

Corrections Policy Committee Minutes August 21, 2007

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 21, 2007 at the Oregon Public Safety Academy in Salem, Oregon. Chair Todd Anderson called the meeting to order at 1:41 p.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriffs' Association, Chair
Paula Allen, Department of Corrections Security Manager
Bryan Goodman, Non-Management Corrections Officer
Shane Hagey, Oregon Assoc. of Community Corrections Directors'
Chris Hoy, Oregon Sheriff's Jail Command Council
Krista Fegley, Department of Corrections Training Division Director
Mitchell Southwick, Oregon State Sheriffs' Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative

Committee Members Absent:

Brian Belleque, Designee for Director of Department of Corrections
Theresa Smith, Department of Corrections, Women's Correctional Facility

Guests:

Erik Douglass, Marion County Sheriff's Office

DPSST Staff:

Eriks Gabliks, Deputy Director
Marilyn Lorange, Certification and Records Supervisor
Theresa King, Professional Standards Coordinator
Doug Burch, Curriculum Supervisor
Carolyn Kendrick, Administrative Assistant



1. *Minutes (May 15, 2007)

Approve the minutes of the May 15, 2007 Corrections Policy Committee meeting.

Chris Hoy moved to approve the minutes from the May 15, 2006 Corrections Policy Committee meeting. Marie Tyler seconded the motion. The motion carried unanimously by all present.

2. *** Proposed Rule – OAR 259-008-0025**

Basic Corrections Course Challenge *presented by Marilyn Lorance.*

See Appendix A for details on Proposed Rule – OAR 259-008-0025

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

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

Mitchell Southwick moved that the challenge option be removed and to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule and to recommend filing the proposed language for OAR 259-008-0025 as a permanent rule if no comments are received. Chris Hoy seconded the motion. The motion carried unanimously by all present.

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

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

3. ***Proposed Administrative Rule Change – OAR 259-008-0060**

Training/Education Credit *presented by Marilyn Lorance*

See Appendix B for details on Proposed Administrative Rule change – OAR 259-008-0060.

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

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

Staff identified that the proposed rule was developed as requested by the policy committees, to alleviate a current problem while the multi-discipline workgroup established by the Committees works on a long-term solution to the outdated certification chart. One of the challenges DPSST Standards and Certification has is that some individuals will take their training record to different colleges and each college gives them a different amount of credit and all Standards and Certification receives is a college transcript saying credit for prior learning. There is no way to identify if it is duplicate use of training hours. The current rule provides that educational hours can be converted to training points if the applicant has more college credits and is short on training points. However, current rules do not provide a process for eliminating duplicate credit for conversion of training points to educational credits. This rule will address that problem.

Staff is aware that this issue is part of various bargaining contracts and this fact was discussed at the first workgroup meeting. There would traditionally be a phase in date for to allow agencies to bring to their local tables.

The strategic planning process both for community corrections and for telecommunications, want to define the difference between basic and advanced positions other than additional training.

Chris Hoy moved to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule and to recommend filing the proposed language for OAR 259-008-0025 as a permanent rule if no comments are received. Marie Tyler seconded the motion. Motion was carried unanimously by all present.

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

The consensus of the Committee is that there is no significant fiscal impact on small business.

4. ***Justin Smith (DPSST #44304)**
Presented by Theresa King

See Appendix C for details on Justin Smith.

ACTION REQUESTED:

Staff requests the Corrections Policy Committee review the matter and recommend to the Board whether SMITH's certification should be revoked based on a violation of the moral fitness standard.

After Committee discussion of the information presented by staff, Mitchell Southwick moved to recommend to the Board that SMITH's certification be revoked based on the violation of the moral fitness standard. Chris Hoy seconded the motion. The motion carried unanimously by all present.

5. **ORPAT for Corrections – Discussion**
Presented by Doug Burch.

With the data collected, we can now validate ORPAT for Corrections, although the time is different, the skills are basically the same as for Police. Police has adopted ORPAT as an academy graduation standard, meaning that a student has to pass ORPAT one time during the 16-weeks at the set time standard. If a student is not able to complete ORPAT within the set time, the student would come back to the academy until they successfully complete it. When this was implemented with Police on July 1, 2007 the first class under this standard all passed the first time.

The recently implemented standard time for Police is 5½ minutes for ORPAT. We have not looked at a definitive time standard for Corrections, but we have research that puts the time standard at about 6½ minutes which would be "mean plus one".

If Corrections decides to move forward, as Police did, to adopt ORPAT as part of the academy graduation standard, then a phase in date is necessary to get the word out and to prepare constituents that this will be implemented.

Staff requests discussion by the Committee about how the time standard is implemented and what the time standard should be?

