

Corrections Policy Committee

Minutes

May 19, 2009

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, May 19, 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 1:32 p.m.

Attendees:

Committee Members:

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

Committee Members Absent:

Mitchell Southwick, Oregon State Sheriffs' Association

Guests:

Shannon Cashen, Oregon State Penitentiary
Chief Michael Healy, City of Lebanon Police
Ben Silverman, City of Lebanon Police

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorange, Certification and Records Supervisor
Bonnie Narvaez, Certification Coordinator
Theresa King, Professional Standards Coordinator
Kristen Turley, Standards and Compliance Coordinator
Suzy Isham, Regional and Curriculum Supervisor
Steve Winegar, Research and Development
Carolyn Kendrick, Administrative Specialist



1. Minutes (February 17, 2009)

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

See Appendix A for details.

The committee noted an error in the minutes relating to the Kroon case. Staff clarified that Brian Belleque made the motion 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.

Brian Belleque moved to approve the minutes of the February 17, 2009 Corrections Policy Committee meeting with the noted changes. Shane Hagey seconded the motion. The motion carried unanimously.

Chair Todd Anderson combined agenda items 9 and 10 and moved them to be heard prior to the other agenda items.

2. Corrections Officer Course for Certified Police Officers

Presented by Steve Winegar

See Appendix B for details.

Chief Michael Healy addressed the committee regarding this issue. This proposed course would be easier and a better use of time for agencies with municipal jails. Their currently certified police officers will need to be certified as corrections officers as well. It makes more sense for agencies, and DPSST, to invest in the 2-week course versus the 5-week course when three weeks of the training would be redundant.

At this point, DPSST could run up to two classes each biennium.

Michael Gower moved to recommend to the Board the approval for the 2-week Corrections Course for Certified Police Officers as outlined. Ray Adgers seconded the motion. The motion carried unanimously.

Areas of revisions for the basic corrections.

Presented by Steve Winegar

Marie Tyler moved that the committee recommend to the Board the approval of the revisions to the Basic Corrections course as outlined. Shane Hagey seconded the motion. The motion carried unanimously.

3. OAR 259-001-0005

Presented by Bonnie Narvaez

See Appendix C for details.

Committee members noted that this is good business – an outstanding move.

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

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

4. Convene in Executive Session at 2:11 p.m.

Discuss matters exempt from disclosure under ORS 92.660(2)(f) related to whether a medical waiver for John Gedusky should be recommended to the Board.

5. **Reconvene in Regular Session at 2:19 p.m.**

Take final action regarding a determination of whether a medical waiver for John Gedusky should be recommended to the Board

Michael Gower moved that the committee recommends to the Board a waiver of the depth perception standard and visual acuity standard for John Gedusky. Bryan Goodman seconded the motion. The motion carried unanimously.

6. **Shannon Cashen – DPSST #33287**

Presented by Theresa King

See Appendix D for details

Brian Belleque stated for the record he would abstain from voting.

- *Scott Brewen moved that the committee adopts the staff report as the record upon which its recommendations are based. Raimond Adgers seconded the motion. The motion carried unanimously with Brian Belleque abstaining.*
- 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 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 concurred that letters from the physician and employer could be considered mitigating.*
- *Raimond Adgers moved that the committee finds CASHEN's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that CASHEN's certification(s) be revoked. Marie Tyler seconded the motion. The motion carried unanimously with Brian Belleque abstaining.*
- *Shane Hagey moved that the committee recommends to the Board that CASHEN's misconduct was a lifetime disqualifier; he may never reapply to the Corrections Policy Committee seeking certification. Marie Tyler seconded the motion. The motion carried unanimously with Brian Belleque abstaining.*

7. **Robert Owen Davis – DPSST #33287**

Presented by Theresa King

See Appendix E for details

- *Michael Gower 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 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 not* 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 concurred that aggravating circumstances include inconsistency with story, evasive statements, and irresponsibility with medications. The committee also agreed there were no mitigating circumstances.*
 - *Marie Tyler moved that the committee finds DAVIS' conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that DAVIS' certification(s) be revoked. Thomas Wright seconded the motion. The motion carried unanimously.*
 - *Thomas Wright moved that the committee recommends to the Board that DAVIS' 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.*

8. Donovan L. Johnson – DPSST #47679

Presented by Theresa King

See Appendix F for details

Marie Tyler moved that the committee adopts the staff report as the record upon which its recommendations are based. Shane Hagey seconded the motion. The motion carried unanimously.

The committee requested a correction in the information regarding JOHNSON's employment. The staff report stated he worked with the Department of Corrections, when in fact his only employer had been Warm Springs Police Department. Staff noted the correction would be made for the Board.

The committee asked staff to try to obtain additional information from the Warm Springs Police Department regarding this case.

Thomas Wright moved that the committee table this case until further information could be provided. Shane Hagey seconded the motion. The motion carried unanimously.

9. Christopher M. Hargas – DPSST #45227

Presented by Theresa King

See Appendix G for details

- *Shane Hagey moved that the committee adopts the staff report as the record upon which its recommendations are based. Marie Tyler seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue. *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 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 concurred there were no mitigating circumstances, however the fact that HARGAS was not even honest with his union was quite aggravating.*
 - *Marie Tyler moved that the committee finds HARGAS' conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that HARGAS' certification(s) be revoked. Shane Hagey seconded the motion. The motion carried unanimously.*
 - *Shane Hagey moved that the committee recommends to the Board that HARGAS' misconduct was a lifetime disqualifier; he may never reapply to the Corrections Policy Committee seeking certification. Ida Rovers seconded the motion. The motion carried unanimously.*

10. Additional Business

Presented by Eriks Gabliks.

Eriks Gabliks gave an update on budget impacts and discussed current legislature. Senate Bill 257 is the Department of Corrections Training Bill. It states that the Department of Corrections would handle their own training in-house. This committee would still oversee the curriculum and DPSST would audit the training. This is public policy discussion and has to be approved by the legislature first. The only change from current practice will be how the training is delivered.

