

Corrections Policy Committee Minutes August 15, 2006

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 15, 2006 at the Oregon Public Safety Academy in Salem, Oregon. Chair Bob Wolfe called the meeting to order at 1:30 p.m.

Attendees

Committee Members:

Bob Wolfe, Oregon State Sheriffs' Association, Chair
Chris Hoy, Oregon Sheriff's Jail Command Council
Greg Morton, Department of Corrections Training Division Director
Theresa Smith, Department of Corrections, Women's Correctional Facility
Timothy Woolery, Non-Management Corrections Officer
Thomas Wright, DOC Bargaining Unit Representative
Shane Hagey, Oregon Association of Community Corrections Directors
Mitchell Southwick, Oregon State Sheriffs' Association (by teleconference)

Committee Members Absent:

Paula Allen, Department of Corrections Security Manager
Brian Belleque, Designee for Director of Department of Corrections
Holly Russell, Oregon Sheriff's Jail Command Council

DPSST Staff:

Eriks Gabliks, Deputy Director
Cameron Campbell, Training Director
Marilyn Lorange, Records and Certification Supervisor
Theresa King, Denial and Revocation Coordinator
Bonnie Salle, Rules and Certification Coordinator
Tammera Hinshaw, Executive Assistant

Guests:

Brian Geers, Department of Corrections



1. Minutes (May 16, 2006)

Greg Morton moved to approve the minutes of the May 16, 2006 Corrections Policy Committee meeting. Chris Hoy seconded the motion. The motion carried in a unanimous vote.

2. *OAR 259-008-0005

Definitions of full-time, seasonal, and temporary employment
Bonnie Salle reviewed the issue before the Committee.

Issue: The current definitions of full-time, casual, seasonal, and temporary employment found in DPSST's Oregon Administrative Rule (OAR) can be difficult to interpret consistently, leaving some agencies unclear about when some of their employees may become subject to DPSST's employment, training, and certification requirements.

Individuals in casual, part-time, seasonal, or temporary positions are not required to meet minimum standards, receive mandatory training, and become certified as law enforcement officers (a specific exception applies to certain part-time parole and probation officers). Because of this, OAR 259-008-0060(10)(a) provides that casual, seasonal, and temporary employment does not qualify as experience towards certification. However, the current rule does not clarify whether or not service time in such positions may be considered full-time employment as a public safety professional for other purposes, if such employment otherwise meets the definition of full-time employment.

Staff Recommendation:

Staff believes that amending the relevant definitions would bring needed clarity to these rules. The following language is proposed for the Committee's policy discussion.

Police Policy Committee Recommendation: On May 10, 2006, the Police Policy Committee met and reviewed staff's proposed amendments to OAR 259-008-0005 and recommended approving the proposed rule language to the Board.

The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**):

OAR 259-008-0005:

(3) "Casual employment" means employment that is occasional, irregular, or incidental and the employee does not receive seniority rights nor fringe benefits.

(14) "Full-time employment" means the employment of a person who has the responsibilities as defined in ORS 181.610 (3), (5), (9), (13), (14), (18) of this rule, who has the responsibility for, and is paid to perform the duties described in the above statute and administrative rule for more than 80 hours per month for a period of more than 90 consecutive calendar days. **For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.**

(20) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties described in statutes and administrative rules for public safety personnel for 80 hours per month, or less, for a period of more than 90 consecutive calendar days.

(28) "Seasonal employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, **with defined starting and ending dates based on a seasonally determined need.**

(32) "Temporary employment" means employment that lasts ~~for a limited time~~ **no more than 90 consecutive calendar days**, ~~not of long duration~~ and is not permanent.

ACTION ITEM 1: Determine whether to recommend filing the revised language for OAR 259-008-0005 with the Secretary of State as a proposed rule.

Chris Hoy moved to recommend filing the revised language with the Secretary of State as a proposed rule. Greg Morton seconded the motion. The motion carried in a unanimous vote.

