

Corrections Policy Committee Minutes May 18, 2010

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, May 18, 2010 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Todd Anderson called the meeting to order at 1:33 p.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Raimond Adgers, Oregon Sheriff's Jail Command Council
Tom Cramer, Department of Corrections Training Division Director
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Nancy Howton, Department of Corrections Security Manager
Amanda Rasmussen, Non-Management Corrections Officer
Lisa Settell, Parole and Probation Officer
Diana Simpson, Oregon State Sheriff's 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
Ida Rovers, Department of Corrections, Women's Correctional Facility

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorance, Certification and Records Supervisor
Mindy Tucker, Professional Standards Coordinator
Carolyn Kendrick, Administrative Specialist
Theresa King, DOC Audit Team Coordinator
Ryan Keck, Training Coordinator
Steve Winegar, Education Program Specialist



Chair Todd Anderson announced that this is Thomas Wright's last meeting and thanked him for his 6 years of service on the Corrections Policy Committee.

1. Minutes (February 16, 2010)

Approve the minutes of the February 16, 2010 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved to approve the minutes of the February 16, 2010 Corrections Policy Committee meeting as written. Michael Gower seconded the motion. The motion carried unanimously.

2. **Malinda R. Hoffman – DPSST #43735**

Presented by Mindy Tucker

See Appendix B for details

- *Raimond Adgers moved that the Corrections 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 based on HOFFMAN's lies about the timesheet issue, falling asleep on the job, and her relationship with an inmate.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others. She put others at risk by sleeping on the job and her angry outburst.**
 - d. The identified conduct did involve **Misuse of Authority regarding payroll issues.**
 - e. The identified conduct did involve **Gross Misconduct by sleeping on the job.**
 - f. The identified conduct did involve **Misconduct regarding the payroll issue and the relationship with an inmate.**
 - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as aggravating circumstances HOFFMAN's use of narcotics, the fact that she had to be addressed regarding timesheet issues multiple times, and the fact she could have fixed her timesheet any number of times. The only mitigating circumstance identified by the committee was how the payroll system was initially set up; supervisors gave employees authority to change timesheets.*
- *Diana Simpson moved that the Corrections Policy Committee finds HOFFMAN's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Raimond Adgers seconded the motion. The motion carried unanimously.*
- *Marie Tyler moved to recommend to the Board that HOFFMAN's misconduct is a lifetime disqualifier; she may never reapply for certification. Michael Gower seconded the motion. The motion carried unanimously.*

3. **Kristine M. Phillips – DPSST #28751**

Presented by Mindy Tucker

See Appendix C for details

Erik Douglass recused himself from voting due to his probable future involvement with PHILLIP's employment reinstatement.

- *Diana Simpson moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion. The motion carried unanimously by all voting with Erik Douglass abstaining.*
- *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 regarding the holding cell issue and the possible abuse that could have occurred.*
 - d. *The identified conduct did involve Misuse of Authority.*
 - e. *The identified conduct did involve Gross Misconduct by creating a danger and/or risk to inmate with handcuffing issue.*
 - f. *The identified conduct did involve Misconduct based on violation of the law.*
 - g. *The identified conduct did not involve Insubordination.*
- *By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. The committee stated PHILLIP's honesty regarding all misconduct as a mitigating circumstance and the fact that by accounts she tried to help inmates. Identified aggravating circumstances include: PHILLIP's put her and the agency in huge liability; she advocated sexual behavior in the holding cell; and that public perception could be severely damaged.*
- *Marie Tyler moved that the Corrections Policy Committee finds PHILLIPS' conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Thomas Wright seconded the motion. The motion carried unanimously by all voting with Erik Douglass abstaining.*
- *Diana Simpson moved that the Corrections Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be 15 years from the date of revocation. Marie Tyler seconded the motion. The motion carried unanimously by all voting with Erik Douglass abstaining.*

4. Mary M. Tanner – DPSST #34397

Presented by Mindy Tucker

See Appendix D for details

After much discussion, the committee agreed to let the record show that even though TANNER did not personally receive the call, she still should have responded. It is the consensus that this new information does not change the previous consensus of the committee regarding the Disregard for the Rights of Others, and in fact all items voted on last meeting remain the same.

- *Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Amanda Rasmussen 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 Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
- By vote, the Corrections Policy Committee finds TANNER's conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*. *The committee clarified the scope of their decisions at the current meeting, since they had already voted unanimously on this matter at the February 2010 meeting and recommended the revocation of TANNER's certifications. Based on their discussion, it was the consensus of the committee that the vote stands from the previous meeting.*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that TANNER's misconduct remains a lifetime disqualifier; she may never reapply for certification. Amanda Rasmussen seconded the motion. The motion carried unanimously.*

{
*There was no change
 in these items from
 the last meeting dated
 Feb. 16, 2010.*
 }

5. **Matthew P. Lytle – DPSST #43767**

Presented by Mindy Tucker

See Appendix E for details

- *Amanda Rasmussen moved that the Corrections 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 based on the lie regarding use of the meal card—knowing the rules and regulations; and the lie by omission of the DUII**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others, those paying his way through the academy**.

