

Corrections Policy Committee

Minutes

September 3, 2009

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Thursday, September 3, 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 1:33 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
Ida Rovers, Department of Corrections, Women's Correctional Facility
Bryan Goodman, Non-Management Corrections Officer
Mitchell Southwick, Oregon State Sheriffs' Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative

Committee Members Absent:

Shane Hagey, Oregon Assoc. of Community Corrections Directors

Guests:

Jolynn Wilson, Snake River Correctional Institution
Leonard J. Fugate, Jr., Snake River Correctional Institution
Linsay Bassler, Coffee Creek Correctional Facility
Jesse Hale, Oregon State Correctional Institution
Carmela Walters, Oregon State Correctional Institution
Roy McGrath, Oregon State Correctional Institution
Kelly Smith, Oregon State Correctional Institution
Josh McGowan, Oregon State Correctional Institution
Matthew Gushard, Oregon State Correctional Institution
Clayton Borden, Oregon State Correctional Institution
Bob Koreski, Department of Corrections Professional Development Unit

DPSST Staff:

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



1. **Minutes (May 19, 2009)**

Approve the minutes of the May 19, 2009 Corrections Policy Committee meeting.

See Appendix A for details.

Scott Brewen noted the position of motion number two under item number two should be positioned above “Areas of revisions for the basic corrections” section.

Marie Tyler moved to approve the minutes of the May 19, 2009 Corrections Policy Committee meeting with the noted change. Scott Brewen seconded the motion. The motion carried unanimously.

Marilyn Lorange introduced Scott Willadsen as the new Professional Standards Coordinator replacing Theresa King.

2. **David M. Bacio – DPSST #45193**

Presented by Scott Willadsen

See Appendix B for details.

- *Bryan Goodman moved that the policy committee adopts the Staff report as the record upon which its recommendations are based. Marie Tyler seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did not* involve **Dishonesty**.
 - c. The identified conduct *did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did* involve **Misuse of Authority**. *Used position for personal gain.*
 - e. The identified conduct *did* involve **Gross Misconduct**.
 - f. The identified conduct *did* involve **Misconduct**.
 - g. The identified conduct *did not* involve **Insubordination**.
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The committee noted BACIO’s continuous pattern of behavior as aggravating and did not state any mitigating circumstances.*
- *Brian Belleque moved that the policy committee finds BACIO’s conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) be revoked. Scott Brewen seconded the motion. The motion carried unanimously.*
- *Brian Belleque moved that the policy committee recommends to the Board that the minimum period of ineligibility to reapply for certification(s) will be ten years from the date of revocation. Raimond Adgers seconded the motion. The motion carried unanimously.*

3. Brent M. Becker – DPSST #43338

Presented by Scott Willadsen

See Appendix C for details.

- *Scott Brewen moved that the policy 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.
 - b. The identified conduct *did* involve **Dishonesty**. *Lied about sleeping on duty.*
 - 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* involve **Gross Misconduct**. *Officer safety issues*
 - f. The identified conduct *did* involve **Misconduct**.
 - g. The identified conduct *did not* involve **Insubordination**.
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The committee noted BECKER's letter as a mitigating circumstance and as aggravating the committee noted a pattern of not following policy, and his resignation during the investigation.*
- *Raimond Adgers moved that the policy committee finds BECKER's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) be revoked. Ida Rovers seconded the motion. The motion carried unanimously.*
- *Marie Tyler moved that the policy committee recommends to the Board that BECKER's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Ida Rovers seconded the motion. The motion carried unanimously.*

4. Leonard J. Fugate – DPSST #38214

Presented by Scott Willadsen

See Appendix D for details

- *Marie Tyler moved that the policy committee adopts the Staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did not* involve **Dishonesty**.
 - c. The identified conduct *did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did not* involve **Misuse of Authority**.
 - e. The identified conduct *did not* involve **Gross Misconduct**.

- f. The identified conduct *did* involve **Misconduct**. *Violation of law and failure to report.*
- g. The identified conduct *did not* involve **Insubordination**.
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The policy committee acknowledged the letters and FUGATE's admittance of error as mitigating circumstances. There were no aggravating circumstances stated.*
- *Thomas Wright moved that the policy committee finds FUGATE's conduct does not rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) not be revoked. Brian Belleque seconded the motion. The motion carried unanimously.*

5. Jesse H. Hale – DPSST #33671

Presented by Scott Willadsen

See Appendix E for details

Marie Tyler excused herself from the rest of the meeting due to a previously scheduled commitment.

Michael Gower excused himself from voting due to his involvement with processes in this case.

The committee took a 5 minute break to review additional last minute information.

- *Scott Brewen moved that the policy committee adopts the Staff report as the record upon which its recommendations are based. Raimond Adgers seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did* 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 policy committee must identify and consider any mitigating and aggravating circumstances. *The committee noted HALE's letter as a mitigating circumstance and stated as aggravating his failure to follow probation treatment and requirements.*
- *Scott Brewen moved that the policy committee finds HALE's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) be revoked. Mitchell Southwick seconded the motion. The motion carried unanimously with Michael Gower abstaining.*

- *Raimond Adgers moved that the committee recommend to the Board that HALE's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Scott Brewen seconded the motion. The motion carried with a 7 to 1 vote, with Bryan Goodman voting no and Michael Gower abstaining.*

6. **Donovan L. Johnson – DPSST #47679**

Presented by Scott Willadsen

See Appendix F for details

- *Michael Gower moved that the policy 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:
 - Identify the conduct that is at issue.
 - The identified conduct *did* involve **Dishonesty**. *Dishonest about relationship with inmate.*
 - The identified conduct *did not* involve a **Disregard for the Rights of Others**.
 - The identified conduct *did* involve **Misuse of Authority**.
 - The identified conduct *did* involve **Gross Misconduct**.
 - The identified conduct *did* involve **Misconduct**.
 - The identified conduct *did not* involve **Insubordination**.
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The committee did not state any mitigating or aggravating circumstances.*
- *Scott Brewen moved that the policy committee finds JOHNSON's conduct does 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.*
- *Michael Gower moved that the committee recommend to the Board that JOHNSON's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Ida Rovers seconded the motion. The motion carried unanimously.*

7. **Robin Nelson – DPSST #48957**

Presented by Scott Willadsen

See Appendix G for details

- *Brian Belleque moved that the policy committee adopts the Staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - Identify the conduct that is at issue.

- b. The identified conduct *did* involve **Dishonesty**. *Dishonest regarding acquisition of phone number.*
 - 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 Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee stated as aggravating NELSON's length of service which clearly proves that he knew what he was doing was wrong and NELSON's letter.*
 - *Brian Belleque moved that the policy committee finds NELSON's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that the certification(s) be revoked. Raimond Adgers seconded the motion. The motion carried unanimously.*
 - *Scott Brewen moved that the committee recommend to the Board that NELSON's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Raimond Adgers seconded the motion.*

8. Michael F. Stevenson – DPSST #21991

Presented by Scott Willadsen

See Appendix H for details

- *Scott Brewen moved that the policy 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.
 - 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 policy committee must identify and consider any mitigating and aggravating circumstances. *The committee noted STEVENSON's long career in corrections as aggravating as he should know better.*
- *Michael Gower moved that the policy committee finds STEVENSON's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) be revoked. Raimond Adgers seconded the motion. The motion carried unanimously.*

- *Michael Gower moved that the committee recommend to the Board that STEVENSON's misconduct was a lifetime disqualifier; he may never reapply to the policy committee for certification(s). Scott Brewen seconded the motion. The motion carried unanimously.*

9. Department of Corrections Training Standards for Basic Certification

Presented by Scott Brewer

See Appendix I for summary. The entire document is available for viewing upon request.

The following questions were discussed regarding the Department of Corrections (DOC) basic certification training program:

- Will DOC put people who have previously failed the basic corrections course at DPSST through the new training program?

DOC will continue with the same practice as DPSST. DPSST still has to approve people to attend DOC's training.

- Is there a possibility to more clearly state the number of times a person can attend the basic training in the audit plan?

