

# Corrections Policy Committee

## Minutes

### May 15, 2007

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 15, 2007 at the Oregon Public Safety Academy in Salem, Oregon. Chair Bob Wolfe called the meeting to order at 9:02 a.m.

#### **Attendees**

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

Bob Wolfe, Oregon State Sheriffs' Association, Chair  
Brian Belleque, Designee for Director of Department of Corrections  
Chris Hoy, Oregon Sheriff's Jail Command Council  
Greg Morton, Department of Corrections Training Division Director  
Theresa Smith, Department of Corrections, Women's Correctional Facility  
Thomas Wright, DOC Bargaining Unit Representative  
Shane Hagey, Oregon Community Corrections Directors' Association  
Marie Tyler, Oregon Sheriff's Jail Command Council  
Paula Allen, Department of Corrections Security Manager

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

Bryan Goodman, Non-Management Corrections Officer  
Mitchell Southwick, Oregon State Sheriff's Association

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

Eriks Gabliks, Deputy Director  
Marilyn Lorange, Records and Certification Supervisor  
Bonnie Salle', Certification Coordinator  
Theresa King, Professional Standards Coordinator  
Doug Burch, Curriculum Supervisor  
Rick Gardner, JTA/Management Assistant  
Tammera Hinshaw, Executive Assistant

##### **Guest:**

Todd Anderson, Sheriff Tillamook County



#### **1. Election of new Chair**

*Thomas Wright moved to elect Todd Anderson for the position of Chair to be effective upon the term expiration of Bob Wolfe on July 1, 2007. Theresa Smith seconded the motion. The motion carried in a unanimous vote.*

2. **Minutes (November 16, 2006)**

Approve minutes from November 16, 2006 Corrections Policy Committee meeting.

*Chris Hoy moved to accept the November 16, 2006 Correction Policy Committee meeting minutes as presented. Brian Belleque seconded the motion. The motion carried in a unanimous vote.*

3. **Donald Damron, Jr. (DPSST #39989)**

Theresa King discussed the issue before the committee.

**ISSUE:**

Should Donald DAMRON, Jr.'s correction certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0010(6)?

**BACKGROUND:**

On October 4, 2000, DAMRON was employed as a corrections officer with the Josephine County Sheriff's Office. DAMRON holds Basic and Intermediate Corrections certifications.

On February 23, 2005, DAMRON signed his Criminal Justice Code of Ethics.

On November 18, 2006, DPSST received notification that DAMRON had resigned and the employer asked DPSST to review this case for revocation.

On November 27, 2006, DPSST responded to Sheriff Daniel's request.

On January 26, 2007, DAMRON was mailed a letter advising him that his case would be heard before the Corrections Policy Committee. DAMRON was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee's consideration. This letter was sent regular mail and certified mail, return receipt requested. The address used was obtained through DMV address verification.

On February 27, 2006, DAMRON provided information for the Policy Committee's review. Staff asks that the Policy Committee and Board members read this in its entirety.

During the months of March and April, DPSST continued to investigate this case.

**DISCUSSION:**

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

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer's certification, regardless of its status.

DAMRON's certifications are currently in a lapsed status.

**Case Review:**

This case involves a 38-year old corrections officer who has served in public safety for approximately six years and who resigned without prior notice to the employer.

1. The focus of DAMRON's conduct is on how he resigned his position with his employer and the consequences, or potential consequences of his actions. According to the employer:
  - a. DAMRON walked off the job half way through his shift without providing prior notice to the employer.
    - i. *DAMRON admits to walking off the job approximately half way through his shift, and asserts that it was after meals and inmate movements. He further asserts that there was no contractual prohibition against his actions.*
  - b. DAMRON told a portion of the prison population that he was walking off the job.
    - i. *DAMRON asserts that, "ALL of the employees and MOST of the other inmates at Josephine County Jail were well aware that I was selling my home and planning an extended trip through all 48 lower states. My intentions were in NO WAY secretive."*
    - ii. The employer asserts that DAMRON was taught in the Academy and during the FTO program about maintaining professional distance from the criminal population, and that this was also reflected in JCSO policy.
  - c. DAMRON's actions, by asking the prisoner population, "Can I get a hell ya?" had the potential of creating a danger to his co-workers.
    - i. *DAMRON asserts that his pending departure was common knowledge among the staff and inmates and that, "I stuck my head in and said, "You guys be good." A couple inmates looked at me and asked, "Did you just quit?" I said "You guys be good." There was much cheering and good-natured goodbyes, they thanked me for being the fairest deputy they had ever known and that they appreciated me treating them like human beings, not animals."*
    - ii. *In an interview with DPSST staff, Inmate Brewer stated that it was well known that DAMRON was "fed up" with management and that he told the general population of inmates in "the tank," "I'm outa here.....Can I get an attaboy?" BREWER states that the inmates cheered him on.*
    - iii. *In Deputy Sarah Sund's interview, she recalled DAMRON telling the inmate population that he was quitting and asking, "Can I get a hell ya?"*
  - d. DAMRON did not tell his coworkers that a portion of the prison population knew he was walking off the job.
    - i. *In his affidavit, MASON provides recollections of how he found the inmate population and the questions that they asked of him.*
    - ii. *In her affidavit, SUND provides recollections that the inmates were "wound up" after DAMRON left.*