- d. The identified conduct ***did*** involve **Misuse of Authority**. *He obtained a benefit for his brother. The DUI is a misuse of public trust.*
 - e. The identified conduct ***did not*** involve **Gross Misconduct**.
 - f. The identified conduct ***did*** involve **Misconduct by violation of standards and training**.
 - g. The identified conduct ***did not*** involve **Insubordination**.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The fact that LYTLE did not take any responsibility for his actions and in fact transferred blame for them greatly aggravated the committee. The committee identified the letter that LYTLE wrote—specifically his stated lack of training as a possible mitigating circumstance.*
 - *Marie Tyler moved that the Corrections Policy Committee finds LYTLE’s conduct does rise to the level to warrant the denial of his application for training and subsequent certification(s); and therefore recommends to the Board that LYTLE’s application for training and subsequent certification(s) be denied. Thomas Wright seconded the motion. The motion carried unanimously.*
 - *Raimond Adgers moved that the Corrections Policy Committee recommend to the Board that LYTLE’s misconduct is a lifetime disqualifier; he may never reapply for certification. Marie Tyler seconded the motion. The motion carried unanimously.*

6. CORPAT for Corrections

Presented by Steve Winegar

See Appendix F for details

DPSST needs justification—an anchor—to adopt some kind of time standard for a corrections physical ability test. Modifications of the tasks to make the test more appropriate for corrections will impact the average completion time for CORPAT. DPSST needs more basic data on the revised test and to look at injuries and success rates with corrections officers as we move forward. This will take another three to four years to accomplish.

Michael Gower moved that the Corrections Policy Committee recommend that DPSST continue the studies for CORPAT with the goal of someday having the data to implement a Corrections-based Physical Abilities Test. Marie Tyler seconded the motion. The motion carried unanimously.

7. Standards and Certification DOC Audit Team Update

Presented by Theresa King

See Appendix G for details

Staff shared that the DPSST DOC Audit team has compared DOC’s basic corrections program with DPPST’s basic corrections program in terms of the job task analysis, the performance objectives

(which are conceptual objectives), and also the testing measures and have determined that in most categories the DOC program exceeded the state standards.

Staff asked if reports being supplied are acceptable to the committee and if not asked for additional direction for the Audit Team. A compilation of these reports will be presented at the next legislative session as mandated. Source documents are available to view for more in-depth detail. DOC thanked the Audit Team for their efforts and collaboration.

8. Basic Corrections Local Course Update

Presented by Ryan Keck

See Appendix H for details

The majority of the basic corrections curriculum has been completely or significantly revised to suit local correctional facilities. DPSST has recruited new agency loaned instructors from local facilities. Staff tried to create parody with the basic police program by including physical training, more scenario based training, ethics course and testing protocol in the revised curriculum.

DPSST will conduct its first class for current police officers training for local corrections in October 2010. It will be a 2 week course covering only materials not covered in the basic police program. This is will also be a good course for supervisors to take who move to different departments throughout their agencies.

Students are very pleased with current local basic corrections training. They share that their confidence level at the end of the class is increased. With new instructors and material students feel better prepared upon graduation.

9. Additional Business

Presented by Eriks Gabliks

DPSST is working on the 2011-13 budget. We are submitting to regain the leadership program and asking for regional training to be restored. DPSST has been asked to work a reduction of 25% in 5% increments as an exercise. This is still a work in progress. We will keep you posted.

10. Next Regularly Scheduled Meeting

The next regularly scheduled meeting is August 17, 2010 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 4:12 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) February 16, 2010

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, February 16, 2010 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Todd Anderson called the meeting to order at 1:36 p.m.

Attendees:

Committee Members:

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

Committee Members Absent:

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

DPSST Staff:

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



11. Minutes (November 17, 2009)

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

See Appendix A for details.

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

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

Definition(s) – “Leave”
Presented by Marilyn Lorange

See Appendix B for details.

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

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

Personnel Action Reports related to “Leave”

Presented by Marilyn Lorange

See Appendix C for details.

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

Extension of Time Limit related to “Leave”

Presented by Marilyn Lorange

See Appendix D for details

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

Public Safety Officer Certification related to “Leave”

Presented by Marilyn Lorange

See Appendix E for details

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

Lapsed Certification related to “Leave”

Presented by Marilyn Lorange

See Appendix F for details

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

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

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

17. Adelina Garcia – DPSST #48093

Presented by Kristen Turley

See Appendix G for details

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

18. Richie Goss – DPSST #17319

Presented by Kristen Turley

See Appendix H for details

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

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

19. Tina M. Holbrook – DPSST #34808

Presented by Kristen Turley

See Appendix I for details

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

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

20. Christopher G. Maestas – DPSST #40074

Presented by Kristen Turley

See Appendix J for details

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

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

21. Richard M. Mitchell – DPSST #41867

Presented by Kristen Turley

See Appendix K for details

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

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

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

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

22. Lisa K. Phillips – DPSST #35703

Presented by Kristen Turley

See Appendix L for details

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

23. Shane Scarborough – DPSST #49815

Presented by Kristen Turley

See Appendix M for details

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

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

24. Mary M. Tanner – DPSST #34397

Presented by Kristen Turley

See Appendix N for details

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

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

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

25. Additional Business

Presented by Eriks Gabliks

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

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

26. Next Regularly Scheduled Meeting

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

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

Appendix B

DEPARTMENT of PUBLIC SAFETY STANDARDS AND TRAINING

DATE: May 18th, 2010
TO: Corrections Policy Committee
FROM: Mindy S. Tucker
Professional Standards Investigator/Coordinator

SUBJECT: Malinda R. HOFFMAN, DPSST #43735

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

BACKGROUND and OVERVIEW

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

On November 24, 2003, HOFFMAN was hired by the Lane County Sheriff's Office as a corrections officer.