Yes. We should actually consider adding a general rule for every discipline regarding an irretrievable academic failure.

- Is DPSST's audit plan in place?

No. It is still under development. Staff is trying to put together position descriptions for additional help. Theresa King has sat in on some elements of DOC's FTO training already. The partnership with DOC's Professional Development Unit has been excellent from our perspective.

- As stated in the new training program employees will have ample time with their FTO for one-on-one counseling. How will staffing be addressed to provide relief for the FTO to be away from post for new employee remedial training?

Each facility will run differently. That procedure wasn't written into policy to allow each superintendent to run their individual facility efficiently.

- Who will be teaching legal classes?

As DOC does not have attorneys on staff, DPSST certified instructors will teach the legal classes.

Much of this program is already running at Coffee Creek.

Accolades were given for the amount of work completed in a short amount of time. The committee is very pleased with the high standards being set.

Brian Belleque moved to recommend to the Board the approval of the Department of Corrections training standards for the basic corrections officer as developed and proposed. Mitchell Southwick seconded the motion. The motion carried unanimously.

Staff spoke regarding the DPSST Audit Plan and introduced into record the memorandum and plan.

See Appendix J for details

The audits are to determine whether DOC's implementation is consistent with what has been developed. The audit plan is informational. Know that DPSST understands our responsibility to audit implementation. We've outlined very clearly our expectations and compliance.

10. OAR 259-008-0025 – Proposed Rule

Training standards for the basic certification of corrections officers employed by the Department of Corrections.

Presented by Bonnie Narvaez.

See Appendix K for details

Brian Belleque moved that the committee approve filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Ida Rovers seconded the motion. The motion carried unanimously.

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

Having recommended that the rule move forward, staff would like to draft this exact rule language as a temporary rule and as a proposed permanent rule to be presented to the Executive Committee when it meets on September 10, 2009. This is necessary in order for DOC to be in compliance for their first training class.

It is the consensus of the committee to have staff draft the proposed language for OAR 259-008-0025 as a temporary rule and as a proposed permanent rule to be presented to the Executive Committee on September 10, 2009 in order for DOC to be in compliance when their first class starts.

11. OAR 259-008-0060(18) – Proposed Rule

Multi-discipline – Maintenance Training Reporting

Presented by Bonnie Narvaez

See Appendix L for details

Raimond Adgers moved that the committee approve filing OAR 259-008-0060(18) with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Brian Belleque seconded the motion. The motion carried unanimously.

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

12. Additional Business

- **HB2790 passed meaning 1 non-management parole and probation member will be added to this committee as well as 2 additional non-management corrections officers after the first of the year when the bill goes into effect. Applications are coming in and we continue to recruit applicants.**
- **The Supervision/Middle Management program was abolished due to budget reductions. Staff has been working with OSSA and OACP to identify other avenues than DPSST to obtain that training.**
- **Staff stated the certification workgroup wanted to ensure that the larger policy issues around upper levels of certification could be addressed by all, and broke in to smaller sub-committees to look at the criteria for intermediate and advanced certification discipline by discipline. The other three disciplines are finalizing their work product. There is no work product for corrections. In fact, previous members have not shown up to the workgroup meetings. We need enthusiastic members to hammer something out. Some committee members said they would supply names for the corrections workgroup.**

13. Next Regularly Scheduled Meeting

The next regularly scheduled meeting is November 17, 2009 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 4:30 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) 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 Lorance, 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:
 - h. Identify the conduct that is at issue. **Dishonesty**
 - i. The identified conduct *did* involve **Dishonesty**.
 - j. The identified conduct *did* involve a **Disregard for the Rights of Others**.
 - k. The identified conduct *did not* involve **Misuse of Authority**.
 - l. The identified conduct *did* involve **Gross Misconduct**.
 - m. The identified conduct *did* involve **Misconduct**.
 - n. 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 B

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: David M. Bacio DPSST #45193

ISSUE:

Should David Bacio'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 BACIO:

In 2004 BACIO was employed with the Marion County Sheriff's Office as a corrections officer where he continued to serve until he resigned during an investigation in 2008. BACIO signed his F11, Criminal Justice Code of Ethics in 2005. BACIO holds Basic and Intermediate Corrections certifications.

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

In May 2009, DPSST mailed BACIO a letter advising him that his case would be heard before the Corrections Policy Committee and invited him to provide mitigating circumstances on his behalf for the Committee's consideration. To date DPSST has not received a written response from BACIO for the Policy Committee's review.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke BACIO's Basic and Intermediate Corrections Certifications, based on his discretionary disqualifying misconduct.

- By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
- 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**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
- By vote, the Policy Committee finds BACIO's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Brent M. Becker DPSST #43338

ISSUE:

Should Brent BECKER's Basic Corrections Certifications be revoked based on his discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

BACKGROUND and OVERVIEW

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

In 2003 BECKER was employed with the Oregon Department of Corrections as a corrections officer where he continued to serve until he resigned during an investigation in 2008. BECKER signed his F11, Criminal Justice Code of Ethics in 2003. BECKER holds a Basic Corrections certification.

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

In May 2009, DPSST mailed BECKER a letter advising him that his case would be heard before the Corrections Policy Committee and invited him to provide mitigating circumstances on his behalf for the Committee's consideration. To date DPSST has not received a written response from BECKER for the Policy Committee's review.

In June 2009, DPSST sought and received follow-up information regarding prior inattentiveness or untruthfulness of BECKER.

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 Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke BECKER's Basic Corrections Certification, based on his discretionary disqualifying misconduct.

- By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
- 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**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
- By vote, the Policy Committee finds BECKER's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Leonard J. Fugate DPSST #38214

ISSUE:

Should Leonard FUGATE'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 FUGATE:

FUGATE was employed with the Oregon Department of Corrections (DOC) in 1999 and he remains employed there. FUGATE signed his Criminal Justice Code of Ethics in 1999 and he holds Basic and Intermediate Corrections Certifications.

In February 2009, DPSST was notified of FUGATE's arrest and citation and subsequently obtained the incident report and the judgment.

In May 2009, DPSST mailed FUGATE a letter advising that his case would be heard before the Corrections Policy Committee (CPC) and advised that he had the opportunity to provide mitigating circumstances for the Committee's consideration. The employer was also notified. This letter was sent regular and certified mail. DPSST received a certified Mail return receipt. In June 2009, FUGATE provided a written response for the CPC's review.

In June 2009 DPSST sought follow-up questions of the employer regarding prior similar discipline for poor judgment, discipline as a result of this incident and the circumstances surrounding a notation by the employer that FUGATE had been removed as an FTO (in 2008.

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 FUGATE's Basic and Intermediate Corrections Certifications based on his discretionary disqualifying misconduct.

- By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
- 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**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
- By vote, the Policy Committee finds FUGATE's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Jesse H. Hale DPSST #33671

ISSUE:

Should Jesse HALE's 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 HALE:

In 1997 HALE was employed with the Oregon Department of Corrections as a corrections officer where he continues to serve. HALE signed his F11, Criminal Justice Code of Ethics in 1997. HALE holds a Basic Corrections certification.

HALE was arrested for DUII in March 2007 and received a DUII diversion.

HALE was arrested for Assault and Disorderly Conduct in December 2007. Ultimately HALE entered into a civil compromise with the victim of the assault, entered a plea of guilty to the Disorderly Conduct, and was granted a deferred sentence.

In January 2008 DOC staff communicated with DPSST on HALE's arrest and status.

HALE was arrested for DUII in October 2008, was convicted of this crime and was placed on probation.

HALE violated his probation in March 2009 and received a probation violation judgment against him in April 2009.

DPSST sought and received the underlying investigations and judgments cited above. DPSST determined that this matter must be reviewed by the Corrections Policy Committee.

In April 2009, DPSST mailed HALE a letter advising him that his case would be heard before the Corrections Policy Committee and invited him to provide mitigating circumstances on his behalf for the Committee's consideration. In May 2009 HALE provided a letter and supporting documents for the Policy Committee's consideration.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0010(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 HALE'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 HALE's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix 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 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 JOHNSON:

JOHNSON was employed with the Warm Springs Police Department 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 (CPC) 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.