- e. DAMRON had not completed his required tasks prior to walking off the job.
  - f. DAMRON's failure to complete his required tasks further endangered his co-workers.
  - g. DAMRON's actions caused the jail to be below minimum staffing levels at the time he walked off the job.
    - i. *DAMRON asserts that he was the sixth employee working and therefore when he left, the facility was not understaffed.*
  - h. DAMRON's actions endangered:
    - i. his co-workers
    - ii. the prisoner population
    - iii. the security of the facility
2. Subsequent to DAMRON's departure he attempted to have communications with an inmate who was charged with Attempted Aggravated Murder, Assault in the First Degree, Unlawful Use/Carrying a Dangerous Weapon and Menacing.
    - a. *DAMRON asserts that he contacted the inmate after he resigned his position as a correctional officer and as such, had no restrictions from doing so.*
  3. *DAMRON asserts that his departure was in response to a prior incident in which he was inappropriately disciplined.*
    - a. The employer provided documents and policies to support their sustained finding of insubordination against DAMRON.
    - b. Staff has reviewed these documents and the focus of this case remains on DAMRON's actions and their consequences when he walked off the job.

**Mitigating or Aggravating Factors:**

1. A significant aggravating factor is that DAMRON appears to have knowingly and willfully endangered his co-workers, the inmate population, and the security of the facility.
2. A significant aggravating factor is that DAMRON appears to have misrepresented his interaction with the inmates to the Corrections Policy Committee.

**CONSIDERATIONS FOR THE POLICY COMMITTEE:**

Under OAR 259-008-0010(6):

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

**STANDARD OF PROOF:**

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

**STAFF CONCLUSION:**

After considering the totality of circumstances, it appears that DAMRON' knowingly and willfully endangered his co-workers, the inmate population, and the security of the facility.

**ACTION REQUESTED:**

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

*Chris Hoy moved to recommend to the Board to revoke Damron's certifications based on a violation of the moral fitness standard. Greg Morton seconded the motion. The motion carried in a unanimous vote.*

**4. Justin Rose (DPSST #44364)**

Theresa King discussed the issue before the committee.

**ISSUE:**

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

**BACKGROUND:**

On June 14, 2004, ROSE was employed as a corrections officer with the Oregon Department of Corrections (ODOC).

On May 13, 2005, ROSE signed his Criminal Justice Code of Ethics.

On June 13, 2005, ROSE received a Basic Corrections Certificate.

On March 23, 2006, DPSST received notification that ROSE had been cited for a hunting violation or crime.

On April 5, 2006, DPSST received a memorandum from ODOC in which the employer made a follow-up call to the Court to confirm the hunting matter had been dismissed, but also discovered that on the day and time ROSE was cited by police for hunting, he was supposed to be at work. Additionally, over one and half hours prior to his assigned shift, ROSE called work to take Sick Leave; indicating that "Wife in car accident."

On November 1, 2006 DPSST followed up with ODOC to determine ROSE's status. ODOC reported that ROSE had gone "AWOL." Ultimately ROSE resigned while under investigation for misconduct. ODOC provided DPSST with the investigation.

On November 15, 2006, ROSE was mailed a letter advising him that his case would be heard before the Corrections Policy Committee. ROSE was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee's consideration. This letter was sent regular mail and certified mail, return receipt requested. The address used was obtained through DMV address verification.

On November 25, 2006, both the regular mail and the certified mail were returned “Not Deliverable.”

