his ability to perform tasks as a corrections supervisor for the Lane County Jail. I trust that his visual condition will not limit his candidacy for employment with the Springfield Police Department in a similar capacity." (see **Exhibit C**).

The Springfield Police Department is requesting a waiver of the depth perception requirement to allow Charles Mangus the opportunity to return to a career as a public safety officer. (see **Exhibit A**)

ACTION ITEM #1: The Committee needs to determine whether they will recommend approval to the Board for a waiver of the depth perception standard for Charles Mangus so he can obtain recertification as a Correctional Officer.

Appendix G

Department of Public Safety Standards and Training Memo

Date: January 13, 2009
To: Corrections Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator
Subject: OAR 259-008-0015 – Proposed Rule
Background Investigation

Issue: The Department is responsible for recommending reasonable minimum standards for public safety personnel. A background investigation is currently required to be conducted on each law enforcement officer (police, corrections and parole and probation officers) to determine moral fitness (professional fitness).

The rule for law enforcement officers is currently silent on the content of the background investigation. A workgroup was established in 2008 and developed proposed rule language to more clearly define the areas to be addressed when conducting a background investigation. The proposed language included a purpose statement to clarify the Department's intent as it related to making employment decisions based upon information gathered during a background investigation. The proposed rule language was forwarded to the Department of Justice (DOJ) for review and DOJ has responded that they are very comfortable with the rule language as proposed.

The Department is seeking guidance from the Police Policy Committee to determine whether to adopt the following background investigation standards for police officers to determine moral fitness (professional fitness).

The following proposed language for OAR 259-008-0015 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~):

259-008-0015

Background Investigation

PURPOSE: ORS 181.640(1)(a) requires the Department to recommend and the Board to establish by rule reasonable minimum standards of physical, emotional, intellectual and moral fitness for public safety personnel and instructors.

ORS 181.640(1)(c) requires the Department to establish by rule, in consultation with the Board, procedures for law enforcement units to use to determine whether public safety personnel meet minimum standards.

Consistent with ORS 181.640(1)(c), the purpose of OAR 259-008-0015 is to require law enforcement units to conduct background investigations that include, at a minimum, the elements identified within the rule.

It is not the purpose of this rule to mandate specific methods for conducting background investigations or to identify additional minimum standards for employment as a law enforcement officer. Minimum standards for employment are identified in OAR 259-008-0010 and OAR 259-008-0011. The authority to make an employment decision based on the required background investigation belongs to the public safety employer, unless the background investigation reveals that an applicant fails to meet established state minimum standards.

- (1) A personal history investigation shall **must** be conducted by the employing agency on each law enforcement officer being considered for employment to determine if applicant is of good moral fitness (**professional fitness**).
- (2) Each law enforcement applicant must have a completed background investigation conducted on or before the date of hire which includes, but is not limited to, the following information:**
- (a) Personal Identifying Information: To verify the applicant's identity and obtain contact information, to determine that the applicant meets statutory requirements, and to enable fingerprinting and the accurate acquisition of documents required to successfully conduct the background investigation.**
- (b) Relatives and Other References: Contact information for family members and other individuals sufficiently acquainted with the applicant, to assess moral fitness (professional fitness) and other relevant qualifications for employment as a law enforcement officer.**
- (c) Education and Training History: To establish that the applicant meets minimum educational requirements and to assess the ability to master the knowledge required for successful completion of Basic training as a law enforcement officer.**
- (d) Residential History: To permit inquiries and contacts with those acquainted with the applicant, to assess moral fitness (professional fitness) and other relevant qualifications for employment as a law enforcement officer.**
- (e) Employment/Experience History: To review and evaluate whether the applicant's employment and experience history is consistent with moral fitness (professional fitness) standards for employment as a law enforcement officer.**
- (f) Military Experience: To review and evaluate whether the applicant's military history is consistent with moral fitness (professional fitness) standards for employment as a law enforcement officer.**
- (g) Financial History: To assess the applicant's ability and willingness to effectively manage financial responsibilities and comply with state and federal requirements, as an indication of the applicant's dependability and integrity, and compliance with legal obligations, consistent with the moral fitness (professional fitness) standards for employment as a law enforcement officer.**
- (h) Legal/Criminal History: To establish legal eligibility for employment and to evaluate past behavior associated with compliance with the law.**
- (i) Motor Vehicle Operation: To enable acquisition of all official driving records and to assess the ability to safely and lawfully operate a motor vehicle for those positions for which motor vehicle operation is an essential task.**
- (j) Other topics: As necessary to assess moral fitness (professional fitness) through the evaluation of relevant aspects of the applicant's past behavior.**
- (3) The background investigation for each law enforcement officer applicant must include a minimum inquiry into the following specific sources of information for the purposes indicated in subsection (2):**