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

Chris Hoy moved to recommend filing the revised language with the Secretary of State as a permanent rule if no comments are received. Greg Morton seconded the motion. The motion carried in a unanimous vote.

ACTION ITEM 3: Pursuant to HB 3238, determine whether there is a significant fiscal impact on small businesses.

The Committee did not identify any significant fiscal impact on small businesses pertaining to HB 3238.

3. *OAR 259-012 - Proposed Rule

Administrative Rules Relating to Student Conduct

Bonnie Salle reviewed the issue before the Committee.

Issue: The Department has revised the standards relating to Student Conduct. In order to enforce the new rules and regulations with an effective implementation date of July 1, 2006, when the Department moved to the new Academy, the Department asked the Executive Committee of the Board to file temporary rules relating to student conduct while the permanent rulemaking process took place. Additional formatting revisions were also made for clarity and readability.

A temporary rule is in effect for a period of six (6) months from the date of filing. Approval to file a temporary rule was made by the Executive Committee on June 8, 2006 to allow the respective Policy Committees time to present a proposed permanent rule to the Board. If the Board approves the proposed permanent rule, the proposed rule will be filed with the Secretary of State and open for comment. If no comments are received, or if no hearing is held, the Department will file the rule as permanent.

On August 9, 2006, the Police Policy Committee met and reviewed staff's proposed language amendments. Based on discussions, further revisions were recommended to eliminate OAR 259-012-0020, 259-012-0025 and 259-012-0030 because the language is currently duplicated in the Department's rules and regulations governing student conduct. Additionally, staff amended a portion of OAR 259-012-0015 relating to weapons and eliminated the remainder of that section. The following proposed language contains the revised recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**).

ACTION ITEM 1: Determine whether to recommend filing the proposed language amendments to OAR 259-012-0005 through 259-012-0035 with the Secretary of State as a proposed rule.

Timothy Woolery moved to recommend filing the proposed language amendments with the Secretary of State as a proposed rule. Chris Hoy seconded the motion. The motion carried in a unanimous vote.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-012-0005 through 259-012-0035 with the Secretary of State as a permanent rule if no comments are received.

Timothy Woolery moved to recommend filing the proposed language amendments with the Secretary of State as a permanent rule if no comments are received. Chris Hoy seconded the motion. The motion carried in a unanimous vote.

ACTION ITEM 3: Pursuant to HB 3238, determine whether there is a significant fiscal impact on small businesses.

The Committee did not identify any significant fiscal impact on small businesses pertaining to HB 3238.

Attachment:

Proposed Rule Amendments to Oregon Administrative Rule 259-012-005 through 259-012-0035.

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

DIVISION 12

OREGON PUBLIC SAFETY ACADEMY

259-012-0005

Attendance

(1) The Oregon Public Safety Academy is open to all eligible personnel upon application from their employing agencies. All persons attending the courses may live in the dormitories provided, or, with the permission of their department, they may commute to classes. Reasonable fees may be charged to cover operating costs of the Academy for those attending courses that are not mandatory, and for persons not defined as corrections, parole and probation, **emergency medical dispatchers, telecommunicators** or police officers under [ORS 181.610](#). Additionally, fees may be charged **to** an agency under the Act if they do not adhere to minimum standards as defined in OAR 259-008-0010. Application for Training (**BPSST Form F-5**) ~~shall~~ **must** be used to apply for Mandated courses. Other courses presented at the Oregon Public Safety Academy may be announced through mailed course announcements with response required prior to established deadlines.

(2) Students ~~shall~~ **must** obtain permission from their employing agency before attending any optional classes offered at the Academy.

(3) Admission to the Oregon Public Safety Academy may be denied to ~~those~~ **any** persons who **do** not meet the minimum employment standards as established by OAR 259-008-0010.

(4) Selection criteria for Academy training courses sponsored by the Department will be as follows:

(a) Mandated Basic Training:

(A) For mandated basic training, first priority for acceptance will be granted to ~~persons from agencies which come~~ **public safety personnel identified** under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665.

(B) Second priority will be granted to persons from public or private safety agencies ~~which do not come~~ **who are not identified** under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665.