Based on the feedback from a lot people regarding the previously discussed background investigation standard, the consensus was that they did not disagree with the need for background standards, they just didn't think it needed to be in a rule. It was suggested that DPSST adopts a Best Practice Background Investigations Form and post it to the website as a resource for people. That way the smaller agencies that don't have the ability to vet the background investigations every year can use our form.

11. Next Regularly Scheduled Meeting

Tuesday, August 18, 2009 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 3:25 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) 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 Lorange, 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.*

6. **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.

7. The committee DID NOT convene in Executive Session

8. 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.

9. 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.

10. 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

11. 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 B

Department of Public Safety Standards and Training Memorandum

DATE: May 19, 2009
TO: Corrections Policy Committee
FROM: Steve Winegar
Curriculum Unit
SUBJECT: Corrections Officer Course for Certified Police Officers

Background: Representatives of local corrections agencies asked DPSST staff to look into the possibility of creating a Corrections Officer Course for Certified Police Officers. Local agencies told DPSST staff that Certified Police Officers who attended the Basic Corrections Course said that the majority of the 200 hour course content was the same as the Basic Police Course.

Issues:

At the request of local corrections officials, DPSST staff examined the learning objectives and course content for the 200 hour Basic Corrections Course and the 640 hour Basic Police Course.

Comparison of Courses: Basic Corrections to Basic Police

There is considerable overlap of the learning objectives and course content between the Basic Corrections Course and the Basic Police Course. In some instances, the same content is taught in each course. The Table in Appendix A compares the course content between the current Basic Corrections Course and the Basic Police Course. With the revisions that are being proposed for the Basic Corrections Course, there will actually be more overlap.

The table below shows the courses which **do not** overlap or have common curriculum. There are fifteen classes comprising just over 60 hours of classroom time that are not covered in the Basic Police curriculum but are included in the Basic Corrections curriculum. In addition there is one course that includes some of the same content but includes some unique corrections focused content (Civil Liability). Including administrative time for orientation, review, tests and graduation, would bring the time required to cover the content and meet DPSST completion requirements to about 80 hours or two weeks.

All of the courses, except the additional portion of Civil Liability, are existing courses, so only a small amount of new material will have to be developed for the Basic Corrections Course for Certified Police Officers.

Basic Corrections Course	Hours	Basic Police Course (equivalent course)	Hours	Corrections Course for certified Police w/ Revised Basic Corrections Curriculum
Inmate Rights and Responsibilities	6			6
Civil Liability	4	Civil Liability and Civil Rights Violations	4	‡
Corrections Operations Statutes	4			4*
Use of Force - Issues for Corrections	2			3*
Inmate Management	8			8

Discretionary Decision Making	1			1
Suicide Awareness and Prevention	4			4
Medical Awareness	2			2
Contraband and Searches	8			8
Transportation and Restraints	6			6
Fire Safety	2			2
Physical Security	4			4
Games Inmates Play	4			4
Inmate Intake and Release	2			2
Inmate Discipline	2			2
Emergency Preparation and Response	2			2

* Content being added to class as part of current revision

‡ Content being added to class that would likely be relevant to certified police officers seeking corrections certification

Proposed Basic Corrections Course for Certified Police Officers Compared to the Corrections Career Officer Development Course (C-COD)

DPSST also offers a Corrections Career Officer Development Course (CCOD) for corrections officers with experience out of state that need training primarily in Oregon corrections operations. DPSST staff also looked at the content of the current CCOD and compared it to the content that is not included in the Basic Police course. The CCOD content and Basic Police course content does not cover the Basic Corrections course content. DPSST staff does not believe the CCOD course would provide a Certified Police Officer with the training they would need to effectively perform as a Corrections Officer.

Proposed Basic Corrections Course for Certified Police Officers

There are advantages to offering a Basic Corrections course for Certified Police Officers as a new course. The advantage for DPSST is that space in the 200 hour Basic Corrections course will be dedicated to those students who need the entire content of the 200 hour course. This would result in some savings to DPSST during a time when training resources are significantly strained.

The advantage for local agencies is that Certified Police Officers could attend the 80 hour Basic Corrections course for Certified Police Officers rather than the full 200 hour course, reducing the time they will have to be away from their agency for training.

There will be a cost to DPSST to develop the additional portion of the Civil Liability class. In addition there will also be some costs to local agencies as the course will require local corrections agencies to provide some instructional time for the course. Overall, the benefits outweigh the costs.

DPSST anticipates the demand for the Basic Corrections Course for Certified Police Officers will be relatively small; DPSST anticipates offering two courses per biennium to meet the anticipated demand.

Recommendation: Staff recommends that the Corrections Policy Committee approve establishing a new course - the Basic Corrections Course for Certified Police Officers, with content as outlined above. DPSST staff will monitor the number of students requesting the course, the performance of students in the course, and feedback from local corrections agencies, to determine if the 80 hour Basic Corrections Course for Certified Police Officers is producing qualified corrections officers. Staff will report back to the Corrections Policy Committee at the end of the 2009-2011 Biennium.

Basic Corrections Course for Certified Police Officers
(with Basic Corrections/Basic Police Comparison)

Basic Corrections Course	Hours	Basic Police Course (equivalent course)	Hours	Corrections Course for certified Police w/ Revised Basic Corrections Curriculum
Section A: LAW				
Laws of Arrest	2	Procedural Law	11.5	
Officer in Court	2	Officer in Court Mock Trials	15	
Inmate Rights and Responsibilities	6			6
Civil Liability	4	Civil Liability and Civil Rights Violations	4	‡
Intro to the Criminal Justice System	2	Intro to Criminal Justice System	4	
Corrections Operations Statutes	4			4*
Investigations	2	Criminal Investigations	8	
Use of Force - Issues for Corrections	2			3*
Section B: HUMAN BEHAVIOR				
Ethics	4	Ethics and Professionalism	10	
Interpersonal Skills	4	Tactical Communication and Defusing Hostility	8	
Cultural Diversity	4	Cultural Awareness and Diversity	8	
Mental Health and Illness	4	Mental Health and Disabilities	12	
Inmate Management	8			8
Human Relations	1			0
Alcoholism and the Corrections Officer	2			0
Gaining Control: Values and Principles	4			0
Discretionary Decision Making	1			2*
Suicide Awareness and Prevention	4			4
Medical Awareness	2			4*
Section C: SECURITY				
Contraband and Searches	8			8
Transportation and Restraints	6			6
Fire Safety	2			2
Physical Security	4			4
Gang Identification and Management	4	Gang Awareness	8	
Games Inmates Play	4			4
Hazardous Materials	2			0
Inmate Intake and Release	2			4*
Inmate Discipline	2			2
Emergency Preparation and Response	2			2
Section D: GENERAL SKILLS				

