

# **Corrections Policy Committee**

## **Minutes**

### **August 14, 2012**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, August 14, 2012, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Diana Simpson called the meeting to order at 1:32 p.m.

#### **Attendees:**

##### **Committee Members:**

Diana Simpson, Oregon State Sheriff's Association, Chair  
Brian Burger, Department of Corrections AFSCME Representative  
Daryl Borello, Department of Corrections Training Division  
Erik Douglass, Non-Management Corrections Officer  
Michael Gower, Designee for Director of Department of Corrections  
Nancy Howton, Department of Corrections Security Manager  
Andy Long, Oregon State Sheriff's Association  
Joseph Pishioneri, Non-Management Law Enforcement  
Amanda Rasmussen, Non-Management Corrections Officer  
Barbara Shipley, Oregon Sheriff's Jail Command Council  
Linda Yankee, Oregon Sheriff's Jail Command Council

##### **Committee Members Absent:**

Tami Jackson, Non-Management DOC  
Lisa Settell, Parole and Probation Officer  
Jeff Wood, Oregon Association of Community Corrections Directors

##### **DPSST Staff:**

Eriks Gabliks, Director  
Todd Anderson, Training Division Director  
Steve Beck, Oregon Council of Police Association  
Leon Colas, Professional Standards Coordinator/Investigator  
Lindsay Hale, Certification Coordinator  
Theresa King, Professional Standards Coordinator/Investigator  
David Kirby, Clackamas County Sheriff's Office  
Marilyn Lorange, Standards and Certifications Supervisor  
Bob Sigleer, Certification & Compliance Coordinator  
Kristy Witherell, Administrative Support



**1. Minutes of May 8, 2012 Meeting**

Approve the minutes of the May 14, 2012 Corrections Policy Committee meeting.

See Appendix A for details.

- *Joseph Pishioneri moved that the committee approve the minutes of the August 14, 2012 Corrections Policy Committee meeting. Daryl Borello seconded the motion. The motion carried unanimously.*

**2. House Bill 2712**

Presented by Leon Colas

See Appendix B for details

- *DPSST requests the Corrections Policy Committee identify two members to participate in a single workgroup meeting to review the recommendations and report back to the Policy Committee in November.*
- *Joseph Pishioneri and Daryl Borello volunteered to participate in the workgroup.*
- *Marilyn Lorange will contact everyone involved in the workgroup to set up a meeting in September.*
- *The proposal will come back to the committee in November for formal approval of the proposed rule.*

**3. OAR 259-008-0005, 259-008-0060 & 259-008-0066 – Proposed Rules**

Presented by Linsay Hale

See Appendix C for details

- *Brian Burger moved that the Corrections Policy Committee recommends to the Board filing the proposed language for OAR 259-008-0005, 259-008-0060, & 259-008-0066 with the Secretary of State as a proposed rule and make it permanent if no comments are received. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

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

**4. Final Order that Differs from Proposed Order Issued by Administrative Law Judge**

Presented by Marilyn Lorange

See Appendix D for details.

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

Presented by Theresa King

See Appendix E for details.

*Theresa King stated the 2011 audit of the DOC BCC program meets the minimum training standards for the certification of corrections officers.*

6. **Oregon Department of Corrections Basic Corrections Course 2012**

Presented by Theresa M. King

See Appendix F for details.

- *Daryl Borello stated the 2012 DOC curriculum has been enhanced to be in compliance with the statewide requirements of an additional 51 hours of reality based and scenario training. DOC has been making enhancements to their online testing processes. The sequencing of classes has been changed to flow with the Basic Corrections Local class at DPSST.*
- *Brian Burger moved that the Oregon Department of Corrections Basic Corrections Course 2012 does meet the minimum standard required for equivalency. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

7. **Corey Basford, Department of Corrections – DPSST #40544**

Presented by Leon Colas

See Appendix G for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
  - a. Identify and articulate the misconduct that is specific to this case. *Two DUII convictions in 2004 and 2006, warrant for arrest, contempt of court, failure to comply, and suspended license.*
  - b. The identified conduct did involve **Dishonesty based on BASFORD's denial of drinking alcohol when questioned by the arresting officer.**
  - c. The identified conduct did not involve a **Disregard for the Rights of Others.**
  - d. The identified conduct did not involve **Misuse of Authority.**
  - e. The identified conduct did involve **Gross Misconduct Based on BASFORD's two convictions of DUII.**

- f. The identified conduct ***did*** involve **Misconduct based on BASFORD driving while suspended and a probation violation.**
- g. The identified conduct ***did not*** involve **Insubordination.**

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The committee noted as mitigating circumstances his apologetic behavior in the end. BASFORD was not employed at the time of the two arrests.*

*The committee noted as aggravating circumstances BASFORD's failure to complete the requirements of his conviction, his lack of cooperation with the arresting officer, and his disrespectful communication with the arresting officers. His blood alcohol levels were almost three times the legal limit at the time of the two arrests. BASFORD mixed medication with alcohol.*

- *Brian Burger moved that the Corrections Policy Committee finds BASFORD's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Michael Gower seconded the motion. The motion carried unanimously*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that BASFORD's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; BASFORD may never reapply for certification. Nancy Howton seconded the motion. The motion carried unanimously.*

**8. Jeffery J. Bilyeu, Oregon State Penitentiary – DPSST #31396**

Presented by Leon Colas

See Appendix H for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
  - a. Identify and articulate the misconduct that is specific to this case. ***BILYEU's 2007 DUII diversion and 2012 DUII conviction.***
  - b. The identified conduct ***did not*** involve **Dishonesty.**

- c. The identified conduct **did not** involve a **Disregard for the Rights of Others**.
- d. The identified conduct **did not** involve **Misuse of Authority**.
- e. The identified conduct **did** involve **Gross Misconduct based on BILYEU's DUII conviction**.
- f. The identified conduct **did** involve **Misconduct based on BILYEU's two DUII arrests**.
- g. The identified conduct **did not** involve **Insubordination**

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The committee noted as mitigating circumstances BILYEU's employment record with no disciplinary actions. BILYEU's letter to the committee took responsibility for his actions. Four letters of support were submitted from coworkers. BILYEU took responsibility for his actions at the time of his arrests.*

*The committee noted as aggravating circumstances BILYEU's blood alcohol levels were .23 and .25 at the time of arrests.*

- 2. *Brian Burger moved that the Corrections Policy Committee finds BILYEU's conduct **does not** rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) **not be revoked**. Amanda Rasmussen seconded the motion. **The motion carried** unanimously.*

- 9. **Chris J. Dunsworth, Department of Corrections – DPSST #49672**  
Presented by Leon Colas

See **Appendix I** for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee **adopts** the Staff report as the record upon which its recommendations are based. Brian Burger seconded the motion. **The motion carried** unanimously.*
- *It is the consensus of the committee that the case brought before them did not have enough information to find any misconduct.*
- *Michael Gower moved to postpone hearing DUNSWORTH's case until further information is provided. Amanda Rasmussen seconded the motion. **The motion carried** unanimously.*

**10. Daniel R. Gonzales, Oregon Department of Corrections – DPSST #35139**

Presented by Leon Colas

See Appendix J for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Eric Douglass seconded the motion. The motion carried unanimously with Michael Gower abstaining.*
- By discussion and consensus:
  - a. Identify the conduct that is at issue: *GONZALES left an inmate at a worksite and moved to another one, inaccurate log entries, abuse of computer time while on duty, did not do security checks when out on detail.*
  - b. The identified conduct did not involve **Dishonesty**.
  - c. The identified conduct did not involve a **Disregard for the Rights of Others**.
  - d. The identified conduct did not involve **Misuse of Authority**.
  - e. The identified conduct did involve **Gross Misconduct based on GONZALES not properly keeping track of an inmate**.
  - f. The identified conduct did involve **Misconduct based on GONZALES not properly keeping track of his work crew**.
- The identified conduct did not involve **Insubordination**

By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The committee noted as mitigating circumstances GONZALES' long term employment with Department of Corrections. GONZALES had medical and mental health issues.*

*The committee noted as aggravating circumstances the embarrassment for the department having to pick up a stranded inmate. GONZALES depended on his watch to write in log times knowing his watch was fast.*

- *Amanda Rasmussen moved that the Corrections Policy Committee finds GONZALES' conduct did not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Brian Burger seconded the motion. The motion carried unanimously with Michael Gower abstaining.*

**11. Jeff T. Manley, Clackamas County Sheriff's Office – DPSST #36502**

Presented by Leon Colas

See Appendix K for details.