On February 16, 2004, HOFFMAN signed her Criminal Justice Code of Ethics.

On February 3, 2005, HOFFMAN was granted a Basic Corrections Certificate.

On February 27, 2009, HOFFMAN was discharged for cause.

DPSST sought and obtained the investigation that led to HOFFMAN's discharge. DPSST subsequently sought prior misconduct investigations against HOFFMAN.

On April 28, 2009, DPPST issued HOFFMAN a Notice of Intent to Revoke Certifications based on an independent review of the facts. HOFFMAN made a timely request for a hearing and sought to stay the revocation proceedings pending an arbitration Finding. DPSST granted the stay.

In November 2009, DPSST received and reviewed the arbitrator's findings. On page 15 of the Findings the arbitrator states, in part, "There is probative evidence that grievant engaged in the misconduct for which she is charged . . . Facts and acknowledgements by grievant that undercut her explanations for forgetting serve to render the evidence against her and a conclusion that she violated Rule 28, Truthfulness, in General Order 4.02 when she clicked the election box on the timecard certifying that it was accurate and correct at that time. There was no error or mistake by grievant. . . . [page 17] . . . Since grievant violated [General Order 4.02] Rule 28 and the County's investigative protocol violate due process, the remedy is no back pay for grievant as the corrective action for the Rule 28 violation and the remedy for the due process violation is reinstatement of grievant to her position pursuant to a last chance agreement based on conduct that violates General Orders . . ."

Relating to an arbitrator's findings, staff reviewed the Oregon Administrative Rules 259-008-0070(9)(c)(E) that state, in part, "In misconduct cases in which there has been an arbitrator's opinion related to the public safety professional's . . . employment, the Department will proceed as follows: (i) If the arbitrator's opinion finds that underlying facts support the allegations of

misconduct, the department will proceed as identified in paragraphs (A) through (D) of this subsection.” Sections (A) through (D) of this Rule require a review by the Policy Committee and Board. It is on this basis that Staff brings this matter to the Committee.

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

Subsequent to this, HOFFMAN sent documentation for the policy committee’s consideration in a timely manner. As part of HOFFMAN’s response, HOFFMAN submitted a copy of the Association’s Closing Arguments in arbitration. On April 8th, 2010, DPSST sought and obtained the Employer’s Closing Arguments in arbitration.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT:

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

(A) When the misconduct occurred in relation to the public safety professional’s or instructor’s employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional’s or instructor’s honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke HOFFMAN's Basic Corrections certification based on violation of the established moral fitness standards:

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

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

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

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

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

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: May 18, 2010
TO: Corrections Policy Committee
FROM: Mindy S. Tucker,
Professional Standards Investigator/Coordinator

SUBJECT: Kristine M. Phillips, DPSST #28751

ISSUE: Should Kristine PHILLIPS' Basic, Intermediate and Advanced Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

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

In November 1998, PHILLIPS was hired by the Marion County Sheriff's Office as a corrections deputy.

On March 16, 1994, PHILLIPS signed her Criminal Justice Code of Ethics.

On September 7, 1999, PHILLIPS was granted a Basic Corrections Certificate.

On September 7, 1999, PHILLIPS was granted an Intermediate Corrections Certificate.

On January 26, 2000, PHILLIPS was granted an Advanced Corrections Certificate.

On October 1, 2007, PHILLIPS was discharged for cause from the Marion County Sheriff's Office.

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

On May 22, 2008, DPSST issued PHILLIPS a Notice of Intent to Revoke Certifications, based on the discharge for cause. PHILLIPS made a timely request for a hearing and asked that the matter be stayed pending arbitration. DPSST granted the stay.

On June 9, 2008, Arbitrator Michael Cavanaugh issued a Decision and Award. The Arbitrator reinstated PHILLIPS' employment but determined that the underlying misconduct asserted by the employer did occur.

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

In January 2010, PHILLIPS provided a response for the Committee's consideration.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other

misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

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

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke PHILLIPS' certifications based on violation of the established moral fitness standards:

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

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

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

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

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

Appendix D

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING MEMORANDUM

DATE: May 18th, 2010
TO: Corrections Policy Committee
FROM: Mindy S. Tucker
Professional Standards Investigator/Coordinator
SUBJECT: Mary M. TANNER DPSST #34397

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

BACKGROUND and OVERVIEW

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

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

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

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

DPSST sought and obtained the investigation that led to TANNER's resignation. DPSST determined that this matter must be reviewed by the Corrections Policy Committee and mailed TANNER a letter advising her of the pending review and her opportunity to provide mitigating circumstances for the Committee's consideration. These documents were sent certified mail. TANNER did call DPSST and make inquiry into how DPSST had obtained the information and about the general review process. To date, TANNER has not provided information for the Committee's consideration.

On February 16, 2010, the Corrections Policy Committee (CPC) met and, after reviewing the facts of the case unanimously voted to recommend that TANNER's certifications be revoked based on her discretionary disqualifying misconduct.

1. In substance, the CPC adopted the Staff Report and associated documents as the record on which their recommendation was based.
2. The CPC determined that TANNER's misconduct involved *Dishonesty* when she was untruthful with her employer regarding response to a call. Additionally, she was told not to discuss a matter with others and she did discuss the matter, then lied to her employer about her misconduct.
3. The CPC determined that TANNER's misconduct involved *Disregard for the Rights of Others, Misuse of Authority and Gross Misconduct* when she failed to respond to a burglary alarm creating potential negative consequences. They noted that the public expects officers to respond to calls for service.