Use of Force	6	Use of Force Law and Application	12	
Defensive Tactics	18	Defensive Tactics	40	
Inmate Identification	2			0
Firearms	24	Firearms Skills	44	
Health and Fitness	12	Health and Fitness	34.5	
Report Writing	10	Investigative Report Writing & Note Taking	14	
Comm. Diseases/Bloodborne Pathogens	2	Communicable Diseases/Bloodborne Pathogens	2	
ConSim – Hitman	8	Confrontational Simulation	16	
ADMINISTRATIVE	20			12 (est.)
TOTAL HOURS NEEDED				75

* Content being added to class

‡ Content being added to class that would likely be relevant to certified police officers seeking corrections certification

Comparison of Basic Police and Basic Corrections Curriculum

Basic Corrections Course		Basic Police Course	
Basic Corrections	Hours	Hours	Basic Police
<p>A1 – Laws of Arrest</p> <ul style="list-style-type: none"> ▪ ORS definitions – arrest, felony, misdemeanor, peace officer, probable cause, reasonable suspicion ▪ Who may make an arrest ▪ Arresting without a warrant ▪ Arrest procedures – anytime, anywhere within state, enacting arrest, justifiable force, probable cause to enter ▪ Private citizen’s arrest ▪ Magistrate’s power to order arrest ▪ Role difference between police and corrections officers when a crime is committed 	2	11.5	<p>113 – Procedural Law</p> <ul style="list-style-type: none"> ▪ Stop and frisk ▪ Definition – arrest ▪ Who may make an arrest <ul style="list-style-type: none"> ▪ Arrest by a private citizen ▪ Arrest procedures <ul style="list-style-type: none"> ▪ Anytime, anywhere within state, inform person of officer’s authority, justifiable force, entering premises ▪ Arrest with a warrant ▪ Arrest without a warrant ▪ Issuing citations ▪ Uses of force to control persons ▪ Consular notification ▪ Custody interrogation – Miranda, interrogation, volunteer statements, admission v. confession, waiver of rights, assertion of rights ▪ Search and seizure – with and without a warrant ▪ Search warrants – requirements, content, execution
<p>A2 - Officer in Court</p> <ul style="list-style-type: none"> ▪ Requirements as a witness – TRUTHFULNESS, respect authority of the court ▪ Notice to appear – formal (subpoena) and informal ▪ Preparation – review documentation, pre-trial conference with lawyer, dress appropriately, follow attorney’s advice and direction regarding inadmissible evidence ▪ Appearing – be prepared to wait, body language, voice quality 	2	3	<p>112 – Officer in Court</p> <ul style="list-style-type: none"> ▪ Introduction – courtroom, participants, professionalism, public scrutiny ▪ Preparation – review cases and reports, review and prepare evidence, contact DA, go through trial in head ▪ Courtroom presentation – be neat and clean, follow general etiquette, conduct before and after testimony ▪ Testifying – eye contact, demeanor, requirements of a witness, using reports while testifying, presenting physical evidence and visual aids, representing the state’s

<ul style="list-style-type: none"> ▪ Testimony – using reports while testifying, direct examination (opinion only if asked), cross examination, redirect, role in sustaining and overruling ▪ Properly leaving the court ▪ Role play with discussion 			<p>interest, response to a disturbance during proceedings</p>
<p>A2 – Officer in Court (see above)</p>		<p>12 (4 classroom, 8 scenario)</p>	<p>902 – Mock Trial</p> <ul style="list-style-type: none"> ▪ Preparing for various traffic hearings/trials ▪ Implied consent hearings ▪ Scenarios – traffic violation, criminal investigation/jury trial, grand jury, evidence, DMV hearing, challenging cross examination
<p>A4 – Civil Liability</p> <ul style="list-style-type: none"> ▪ Officers typically liable to civil suit by: inmates, inmate families, inmate victims ▪ Reasons inmates sue corrections officers ▪ Ways to prevent lawsuits – policies, reasonableness, good faith, documentation ▪ Proper response to inmate threatening lawsuit ▪ Differences between criminal law and civil law ▪ Types of civil suits inmates file ▪ Where tort claims are filed and why ▪ Definition of terms in tort suits – assault, battery, false imprisonment, defamation, fraud, causing emotional distress, (and others) ▪ Elements and levels of negligence ▪ Elements of suits filed under Title 42 USC, 1983 and those filed under state rights ▪ Relief inmates may seek and damages they may be 	<p>4</p>	<p>4</p>	<p>102 – Civil Liability & Civil Rights Violations</p> <ul style="list-style-type: none"> ▪ Duty to uphold the Constitution ▪ Constitutional rights – protections “run only against” governments and their agents, not against private individuals ▪ Legal authority for violations and frequency of claims - Title 18, U.S.C., Section 242; Title 42, U.S.C., Section 1983; Oregon Tort Claims Act (ORS 30.260 to 30.300) ▪ Agency response – higher officer expectation, training, educating public ▪ Why citizens sue officers – general liability, wrongful action, vehicle liability, other ▪ Consequences and costs of litigation ▪ Qualified immunity – officer may not be sued if the right violated not clearly established in courts and a reasonable officer would not know that it was a violation ▪ Prevention of liability – community education, community relations, knowing policies, be conscientious of custodies