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

- By discussion and consensus:
  - a. Identify the conduct that is at issue: *Lack of attention to duties, falsification of records, untruthfulness.*
  - b. The identified conduct did involve **Dishonesty based on MANLEY falsifying his records.**
  - c. The identified conduct did involve a **Disregard for the Rights of Others based on MANLEY not completing tier checks which posed a risk to inmates and staff. MANLEY also did not supervise the meal distribution.**
  - d. The identified conduct did involve **Misuse of Authority Based on abuse of public trust.**
  - e. The identified conduct did involve **Gross Misconduct. MANLEY's failure to act created a dangerous situation to others. Gross deviation of the standard of care.**
  - f. The identified conduct did involve **Misconduct based on MANLEY operating contrary to state statute by not making tier checks.**
  - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The policy committee noted as mitigating circumstances MANLEY stating that he had several personal issues.*

*The policy committee noted as aggravating circumstances MANLEY had been addressed on teamwork and work performance in his performance reviews. MANLEY did not take responsibility for his actions. MANLEY did not perform tier checks multiple times on one shift which made him predictable to inmates.*

- *Amanda Rasmussen moved that the Corrections Policy Committee finds MANLEY's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- *Joseph Pishioneri moved that the Corrections Policy Committee recommends to the Board that MANLEY's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; MANLEY may never reapply for certification. Brian Burger seconded the motion. The motion carried unanimously.*

**12. Dewayne L. Woody, Northern Oregon Correctional Facility – DPSST #35139**  
Presented by Leon Colas

*See Appendix L for details.*

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Erik Douglass seconded the motion. The motion carried unanimously.*

- By discussion and consensus:
  - a. Identify the misconduct that is at issue: ***WOODY's inappropriate relationship with a known criminal, misuse of LEDES, gave money to girlfriend to buy drugs, took drugs from the institution he worked at and gave them to the girlfriend.***
  - b. The identified conduct ***did*** involve ***Dishonesty based on WOODY lying about watching girlfriend use drug. WOODY lied about how many times he ran LEDES. WOODY lied about cutting off the relationship with girlfriend. Untruthful throughout his interview.***
  - c. The identified conduct ***did*** involve a ***Disregard for the Rights of Others*** ***WOODY associated himself with known criminals and did not turn them in and he left his girlfriend unattended in a police officer's home.***
  - d. The identified conduct ***did*** involve ***Misuse of Authority based on WOODY's misuse of LEDES. Released sensitive information to his girlfriend.***
  - e. The identified conduct ***did*** involve ***Gross Misconduct based on WOODY associating with known felons including the "fantasia bandit" and not turning them in. Misuse of LEDES.***
  - f. The identified conduct ***did*** involve ***Misconduct based on misuse of LEDES which violated the law. WOODY's behavior in general was conduct that would violate the practices and standards generally followed in the Oregon public safety capacity.***
  - g. The identified conduct ***did not*** involve ***Insubordination***

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

***The policy committee noted as mitigating circumstances WOODY giving his side of the story.***

***The policy committee noted as aggravating circumstances WOODY's involvement in criminal behavior while he was a corrections officer and WOODY's denial of a sexual relationship with the female.***

- h. ***Michael Gower moved that the Corrections Policy Committee finds WOODY's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Amanda Rasmussen seconded the motion. The motion carried unanimously.***
- i. ***Brian Burger moved that the Corrections Policy Committee recommends to the Board that WOODY's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore recommending a lifetime disqualifier; WOODY may never reapply for certification. Andy Long seconded the motion. The motion carried unanimously.***

**13. Next Scheduled Meeting – November 13, 2012 at 1:30 p.m.**

*With no further business before the committee, the meeting adjourned at 3:20 p.m.*

Appendix A

**Corrections Policy Committee  
Minutes  
May 8, 2012**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, May 8, 2012, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. The executive session was held pursuant to ORS 192.660(2)(f) for the purpose of considering information or records that are exempt by law from public disclosure. Chair Diana Simpson called the meeting to order at 9:01 a.m.

**Attendees:**

**Committee Members:**

Diana Simpson, Oregon State Sheriff's Association, Chair  
Brian Burger, Department of Corrections AFSCME Representative  
Daryl Borello, Department of Corrections Training Division  
Erik Douglass, Non-Management Corrections Officer  
Michael Gower, Designee for Director of Department of Corrections  
Nancy Howton, Department of Corrections Security Manager  
Tami Jackson, Non-Management DOC  
Andy Long, Oregon State Sheriff's Association  
Joseph Pishioneri, Non-Management Law Enforcement  
Amanda Rasmussen, Non-Management Corrections Officer  
Barbara Shipley, Oregon Sheriff's Jail Command Council

**Committee Members Absent:**

Lisa Settell, Parole and Probation Officer  
Jeff Wood, Oregon Association of Community Corrections Directors  
Linda Yankee, Oregon Sheriff's Jail Command Council

**DPSST Staff:**

Eriks Gabliks, Director  
Debbie Anderson, Administrative Specialist  
Leon Colas, Professional Standards Coordinator/Investigator  
Linsay Hale, Certification Coordinator  
Ryan Keck, Academy Class Coordinator  
Theresa King, Professional Standards Coordinator/Investigator  
Marilyn Lorange, Standards and Certifications Supervisor  
Bob Sigleer, Certification & Compliance Coordinator  
Kristy Witherell, Administrative Support



**14. Minutes (February 14, 2012)**

Approve the minutes of the February 14, 2012 Corrections Policy Committee meeting.

*See Appendix A for details.*

- *Joseph Pishioneri moved that the committee approve the minutes of the February 14, 2012 Corrections Policy Committee meeting. Amanda Rasmussen seconded the motion. The motion carried unanimously.*

**15. Police to Corrections and Basic Corrections Local Update**

Presented by Ryan Keck

*Ryan gave a brief summary on the Basic Corrections Local class that ran in January. This was the first class that ran the six week curriculum expansion. Through implementing a pre-test to all of the students, the academy was able to capture key performance measures. There was an average of a 30% improvement in their academic testing. There were zero skills deficiencies in the class and no physical injuries. The students really appreciated the scenario based training.*

*The Police to Corrections class was run successfully with an academic average of 89%. Half of the class was administrators and supervisors. The class had an improved appreciation of scenario based training. Some areas of improvement that the students stated they would like to see were test preparation and course logistics.*

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

Presented by Theresa King

*See Appendix B for details*

*Theresa King stated the DOC BCC program meets the minimum training standards for the certification of corrections officers.*

*Michael Gower shared with the policy committee that DOC BCC is working closely with DPSST to meet or exceed the minimum standards. The next project will be getting the BCC re-write in time so it can go through the Corrections Policy Committee and the Board to be accepted.*

**17. OAR-008-0025 – Temporary/Proposed Administrative Rule Change**

Presented by Linsay Hale

*See Appendix C for details.*

- *Joseph Pishioneri moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0025 with the Secretary of State as a temporary rule. Brian Burger seconded the motion. The motion carried unanimously.*

- *Joseph Pishioneri moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0025 with the Secretary of State as a proposed rule. Michael Gower seconded the motion. The motion carried unanimously.*
- *Joseph Pishioneri moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0025 with the Secretary of State as a permanent rule. Nancy Howton seconded the motion. The motion carried unanimously.*

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

- *Joseph Pishioneri moved that the Corrections Policy Committee recommend forwarding proposed rule OAR-259-008-0025 to the Executive Committee for final determination. Erik Douglass seconded the motion. The motion carried unanimously.*

#### **18. OAR-259-008-0060 – Proposed Rule**

Presented by Linsay Hale

*See Appendix D for details.*

- *Erik Douglass moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0060 with the Secretary of State as a proposed rule. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- *Erik Douglass moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0060 with the Secretary of State as a permanent rule if no comments are received. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

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

#### **19. Sean Rarey, Josephine County Sheriff's Office – DPSST #20930**

Request for Medical Waiver

Presented by Linsay Hale

- *Michael Gower moved that the Corrections Policy Committee recommend approval of a medical waiver for Sean Rarey. Nancy Howton seconded the motion. The motion carried unanimously.*
- *Michael Gower moved that the Corrections Policy Committee forward the recommendation of a medical waiver to the Executive Committee. Nancy Howton seconded the motion. The motion carried unanimously.*

## **20. John W. Slyter**

Request for Medical Waiver  
Presented by Linsay Hale

- *Amanda Rasmussen moved that the Corrections Policy Committee recommend denial of a medical waiver for John Slyter. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- *Amanda Rasmussen moved that the Corrections Policy Committee forward the denial of a medical waiver to the Executive Committee. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

## **21. Abel Coronado, Department of Corrections – DPSST #26914**

Presented by Leon Colas

See Appendix E for details.

