

Corrections Policy Committee

Minutes

February 11, 2014

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, February 11, 2014, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Vice-Chair Brian Burger called the meeting to order at 1:33 p.m.

Attendees:

Committee Members:

Rick Angelozzi, Department of Corrections Superintendent – by teleconference
Brian Burger, Department of Corrections AFSCME Representative
Donna Petit, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Jeff Hernandez, Non-Management DOC
Jeanine Hohn, Department of Corrections Training Division
Tami Jackson, Non-Management DOC
Andy Long, Oregon State Sheriff's Association
Jason Myers, Oregon State Sheriff's Association
Joseph Pishioneri, Non-Management Law Enforcement
Barbara Shipley, Oregon Sheriff's Jail Command Council
Jeff Wood, Oregon Association of Community Corrections Directors
Linda Yankee, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Lisa Settell, Parole and Probation Officer, Chair

DPSST Staff:

Todd Anderson, Training Division Director
Leon Colas, Professional Standards Coordinator/Investigator
Linsay Hale, S & C Program Manager
Kristen Hibberds, Professional Standards Coordinator/Investigator
Sharon Huck, JTA Coordinator
Theresa King, DOC-BCC Audit Program Coordinator
Robert Sigleer, DOC-BCC Audit Program
Debbie Anderson, Administrative Specialist
Julie Johnson, Private Security Compliance Specialist
Ryan Keck, Leadership Training Coordinator
James Webb, Corrections Training Coordinator
Debbie Graves, Administrative Operations Supervisor

Guests:

Steve Beck, Oregon Council of Police Association



1. Minutes of November 12, 2013 Meeting

Approve the minutes of the November 12, 2013 Corrections Policy Committee meeting.

To see a complete record of the November 12, 2013 Corrections Policy Committee minutes, please go to:

http://www.oregon.gov/dpsst/BD/Policy_Committee_Minutes/CPC_Minutes/CPC111213.pdf

Joe Pishioneri moved that the committee approve the minutes of the November 12, 2013 Corrections Policy Committee meeting. Jeff Hernandez seconded the motion. The motion carried unanimously.

2. Basic Corrections Local Update

Ryan Keck, Leadership Training Coordinator and James Webb, Corrections Class Coordinator

Ryan introduced James Webb, DPSST's new Corrections Class Coordinator. James provided a brief overview of the curriculum updates as outlined in *Appendix A*.

3. Quarterly Review of DOC Basic Corrections Course by the DPSST Audit Team

Presented by Theresa King

See Appendix B for detail

Joe Pishioneri inquired about the timing of tests administration. Theresa reported with the change in the new curriculum, test one is administered and then a series of quizzes. Test two will be administered at the six month mark. The test is an accumulative exam of all the prior learning. Michael Gower reported the intent of the quizzes is to keep the learning fresh and eliminate the long period of time between tests. The results of this new process should be reflected in the next quarterly review.

4. John W. Slyter (Possible Executive Session)

Medical Waiver – Presented by Linsay Hale

Linsay reported that Mr. Slyter is requesting a waiver of the minimum medical requirements for police officer and correctional officer certification. Mr. Slyter is not currently certified as a police officer or corrections officer. Mr. Slyter is serving as a reserve officer with Jefferson County Sheriff's Office (JCSO). Mr. Slyter is requesting a waiver of medical requirements to allow him to pursue a career as a full-time police officer or corrections officer in the State of Oregon.

Jeff Hernandez moved that the Corrections Policy Committee recommends approving a waiver of the minimum medical standards for corrections officers for John Slyter. Michael Gower seconded the motion. The motion carried unanimously.

5. OAR 259-008-0010 and OAR259-008-0011 – Proposed Rule Change

Fingerprint Procedure Changes presented by Sharon Huck

See Appendix C

These changes update the rules on the current fingerprint processes and requirements. This revises wording to ensure rule consistency and housekeeping changes for clarity.

Michael Gower moved that the Corrections Policy Committee recommends to the Board filing the proposed language for OAR 259-008-0010 and 259-008-0011 with the Secretary of State as a proposed rules and as permanent rules if no comments are received. Jason Myers seconded the motion. The motion carried unanimously.

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

6. CPR Maintenance Requirements – Information Only

Presented by Sharon Huck

A concern was raised by a constituent regarding the lack of maintenance requirements for CPR certification for corrections and parole and probation officers. Currently, there are no certification maintenance requirements in OAR for corrections officers or full-time parole and probation officers.

Staff is requesting direction whether to assemble a workgroup to determine if CPR maintenance training should be an ongoing requirement for basic corrections and basic parole and probation certifications.

Michael Gower moved that DPSST form a workgroup to determine if CPR certification should become a maintenance requirement for corrections and parole and probation officers. Jeff Hernandez seconded the motion. The motion carried unanimously.

7. Shawn King, DOC – Snake River Correctional Institution – DPSST# 49251

Presented by Kristen Hibberds

See Appendix D for details

Joe Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Tami Jackson seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified KING's dishonesty and his conduct surrounding an arrest and conviction for providing false information to a police officer in the state of Idaho as the behavior being considered in this case.