<ul style="list-style-type: none"> awarded ▪ Why inmates file writs of Habeas Corpus ▪ Four main steps in preparing for a civil lawsuit 			<ul style="list-style-type: none"> ▪ Case law
<p>A5 – Intro to the Criminal Justice System</p> <ul style="list-style-type: none"> ▪ Virtually everything contained in the police curriculum (generally verbatim) 	2	4	<p>108 – Intro to the Criminal Justice System</p> <ul style="list-style-type: none"> ▪ Same as corrections
<p>A7 – Investigations</p> <ul style="list-style-type: none"> ▪ Safety and security is first priority in investigations as well as the reason for investigations ▪ In a correctional setting identify: who should investigate, what should be investigated, when you can or should conduct the investigation, why investigations are conducted, where to start ▪ Observe, assess, take action, plan ▪ Initial and follow-up questions ▪ Controlling and protecting the scene ▪ Documenting and collecting evidence ▪ Due process and Miranda rights 	2	8 (plus other classes)	<p>403 – Criminal Investigations</p> <ul style="list-style-type: none"> ▪ Reasons and goals of investigation ▪ Identifying and processing the scene and evidence ▪ Initial: arrival, interviews, identification of perpetrators, working with others, protecting the scene and evidence ▪ Death scene investigations ▪ Crime scene search ▪ Area searches ▪ Handling evidence and chain of evidence ▪ Photographing a scene ▪ Crime scene sketches and property ▪ Recovered property <p>***Information also found in: BP 406 – Forensics BP 407 – Interview and Interrogation BP 113 – Procedural Law</p>
<p>A8 – Use of Force: Issues for Corrections</p> <ul style="list-style-type: none"> ▪ General definitions and statutes regarding force and injury ▪ Definitions and statutes specific to corrections ▪ Federal civil rights: 42 USC Sec. 1983 and 18 USC Sec. 242 ▪ Force standards: convicted inmates vs. pretrial detainees ▪ Case law: <u>Whitley v. Albers</u>; <u>Tennessee v.</u> 	2	*multiple	<p>103 – Definitions and Intro to Crimes Against Persons</p> <ul style="list-style-type: none"> ▪ General definitions and statutes regarding force and injury <p>102 – Civil Rights and Civil Liability</p> <ul style="list-style-type: none"> ▪ Title 42, U.S.C., Section 1983 and Title 18, U.S.C., Section 242 ▪ Civil and criminal liability <p>116 – Use of Force Law and Application</p> <ul style="list-style-type: none"> ▪ Case law: <u>Tennessee v.</u>

<p><u>Garner ; Graham v. Connor; Gibson v. County of Washoe</u></p> <ul style="list-style-type: none"> ▪ Civil and criminal liability, particularly in use of force to prevent escape 			<p><u>Garner ; Graham v. Connor; Whitley v. Albers</u></p> <ul style="list-style-type: none"> ▪ Corrections-related issues: Use of force to prevent escape [ORS 161.265; ORS 162.135; ORS 161.267 (3)]
<p>B1 – Ethics</p> <ul style="list-style-type: none"> ▪ Same class as Basic Police, nearly verbatim 	4	10 (4 classroom)	<p>205 – Ethics and Professionalism</p> <ul style="list-style-type: none"> ▪ Same class as Basic Corrections, nearly verbatim
<p>B2 – Interpersonal Skills</p> <ul style="list-style-type: none"> ▪ Overall – “how to get the inmates to do what the officers want them to do” ▪ Sizing up any situation: positioning, posturing, observing, listening ▪ Effective communication with inmates – responding and asking questions ▪ Effectively controlling inmate behavior – handling requests, making requests, reinforcing behavior 	4	8 (4 classroom)	<p>208 – Tactical Communication and Defusing Hostility</p> <ul style="list-style-type: none"> ▪ Techniques for gaining cooperation: eye contact, “sir/ma’am,” don’t make assumptions, ask rather than demand, etc. ▪ Cues of potentially aggressive behavior ▪ Spontaneous and planned assault ▪ Actions that escalate resistance and violent behavior ▪ De-escalation and distraction techniques ▪ Dealing with hostile, difficult, or statically resisting people ▪ Ending contact
<p>B3 – Cultural Diversity</p> <ul style="list-style-type: none"> ▪ Same class as Basic Police, nearly verbatim 	4	8 (4 classroom)	<p>203 – Cultural Diversity</p> <ul style="list-style-type: none"> ▪ Same class as Basic Corrections, nearly verbatim
<p>B4 – Mental Health and Illness</p> <ul style="list-style-type: none"> ▪ Mental health continuum: basic parameters and causes; inmate statistics ▪ Assessing types of mental health disorders ▪ Signs, description, treatment, and supervision of: depression, bi-polar, mania symptoms, schizophrenia, psychotic disorders, anxiety, mental retardation (not a mental illness), personality disorders ▪ Medication and inmates: 	4	12 (8 classroom)	<p>206 – Mental Health and Illness</p> <ul style="list-style-type: none"> ▪ Importance of detailed report – routine and abuse reports ▪ Myths and facts about mental illness ▪ Common characteristics of certain mental illnesses: thought disorders, schizophrenia, bi-polar, major depression, anxiety disorders, personality disorders ▪ Characteristics of, LE response to, and effective communication with those who have: developmental disabilities, mental