(C) Third priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing course content, candidates' job assignments, and following established Department policy.

(b) Supervisory and Middle Management Training:

(A) First priority for acceptance into the mandated supervisory and middle management courses will be granted to ~~persons from agencies which come~~ **public safety personnel identified** under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665. These persons must be designated as supervisors or middle managers by the assigning officials.

(B) Second priority will be granted to designated supervisors or middle managers from other public or private safety agencies.

(C) Third priority will be granted to persons from agencies which come under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665 and are not designated as supervisors or middle managers.

(D) Fourth priority will be granted to persons from other public or private safety agencies that are not designated as supervisors or middle managers.

(E) Fifth priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy.

(c) Executive Level Training:

(A) First priority for acceptance into executive level courses will be granted to command officers ~~from agencies which come~~ **identified** under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665.

(B) Second priority will be granted to command officers from other public or private safety agencies.

(C) Third priority will be granted to persons ~~from agencies which come~~ **identified** under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665 and are not command officers.

(D) Fourth priority will be granted to persons from other public or private safety agencies who are not command officers.

(E) Fifth priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy.

(d) Advanced and Specialized Training:

(A) First priority for acceptance into advanced and specialized courses will be granted to ~~persons from agencies which come~~ **public safety personnel identified** under the mandatory provisions of [ORS 181.610](#), 181.640, 181.644, 181.652, 181.653, and 181.665, except as noted in paragraph (D) of this subsection.

(B) Second priority will be granted to persons from other public or private safety agencies.

(C) Third priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy.

(D) Acceptance criteria for certain specialized courses will vary from these listed priorities due to the specific nature of the courses, ~~and/or~~ **or** special entrance criteria established by the Department or a co-sponsoring organization or agency.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

259-012-0010

Standards of Conduct

(1) All students ~~shall~~ **must** report to the Academy at the time designated in the course announcement or the Department's letter accepting their attendance to ~~the~~ **a** specific course, unless prior arrangements have been made with Academy staff.

(2) All students must adhere to the Department's rules and regulations governing student conduct. The student rules and regulations will be made available to:

(a) All students during initial orientation; and

(b) The public through electronic transmission or internet access.

(3) Any person residing at the Academy or attending specialized or advanced courses is prohibited from possessing weapons, including firearms and chemical agents, in the dormitory sleeping areas.

~~(2) Students shall attend all classes as scheduled and shall not leave the Academy facility during class training sessions without first obtaining permission to be absent, from the Academy staff. Students shall fill out an absence slip and turn it in to the class coordinator prior to the absence. This slip shall include a notation of where they may be reached in the event of an emergency. Students will check in with the class coordinator and/or administrator upon their return to the Academy.~~

~~(3) Motor vehicles shall be parked within indicated parking areas only. Motor vehicles of any type parked in driveways, walkways, or other such areas will be towed away at the owner's expense.~~

~~(4) Clothing worn by students will be neat, clean, and serviceable. Students in basic police and corrections courses shall wear uniforms issued by the employing agency. The Academy may issue clothing for skills training. Casual clothing is acceptable unless otherwise advised by Academy staff. Cut-offs, shorts of any kind, tank tops, thongs, 'tee' shirts without collars, and hats are not permitted to be worn in the classroom. Imprinted shirts or tops, or other items of apparel that may be considered extreme or in poor taste, are not permitted. Athletic or running style shoes are acceptable if they are neat, clean and in good repair. Sweat suits are allowed if it is necessary for health and fitness activities or defensive tactics training.~~

~~(5) Students shall be held responsible for any Academy and/or college property entrusted to them. A replacement fee will be assessed for any such property lost, damaged, or not returned. Non-payment of these replacement fees may be cause for the Department to withhold completion certificates or course credit.~~

~~(6) Smoking will not be permitted any place inside the Academy buildings or dormitory, in the Food Service Building, or in any other location so posted. Smoking is restricted to certain designated areas on the Academy grounds.~~