4. The CPC determined that TANNER's misconduct involved *Misconduct* when she failed to follow agency protocols.
5. The CPC determined that TANNER's misconduct involved *Insubordination* when she was clearly told not to say anything about a pending matter and she violated that specific directive.
6. The CPC determined that although TANNER attempted to mitigate her misconduct by asserting she was trying to protect someone else, this excuse was aggravating because she was actually engaging in the "code of silence" conduct, which cannot be tolerated in public safety.
7. The CPC unanimously determined that TANNER's misconduct was a lifetime disqualifier; she may never reapply to the CPC seeking certification.

Based on statutory changes made during the 2009 Legislative Session at the request of bargaining units, TANNER has been issued a Notice of Intent to Revoke Certifications, based on the Policy Committee vote. This vote precedes the Board's review in an effort to expedite the proceedings. If the Board does not affirm the Policy Committee's recommendation, the Department will issue a Withdrawal of Notice and Termination of Proceedings, pursuant to ORS 181.661(2)(c).

On March 9th, 2010, TANNER made a timely request for a hearing. This request has been forwarded to the Oregon Department of Justice, legal counsel for DPSST in preparation for a contested case hearing.

TANNER then contacted Pat GARRETT, Chief Deputy of Washington County Sheriff's Office (WCSSO), with her concerns involving the Notice she received from DPSST. TANNER asserted that the Notice did not accurately portray the findings of the WCSSO in reference to her failure to respond to a burglary alarm. GARRETT notified DPSST of TANNER's concerns. DPSST listened to the audio recording of the Corrections Policy Committee in which her case was discussed. DPSST had the TANNER portion of the February 16th, 2010 CPC meeting transcribed in preparation for review at its May 18th, 2010 meeting. Based on the information provided, DPSST determined the case should be returned to the CPC for reconsideration on the specific matter of the burglary alarm and whether the CPC's recommendation of revocation should be amended.

On March 23rd, 2010, DPSST issued a Withdrawal of Notice to TANNER.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

ACTION ITEM 1:

Staff requests the Police Policy Committee review the matter and make a recommendation to the Board whether or not to revoke TANNER's Basic Corrections and Police certifications based on violation of the established moral fitness standards:

1. By vote, the Corrections Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did/did not* involve **Dishonesty**.

- c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
 4. By vote, the Corrections Policy Committee finds TANNER's conduct *does/does not* rise to the level to warrant the revocation of her certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix E

DEPARTMENT of PUBLIC SAFETY STANDARDS and TRAINING MEMORANDUM

DATE: May 18th, 2010
TO: Corrections Policy Committee
FROM: Mindy S. Tucker
Standards & Compliance Investigator/Coordinator

SUBJECT: Matthew P. LYTLE - DPSST #43767

ISSUE: Should Matthew LYTLE's Application for Training and subsequent certifications be denied 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 LYTLE:

On October 20th, 2000, LYTLE was granted an Armed/Unarmed Private Security Professional license. LYTLE has renewed this license several times and is currently licensed until October 2nd, 2011.

On October 23rd, 2003, LYTLE was hired by the Marion County Sheriff's Office as a Deputy Sheriff.

On January 5th, 2004, LYTLE began DPSST's Basic Police #267 class.

On January 5th, 2004, LYTLE signed the DPSST Student Acknowledgement for referring to the Student Conduct Guide as part of Orientation to DPSST.

On January 6th, 2004, LYTLE, signed his Criminal Justice Code of Ethics.

On January 26th, 2004, LYTLE attended the six hour OSP Intoxilyzer 5000 course as part of the Basic Police curriculum for class #267.

On March 10th, 2004, an investigation and a recommendation was forwarded to the Director of DPSST to dismiss LYTLE from Basic Police #267, based on the outcome of an internal investigation related to LYTLE's misuse of his meal card. The investigation was provided to Marion County Sheriff's Office and they elected to pull LYTLE from training prior to DPSST carrying out the dismissal.

On March 11th, 2004, LYTLE received a Probationary Discharge from the Marion County Sheriff's Office.

On January 1st, 2005, LYTLE was hired by the Gervais Police Department as a Police Officer.

On August 25th, 2005, LYTLE received a probationary discharge from the Gervais Police Department as a probationary discharge.

On September 18th, 2006, LYTLE was hired by the Aurora Police Department as a Reserve Police Officer. LYTLE remained at this agency under this capacity until his resignation on November 3rd, 2008.

On February 22nd, 2010, LYTLE was hired by the Coffee Creek Correctional Facility as a Corrections Officer.

On February 22nd, 2010, LYTLE signed the DPSST Application for Training Eligibility form (DOC-F-5) requesting Basic Corrections training eligibility for DOC.

On March 11th, 2010, DPSST sent LYTLE a letter advising him that this matter would be heard before a policy committee, and allowing him an opportunity to provide mitigating circumstances for the policy committee's consideration. Also enclosed was a Stipulated Order Denying Application For Training and Subsequent Certifications. These documents were sent via Regular and Certified U.S. Postal mail. On or about March 19th, 2010, DPSST received the Certified Mail Return Receipt.

On June 20th, 2007 and again on March 30th, 2010, DPSST sought and obtained the internal affairs investigation from the Gervais Police Department which supported the probationary discharge from service for LYTLE.