- *Erik Douglass moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried in a 9-2 vote with Andy long and Tami Jackson abstaining.*
- By discussion and consensus:
  - h. Identify and articulate the misconduct that is specific to this case. *Violations of DOC policies, code of conduct, code of ethics, and a respectful workplace.*
  - i. The identified conduct did not involve **Dishonesty**
  - j. The identified conduct did involve a **Disregard for the Rights of Others based on CORONADO's repeated defamatory accusations toward staff when managers advised CORONADO his accusations were unfounded.**
  - k. The identified conduct did not involve **Misuse of Authority**
  - l. The identified conduct did involve **Gross Misconduct based on a confrontations CORONADO had with another staff member in front of inmates. This created a danger or risk to persons.**
  - m. The identified conduct did involve **Misconduct when CORONADO showed a disregard to management's attempts to redirect him on proper policies and procedures of the facility. CORONADO violated work email policies and the respectful workplace policy.**
  - n. The identified conduct did involve **Insubordination when CORONADO was directed verbally and in writing by multiple superior parties to discontinue his behavior and he did not remediate his behavior.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *CORONADO did not correct his behavior*

*even after management's repeated attempts to correct him. CORONADO had five separate disciplinary actions against him including, a two week suspension. Coworkers attempted to redirect CORONADO, which he did not take advantage of. In the letter CORONADO wrote to the Superintendent, he did not take responsibility for his actions.*

*No mitigating circumstances were identified by the policy committee.*

- *Joseph Pishioneri moved that the Corrections Policy Committee finds CORONADO's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Brian Burger seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*
- *Erik Douglass moved that the Corrections Policy Committee recommends to the Board that CORONADO's conduct encapsulated the lowest end of the categories noted above with a focus on Disregard for the Rights of Others, therefore recommending a five-year disqualifier; CORONADO may reapply for certification five years from the date of revocation. Brian Burger seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*

**22. Enrique Enriquez, Department of Corrections – DPSST #40977**

Presented by Leon Colas

See Appendix F for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Brian Burger seconded the motion. The motion carried in an 8-3 vote with Amanda Rasmussen, Andy Long, and Tami Jackson abstaining.*
- By discussion and consensus:
  - a. Identify and articulate the misconduct that is specific to this case. *ENRIQUEZ's falsification of tier checks and sloppy record keeping.*
  - b. The identified conduct did involve **Dishonesty based on ENRIQUEZ falsifying information on the log sheets.**
  - c. The identified conduct did involve a **Disregard for the Rights of Others based on ENRIQUEZ's falsification of records; he put inmates and staff in danger.**
  - d. The identified conduct did not involve **Misuse of Authority.**

- e. The identified conduct ***did*** involve **Gross Misconduct based on ENRIQUEZ failing to act in doing tier checks. This endangered fellow coworkers, inmates, and the facility which is a gross deviation of the standard of care.**
  - f. The identified conduct ***did*** involve **Misconduct with ENRIQUEZ's violation of Oregon State Statute 169.076.**
  - g. The identified conduct ***did*** involve **Insubordination based on supervisors advising ENRIQUEZ to correct his behavior, and ENRIZUEZ stating that he clearly understood the expectations placed on him. He continued to falsify log books.**
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The committee noted as mitigating circumstances that ENRIQUEZ was dealing with personal family issues at the time.*

*The committee noted as aggravating circumstances that ENRIQUEZ did not change his behavior after being advised to do so several times.*

4. **Brian Burger moved that the Corrections Policy Committee finds ENRIQUEZ's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Michael Gower seconded the motion. The motion carried unanimously with Amanda Rasmussen, Andy Long, and Tami Jackson abstaining.**
5. **Joseph Pishioneri moved that the Corrections Policy Committee recommends to the Board that ENRIQUEZ's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore, recommending a lifetime disqualifier; ENRIQUEZ may never reapply for certification. Michael Gower seconded the motion. The motion carried unanimously with Amanda Rasmussen, Andy Long, and Tami Jackson abstaining.**

**23. Douglas S. Hawker, Department of Corrections – DPSST #36735**

Presented by Leon Colas

See Appendix G for details.

- **Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.**

- By discussion and consensus:
  - a. Identify and articulate the misconduct that is specific to this case. *Dishonesty based on writing a disrespectful note to a coworker.*
  - b. The identified conduct did involve *Dishonesty based on HAWKER lying to supervisors about a disrespectful note he wrote and placed on a coworker's car.*
  - c. The identified conduct did not involve a **Disregard for the Rights of Others.**
  - d. The identified conduct did not involve **Misuse of Authority.**
  - e. The identified conduct did not involve **Gross Misconduct**
  - f. The identified conduct did not involve **Misconduct**
  - g. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The committee identified as mitigating circumstances were HAWKER's letter he wrote to the committee seemed sincere. HAWKER received treatment for his behavior, including taking medication to correct his behavior. There were several letters of reference from a wide range of staff that supported HAWKER. In 12 years of employment, HAWKER had no disciplinary infractions in his file.*

*The committee identified as aggravating circumstances that HAWKER lied multiple times about writing the note to a coworker. This was a small situation that would have been recoverable if he did not lie about it.*

- *Michael Gower moved that the Corrections Policy Committee finds HAWKER's conduct does rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Barbara Shipley seconded the motion. The motion carried in an 8-3 vote with Andy Long and Tami Jackson abstaining and Erik Douglass voting no.*
- *The Corrections Policy Committee voted on the categories listed below and recommends to the Board that Hawker's conduct receive the following periods of ineligibility:*

Category I: Dishonesty (five years to Lifetime). *Michael Gower moved that the Corrections Policy Committee recommend to the Board a lifetime revocation based on dishonesty. David Borello seconded the motion. The motion carried in a 7-4 vote with*

*Andy Long and Tami Jackson abstaining and with Erik Douglass and Brian Burger voting no.*

*Since the Corrections Policy Committee voted for the highest level of the Dishonesty category—a lifetime disqualifier, HAWKER may never reapply for certification.*

**24. Angela R. Osipovich, Josephine County Sheriff's Office – DPSST #50765**  
Presented by Leon Colas

See Appendix H for details.

- *Brian Burger moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*
- By discussion and consensus:
  - g. Identify the conduct that is at issue: *OSIPOVICH violated jail policies; she crossed the line with inmates. She changed inmate's classification levels to allow gang affiliated inmates contact each other. OSIPOVICH communicated with federal detained inmates. She provided contraband to inmates.*
  - h. The identified conduct did involve **Dishonesty based on OSIPOVICH falsifying records and documents.**
  - i. The identified conduct did involve a **Disregard for the Rights of Others based on OSIPOVICH changing sanctions for gang inmates to congregate in unauthorized areas of the jail. She created a dangerous situation in the jail for staff and other inmates. She watched inmates undress.**
  - j. The identified conduct did involve **Misuse of Authority based on OSIPOVICH using her position as a deputy to manipulate inmate classifications. She violated the public's trust.**
  - k. The identified conduct did involve **Gross Misconduct based on OSIPOVICH's actions which created a danger and a risk to the efficient operations of the facility. OSIPOVICH engaged in personal relationships with inmates which is a gross deviation of standard of care.**
  - l. The identified conduct did involve **Misconduct by deviating from public standards and practices a peace officer would adhere to. OSIPOVICH allowed gang members to mingle.**
  - m. The identified conduct did involve **Insubordination by OSIPOVICH overriding supervisor's decisions.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

*No mitigating circumstances were identified by the policy committee.*

*The policy committee meeting noted as aggravating circumstances were OSIPOVICH's multiple violations of jail policies. She received STG training and yet still allowed inmates to comingle.*

- *Joe Pishioneri moved that the Corrections Policy Committee finds OSIPOVICH's conduct did rise to the level to warrant the revocation of her certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Brian Burger seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that OSIPOVICH's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore, recommending a lifetime disqualifier; OSIPOVICH may never reapply for certification. Amanda Rasmussen seconded the motion. The motion carried unanimously with Andy Long, and Tami Jackson abstaining.*

**25. Stephen Wedekind, Department of Corrections – DPSST #33194**

Presented by Leon Colas

See Appendix I for details.