~~(7) Alcoholic beverages shall not be possessed or consumed in the dormitory or any part of the Academy, or on the Western Oregon University campus at any time. Students will refrain from consuming alcoholic beverages or using any medication at any time to the extent that it results in impairment or renders the students unfit to perform required duties, including classroom attendance and participation, while at the Academy.~~

~~(8) Students shall maintain in their possession at all times any prescription label for a controlled substance and/or any other medication prescribed by competent medical authority, and notify the appropriate Academy staff of said prescription prior to reporting to Academy training functions.~~

~~(9) Personal telephone calls by student residents are not permitted on Academy telephone lines unless of an emergency or official business nature, and the caller has prior approval from Academy staff. Students should inquire at the reception center for access to a telephone.~~

~~(10) Roofs and roof areas of all buildings are off limits to students. Safety regulations and damage to roofing materials necessitates strict adherence. Any articles or sports equipment lost on a roof will be retrieved by the maintenance staff.~~

~~(11) Students shall not bring visitors into the classroom at any time without the prior approval of Academy staff.~~

~~(12) After classroom hours, visitors are permitted in the dormitory lounge area only. All visitors must be personally supervised by the student inviting them into the dormitory building. All visitors must leave the building by 10:00 p.m. For security reasons, no persons are allowed in the sleeping areas except those persons currently enrolled in the Academy.~~

~~(13) Students shall not divulge the combination to the night lock to any person not a student at the Academy.~~

~~(14) For safety and security reasons, no outside access door leading into the Academy or any dormitory will be blocked open in any manner unless done by an Academy staff member.~~

~~(15) Students are not permitted to move into or sleep in any dormitory room other than the one assigned without prior Academy staff approval. Male students and/or residents will not be allowed in the female quarters, and the female students and/or residents will not be allowed in male quarters unless on a specific training assignment and/or with prior approval of Academy staff.~~

~~(16) Students will be responsible for cleanliness of their dormitory rooms, which are subject to inspection by Academy staff. All students shall assist in keeping the dormitory lounges, coffee room, classrooms and outside areas clean. Student clean up and other necessary details will be assigned by the Academy staff.~~

~~(17) No tape, tacks, pins, or adhesive items of any type will be placed on walls, ceilings, doors, or woodwork. Placing items such as posters or arials on outside of buildings is not allowed. No items shall be placed on windows, window sills or the building that are within public view.~~

~~(18) The use of flammable items such as plastic or cardboard is prohibited for use as trash containers.~~

~~(19) The use of appliances for cooking or heating is prohibited in dormitory rooms. Electric blankets are also not allowed.~~

~~(20) All damage to dormitory rooms or any Academy property will be replaced or repaired by the maintenance department and the student(s) who damaged the property will be charged the full cost. No paint is to be applied to any areas by students, nor are areas to be covered with any adhesive material. The use of contact paper is also prohibited.~~

~~(21) Fire drills may be held periodically and student participation in immediate building evacuation is mandatory.~~

~~(22) The Department assigned staff member(s) shall have authority to determine who attends any course presented at the Academy and is delegated authority to immediately terminate the~~

~~attendance of any student from any such class if that student engages in disruptive behavior or prohibited activity as defined in these rules.~~

~~(23) Persons attending classes at the Academy shall abide by the rules and regulations of the student's own employing agency that are not in conflict with these Oregon Public Safety Academy Rules.~~

~~(24) Students shall not engage in any activity that would be in violation of any law of the State of Oregon or the United States.~~

~~(25) Students shall not participate in loud, boisterous, or unruly activity in or adjacent to the Academy facilities that disturbs, annoys, or causes inconvenience to any other person. "Quiet hours" will be observed in the dormitory building between 10:00 p.m. and 7:00 a.m.~~

~~(26) Students shall be courteous and respectful in all dealings with DPSST staff, instructors, fellow officers, the public, college officials and students.~~

~~(27) No student or resident shall represent themselves as an Oregon Public Safety student in order to gain special favors or consideration in the neighboring communities or at Western Oregon University (WOU).~~