On April 9th, 2010, DPSST received a written statement from LYTLE in response to the March 11th, 2010 letter and Stipulated Order LYTLE received. LYTLE also provided copies of supporting documentation and letters of recommendation for consideration by the CPC.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

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

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

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

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to deny LYTLE's Application for Training and subsequent 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 LYTLE's conduct *does/does not* rise to the level to warrant the denial of his Application for Training and subsequent certification(s); and therefore recommends to the Board that LYTLE's Application for Training and subsequent certification(s) *be denied/not be denied*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that the Application for Training and subsequent certification be denied):

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

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

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for training and certification will be *identify period of time* from the date of denial.

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: May 18, 2010
TO: Corrections Policy Committee
FROM: Steve Winegar
Curriculum Unit/Training Division

SUBJECT: CORPAT for Corrections
Discussion of Standards

Background: The Corrections Policy Committee requested a status report on physical fitness standards as part of the Basic Corrections Academy course requirements.

Issues: Validation of Contents of Physical Fitness Training

Recently, DPSST staff coordinated an update of the job task analysis (JTA) for police officers. As part of that analysis DPSST staff reviewed the activities that comprise the Oregon Physical Abilities Test (ORPAT) to ensure that they were still valid with respect to the job tasks of a police officer. That review included an examination of the differences between the JTA for police, corrections and parole and probation officers. Although ORPAT is well validated for the job tasks of a police officer, the support for ORPAT as a valid measure of the ability to perform the tasks of a corrections officer was weaker. The question of whether ORPAT should even be used for Corrections Officers was discussed as a result of this review.

A potential challenge to using ORPAT for Corrections Officers was that ORPAT included tasks that were not identified as critical and essential tasks for Corrections Officers. Of the activities included in ORPAT, two were not supported by critical and essential job tasks from the Corrections Officer JTA: the five foot jump obstacle and the crawl obstacle. All the other activities in ORPAT were valid representations of tasks identified in the Corrections Officer JTA.

In response to this potential challenge to the validity of ORPAT for Corrections Officers, DPSST staff reviewed options to ensure the validity of any physical abilities testing for Corrections Officers that is used at the Public Safety Academy. Staff examined four options with respect to physical abilities testing:

- Eliminate physical abilities testing
- Adopt the Canadian model for physical abilities testing for corrections officers
- Modify ORPAT to make it valid for corrections officers
- Continue to use ORPAT even though the validity of ORPAT for Corrections Officers has the potential to be successfully challenged

Staff evaluated the advantages and disadvantages of each alternative and determined the best alternative was to modify the ORPAT eliminating the activities that were not valid given the Corrections Officer JTA. This alternative was selected for the following reasons:

- It is better to have a test that is clearly valid based on the analysis of job tasks than one that had the potential to be successfully challenged in the future

- The Canadian model, although validated for corrections officers in Canada, may not be valid for Corrections Officers in Oregon
- The design of the Canadian model would most likely increase the injuries sustained during testing (repetition of a demanding activity at the end of the test when the student would be most fatigued)
- More students would likely fail if the Canadian test and Canadian standard was adopted as it takes a fit person considerable effort to meet the standard
- Standards for administration of ORPAT already exist and would only have to be slightly modified; proctors for a modified ORPAT test would require additional training
- No additional equipment would have to be purchased if we utilized a modified ORPAT for corrections officers

As a result the Corrections Officer Physical Abilities Test (CORPAT) was developed.

Corrections Officer Physical Abilities Test (CORPAT)

The CORPAT is essentially the same test as ORPAT, with two exceptions: the five foot jump obstacle and the crawl obstacle have been eliminated. The changes do not impact the length of the course (how far a student has to run) or any of the other obstacles. The activities that make up the CORPAT are all valid based on the JTA for Corrections Officers.

CORPAT differs enough from ORPAT that the completion time for one will be related but not equivalent to the completion time for the other.

Establishing a Qualification Standard of Physical Fitness for Corrections Officers

The Corrections Policy Committee in the past indicated an interest in establishing a valid, defensible standard for completion of a physical abilities test for Corrections Officers in the Basic Corrections course. Due to the question of what would be a reasonable qualification time for ORPAT for Corrections Officers, and the specific criteria that could be used to establish a standard that would be reasonable, the Corrections Policy Committee took no action on the issue at that time.

Oregon Revised Statutes grant DPSST the authority to recommend, and the Board the authority to adopt, “..reasonable minimum standards of physical, emotional, intellectual and moral fitness for public safety personnel and instructors.” [ORS 181.649 (1)(a)] In determining the “reasonableness” of the standard for completion (time) of ORPAT for police, the Assistant Attorney General relied upon the following factors:

- DPSST’s pre-academy passing time of 6:17 allows the agency to screen out persons who are more likely to become injured or fail at the academy
- The standard is unlikely to cause disparate impact to any protected group
- DPSST has conducted validation studies that show ORPAT has a clear connection to the physical requirements necessary for the job of police officer
- Should ORPAT be found to cause disparate impact, the test is defensible as a business necessity or bona fide occupational requirement
- ORPAT measures the minimum physical requirements to perform safely and efficiently the critical and essential job duties of a police officer

To establish a “reasonable” completion standard for corrections officers for CORPAT, DPSST will have to go through a similar analysis. DPSST has information to validate the activities in CORPAT have a clear connection to the physical requirements necessary to perform the job of a Corrections Officer. However to establish a qualification time that would be “reasonable” will require the following information:

- What qualification time screens out those persons who are more likely to become injured or fail to complete training at the academy?
- What qualification time would be unlikely to cause disparate impact to any protected group?
- What qualification time reflects the minimum physical requirements to be able to safely and efficiently perform the critical and essential job duties of a Corrections Officer?