By discussion and consensus, the committee determined that KING's behavior did not involve Insubordination.

By discussion and consensus, the committee identified KING's behavior did involve Misconduct as defined in Administrative Rule when he misled a police officer in the state of Idaho and was eventually convicted of a crime.

Michael Gower moved that the Corrections Policy Committee find that KING's Misconduct does rise to the level to warrant revocation when considered alone. Andy Long seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that KING's behavior did not involve Gross Misconduct.

By discussion and consensus, the committee determined that KING's behavior did not involve Misuse of Authority.

By discussion and consensus, the committee determined that KING's behavior did not involve Disregard for the Rights of Others.

By discussion and consensus, the committee identified KING's behavior did involve Dishonesty as defined in Administrative Rule by misleading an Idaho law enforcement official.

Barbara Shipley moved that the Corrections Policy Committee find that KING's Dishonesty does rise to the level to warrant revocation when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- Not admitting or taking responsibility
- Referring to the incident as stretching the truth
- Not forthcoming and less than truthful with DOC
- There were other options, unnecessary lie
- The dog was underweight, not properly cared for.

By discussion and consensus, the committee identified the following Mitigating Circumstances:

- King was disciplined by DOC
- King called in the day after admitting he was the owner of the dog
- King sent a text to the previous owner and she then picked up the dog.

After considering the totality of the circumstances, Jason Myers moved that the Committee recommends to the Board that KING's certifications be revoked. Linda Yankee seconded the motion. The motion carried unanimously.

Michael Gower moved that the Committee recommends to the Board that KING's Misconduct warrants for an ineligibility period to reapply for certification of seven years. Linda Yankee seconded the motion. The motion carried unanimously.

Joe Pishioneri moved that the Committee recommends to the Board that KING's Dishonesty warrants an ineligibility period to reapply for certification of lifetime. Andy Long seconded the motion. The motion carried unanimously.

8. **Dwayne Gift, DOC – Eastern Oregon Correctional Institution – DPSST# 30008**
Presented by Leon Colas

See Appendix E for details

Jeff Hernandez moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Tami Jackson seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified GIFT's dishonesty and his conduct surrounding a conviction of a wildlife violation, trespassing and untruthfulness to the trooper and employer as the behavior being considered in this case.

By discussion and consensus, the committee determined that GIFT's behavior did not involve Insubordination.

By discussion and consensus, the committee identified GIFT's behavior did involve Misconduct as defined in Administrative Rule when he was untruthful with the trooper and his employer, the wildlife violation, trespassing and violation of the Code of Ethics.

Michael Gower moved that the Corrections Policy Committee finds that GIFT's Misconduct does rise to the level to warrant revocation when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that GIFT's behavior did not involve Gross Misconduct.

By discussion and consensus, the committee determined that GIFT's behavior did not involve Misuse of Authority.

By discussion and consensus, the committee identified GIFT's behavior did involve Disregard for the Rights of Others as defined in Administrative Rule when he trespassed on private property.

Joe Pishioneri moved that the Corrections Policy Committee finds that GIFT's Disregard for the Rights of Others does not rise to the level to warrant revocation when considered alone. Jeff Hernandez seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified GIFT's behavior did involve Dishonesty as defined in Administrative Rule when he was dishonest with the trooper, his employer and in his initial letter to the Committee.

Andy Long moved that the Corrections Policy Committee finds that GIFT's Dishonesty does rise to the level to warrant revocation when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- Dishonesty with the trooper, his employer and in the initial letter to the Committee
- Deceitful/evasive demeanor with the trooper
- In the second letter to the Committee, referring to 110% truthful, no accountability, no responsibility
- Had signed the Code of Ethics eight months prior to the incident

By discussion and consensus, the committee identified the following Mitigating Circumstances:

- He helped the trooper load the deer
- Paying his fines
- Hunting license is suspended for three years

- Placed on probation for three years
- He was compliant with the sanctions upon conviction and open lines of communication with his institution

After considering the totality of the circumstances, Andy Long moved that the Committee recommends to the Board that GIFT's certification be revoked. Jeff Wood seconded the motion. The motion carried unanimously.

Jason Myers moved that the Committee recommends to the Board that GIFT's Misconduct warrants for an ineligibility period to reapply for certification of seven years. Michael Gower seconded the motion. The motion carried unanimously.

Michael Gower moved that the Committee recommends to the Board that GIFT's Dishonesty warrants an ineligibility period to reapply for certification of lifetime. Andy Long seconded the motion. The motion carried unanimously.

9. Ray Rockafellor – DPSST# 42493

Presented by Leon Colas

See Appendix F

Joe Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Jeff Wood seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified ROCKAFELLOR's dishonesty and his conduct surrounding an arrest and conviction for Assault IV and Unlawful Entry into a Motor Vehicle and Contempt of Court.

By discussion and consensus, the committee determined that ROCKAFELLOR's behavior did not involve Insubordination.