On December 6, 2006, DPSST contacted the DOJ Watch Center and requested a skip trace. DOJ provided an updated address.

On December 11, 2006, ROSE was mailed a letter advising him that his case would be heard before the Corrections Policy Committee. ROSE was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee’s consideration. This letter was sent regular mail and certified mail, return receipt requested. The address used was obtained through DMV address verification.

On January 16, 2007, the certified mail was returned “Unclaimed.” The regular mail was not returned.

**DISCUSSION:**

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

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer’s certification, regardless of its status.

ROSE’s certification is currently in a lapsed status.

**Case Review:**

This case involves a 24-year old corrections officer who has served in public safety for approximately two years and who resigned while under investigation for misuse of his sick leave, untruthfulness related to his sick leave use, and violation of agency policy relating to reporting criminal activity.

4. The employer determined that in November 2005, ROSE left work under the pretext that his mother-in-law was being treated in the hospital after being in an accident with a drunk driver. ROSE was unable to provide any documentation that would verify his assertions. ODOC contacted the local hospital which did not have a record of this individual having been treated on that date.
5. The employer determined that ROSE did not report for his next scheduled shift, reporting a “family emergency death in family.” ROSE later asserted that it was only a “family emergency, and no death, but did not provide documentation.
6. The employer determined that in March 2006, ROSE called in approximately 1½ hours prior to shift reporting that he would not be in to work because his wife had been in a car accident. Then, at the same time ROSE had been scheduled to begin his shift, he was cited by police for hunting without a license. ODOC determined through documentation ROSE provided that the accident had actually occurred two days prior to ROSE calling in to work. The employer obtained an estimate for repairs on ROSE’s wife’s vehicle which showed a loss date of March 10, 2006, not on March 12, 2006 as ROSE claimed.

7. The employer identified a pattern of leave usage that indicated a “pattern of abuse.”
8. The employer determined that ROSE violated agency policy by not reporting the misdemeanor crime in a timely manner.

**Mitigating or Aggravating Factors:**

1. A significant aggravating factor is that ROSE appears to have been untruthful with his employer on more than one occasion.

**CONSIDERATIONS FOR THE POLICY COMMITTEE:**

Under OAR 259-008-0010(6):

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

**STANDARD OF PROOF:**

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

**STAFF CONCLUSION:**

After considering the totality of circumstances, it appears that ROSE violated agency policy, and was untruthful and deceptive on more than one occasion.

**ACTION REQUESTED:**

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

*Shane Hagey moved to recommend to the Board to revoke Rose’s certification based on a violation of the moral fitness standard. Paula Allen seconded the motion. The motion carried in a unanimous vote.*

**5. Christopher Mortensen (DPSST #47299)**

Theresa King discussed the issue before the committee.

**ISSUE:**

Should Christopher Mortensen’s training and his subsequent corrections certification be denied based on violation of the Moral Fitness standards defined in OAR 259-008-0010(6), or on his discretionary disqualifying misdemeanor conviction, or both?

**BACKGROUND:**

On April 23, 2006, MORTENSEN was employed as a corrections officer with the Oregon Department of Corrections.

On or about August 24, 2006, DPSST received an F-5, Application for Training, on MORTENSEN. On this application, MORTENSEN self-disclosed that he had been convicted of Failure to Perform the Duties of a Driver. This is a Class A Misdemeanor.

On January 19, 2007, DPSST sent a request for the Incident Report to the arresting agency, which was later received.

On January 25, 2007, an OJIN report was pulled regarding this conviction.

On January 25, 2007, DPSST sent a request for the court judgment.

On January 25, 2007, MORTENSEN was mailed a letter advising him that his case would be heard before the Corrections Policy Committee. MORTENSEN was advised he had an opportunity to provide mitigating circumstances, in writing, for the Committee's consideration. This letter was sent regular mail and certified mail, return receipt requested.

On February 2, 2007, DPSST received a copy of the court judgment.

On February 12, 2007, MORTENSEN sent DPSST a letter for Committee and Board review. Staff asks that members review it in its entirety.

#### **DISCUSSION:**

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

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer's certification, regardless of its status.

MORTENSEN has made application for training would then subsequently seek certification.

#### **Case Review:**

This case involves a 23-year old corrections officer who has served in public safety for less than one year.

This case centers on MORTENSEN's conduct when he was twenty years old and engaged in a single incident. The incident involved a hit and run incident in which MORTENSEN did not stop and perform the required duties of a driver, and consumption of alcohol as a minor.