Paula Allen stated that DOC would be supportive of the time standard of “mean plus two” based on needs to fill close to 700 correctional officer positions. DOC believes the “mean plus two” standard would make it easier to fill the job openings. Committee members stated that most local agencies already have self-imposed an ORPAT time of 5½ minutes, and if the State sets a “mean plus two” standard, there would be two sets of standards. It was discussed whether setting the physical standard too low, if employees would be at increased risk for injury and/or if employees would be able to adequately perform the duties required.

The Committee requested additional information on the actual time for “mean plus two”. The Committee is supportive of implementing ORPAT as mandatory training for Corrections, however is undecided on a set time standard.

The consensus of the Committee is to table this topic until the next meeting when further information will be available.

6. Curriculum Revisions – Discussion

Doug Burch presented information from the curriculum workgroup on suggested revisions. It was recommended to have separate classes for county and DOC to make sure the curriculum is discipline specific. The discussion also included the possibility of extending the corrections classes from 5-weeks to 8-weeks to include additional curriculum and scenario training.

In order to move forward to the legislature on expanding the Corrections classes, additions to the curriculum need to be defined and what the benefit would be to the people going through the classes. There needs to be a detailed plan.

Committee members suggested visiting academies in other states to research curriculum and requested that DPSST Curriculum staff to start collecting curriculum information from academies in other states in order to be ready for the 2009-2011 legislature.

Staff and Committee members suggested bringing a workgroup back together to fine tune the needs of the Corrections community.

7. Parole & Probation Sub-Committee

Discuss Creation of Parole & Probation Sub-Committee

In past years there was a void of representation at DPSST for the OACCD. Recently there has consistently been better communication and if it continues Shane Hagey believes this topic can be tabled unless further issues arise.

Additional Information:

Paula Allen stated that her position on the Committee has timed out and thanked everyone for the opportunity to participate. The replacement selection process will begin October 15, 2007.

With no further business before the Committee the meeting was adjourned at 3:46pm.

Appendix A

*** Proposed Rule – OAR 259-008-0025**

Basic Corrections Course Challenge *presented by Marilyn Lorange.*

Background: The current rule relating to minimum standards for training allow for a previously employed corrections officer or parole and probation officer to challenge the Basic Corrections Course.

Police Policy Committee Recommendation: On May 8, 2007, the Police Policy Committee reviewed language eliminating the ability for a previously employed police officer to challenge the Basic Police Course. The Committee recommended approving the language but also recommended submitting the same proposal to Corrections Policy Committee and Telecommunications Policy Committee for their consideration of whether the “challenge” option should remain available to any discipline. The Police Policy Committee did not identify any significant fiscal impact on small businesses.

Issue: The current Basic Corrections Course is a five-week course. The content of the course includes written examinations, firearms qualification, defensive tactics qualification and confrontational simulation qualification. The current Basic Parole and Probation Course is a four-week course. The content of the course includes written examinations, defensive tactics qualification and confrontational simulation qualification.

Numerous logistical issues make it difficult to accommodate challenge requests. For example, a greater level of risk is assumed when a student is permitted to complete Confrontational Simulation and Defensive Tactics testing without prior instruction, class interaction and assessment opportunities. It would also be an inefficient use of limited instructor resources to schedule customized challenge sessions. The Basic Corrections classes typically run at capacity. It is difficult to even accommodate students needing to remediate failed components of a prior Basic Course due to staffing challenges.

A preliminary cost analysis was conducted to determine what fee(s) would be necessary to accommodate a challenge request. The preliminary fee breakdown is as follows:

Basic Corrections Course:

Examination (Written exam w/ 300 questions/proctoring)	\$ 104.00
Confrontational Simulation Qualification	\$ 312.00
Defensive Tactics Qualification	\$ 416.00
Firearms Qualification (including ammunition)	\$ 208.00
Preliminary Total	<u>\$ 1,040.00</u>

Basic Parole & Probation Course:

Examination (Written exam w/ 300 questions/proctoring)	\$ 104.00
Confrontational Simulation Qualification	\$ 312.00
Defensive Tactics Qualification	\$ 416.00
Preliminary Total	<u>\$ 832.00</u>

The Department believes that the scheduling and budgetary challenges required assembling necessary equipment and adequate staff make it cost prohibitive to allow individual students to challenge the Basic Corrections or Parole and Probation Courses at this time.

Staff seeks to amend the rules to eliminate the challenge provision for the Basic Corrections and/or Parole and Probation Courses. The ability to request a waiver of these Basic Courses to attend a Career Officer Development Course remains available.