By discussion and consensus, the committee identified ROCKAFELLOR's behavior did involve Misconduct as defined in Administrative Rule when he committed the crime of Assault IV, Unlawful Entry of the Motor Vehicle, the dishonesty and the Contempt of Court on the violation of the release agreement.

Joe Pishioneri moved that the Corrections Policy Committee finds that ROCKAFELLOR's Misconduct does rise to the level to warrant revocation when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified ROCKAFELLOR's behavior did involve Gross Misconduct as defined in Administrative Rule when he entered the vehicle he put the child in danger and also put others involved at risk along with the assault.

Linda Yankee moved that the Corrections Policy Committee finds that ROCKAFELLOR's Gross Misconduct does rise to the level to warrant revocation when considered alone. Jeff Hernandez seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that ROCKAFELLOR's behavior did not involve Misuse of Authority.

By discussion and consensus, the committee identified ROCKAFELLOR's behavior did involve Disregard for the Rights of Others as defined in Administrative Rule when he unlawfully entered the vehicle and committed an assault in the presence of a child.

Tami Jackson moved that the Corrections Policy Committee finds that ROCKAFELLOR's Disregard for the Rights of Others does rise to the level to warrant revocation when considered alone. Joe Pishioneri seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified ROCKAFELLOR's behavior did involve Dishonesty as defined in Administrative Rule when in the investigation he denied having any contact, approaching or saying anything to the victim and later pled guilty to the assault of the same victim.

Joe Pishioneri moved that the Corrections Policy Committee finds that ROCKAFELLOR's Dishonesty does rise to the level to warrant revocation when considered alone. Michael Gower seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified the following Aggravating Circumstances:

- Previous contact with police shows a pattern of assaultive behavior and dishonesty
- Previous aggressive vehicle behavior, putting others at risk
- Child present during assault
- Victim took precautionary measures to be proactive in avoiding contact with ROCKAFELLOR.
- Victim had to seek medical attention for several injuries.

By discussion and consensus, the committee did not identify any Mitigating Circumstances.

After considering the totality of the circumstances, Joe Pishioneri moved that the Committee recommends to the Board that ROCKAFELLOR's certification be revoked. Tami Jackson seconded the motion. The motion carried unanimously.

Jason Myers moved that the Committee recommends to the Board that ROCKAFELLOR's Misconduct warrants for an ineligibility period to reapply for certification of seven years. Jeff Hernandez seconded the motion. The motion carried unanimously.

Joe Pishioneri moved that the Committee recommends to the Board that ROCKAFELLOR's Gross Misconduct warrants for an ineligibility period to reapply for certification of ten years. Andy Long seconded the motion. The motion carried unanimously.

Joe Pishioneri moved that the Committee recommends to the Board that ROCKAFELLOR's Disregard for the Rights of Others warrants an ineligibility period to reapply for certification of 15 years. Jeff Wood seconded the motion. The motion carried unanimously.

*Jason Myers moved that the Committee recommends to the Board that **ROCKAFELLOR's Dishonesty** warrants an ineligibility period to reapply for certification of lifetime. Joe Pishioneri seconded the motion. The motion carried unanimously.*

10. Staff Update

Linsay Hale thanked the Committee members for their patience while DPSST updates the denial/revocation process. She expressed confidence that this is a good direction for the Department, the Board and for the constituents.

Linsay sent out an email to members of the CPC seeking volunteers for a workgroup. DPSST has been asked by the Board to create the workgroup to look at minimum training requirements for individuals who were previously certified but have left a certified position for a period of time. Joe Pishioneri, Jason Myers, Lisa Settell, and Tami Jackson will represent corrections and parole and probation disciplines. Michael Gower asked to be included on the workgroup. The first meeting is expected to be scheduled in April.

The Center for Policing Excellence (CPE) will be reviewing/revising all of our curriculums so that we are looking at the Problem Based Learning model. The Corrections curriculum has already implemented these updates. The leadership classes are currently being done in this style. This reduces the use of PowerPoint presentation of the curriculum.

The Basic Parole and Probation course in September will be increased to five weeks instead of four, with the new curriculum designed in a Problem Based Learning model. This class will use iPads for delivery of their student handbook materials.

The Basic Police Class will test 40 iPads in the April class only as use as a reader in place of their notebook. This will allow us to see if the deploying and charging of the equipment is working as intended. In the September Parole and Probation class, the iPads will be used as an interactive tool. The student can do research on the internet, converse with their coordinator and instructors via email, and prepare reports with the ability to send them directly to the instructor for grading. With successful results, DPSST will request funding in the 2015-16 session for purchase of additional iPads for all students to use while attending the academy.

The CPE staff consists of Steve Winegar, Ryan Keck, Curriculum Specialist Sara Tribbey, and Support Specialist Theresa Mills. They are working on the curriculums, the Problem Based Learning, and the instructor development within.

The Supervision and Mid-Management courses are back. The courses are now taught in two 40-hour blocks with a break in the middle with a task assigned. The Supervision classes are filling fast but the first Mid-Management course has been postponed until March due to low enrollment.

