

Corrections Policy Committee

Minutes

May 12, 2015

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday May 12, 2105, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Lisa Settell called the meeting to order at 1:30 p.m.

Attendees:

Committee Members:

Lisa Settell, Parole and Probation Officer, Chair
Rick Angelozzi, Department of Corrections Superintendent
Brian Burger, Department of Corrections AFSCME Representative
Michael Gower, Designee for Director of Department of Corrections
Kristen Hanthorn, OACCD Rep, Clatsop County Sheriff's Office (via phone)
Jeanine Hohn, Department of Corrections Training Division
Tami Jackson, Non-Management DOC – Coffee Creek
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 Wheeler, Oregon Sheriff's Jail Command Counsel

Committee Members Absent:

Jeff Hernandez, Non-Management DOC
Donna Pettit, Non-Management Corrections Officer

DPSST Staff:

Eriks Gabliks, Director
Todd Anderson, Training Division Director
Linsay Hale, Professional Standards Division Director
Theresa King, DOC-BCC Audit Program Coordinator
Mona Riesterer, Professional Standards Assistant
Leon Colas, Professional Standards Coordinator/Investigator

Guests:

Eric Jaroach – DOC
Jeana Drew – DOC
Katrina Esquivel – DOC
Julie Tran



1. **Minutes of February 10, 215 Meeting**

Approve the minutes of the February 10, 2015 Corrections Policy Committee meeting.

To see a complete record of the February 10, 2015 Corrections Policy Committee minutes, please go to:

<http://www.oregon.gov/dpsst/BD/pages/correctionspolicycommitteemeetingminutes.aspx>

Jason Myers moved that the committee approve the minutes with amendments of the February 10, 2015 Corrections Policy Committee meeting. The motion was seconded by Joe Pishioneri. The motion carried unanimously.

2. ***Jarred Morgan – Request for Medical Waiver**

Presented by Linsay Hale

Washington County Sheriff's Office is requesting a waiver of the minimum medical requirements for Corrections Deputy Jarred Morgan. OAR 259-008-0010 (8) (o) allows the Board to "waive any physical requirement where, in its judgement, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and safety of co-workers."

Michael Gower moved that the Corrections Policy Committee recommend approval of the visual acuity standards and the depth perception waiver for Deputy Morgan, based on the background presented to the committee. Tami Jackson seconded the motion. The motion carried unanimously.

3. **Quarterly Review of DOC BCC by DPSST Audit & Compliance Unit**

Presented by Theresa King

The audit report is for the period of January to March, 2015. There was one noncompliance issue that was resolved. In the last meeting there was a question in regards to the DOC BCC firearms failure rate. During the last reporting period this has shown improvement. It appears DOC BCC meets the minimum training standards approved by the Board for corrections officers employed by DOC.

4. ***OAR 259-008-0010 – Proposed Rule Change: Physical Standards Review, Form F2 & Physical Standard Waivers Process Changes**

Presented by Sharon Huck

This proposed rule updates the minimum physical standards for employment as a law enforcement officer using the recommendations of Dr. Brad Lorber, a physician with NW Occupational Medicine. Also, at the suggestion of police policy committee members, this proposed rule change eliminates the need for the policy committees and the Board to approve

or deny physical standard waivers. This proposed rule change also alters the process for submitting a DPSST Medical Examination Report (Form F-2). Rather than submitting the full F-2 Medical Form to DPSST, agencies or applicants will be required to only submit the final page (Form F-2A.)

Brian Burger moved to approve filing the proposed language as presented with the Secretary of State as a proposed rule and a permanent rule if no comments are received. Rick Angelozzi seconded the motion. The motion carried unanimously.

By consensus it was determined by the committee that there is no significant fiscal impact on small businesses.

5. ***Brent Peterson – DPSST #49647**

This case was previously presented on February 10, 2015, however a committee member identified exhibits that were inadvertently left out of the record. At issue in this case is whether or not Brent Peterson's conduct surrounding his arrest and conviction of DUII, Fourth Degree Assault and Recklessly Endangering Another and his dishonesty to DOC when reporting his contact with law enforcement should result in the revocation of his corrections for failure to meet the minimum standards for public safety certification.

Jason Myers moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Joseph Pishioneri seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Brent Peterson's behavior did not involve **Insubordination** as defined in the Administrative Rule.