(a) The Department of Motor Vehicles – to determine the applicant’s driving record and adherence to the law.

(b) High school and all higher educational institutions that the applicant attended – to determine that the applicant has attained a minimum of a high school diploma or its equivalent, as stipulated in OAR 259-008-0010, and to assess the ability to master the knowledge required for successful completion of Basic training as a law enforcement officer.

(c) Appropriate official documents – to verify birth and age records, consistent with minimum standards for employment as a law enforcement officer. In the case of a foreign born applicant, obtain appropriate federal or local records to determine citizenship or eligibility for citizenship within the time frame required by statute.

(d) Criminal records of the Oregon State Police – to determine whether any criminal history exists.

(e) The Federal Bureau of Investigation records – to determine whether any criminal history exists.

(f) Previous employers for at least the past ten (10) years – to review and evaluate whether the applicant’s employment and experience history is consistent with moral fitness (professional fitness) standards for employment as a law enforcement officer.

(g) Within practical limits, references supplied by the applicant, and other references supplied by the initial references, if any – to determine whether the applicant is of good moral fitness (professional fitness), consistent with the minimum standards for employment as a law enforcement officer.

(h) The applicant’s present neighborhood, and where practicable, neighborhoods where the applicant may have previously resided – to determine whether the applicant is of good moral fitness (professional fitness), consistent with the minimum standards for employment as a law enforcement officer.

(i) The applicant’s financial history – to assess the applicant’s ability and willingness to effectively manage financial responsibilities and comply with state and federal requirements, as an indication of the applicant’s dependability, integrity, and compliance with legal obligations, consistent with the moral fitness (professional fitness) standards for employment as a law enforcement officer.

(j) When appropriate, military records in the service of the United States, jurisdictions therein, or foreign government – to review and evaluate the applicant’s prior service and proof of selective service registration where required by law, and to verify whether the applicant’s military record is consistent with the moral fitness (professional fitness) standards for employment as a law enforcement officer.

NOTE: Employers should insure that applicant is provided and signs all appropriate forms consistent with state and federal requirements.

(2) (4) Results of the personal history investigation on all law enforcement officers employed by a law enforcement unit in Oregon shall must be reduced to writing. –Each law enforcement officer applicant must be informed that their personal history investigation will:

(a) Be retained by the employing agency; and shall

(b) Be available for review at any reasonable time by representatives of the Department.

(3) ~~(5)~~ All applicants for **Each** law enforcement officer **applicant must** ~~shall be interviewed~~ personally **interviewed by the employing Department Head, or an authorized** representative, prior to employment, ~~by the department head or an authorized representative.~~

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-001-0015 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-001-0015 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 to individuals on small businesses (see attached).

Appendix H

Department of Public Safety Standards and Training Memo

Date: January 13, 2009
To: Corrections Policy Committee
From: Bonnie Sallé-Narváez
Rules Coordinator
Subject: OAR 259-008-0020 – Proposed Rule
Issuance of DPSST Number

Issue: The Department is responsible for issuing a DPSST number to all newly appointed public safety professionals. However, the Department often receives personnel action reports for non-public safety personnel, some of whom may be eligible to obtain a DPSST number.

Staff recommends amending the current rule to clarify those instances when a DPSST number will be issued, when a DPSST number may not be issued and the process for requesting a DPSST number for a non-public safety employee.

Telecommunications Policy Committee: On November 6, 2008, the Telecommunications Policy Committee met and discussed staff's proposed amendment to OAR 259-008-0020. The Committee unanimously recommended approving the amended language to the Board.