DPSST is adding one additional Parole and Probation class this year. The four-week class is starting March 31, 2014 and there is still space available. The new five-week curriculum course will begin in September.

For this 2014 legislative session, DPSST does not have any bills in the session. We are tracking the school safety bill being introduced by the OSSA, OACP, and State Police. This is to develop a mapping process for all Oregon schools which would allow all safety

personnel electronic access in the event of an active shooter situation. DPSST's involvement would be to provide training.

11. Next Regularly Scheduled Meeting – May 13, 2014 at 1:30 p.m.

Meeting adjourned at 3:52

Appendix A

Corrections Policy Committee: BCL Update 02-2014, Prepared by Ryan Keck

Overview:

In January 2012 DPSST implemented the 6-week Basic Corrections Local academy (BCL), a revised program designed specifically for city and county corrections professionals. Since then, 171 students have successfully graduated from the BCL academy (6 classes total).

In December 2013 the Corrections Curriculum Committee shared and evaluated program feedback from students, instructors and constituents. In addition, DPSST continually collects and analyzes student and instructor performance.

Report:

- Curriculum Committee members expressed overall satisfaction with the new BCL academy. The members agreed that the program continues to be a significant improvement to previous corrections programs.
 - 90 % of enrolled students successfully graduate

- A review by committee members of the current student performance data (January 2012 – December 2013) concluded that the practices in place for the BCL academy are relevant to the corrections profession and meet the needs of constituents.
 - Academics:
 - Noted reduction in number of academic failures between 5- and 6-Week programs.
 - 5-Week: 5.7% failure rate
 - 6-Week: 3.2% failure rate **(2.5% improvement)**

 - Significant reduction in number of students on “academic probation” (i.e. less than 80% average on quizzes).
 - 5-Week: 57.9% of students on probation after the first quiz
 - 6-Week: 17.5% of students on probation after the first quiz **(40.4% improvement)**

 - 5-Week: 18.0% of students on probation before “cutoff” quiz
 - 6-Week: 12.9% of students on probation before “cutoff” quiz **(5.1% improvement)**

 - Pre-test/Post-test analysis:
 - On average, a 30.4% improvement in knowledge has been measured from pre-test to post-test.

 - In the following areas, a 40% improvement in knowledge (or better) was measured:

- Inmate rights
 - Medical awareness (55%)
 - Use of force (50%)
 - Communication
 - Mental health
- Physical Skills:
 - Defensive tactics/Confrontation Simulations:
 - 1 performance deficiency (inadequate skills)
 - Remediated following additional training
 - 3 of 190 participants (1.5%) incurred debilitating injuries as a result of training activities
 - Physical fitness training/CORPAT:
 - Zero performance deficiencies
 - 2 of 190 participants (1.0%) incurred debilitating injuries as a result of training activities
- Firearms:
 - 1 performance deficiency (safety violation)
 - Remediated following additional training
 - Zero debilitating injuries
- Scenario Training:
 - Zero performance deficiencies
 - Zero debilitating injuries

Final Note:

In 2014 DPSST and the Curriculum Committee will be working to update the Corrections Field Training Manual.

Appendix B

Department of Public Safety Standards and Training

DATE: February 11, 2014

TO: Eriks Gabliks, Director

FROM: Theresa M. King
DOC BCC Audits Unit Coordinator

SUBJECT: Quarterly Review of DOC BCC by DPSST Audit Team

Issue:

Is the DOC BCC meeting the equivalency standards for Basic Corrections Training?

Background:

In 2009 the Legislature approved the Oregon Department of Corrections (DOC) to provide its own training as an alternative to the DPSST Basic Corrections Course, provided DPSST audited the program to ensure the program meets minimum training standards established by the Board. DOC developed their Basic Corrections Course (BCC) and began delivering it. In 2013, the Legislature reviewed the BCC program and approval was granted for the BCC to continue with a review in 2026.

The Audit Team provides the Corrections Policy Committee with quarterly updates of the DOC BCC. Within these updates, the Audit Team identifies areas in which the DOC BCC has met the minimum standards. In cases where the DOC BCC has not met the minimum standards, the Audit Team identifies the areas of non-compliance and the required remedy.

During this reporting period, **October 2013 through December 2013**, the Audit Team conducted a series of audits of the BCC.¹ As the BCC program transitions from the implementation phase, the percentage of on-site audits conducted by the Audit Team has decreased. It remains to be seen if the decrease in on-site audits has an effect on the integrity of the BCC program, how the program is functioning and how the students transfer their prior knowledge to the application phases.²

¹ Ex 2, 11-78

² Ex 1

Audit Program Overview

DOC BCC Training

During this reporting period, DOC BCC began three new classes.³ Five classes were still in a phase of the 2012 BCC training.⁴

DOC COD

During this reporting period, DOC submitted no applications for Career Officer Development (COD) to DPSST.