By discussion and consensus, the committee identified that Brent Peterson's behavior did involve **Misconduct** as defined in the Administrative Rule by being convicted of DUII, having an open container in the vehicle, and being convicted of two counts of reckless endangerment.

Brian Burger moved that the Corrections Policy Committee find that Brent Peterson's **Misconduct** does rise to the level to warrant revocation when considered alone. Jeff Wheeler seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified that Brent Peterson's behavior did involve **Gross Misconduct** as defined in the Administrative Rule by being convicted of DUII, fourth degree assault, and reckless endangerment.

Joe Pishioneri moved that the Corrections Policy Committee find that Brent Peterson's **Gross 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 Brent Peterson's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Brent Peterson's behavior did involve **Disregard for the Rights of Others** as defined in the Administrative Rule by operating a motor vehicle while under the influence of alcohol and prescription medication, and causing an auto accident. This behavior resulted in a citizen being injured and taken by ambulance which resulted in a conviction of fourth degree assault.

Jason Myers moved that the Corrections Policy Committee find that Brent Peterson's **Disregard for the Rights of Others** does rise to the level to warrant revocation when considered alone. Joseph Pishioneri seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Brent Peterson's behavior did involve **Dishonesty** as defined in the Administrative Rule by not being honest and forthcoming with his agency about multiple contacts with police. Mr. Peterson stated that he was never arrested and was allowed to drive his vehicle home, which was determined to be an untruthful statement.

Barbara Shipley moved that the Corrections Policy Committee find that Brent Peterson's **Dishonesty** 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 Brent Peterson's behavior did involve **Aggravating Circumstance** by combining prescription medications with alcohol, having an open container of alcohol while driving. Additionally, Mr. Peterson signed a Criminal Justice Code of Ethics in 2009. Mr. Peterson was also cited in 2014 for felony DWS and was given a document prior stating that he would be suspended for a year in which Mr. Peterson stated he didn't understand. Also, as aggravating circumstances was the fact that Mr. Peterson ran out purposely on a restaurant tab without paying the bill.

By discussion and consensus, the committee determined Brent Peterson's behavior did not involve any **Mitigating Circumstances**.

After considering the totality of the circumstances, Jason Myers moved that the committee recommends to the Board that Brent Peterson's certification be revoked. Rick Angelozzi seconded the motion. The motion carried unanimously.

Joseph Pishioneri moved that the committee recommends to the Board that Brent Peterson's **Misconduct** warrants for an ineligibility period to reapply for seven years, **Gross Misconduct** for ten years, **Disregard for the Rights of Others** for fifteen years, and **Dishonesty** for lifetime. Jason Myers seconded the motion. The motion carried unanimously.

6. Darrick Diebel – DPSST #49646

The issue in this case is Diebel's conduct in his 2014 arrest and conviction for Reckless Driving, a discretionary disqualifying crime under OAR 259-008-0070 (4) (c), and whether his corrections certifications should be revoked as a result.

Jeanine Hohn 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 determined that Darrick Diebel's behavior did not involve **Insubordination** as defined in the Administrative Rule.

By discussion and consensus, the committee identified that Darrick Diebel's behavior did involve **Misconduct** as defined in the Administrative Rule by being convicted of reckless driving and the elements of the crime itself.

Joseph Pishioneri moved that the Corrections Policy Committee find that Darrick Diebel's **Misconduct** does not rise to the level to warrant revocation when considered alone. Brian Burger seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified that Darrick Diebel's behavior did involve **Gross Misconduct** as defined in the Administrative Rule by being convicted of reckless driving and sue to the elements of the crime.

Joe Pishioneri moved that the Corrections Policy Committee find that Darrick Diebel's **Gross Misconduct** does not rise to the level to warrant revocation when considered alone. Brian Burger seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Derrick Diebel's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Derrick Diebel's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule

By discussion and consensus, the committee determined that Derrick Diebel's behavior did not involve **Dishonesty** as defined in the Administrative Rule

By discussion and consensus, the committee determined that Derrick Diebel's behavior did involve **Aggravating Circumstance** by signing the Code of Ethics in 2008. Additionally, Mr. Diebel had a designated driver available to him on the night he was arrested.

By discussion and consensus, the committee determined Derrick Diebel's behavior did involve **Mitigating Circumstances** in regards to his letter and the fact that he did a diversion class and went to AA. Mr. Diebel, through his attorney, has since got the conviction reduced to harassment.