In May 2009 the CPC met and determined that they did not have adequate information to make a certification determination and requested that staff seek to obtain any additional information the employer had on the matter. In June 2009 DPSST sent and received follow-up information which included an incident report and associated documents and an email of question from staff and answers from the employer.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

(J) 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: August 18, 2009
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Coordinator
SUBJECT: Robin NELSON DPSST #48957

ISSUE:

Should Robin NELSON's 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 NELSON:

NELSON was employed with the Warm Springs Police Department in 2007 as a corrections officer and resigned in 2008. NELSON obtained his Basic Corrections certificate in 2008 and signed his Criminal Justice Code of Ethics also in that year. NELSON was employed with the Grant County Sheriff's Office (GCSO) in 2008 and received a probationary discharge in 2009.

DPSST sought the investigation that led to NELSON's discharge. GCSO provided copies of the internal investigations against NELSON.

In April 2009, DPSST mailed NELSON a letter advising him that his case would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent by regular and certified mail. In May 2009, NELSON provided written information for the Committee's consideration.

In June 2009, DPSST requested and received follow-up information from the employer regarding apparent discrepancies in statements whether NELSON requested the former inmate's phone number or whether she voluntarily provided it.

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.

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

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

(L) 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 NELSON'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 NELSON's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that the 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 H

Department of Public Safety Standards and Training Memorandum

DATE: August 18, 2009
TO: Corrections Policy Committee
FROM: Scott Willadsen
Professional Standards Coordinator
SUBJECT: Michael F. STEVENSON DPSST #21991

ISSUE:

Should Michael STEVENSON's Basic, Intermediate and Advanced Corrections Certifications be revoked based on his discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

BACKGROUND and OVERVIEW

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

In 1988 STEVENSON was employed with the Klamath County Sheriff's Office as a corrections officer. In 1989 STEVENSON signed his F11, Criminal Justice Code of Ethics. STEVENSON was granted Basic, Intermediate and Advanced Corrections Certifications. STEVENSON retired from the Klamath County Sheriff's office in 2003 and his certifications have subsequently lapsed.

In June 2008 STEVENSON was arrested for Theft I and Conspiracy to Commit Theft I. Ultimately STEVENSON entered into a civil compromise and the criminal charges were dismissed. The underlying conduct must be reviewed by the Corrections Policy Committee (CPC).

In May 2009, DPSST mailed STEVENSON a letter advising him that his case would be heard before the Corrections Policy Committee and invited him to provide mitigating circumstances on his behalf for the Committee's consideration. This letter was sent by regular and certified mail and was returned as "not deliverable." This letter was sent to an updated address and to date DPSST has not received a written response from STEVENSON for the Policy Committee's review.

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.

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

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

(N) 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 STEVENSON's Basic, Intermediate and Advanced Corrections Certifications, based on his discretionary disqualifying misconduct.

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

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

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

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

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

Appendix I

Oregon Department of Corrections Memo

Date: Aug 5, 2009
To: Corrections Policy Committee
From: Scott Brewen
Administrator, Professional Development Unit
Subject: Department of Corrections' Basic Corrections Course

Introduction

I am pleased to present you with the proposed Basic Corrections Course (BCC) for the Oregon Department of Corrections (DOC). This course was developed by subject matter experts within DOC with the assistance of DOC's Office of Project Management and the Professional Development Unit. The BCC course was developed to conform to the requirements of House Bill 3199 (Tab 2, Page 16) that was passed during the 2009 legislative session and became effective July 1, 2009.

This statute change requires DOC to provide training for basic certification for corrections officers hired by DOC. This training must meet or exceed the Department of Public Safety Standards and Training's (DPSST) basic corrections training standards and will result in the same basic certification as corrections officers trained by DPSST. Since the training will be DPSST certified, the training standards must be reviewed and recommended by the Corrections Policy Committee and adopted by rule by the Board on Public Safety Standards and Training. DPSST will propose, in a separate agenda item, the rule that will govern the certification of this training program.

Curriculum

DOC's BCC program must contain the following in order to meet the minimum training standards:

1. The course must cover the Critical and Essential Physical Tasks and the Critical and Essential Non-Physical Tasks that are required of a corrections officer/deputy in Oregon (Tab 3).
2. The course must utilize the Conceptual Performance Objectives established by DPSST (Tab 4).
3. The course must have a minimum of the following hours:
 - a. Law - 24 hours
 - b. Human Behavior - 38 hours
 - c. Security - 36 hours
 - d. General Skills - 82 hours

Tab 5 contains a matrix that shows how DOC courses cover the Critical and Essential Physical Tasks and Critical and Essential Non-Physical Tasks as well as linking the courses to the Conceptual Performance Objectives. This tab also contains the hourly breakdown of the courses along with a brief overview of each course.

Training Methodology

DOC's proposed BCC is built around a statewide Field Training and Evaluation Program (FTEP). Rather than considering basic training and field training as two distinct processes, the DOC program will run them side-by-side so that they are mutually supportive. This year-long training program will be divided into four phases so that DOC will better be able to guide staff learning, allow for ample on-the-job practice and coaching, review and test prior learning, remediate performance shortfalls, and document employee progress throughout their first year of employment.

The program begins with employee safety and institution security learning objectives, and progresses towards adding knowledge and skills learning which incorporates evidence based practices as the employee demonstrates competency in their security roles and responsibilities. This incremental approach will increase retention through a "learn, practice, demonstrate" on the job teaching methodology throughout the employee's first year of employment.

The first two weeks will encompass 80 hours of instruction (Tab 6) focused on setting a foundation for the new corrections officer. Normally, these first two weeks will coincide with the first two weeks of employment at DOC. Courses will include classroom delivery and a basic self defense course. The first two weeks are expected to be academically rigorous culminating in a 100 point written test. Students who do not pass the test with a 75% average will go through a remediation process prior to being given another 100 point test. Students who fail to score 75% on the second test will be removed from the course and will not be eligible for certification.

During the third through fifth week (Tab 6), the foundational information learned in the earlier classroom courses will be supplemented with online learning and will begin to be applied in the field training environment. The employee will begin to job shadow a variety of posts and will be evaluated daily by the Field Training Officer as they begin to complete their skills sheets (Tab 7) and begin to interact within the correctional environment. These hands-on activities will be supplemented with an additional defensive tactics class, CPR/First Aid, and the review of agency rules, policies, and procedures.

Each rule, policy, or procedure has a corresponding online quiz used as a review tool for the employee and Field Training Officer (FTO) to determine if the employee has understood the material (Tab 7). Quizzes are intended to be a tool used in the learning process. The quizzes serve to accomplish two distinct

functions; determine if the employee understands the information, and give the employee practice taking multiple choice quizzes in preparation for the final exam. An employee who fails to attain 100% on a quiz will be given an opportunity to remediate, review the document again, and prepare for the next quiz. No sooner than 24 hours after the first quiz, an employee can take a second quiz. If the employee fails to attain 100%, then they will further remediate the material with the FTO. At this point the FTO will attempt to determine if the employee is failing to understand the material, or if the employee is having difficulties in taking multiple choice exams. In either case, the FTO will continue to work with the employee as they work through additional quizzes.

After the fifth week, the employee will begin to work a post at the institution, provided all skill sheets have been completed. The employee will still be evaluated weekly by the FTO, and will still be completing the reading of rules, policies and procedures and taking the online quizzes. Additionally, prior to the sixth month, the employee will be scheduled to attend a 40 hour or 24 hour (for minimum institutions) firearms training course and will complete their Field Training Manual. Once all classroom based courses required for certification have been completed, the final test will be administered. As with the first test, a 75% score is required and the employee will be given only one chance to remediate and take a second test. The completion of this test will mark the end of the academic portion.

There will be many forms of remediation available to employees. Employees will have ample opportunity to meet with their FTO for one-on-one counseling, meet with Professional Development Unit staff for coaching, retaking online training, or taking additional corrective action online courses. These courses are listed on the "Year at a Glance" under Tab 6. It will be up to the FTO and employee to determine the best remediation process for that employee.

