

# Corrections Policy Committee Minutes November 17, 2009

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 17, 2009 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Todd Anderson called the meeting to order at 1:34 p.m.

## **Attendees:**

### **Committee Members:**

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

### **Committee Members Absent:**

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

### **Guests:**

Eric Douglass, Marion County Sheriff's Office

### **DPSST Staff:**

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



## **1. Minutes (September 3, 2009)**

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

*See Appendix A for details.*

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

## **2. OAR 259-001-0017 – Proposed Rule**

Records Retention

Presented by Marilyn Lorance

*See Appendix B for details.*

*Mitchell Southwick moved that the committee approve filing the proposed language for OAR 259-001-0017 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously.*

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

**3. OAR 259-008-0040 – Proposed Rule**

Period of Service

Presented by Marilyn Lorange

*See Appendix C for details.*

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

**4. Laure D. Akers – DPSST #19823**

Presented by Scott Willadsen

*See Appendix D for details*

- *Raimond Adgers moved that the policy committee adopts the staff report as the record upon which its recommendations are based. Marie Tyler seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
  - a. Identify the conduct that is at issue.
  - b. The identified conduct *did* involve **Dishonesty**. *Lied to Sergeant; falsification of log entries*
  - c. The identified conduct *did* involve a **Disregard for the Rights of Others**. *Pitting staff against inmates; Inmate placed in solitary confinement as result of AKERS' lie.*
  - d. The identified conduct *did not* involve **Misuse of Authority**.
  - e. The identified conduct *did not* involve **Gross Misconduct**.
  - f. The identified conduct *did* involve **Misconduct**. *Created attitude of distrust*
  - g. The identified conduct *did* involve **Insubordination**. *Disrespect towards superior; Did not comply with work plan set in place for her.*
- By discussion and consensus, the policy committee must identify and consider any mitigating and aggravating circumstances. *The policy committee did not identify any mitigating circumstances. However, the policy committee stated several aggravating factors including: AKERS' inclusion of several coworkers by her displacement of blame and her refusal to accept responsibility for her actions; she was involved in eight separate instances*

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

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

5. **Steven J. Fast – DPSST #40295**

Presented by Scott Willadsen

See Appendix E for details

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

6. **Andrew Harris – DPSST #34656**

Presented by Scott Willadsen

See Appendix F for details

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

## 7. Additional Business

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

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

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

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

## **8. Additional Business**

Presented by Eriks Gabliks

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

## **9. Next Regularly Scheduled Meeting**

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

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

## **Appendix A**

# **Corrections Policy Committee Minutes (Draft) 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



#### 10. 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.*

#### 11. 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.*

## **12. 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.*

## **13. 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:
  - h. Identify the conduct that is at issue.
  - i. The identified conduct *did not* involve **Dishonesty**.
  - j. The identified conduct *did not* involve a **Disregard for the Rights of Others**.
  - k. The identified conduct *did not* involve **Misuse of Authority**.
  - l. The identified conduct *did not* involve **Gross Misconduct**.

- m. The identified conduct *did* involve **Misconduct**. *Violation of law and failure to report.*
- n. 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.*

#### 14. 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:
  - h. Identify the conduct that is at issue.
  - 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 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.*

**15. 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:
  - h. Identify the conduct that is at issue.
  - i. The identified conduct *did* involve **Dishonesty**. *Dishonest about relationship with inmate.*
  - j. The identified conduct *did not* involve a **Disregard for the Rights of Others**.
  - k. The identified conduct *did* 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 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.*

**16. 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:
  - a. 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.*

#### **17. 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.*

## **18. 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.

**19. 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.***

**20. 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.***

## **21. 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.**

## **22. 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 B

### Department of Public Safety Standards and Training Memo

**Date:** October 20, 2009  
**To:** Corrections Policy Committee  
**From:** Bonnie Narváez  
**Subject:** OAR 259-001-0017 – Proposed Rule  
Records Retention

**Issue 1:** Professional Standards staff recently requested records related to a professional standards investigation from a private entity that employs public safety professionals. The private entity advised the Department that they had not retained any documentation of the employee investigation, or other personnel records that would have been relevant to DPSST's investigation of the individual's qualification to hold public safety certification.

Because all individuals who hold public safety certification are required to meet the same minimum standards, regardless of whether they work for a public safety agency or a private safety agency that employs public safety personnel (generally emergency medical dispatchers), the Department recommends that an administrative rule be adopted to require that all agencies under DPSST jurisdiction must retain records subject to review or inspection by DPSST in a manner consistent with the records retention requirements of the Oregon Secretary of State's Archives Division. Public Safety Agencies are already statutorily obligated to comply with these records retention requirements.

The following new language for OAR 259-001-0017 contains recommended additions (**bold and underlined**) to the Department's rules.