After considering the totality of the circumstances, Michael Gower moved that the committee recommends to the Board that Derrick Diebel's certification not be revoked. Brian Burger seconded the motion. The motion carried unanimously.

7. **Joseph Murdock-DPSST#54905**

The issue in this case is whether Murdock's conduct resulting in his 2008 citation for misdemeanor Driving While Suspended, his failure to appear on that citation and his 2010 conviction for Driving While Suspended, should result in the denial of his application for training.

Brian Burger moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Rick Angelozzi seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Joseph Murdock's behavior did not involve **Insubordination** as defined in the Administrative Rule.

By discussion and consensus, the committee identified that Joseph Murdock's behavior did involve **Misconduct** as defined in the Administrative Rule with the DUII (later dismissed due to diversion), driving while suspended and failure to appear.

Mike Gower moved that the Corrections Policy Committee find that Joseph Murdock's **Misconduct** does rise to the level to warrant denial when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified that Joseph Murdock's behavior did involve **Gross Misconduct** as defined in the Administrative Rule by his multiple convictions of driving while suspended and failure to appear.

Brian Burger moved that the Corrections Policy Committee find that Joseph Murdock's **Gross Misconduct** does rise to the level to warrant denial when considered alone. Jason Myers seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Joseph Murdock's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Joseph Murdock's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule

By discussion and consensus, the committee determined that Joseph Murdock's behavior did not involve **Dishonesty** as defined in the Administrative Rule

By discussion and consensus, the committee determined no **Aggravating Circumstances**.

By discussion and consensus, the committee determined Joseph Murdock's behavior did involve **Mitigating Circumstances** in regards to his letter and his military service. Also, the charge was reduced to a violation.

After considering the totality of the circumstances, Rick Angelozzi moved that the committee recommends to the Board that Joseph Murdock's application for training not be denied. Brian Burger seconded the motion. The motion carried unanimously.

8. *Jason Terkelson – DPSST#55126

The issue in this case is Terkelson's conduct in his 2014 arrest and subsequent conviction for DUII, a discretionary disqualifying crime under OAR 259-008-0070 (4) (c), and whether his application for training should be denied as a result.

Jeff Wheeler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Jeanine Hohn seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Jason Terkelson's behavior did not involve **Insubordination** as defined in the Administrative Rule.

By discussion and consensus, the committee identified that Jason Terkelson's behavior did involve **Misconduct** as defined in the Administrative Rule with the DUII conviction, his refusal to take the BAC (Blood Alcohol Concentration) and careless driving.

Joseph Pishioneri moved that the Corrections Policy Committee find that Jason Terkelson's **Misconduct** does rise to the level to warrant denial when considered alone. Brian Burger seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee identified that Jason Terkelson's behavior did involve **Gross Misconduct** as defined in the Administrative Rule based on the DUII conviction.

Andy Long moved that the Corrections Policy Committee find that Jason Terkelson's **Gross Misconduct** does not rise to the level to warrant denial when considered alone. Tami Jackson seconded the motion. The motion carried unanimously.

By discussion and consensus, the committee determined that Jason Terkelson's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Jason Terkelson's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule

By discussion and consensus, the committee determined that Jason Terkelson's behavior did not involve **Dishonesty** as defined in the Administrative Rule

By discussion and consensus, the committee determined Jason Terkelson's behavior did involve **Aggravating Circumstance** when Mr. Terkelson refused to take the breath test which resulted in having to get a search warrant to get a blood sample. This was Mr. Terkelson's second DUII (the first was diverted). He did not take any accountability for his actions. He was also working for a public safety at the time, and he violated the Code of Ethics.

By discussion and consensus, the committee determined Jason Terkelson's behavior did not involve any **Mitigating Circumstances**.

After considering the totality of the circumstances, Jason Myer moved that the committee recommends to the Board that Jason Terkelson's application for training be denied. Andy Long seconded the motion. The motion carried unanimously.

Andy Long moved that the committee recommends to the Board that Jason Terkelson's **Gross Misconduct** warrants for an ineligibility period to reapply for five years. Brian Burger seconded the motion. The motion carried unanimously.

9. ***Marcus Krieg – DPSST # 54792**

This issue in this case is Krieg's conduct in his 2010 arrest and conviction for the equivalent of Oregon DUII, a discretionary disqualifying crime under OAR 259-008-0074 (4) (c), and whether his application for training should be denied as a result.