- *Brian Burger 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 with Andy long and Tami Jackson abstaining.*
- By discussion and consensus:
  - h. Identify the conduct that is at issue: **WEDEKIND was charged with using an ATV to harvest deer and was charged with a misdemeanor criminal trespass**
  - i. The identified conduct did not involve **Dishonesty**.
  - j. The identified conduct did not involve a **Disregard for the Rights of Others**.
  - k. The identified conduct did not involve **Misuse of Authority**.
  - l. The identified conduct did not involve **Gross Misconduct**.
  - m. The identified conduct did involve **Misconduct based on WEDEKIND violating the law**.
  - n. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The policy committee noted as mitigating circumstances that WEDEKIND took responsibility for his actions. The game warden believed WEDEKIND's reason for being on the land. The land owner declined to press charges of trespass. WEDEKIND was cooperative and respectful throughout the whole process.*

*The policy committee noted as aggravating circumstances that WEDEKIND had two previous game violations in 1994 and 2003.*

- *Michael Gower moved that the Corrections Policy Committee finds WEDEKIND's conduct did not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Amanda Rasmussen seconded the motion. The motion carried in an 8-3 vote with Andy Long and Tami Jackson abstaining and Barbara Shipley voting no.*

**26. Richard W. Wilson, Marion County Sheriff's Office – DPSST #49156**

Presented by Leon Colas

See Appendix J for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*
- By discussion and consensus:
  - j. Identify the misconduct that is at issue: *WILSON's failure to return to work after a period of absence. He was a no call, no show. He did not contact his supervisors, failure to follow directives, and did not notify department of address change.*
  - k. The identified conduct did not involve **Dishonesty**.
  - l. The identified conduct did involve a **Disregard for the Rights of Others based on WILSON not showing up for work created staffing problems. He did not fulfill his fundamental duty to protect and serve.**
  - m. The identified conduct did not involve **Misuse of Authority**.
  - n. The identified conduct did involve **Gross Misconduct based on the possible lack of efficient operation of the agency. There was a significant draw on resources into finding out why WILSON was not showing up for work.**
  - o. The identified conduct did involve **Misconduct based on WILSON's failure to follow the minimum standards.**
  - p. The identified conduct did involve **Insubordination based on WILSON's failure to follow directions when ordered to two times.**
- q. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The policy committee noted as mitigating circumstances that WILSON stated he was taking medication that made him forget things. The jail Commander made an error when filing the proper documents for reasons of termination of employment.*

*The policy committee noted as aggravating circumstances that WILSON abandoned his job and he did not write a letter of resignation.*

- r. *Amanda Rasmussen moved that the Corrections Policy Committee finds WILSON's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Brian Burger seconded the motion. The motion carried in an 8-3 vote with Andy Long and Tami Jackson abstaining and Erik Douglass voting no.*
- s. *Amanda Rasmussen moved that the Corrections Policy Committee recommends to the Board that WILSON's conduct encapsulated the lowest end of the categories noted above with a focus on Disregard for the Rights of Others, therefore recommending a five-year disqualifier; WILSON may reapply for certification five years from the date of revocation. Joseph Pishioneri seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*

**27. Next Scheduled Meeting – August 14, 2012 at 1:30 p.m.**

*With no further business before the committee, the meeting adjourned at 12:20 p.m.*

*Appendix B*

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

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT:** House Bill 2712

**ISSUE:**

House Bill 2712, 2011 Oregon Laws, Chapter 597, updates and simplifies the current statutory revenue and distribution structure related to criminal fines, assessments, and other financial penalties imposed on conviction for felonies, misdemeanors, and violations other than parking infractions.

House Bill 2712 brought to our attention a large, previously unknown universe of primarily “regulatory” misdemeanor and felony crimes, and classified or reclassified a number of crimes as well. DPSST’s legal services coordinator has identified the crimes and made recommendations about possible presumptive categories for each of them, based on the reasoning of the earlier criminal justice workgroup that developed the current list.

**ACTION ITEM I:**

DPSST staff requests the CPC identify two members to participate in a single workgroup meeting to review the recommendations and report back to the CPC in November.

## Appendix C

### Department of Public Safety Standards and Training Memo

**Date:** August 14, 2012

**To:** Corrections Policy Committee Memo

**From:** Linsay Hale  
Rules & Compliance Coordinator

**Subject:** OAR 259-008-0005, 259-008-0060 & 259-008-0066 – Proposed Rules  
Part-Time Parole/Probation & Multi-Discipline Maintenance Training

**Background:** DPSST currently recalls the certification of any law enforcement officer who fails to meet the maintenance training requirements found in administrative rule. The recall is retroactive to the date that the training should have been completed and remains in effect until the required training is completed.

A recent DOJ analysis revealed that DPSST does not have the authority to recall a certification. ORS 181.662(1) states “The Department of Public Safety Standards and Training may deny the application for training, or deny, **suspend** or revoke the certification, of any instructor or public safety officer, except a youth correction officer or fire service professional, after written notice and hearing consistent with the provisions of ORS 181.661, based upon finding that: ... (c) The public safety officer or instructor does not meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640 (1)(a) to (d).”

This means that the only option available to DPSST when an officer fails to complete the maintenance training is to suspend their certification. DOJ has clarified that our current process for “recall” is in essence a suspension action. Pursuant to statute, a suspension is subject to the contested case proceedings, affording the holder of the certification the right to an administrative hearing prior to suspension of certification. Also, suspensions cannot be retroactive. Any suspension would be effective upon the entry of a final order and would remain in effect until the missing training is completed.

**Issue:** There will be few substantive process changes making the transition from “certification recalls” to “certification suspensions.” In almost all cases the maintenance deficiencies are promptly resolved by the officer and agency. The contested case process would be available to officers in the event that there was a dispute and the maintenance deficiencies were not addressed. The letters sent to officers who fail to complete maintenance training will become part of the contested case process and will include formal written notice of DPSST’s proposed action and the affected officer’s right to request a hearing pursuant to the Attorney General’s Model Rules of Procedure adopted by DPSST.

The current DPSST recall processes are virtually identical for police officers, telecommunicators/emergency medical dispatchers, part-time parole & probation officers and multi-discipline maintenance. On June 18, 2012, a workgroup representing all disciplines met to discuss the proposed terminology and process change. The group unanimously recommended moving forward with the changes.

A timeline has been developed to illustrate the current maintenance recall process and the proposed maintenance suspension process (Att. A.)

The following revised language for OAR 259-008-0005 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

## **259-008-0005**

### **Definitions**

\*\*\*

~~(25) "Recall" means the administrative inactivation of a certificate issued by the Department until maintenance requirements or other administrative requirements for certification are met and certification is restored.~~

\*\*\*

**(30) "Suspension" means the administrative inactivation of a certificate issued by the Department until maintenance requirements or other administrative requirements for certification are met and certification is restored.**

\*\*\*

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

## **259-008-0060**

### **Public Safety Officer Certification**

\*\*\*

(11) Experience/Employment:

(a) Experience gained 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, creditable service time for experience will not accrue under the following circumstances:

\*\*\*

(C) From the date a public safety professional's certification is recalled suspended until it is reinstated by the Department; or

\*\*\*

(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, 259-008-0011, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer must meet the following requirements for the award of multi-discipline certification:

\*\*\*

(h) On or after July 1st of each year, the Department will identify all law enforcement officers who are deficient in maintenance training according to Department records and provide notification to the individual and the employing agency. **A Contested Case Notice of Intent to Suspend will be prepared and served on the law enforcement officer pursuant to ORS 181.662(c) and these rules. A copy of the notice will be sent to the officer's employing agency.**

**(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.**

**(A B) A law enforcement officer who has been served with a Contested Case Notice of Intent to Suspend has Within 30 days of receipt of notification, **from the date of mailing or personal service of the notice to the agency must** notify the Department of the training status of any law enforcement officer identified as deficient by submitting a Form F-16 (Maintenance Training Log) to the Department identifying the maintenance training completed during the previous one (1) year reporting period: **or to file a written request for hearing with the Department.****

**(B C)** Maintenance training hours reported to the Department on a Form F-16 will be used solely to verify completion of maintenance training requirements and will not be added to an officer's training record.