At the six month point, a pre-board will be held with the employee to determine progress to date and ensure all paperwork is completed. Additional classroom, defensive tactics, and online courses will be completed during this time and prior to the ninth month. The classroom and online courses completed during this time will not be part of the basic academy; however, the defensive tactics courses, medical escorts and restraints, cell extraction, Oleoresin Capsicum (OC) pepper spray, and reality based training will be evaluated as part of the basic program.

A final board will be held at the ninth month consisting of the Superintendent or their designee, the Field Training Supervisor, and other staff to conduct a final review of the employee's progress, and review of documentation.

The certification will not be given until the completion of trial service.

DOC BCC Course
Aug 5, 2009

ORPAT

The Oregon Physical Abilities Test (ORPAT) will be a mandatory course for meeting DPSST certification requirements. DPSST has 12 ORPAT trailers that they have agreed to loan to DOC for use in administering ORPAT. ORPAT will be administered twice for each officer going through the BCC program. A minimum of five weeks between the first and second opportunity will be given. An officer must improve their time between the first and second opportunity in order to receive a passing score.

Force Skills

The Department of Corrections will utilize the Krav Maga self-defense system for defensive tactics. The following information about Krav Maga was taken from their Web site:

Krav Maga is the official self-defense system of the Israeli Defense Forces, and has been taught to hundreds of law enforcement agencies and thousands of civilians in the United States. Krav Maga Worldwide is currently the largest reality based self-defense organization in the world with over 240 licensed schools, over 500 law enforcement and government agencies and multiple specialized military units trained.

Krav Maga is a simple, effective self-defense system that emphasizes instinctive movements, practical techniques, and realistic training scenarios. This program is well integrated, meaning that similar defensive principles apply to a variety of hostile situations. Therefore, the system can be learned in a relatively short period of instruction. The system is designed to train large numbers of personnel at one time. The techniques are easy to retain with minimal review and can be performed under extreme stress.

There are five blocks of instruction in four hour increments that will be taught by DOC. Those parts are:

1. Basic Combatives
2. Self Defense/Defense Against Impact Weapons
3. Weapons Retention/Disarming
4. Edged Weapons Defense
5. Ground Defense

All Master instructors will be Krav Maga certified and will provide update training in Krav Maga techniques for all DOC Defensive Tactics (DT) instructors. All instructors will be recertified within the required timeframes from Krav Maga.

The 40-hour firearms training program is designed to provide basic training in the safe handling and usage of the department's standard weapons; the .40 Cal. Glock pistol, the shotgun, and the semi-automatic carbine. Students receive classroom instruction and intense hands-on practice, all within the context of the rule on Use of Force, including lethal force. The first 24 hours of the program will be handgun only

DOC BCC Course
Aug 5, 2009

and will replace the DPSST 24 hour program. The handgun portion will be taught at all DOC institutions. The remaining 16 hours will cover shotgun and rifle and will only be taught at the medium and above institutions.

Firearms instructors will be certified through DPSST, but will go through development courses developed by DOC. New instructors attend a 40-hour training course. Current instructors will go through an 8-hour refresher course prior to instructing in the BCC.

Additional force skills training will be offered in cell extraction, restraint chair, medical escort and restraints, and OC/pepper spray. Force skills training will culminate with 8 hours of Reality Based Training (RBT) scenarios, similar to the DPSST Confrontational Simulations (CONSIM). RBT will utilize the same grading process as the DPSST CONSIM.

All instructors in these areas will be required to attend an instructor development course to ensure competency to instruct. All will be certified by DPSST.

BCC Corrective and Academic Standards

All FTEP Skill Sheets must be completed with satisfactory scores of 100% by the trainee prior to being placed on post. DPSST Classroom Tests and the Final Test(s) must be satisfactorily completed with a 75% or higher. Trainees who fall below the 75% requirement will be given the opportunity to take another final test. All deficiencies will be reviewed and corrected by the trainee with approval of the FTEP Supervisor, or designee.

Minimum required scores to pass DOC BCC classes:

- Test one- 75%
- Skill Sheets - 100%
- Test two- 75%
- Defensive Tactics - Pass/Fail
- Shotgun - 100% (Hits on target) – Not Required for DPSST Cert.
- Rifle - 80% (16/20 ratio (nicks on target) – Not Required for DPSST Cert.
- Handgun- 100% (using DPSST targets; all hits must be in the 3/5; headshots are considered near misses)

The classroom testing process and testing security information is contained in Tab 8.

DOC BCC Course
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Instructor Certification

In addition to the Force Skills requirements as discussed above, all instructors will be DPSST certified under the current requirements. FTOs will also be DPSST certified since they will be evaluating the new officers utilizing the skills sheets.

Summary

DOC requests certification of this course as meeting or exceeding DPSST standards. Should there be concerns with any aspect of this program, we are more than happy to address those concerns and ensure this program satisfies all requirements to make it fully portable.

Appendix J

Department of Public Safety Standards and Training Memo

DATE: August 11, 2009

TO: Corrections Policy Committee

FROM: Marilyn Lorance
Standards and Certification Manager

SUBJECT: Agenda Items 9 and 10; Oregon Department of Corrections Basic
Corrections Course

Included with this memorandum are the following items, for your discussion and recommendation as Agenda Items 9 and 10 in the upcoming Corrections Policy Committee (CPC) meeting, September 3, 2009 at 1:30 p.m.:

Agenda Item 9:

- Memorandum dated August 6, 2009 from Theresa King to Eriks Gabliks
 - DPSST Audit Plan
- [The Oregon Department of Corrections (DOC) is providing materials for the proposed DOC Basic Corrections Course directly to CPC members under separate cover.]

Agenda Item 10:

- Memorandum and proposed rule language, dated August 10, 2009, from Bonnie Narváez to CPC members

Department of Public Safety Standards and Training
Memo

DATE: August 6, 2009

TO: Eriks Gabliks, Deputy Director

THRU: Marilyn Lorance
Standards and Certification Manager

FROM: Theresa King,
Professional Standards Coordinator

SUBJECT: Oregon Department of Corrections Basic Corrections Course

DPSST provided DOC with the existing resource materials for the Basic Corrections Course, the anticipated equivalency standards, and audit expectations to facilitate DOC's development and delivery of the BCC. Additionally, DPSST has responded to clarifying questions regarding the equivalency standards and certification processes.

Phase I Development of DOC BCC

I have received and reviewed the DOC BCC hour breakdown which includes components such as the conceptual performance objectives, the physical and non-physical essential tasks and the hours per course category. In a comparison with the current minimum standards in each of these components I find the following:

1. DOC BCC *exceeds* the minimum hours for overall training. Their training totals 240 hours, including 28 administrative hours.
2. DOC BCC *exceeds* the minimum hours for each of the four course categories. Their training includes 11 hours over the required training in Law, three hours over the required training in Human Behavior, 15 hours over the required training in Security and four hours over the required training in General Skills.
3. DOC BCC *exceeds* the minimum number of testing measures, in both academic and skills areas by the number of tests administered and the minimum score required.
 - a. DOC will require students pass both 100-test questions at a minimum 75% rather than a 75% cumulative score. DOC will require trainees to attain a score of 100% on all Use of Force questions and remediate those questions missed by using the DPSST Use of Force Remediation Form.
 - b. DOC will be administering an additional 44 short quizzes.
 - c. DOC will be using nine additional skills sheets, beyond seven skills sheets used by DPSST.
4. DOC BCC *exceeds* the minimum essential tasks required to be covered in the Basic Course. DOC BCC includes twenty-seven (27) essential tasks that are not covered during the DPSST Basic Corrections Course but are deferred to the field training program.