CORPAT Standard and Successful Completion of Academy Training

DPSST has begun accumulating data on completion times for CORPAT. In order to propose a defensible qualification standard DPSST will have to gather data from several hundred students. At this time there are three Basic Corrections Courses per year, with about 40 students per class. It will require a minimum of three to four years to gather sufficient data to support a defensible qualification standard.

In addition, the incidence of deficiency (not successfully completing training) or injury during training is very small. It will take a minimum of several hundred students to gather enough information to support any qualification standard based on successful completion of the Basic Corrections Course and not sustaining an injury during training. These were two critical factors in supporting the reasonableness of the qualification standard for ORPAT for police, and DPSST would need to use similar information to justify the reasonableness of a qualification time for CORPAT for Corrections Officers.

In addition, DPSST would want to gather any data from agencies that are testing incumbent Corrections Officers, again to support the reasonableness of any qualification standard.

Recommendation: Staff recommends that the Corrections Policy Committee consider the following questions:

- Does the Corrections Policy Committee want to work toward establishing a physical fitness standard for CORPAT for Basic Corrections Academy students?

If the Corrections Policy Committee wishes to pursue a minimum physical fitness standard for CORPAT for Basic Corrections students, DPSST staff will continue to gather data and report back to the Corrections Policy Committee on a regular basis.

Appendix G

Department of Public Safety Standards and Training Memo

DATE: May 18, 2010
TO: Eriks Gabliks, Deputy Director
THRU: Marilyn Lorance
Standards and Certification Manager
FROM: Theresa King,
DOC BCC Audits Unit Coordinator

SUBJECT: Oregon Department of Corrections Basic Corrections Course – Audit Overview

Issue: Is the DOC BCC meeting the established standards for Basic Corrections Training?
Training?

Background:

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 Governors Recommended Budget as a cost saving for DOC. This concept was given statutory approval for a period of four years with the requirement that it meet or exceed the DPSST BCC course, that DPSST audit the DOC-BCC course and that DPSST provide a written report to the legislature in 2011.

In September 2009, the Corrections Policy Committee reviewed the 240-hour DOC-BCC and recommended approval of its equivalency to the Board. Administrative rule was then adopted for this course and on September 14, 2009, DOC-BCC 001 began.

Between July and December 2009, DPSST developed a DPSST Audit Plan that identified the expectations and minimum standards for the delivery of DOC-BCC, and outlined the anticipated audit flow, expectations and requirements. DPSST provided DOC Professional Development Unit (PDU) with the existing resource materials for the DPSST Basic Corrections Course, the anticipated equivalency standards, and audit expectations, to facilitate DOC's development and delivery of their BCC.

In late 2009, based on anticipated statewide budget shortfalls, the DPSST Audit Unit was among the proposed DPSST budget cuts submitted for legislative consideration during the February 2010 special legislative session. Funding for the program remained intact following the special session, so the DPSST Audit Unit was staffed effective March 1, 2010. During March and April 2010, administrative audits and site audits were conducted. Additionally, site audits have been scheduled through 2010 at all institutions with staff trained under the new DOC-BCC program.

Audit Overview

Instructors

In preparation for its BCC, the Department of Corrections conducted 31 Instructor Development Courses (IDC) across the state. Courses included Defensive Tactics, Firearms, OC, Reality Based Training and FTEP. Because a portion of the DOC BCC

training is conducted after the classroom portion and during on-the-job training, DOC updated their requirements for Field Training Officers, required new applications, and required these individuals to attend a 40-hour FTEP course. In total, there were 393 instructors who received training. Of the 393 instructors trained, 139 were Field Training Officers who completed the 40-hour FTEP course. The percentage of instructors who did not successfully complete an IDC was 0%.

Between September 2009 and April 2010, DOC has submitted over 230 F-9 Instructor Applications. Of these 226 Instructors were granted certification in one or more categories and four applications were returned as insufficient. Elements of instructor audits include whether the instructor is certified, whether the instructor is certified in the category he or she is teaching, and whether the instructor demonstrates competency as a presenter and in the topic being taught.

DOC BCC Classes/Written Test Results

Between September 2009 and April 2010, DOC has conducted eleven BCC across the state. A total of 111 students have attended portions of the BCC. Students attend three weeks of classroom and skills training, and the first of two mandated written examinations is then administered. To date, the average for this 100-question examination is 90, with 87 being the lowest average and 93 being the highest average. Students then attend a six-month classroom portion that lasts one week, and the second of the two mandated written examinations is administered. To date there have been two classes that have completed the six-month classroom portion. The average for this 100-question examination to date is 90. The average was the same for both classes. DPSST staff has examined all test questions for relevance to the performance objectives, for readability, and to determine the level of difficulty of the response options. Other than minor grammatical or punctuation recommendations, each battery of tests included one question for which revision recommendations were made. DPSST staff also reviewed DOC's verification that:

- a) each test question was directly related to a performance objective, and*
- b) information was provided to the student during training*

DOC has experienced one Academic Failure requiring remediation; the second attempt was successful. DOC has experienced three Skills failure in Firearms requiring remediation; none of which has been completed to date. Although there have been students who have been removed from trial service, no students have been removed from trial service with training failure as the primary factor.