#### **259-001-0017**

##### **Public Records**

**(1) A private safety agency that employs a public safety professional subject to the Department's certification requirements must retain all documentation related to a public safety professional's employment, training and certification in a manner, and for the period of time, consistent with the requirements of the Secretary of State's administrative rules relating to records retention by public bodies.**

**(2) Documentation related to a public safety professional's employment, training and certification includes, but is not limited to:**

**(a) Any documentation related to an employment investigation, or pending or final disciplinary action related to a Public Safety Professional;**

**(b) A Public Safety Professional's personnel record, including any documentation related to a personnel investigation or disciplinary action;**

**(c) A Public Safety Professional's training record;**

**(d) A Public Safety Professional's payroll records.**

**Stat. Auth.: ORS 181.640**

**Stats. Implemented: ORS 181.640**

**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-001-0017 with the Secretary of State as a proposed rule.

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-001-0017 with the Secretary of State as a permanent rule if no comments are received.

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

## Appendix C

### Department of Public Safety Standards and Training Memo

**Date:** October 20, 2009  
**To:** Corrections Policy Committee  
**From:** Bonnie Narváez  
**Subject:** OAR 259-008-0040 – Proposed Rule  
Period of Service

**Issue 1:** An individual who fails to obtain certification within 12 months (corrections) or 18 months (all other disciplines) of employment is prohibited from being employed as a public safety professional, unless the Department has granted an extension of time to become certified.

The Department has noticed that a small number of employers have been changing their employees' status from certifiable to non-certifiable positions when the maximum period and all extension periods to become certified have expired; and then reinstating the employee to a certifiable position after a period of only a few months, thus re-starting the 18-month certification "clock."

The Department recommends incorporating the following language into current rules governing periods of service, to allow us to address this issue when it occurs and ensure that public safety professionals receive needed training within the time frames required by law.

The following revised language for OAR 259-008-0040 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~). Additional housekeeping changes have been made for clarity and readability.

#### **259-008-0040**

##### **Period of Service**

(1) A law enforcement officer, telecommunicator, or emergency medical dispatcher **who is** not currently certified ~~shall~~ **must** satisfactorily complete a period of service of ~~not~~ **no** less than nine (9) months **of service** in the field in which they are employed, to be eligible for certification. This requirement ~~shall~~ **does** not apply to a department head.

(2) No person ~~shall~~ **may** be employed as a police officer, parole and probation officer, telecommunicator, or emergency medical dispatcher for more than 18 months unless that officer, telecommunicator, or emergency medical dispatcher has been certified under the provisions of ORS 181.610 to 181.705 and the certification has neither lapsed nor been revoked.

(3) No person ~~shall~~ **may** be employed as a corrections officer for more than one (1) year unless that officer has been certified under the provisions of ORS 181.610 to 181.705 and the certification has neither lapsed nor been revoked.

**(4) For purposes of this rule, the Department will count all periods of full-time employment identified in subsection (2) and (3) in the aggregate if:**

**(a) An individual was reclassified from a certifiable position to a non-certifiable position for a period of less than six months; and**

**(b) The individual is then returned to a certifiable position in the same discipline, while employed with the same employer.**

~~(4)~~ **(5)** The Board or its designee, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in section (2) of this rule. If the Board finds that there is good cause for such failure, the Board may extend for up to one year the period that a person may serve as a law enforcement officer, telecommunicator, or emergency medical dispatcher without certification. The grant or denial of such an extension is within the sole discretion of the Board.

~~(5)~~ **(6)** The Board, or its designee, may further extend the time period for a law enforcement officer, telecommunicator, or emergency medical dispatcher who has been deployed to full-time active military duty during the time period described in section (2) or (3) of this rule. Conditions for certification upon an officer's return to his/her employer, may include, but are not limited to:

(a) Remediation of Basic course;

(b) Successful completion of Career Officer Development Course;

(c) Demonstrated proficiency of skills and ability;

(d) F-2 (Medical Form).

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-008-0040 with the Secretary of State as a proposed rule.

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-008-0040 with the Secretary of State as a permanent rule if no comments are received.

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

## Appendix D

### Department of Public Safety Standards and Training Memorandum

**DATE:** November 17, 2009

**TO:** Corrections Policy Committee

**FROM:** Scott Willadsen  
Professional Standards Coordinator

**SUBJECT:** Laure D. Akers DPSST #19823

#### **ISSUE:**

Should Laure AKERS' Basic, Intermediate and Advanced Corrections Certifications be revoked based on her discretionary disqualifying misconduct defined in OAR 259-008-0070, and as referenced in OAR 259-008-0010?