<p>categories of mental health medications, inmate response, side effects</p> <ul style="list-style-type: none"> ▪ Mental illness and dangerous behavior, mental illness and substance abuse ▪ Personality disorders commonly found in inmates: histrionic, narcissistic, paranoid, borderline, anti-social ▪ Minimal standards of care for mentally ill inmates 			<p>retardation, autism, epilepsy (and seizure disorders), visually impairment, hearing impairment, cognitive disorders</p> <ul style="list-style-type: none"> ▪ How to differentiate between mental health disorders and substance abuse ▪ Suicide: statistics by age, facts and myths, warning signs, handling calls, police-assisted suicide ▪ Applicable ORS and community resources ▪ Answers to common questions regarding ADA and law enforcement
<p>C5 – Gang Identification and Management</p> <ul style="list-style-type: none"> ▪ Definitions: gang, security threat group, gang-related ▪ Reasons for joining ▪ Documentation: validating gang members, importance of good documentation, reporting issues ▪ Controlling gang activity: effective communication, recognizing gang activity, management strategies ▪ Characteristics of categories of gangs: Latino, black, white supremacy, outlaw motorcycle, Native American, Asian, tagger-style, female 	4	8 (4 classroom)	<p>304 – Gang Awareness</p> <ul style="list-style-type: none"> ▪ Importance of validation and documentation ▪ Controlling gang activity: effective communication, recognizing gang activity and involvement, suppressing gang activity ▪ Gang characteristics: reasons for joining, myths, levels of involvement ▪ Characteristics of categories of gangs: Bloods and Crips, Asian, Latino, tagger-style, other gangs (including white supremacist, outlaw motorcycle, Native American, female)
<p>D1.1 – Use of Force</p> <ul style="list-style-type: none"> ▪ Basic concepts ▪ Using force: to gain cooperation, never as punishment, threat dictates level, use reasonable amount necessary for control ▪ Principles of force justification ▪ Use of Force matrix ▪ Threat assessment ▪ Levels of resistance 	6	12	<p>116 – Use of Force Law and Application</p> <ul style="list-style-type: none"> ▪ “Civilian use of force”: statutes, examples ▪ “Police use of force”: statutes, constitutional law ▪ Corrections-related issues: convicted inmates vs. pre-trial detainees, Fourth and Eighth Amendments, force to prevent an escape ▪ Basic concepts of use of force ▪ Using force: to gain

<ul style="list-style-type: none"> ▪ Force escalation ▪ Managing the use of force situation ▪ The use of force report ▪ Positional asphyxia ▪ Officer safety ▪ Combat mindset 			<p>cooperation, never as punishment, threat dictates level, use reasonable amount necessary for control</p> <ul style="list-style-type: none"> ▪ Principles of force justification ▪ Use of Force matrix ▪ Threat assessment ▪ Levels of resistance ▪ Force escalation ▪ Managing the use of force situation ▪ Bystanders ▪ The use of force report ▪ Positional asphyxia ▪ Maintaining professional standards ▪ Officer safety ▪ Combat mindset ▪ Review of law and application
<p>D1.2 – Defensive Tactics</p> <ul style="list-style-type: none"> ▪ Every tactic taught in Basic Corrections is taught in Basic Police 	18	40	502 – Defensive Tactics
<p>D3 – Firearms Identical lesson plan used in Corrections and Police <i>Classroom</i></p> <ul style="list-style-type: none"> ▪ Purpose of training ▪ Statistics – officer deaths ▪ Ammunition: definition, components of cartridge, defects, duty and practice ammo ▪ Maximum range, effective range, and ammunition: service handgun, shotgun, rifle ▪ Nomenclature and inspection: service revolver, semi-automatic pistol ▪ Unloading procedure for a semi-automatic pistol ▪ Care and cleaning: disassembly of revolver and semi-automatic pistol, cleaning, lubrication ▪ Five fundamentals of marksmanship: grip, 	4 classroom	4 classroom	<p>504 – Firearms <i>Classroom</i></p> <ul style="list-style-type: none"> ▪ Purpose of training ▪ Statistics – officer deaths ▪ Ammunition: definition, components of a cartridge, defects, duty and practice ammo ▪ Maximum range, effective range: service handgun, shotgun, rifle ▪ Nomenclature and inspection: service revolver, semi-automatic pistols ▪ Unloading procedure for a semi-automatic pistol ▪ Care and cleaning: disassembly of revolver and semi-automatic pistol, cleaning, lubrication ▪ Five fundamentals of marksmanship: grip, trigger control, sighting, stance, breathing ▪ Firearms safety: cardinal rules, hot range, holster, de-cocking, risk of single-action

<p>trigger control, sighting, stance, breathing</p> <ul style="list-style-type: none"> ▪ Firearms safety: cardinal rules, hot range, holster, decocking, risk of single action handgun, movement while drawn, covering threat, “show and tell,” off-duty safety/in the home, lead hazard ▪ Armed off duty: rules and practices, if witness a crime, incidents that justify intervention ▪ Shotgun (classroom): uses in law enforcement, limitations ▪ Shotgun (range): nomenclature, inspecting the shotgun, loading and unloading, firing techniques, care and cleaning ▪ Flashlight: general use, handholds, techniques, combining techniques during searches, pros and cons 			<p>handgun, movement while drawn, covering threat, “show and tell,” off-duty/safety in the home, lead hazard</p> <ul style="list-style-type: none"> ▪ Armed off duty: rules and practices, if witness a crime, incidents that justify intervention ▪ Shotgun (classroom): uses in law enforcement, limitations ▪ Shotgun (range): nomenclature, inspecting the shotgun, loading and unloading, firing techniques, care and cleaning ▪ Flashlight: general use, handholds, techniques, combining techniques during searches, pros and cons
<p>D4 – Health and Fitness The same lesson plan is used in both Corrections and Police</p>	<p>4 classroom</p>	<p>4 classroom</p>	<p>505 – Health and Fitness</p>
<p>D5 – Report Writing</p> <ul style="list-style-type: none"> ▪ Misconduct report is the cornerstone of offender disciplinary system; crucial that it be accurate and error-free ▪ Main purpose – control inmate behavior and avoid liability ▪ Steps: identify audience, keep it short and simple, make sure it is complete, use concrete rather than abstract words, use an active voice, appropriate word usage, no jargon, spelling and grammar, chronological order ▪ Common problems with poorly written reports: 	<p>10</p>	<p>14</p>	<p>306 – Investigative Report Writing and Note Taking</p> <ul style="list-style-type: none"> ▪ The field notebook: effective use ▪ Importance of good reports: permanent record, prosecution, evidence, wide audience ▪ Important to audience: police, prosecutors and DA’s, society, corrections officers, others ▪ Narrative must be factual, organized, complete, concise, correct, readable ▪ Typical issues of the prosecution ▪ Elements of the report: guidelines for what should be included, opinions vs.