Curriculum and Course Hour Updates

DOC used the DPSST Subject/Hourpoint Breakdown to model their BCC. After the delivery of a number of BCC and as a result of student and instructor input, minor changes were made to the hours, based on size of class and industry trends.

Site Audits

Between mid-March and mid-April 2010, the Audit Team conducted 12 site audits. These site audits include three separate Basic Corrections Classes. Within these classes, classroom, FTO and Survival Skills were audited. Six audit forms and four audit

memorandums were prepared and forwarded to DOC PDU. A total of 29 compliance concerns were noted with suggested recommendations; four relating to Firearms, three related to Skills, five related to classroom and seventeen related to Reality Based Training.

Student Surveys

Within the three Basic Corrections Classes audited, two student surveys were conducted. One survey was at the conclusion of the three-week class and one was at the conclusion of the six-month class. The surveys assessed students' confidence level based on training received, and effectiveness of the training received.

Administrative Audits

To verify attendance, DPSST has conducted random audits that include a review of class rosters that each student signs for each class attended.

DOC COD

In March 2010, DOC submitted a Career Officer Development candidate to DPSST based on prior-established criteria. Once reviewed, this individual received his certification.

Findings

Based on the information and audit results to date, DOC BCC 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.

*Attachments: Audit Tracking
Compliance Concerns/Recommendations
JTA Task 704 Memo
FTO Memo
INFORMATION ONLY CCCF Memo
Reality Based Training Memo
Student Survey Memo
Subject/Hour/Point Breakdown*

Appendix H

COURSE SUBJECT		HOURS
Section A: LAW AND LEGAL TOPICS		22
A1	Intro to the Criminal Justice System	2
A2	Laws of Arrest	1
A3	Operational Statutes and Standards	4
A4	Civil Liability and Civil Rights Violations	4
A5	Inmate Rights and Responsibilities	6
A6	Use of Force Law	3
A7	Officer in Court	2
Section B: COMMUNITY RELATIONS AND HUMAN BEHAVIOR		20
B1	Cultural Awareness and Diversity	4
B2	Ethics and Professionalism	4
B3	Tactical Communication	4
B4	Games Inmates Play	4
B5	Emotional Survival	4
Section C: SECURITY		35
C1	Security Principles	3
C2	Discretionary Decision Making	2
C3	Contraband and Searches	8
C4	Inmate Management	6
C5	Disciplinary Processes and Strategies	2
C6	Gang Identification and Management	4
C7	Intake and Release Procedures	4
C8	Transportation and Restraints	4
C9	Emergency Preparation and Response	2
Section D: INVESTIGATIONS		10
D1	Report Writing	8
D2	Investigations	2
Section E: HEALTH AND SAFETY		27
E1	Health and Fitness	4
E2	Medical Awareness	4
E3	Communicable Diseases and Bloodborne Pathogens	2
E4	Fire Safety	2
E5	ORPAT	8
E6	Physical Fitness Training	7
Section F: MENTAL HEALTH		8
F1	Mental Health and Disabilities	4
F2	Suicide Awareness and Prevention	4
Section G: SKILLS - SURVIVAL		37
G1	Use of Force Application	5
G2	Defensive Tactics	20

G3	Confrontational Simulation	8
G4	Range 3000	4
Section H: SKILLS - FIREARMS		26
H1	Firearms Skills - Blue Gun	2
H2	Firearms	24
COURSE ADMINISTRATION		15
Certification Workshop		0.5
Checkout		0.5
Administrative Time / College Credits		0.5
Examinations/Reviews		6
Graduation/Practice		3
Orientation		4
Revocation Presentation		0.5
TOTAL HOURS		200

Section A: Law and Legal Topics

A1: Introduction to the Criminal Justice System

2 Hours

Goal: To develop a basic understanding of the Criminal Justice System in Oregon and the relationships among its components by means of the Criminal Code and resource materials provided to the students.

A2: Laws of Arrest

1 Hour

Goal: To know the legal authority and responsibility governing arrests. To know what does or does not constitute a proper arrest.

A3: Operational Statutes and Standards

4 Hours

Goal: To know those Oregon Revised Statutes and Oregon Jail Standards most directly related to the general operation of a correctional facility.

A4: Civil Liability and Civil Rights Violations

4 Hours

Goal: To develop students' knowledge of corrections-related activities that could expose them to civil liability and that may constitute civil rights violations. To suggest those things corrections officers can do to reduce the civil liability risks associated with their jobs.

A5: Inmate Rights and Responsibilities

6 Hours

Goal: To understand the basic sources and application of law regarding the rights and responsibilities of Oregon's inmates with emphasis on the Bill of Rights of the United States

Constitution. Absent direction from the courts, the balance of rights will be understood, as will management's reasons for allowing rights beyond constitutional minimums.

A6: Use of Force Law **3 Hours**
Goal: To understand relevant state statutes and state and federal case law concerning corrections use of force.

A7: Officer in Court **2 Hours**
Goal: To understand the role of the witness in court and the importance of preparation; to develop confidence and professional demeanor necessary to testify during a court proceeding; and to develop an understanding of the purposes of cross-examination and how to deal with courtroom tactics.

Section B: Community Relations and Human Behavior

B1: Cultural Awareness and Diversity **4 Hours**
Goal: To develop an awareness of cultural/interpersonal issues, which dictate the predominant values, attitudes, beliefs, and outlooks among full multi-cultural environments.

B2: Ethics and Professionalism **4 Hours**
Goal: To develop an understanding of the necessity for standards of ethical conduct for corrections professionals given the authority granted them under the American criminal justice system.