MORTENSEN provided information on his behalf which includes:

9. That after the accident, he did not stop because he "panicked."
10. That he admitted what he had done to the investigating officers.
11. That he has completed the court requirements.
12. That he accepts responsibility for his actions and has learned from his mistakes.

**Mitigating or Aggravating Factors:**

2. A mitigating factor is that this incident occurred prior to MORTENSEN entering public safety.
3. An aggravating factor is that MORTENSEN did not stop and take responsibility for his actions after he struck another vehicle.
4. A mitigating factor is that MORTENSEN admitted to striking the other driver's vehicle with his when he was contacted by the police.
5. An aggravating factor is that MORTENSEN's actions caused injury to the passenger.
6. A mitigating factor is that MORTENSEN self disclosed the conviction on his application to DPSST.

**CONSIDERATIONS FOR THE POLICY COMMITTEE:**

Under OAR 259-008-0010(6):

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

Under OAR 259-008-0070:

1. What are significant mitigating or aggravating factors that would support a determination either to deny or not?

**STANDARD OF PROOF:**

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

**STAFF CONCLUSION:**

After considering the totality of circumstances, it appears that this case involves both mitigating and aggravating circumstances.

**ACTION REQUESTED:**

Staff requests the Corrections Policy Committee review the matter and recommend to the Board whether MORTENSEN's training and subsequent certification should be denied based on a violation of the moral fitness standard, or the discretionary disqualifying conviction, or both.

*Chris Hoy moved to recommend to the Board to not deny Motensen's training and subsequent certification based on a violation of the moral fitness standard or the discretionary disqualifying conviction. Thomas Wright seconded the motion. The motion carried in a unanimous vote.*

6. **David L. Thomas (DPSST #22747)**

Theresa King discussed the issue before the committee.

**ISSUE:**

Should David L. Thomas' request for corrections training be denied and his certifications be revoked based on conviction of a discretionary disqualifying crime, or a violation of the Moral Fitness standards defined in OAR 259-008-0010(6), or both?

**BACKGROUND:**

On May 8, 1989, THOMAS was employed as a corrections officer with the Lane County Sheriff's Office. He obtained Basic and Intermediate Corrections certificates. On January 1, 1994, THOMAS was reclassified as a police officer with the same agency. He obtained Basic, Intermediate and Advanced Police certifications.

On June 14, 1994, THOMAS signed his Criminal Justice Code of Ethics.

On November 30, 2006, LCSO made notification to DPSST of THOMAS' conviction for DUII, in compliance with OAR 259-008-0010(5).

DPSST sought and obtained the incident reports and judgments from the courts on THOMAS' two DUII incidents.

On January 19, 2007, DPSST mailed THOMAS a letter notifying him his case would be heard before the Corrections Policy Committee and allowed him an opportunity to provide mitigating circumstances on his behalf.

On February 5, 2007, THOMAS provided a 3-pg letter for consideration by the Corrections Policy Committee. Staff requests that the policy committee members and the Board read this in its entirety.

On February 12, 2007, Sheriff Burger provided mitigating circumstances on THOMAS' behalf for the Corrections Policy Committee's consideration.

**DISCUSSION:**

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

Under Oregon Revised Statute 181.662(5), DPSST may take action on an Oregon public safety officer's certification, regardless of its status.

THOMAS holds Basic, Intermediate and Advanced Police certifications and has lapsed Basic and Intermediate Corrections certifications.

**Case Review:**

This case involves a 52-year old individual who has been employed with his agency for the past 17 years, and who was arrested for DUII in 2003 and 2006. THOMAS received a diversion for the first DUII and a conviction for the second DUII. After a voluntary 21-day inpatient

treatment and a 10-week intensive outpatient treatment program, THOMAS' employer has transferred him from a police-certified position to a corrections-certified position where he would not be driving a vehicle. THOMAS' employer is requesting that THOMAS be allowed to attend Corrections Training and become re-certified in the corrections discipline. Therefore, this case comes before the Corrections Policy Committee.

According to each incident report, both incidents involved THOMAS driving while intoxicated. Neither incident involved property damage or injury to persons.