DOC BCC Testing Results

During this reporting period, the cumulative average for Test #1 was 86%⁵ and the cumulative average for Test #2 was 88%.⁶

DOC Training Failures requiring remediation

During this reporting period there was one academic failure, 6 firearms failure, and an number of other skills failures. These failures either have been successfully remediated or are scheduled to be remediated.⁷

Firearms

During this reporting period DOC's firearms failure rate continued to decrease.⁸

Basic Corrections Certifications

DOC BCC Basic Corrections certifications issued

During this reporting period, DOC PDU submitted 12 new applications for certification; four of which were granted time extensions. Class notebooks BCC 059 and BCC 060 have not yet been released for certification; additional information is still required for final approval of these classes. BCC 059 students were to have been certified in October 2013 and BCC 060 students were to have been certified in September 2013.⁹ Class notebook BCC 063 was received on 12/18/13 and is under review; those students were required to have been certified as of January 2014. No Basic Corrections certifications for BCC were issued during this reporting period.

Curriculum

2012 DOC BCC Curriculum

Based upon the updated Basic Corrections curriculum's focus on scenario training, the Audit Team continues to encourage the DOC BCC program to further develop their scenario training to meet the intent of the scenarios which allow a student to demonstrate prior learning and multiple concepts during a scenario such as officer safety, situational

³ BCC 075, 076 and 077

⁴ Ex 9 – 10; BCC 067B, 070, 071, 072, 073 in Skills Week and Firearms Week

⁵ Ex 8; Test 1 during this reporting period 075, 075 and 077

⁶ Ex 8; Test 2 during this reporting period 067, 070, 071, 072 and 073

⁷ Ex 7

⁸ Ex 3

⁹ BCC 060 started prior to BCC 059, therefore was required to have been certified first.

awareness, effective communication, conflict resolution as well as requisite skills. Specifically, develop the B-series scenarios to the level as those in the C-series scenarios which have more clearly defined role player instructions to encourage consistent demonstration of multiple Focus Points when interacting with an inmate (role player).

Instructor Training and Certification

Instructor Development Courses

During this reporting period DOC PDU delivered three Instructor Development classes.¹⁰

Instructor Applications

During this reporting period, 24 BCC instructors were certified for the BCC program, for total of 299 BCC instructors.

Instructor Certification Update

During 2013, DPSST reviewed and updated statewide instructor qualification and certification requirements for those individuals providing training in mandated courses. These changes are being implemented in 2014. In substance, once an individual is certified, certification renewal will not be required. Additionally, topical certification will no longer be issued; once an individual meets the minimum certification criteria, it is the continuing responsibility of the training venue to ensure that they are assigned only topics in which they are qualified to teach and that their instruction is evaluated on a regular basis.

Audits

Training On-Site Audits

During this reporting period, the Audit Team conducted multiple on-site audits of training. These included observation of the training, review of the lesson plans, student handout materials, instructor presentation, student participation, scenario-based training, online courses and student surveys.¹¹

Beginning in 2014, the Audit Team began using updated Audit Forms which focus on the enhanced 240 hour curriculum with an emphasis on the DPSST Instructional Goals and scenario-based training.

CORPAT Data Collection:

During this reporting period, three Pre-CORPAT and five Post-COPATs were delivered and the data collected.

Findings

In general, DOC BCC *meets* the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

¹⁰ Ex 9

¹¹ Exhibit 4

Appendix C

**Department of Public Safety Standards and Training
Memorandum**

Date: February 11, 2014
To: Corrections Policy Committee
From: Sharon Huck
Rules Coordinator
Subject: OAR 259-008-0010 and OAR 259-008-0011 – Proposed Rule Change
Fingerprint Procedure Changes

Issue: Current rule requires that all Oregon public safety officers be fingerprinted upon employment as a public safety officer. Due to advances in technology, DPSST's rules regarding submitting applicant fingerprint cards are outdated. This proposed rule change updates the rule to reflect current fingerprint card processes and requirements.

Further, this proposed rule change also revises the wording in both 259-008-0010 and 259-008-0011 to ensure rule continuity and consistency. Finally, it eliminates obsolete language and provides minor housekeeping changes for clarity.

The text contains additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(3) Fingerprints. ~~On or~~ **W**ithin 90 days ~~prior to~~ **of** the date of employment **in a certifiable position**, each police, corrections, or parole and probation officer must be fingerprinted on **a** standard applicant fingerprint cards.

(a) The hiring agency is responsible for fingerprinting and must forward ~~two (2)~~ **one** cards to the Oregon State Police Identification Services Section for processing and **the** assignment of **an** identification number.

~~(a) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.~~

~~(b) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.~~

(~~b~~e) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department must comply with the most current requirements.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(~~d~~) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department must be completed and returned to the Department by the applicant pending fingerprint clearance.

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) Fingerprints. ~~On or before~~ **Within 90 days** of the date of employment **in a certifiable position**, each telecommunicator and emergency medical dispatcher must be fingerprinted on **a** standard applicant fingerprint cards.