5. DOC BCC will *meet* the minimum instructor qualification and certification requirements consistent with DPSST policy. DOC has scheduled FTO training and Instructor Development Courses to ensure compliance. DOC will provide a list of instructors and the topics they taught in each Basic Corrections class.
6. DOC BCC will *meet* the minimum attendance requirements. No student may miss more than 10%; with 100% attendance required in specific listed classes. DOC will provide a list of trainees and their attendance records for each Basic Corrections class.
7. DOC BCC will *meet* the minimum conduct requirements; DOC will enforce, investigate and document any Zero Tolerance Offenses defined in OAR 259-008-0025(6).
8. DOC BCC will *meet* the documentation requirements for audit purposes, which include records of attendance, training, testing and instructor qualification.
9. DOC will meet the portability or equivalency requirement by ensuring that any local-specific curriculum that reflects a critical and essential task is covered at an awareness level.
10. DOC BCC will *meet* the certification requirements, which include submission of the F-7, F-6, F-11, FTO Completion Report and proof of current First Aid/CPR.

Based on the information I have been given, the result of my analysis of the DOC BCC as developed to date is that it meets or exceeds the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

Phase II Implementation of Audit Program

DPSST is statutorily responsible to audit DOC's basic training delivery to verify that it meets the approved standards. Attached you will find a copy of the DPSST Audit Plan which identifies the expectations and minimum standards for the delivery of DOC BCC, and outlines the anticipated audit flow, expectations and requirements.



Audit
Plan
Of
Oregon Department of
Corrections
Basic Corrections Course

by
Oregon Department of Public
Safety
Standards and Training

2009



Audit Plan
Authorization Memorandum

I have carefully assessed the Audit Plan for the Oregon Department of Corrections Basic Corrections. This document has been completed in accordance with the requirements of Oregon Revised Statutes and by reference OAR 259-008-0025(6)

Marilyn Lorance

Date

DPSST Standards and Certification Manager

Eriks Gabliks

Date

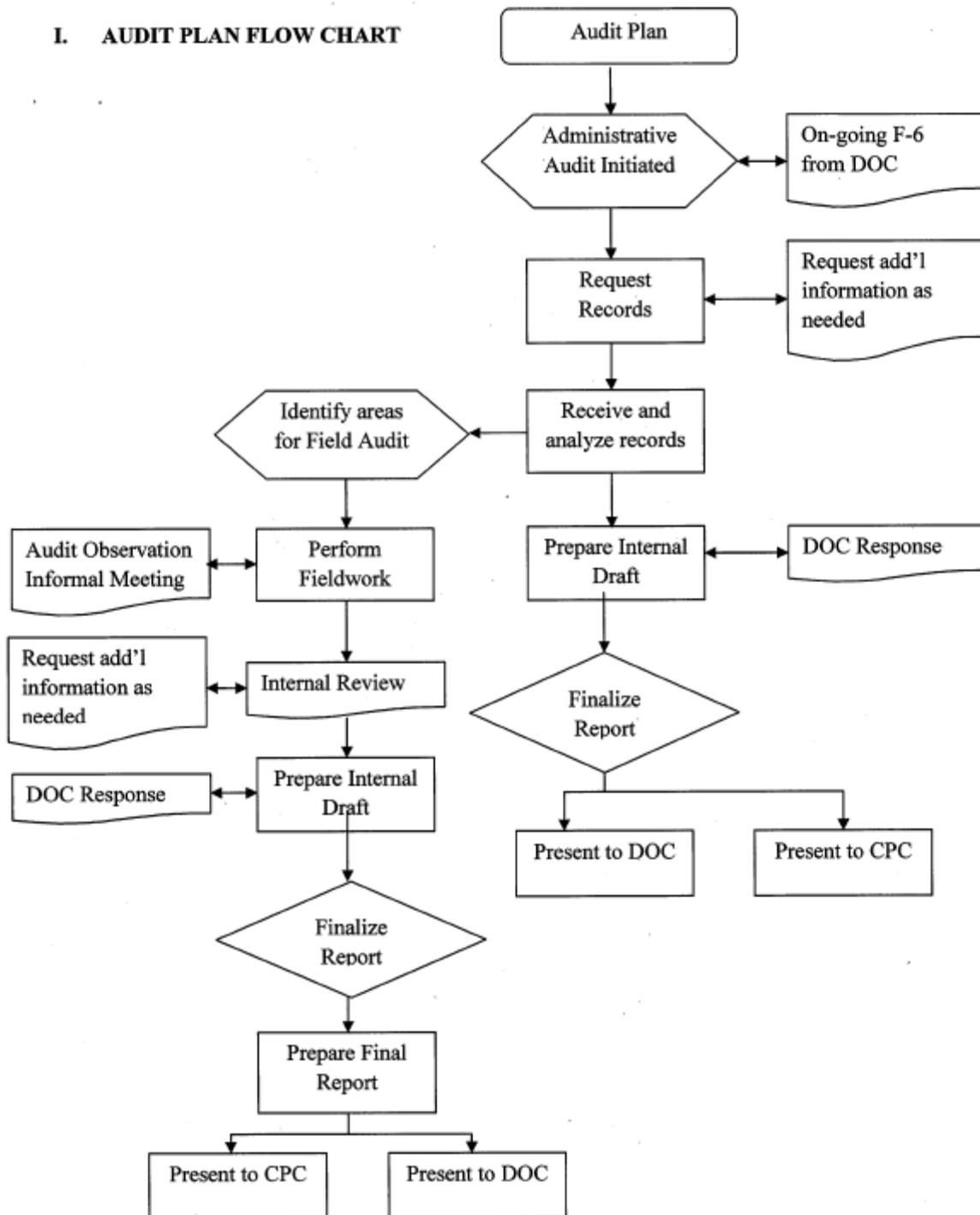
DPSST Deputy Director

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I. AUDIT PLAN FLOW CHART



II. GENERAL INFORMATION

A. Purpose

1. 2009 Legislative Session

a. Needs

The concept of Oregon Department of Corrections (DOC) providing its own training as an alternative to the DPSST 200-hour Basic Corrections Course (BCC) was proposed in the Governor's Recommended Budget as a cost savings for DOC. This concept was given statutory approval for a period of four years with the requirements that it meet or exceed the DPSST BC course, that DPSST audit the DOC BC course and that DPSST provide a written report to the legislature in 2011.

b. Training Methodology Opportunities

Whereas the DPSST 200-hour BCC model is built around classroom and skills training, the DOC model is built around a statewide Field Training and Evaluation Program (FTEP), using the theory "learn, practice, demonstrate" in an on-the-job 12-month training program.

B. Statutory/Rule Authority

The statute provides the following highlights:

- a. DOC shall develop their DOC BCC.
- b. The DOC BCC must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than that of DOC.
- c. DOC shall submit their DOC BCC to the Board through the Corrections Policy Committee for review and approval through administrative rule adoption.
- d. DPSST shall conduct periodic audits of the DOC BCC to ensure compliance with the adopted standards.
- e. DPSST shall accredit the DOC BCC if the training complies with the adopted standard.
- f. DPSST shall report to the Legislative Assembly on the efficacy or capacity DOC has to deliver in-house training.

C. System Overview

2. Challenges

a. Portability or Equivalency

During the 2009 Legislative Session, AFSCME Union sought amendments to the proposed DOC Training (SB257 Amendments/HB3199) which required that all Basic Corrections training be “portable;” or equivalent to that provided corrections officers trained by DPSST, and that the training meet the minimum standards for Basic Corrections Certification. This requires that all of the essential tasks, topics and course category training hours meet or exceed the DPSST BC course. Prior to this Amendment, county corrections and DOC corrections had been developing training content specific to their needs which did not fully overlap.

b. Consistent Delivery and Testing

DOC has fourteen (14) institutions across the state and instructors with various skill areas and skill levels at each institution. Testing measures will include academic tests administered by DOC Professional Development Unit (PDU) and skills sheets administered by DOC skills instructors. DOC will need to implement and maintain training program processes to ensure the consistent delivery of training and testing.

D. Program Communications

1. DPSST and DOC

- a. Program development and communication between DPSST and DOC is being memorialized by written communications, generally in an email format.
- b. When meetings with stakeholders occur, DPSST prepares a recap of the meeting and copies are provided to the participants, the Standards and Certification Manager and the Deputy Director.
- c. When audits are completed, the summaries will be in writing.