Although THOMAS has voluntarily given up his position as a police officer with LCSO, this is an internal agreement between him and his employer. According to OAR 259-008-0070(4):

“Scope of Revocation. When the Department denies or revokes the certification of any public safety professional, the denial or revocation *will* encompass *all* certificates the Department has issued to that person.” [*emphasis added*]

Currently THOMAS' corrections certifications are in a “lapsed” status and his Police certifications will lapse on March 16, 2007. If THOMAS were to formally agree to the revocation of his police certifications with the State, he would be forfeiting all of his certifications including his opportunity to apply for corrections certification following the completion of training requirements. Staff believes this is not THOMAS' intent; therefore the focus of this case will remain on determining whether to deny THOMAS his corrections training and the subsequent corrections certification.

**Mitigating or Aggravating Circumstances:**

1. A mitigating factor is that neither of THOMAS' arrests for DUII resulted in property damage or physical injury to another.
2. An aggravating factor is that THOMAS was arrested for two DUII's within a 3-year period of time.
3. A mitigating factor is that in the first DUII arrest, THOMAS was compliant, but an aggravating factor is that in the second DUII arrest, THOMAS was momentarily verbally aggressive with the arresting officer.
4. A mitigating factor is that THOMAS did not seek to use his position to avoid the consequences of his actions in either incident.
5. A mitigating factor is that in both incidents it appears that THOMAS was truthful and forthright with the arresting officers.
6. A mitigating factor is that THOMAS voluntarily entered an inpatient and outpatient program, both of which he successfully completed.
7. A mitigating factor is that it appears that THOMAS was forthright with his employer and voluntarily moved from a police to corrections position in which he would not be driving. THOMAS has also signed a Last Chance Agreement.

**CONSIDERATIONS FOR THE POLICY COMMITTEE:**

Under OAR 259-008-0010(6):

13. Would THOMAS' actions cause a reasonable person to have doubts about his honesty, respect for the rights of others, and respect for the laws of the state?
14. Did THOMAS' conduct involve dishonesty, fraud, deceit, or misrepresentation?
15. Was THOMAS' conduct prejudicial to the administration of justice?
16. Would THOMAS' conduct adversely reflect on his fitness to perform as a law enforcement officer and do his actions make him inefficient and otherwise unfit to

render effective service because of the agency's and public's loss of confidence in his ability to perform competently?

**STANDARD OF PROOF:**

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

**STAFF CONCLUSION:**

After considering the totality of circumstances, and communications, it appears that although there is the aggravating factor of two DUI's within 3 years, there are substantial mitigating factors.

**ACTION REQUESTED:**

Staff requests the Corrections Policy Committee review the matter and recommend to the Board whether THOMAS' request for corrections training be denied and all his certifications be revoked based on a violation of the moral fitness standard.

*Greg Morton moved to recommend to the Board to not deny Thomas' request for corrections training nor to revoke his certifications based on a violation of the moral fitness standard. Theresa Smith seconded the motion. The motion carried in a unanimous vote.*

**7. OAR 249-008-0010(6) – Proposed Administrative Rule Change**

Moral Fitness

Bonnie Salle reviewed the issue before the committee.

**Issue:** The Oregon Department of Justice has recommended that the Department consider amending the language relating to moral fitness in OAR 259-008-0010. The current rule states, "all law enforcement officers must be of good moral fitness as determined by a thorough background investigation." This wording has led to confusion for some constituents because it does not link to OAR 259-008-0015. OAR 259-008-0015 specifically identifies that the personal history investigation to determine moral fitness is to be conducted by the employing agency on each law enforcement officer being considered for employment. The Department of Justice recommended clarifying the moral fitness language in OAR 259-008-0010 to remove the reference to "a thorough background investigation" which is addressed more fully in OAR 259-008-0015.

The following revised language contains recommended deletions (~~strikethrough text~~):

**259-008-0010**

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

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

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

(A) Illegal conduct involving moral turpitude;

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

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

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

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

(c) If reliable evidence is received by the Board or Department that a law enforcement officer lacks good moral fitness, a rebuttable presumption will be raised that the law enforcement officer does not possess the requisite moral fitness to be a law enforcement officer. The burden shall be upon the law enforcement officer to prove good moral fitness.

**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-008-0010(6) with the Secretary of State as a proposed rule.

*Chris Hoy moved to recommend filing the proposed language for OAR 259-008-0010(6) with the Secretary of State as a proposed rule. Theresa Smith seconded the motion. The motion carried in a unanimous vote.*

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-008-0010(6) with the Secretary of State as a permanent rule if no comments are received.