Police Policy Committee Recommendation: On November 12, 2008, the Police Policy Committee met and discussed staff's proposed amendment to OAR 259-008-0020. The Committee recommended tabling this item to the next meeting to amend language relating to Federal Arrest Powers and review the extent of the fiscal impact this proposed change may have on constituent agencies (i.e., for PPDS system).

Corrections Policy Committee: On November 18, 2008, the Corrections Policy Committee met and discussed staff's proposed amendment to OAR 259-008-0020. The Committee recommended tabling the amended language to review the extent of any fiscal impact this proposed changes may have on constituent agencies.

The following revised language for OAR 259-008-0020 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0020

Personnel Action Reports

(1) All law enforcement units and public or private safety agencies ~~shall furnish to the Department~~ **must submit** the name, address, and other pertinent information concerning any newly appointed public safety professional **to the Department** on a Personnel Action Report (DPSST Form F-4) within ten (10) business days after employment.

(a) A Department (DPSST) number will be established for each newly appointed employee identified on a Personnel Action Report (DPSST Form F-4) if:

(A) The individual is employed in a certifiable position as a police officer, corrections officer, parole and probation officer, telecommunicator or emergency medical dispatcher;

(B) The individual is employed as a reserve police officer; or

(C) An individual's employer has submitted a written request identifying a demonstrated law enforcement need for an employee to obtain a DPSST number and the Department has approved the request. These positions may include, but are not limited to:

(i) An individual granted Federal Arrest Powers by the Department;

(ii) An individual who operates an Intoxilyzer or other law enforcement device for which a DPSST number is necessary; or

(iii) An individual who is required to file a police or other criminal justice report for which a DPSST number is necessary.

(b) No DPSST number will be assigned to an individual who has not been identified as a newly appointed public safety professional unless approved by the Department.

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, take a 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.

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

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 (see form attached).

259-008-0020

Personnel Action Reports

(1) All law enforcement units and public or private safety agencies ~~shall furnish to the Department~~ **must submit** the name, address, and other pertinent information concerning any newly appointed public safety professional **to the Department** on a Personnel Action Report (DPSST Form F-4) within ten (10) business days after employment.

(a) A Department (DPSST) number will be established for each newly appointed employee identified on a Personnel Action Report (DPSST Form F-4) if:

(A) The individual is employed in a certifiable position as a police officer, corrections officer, parole and probation officer, telecommunicator or emergency medical dispatcher;

(B) The individual is employed as a reserve police officer; or

(C) An individual's employer has submitted a written request identifying a demonstrated law enforcement need for an employee to obtain a DPSST number and the Department has approved the request. These positions may include, but are not limited to:

(i) A federal officer authorized by the Department to make arrests under ORS 133.245;

(ii) An individual who operates an Intoxilyzer or other law enforcement device for which a DPSST number is necessary; or

(iii) An individual who is required to file a police or other criminal justice report for which a DPSST number is necessary.

(b) No DPSST number will be assigned to an individual who has not been identified as a newly appointed public safety professional unless approved by the Department.

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, take a 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.

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

Appendix I

Corrections Policy Committee Minutes (Draft) November 18, 2008

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 18, 2008 scheduled for 9:00 a.m. 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 9:50 a.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Brian Belleque, Designee for Director of Department of Corrections
Scott Brewen, Department of Corrections Training Division Director
Bryan Goodman, Non-Management Corrections Officer
Ida Rovers, Department of Corrections, Women's Correctional Facility
Mitchell Southwick, Oregon State Sheriffs' Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative
Michael Gower, Department of Corrections Security Manager
Raimond Adgers, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Shane Hagey, Oregon Assoc. of Community Corrections Directors

Guests:

Charles Peters, Oregon State Penitentiary
Carl Miller, Oregon State Penitentiary
Chris VanCleave, Snake River Correctional Institution
Brenda Britton
Erik Douglass, Marion County Sheriff's Office

DPSST Staff:

Marilyn Lorance, Certification and Records Supervisor
Bonnie Salle-Narvaez, Certification Coordinator
Theresa King, Professional Standards Coordinator
Steve Winegar, Research and Development
Cameron Campbell, Director of Training
Ryan Keck, Training Coordinator
Jan Myers, Training Coordinator
Carolyn Kendrick, Administrative Specialist



Staff requested that agenda item number 18 be moved to number 11 so that all revocation and denial cases are considered together. The committee agreed.