~~(28) Students attending Academy classes shall, upon request, truthfully, completely, and impartially report, testify, and/or present information on all Academy related matters under inquiry by DPSST staff.~~

~~(29) (4) In addition to these rules, all persons attending classes at the Academy shall be held accountable to the provisions of the Criminal Justice Code of Ethics or equivalent discipline specific Code of Ethics and the Student Conduct Expectations.~~

259-012-0015

Weapons

~~(1) Immediately upon arrival at the Academy, all basic students will secure all weapons in their assigned gun lockers. This shall include firearms, ammunition and chemical agents such as oleocapsicum sprays. Possession of any weapon by a basic student in the dormitory building, classroom, a vehicle, or on the person is prohibited except when authorized for training purposes or by Academy training staff.~~

~~(2) Any person residing at the Academy and/or or attending specialized or advanced courses is also prohibited from possessing weapons, including firearms and chemical agents, in the dormitory sleeping areas except when authorized by Academy training staff.~~

259-012-0020

Injury or Illness

~~All injuries incurred at the Academy must be reported to an Academy staff member immediately. Any illness that may restrict the student's participation in training activities must also be reported.~~

259-012-0025

Inspections

~~Inspection of quarters will be made, as deemed necessary, by Academy staff. Personal belongings will only be inspected when the student is present.~~

259-012-0030

Regulations

~~The Department will compile regulations which in conjunction with these rules will describe training activities and student procedures for those persons attending classes at the Academy.~~

259-012-0035

Penalties

- (1) A person attending any course as a student or other participant, or a person residing at the Academy for any purpose, is subject to the rules which have been promulgated by the Department. The rules will be posted in a prominent location at the Academy. All persons attending the Academy will be expected to be knowledgeable of and to conform their conduct to the standards set forth in the rules.
- (2) Failure to comply with the rules may result in the person being dismissed from the Academy, suspended from participating in Academy activities, or any other disciplinary action deemed appropriate. A student dismissed from the Academy or suspended from Academy participation for conduct or behavior in violation of the rules may not be given training credit or credit for completion of the course in which that student was enrolled. Any decision to withhold credit will be subject to Department approval.
- (3) Any alleged violation of these rules, wherein a formal written report is made, shall be communicated to the student's department administrator by the DPSST staff. All disciplinary actions shall be made in accordance with the Oregon Public Safety Academy Student ~~Conduct~~ **Guide Rules and Regulations**.
- (4) Dismissal, suspension, or other disciplinary action may be ordered by the Director, or any DPSST staff delegated that authority.
 - (a) In addition to the procedures for due process outlined in the Student ~~Conduct Guide~~ **Rules and Regulations**, if a student is to be dismissed the student may request a meeting with the Director and present written evidence.
 - (A) If the Director, or designee, agrees with the dismissal, the student's agency may appeal within 30 days of the dismissal to the Board. The appeal must be in writing and state the agency's case against the dismissal.
- (5) Any person subject to sanctions for violation of these rules can request a hearing in accordance with OAR 259-005-0015.

4. *OAR 259-008-0085 – Proposed Rule

Certification of Courses and Classes

Bonnie Salle reviewed the issue before the Committee.

Issue: The Department occasionally certifies a Basic Corrections Course that is conducted by an entity other than the Department. The Department no longer certifies any courses other than state mandated courses, due to the abolishment of its Accreditation Section in 2003. It is necessary to revise the rules relating to certification of courses and classes and the process by which the Department recognizes training and attendance at certified and non-certified courses and classes.

The following proposed language contains recommended deletions (~~strike through text~~) and additions (**bold and underlined text**).

259-008-0085

Certification of Courses and Classes

(1) The Department shall **will** certify **state mandated** courses; and classes deemed adequate to effectively teach one or more approved public safety subject(s) to **public safety professionals** ~~police, corrections, adult parole and probation, telecommunications, or emergency medical dispatch.~~

(2) Certification shall **will** be based on the evaluation of course curriculum or subjects for instruction, instructor qualifications, facilities for instruction, and method of instruction. The Department may cause inspections to be made pursuant to ORS 181.640(2).