**(i) Default Order: If the required training is not reported to the Department or a request for a hearing received within 30 days from the date of the mailing or personal service of the notice, the Contested Case Notice will become a final order suspending certification pursuant to OAR 137-003-0672.**

~~(i) Failure to notify the Department of completion of any required training for individuals with identified training deficiencies will result in a notification of recall letter being sent to the agency head and the officer.~~

~~(j) The Department will recall a law enforcement officer's certification for:~~

~~(A) Failure to complete or report any required maintenance training above on or before June 30th of each year; or~~

~~(B) Failure to submit a Form F-16 within 30 days after a warning notification letter has been sent.~~

(k) A law enforcement officer with a recalled **suspended** certification is prohibited from being employed in any position for which the certification has been recalled **suspended**.

(l) Recertification following a recall **suspension** may be obtained, **subject to** at the approval of the Department **approval**, by submitting the following:

(A) A written request from the employing agency head requesting recertification, along with a justification of why the maintenance training was not completed; and

(B) Verification that the missing training was completed.

(m) Failure to complete the required maintenance training may not result in a recall **suspension** of certification if the law enforcement officer is on leave from a public or private safety agency.

(19) Certificates and awards are the property of the Department. The Department has the power to revoke or recall **suspend** any certificate or award as provided in the Act.

\*\*\*

The following revised language for OAR 259-008-0066 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

## **259-008-0066**

### **Maintenance of Certification for Part-time Parole and Probation Officers**

\*\*\*

(3) On or after December 31st of each year, the Department will identify all part-time parole and probation officers who are deficient in maintenance training hours according to Department records and provide notification of deficiency to the employing agency. **A Contested Case Notice of Intent to Suspend will be prepared and served on the officer pursuant to ORS 181.662(c) and these rules. A copy of the notice will be sent to the officer's employing agency.**

**(a) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.**

**(a b) An officer who has been served with a Contested Case Notice of Intent to Suspend has** Within the 30 days **from the date of mailing or personal service of the notice to notify the Department of the training status identified as deficient by submitting** identified in the notification of deficiency, the agency must submit a Part-Time Parole & Probation Officer Maintenance Training Log (Form F-17) to the Department identifying the maintenance training hours completed during the previous one (1) year reporting period **or to file a written request for hearing with the Department.** for each officer identified as deficient.

(b) Failure to submit the completed Form F-17 to the Department for officers with identified training deficiencies will result in a notification of recall letter being sent to the agency head and officer.

(c) Maintenance training hours reported to the Department on a Form F-17 will be used solely to verify completion of maintenance training requirements and will not be added to the officer's training record. A Form F-6 (Course Attendance Roster) must be forwarded to the Department to have training hours added to an officer's record.

**(4) Default order: If the required training is not reported to the Department or a request for a hearing received within 30 days from the date of the mailing or personal service of the notice, the Contested Case Notice will become a final order suspending certification pursuant to OAR 137-003-0672.**

(4) The Department will recall a part time parole and probation officer's certification for:

(a) Failure to complete or report any required maintenance training identified in section (2) above on or before December 31st of each year; or

(b) Failure to submit a completed Form F-17 within the 30 days identified in the notification in (3) above.

**(5) An officer with a suspended certification is prohibited from being employed in any position for which the certification has been suspended.**

(5 6) Recertification following a recall **suspension** may be obtained, **subject to** at the approval of the Department **approval**, by submitting the following to the Department:

(a) A written request from the employing agency head requesting recertification, along with a justification of why the required maintenance training hours were not reported; and

(b) Verification that maintenance training hours were completed.

(6) Upon written request from the head of an employing agency, the Department may grant an extension for the completion of maintenance training hours if an officer was on an extended

leave of absence or the Department finds there is other good cause to grant an extension. The granting of such an extension is within the sole discretion of the Department.

**(8) Certificates and awards are the property of the Department. The Department has the power to revoke or suspend any certificate or award as provided in the Act.**

\*\*\*

ATTACHMENT A – Timeline – Current Maintenance Recall Process v. Proposed Maintenance Suspension Process

**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-008-0005, 259-008-0060 & 259-008-0066 with the Secretary of State as a proposed rule.

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-008-0005, 259-008-0060 & 259-008-0066 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

### Memorandum

**Date:** August 14, 2012

**To:** Corrections Policy Committee

**From:** Marilyn Lorange, Manager  
Standards and Certification Program

**Subject:** Final Order that differs from Proposed Order issued by  
Administrative Law Judge – approved by Executive Committee in June

#### **Background:**

On March 29, 2012, the Department received a Proposed Order in the revocation case involving corrections officer Samuel Leidig. That Order, which proposed that Leidig's certifications not be revoked, is provided as Attachment A.

Department staff and legal counsel from the Department of Justice (DOJ) believe that a Final Order that does NOT incorporate the Proposed Order is appropriate, based on the legal reasoning in this case. However, we do not believe that there are grounds to overturn the judge's conclusion that Leidig's certifications not be revoked.

On May 17, 2012, we received from our legal counsel a Final Order document for consideration and signature by the Director. That document is provided as Attachment B.

#### **Applicable laws and rules:**

ORS 181.661 provides as follows:

(d)(A) For cases originally considered by a policy committee, if the department proposes to amend an administrative law judge's proposed order issued in response to a request for a hearing by an instructor or a public safety officer under subsection (1) of this section, the committee shall consider the proposed amendment before the department may issue a final order pursuant to ORS 181.640.

(B) The department's final order may not incorporate the proposed amendment unless the policy committee approves the amendment.

OAR 137.003-0655 (7) provides that an "agency should issue an amended proposed order or a final order within 90 days of the date of the proposed order" unless the agency provides notice to the parties and the judge that the order will not be issued within that time frame.

#### **Action Taken**

Because the August 2012 Corrections Policy Committee (CPC) was significantly after the 90-day deadline, DPSST reviewed this matter with CPC Chair Simpson, and she approved Executive Committee consideration of the Final Order that was prepared by our DOJ legal counsel. The Executive Committee met on June 19, 2012 and approved the serving of the Final Order. It is being presented to the CPC as an informational update.

**No Committee Action Required**

## Appendix E

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

**DATE:** August 14, 2012

**TO:** Eriks Gabliks, Director

**THRU:** Marilyn Lorance  
Standards and Certification Manager

**FROM:** Theresa M. King  
DOC BCC Audits Unit Coordinator

**SUBJECT:** Quarterly Review of DOC BCC by DPSST Audit Team

**Issue:**

Is the 2011 DOC BCC meeting the established standards for Basic Corrections Training?

**Background:**

The concept of Oregon Department of Corrections (DOC) providing its own training as an alternative to the DPSST 200-hour Basic Corrections Course (BCC) was proposed in the 2009 Governors' Recommended Budget as a cost saving for DOC. This concept was given statutory approval for a period of four years with the requirement that it meets or exceeds the DPSST BCC, that DPSST audit the DOC BCC and that DPSST provide a written report to the legislature in 2011.

Since 2010, the Audit Team has provided the Corrections Policy Committee with quarterly updates of the DOC BCC. Within the quarterly updates, the Audit Team has identified areas in which the DOC BCC has met the minimum standards or has exceeded the minimum standard. In cases in which the DOC BCC has not met the minimum standards, the Audit Team has identified the areas of non-compliance and the required remedy.

During this reporting period, **April through June 2012**, the Audit Team conducted a series of audits of the 2011 DOC BCC, which included Administrative Records Audits and On-Site Training Audits. Each audit includes Audit Team determinations of whether the training did not meet the standards, met the standards, or exceeded the standards. Additional observations and recommendations were made in areas of concern.

## **Audit Program Overview**

### **DOC BCC Training**

During this reporting period, DOC BCC began five new BCC, making a total of 11 classes in some phase of training. A total of 128 students are attending some phase of the BCC.<sup>1</sup>

### **DOC BCC testing results**

The cumulative average for Test #1 was 88.9% with 54% being the lowest score and 99% being the highest score. To date, the cumulative average for Test #2 is 89.3% with 79% being the lowest score and 97% being the highest score.<sup>2</sup>

### **DOC Training Failures**

DOC BCC has experienced 1 academic failure requiring remediation. DOC BCC has experienced 15 skills failures requiring remediation.<sup>3</sup>

### **DOC COD**

During this reporting period, DOC submitted 1 application for Career Officer Development (COD) to DPSST.