<p>contain judgments or opinions, are incomplete, use inferences, spelling and grammar</p> <ul style="list-style-type: none"> ▪ The Miller Format and what to include in each heading: Summary, Mentioned, Narrative, Statements, Evidence, Action Recommended ▪ Report writing assignment based on scenario 			<p>conclusions, chronological order</p> <ul style="list-style-type: none"> ▪ Basic skills: spelling, punctuation and grammar, face sheets ▪ Report format and directions for each writing each heading: Summary, Mentioned, Action Taken, Statements, Evidence, Action Recommended
<p>D6 – Communicable Disease and Bloodborne Pathogens</p> <ul style="list-style-type: none"> ▪ The same lesson plan is used in Corrections and Police 	2	2	302 – Communicable Disease and Bloodborne Pathogens
<p>D7 – Con Sim: Hitman</p> <ul style="list-style-type: none"> ▪ Public perceptions ▪ Case law: Tennessee v. Garner and Graham v. Connor ▪ Threat assessment ▪ Prerequisites of force escalation (officer/threat factors, influential circumstances) ▪ Justification for escalation of force ▪ Levels of resistance and levels of force ▪ Principles of force escalation ▪ DPSST Use of Force continuum chart ▪ Proper use of cover ▪ List of scenarios (corrections-based situations) 	8	16	<p>901 – Con Sim</p> <ul style="list-style-type: none"> ▪ The Basic Police lesson plan is simply lists the different types of scenarios for each session (responding to calls)

Department of Public Safety Standards and Training
Memorandum

DATE: May 19, 2009
TO: Corrections Policy Committee
FROM: Steve Winegar
Curriculum Unit
SUBJECT: Revisions to Basic Corrections Curriculum

Background: The curriculum for the Basic Corrections Course has not been updated for several years; most of the curriculum was developed roughly four to eight years ago. With the planned transfer of the responsibility for training Department of Corrections officers from the Department of Public Safety Standards and Training (DPSST) to the Department of Corrections, DPSST will only be training local (county and city) corrections officers at the Public Safety Academy. This change provides the opportunity to modify the Basic Corrections Course curriculum to better meet local corrections needs.

Issues:

Need to Update Basic Corrections Course Curriculum

DPSST staff has heard from constituents from the corrections field that the curriculum taught in the Basic Corrections Course was outdated and not meeting the needs of local corrections agencies. Constituents identified a number of areas in the curriculum that needed to be modified and updated, and an effort to update the curriculum in 2006 stalled.

As part of the process for adopting the DPSST budget for the 2009-2011, the Governor's recommended budget and the proposed Legislative budget both include the transfer of the responsibility for Basic Corrections training for officers from the Department of Corrections, to the Department of Corrections. The budget for corrections training at DPSST was reduced to reflect the transfer of that training responsibility.

Training of corrections officers from local (county and city) agencies will remain the responsibility of DPSST. The transfer of responsibility to train state corrections officers provides an opportunity to tailor the curriculum taught at the Public Safety Academy to meet the needs of local corrections agencies.

Proposed Revisions of Corrections Courses

There is no funding available at this time to increase the length of the Basic Corrections Course. The course will remain 200 hours.

Local corrections administrators met with DPSST staff, and reviewed the existing Basic Corrections Course curriculum. After reviewing the curriculum the administrators identified changes that were needed; the changes are outlined in the table below. Local corrections administrators and DPSST staff agree that the proposed changes would enhance the training received by local corrections officers in the Basic Corrections Course.

Class	Current Hours	Proposed Hours	Content Change
Civil Liability	4	4	Add - content related to PREA

Corrections Operations Statutes	4	4	Add - content related to Oregon Jail Standards
Use of Force - Issues for Corrections	2	3	Add - 1 hour for relevant state and federal statutes
Human Relations	1	0	Remove - content included in Interpersonal Skills
Alcoholism and the Corrections Officer	2	0	Remove - content included in Emotional Survival
Gaining Control: Values and Principles	4	0	Remove - content included in Ethics, Cultural Diversity and others
Discretionary Decision Making	1	2	Add - 1 hour for practical application exercises
Medical Awareness	2	4	Add - 2 hours for excited delirium, drug/alcohol abuse, and MRSA
Hazardous Materials	2	0	Remove - on line course offered as option
Inmate Intake and Release	2	4	Add - 2 hours legal authority for custody, unclothed searches, identification processes
Use of Force	6	7	Add - 1 hour for decisions and application of reasonable force
Defensive Tactics	18	20	Add - 2 hours to further develop skills
Inmate Identification	2	0	Remove - content covered in inmate intake and release
Report Writing	10	8	Remove - 2 hours - session #3 eliminated
Emotional Survival	--	4	Add - 4 hours on emotional demands of corrections profession

Local corrections officials and DPSST staff are working through the process to develop the new courses: first develop the learning objectives, the identify course content and finally create instructional outlines for each of the courses. DPSST staff and local corrections officials have identified the learning objectives for nearly all the revised courses, and are identifying course content at this time.

Recommendation: Staff recommends that the Corrections Policy Committee approve the above changes to the Basic Corrections Course curriculum. Staff also recommends that Corrections Policy Committee recognize that the proposed changes are the first step of an ongoing effort toward updating and keeping the Basic Corrections Course curriculum updated and current.

Appendix C

Department of Public Safety Standards and Training Memo

Date: April 21, 2009
To: Corrections Policy Committee
From: Bonnie Narváez
Rules Coordinator
Subject: OAR 259-001-0005 – Proposed Rule
Rulemaking Notice - Electronically

Issue: During the 2007 legislative session, the Oregon Legislature enacted legislation (HB 2121) allowing state agencies to provide notice of any adopted, amended or repealed rule electronically. Staff is recommending a change to the current rule to include the new provisions relating to electronic transmissions of public rulemaking notice(s).