(a) ~~If the~~ The hiring agency ~~is~~, if a public agency, **it** is responsible for fingerprinting and ~~will~~ forward ~~ing two (2)~~ **one fingerprint** cards to the Oregon State Police Identification Services Section for processing and ~~the~~ assignment of **an** identification number.

(b) If the hiring agency is a private agency, it is responsible for fingerprinting and ~~will~~ forward ~~ing two (2)~~ **one fingerprint** cards to the Department along with the appropriate fee.

(~~A~~) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(~~B~~) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(~~d~~e) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(~~D~~) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department will be completed and returned to the Department by the applicant pending fingerprint clearance.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0010 and OAR 259-008-0011 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0010 and OAR 259-008-0011 with the Secretary of State as a permanent rule if no comments are received.

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

Appendix D

**Department of Public Safety Standards and Training
Memorandum**

DATE: February 11, 2014

TO: Corrections Policy Committee

FROM: Kristen Hibberds
Professional Standards Investigator/Coordinator

SUBJECT: King, Shawn C. DPSST #49251
Basic Corrections Certification
Department of Corrections – Snake River Correctional Institution

OVERVIEW:

In March 2013, DPSST received information from the Snake River Correctional Institution that King had been convicted of Providing False Information to Police in the State of Idaho. The agency's investigator in the case, Captain Gilberto Rodriguez, also provided the police reports and advised they would be conducting an internal administrative review of the matter. We took no action on the case pending the outcome of that administrative review. We also obtained the court judgment and related documents. The incident involved King taking a dog to the Payette, Idaho Police Department and falsely reporting it as an abandoned dog, when the dog was, in fact, his dog. When the truth was discovered, King was cited for and pled guilty to the crime.

In April 2013, the agency forwarded the Internal Investigative Report on the matter. During their investigation, King admitted lying to the police officer about the ownership of the dog. King ultimately received a letter of reprimand from the agency. DPSST originally proceeded with this case as a mandatory revocation proceeding. It was later determined that Oregon has no criminal offense equivalent to the Idaho offense, so we withdrew the mandatory proceeding and initiated this discretionary proceeding based on the dishonesty.

At issue in this case is King's misconduct and dishonesty that led to his citation for the criminal charge and, as well as violation of agency policies.

STAFF ANALYSIS: After reviewing the police reports, the court documents and the agency's internal investigation, staff has identified by a preponderance of evidence that King engaged in misconduct involving untruthfulness and a criminal conviction. Staff has determined that the misconduct involves **Misconduct** and **Dishonesty**. The committee will make its own determinations based on all of the evidence presented.

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.

Staff did not find evidence that King's conduct involves Insubordination as defined above.

Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.

King violated the law by committing a crime in the State of Idaho, and that crime involved dishonesty. King's conduct violated the practices and standards generally followed in the Oregon public safety profession.

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.

Staff did not find evidence that King's conduct involves Gross Misconduct as defined above.

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

Staff did not find evidence that King's conduct involves Misuse of Authority as defined above.

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 or serve the public.

Staff did not find evidence that King's conduct constitutes Disregard for the Rights of Others as defined above.

Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification.

King lied to a police officer in Idaho about having found a dog, when the dog was actually his. He told the officer that he had found the dog roaming around a canal. The officer learned the same day from someone associated with King that King was the owner of the dog, and the following day King contacted the officer and acknowledged that he lied to him. King's conduct involves dishonesty as defined above.

*A copy of the staff analysis was provided to Sothern for the purposes of facilitating mitigation.

COMMITTEE DISCUSSION:

I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary.

II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

CASE SUMMARY:

Misconduct that is specific to this case, considered by the Committee:

The identified conduct *did/did not* involve **Insubordination**.

The identified conduct *did/did not* involve **Misconduct**.

The identified conduct *did/did not* involve **Gross Misconduct**.

The identified conduct *did/did not* involve **Misuse of Authority**.

The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

The identified conduct *did/did not* involve **Dishonesty**.

Identified aggravating circumstances:

Identified mitigating circumstances:

ACTION ITEM 1:

By vote, determine if King's conduct rises to the level to warrant the revocation of his certifications. Recommend to the Board that these certifications *be revoked/not be revoked*.

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

Using the following ineligibility grid and the categories of identified misconduct, by vote, determine and recommend to the Board an *initial* minimum period of ineligibility to apply for certification:

- Dishonesty (5 years to Lifetime).
- Disregard for Rights of Others (5 years to 15 years).
- Misuse of Authority (5 years to 10 years).
- Gross Misconduct (5 years to 10 years).

- Misconduct (3 years to 7 years).
- Insubordination (3 years to 7 years).

Appendix E

**Department of Public Safety Standards and Training
Memorandum**

DATE: February 11, 2014

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: Gift, Dwayne DPSST #30008
Basic Corrections Certification
Department of Corrections – Eastern Oregon Correctional Institution

OVERVIEW: DPSST was notified through LEDS that Gift had been arrested for a Wildlife Offense in October 2012. We obtained the police reports from the agency and monitored the case pending resolution of the criminal charge. Gift was convicted on February 15, 2013 of a Wildlife Violation, ORS 498.002, an Unclassified Misdemeanor, after pleading guilty to the crime. We awaited the results of the internal investigation and in October 2013 the agency notified DPSST that Gift received internal discipline of five days suspension without pay.