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

259-008-0025

Minimum Standards for Training

(1) Basic Course:

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

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

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

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

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

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

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

(f) Previously employed ~~law enforcement officers, and~~ telecommunicators; may challenge the Basic **Telecommunications** Course based on the following criteria:

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

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

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

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

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

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

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

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

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

~~(h)~~ **(i)** Corrections and police officers who have not completed the Basic Course shall begin training at an academy operated by the Department within 90 days of their initial date of employment. A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

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

~~(j)~~ **(k)** Training on the law, theory, policies and practices related to vehicle pursuit driving and vehicle pursuit training exercises shall be included in the basic course for police officers.

(A) This requirement is subject to the availability of appropriate facilities and funding.

(2) Career Officer Development Course:

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

(b) A law enforcement officer assigned to a Career Officer Development Course shall also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

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

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

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

(5) Specialized Courses:

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

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

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

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

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

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

Appendix B

***Proposed Administrative Rule Change – OAR 259-008-0060**

Training/Education Credit *presented by Marilyn Lorance*

Issue: All upper levels of certification require a combination of training, education and experience. Current administrative rules do not address instances where an individual may receive educational credit from a college for “prior learning experience” based on previous training received, and the training is also included as training hours completed on an applicant’s official training record.

Recommendation: Staff recommendation is to amend the current rule to provide for the exclusive use of training or educational credits, whichever is to the advantage of the applicant. This would effectively eliminate an applicant’s ability to receive duplicate credit for training hours which have been converted into educational credits through an accredited college.

An additional rule change is proposed in (5) on page two which includes reference to the recently adopted minimum employment standards established in OAR 259-008-0011. This is a procedural clarification only, for purposes of rule consistency among disciplines.

The following revised language contains the recommended additions (**bold and underlined text**) and deletions (~~strikethrough text~~) to the current rule:

259-008-0060

Public Safety Officer Certification

(1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.

(2) Basic certification is mandatory and shall be acquired by all police officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.

(3) To be eligible for the award of a certificate, law enforcement officers shall be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.

(4) To be eligible for the award of a certificate, law enforcement officers shall meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.

(5) To be eligible for the award of a certificate, telecommunicators must meet the Board’s prescribed minimum employment standards as established by OAR 259-008-0011.

~~(5)~~ **(6)** To be eligible for the award of a certificate, law enforcement officers shall subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11).

Telecommunicators and emergency medical dispatchers shall subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T).

~~(6)~~ **(7)** Application for certification must be submitted on Form F7, with all applicable sections of the form completed. The form shall be signed by the applicant. In order to insure that the applicant does or does not meet the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision shall be specified in writing and shall accompany the Application for Certification (Form F7).

~~(7)~~ **(8)** When a department head is the applicant, the above recommendation shall be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

~~(8)~~ **(9)** In addition to the requirements set forth above, each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate, shall have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall equal one (1) education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall equal one and one half (1-1/2) education credits.

(c) All college credits shall be supported by certified true copies of official transcripts.

~~(9)~~ **(10)** Training Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)

(a) Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved.

(b) The Department may award training points for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented may be accepted, subject to staff evaluation and approval. These records shall include the subject, date, and classroom hours, and shall be certified true copies of the original.

(d) With proper documentation, instructors may claim course completion for law enforcement classes instructed. Training points for repeat instruction of the same class within a 12-month period shall not be awarded.

(e) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or ~~it's~~ **its** designated staff may award training points for correspondence courses.

(f) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(g) College credit awarded based on training completed may be applied toward either training points or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the total number of training hours for which college credit was awarded.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(C) Notwithstanding subsection (f) and (g) above, no credit can be applied toward both an education credit and training point when originating from the same training event.

~~(10)~~ **(11)** Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, casual, seasonal, or temporary employment shall not qualify as experience toward certification. Experience as a certified part-time parole and probation officer, as defined under OAR 259-008-0005(22) and (23) and OAR 259-008-0066, shall count on a pro-rated basis.

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

~~(11)~~ **(12)** The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested.

(b) Applicants shall have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department.

(c) Applicants shall have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

~~(12)~~ **(13)** The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants shall possess a Basic Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

~~(13)~~ **(14)** The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants shall possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

~~(14)~~ **(15)** The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants shall possess or be eligible to possess the Advanced Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department approved supervisory level training within five (5) years prior to application for the Supervisory Certificate.

(d) Applicants shall be presently employed in, or have satisfactorily performed the duties associated with the position of a first level supervisor, as defined in ORS 181.610 and OAR 259-008-0005(16), as attested to by the applicant's department head during the time such duties were performed, for a period of one (1) year. The required experience shall have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

~~(15)~~ **(16)** The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants shall possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department approved management level training within five (5) years prior to application for the Management Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in ORS 181.610 and OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

~~(16)~~ **(17)** The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants shall possess or be eligible to possess the Management Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed 100 hours of Department approved executive level training within five (5) years prior to application for the Executive Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head.