2. Corrections Policy Committee and Board

- a. DPSST will provide quarterly reports to both the Corrections Policy Committee and the Board and will incorporate Committee and Board recommendations into audit processes.

E. Program Development Cycle

1. Defining the Program

a. Stakeholders

- 1) DPSST – Standards and Certification
- 2) DPSST – Academy Training
- 3) DPSST – Curriculum
- 4) Corrections Policy Committee
- 5) Board
- 6) DOC Professional Development Unit
- 7) DOC Executive Management
- 8) DOC line staff
- 9) Local corrections agencies
- 10) Legislative Assembly
- 11) Unions
 - AFSCME
 - AOCE

b. Stakeholder Expectations

1) Integrity

An independent audit program will measure the compliance of the DOC Basic Corrections course with state certification requirements.

2) Accountability

- a. DOC is accountable to its employees, the inmates and the public to ensure well trained and qualified corrections officers.
- b. DOC PDU is accountable to DPSST, which issues corrections officer certification, to ensure all records and training documentation are provided in a timely and complete manner and to fully cooperate with the DPSST audits.

- c. DPSST is accountable to DOC to provide existing resource materials, anticipated equivalency standards, and audit expectations to facilitate DOC's development and delivery of the BCC.
 - d. DPSST is accountable to the CPC, Board, Legislative Assembly, DOC and the stakeholders to conduct audits in a fair, thorough and impartial manner.
 - e. DPSST is accountable to the Corrections Policy Committee (CPC) and the Board to report the ongoing audit process.
 - f. DPSST is accountable to the Legislative Assembly to provide a report in 2011 which reflects an accurate analysis of the DOC BCC during the reporting period.
 - g. DPSST is accountable to its constituents and the public to ensure that it certifies corrections officers who meet the minimum standards for Oregon.
- 3) User Friendly

A program objective is to ensure that compliance with DPSST minimum standards is facilitated by:

- a. Clear and specific expectations
- b. Measurable audit requirements
- c. Audit procedures which are the least intrusive to the daily operations of DOC, but which provide the required verification.
- d. Timely and constructive audit feedback
- e. Timely audit summaries
- f. Periodic audit process review with input from DOC

F. Audit Program Objectives (SMART)

1. Specific

The objective of this program is to audit DOC Basic Corrections training and testing to determine if it meets the minimum state standards for Basic corrections officer certification.

2. Measurable

The audit program will consist of the following components:

- a. Verification of DOC delivery of training approved by the CPC and Board as meeting minimum standard, through:
 - 1) Documentation of curriculum topics
 - 2) Documentation of curriculum content
 - 3) Documentation of hours of delivery
 - 4) Comparison of training hours with trainee work schedules
 - 5) Site visits (announced and unannounced)
- b. Documentation of consistency in training delivery among institutions and during all phases of training through:
 - 1) Site visits (announced and unannounced)
 - 2) Interviews
- c. Verification of testing through:
 - 1) Site visits (announced and unannounced)
 - 2) Documentation of testing
 - 3) Documentation of demonstrated skills or tasks
 - 4) Documentation of remediation of failed tests
 - 5) Documentation of final passing scores on academic and skills testing measures

3. Agreed Upon

- a. Statutory

As required by statute, administrative rules will be developed to define the

training standards by which the DOC BCC will be measured.

b. **Administrative Rule**

In support of the statutory authority, administrative rules will be developed that identify the process which will carry out the delegated tasks.

c. **DPSST –Audit Plan and Processes**

4. Realistic

In the belief that DOC can successfully provide its own training for Basic certification, the 2009 Legislature has removed this training from DPSST for a period of four (4) years. The program development and implementation, and audit processes will determine if this is a realistic objective.

5. Time-limited

DPSST is required to report to the legislature in 2011 on the status of implementation; and the statutory authority for DOC BCC training ends in 2014 unless legislatively reauthorized.

G. Developing the Program Team

1. Identify the knowledge, skills and abilities required

2. Create position descriptions for each position

3. Recruit

4. Train

5. Cross Train within the program team

H. Implementation of the Audit Process

1. Tracking compliance

2. Evaluating compliance

a. Informal debrief

b. Formal written report

3. Communicating Compliance

a. Addressing non-compliance

b. Remediation steps

c. Preparing the report

I. Monitoring the Audit Process

- a. Scope creep
- b. Stakeholder's needs change
- c. Technology changes
- d. Updated Critical & Essential Tasks for corrections officers
- e. Updated DPSST BC curriculum and/or performance objectives
- f. Document observations for future evaluation phase

J. Evaluating the program

- a. What works – Lessons Learned - Why
- b. What does not work – Lessons Learned - Why
- c. Evaluate and Adjust
- d. Internal Input
- e. External Input

K. Preparing the Report

- a. Report to Legislative Assembly
- b. Identify what the Report should contain
- c. Identify supporting documentation
- e. Statistics

III. AUDIT PROCESS

A. Course Quality and Delivery

1. Compliance with Basic Corrections Course Certification

a. Hours per Course Category

The state-approved BCC consists of a minimum number of hours per course category. The BCC Audit will determine whether the DOC BCC course consists of the minimum required number of hours per course category.

The following minimum hours within course categories will comprise the DOC BCC course:

24 hours in Law

38 hours in Human Behavior

36 hours in Security

82 hours in General Skills

DOC PDU will provide documentation to support the total number of hours within each category will include the following:

Final Class Schedule which includes a breakdown of the course hours by course categories

The topics and hours covered in each course category

b. Course Curriculum

The DOC BCC will be based on the critical and essential job tasks identified in the most current Job Task Analysis for corrections officers provided to DOC by the Department. The BCC Audit will verify whether DOC BCC training links the job tasks to the curriculum.

DOC PDU will provide documentation to support the course curriculum will include DOC identification of links from the essential tasks to the curriculum.

B. Compliance with Testing Measures

1. Academic Testing

- a. The state-approved DOC BCC includes academic tests. The BCC Audit will determine whether the DOC BCC tests meet the minimum standards for academic testing. The audit will include:
 - 1) Whether each of the essential tasks for the DOC Basic Corrections training is included in the testing
 - 2) Whether the tests are valid and constructed with the reasonable academic rigor, and demonstrate knowledge and application of the essential tasks.
- b. The minimum passing score is 75% on each DOC BCC test. Although DPSST allows for an individual to fail the first of test but to attain a 75% cumulative score, DOC has determined that they will require a 75% on each test. Students who fail to achieve this score will be required to remediate the failed topics and will be allowed one additional opportunity to pass the test.
- c. DOC PDU will provide documentation to support the Academic Testing will include the following:
 - 1) A sample of the tests used in this course.
 - 2) A list of trainees, by name and DPSST number, their scores on 100-question Test 1 and 100-question Test 2, and the percentages.
 - 3) A validation letter from the DOC Professional Development Unit (PDU) which affirms that the test was administered, proctored and scored by PDU staff.
 - 4) Remediation and re-testing efforts and results by trainee name and DPSST number.

2. Skills Testing

- a. The state-approved DOC BCC includes skills tests. The BCC Audit will determine whether the DOC BCC tests meet the minimum standards for skills testing.
- b. The minimum passing score for each skill area, based on a pass/fail, is Pass.
- c. DOC PDU will provide documentation to support the Skills Testing will include the following:
 - 1) A sample of the skills sheets used to administer the tests.

- 2) A list of trainees, by name and DPSST number and whether the trainee passed or failed each skill tested.
- 3) All remediation and re-testing efforts and results by trainee name and DPSST number.

3. Compliance with Instructor Certification

The state-approved BCC requires that all instructors who provide instruction or evaluation of a trainee be DPSST-certified instructors. Based on a review of the DOC BCC instructors, the BCC Audit will determine if DOC BCC instructors are appropriately certified.

DOC PDU will provide documentation to support the certification of instructors will include:

- a. A list of each instructor that provided classroom instruction or evaluation
- b. A list of each instructor that provided skills instruction or evaluation
- c. A list of each instructor that provided daily observations of a trainee for the purpose of evaluating the trainee's performance or comprehension

4. Compliance with Field Training Manual requirement.

The state-approved BCC requires that all essential tasks not covered within the Basic Corrections Course must be covered during the Field Training portion of the training and prior to certification.