The issues in this case are Gift's criminal conviction and his untruthfulness during the initial police investigation.

STAFF ANALYSIS: After reviewing the police reports and the agency's internal investigation, staff has identified by a preponderance of evidence that Gift engaged in misconduct involving a criminal conviction and untruthfulness. Staff has determined that the misconduct involves **Misconduct, Disregard for the Rights of Others and Dishonesty**. The committee, of course, will make its own determinations based on all of the evidence presented.

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.

Staff did not find evidence that Gift's conduct involved Insubordination as defined above.

Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.

Gift violated the law when he committed the crime of the Wildlife Violation, and when he trespassed on private property in the furtherance of his crime. (Ex. A3, A5 p. 2-4, A6, A9, A11)

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.

Staff did not find evidence that Gift conduct involved Gross Misconduct defined above.

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

Staff did not find evidence that Gift misused his authority as defined above.

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 or serve the public.

Although he wasn't charged with the crime, Gift trespassed on private property to gut a deer he had illegally shot. The Trooper determined that Gift drove past two posted No Trespassing signs to go to the place he gutted the deer. A worker on the property attempted to waive Gift down to stop him and ask why he was on the property, but Gift did not stop. Gift told the Trooper that he did not see the worker. (Ex. A9 p. 3-4, A13 p. 4-5)

By trespassing on private property, Gift failed to respect the right of the property owner to keep trespassers off his property.

Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification.

Gift was untruthful with the Oregon State Police Trooper who investigated Gift's entry onto private property. Gift told the Trooper that he and his wife were out for a drive. The Trooper later determined that Gift had gutted a deer on the private property and when he questioned Gift, Gift admitted he had gutted the deer there. Gift admitted he was not truthful with the Trooper by being deceitful about why he was on the private property. Gift acknowledged that being deceitful is the same as being untruthful. (Ex. A9 p. 3, A11 p. 2)

When Gift initially reported the police contact to his agency as required, he did not report that he had been untruthful to the Trooper who cited him. In June 2013, eight months after the incident, during the internal investigation, Gift admitted that the police report was accurate and that he had not been truthful with the Trooper when first questioned. Gift stated that he did not tell the Trooper why he was on the private property because he was afraid the Trooper would ask him about the deer that he illegally shot. (Ex. A6 p. 3, A11 p. 4-5)

In his May 16, 2013 letter to the Corrections Policy Committee, Gift stated he was “up front and truthful to Mr. Jewett (Oregon State Police) when questioned. In his internal investigation interview in June he admitted he had not been truthful with the Trooper when first questioned. (Ex. A10 p. 1, A 11 p. 3)

Gift was Dishonest by omission for not telling the Trooper why he really was on the private property. He was Dishonest by deception and misrepresentation for telling the Trooper that he was out for a drive. Gift was untruthful in his letter to the Corrections Policy Committee.

*A draft of the staff analysis was provided to Gift for the purposes of allowing mitigation. He provided letters for the committee’s consideration.

ACTION ITEM 1:

By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

COMMITTEE DISCUSSION:

I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary. By consensus, identify misconduct specific to each moral fitness category.

II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

CASE SUMMARY:

Misconduct that is specific to this case, considered by the Committee:

The identified conduct *did/did not* involve **Insubordination**.

The identified conduct *did/did not* involve **Misconduct**.

The identified conduct *did/did not* involve **Gross Misconduct**.

The identified conduct *did/did not involve* **Misuse of Authority**.

The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

The identified conduct *did/did not* involve **Dishonesty**.

Identified aggravating circumstances:

Identified mitigating circumstances:

ACTION ITEM 2:

By vote, determine if Gift's conduct rises to the level to warrant the revocation of his certifications. Recommend to the Board that these certifications *be revoked/not be revoked*.

ACTION ITEM 3 (required only if the Committee recommends to the Board that certification be denied or revoked):

Using the following ineligibility grid and the categories of identified misconduct, by vote determine and recommend to the Board an initial minimum period of ineligibility to reapply for certification:

- Insubordination (3 years to 7 years)
- Misconduct (3 years to 7 years)
- Gross Misconduct (5 years to 10 years)
- Misuse of Authority (5 years to 10 years)
- Disregard for Rights of Others (5 years to 15 years)
- Dishonesty (5 years to Lifetime)

Appendix F

**Department of Public Safety Standards and Training
Memorandum**

DATE: February 11, 2014

TO: Corrections Policy Committee

FROM: Leon S. Colas
Professional Standards Investigator/Coordinator

SUBJECT: Rockafellor, Ray DPSST #42493
Basic Corrections Certification

OVERVIEW: Rockafellor has not been employed in a certified public safety position in Oregon since April 2008. In April 2012 DPSST was notified through LEADS that Rockafellor had been arrested for DUII, Disorderly Conduct II and Assault IV. We opened a case, obtained the incident reports and monitored the case through OJIN. In December 2012 OJIN showed that all these charges had been dismissed. We requested the court judgment to complete the file, and that was received in January 2013.