~~(17)~~ **(18)** Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer shall meet the following requirements for the award of multi-discipline certification:

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

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined

in this rule. This section does not apply to the EMD discipline since it only exists at the basic certification level.

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

(A) For the EMD certificate; a minimum of four (4) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(B) For the Telecommunicator certification, a minimum of twelve (12) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(C) For all other disciplines, a minimum of twenty (20) hours of training, specific to each discipline in which certification is held, must be reported annually on a Form F-15M.

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

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

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

~~(18)~~ **(19)** Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

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

Appendix C

***Justin Smith (DPSST #44304)**

Presented by Theresa King

ISSUE:

Should Justin SMITH's certification be revoked based on a violation of the Moral Fitness standards defined in OAR 259-008-0010(6)?

BACKGROUND:

On May 17, 2004, SMITH was employed as a corrections officer with the Umatilla County Sheriff's Office (UCSO). On December 8, 2005, SMITH received a Basic Corrections certification.

On January 3, 2005, SMITH signed his Criminal Justice Code of Ethics.

This matter first came to the attention of DPSST when an F4, Personnel Action Report was received from the agency showing a "discharge for cause." DPSST sent a letter to the employing agency requesting a copy of the investigation that led to the officer's discharge. DPSST received documentation which detailed three incidents of inappropriate behavior toward female inmates.

On 01 13 06, SMITH was placed on Administrative leave pending the outcome of the internal investigation relating to SMITH's search of the female visitor and search of the female inmate.

On 01 20 06, SMITH was provided a Letter of Termination which outlined a previous sustained complaint in which SMITH received a written reprimand, and sustained the allegations against SMITH for the two unauthorized searches of females. The employer found SMITH's actions to be a "flagrant disregard for our policies and practices." The employer's decision was to terminate SMITH's employment. SMITH signed this letter and noted, "voluntary resign" below his signature.

On March 17, 2006, DPSST issued a Notice of Intent to Revoke Certification based on the discharge. SMITH sent a timely request for a hearing and asserted that he was not discharged, but that he had resigned. DPSST contacted UCSO and received an amended F4 Personnel Action Report showing that SMITH had resigned in lieu of termination; when SMITH was presented with the termination letter; he signed it and then wrote, "voluntary resign." SMITH then handwrote a resignation note, dated the same date as his termination letter.

On April 27, 2006, DPSST sent a letter to the employing agency requesting a copy of the investigation that led to the officer's resignation. On May 9, 2006, DPSST received additional documentation on the case.

On April 27, 2006, DPSST sent a letter to SMITH advising him that an amended F4, Personnel Action Report, had been received. A "Withdrawal of Notice and Termination of Proceedings" was enclosed, based on receipt of the amended F4. SMITH was also notified that his case would be presented to the Corrections Policy Committee for a review for possible violations of the established moral fitness

standards and he was allowed an opportunity to provide mitigating circumstances on his behalf.

On May 10, 2006, SMITH made a public information request, and DPSST responded to his request on May 19, 2006.

On June 16, 2006, DPSST received a faxed letter from SMITH's attorney, Dennis Koho, regarding the SMITH case. This was reviewed with Standards and Certification Supervisor Marilyn Lorange and a telephone conference was conducted with Sheriff Trumbo. DPSST sent a letter recapping the conversation to TRUMBO on June 30, 2006.

On September 8, 2006, Senior Assistant Attorney General Timothy Thompson, Oregon Department of Justice, provided DPSST with a letter that he had sent to KOHO. DPSST since has received the initial letter KOHO sent to THOMPSON.

On October 19, 2006, KOHO contacted DPSST and asked process questions regarding SMITH's case. A follow-up email was sent to KOHO, outlining the applicable statutes and administrative rules that were discussed.

During the months of March through July, 2007, DPSST continued to investigate this case and to receive additional information.

On July 13, 2007, SMITH, through his attorney, sent a letter and supporting documentation for the policy committee and Board's review. Staff asks that this information be reviewed in its entirety.

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.

SMITH's certification is currently in a lapsed status.

Case Review:

This case involves a 36-year old individual who has served in public safety for one year and 247 days, and who resigned in lieu of termination.

CONSIDERATIONS FOR THE POLICY COMMITTEE:

Under OAR 259-008-0010(6):

1. Would SMITH'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 SMITH's conduct involve dishonesty, fraud, deceit, or misrepresentation?
3. Was SMITH's conduct prejudicial to the administration of justice?
4. Would SMITH's conduct 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 her 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.