(3) Facilities and equipment used for certified training shall **must** be accessible to all interested and qualified individuals.

(4) The Department shall ~~certify~~ **recognizes** courses at two levels: Content and Topical.

(a) **Content level c** ~~Courses certified at the content level~~ require a student demonstration of acquired knowledge, skill, or ability. Agencies, organizations, or individuals requesting course certification at the content level shall **must** submit an Application for Certification of Course (DPSST Form F-20), accompanied by clearly-defined performance objectives, test questions or evaluation criteria, and evidence of instructor certification as provided in OAR 259-008-0080. Applications received later than thirty (30) calendar days prior to the start of the course, shall **will** not be certified at the content level.

(b) **Topical courses** ~~Courses certified at the topical level~~ are **non-mandated courses that are** informational in nature. **The Department does not certify topical courses.** ~~Agencies, organizations, or individuals requesting course certification at the topical level shall submit an Application for Certification of Course (DPSST Form F-20), accompanied by a detailed course outline and evidence of instructor certification as provided in OAR 259-008-0080. Applicants are encouraged to apply for certification no later than thirty (30) calendar days prior to the start~~

~~of the course, to ensure adequate administrative processing time. Shorter time frames may be allowed for non-recurring, pressing circumstances.~~

(5) The Department shall **must** certify courses of instruction prior to course completion, or may approve exceptions to this requirement under documented ~~special and/or~~ unique circumstances. Records of attendance for this training shall **must** be maintained by the **entity conducting the training**, agencies, organizations, or individuals, and may be submitted to the Department on a Continuing Log of Training (DPSST Form F-15), when applying for certification.

(6) The Department shall **will** notify the requester, in writing, of the denial or **approval** the ~~granted level~~ of course certification. ~~If certification is granted, that notification shall be accompanied by Course Rosters (DPSST Form F-6).~~

(7) Course rosters shall **must** be completed, indicating the actual number of hours attended by each student. ~~If the course was certified at the content level,~~ **Course** rosters shall **must** also indicate whether each student passed or failed. Rosters shall **must** be returned to the Department within thirty (30) calendar days of course completion; otherwise, the Department may decertify the course.

(8) It is the responsibility of the requesting agency, organization, or individual, to:

(a) Oversee the preparation of curriculum and to insure its compliance with the requirements of the Department;

(b) Obtain a facility and instructor(s) to be used for the course, and insure their compliance with the requirements of the Department;

(c) Develop rules and regulations governing the operation of the facility and the conduct of the trainees;

(d) Administer the course;

(e) Maintain an accurate record of attendance; and

(f) Maintain all forms required by the Department, forwarding them within the stipulated time period.

(9) Once a course is certified, it remains certified for unlimited delivery during that calendar year, unless there is a significant change in course content, number of hours or instructor(s); or unless it is decertified by the Department as provided in section (7) and (11) of this rule. The Department shall **must** be notified of significant changes.

(10) All course certification shall **will** expire on December 31 of each year. Agencies, organizations or individuals shall **must** request recertification to continue a course into a new calendar year.

(11) The Department may decertify a course whenever that course is deemed inadequate. The course may be recertified by the Department when satisfactory proof has been presented to the Department that the deficiencies have been corrected.

(12) Any law enforcement unit or public or private public safety agency, or any college, university, or academy may align their training or education programs with the standards set by the Department (OAR 259-008-0025) and apply for course certification in the manner described in section (4) of this rule.

(13) Unless written approval is granted otherwise, any course that has been declared mandatory by the Department shall require a minimum number of training hours in each specific subject that constitutes the course, as determined and modeled by the course being offered at the Oregon Public Safety Academy.

(14) Effective ~~July 1, 2004~~ **January 1, 2007**, the department may not accredit any ~~public safety personnel~~ **police** training program provided by a public safety agency **in Oregon** or any educational program as equivalent to the minimum training **provided by the Department and** required for basic certification as a police officer. ~~Subsection (14) does not apply to the Department of State Police.~~

ACTION ITEM 1: Determine whether to recommend filing the proposed language amendments to OAR 259-008-0085 with the Secretary of State as a proposed rule.