Brian Burger moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Rick Angelozzi seconded the motion. The motion carried with 11 ayes, with Lisa Settell abstaining.

By discussion and consensus, the committee determined that Marcus Krieg's behavior did not involve **Insubordination** as defined in the Administrative Rule.

By discussion and consensus, the committee identified that Marcus Krieg's behavior did involve **Misconduct** as defined in the Administrative Rule by the DUII conviction which is a violation of the law.

Joseph Pishioneri moved that the Corrections Policy Committee find that Marcus Krieg's **Misconduct** does rise to the level to warrant revocation when considered alone. Jason Myers seconded the motion. The motion carried 10 ayes, Brian Burger Nay, and Lisa Settell Abstaining.

By discussion and consensus, the committee identified that Marcus Krieg's behavior did involve **Gross Misconduct** as defined in the Administrative Rule due the conviction of driving under the influence.

Jason Myer moved that the Corrections Policy Committee find that Brent Peterson's **Gross Misconduct** does rise to the level to warrant revocation when considered alone. Rick Angelozzi seconded the motion. The motion carried 11 ayes, with Lisa Settell abstaining.

By discussion and consensus, the committee determined that Marcus Krieg's behavior did not involve **Misuse of Authority** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Marcus Krieg's behavior did not involve **Disregard for the Rights of Others** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Marcus Krieg's behavior did not involve **Dishonesty** as defined in the Administrative Rule.

By discussion and consensus, the committee determined that Marcus Krieg's behavior did not involve **Aggravating Circumstances**.

By discussion and consensus, the committee determined Marcus Krieg's behavior did involve **Mitigating Circumstances** by the letters provided to the committee, the length of time since the conviction, his compliance with the court obligations. Mr. Krieg also completed a drug and alcohol class, and has the support of his support of coworkers.

After considering the totality of the circumstances, Brian Burger moved that the committee recommends to the Board that Marcus Krieg's application for training not be denied. Tami Jackson seconded the motion. The motion carried 11 ayes, with Lisa Settell abstaining.

10. *Election of New Chair

Joseph Pishioneri moved that Brian Burger be elected Chair for the Corrections Policy Committee upon Lisa Settell's term expiration on 6/30/15 and Jason Myers be appointed Vice Chair. The motion was seconded. The motion carried unanimously.

11. Staff Update

Linsay Hale reported.

Staff has put together a work group to research a maintenance training requirement for Corrections and Parole and Probation. It was decided based on the proposals of the group, to put together a document to send out to all the affected parties to get some additional input. Once that is done the information will be compiled and the work group will meet again to discuss the information.

Staff requests permission to form another workgroup to revisit the denial/revocation rule for all of the law enforcement discipline has been in place since 2007. There have been some

issues that have come up that are requiring some clarification.. It was agreed by a general consensus from the group to form a work group.

There is a public records order that came out from the AG's office, regarding the release of officer dates of birth from DPSST. The order is public information and it has been shared throughout the State. The Oregonian has made a public records request for DPSST information, including officer dates of birth. DPSST feels this is protected information and disagreed with that assessment. DPSST is working on how is the best way to deal with that information and as a department we are in contact with members of the board. We will continue to keep everyone informed once a decision has been made.

DPSST has decided to go forward with a Criminal Justice IRIS system. This would be an internet portal for individuals to look at their certifications and training records. This will only be for actively employed certified individuals. The information would include the employer, officer's name and DPSST#, officer's rank, and the training records.

We are moving forward on the process of how we review our complaints. Currently we do not have a consistent complaint process for the Professional Standards division. There are three different units (PS/PI, Criminal Justice and Fire) that are handling their complaints differently. We are working on developing a consistent, transparent process. We are hopeful that this information will be brought to Correction Policy Committee to be voted on by way of a rule change at the next meeting.

We had the Law Enforcement Memorial last week and it was very successful. There was a historical name added from Marion County. There was also an emergency Public Safety Memorial Fund meeting to consider an application for benefits relating to the tragic death of Deputy Gil Dayton from Coos County. The decision was made that his family is eligible for memorial fund benefits.

On the legislative side, this has been a very busy session. The three bills that are involved with DPSST are; Reserved Officers, compliance of with requests for personnel records, and the PERS exemption for individuals training here at DPSST. DPSST has been involved in numerous other bills relating to public safety.

12. Next Regularly Scheduled Meeting – August 11, 2015 at 1:30 p.m.

** All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at dpsst.records@state.or.us.*