The Administrative Procedures Manual requires DPSST to maintain a mailing list with the names and addresses or e-mail addresses of persons who have requested in writing that DPPST mail them copies of its notices of proposed rulemaking, but DPSST is not required to list individuals within the context of its administrative rules. However, OAR 259-001 includes several lists of parties to receive notices. That list has not been updated for many years.

Staff is recommending that its interested parties list, along with a process to add or remove individuals from the interested parties list, be posted on its website and maintained by the rules coordinator rather than listing the individual parties separately in administrative rule. In preparing to implement HB 2121, and to update our interested parties lists, staff previously mailed notice to agencies, associations and all current individuals on its criminal justice interested parties list(s) and provided notice to its constituents via a listserv announcement. In addition, the memo was sent out via e-mail to numerous public safety entities and associations. To date, a total of 44 entities have responded.

The following revised language for OAR 259-001-0005 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-001-0005

Notice of Proposed Permanent Rulemaking and Adoption of Temporary Rules

~~Notice to Interested Persons on Proposals to Adopt, Amend, or Repeal any Administrative Rule Affecting Police Officers, Corrections Officers, or Parole and Probation Officers, Telecommunicators, Emergency Medical Dispatchers, Fire Service Professionals, Law Enforcement Units, and Public or Private Safety Agencies as Defined in ORS 181.610~~

~~In accordance with ORS 183.341(4), to provide a reasonable opportunity for interested persons to be notified of the proposed actions affecting police officers, corrections officers, parole and probation officers, telecommunicators, emergency medical dispatchers, fire service professionals, law enforcement units, or public or private safety agencies, the Board and the Department shall give notice of the proposed adoption, amendment, or repeal of rule(s):~~

(1) Except as provided in ORS 183.335(7) or (12) or 183.341, before permanently adopting, amending, or repealing an administrative rule, the Department will give notice of its intended action:

(a) To legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(b) To persons on the interested parties lists described in section (2) of this rule at least 28 days before the effective date of the rule;

~~(1) (c) In the Secretary of State's Bulletin referred to in ORS 183.360 At least twenty-one (21) days prior to **before** the effective date of the **rule; and** intended action, in the Secretary of State's Bulletin referred to in ORS 183.360.~~

~~(2) (d) At To other persons, agencies, or organizations to whom the Department is required to provide an opportunity to comment pursuant to state statute at least twenty-eight (28) days prior to **before** the effective date of the intended action, by mailing or furnishing a copy of the notice to the following: **rule.**~~

(e) In addition to the above, the Department may send notice of intended action to other persons, agencies or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the proposed rule at least 28 days before the effective date of the rule.

~~(a) Oregon State Sheriff's Association (OSSA);~~

~~(b) Oregon Association Chiefs of Police (OACP);~~

~~(c) Oregon Peace Officers Association (OPOA);~~

~~(d) Oregon Criminal Justice Association (OCJA);~~

~~(e) Oregon Department of Corrections;~~

~~(f) United Press International;~~

~~(g) Associated Press;~~

~~(h) Capitol Building Press Room;~~

~~(i) Oregon Council of Police Associations (OCPA);~~

~~(j) Oregon Department of Justice;~~

~~(k) Oregon State Police Officers Association (OSPOA);~~

~~(l) Federation of Parole & Probation Officers (FPPO);~~

~~(m) Oregon State Police Headquarters;~~

~~(n) Oregon Emergency Management;~~

~~(o) Oregon Chapter/Association of Public Safety Communications Officers (APCO);~~

~~(p) Oregon Fire Chiefs Association (OFCA);~~

~~(q) Oregon Health Division, Emergency Medical Services Section;~~

~~(r) Oregon Fire Instructors Association (OFIA);~~

~~(s) Oregon Fire Marshals Association (OFMA);~~

~~(t) Oregon Fire District Directors Association (OFDDA);~~

~~(u) Oregon Volunteer Firefighters Association (OVFA);~~

~~(v) Oregon State Firefighters Council (OSFC);~~

~~(w) League of Oregon Cities (LOC);~~

~~(x) Portland Police Bureau;~~

~~(y) Oregon State Fire Marshal's Office;~~

~~(z) Oregon State Forestry;~~

~~(aa) Federal Bureau of Investigation—Oregon Office;~~

~~(bb) Oregon District Attorneys Association (ODAA);~~

~~(cc) Portland Fire Bureau.~~

(2) Pursuant to ORS 183.335(8), the Department will maintain an interested parties list for each OAR chapter of rules for which the Department has administrative responsibility. A person, group, or entity that wants to be placed on such a list to receive notices of proposed permanent adoption, amendment, or repeal of a rule must make a request in writing or by electronic mail to the rules coordinator. The request must include either a mailing address or an electronic mail address where notices may be sent.

(3) Notices under this rule may be sent by use of hand delivery, state shuttle, postal mail, electronic mail, or facsimile. The Department recognizes state shuttle as “mail” and may use this means to notify other state agencies.

(a) An email notification under section (1) of this rule may consist of any of the following:

(A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(C) An email with specific instructions within the body of the email, usually including an electronic URL (Universal Resource Locator) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(b) The Department may use facsimile as an added means of notification, if necessary. Notification by facsimile under section (1) of this rule must include the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact, or specific instructions to locate these documents online.

(c) The Department will honor all written requests that notification be sent by postal mail instead of electronically if a mailing address is provided.

(4) If the Department adopts or suspends a temporary rule, the Department will notify:

(a) Legislators specified in ORS 183.335(15);

(b) Persons on the interested parties list described in Section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter; and

(c) Other persons, agencies, or organizations that the Department is required to notify pursuant to state statute or federal law.

(d) In addition to the above, the Department may send notice to other persons, agencies, or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the temporary rulemaking.

(4) The Department may state how and where a copy of a proposed rule or temporary rule may be obtained on paper, by electronic mail, or from a specified web site.