Greg Morton moved to recommend filing the proposed language amendments with the Secretary of State as a proposed rule. Shane Hagey seconded the motion. The motion carried in a unanimous vote.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0085 with the Secretary of State as a permanent rule if no comments are received.

Greg Morton moved to recommend filing the proposed language amendments with the Secretary of State as a permanent rule if no comments are received. Shane Hagey seconded the motion. The motion carried in a unanimous vote.

ACTION ITEM 3: Pursuant to HB 3238, determine whether there is a significant fiscal impact on small businesses.

The Committee did not identify any significant fiscal impact on small businesses pertaining to HB 3238.

5. ***PETERSON, Joseph O. – DPSST #15700**

Theresa King reviewed the issue before the Committee.

ISSUE:

Should Joseph O. PETERSON's certifications be revoked based on his discretionary disqualifying convictions under OAR 259-008-0070, or violation of the Moral Fitness standards defined in OAR 259-008-0010, or both?

BACKGROUND:

On November 26, 1984, PETERSON was employed as a corrections officer with the Multnomah County Sheriff's Office. PETERSON holds Basic, Intermediate, Advanced

and Supervisory Corrections certifications. On May 6, 1983, PETERSON signed his Criminal Justice Code of Ethics.

On April 18, 2006, PETERSON resigned from the Multnomah County Sheriff's Office.

On April 25, 2006, DPSST received a F4, Personnel Action Report, showing resignation in lieu of termination.

On April 27, 2006, DPSST mailed a letter to the Multnomah County Sheriff's Office requesting the underlying investigation that led to the resignation in lieu of termination.

An OJIN check conducted on PETERSON indicated the following:

Date	Crime	Disposition
07 13 02	DUII	Conviction
07 24 02	DUII	Conviction
03 24 06	Telephonic Harassment	Pending
05 01 06	DUII	Pending
06 04 06	FTA Warrant	Arrested and Booked
07 05 06	FTA Warrant DUII	WANTED
07 05 06	FTA Warrant Telephonic Harassment	WANTED

On May 19, 2006, PETERSON was mailed a letter advising him that his case would be heard before the Corrections Policy Committee. PETERSON was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee's consideration. This letter was sent regular mail and certified mail, return receipt requested. The regular mail was not returned, and the certified mail was return "unclaimed." The mailing address that was used was obtained through a DMV verification.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal conviction that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer's certification, regardless of its status. PETERSON's certification is in a "lapsed" status, meaning he has not been employed in a public safety position for over ninety (90) days.

Discretionary Disqualifying Crimes

OAR 259-008-0070 specifies discretionary disqualifying conduct which includes criminal convictions and violations of the moral fitness standards. This rule provides for

Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Profession or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

...

(b) The public safety professional or instructor has been convicted of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in subsection (2), in this state or any other jurisdiction. . . . In determining whether to take action on a conviction, the Department must use the following guidelines:

...

(C) The Department may take action on any discretionary disqualifying conviction that occurred after January 1, 2001.

...

(c) 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. (moral fitness)

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

...

(d) Policy Committee and Board Review: The Policy Committees and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct, including the following:

(A) Was a conviction a felony, misdemeanor, or violation?

(B) How long ago did a conviction occur?

(C) Was the public safety professional a minor at the time and tried as an adult?

(D) When did the conduct occur in relation to the public safety professional's employment in law enforcement (i.e., before, during, after)?