The Department of Corrections requested that agenda item 6 be moved to the next policy committee meeting due to the ongoing investigation in which Mr. Peters has yet to have due process on. The committee agreed.

1. Minutes (August 19, 2008)

Approve the minutes of the August 19, 2008 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved to approve the minutes of the August 19, 2008 Corrections Policy Committee meeting. Mitchell Southwick seconded the motion. The motion carried unanimously by all present.

2. Amy McBride (a.k.a. Amy Zepeda) – DPSST #39980

Presented by Theresa King

See Appendix B for details.

Bryan Goodman moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? **Felony use of methamphetamine, history of drug use, and failure to complete due process.***
- g. What specific grounds do the facts relate to? **Mandatory disqualifying conduct and moral fitness as stated in OAR 259-008-0010(6)(b).***
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? **The committee agreed there is enough evidence, along with MCBRIDE'S admitted use of methamphetamines, that MCBRIDE did engage in this conduct.***
- i. Does the conduct constitute grounds for revocation? **The committee agreed MCBRIDE'S conduct does constitute grounds for revocation.***
- j. Does the conduct rise to the level that warrants revocation? **The committee agreed MCBRIDE'S conduct does rise to the level that warrants revocation.***

Mitchell Southwick moved to recommend to the board the revocation of Amy MCBRIDE'S (a.k.a. Amy Zepeda) certification based on a violation of the moral fitness standard and mandatory disqualifying conduct. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

3. James D. Hepler – DPSST #26930

Presented by Theresa King

See Appendix C for details.

Ida Rovers stated for the record that she would abstain from voting as she works with James Hepler.

Michael Gower moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present with Ida Rovers abstaining.

By discussion and consensus:

- f. What conduct is at issue? *Untruthfulness at time of arrest and discretionary disqualifying conviction.*
- g. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b).*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that HEPLER did engage in this conduct.*
- i. Does the conduct constitute grounds for revocation? *The committee agreed HEPLER'S conduct could constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation?

Bryan Goodman moved not to recommend to the board the revocation of James HEPLER'S certifications. Thomas Wright seconded the motion. The motion carried in a 6 – 3 vote with Todd Anderson, Raimond Adgers, and Marie Tyler voting no and Ida Rovers abstaining.

4. Chris J. VanCleave – DPSST #32795

Presented by Theresa King

See Appendix D for details.

Marie Tyler moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Brian Belleque seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? *Trespassing and discretionary disqualifying conviction.*
- g. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b), multiple police contacts, and the discretionary disqualifying conviction.*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that VANCLEAVE did engage in this conduct.*
- i. Does the conduct constitute grounds for revocation? *The committee agreed VANCLEAVE'S conduct could constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation? *The committee took into consideration the mitigating factors such as completion of restitution and keeping his record clean.*

Michael Gower moved not to recommend the revocation of Chris J. VANCLEAVE'S certifications. Bryan Goodman seconded the motion. The motion carried in a 7-3 vote with Raimond Adgers, Marie Tyler and Mitchell Southwick voting no.

5. Koren V. Stills – DPSST #39797

Presented by Theresa King

See Appendix E for details

Brian Belleque moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? *Untruthfulness, drug trafficking, and providing contraband to inmates.*

- g. What specific grounds do the facts relate to? *Moral fitness as stated in OAR 259-008-0010(6)(b).*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that STILL'S did engage in this conduct.*
- i. Does the conduct constitute grounds for revocation? *The committee agreed STILL'S' conduct does constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation? *The committee agreed STILL'S' conduct does rise to the level that warrants revocation.*

Raimond Adgers moved to recommend to the board the revocation of Koren V. STILL'S' certification based on a violation of the moral fitness standard. Marie Tyler seconded the motion. The motion carried unanimously by all present.