~~(3) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing a copy of the notice to persons on the Board and Department mailing list established pursuant to ORS 183.335(7).~~

Stat. Auth.: ORS 181.640 **& 183.341**

Stats. Implemented: ORS 181.640, **183.330, 183.335 & 13.341**

ACTION ITEM 1: Determine whether to approve filing the proposed language for OAR 259-001-0005 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to approve filing the proposed language for OAR 259-008-001-0005 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses. (see form attached)

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: May 19, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Shannon Cashen DPSST #33287

ISSUE:

Should Shannon CASHEN's Basic and Intermediate 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 CASHEN:

CASHEN was employed with the Oregon Department of Corrections (DOC) in 1996 where he currently serves. CASHEN holds Basic and Intermediate Corrections Certifications. In 1997 CASHEN signed his F11, Criminal Justice Code of Ethics.

On May 7, 2008, CASHEN was convicted of Harassment, a Class A Misdemeanor. DPSST obtained the incident report and the judgment from the court. Based on the police reports which detailed CASHEN's arrest for injuries sustained by his wife in a domestic violence incident, the Domestic Violence Restraining Order against CASHEN, and the Judgment from the court which notated "DV" (Domestic Violence) DPSST issued a Notice of Intent to Revoke Certifications, based on the mandatory disqualifying domestic violence element within the conviction.

On June 18, 2008, CASHEN made a timely request for a hearing. On October 17, 2008, Oregon Department of Justice, legal counsel for DPSST, filed a Motion for Ruling on Legal Issues (MSD) and supporting documents asserting there was no material fact at issue. On November 7, 2008, CASHEN, through his legal counsel, filed a Petitioner's Response to DPSST's MSD and provided supplemental documentation to support their Response. In support of CASHEN's Response, he provided an Indictment amended by interlineation to Count 3 [Harassment] making his stepson the victim, rather than his spouse. DPSST reviewed the offered documents and CASHEN's response and found that his conviction for the crime of Harassment, although stemming from a domestic violence disturbance, did not meet the definition of a crime involving domestic violence, due to the amendment changing the victim from the spouse to the stepson.

Without the domestic violence element, the conviction of the crime of Harassment is a discretionary disqualifying offense, for purposes of denial or revocation of a public safety certification. This matter must be reviewed by the Corrections Policy Committee.

On December 30, 2008, CASHEN was mailed a letter advising him that his case would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail and also provided to the employer. CASHEN provided information for the Committee's consideration in January 2009.

During the month of April, DPSST obtained additional information to follow up on the existing record of CASHEN's Contempt of Court, after his arrest. DPSST also found that the court had modified CASHEN's record to remove the "Anger Management" condition and to replace it with Domestic Violence Intervention Program. CASHEN's criminal history was checked and two entries were located; a 1996 Disorderly Conduct conviction, treated as a violation, and a 2002 Furnishing Liquor to Minor conviction, treated as a violation.

DPSST also contacted Assistant District Attorney Jennifer Gardiner, Yamhill County Court to verify CASHEN's claim that the domestic violence charges were dismissed because he had not engaged in the alleged crime and as a result of his wife's mental state. DA GARDNIER disputed CASHEN's assertions.

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

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: May 19, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Robert Owen Davis DPSST #25755

ISSUE:

Should Robert DAVIS' 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

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

DAVIS was employed with the Oregon Department of Corrections (DOC) in 1990 where he currently serves. DAVIS holds Basic, Intermediate and Advanced Corrections Certifications. In 1991 DAVIS signed his F11, Criminal Justice Code of Ethics.

On January 7, 2009, DAVIS was convicted of Criminal Mischief in the Second Degree, a Class A Misdemeanor. DAVIS also received a DUII diversion stemming from the same incident. DPSST obtained copies of the incident reports and the judgment from the court.

On January 26, 2009, DPSST mailed DAVIS a letter advising him that his case would be heard before the Corrections Policy Committee (CPC) and that he had an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent by regular and certified mail. DAVIS's employer was also notified.

In February 2009, DAVIS and his legal counsel provided information for the CPC's consideration.

In April 2009, DPSST sought to verify the discipline that DAVIS claimed to receive from his employer. DPSST obtained information from the employer which verified DAVIS had been demoted as a result of his misconduct, but disputed his claim that he received a transfer as a result of discipline. DPSST sought to verify DAVIS' claim that he had reported symptoms to the arresting officer who did not include them in his report. DPSST obtained information from the arresting officer disputing that such symptoms had been reported.

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 DAVIS' 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 DAVIS' conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that DAVIS' certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: May 19, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Donovan L. Johnson DPSST #47679

ISSUE:

Should Donovan JOHNSON's Basic Corrections 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 JOHNSON:

JOHNSON was employed with the Oregon Department of Corrections (DOC) in 2006 and he resigned in lieu of termination in 2008. JOHNSON holds a Basic Corrections Certification.

DPSST sought and obtained information relating to JOHNSON's resignation.

In January 2009 DPSST mailed JOHNSON a letter advising that his case would be heard before the Corrections Policy Committee and advised that he had the opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent regular and certified mail. DPSST received a certified Mail return receipt. To date JOHNSON has not responded.

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

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE: May 19, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Christopher M. Hargas DPSST #45227

ISSUE:

Should Christopher HARGAS' Basic Corrections Certification be revoked based on his discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

BACKGROUND and OVERVIEW

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

HARGAS was employed with the Jefferson County Sheriff's Office (JCSO) in 2005 and he resigned while under investigation in 2008. HARGAS holds a Basic Corrections Certification.

DPSST sought and obtained information relating to HARGAS' resignation.

In January 2009 DPSST mailed HARGAS a letter advising that his case would be heard before the Corrections Policy Committee and advised that he had the opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent regular and certified mail. DPSST received a certified Mail return receipt.

In February 2009, HARGAS provided a letter for the Committee's consideration.

In April 2009, DPSST followed up on the circumstances that led to HARGAS' resignation.

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 HARGAS' 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 HARGAS' conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that HARGAS' certification(s) *be revoked/not be revoked*.

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

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

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

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