B3: Tactical Communication **4 Hours**
Goal: To develop the interpersonal skills necessary to communicate effectively with inmates, including tactics for defusing situations which involve emotional, angry and/or hostile individuals.

B4: Games Inmates Play **4 Hours**
Goal: To understand key elements relating to officer set-ups and inmate manipulation, as well as ways officers can protect themselves from manipulation.

B5: Emotional Survival **4 Hours**
Goal: To provide the students with exposure to the concept of emotional survival.

Section C: Security

C1: Security Principles **3 Hours**
Goal: To develop the knowledge and understanding of basic procedures, methods and purposes of security within a correctional facility.

- C2: Discretionary Decision Making** **2 Hours**
Goal: To enhance corrections deputies' decision making skills related to facility operations, inmate management and officer safety.
- C3: Contraband and Searches** **8 Hours**
Goal: To understand who, when, and how to search people, inmates, cells and other physical building areas, what contraband is and how it is made, concealed, and transported.
- C4: Inmate Management** **6 Hours**
Goal: To understand inmate supervision styles, methods of inmate supervision in normal or hostile-aggressive situations and to apply skills of assessment and communication for effective inmate management.
- C5: Disciplinary Processes and Strategies** **2 Hours**
Goal: To understand the basic concepts involved in an effective inmate discipline system. The course will concentrate on techniques designed to make individual officers more effective in maintaining discipline in their assigned post areas, as well as a discussion on due process requirements in inmate discipline hearings.
- C6: Gang Identification and Management** **4 Hours**
Goal: To understand the types of gangs now incarcerated in Oregon correctional institutions and jails, methods of gang identification and methods of gang management in corrections.
- C7: Intake and Release Procedures** **4 Hours**
Goal: To learn importance of proper intake and release as it relates to physical security, legal issues, medical issues, proper I.D. of inmates, etc. Discuss importance on initial classification and how it starts in the intake unit. Need for proper documentation and control of inmate property/money.
- C8: Transportation and Restraints** **4 Hours**
Goal: To understand proper precautions involved in transporting inmates from one point to another within a facility, and from the jail/prison to other locations.
- C9: Emergency Preparation and Response** **2 Hours**
Goal: To understand the levels of preparation and learn the basic skills necessary to effectively respond to an emergency situation.

Section D: Investigations

D1: Report Writing **8 Hours**
Goal: Develop basic skills necessary for proper report writing, as related to facility incidents, use of force, and inmate discipline.

D2: Investigations **2 Hours**
Goal: To develop an understanding of the correctional officer's role in correctional investigations, and the basic knowledge of fundamentals in determining when investigations are needed, the reasons, and the handling of evidence and reports.

Section E: Health and Safety

E1: Health and Fitness **4 Hours**
Goal: To develop a positive attitude toward fitness and to understand the relationship between physical fitness, productivity, health and safety.

E2: Medical Awareness **4 Hours**
Goal: To be aware of constitutional rights to health care while incarcerated. What are the legal ramifications from a perceived delay in access to health care. Participants will learn about confidentiality of health care information; and their role, as well as a health care provider's role, during a medical emergency.

E3: Communicable Diseases and Bloodborne Pathogens **2 Hours**
Goal: To know which communicable diseases officers are most likely to face in the line of duty, how they spread from one person to another and how to prevent exposure to them. To know how to protect from contracting diseases and the legal responsibility everyone has with medical information. To know the officer's legal responsibilities related to diseases.

E4: Fire Safety **2 Hours**
Goal: To understand the serious dangers of fire in a correctional facility, preventive measures, fire detection, and measures to take to combat fire.

Section F: Mental Health

F1: Mental Health and Disabilities **4 Hours**
Goal: To know the basic signs and symptoms of major mental illnesses found in correctional facilities, including personality disorders. To understand causes treatments and supervision strategies.

F2: Suicide Awareness and Prevention **4 Hours**

Goal: To know the common signs and symptoms of potentially suicidal individuals, to identify the characteristics in a correctional setting which may affect suicidal behaviors; to know methods and procedures for assessing a potentially suicidal individual; and to know the basic concepts and principles of a correctional officer's responsibilities in a suicide prevention program.

Section G: Skills - Survival

- G1: Use of Force Application** **5 Hours**
Goal: To develop the knowledge of the decision and use of reasonable force to overcome and control resistive or hostile behavior, and maximize protection of the public and officers.
- G2: Defensive Tactics** **20 hours**
Goal: To develop the knowledge and skills necessary to use the reasonable amount of force necessary to make an arrest, overcome a person resisting arrest and to defend oneself from an armed or unarmed attacker. To safely control suspects and maximize protection of the public and officers. Physical fitness and continuing practice are emphasized.
- G3: Confrontational Simulation** **8 hours**
Goal: To demonstrate the ability to correctly apply the proper force option, the appropriate verbal commands, and the proper use of available cover when given a confrontational simulation scenario.
- G4: Range 3000** **4 hours**
Goal: To develop knowledge and understanding of the critical role of personal communication and physical force during confrontation. To develop critical skills for managing conflict/confrontation, including the appropriate use of physical force options.

Section H: Skills - Firearms

- H1: Firearms Skills – Blue Gun** **2 hours**
Goal: To familiarize new officers with basic gun handling skills.
- H2: Firearms** **24 hours**
Goal: To understand the use, limitations and techniques of the service handgun, and to develop knowledge and skills in firearms safety, proper gun handling, marksmanship and tactics.