### **Firearms**

During this reporting period DPSST and DOC have clarified the opportunity for DOC to provide coaching between qualification attempts, and “real time” remediation during the qualifying week. When incorporating these additional opportunities, along with the technical assistance to DOC instructors, the failure rate is reduced significantly; we anticipate a continuing increase in the qualification rate. DPSST continues to work closely and mentor DOC firearms instructors to improve the effectiveness of DOC courses.

---

<sup>1</sup> Ex 65 Information provided by DOC PDU

<sup>2</sup> Ex 67 Information provided by DOC PDU

<sup>3</sup> Ex 66 Information provided by DOC PDU

## **Basic Corrections Certifications**

### **DOC BCC Basic Corrections certifications issued**

To date DOC PDU has submitted 163 applications for certification. Of these, DPSST has issued 101 Basic Corrections certificates. Of the remaining, 62 certificates were not issued because the applicants separated from employment and 7 certificates are being held pending review of the DOC Class Notebooks.

## **Curriculum/Instructors**

### **2012 DOC BCC Curriculum**

On May 8, 2012, the CPC reviewed and approved the amended Oregon Administrative Rules which outline the changes in course requirements and clarify required information to facilitate the audit process.

DOC is allowed six months following a DPSST BCL curriculum change to incorporate changes into the DOC BCC to ensure ongoing equivalency. In March 2012 DOC PDU submitted their 2012 DOC BCC program; however, it did not meet the minimum equivalency standards. DOC has delayed starting any new BCC after July 1, 2012, pending approval of their proposed BCC for 2012.

On June 25, 2012 DOC PDU re-submitted their new 2012 DOC BCC program for the Audit Team's review during this reporting period. Results of that review are provided as a separate agenda item, as approval of the curriculum requires CPC approval.

### **Instructor Training and Certification**

#### **Instructor Development Courses**

DOC PDU has delivered one Instructor Development class within this reporting period.<sup>4</sup>

#### **Instructor Applications**

A total 564 DOC instructors are certified for the BCC program.

---

<sup>4</sup> Ex 68 Information provided by DOC PDU

## **Audits**

### **Training On-Site Audits**

During this reporting period, the Audit Team conducted **52** on-site audits. Training on-site audits included observation of the training, review of the lesson plans, student handout materials, instructor presentation, student participation, skills sheets, online courses and related areas. In general the DOC BCC training meets the state standards.

### **Administrative Records Audits**

During this reporting period, the Audit Team conducted one administrative records audit, of BCC 026 (Eastside). Administrative records audits include reviewing the timekeeping records and shift assignments of both the trainees and the trainers, as well as training documentation.

In general, for purposes of documentation of training, the recordkeeping meets standards. The following were observations identified:

Based on a review of the timekeeping records, post assignments, and related documents, it appears that DOC BCC 026 records reflect an accurate recording of training. After the Audit Team identified one discrepancy relating to one non-certified instructor who had administered three skills sheets to a student, this was remedied by a certified instructor administering the skills sheets.

The Audit Team noted that there were Skills Sheets completed as a part of the DOC BCC which were conducted outside of the schedule provided to the Audit Team; all BCC training is required to be reported to the Audit Team prior to its delivery to allow the Audit Team to perform their audit functions.

### **CORPAT Data Collection:**

During this reporting period, 1 CORPAT was delivered for purposes of data collection.

## Findings

In general, the 2011 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.

## Attachments:

- Ex 1** 04 02 12 BCC 041 Firearms Day 1
- Ex 2** 04 02 12 BCC 038 Firearms Day 1
- Ex 3** 04 03 12 BCC 041 Firearms Day 2
- Ex 4** 04 03 12 BCC 038 Firearms Day 2
- Ex 5** 04 03 12 BCC 041 Firearms Day 3
- Ex 6** 04 04 12 BCC 038 Firearms Day 3
- Ex 7** 04 17 12 BCC 049 Oregon Accountability Model
- Ex 8** 04 17 12 BCC 049 Security Threat Management
- Ex 9** 04 24 12 BCC 050 Online courses
- Ex 10** 04 24 12 BCC 050 Defensive Tactics Control and Restraints
- Ex 11** 04 25 12 BCC 050 Defensive Tactics Weapons Retention
- Ex 12** 04 30 12 BCC 040 Firearms Day 1
- Ex 13** 05 01 12 BCC 040 Firearms Day 2
- Ex 14** 05 02 12 BCC 040 Firearms Day 3
- Ex 15** 05 03 12 BCC 049 Skills Sheet Cell Searches
- Ex 16** 05 03 12 BCC 049 Skills Sheet Frisk Searches
- Ex 17** 05 08 12 BCC 051 Security Threat Management
- Ex 18** 05 08 12 BCC 051 Boundaries
- Ex 19** 05 09 12 BCC 051 Use of Force
- Ex 20** 05 09 12 BCC 051 Respectful Workplace
- Ex 21** 05 09 12 Firearms Remediation
- Ex 22** 05 10 12 BCC 051 PREA
- Ex 23** 05 14 12 BCC 050 Firearms Day 1
- Ex 24** 05 15 12 BCC 050 Firearms Day 2
- Ex 25** 05 15 12 BCC 041 DT Edged Weapon
- Ex 26** 05 15 12 BCC 041 DT Edged Weapon Reality Based Training
- Ex 27** 05 16 12 BCC 050 Firearms Day 3
- Ex 28** 05 15 12 BCC 041 Interpersonal Communications Skills Part 3
- Ex 29** 05 17 12 BCC 050a Firearms Remediation
- Ex 30** 05 17 12 BCC 041 Medical Escorts and Restraints
- Ex 31** 05 17 12 Reality Based Training Day 1
- Ex 32** 05 18 12 Reality Based Training Day 2
- Ex 33** 05 21 12 BCC 050 Firearms Day 1
- Ex 34** 05 22 12 BCC 050 Firearms Day 2
- Ex 35** 05 22 12 BCC 051 Report Writing
- Ex 36** 05 22 12 BCC 051 Online Courses
- Ex 37** 05 23 12 BCC 050 Firearms Day 3
- Ex 38** 05 23 12 BCC 051 OC Spray
- Ex 39** 05 23 12 BCC 051 Defensive Tactics Weapons Retention
- Ex 40** 05 23 12 BCC 051 Defensive Tactics Weapons Retention Reality Based Training
- Ex 41** 05 24 12 Firearms Remediation

**Ex 42** 05 24 12 BCC 050b Firearms Remediation  
**Ex 43** 05 24 12 BCC 051 Information Systems Skills Sheet  
**Ex 44** 05 24 12 BCC 051 Information Systems Skills Sheet remediation  
**Ex 45** 05 24 12 BCC 051 Radio Handling Skills Sheet  
**Ex 46** 05 24 12 BCC 051 Report Writing Skills Sheet  
**Ex 47** 05 25 12 BCC 051 Evidence Handling and Processing Skills Sheet  
**Ex 48** 05 25 12 BCC 051 Restraints Skills Sheet  
**Ex 49** 05 25 12 BCC 051 Security Checks Skills Sheet  
**Ex 50** 05 25 12 BCC 051 Tool Control and Inventory Skill Sheet  
**Ex 51** 05 25 12 BCC 051 Vehicle Searches Skills Sheet  
**Ex 52** Firearms Remediation  
**Ex 53** 06 18 12 BCC 043 Cell Extraction  
**Ex 54** 06 19 12 BCC 043 DT4 Edged Weapons  
**Ex 55** 06 19 12 BCC 043 DT4 Edged Weapons Reality Based Training  
**Ex 56** 06 20 12 BCC 043 IPC 3 Application  
**Ex 57** 06 20 12 BCC 043 CORPAT  
**Ex 58** 06 21 12 BCC 043 Medical Escorts and Restraints  
**Ex 59** 06 21 12 BCC 043 Reality Based Training Day 1  
**Ex 60** 06 22 12 BCC 043 Reality Based Training Day 2  
**Ex 61** BCC 026 Administrative Audit  
**Ex 62** Audit Firearms Tracking  
**Ex 63** Audit Tracking List  
**Ex 64** Audit Team Student Survey compilation  
**Ex 65** DOC Master Calendar  
**Ex 66** DOC Corrective Action (Remediation)  
**Ex 67** DOC Student Training (Tracking)  
**Ex 68** DOC Instructor Development Course (April – June)

## Appendix F

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

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**THRU:** Marilyn Lorange, Standards and Certification Manager

**FROM:** Theresa M. King, DOC BCC Audits Unit Coordinator

**SUBJECT:** Oregon Department of Corrections Basic Corrections Course 2012

#### **Issue:**

Does the Oregon Department of Corrections Basic Corrections Course 2012 meet or exceed the minimum standards of the DPSST 2012 Basic Corrections Course?