- (E) Did the public safety professional serve time in prison/jail? If so, how long?*
- (F) If restitution was involved, has the public safety professional met all obligations?*
- (G) Was the public safety professional on parole or probation? If so, when did the parole or probation end? Is the public safety professional still on parole or probation?*
- (H) Do the actions violate the established moral fitness standards for Oregon public safety officers identified in OAR 259-008-0010(5), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that would cause a reasonable person to have substantial doubts about the public safety professional's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation?*
- (I) How many other convictions does this public safety professional have? Over what period of time?*
- (J) Has the public safety professional been convicted of the same conduct more than once? Is this a repeated violation or a single occurrence?*
- (K) Does the conduct involve domestic violence?*
- (L) Did the public safety professional self report the conduct?*

Moral Fitness

OAR 259-008-0070(3) specifies discretionary disqualifying conduct. This rule provides for committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

(6) Moral Fitness (Moral Character). All law enforcement Officers must be of good moral fitness as determined by a thorough background investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement Officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the Officer's performance on the job which makes the Officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the Officer's ability to perform competently.

Mitigating or Aggravating Circumstances:

A staff review of the PETERSON case includes the following:

1. PETERSON was employed with the Multnomah County Sheriff's Office for over twenty-one years.
2. During PETERSON's employment, he was promoted to Sergeant in 1990, and then demoted back to deputy sheriff in 2003.
3. Between 2002 and the present time, PETERSON engaged in criminal activity that resulted in two convictions, with the additional DUII and Telephonic Harassment charges currently outstanding.
4. The crime of DUII is a discretionary disqualifying crime, for purposes of revocation.
5. In the third incident, PETERSON was originally cited for Stalking. The charges were then reduced to Telephonic Harassment. According to the incident report, the victim was PETERSON's former girlfriend. After their relationship ended, PETERSON text messaged the victim 146 times over two days, was seen driving by her house, and was seen hiding in bushes outside of her home. When contacted by the police, PETERSON admitted to the text messages, driving past her home, and being outside of her home.
6. In the fourth incident, a third DUII, PETERSON was passively resistant when the officer placed him under arrest. According to the incident report, although PETERSON refused to perform the SFST tests, he did blow in the Intoxilizer which had a reading of .29.
7. In the fifth incident, PETERSON failed to appear at a scheduled court hearing and a warrant was issued for his arrest. PETERSON was arrested and booked on this warrant.
8. As of the preparation of this case, PETERSON is in a WANTED status with Failure to Appear warrants out for his arrest on both the current DUII and the Telephonic Harassment.

CONSIDERATIONS FOR THE POLICY COMMITTEE:

Under OAR 259-008-0010(6):

1. Would PETERSON's actions cause a reasonable person to have doubts about his honesty, respect for the rights of others, and respect for the laws of the state?
2. Did PETERSON's conduct involve dishonesty, fraud, deceit, or misrepresentation?
3. Was PETERSON's conduct prejudicial to the administration of justice?
4. Would PETERSON's actions adversely reflect on his fitness to perform as a law enforcement officer and do his actions make him inefficient and otherwise unfit to render effective service because of the agency's and public's loss of confidence in his ability to perform competently?

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.

STAFF CONCLUSION:

After considering the totality of circumstances, it appears that PETERSON engaged in a pattern of criminal activity for which he received convictions, and has violated the established moral fitness standards for Oregon public safety officers.

ACTION REQUESTED:

Staff requests the Corrections Policy Committee review the matter and recommend to the Board whether PETERSON's certifications should be revoked based on the discretionary disqualifying convictions, or violation of the moral fitness standard, or both.

Chris Hoy moved to recommend to the Board that Peterson's certifications be revoked based on the discretionary disqualifying convictions and violation of the moral fitness standard. Shane Hagey seconded the motion. The motion carried in a unanimous vote.

Committee Membership - Chair Wolfe asked for input on the applications submitted by William Long of Tillamook County and Kay Bender of Washington County. These two nominations are to take the place of Holly Russell who recently retired. He will review the applications and make a decision. Tim has left his position at DOC to begin a new career with AFSCME. A non-management DOC replacement for Timothy Woolery is being recruited.

Facilities Update – Eriks Gabliks gave a short update on the new venues and the partnership for scenario-based training with Marion County Sheriff's Office and the Department of Corrections for Corrections officers.

There being no further issues to come before the Committee, the meeting adjourned at 2:30 p.m.