6. Charles Peters – DPSST #24999 – This item was removed from this agenda and will be placed on the agenda for the February 17, 2009 Corrections Policy Committee meeting.

7. Monte McKague – DPSST #44165

Presented by Theresa King

See Appendix F for details

Bryan Goodman moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? *Disorderly conduct, resisting police, and mental health issues.*
- g. What specific grounds do the facts relate to? *Discretionary disqualifying conduct as stated in OAR 259-008-0070(3) and moral fitness as stated in OAR 259-008-0010(6)(b).*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that MCKAGUE did engage in this conduct.*
- i. Does the conduct constitute grounds for revocation? *The committee agreed MCKAGUE'S conduct could constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation? *The committee agreed MCKAGUE'S conduct does rise to the level that warrants revocation.*

Scott Brewen moved to recommend to the board the revocation of Monte MCKAGUE'S certifications based on a violation of the moral fitness standard and the discretionary disqualifying conviction. Brian Belleque seconded the motion. The motion carried unanimously by all present.

8. Marcello Monares – DPSST #39814

Presented by Theresa King

See Exhibit G for details

Michael Gower moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Marie Tyler seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? *Intimate relationship with an inmate, truthfulness, and attempted resist of arrest.*
- g. What specific grounds do the facts relate to? *Discretionary disqualifying conviction as stated in OAR 259-008-0070(3) and moral fitness as stated in OAR 259-008-0010(6)(b).*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that MONARES did engage in this conduct.*
- i. Does the conduct constitute grounds for revocation? *The committee agreed that MONARES' conduct does constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation? *The committee agreed that MONARES' conduct does rise to the level that warrants revocation.*

Marie Tyler moved to recommend to the board the revocation of Marcello MONARES' certifications based on a violation of the moral fitness standard and the discretionary disqualifying conviction. Ida Rovers seconded the motion. The motion carried unanimously by all present.

9. **George Ogden – DPSST #26505**

Presented by Theresa King

See Exhibit H for details

Mitchell Southwick moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Brian Belleque seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? *Failure to report DUI's, truthfulness, probation violations, non-compliance of court orders.*
- g. What specific grounds do the facts relate to? *Discretionary disqualifying conviction as stated in OAR 259-008-0070(3) and moral fitness as stated in OAR 259-008-0010(6)(b).*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? *The committee agreed there is enough evidence to find that OGDEN did engage in this conduct.*
- i. Does the conduct constitute grounds for revocation? *The committee agreed that OGDEN'S conduct does constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation? *The committee agreed that OGDEN'S conduct does rise to the level that warrants revocation.*

Marie Tyler moved to recommend to the board the revocation of George OGDEN'S certifications based on a violation of the moral fitness standard and the discretionary disqualifying conviction. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

10. **Aaron N. Whitmore – DPSST #31225**

Presented by Theresa King

See Exhibit I for details

Marie Tyler moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Brian Belleque seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- f. What conduct is at issue? Truthfulness and withholding of information from investigators during an investigation.*
- g. What specific grounds do the facts relate to? Moral fitness as stated in OAR 259-008-0010(6)(b) and prejudice in the administration of justice.*
- h. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? The committee agreed there is enough evidence to find WHITMORE engaged in this conduct.*
- i. Does the conduct constitute grounds for revocation? The committee agreed that WHITMORE'S conduct does constitute grounds for revocation.*
- j. Does the conduct rise to the level that warrants revocation? The committee agreed that WHITMORE'S conduct does rise to the level that warrants revocation.*

Brian Belleque moved to recommend to the board the revocation of Aaron N. WHITEMORE'S certifications based on a violation of the moral fitness standard. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

11. Joel M. Pyle – DPSST #49555

Presented by Theresa King

See Exhibit J for details.

Marie Tyler moved that the committee adopt the staff report and related documents as the record on which the recommendation is based. Michael Gower seconded the motion. The motion carried unanimously by all present.