#### **Background:**

In January 2012 DPSST began delivering a new six-week Basic Corrections Local (BCL) program, which is now the new state standard for Basic Corrections Training. The new program represents a substantial restructuring of basic corrections training, both with areas of additional instruction and with a significant increase in participatory learning activities. Specifically, 51 hours of reality based scenarios and eight hours of problem-based learning exercises were added to the program. Meetings including DOC PDU were scheduled to include them in curriculum development discussions, and they were invited to participate with the curriculum development workgroup.

The first Basic Corrections Local (BCL) class began in January and DOC PDU was invited to observe this class. The Audit Team observed the majority of these classes during the six week program to understand the improvements in the program for purposes of being able to accurately assess equivalency between the BCC and the BCL as required under the law authorizing the BCC.

#### **Review:**

This review is to determine if the DOC BCC 2012 course is equivalent to the basic corrections training provided by DPSST, for purposes of Basic Correction certification.

In a comparison with the current minimum standards in each of these components I find the following:

1. DOC BCC 2012 *meets* the minimum 240 hours for overall training, and meets the minimum hour requirements in each course subject section.
2. DOC BCC 2012 *meets* the minimum Critical and Essential physical and non-physical tasks required to be covered.
3. DOC BCC 2012 testing measures have not been audited based on the updated curriculum. The next steps will be for the Audit Team to work with DOC PDU in this area and provide a report to the CPC. The Audit Team does not believe that this step should delay the review of the BCC, as it will be addressed during the year.
4. DOC BCC 2012 *meets* the DPSST Instructional Goals.
5. DOC BCC 2012 *meets* the substantial restructuring of basic corrections training, both with areas of additional instruction and with a significant increase in participatory learning activities, reality based scenarios, and problem-based learning exercises.

DOC Professional Development Administrator Borello affirms he will:

1. Meet the minimum instructor qualification and certification requirements, consistent with DPSST policy, and as cited in OAR 259-008-0080.
2. Meet the minimum attendance requirements, as cited in OAR 259-008-0025(6).
3. Meet the minimum conduct requirements as defined in OAR 259-008-0025(6).
4. Meet the documentation requirements, as cited in OAR 259-008-0025(6).
5. Meet the application for training and certification requirements, which include submission of the F-2, F-4, F-5, F-6, F-7, F-11, FTO Completion Report and proof of current First Aid/CPR, as cited in OAR 259-008-0010 thru OAR 259-008-0060.

**Preliminary Findings:**

Based on the curriculum design as offered, it appears that this area meets the new structure requirements. Ongoing audits will be required to ensure a shared understanding of the intent and content of participatory learning activities as well as the scenarios which demonstrate prior learning. Based on the information I have been provided, the result of my review of the DOC BCC curriculum structure for 2012 is that it *meets* the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

**Action Item:**

By a vote, determine if the Oregon Department of Corrections Basic Corrections Course 2012 meets the minimum standard required for equivalency.

## Appendix G

### Department of Public Safety Standards and Training Memorandum

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: COREY C. BASFORD DPSST #40544  
Oregon Department of Corrections**

**ISSUE:**

Should Corey C. Basford's Basic Corrections certification be revoked, based on discretionary disqualifying conduct as defined in OAR 259-008-0070(4)(b), and as referenced in OAR 259-008-0010?

This case involves BASFORD's conduct surrounding his 2004 and 2006 DUII criminal convictions.

**BACKGROUND and OVERVIEW:**

1. *On March 2, 2001, BASFORD was hired by the Department of Corrections as a corrections officer. He attended training, obtained his Basic Corrections certification<sup>5</sup> and signed his Code of Ethics.<sup>6</sup> He resigned from that agency on August 29, 2003, and has not been employed in a certified public safety position since that time.<sup>7</sup>*
2. *In January 2012, DPSST received information via LEDS that BASFORD had been convicted of DUII in November of 2011 on a 2006 incident. DPSST sought and obtained the information related to that case.<sup>8</sup> BASFORD had turned himself in on an arrest warrant in October of 2011, and had returned in November for entry of a plea and sentencing. BASFORD pled guilty to the 2006 DUII and judgment was entered on November 23, 2011. Related charges of Failure to Appear and Probation Violation were dismissed.<sup>9</sup>*

---

<sup>5</sup> Ex A1

<sup>6</sup> Ex A2

<sup>7</sup> Ex A1

<sup>8</sup> Ex A3

<sup>9</sup> Ex A3

3. *As a result of an OJIN check on this incident, DPSST discovered that BASFORD had been convicted of DUII in 2004 also.<sup>10</sup> DPSST obtained the information on that case as well. The probation violation matter noted above stemmed from BASFORD having committed the second DUII while on probation for the first DUII.<sup>11</sup>*
4. *In May 2012, DPSST notified BASFORD via certified mail that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.<sup>12</sup>*
5. *BASFORD did not provide a response.*

### **DISCUSSION:**

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

### **DISCRETIONARY DISQUALIFYING MISCONDUCT:**

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

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

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

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

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

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

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

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

*(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a*

---

<sup>10</sup> Ex A4

<sup>11</sup> Ex A4

<sup>12</sup> Ex A5

*gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;*

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

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

### **SPECIFIC TO THIS CASE:**

**OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of DUII as Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.**

### **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

*(B) If the misconduct resulted in a conviction:*

*(i) Whether it was a misdemeanor or violation;*

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

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

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

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

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

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

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

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

(E) Whether the misconduct involved domestic violence;

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

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

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

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

**STANDARD OF PROOF:**

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

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke BASFORD's certification based on violation of the established moral fitness standards:

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

3. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

4. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

---

---

---

5. By vote, the Policy Committee finds BASFORD's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

**Information Only - SUBSEQUENT DUE PROCESS:**

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

## Appendix H

### Department of Public Safety Standards and Training Memorandum

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: JEFFERY J. BILYEU DPSST #31396  
Oregon State Penitentiary**

**ISSUE:**

Should Jeffery J. Bilyeu's Basic, Intermediate and Advanced Corrections certifications be revoked, based on discretionary disqualifying conduct as defined in OAR 259-008-0070(4)(b), and as referenced in OAR 259-008-0010?

This case involves BILYEU'S conduct surrounding his 2007 DUII diversion and 2012 DUII criminal conviction.

**BACKGROUND and OVERVIEW:**

6. *On August 28, 1995, BILYEU was hired by the Department of Corrections as a corrections officer. He attended training, obtained his Basic, Intermediate and Advanced Corrections certifications<sup>13</sup> and signed his Code of Ethics.<sup>14</sup>*
7. *In April 2012, DPSST received information via LEDS that BILYEU had been arrested for DUII on March 24, 2012 in Marion County. DPSST sought and obtained the information related to that case. BILYEU pled guilty to the DUII and judgment was entered May 4, 2012.<sup>15</sup> The LEDS report also showed a 2007 DUII arrest. DPSST obtained the information on that case as well. That case was later dismissed after successful completion of DUII diversion.<sup>16</sup>*
8. *In May 2012, DPSST notified BILYEU via certified mail that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.<sup>17</sup>*

---

<sup>13</sup> Ex A1

<sup>14</sup> Ex A2

<sup>15</sup> Ex A3

<sup>16</sup> Ex A4

<sup>17</sup> Ex A5

9. *BILYEU provided a response, with letters of support.*<sup>18</sup>

10. *On May 25, 2012, Mr. YODER of the Department of Corrections advised that BILYEU had received a letter of reprimand for this incident on March 24, 2012.*<sup>19</sup>

#### **DISCUSSION:**

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

#### **DISCRETIONARY DISQUALIFYING MISCONDUCT:**

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

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

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

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

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

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

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

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

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

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

---

<sup>18</sup> Ex A6

<sup>19</sup> Ex A6.1

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

#### **SPECIFIC TO THIS CASE:**

**OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of DUII as Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.**

#### **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

- (G) *Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;*
- (H) *Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;*
- (I) *What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.*

**STANDARD OF PROOF:**

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

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke BILYEU's certifications based discretionary disqualifying conduct:

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

7. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

---



---



---

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

---



---



---

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

---



---



---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

8. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

---

---

---

9. By vote, the Policy Committee finds BILYEU's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

**Attachments**

**Information Only - *SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

Appendix I

Department of Public Safety Standards and Training  
Memorandum

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: CHRIS J. DUNSWORTH DPSST #49672**  
**Dept. of Corrections – Coffee Creek Correctional Facility**

**ISSUE:**

Should Chris J. Dunsworth's Basic Corrections certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

This case involves DUNSWORTH's resignation during an internal investigation for violations of agency policies regarding relationships with former inmates.