In March 2013 DPSST was notified through LEADS that Rockafellor had been arrested for Assault III, a felony, and for Harassment in February 2013. We had not yet closed the file from the first incident, and we requested the incident reports on this matter. The incident involved Rockafellor and his girlfriend allegedly assaulting the girlfriend's ex-husband. We again monitored the case and in September 2013, Rockafellor was convicted of Assault IV, Unlawful Entry Into a Motor Vehicle, and Contempt of Court. Rockafellor had pled guilty to the criminal charges and had admitted to the Contempt of Court. The felony Assault III was dismissed.

The issues in this case are Rockafellor's conduct surrounding his 2013 criminal convictions and contempt of court conviction. Also at issue is Rockafellor's untruthfulness in stating to the investigating officer that he had not had any altercation with the victim, yet he later pled guilty to assaulting the victim. The documentation on the 2012 arrest incident is presented for background purposes only, since all of those charges were dismissed.

STAFF ANALYSIS: After reviewing the police reports and court documents, staff has identified by a preponderance of evidence that Rockafellor engaged in misconduct involving criminal convictions and untruthfulness. Staff has determined that the misconduct involves **Misconduct, Gross Misconduct, Disregard for the Rights of Others and Dishonesty**. The committee will make its own determinations based on all of the evidence presented.

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.

Staff did not find evidence that Rockafellor's conduct involves Insubordination as defined above. He was not employed as a certified public safety officer at the time of the incident.

Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.

Rockafellor violated the law when he committed the crime of Assault IV and Unlawful Entry Into a Motor Vehicle, and when he was in Contempt of Court for violating his release agreement by contacting the co-defendant, his girlfriend. Contempt of Court is a presumed category V offense pursuant to OAR 259-008-0070(4)(b). His conduct involves Misconduct as defined above. (Ex A7; A8; A8.1; A9)

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.

Under OAR 259-008-0070(4)(b) the crime of Unlawful Entry Into a Motor Vehicle is a presumed Category IV offense based on the elements of the crime. The manner of Rockafellor's entry into the occupied vehicle and the assault did create a danger to persons and property, and that conduct is a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance. His conduct involves Gross Misconduct as defined above. (Ex A7 p. 3, p. 7-8, p. 13)

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

Staff did not find evidence that Rockafellor misused his authority as defined above. He was not employed as a certified public safety officer at the time of the incident.

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 or serve the public.

The crime of Assault IV is a presumed category II offense based on the elements of the crime, under OAR 259-008-0070(4)(b). Rockafellor disregarded the principles of fairness and respect for the rights of another by assaulting the victim, and doing so with the aid of second person. The victim, sitting in his vehicle, did nothing to provoke the assault, and had the right to physical safety. Rockafellor's conduct involves Disregard for the Rights of Others as defined above.

(Ex A7 p. 3, p. 7-8, p. 13)

Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification.

Rockafellor was untruthful with the deputy who investigated the assault when first questioned about it. He stated that he never approached the victim, said anything to him or interacted with him in any way. Rockafellor later plead guilty to assaulting the victim. His initial denial of that assault was untruthful. Rockafellor's conduct involves Dishonesty as defined above. (Ex A7 p. 4, p. 13; A8.1 p. 1, p. 2, p.6, p.7; A9 p. 1)

*A draft of the staff analysis was provided to Rockafellor for the purposes of allowing mitigation. He did not provide any information for the committee's consideration.

ACTION ITEM 1:

By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

COMMITTEE DISCUSSION:

I. Review the investigation and supporting documentation in its entirety and review and amend staff analysis as necessary. By consensus, identify misconduct specific to each moral fitness category.

II. Identify any aggravating or mitigating circumstances surrounding the misconduct.

CASE SUMMARY:

Misconduct that is specific to this case, considered by the Committee:

The identified conduct *did/did not* involve **Insubordination**.

The identified conduct *did/did not* involve **Misconduct**.

The identified conduct *did/did not* involve **Gross Misconduct**.

The identified conduct *did/did not involve* **Misuse of Authority**.

The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

The identified conduct *did/did not* involve **Dishonesty**.

Identified aggravating circumstances:

Identified mitigating circumstances:

ACTION ITEM 2:

By vote, determine if Rockafellor's conduct rises to the level to warrant the revocation of his certification. Recommend to the Board that this certification *be revoked/not be revoked*.

ACTION ITEM 3 (required only if the Committee recommends to the Board that certification be denied or revoked):

Using the following ineligibility grid and the categories of identified misconduct, by vote determine and recommend to the Board an initial minimum period of ineligibility to reapply for certification:

- Insubordination (3 years to 7 years)
- Misconduct (3 years to 7 years)
- Gross Misconduct (5 years to 10 years)
- Misuse of Authority (5 years to 10 years)
- Disregard for Rights of Others (5 years to 15 years)
- Dishonesty (5 years to Lifetime)