By discussion and consensus:

- a. What conduct is at issue? Sexual harassment, untruthfulness, and pattern of behavior.*
- b. What specific grounds do the facts relate to? Moral fitness as stated in OAR 259-008-0010(6)(b).*
- c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? The committee agreed there is enough evidence to find that PYLE did engage in this conduct.*
- d. Does the conduct constitute grounds for denial? The committee agreed that PYLE'S conduct does constitute grounds for denial of training and subsequent certification.*
- e. Does the conduct rise to the level that warrants denial? The committee agreed that PYLE'S conduct does rise to the level that warrants denial of training and subsequent certification.*

Bryan Goodman stated for the record he would abstain from voting as he supervises Joel Pyle.

Brian Belleque moved to recommend to the board the denial of training and subsequent certification for Joel M. PYLE. Marie Tyler seconded the motion. The motion carried unanimously by all present with Brian Goodman abstaining.

The committee broke session for lunch at 12:00 p.m. and reconvened at 12:36 p.m.

12. OAR 259-001-0005 – Proposed Rule

Housekeeping Changes to Administrative Rulemaking Process
Presented by Bonnie Salle-Narvaez

See Exhibit K for details.

Marie Tyler moved to recommend filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Brian Belleque seconded the motion. The motion carried unanimously by all present

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

13. OAR 259-008-0010(8) – Proposed Rule

Requirement of physical examination after separation due to physical inability to perform essential tasks of a law enforcement officer.
Presented by Bonnie Salle-Narvaez

See Exhibit L for details.

Mitchell Southwick moved to recommend filing the proposed language with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Michael Gower seconded the motion. The motion carried unanimously by all present.

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

14. OAR 259-008-0020 – Proposed Rule

Issuance of DPSST Numbers
Presented by Bonnie Salle-Narvaez

See Exhibit M for details.

Staff advised the committee that the Police Policy Committee requested clarification on wording and about their concerns regarding a fiscal impact on some of the systems they use. The Corrections Policy Committee agreed and requested more information and time to meet with their colleagues on the impact this proposed rule may have.

Michael Gower moved to table OAR 259-008-0020 until the next meeting on February 17, 2009. Raimond Adgers seconded the motion. The motion carried unanimously by all present.

15. OAR 259-008-0025 – Proposed Rule

Career Officer Development Course – Remediation
Presented by Bonnie Salle-Narvaez

See Exhibit N for details.

Michael Gower moved to recommend filing the proposed language of OAR 259-008-0025 with the Secretary of State as a temporary rule, a permanent rule, and as a permanent rule if no comments are received. Brian Belleque seconded the motion. The motion carried unanimously by all present.

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

16. OAR 259-008-0060 – Proposed Rule

College Credit – Basic Training Conversion
Presented by Bonnie Salle-Narvaez

See Exhibit O for details.

Brian Belleque moved to recommend filing the proposed language of OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously by all present.

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

17. Convene in Executive Session

Discuss matters exempt from disclosure under ORS 92.660(2)(f) related to whether medical waivers for Karl Johnson and Brian Kinney should be recommended to the Board

18. Reconvene in Regular Session

Take final action regarding a determination of whether medical waivers for Karl Johnson and Brian Kinney should be recommended to the Board

See Exhibit P and Q for details.

Karl Johnson:

Brian Belleque moved to recommend approval to the Board for a waiver of the visual acuity standard and depth perception standard for Karl Johnson. Marie Tyler seconded the motion. The motion carried unanimously by all present.

Brian Kinney:

Mitchell Southwick moved to recommend approval to the Board for a waiver of the color vision standard for Brian Kinney. Ida Rovers seconded the motion. The motion failed in a 3-7 vote with Todd Anderson, Raimond Adgers, Brian Belleque, Bryan Goodman, Michael Gower, Marie Tyler, and Thomas Wright voting no. There was no subsequent motion

19. ORPAT for Corrections – Additional Analysis

Discussion and Alternatives for Standards
Presented by Steve Winegar

See Exhibit R for details.

After extensive discussion, Marie Tyler moved to table any decision about implementing an ORPAT standard indefinitely to allow more time to collect sufficient data. Michael Gower seconded the motion. The motion carried unanimously by all present.

20. Next Regularly Scheduled Meeting

Tuesday, February 17, 2009 at 1:30p.m.

With no further business before the committee, the meeting was adjourned at 2:32 p.m.