#### **BACKGROUND and OVERVIEW**

*This case involves the following actions and processes related to AKERS:*

*In 1991 AKERS was employed with the Multnomah County Sheriff's Office as a corrections officer where she continued to serve until 2002. AKERS was then hired by the Clatsop County Sheriff's Office and served there until she resigned in lieu of termination in 2009. AKERS signed her F11, Criminal Justice Code of Ethics in 1991. AKERS holds Basic, Intermediate and Advanced Corrections certifications.*

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

*On June 3, 2009, DPSST mailed AKERS a letter advising her that her case would be heard before the Corrections Policy Committee and invited her to provide mitigating circumstances on her behalf for the Committee's consideration; these letters were returned. DPSST sought updated contact information from DOJ Watch Center and on June 11, 2009 mailed AKERS the notification letter to two addresses.*

*On June 16, 2009, DPSST received a copy of a signed Settlement Agreement between AKERS and Multnomah County.*

*On July 13, 2009, AKERS requested and was granted an extension to August 11, 2009 then again on August 10, 2009, AKERS requested and was granted another extension to September 1, 2009, to allow AKERS an opportunity to provide mitigating circumstances for the Corrections Policy Committee's consideration. However, to date, DPSST has not received any information from AKERS.*

**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 AKERS Basic, Intermediate and Advanced Corrections Certifications, based on her discretionary disqualifying misconduct.

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

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING  
OF THE STATE OF OREGON

In the Matter of the Revocation of the Basic,  
Intermediate and Advanced Corrections  
Certifications Issued to:

**LAURE D. AKERS**  
DPSST No.: 19823

**DEPARTMENT EXHIBIT LIST**

EXHIBIT #	DESCRIPTION	OFFERED	ADMITTED
A1	04 24 09 3-pg DPSST Employee Profile - AKERS		-
A2	03 01 09 DPSST F4, Personnel Action Report		
A3	06 26 91 DPSST F11, Criminal Justice Code of Ethics		-
A4	04 24 09 Letter to/from KING/BERGIN		-
A5	05 18 09 Email from KING to BERGIN		-
A6	02 09 09 8-pg Pre-Disciplinary Meeting Notification		-
A7	09 11 08 10-pg Summary of IA – On-duty Injury		-
A8	12 11 08 5-pg IA – CULP		-
A9	12 03 08 Disciplinary Corrective Action - CLUP		
A10	06 03 09 Letter from KING to AKERS with Stipulated Order and Returned Mail		
A11	06 10 09 3-pg Email to/from KING/Watch Center		
A12	06 11 09 Letters from KING to AKERS, Certified Mail Return Receipt and returned letters		
A13	06 16 09 2-pg Email to/from KING/BLITZ		
A14	5-pg Settlement Agreement		
A15	06 17 09 Email to/from KING/BLITZ		
A16	06 23 09 2-pg Email to/from KING/BLITZ/GILLOTA		
A17	07 13 09 2-pg Email to/from WILLADSEN/AKERS		
A18	08 10 09 Email to/from WILLADSEN/AKERS		

## Appendix E

### Department of Public Safety Standards and Training Memorandum

**DATE:** November 17, 2009  
**TO:** Corrections Policy Committee  
**FROM:** Scott Willadsen  
Professional Standards Coordinator  
**SUBJECT:** Steven J. Fast DPSST #40295

#### **ISSUE:**

Should Steven FAST'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 FAST:*

*In 2002 FAST was employed with the Oregon Department of Corrections as a corrections officer and signed his F11, Criminal Justice Code of Ethics, in that year. FAST holds Basic and Intermediate Corrections certifications.*

*FAST was arrested for Theft 3 in February 2009 and received a conviction on April 16, 2009. FAST resigned from the Oregon Department of Corrections on April 3, 2009 during an investigation.*

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

*In June 2009, DPSST mailed FAST 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 FAST has not provided materials for the Committee's review.*

*In July 2009, DPSST requested clarification regarding the investigation that was being conducted when FAST resigned. DPSST requested and received a second, separate investigation not related to the Theft 3 arrest and conviction.*

#### **DISCUSSION:**

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

#### **STANDARD OF PROOF:**

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

## **DISCRETIONARY DISQUALIFYING MISCONDUCT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **POLICY COMMITTEE AND BOARD REVIEW:**

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

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

## **ACTION ITEM 1:**

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

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:

- a. Identify the conduct that is at issue.
  - b. The identified conduct *did/did not* involve **Dishonesty**.
  - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
  - d. The identified conduct *did/did not* involve **Misuse of Authority**.
  - e. The identified conduct *did/did not* involve **Gross Misconduct**.
  - f. The identified conduct *did/did not* involve **Misconduct**.
  - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
  4. By vote, the Policy Committee finds FAST'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.