DOC PDU will provide documentation to support completion of the Field Training Manual will include the Field Training Manual Record of Completion

5. Random Audits

Random Audits may include, but are not limited to the following general areas related to the BCC:

- a. Training Time
- b. On-line Courses
- c. Classroom Courses
- d. Skills Courses
- e. Training Time compared with Work Schedules
- f. Remediation

- g. Testing Measures
- h. Instructor Qualifications
- 6. Trainee interviews (both objective and measurable and subjective (perception))**
 - a. Classroom Courses
 - b. Instructor Qualifications
 - c. Classroom environment,
 - d. Size of class
 - e. Instructor to student ratio
 - f. Training Methods
 - g. Curriculum Materials
 - h. Effectiveness of Question and Answer
 - i. Applicability of materials
 - j. Awareness materials, compare and contrast state v. local
 - k. Academic Testing
 - l. Test questions applicable to materials
 - m. Test question comprehension
 - n. Remediation
 - o. Skills Courses
 - p. Awareness materials, compare and contrast state v. local
 - q. Skills Testing
 - r. Test measures applicable to materials
 - s. Remediation
- 7. Instructor interviews [objective and measurable and subjective (perception)]**
 - a. Classroom Courses
 - b. Instructor Qualifications

- c. Classroom environment
- d. Size of class
- e. Instructor to student ratio
- f. Training Methods
- g. Curriculum Materials
- h. Effectiveness of Question and Answer
- i. Applicability of materials
- j. Awareness materials, compare and contrast state v. local
- k. Academic Testing
- l. Test questions applicable to materials
- m. Test question comprehension
- n. Remediation
- o. Skills Courses
- p. Awareness materials, compare and contrast state v. local
- q. Skills Testing
- r. Test measures applicable to materials
- s. Remediation

IV. COMPLIANCE MANAGEMENT (To be Developed)

By Trainee

By Class

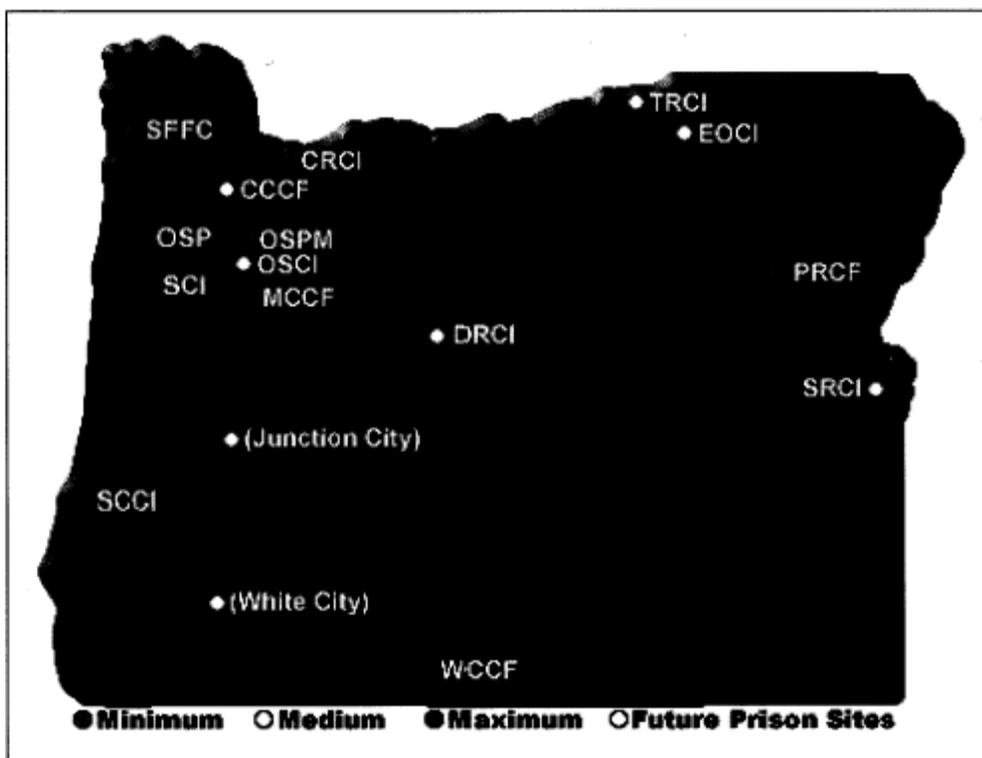
Administrative Audit

Field Audit

Reports to DOC, feedback

Reports to CPC, Board

Oregon Department of Corrections, by institution



Appendix K

Department of Public Safety Standards and Training Memo

Date: August 10, 2009

To: Corrections Policy Committee

From: Bonnie Narváez
Rules and Compliance Coordinator

Subject: OAR 259-008-0025 – Proposed Rule
Department of Corrections – Basic Corrections Course

Issue: During the 2009 legislative session, the Oregon Legislature enacted legislation (HB 3199) requiring the Department of Corrections (DOC) to provide training for basic certification of corrections officers employed by DOC. DOC was tasked with developing training standards for its employees and providing the proposed standards to the Corrections Policy Committee. Before the Department can accredit the DOC Basic Corrections Course (hereinafter referred to as the DOC BCC), the Corrections Policy Committee must recommend, and the Board must adopt by rule, minimum training standards for basic certification of corrections officers. The minimum standards for the DOC BCC must meet or exceed the minimum training standards for the basic certification of corrections officers who are employed by a law enforcement unit other than the DOC.

The Committee has been provided with DOC curriculum and the Department's audit plan. The proposed rule language will adopt, by rule, the minimum training standards for basic certification of corrections officers employed by DOC, as required by statute.

The following revised language for OAR 259-008-0025 contains recommended additions (**bold and underlined**) and deletions (~~strike through text~~). For ease of review, only the relevant portion of the rule has been provided.

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers ~~shall~~ **must** satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion ~~shall~~ **must** be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual shall **must** be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and OAR 259-008-0005, subsections (7), (19), (23), and (24), during the last five (5) years or more, shall **must** satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18) and 259-008-0005(14) and (32) for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant shall **must** provide proof of successful completion of prior equivalent training.

(C) The applicant shall **must** provide documentation of the course content with hour and subject breakdown.

(D) The applicant shall **must** obtain a minimum passing score on all written examinations for the course.

(E) The applicant shall **must** demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant shall **will** only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), (19), (23) and (24) over two and one-half (2-1/2) but less than five (5) years ~~shall~~ **must** complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(i) Corrections and police officers who have not completed the Basic Course ~~shall~~ **must** begin training at ~~an academy operated by the Department~~ within 90 days of their initial date of employment.

(A) A police officer must begin training at an academy operated by the Department.

(B) A corrections officer who is employed by Oregon Department of Corrections (hereinafter referred to as DOC) during the period July 1, 2009 through January 1, 2014 must begin DOC Basic Corrections Course (hereinafter referred to as DOC BCC) training provided by DOC as described in section (6) of this rule.

(C) A corrections officer who is not employed by DOC must begin training at an academy operated by the Department.

(D) A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2-1/2) and five (5) years, ~~shall~~ **must** satisfactorily complete ~~the~~ **a** Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course must also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training

Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

(A) A law enforcement officer who fails to achieve a minimum passing test score after completing a Career Officer Development Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(B) A law enforcement officer who fails to achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(C) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing test score within the timeframe set by the Department. Failure to successfully complete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position shall satisfactorily complete the prescribed Supervision Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred from within a department, or is appointed from an outside department, without having completed a prescribed Supervision Course, within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete the prescribed Middle Management Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred to a middle management position within a department, or employed from outside a department and appointed to a middle manager position without having completed a prescribed middle management course within the preceding five (5) years.

(5) Specialized Courses:

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. The staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, ~~shall~~ **must** be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs shall **must** be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) The DOC Basic Corrections Course.