**BACKGROUND and OVERVIEW:**

11. On May 19, 2008, DUNSWORTH was hired by the Department of Corrections as a corrections officer. He attended training, obtained his Basic Corrections certification<sup>20</sup> and signed his Code of Ethics.<sup>21</sup>
12. In March 2012, DPSST received a Personnel Action Report form F-4 showing that DUNSWORTH had resigned during an investigation.<sup>22</sup> DPSST sought and obtained information relating to the resignation.<sup>23</sup>
13. In May 2012, DPSST notified DUNSWORTH via certified mail that his case would be heard before the Corrections Policy Committee (CPC), and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.<sup>24</sup>
14. DUNSWORTH did not provide a response.

---

<sup>20</sup> Ex A1

<sup>21</sup> Ex A2

<sup>22</sup> Ex A3

<sup>23</sup> Ex A4

<sup>24</sup> Ex A5

**DISCUSSION:**

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

**DISCRETIONARY DISQUALIFYING MISCONDUCT:**

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

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

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

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

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

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

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

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

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

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

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

## **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

## **STANDARD OF PROOF:**

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

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke DUNSWORTH's certification based on violation of the established moral fitness standards:

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

11. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

12. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

---

---

---

13. By vote, the Policy Committee finds DUNSWORTH's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

(A) Category I: Dishonesty (5 years to Lifetime).

(B) Category II: Disregard for Rights of Others (5 years to 15 years).

(C) Category III: Misuse of Authority (5 years to 10 years).

(D) Category IV: Gross Misconduct (5 years to 10 years).

(E) Category V: Misconduct (3 years to 7 years).

(F) Category VI: Insubordination (3 years to 7 years).

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

#### Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

**Appendix J**

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

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: DANIEL R. GONZALES DPSST #25078  
Dept. of Corrections – Columbia River Correctional Institution**

**ISSUE:**

Should Daniel R. Gonzales's Basic, Intermediate and Advanced Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

This case involves GONZALES's retirement during an internal investigation for violations of agency policies regarding visually observing inmates under his supervision, properly accounting for the inmates, and properly documenting the accounting.

**BACKGROUND and OVERVIEW:**

15. *On March 25, 1991, GONZALES was hired by the Department of Corrections as a corrections officer.<sup>25</sup> He attended training, signed his Criminal Justice Code of Ethics,<sup>26</sup> and ultimately obtained his Basic, Intermediate and Advanced Corrections certifications.<sup>27</sup>*
16. *In October 2011, DPSST received a Personnel Action Report form F-4 showing that GONZALES had retired while under investigation.<sup>28</sup> DPSST sought and obtained information relating to the retirement.<sup>29</sup>*
17. *In May 2012, DPSST notified GONZALES via certified mail that his case would be heard before the Corrections Policy Committee (CPC), and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.<sup>30</sup>*

---

<sup>25</sup> Ex A1

<sup>26</sup> Ex A2

<sup>27</sup> Ex A1

<sup>28</sup> Ex A3

<sup>29</sup> Ex A4

18. GONZALES provided a response.<sup>31</sup>

**DISCUSSION:**

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

**DISCRETIONARY DISQUALIFYING MISCONDUCT:**

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

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

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

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

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

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

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

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

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

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

*(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety*

---

<sup>30</sup> Ex A5

<sup>31</sup> Ex A6

*professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.*

### **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

### **STANDARD OF PROOF:**

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

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke GONZALES' certifications based on violation of the established moral fitness standards:

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

15. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

16. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

---

---

---

17. By vote, the Policy Committee finds GONZALES' conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

#### Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

*Appendix K*

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

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: JEFF T. MANLEY DPSST #36502  
Clackamas County Sheriff's Office**

**ISSUE:**

Should Jeff T. Manley's Basic, Intermediate and Advanced Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

This case involves MANLEY's resignation during an internal investigation that sustained violations of department policies involving Performance of Duties, Truthfulness/Integrity, Attention to Duty, Falsification or Destruction of Records, and Surveillance and Supervision.

**EXECUTIVE SESSION: If medical information is discussed, this matter must be moved to executive session.**

**BACKGROUND and OVERVIEW:**

*19. On November 1, 1998, MANLEY was hired by the Department of Corrections as a corrections officer. He resigned from that position on September 10, 1999 and was hired by the Clackamas County Sheriff's Office on September 14, 1999.<sup>32</sup> He completed training, signed his Code of Ethics<sup>33</sup> and ultimately obtained his Basic, Intermediate and Advanced Corrections certifications.<sup>34</sup>*

---

<sup>32</sup> Ex A1

<sup>33</sup> Ex A2

<sup>34</sup> Ex A1

20. In February 2012, DPSST received an F-4, Personnel Action Report showing that MANLEY had resigned during an internal investigation.<sup>35</sup> DPSST sought and received the information leading to the resignation.<sup>36</sup>
21. In May 2012, DPSST notified MANLEY via certified mail that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.<sup>37</sup>
22. MANLEY submitted a response.<sup>38</sup>

## **DISCUSSION:**

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

## **DISCRETIONARY DISQUALIFYING MISCONDUCT:**

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

- (4)(a) (A) *The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;*
- (B) *The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or*
- (C) *The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.*
- (b) *For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:*
  - (A) *Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;*
  - (B) *Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.*
  - (C) *Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.*
  - (D) *Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a*

---

<sup>35</sup> Ex A3

<sup>36</sup> Ex A4

<sup>37</sup> Ex A5

<sup>38</sup> Ex A6

*gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;*

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

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

### **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

*(B) If the misconduct resulted in a conviction:*

*(i) Whether it was a misdemeanor or violation;*

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

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

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

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

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

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

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

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

*(E) Whether the misconduct involved domestic violence;*

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

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

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

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

**STANDARD OF PROOF:**

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

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke MANLEY's certifications based on violation of the established moral fitness standards:

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

19. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

20. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

---

---

---

21. By vote, the Policy Committee finds MANLEY's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Attachments:

**Information Only - SUBSEQUENT DUE PROCESS:**

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

**Appendix L**

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

**DATE:** August 14, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: DEWAYNE L. WOODY DPSST #35139  
Northern Oregon Correctional Facility**

**ISSUE:**

Should Dewayne L. Woody's Basic Corrections certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

This case involves WOODY's resignation during an internal investigation for violations of agency policies regarding association with known criminals, visiting prohibited establishments, LEADS use, and truthfulness.

**BACKGROUND and OVERVIEW:**

23. *On July 7, 2000, WOODY was hired by the Northern Oregon Correctional Facility as a deputy sheriff. He attended training, obtained his Basic Corrections certification<sup>39</sup> and signed his Code of Ethics.<sup>40</sup>*
24. *In October 2011, DPSST received a Personnel Action Report form F-4 showing that WOODY had resigned during an investigation.<sup>41</sup> DPSST sought and obtained information relating to the resignation.<sup>42</sup>*
25. *In May 2012, DPSST notified WOODY via certified mail that his case would be heard before the Corrections Policy Committee (CPC), and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration.<sup>43</sup>*
26. *WOODY provided a response.<sup>44</sup>*

---

<sup>39</sup> Ex A1

<sup>40</sup> Ex A2

<sup>41</sup> Ex A3

<sup>42</sup> Ex A4

<sup>43</sup> Ex A5

**DISCUSSION:**

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

**DISCRETIONARY DISQUALIFYING MISCONDUCT:**

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

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

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

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

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

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

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

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

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

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

*(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety*

*professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.*

### **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

### **STANDARD OF PROOF:**

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

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke WOODY’s certification based on violation of the established moral fitness standards:

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

23. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

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

---

---

---

24. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

---

---

---

25. By vote, the Policy Committee finds WOODY's conduct *does/does not* rise to the level to warrant the revocation of his certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

#### Attachments

*Information Only - **SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*