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING  
OF THE STATE OF OREGON

In the Matter of the Revocation of the Basic  
and Intermediate Corrections Certifications  
Issued to:

**STEVEN J. FAST**  
DPSST No.: 40295

**DEPARTMENT EXHIBIT LIST**

EXHIBIT #	DESCRIPTION		OFFERED	ADMITTED
A1	10 19 09	2-pg DPSST Employee Profile - FAST		-
A2	04 03 09	DPSST F4, Personnel Action Report		
A3	09 30 02	DPSST F11, Criminal Justice Code of Ethics		-
A4	06 09 09	Records Request – Incident Report		-
A5	02 27 09	5-pg Incident Report		-
A6	02 27 09	Property Report		-
A7	02 27 09	Copy of Citation #292113		-
A8	02 27 09	SPD Dispatch Comments		-
A9	06 09 09	Records Request - Judgment		-
A10	06 11 09	Certification of Record		-
A11	10 19 09	2-pg OJIN print-out		-
A12	04 16 09	Marion County Court Information		-
A13	04 16 09	Waiver of Attorney		-
A14	04 16 09	2-pg Petition to Enter Plea		-
A15	04 16 09	Judgment		-
A16	06 08 09	Letter from KING to FAST, Stipulated Order, Certified Mail Return Receipt		-
A17	07 16 09	80-pg fax from ARCHDEACON to WILLADSEN including Oregon State Police Incident Report		-
A18	10 20 09	3-pg OJIN print-out		

## Appendix F

### Department of Public Safety Standards and Training Memorandum

**DATE:** November 17, 2009  
**TO:** Corrections Policy Committee  
**FROM:** Scott Willadsen  
Professional Standards Coordinator  
**SUBJECT:** Andrew Harris DPSST #34656

#### **ISSUE:**

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

#### **BACKGROUND and OVERVIEW**

*This case involves the following actions and processes related to HARRIS:*

*HARRIS was employed with the Lane County Community Corrections from 1997 until 2002 when he resigned. During this time he obtained his Basic Parole and Probation Officer Certification.*

*HARRIS became employed with the Multnomah County Community Justice in 2008 and received a probationary discharge that same year. In 2008 HARRIS signed his F11, Criminal Justice Code of Ethics.*

*DPSST requested, and received, information from the employer about the circumstances or events that led to HARRIS' probationary discharge. On January 27, 2009, DPSST mailed a letter to HARRIS advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. On January 29, 2009, and again on February 19, 2009, HARRIS provided letters for the CPC.*

*DPSST requested, and received, information from HARRIS' prior employer and supervisors to determine whether there was a pattern of behavior.*

#### **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 HARRIS' Basic Parole and Probation Certification, based on his discretionary disqualifying misconduct.

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

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING  
OF THE STATE OF OREGON

In the Matter of the Revocation of the Basic  
Parole and Probation Certification of:

**ANDREW D. HARRIS**  
DPSST No.: 34656

**DEPARTMENT EXHIBIT LIST**

EXHIBIT #	DESCRIPTION	OFFERED	ADMITTED
A1	04 16 09 2-pg DPSST Employee Profile - HARRIS		-
A2	01 29 08 F11, Criminal Justice Code of Ethics		
A3	11 26 08 Letter from TURLEY to TAYLOR		-
A4	12 16 08 Letter from VEACH to TURLEY		-
A5	11 07 08 Letter from CRISWELL to HARRIS with 5-pg attachments		-
A6	01 27 09 Letter from KING to HARRIS with Stipulated Order, Certified Mail Return Receipt		-
A7	01 29 09 2-pg letter from HARRIS to KING		-
A8	02 19 09 3-pg letter from HARRIS to KING		-
A9	04 16 09 Letter from KING to UTECHT, with fax		
A10	04 30 09 Fax from Lane County for KING with letter from KING to UTECHT attached		
A11	03 11 02 3-pg Employment Separation Agreement		
A12	13-pg Handwritten Notes of "Andy Harris Weingarten prep"		
A13	03 14 01 8-pg Lane County Administrative Procedures Manual		
A14	05 18 09 4-pg DPSST Employee Profile - COPPERWHEAT		
A15	05 18 09 2-pg COPPERWHEAT Affidavit		
A16	05 19 09 3-pg DPSST Employee Profile - NELSON		
A17	05 20 09 Letter from KING to NELSON with Certified Mail Return Receipt		
A18	06 09 09 4-pg E-mail from KING to NELSON with Attached Draft Affidavit		
A19	08 20 09 3-pg NELSON Affidavit		
A20	06 09 09 6-pg DPSST Employee Profile - BARKER		
A21	06 09 09 Letter from KING to BARKER with Certified mail Return Receipt		
A22	06 12 09 5-pg E-mail from KING to BARKER with Attached Draft Affidavit		
A23	06 16 09 3-pg BARKER Affidavit		