Course Requirements

(a) Except as provided in 259-008-0035, all corrections officers hired by the Oregon Department of Corrections (hereinafter referred to as DOC) on or after July 1, 2009, but prior to January 1, 2014, must satisfactorily complete the DOC Basic Corrections Course (hereinafter referred to as DOC BCC), including the field training portion. The DOC BCC and field training portion must be completed within twelve months from the date of employment by a corrections officer.

(b) Prior to attending a DOC BCC, a corrections officer hired by DOC on or after July 1, 2009, but prior to January 1, 2014, must:

(A) Meet the minimum standards for employment as a law enforcement officer contained in OAR 259-008-0010;

(B) Meet the background investigation requirements for a law enforcement officer contained in OAR 259-008-0015; and

(C) Meet the minimum standards for training contained in this section.

(c) The DOC BCC must conform to the content and standard approved by the Board. The DOC BCC must include, but is not limited to:

(A) Minimum training standards for the basic certification of corrections officer employed by DOC. The minimum training developed by DOC must be adopted by the Board and must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than DOC.

(B) Minimum Course Hours. The DOC BCC must include, at a minimum, the following:

(i) 24 hours in Law;

(ii) 38 hours in Human Behavior,

(iii) 36 hours in Security;

(iv) 82 hours in General Skills.

(v) Administrative time is not included within the hours identified above.

(C) Attendance Standards. Attendance rosters must be kept and copies of these rosters must be submitted to the Department at the conclusion of a student's training, or when requested by the Department. To successfully complete the DOC BCC, a student may not miss more than 10% of the DOC BCC.

(D) Notwithstanding (C) above, successful completion of the DOC BCC requires 100% attendance at the following mandatory classes:

(i) ORPAT

(ii) Defensive Tactics/Reality Based Training

(iii) Firearms

(iv) Medical Escorts/Restraints

(v) Contraband/Searches

(vi) Report Writing

(E) Conduct. An individual attending a DOC BCC is expected to uphold the minimum moral fitness standards for Oregon public safety officers during their training. DOC will document the date, type, and disposition of any student misconduct relating to the minimum standards for correctional officers. These include but are not limited to the following Zero Tolerance Offenses:

(i) Any unlawful act;

(ii) Dishonesty, lying or attempting to conceal violations;

(iii) Cheating;

(iv) Harassment;

(vi) Alcohol possession or use at the training venue.

(F) Course Curriculum.

(i) The DOC BCC will be based on the critical and essential job tasks identified in the most current Job Task Analysis for corrections officers provided to DOC by the Department.

(ii) The DOC BCC will incorporate the most current conceptual performance objectives provided to DOC by the Department.

(iii) The DOC BCC will incorporate curriculum updates provided to DOC by the Department, when those updates address the critical and essential job tasks or conceptual performance objectives referenced above.

Testing Requirements

(G) Academic Testing. Academic testing will consist of written test questions that are valid, create reasonable academic rigor, and require students to demonstrate knowledge and application of the essential tasks identified within the DOC BCC curriculum. DOC must administer examinations and maintain a file of examinations conducted.

(i) Academic Testing Passing Score. Except as provided below, to successfully complete the DOC BCC, students must achieve a minimum score of 75% on each academic test. If a student does not attain a 75% score, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. After remediation, a student will be allowed one opportunity to re-test and achieve a minimum score of 75%.

(ii) Students must attain a score of 100% on all academic test questions on Use of Force topics.

(iii) If a student fails to attain a 100% score on Use of Force topics, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. Remediation must include the student completing the DPSST Use of Force Remediation form to demonstrate understanding of each topic missed.

(H) Skills Testing. Skills testing will consist of evaluations documented by use of Skills Sheets during which students must demonstrate competence and achieve a “pass” score in each skill tested.

(I) Test Security and Integrity.

(i) DOC must develop and strictly enforce measures to ensure the security of test questions and integrity of all testing processes.

(ii) DOC must randomize the order of test questions and must develop a sufficient bank of test questions to ensure that students who fail to achieve a passing score and are remediated are given a randomized test that includes some questions that are different than those in the test the student originally failed.

Instructor Requirements

(J) Instructor Qualifications. All instructors for the DOC BCC must meet or exceed the Instructor Certification standards for instructors at DPSST Basic courses and must be currently certified by the Department in the categories instructed.

Documentation Requirements

(K) Required documentation for the DOC BCC must include, but is not limited to:

(i) Name, DPSST number and employing institution of each student;

(ii) Topics;

(iii) Number of training hours per topic;

(iv) Name, DPSST number, and topics taught for all instructors utilized;

(v) Total hours attended per student;

(vi) Any student absences;

(vii) Any remediation of training;

(viii) Any instructor notes or observations relating to any students' performance during the training; and

(ix) All academic and skills testing for each student.

Certification Requirements

(L) Officer Certification. The applicant must meet the minimum standards for certification as a corrections officer contained in OAR 259-008-0060. DOC must submit the following documents at the time Basic certification is requested:

(i) F-7 (Application for Certification);

(ii) F-6 (Course Roster) for DOC BCC including the number of hours and the final cumulative score;

(iii) F-6 (Course Roster) for DOC Advanced Corrections Course with attached itemized list of classes attended;

(iv) Proof of current First Aid/CPR;

(v) F-11 (Criminal Justice Code of Ethics); and

(vi) FTO Manual Completion Report.

~~(6)~~ **(7) Waiver.** A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

ACTION ITEM 1: Determine whether to approve filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to approve filing the proposed language for OAR 259-008-0025 with the Secretary of State as a permanent rule if no comments are received.

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

Appendix L

Department of Public Safety Standards and Training Memo

Date: August 18, 2009
To: Corrections Policy Committee
From: Bonnie Narváez
Subject: OAR 259-008-0060(18) – Proposed Rule
Multi-Discipline - Maintenance Training Reporting

Issue: The Department is seeking to update and simplify the process for reporting maintenance training for law enforcement officers who also hold certification as telecommunicators or emergency medical dispatchers. Staff is seeking a series of rule changes related to this process. As part of our review, staff identified an inconsistency in the use of the term “multi-discipline certification” within our administrative rules. Although the rule discusses “multi-discipline certification” in relation to an individual’s employment by a law enforcement unit, the rule currently includes requirements related solely to those who are certified as both a telecommunicator and an emergency medical dispatcher.

Staff requests a technical clean-up to OAR 259-008-0060(18) to eliminate the reference to those with telecommunications and EMD certification within the portion of the rule that is designed to address law enforcement officers’ multi-discipline certification requirements.

We are also recommending changes to the references to reporting maintenance training, for consistency with the changes being requested elsewhere, and with the current practices for reporting police maintenance training. Additional housekeeping changes are made for clarity.

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~struckthrough text~~). For ease of review, only the relevant portion of the rule has been provided.

259-008-0060 **Public Safety Officer Certification**

* * *

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

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

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

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

(A) For **a law enforcement officer who also holds the EMD certification certificate**; a minimum of four (4) hours of training, specific to **this the EMD discipline**, must be reported annually ~~on a Form~~ **as required under OAR 259-008-0064 F-15M.**

(B) For **a law enforcement officer who also holds the Telecommunicator certification**, a minimum of twelve (12) hours of training, specific to **this the Telecommunicator discipline**, must be reported annually **as required under OAR 259-008-0064.** ~~on a Form F-15M.~~

(C) ~~For all other disciplines, a~~ **A** minimum of twenty (20) hours of training, specific to each **law enforcement discipline** in which certification is held, must be reported annually **as required under subsections (h) through (l) of this rule** ~~on a Form F-15M.~~

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

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

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

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

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

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

(A) Notify the Department of the training status of any law enforcement officer identified as deficient in submitting a Form F-15M or F-15T to the Department; and

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

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

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

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

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

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

(l) A law enforcement officer with a recalled certification is prohibited from being employed in any position that has been recalled.

(e) Failure to comply with subsection (c) of this rule shall result in the recall of the multi-discipline certification by the Board.

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

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

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

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654, 181.665

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

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

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a permanent rule if no comments are received.

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