*Chris Hoy moved to recommend filing the proposed language for OAR 259-008-0010(6) with the Secretary of State as a permanent rule if no comments are received. Theresa Smith seconded the motion. The motion carried in a unanimous vote.*

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

*The committee agreed there was no significant fiscal impact on small business.*

## **8. OAR 259-008-0090 – Proposed Rule Change**

Maintenance Training Reporting

Bonnie Salle reviewed the issue before the committee.

**Issue:** Prior to July 1, 2003, the Department certified content and topical courses and there were separate processes for reporting certified and non-certified training to DPSST. Since July 1, 2003, the Department has only certified state mandated course and has encouraged all public safety professionals to report training on a Form F-6. However, the current Oregon Administrative Rules do not delineate when a public safety professional should report general training hours on an F-6 (Attendance Roster) or on an F-15 (Continuing Log of Training).

In order to streamline the reporting process for general training, the Department seeks to amend current rules to identify when individuals or agencies must report training on a Form F-6 or Form F-15.

The following revised language contains recommended additions (**bold and underlined text**). For ease of review, only the recommended new language has been included. (If the new language is adopted, subsequent subsections of the current rule will be renumbered as required.)

259-008-0090

### Training Records

(1) Upon receipt by the Department of a Personnel Action Report (**BPSST Form F-4**), properly identifying a **public safety professional** law enforcement officer, telecommunicator, or emergency medical dispatcher, the Department shall **will** initiate a file for that individual and record completion of approved training, as well as other personnel information, if properly documented.

**(2) Upon receipt of the appropriate form, the Department will enter training hours for training a public safety professional attended.**

**(a) Beginning April 1, 2007, F-6 (Attendance Rosters) will only be accepted to report training that occurred in the current calendar year and the two previous years.**

**(b) Any training occurring three or more years prior to the current year, or any training received while a public safety professional was employed in a jurisdiction outside of Oregon, must be reported on an F-15 (Continuing Log of Training). Approved training will appear on a public safety professional's training record as a lump sum number of hours of "approved training" for each year reported.**

**(3) Beginning January 1, 2007, all training submitted to the Department must be submitted on the current version F-6 (Attendance Roster) or F-15 (Continuing Log of Training) available upon request, or from the Department's internet website.**

**(4) Any Form F-6 (Attendance Roster) or F-15 (Continuing Log of Training) received by the Department that is insufficient, or not in compliance with this rule will be returned to the originating agency. The Department will identify any deficiencies needing completion or correction.**

~~(2)~~ **(5)** Upon display of proper identification, a department head, or authorized representative, may review their employee's file as maintained by the Department. Proper identification shall **will** also be required of individuals interested in reviewing their own file.

~~(3)~~ **(6)** Review or release of non-public information under Oregon law to other than the individual whose file is the subject of the information request or to the employing law enforcement agency, or public or private safety agency shall **will** only be permitted by the Department upon advisement by the Attorney General, by court order, or with a signed consent from the individual whose file is the subject of the information request.

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

**ACTION ITEM 1:** Determine whether to recommend filing the revised language for OAR 259-008-0090 with the Secretary of State as a proposed rule.

*Greg Morton moved to recommend filing the revised language for OAR 259-008-0090 with the Secretary of State as a proposed rule. Theresa Smith seconded the motion. The motion carried in a unanimous vote.*

**ACTION ITEM 2:** Determine whether to recommend filing the revised language for OAR 259-008-0090 with the Secretary of State as a permanent rule if no comments are received and no hearing is held.

*Greg Morton moved to recommend filing the revised language for OAR 259-008-0090 with the Secretary of State as a permanent rule if no comments are received and no hearing is held. Theresa Smith seconded the motion. The motion carried in a unanimous vote.*

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

*The committee agreed there was no significant fiscal impact on small business.*

**9. OAR 259-012-0035 – Proposed Administrative Rule Change**

Student Dismissal

Bonnie Salle and Marilyn Lorange reviewed the issue before the committee.

**Issue:** Current rules pertaining to the dismissal of a student from the Academy provide for an appeal through the contested case due process. However, the contested case process is lengthy and in many cases can provide no administrative relief for the dismissed student if s/he was discharged by their agency and is no longer under DPSST jurisdiction following their dismissal.

Additionally, a speedy determination about subsequent eligibility to return to the Academy may help employers to make appropriate employment decisions regarding students dismissed from the Academy.

DPSST has reviewed this matter with the Department of Justice (DOJ). DOJ staff concurs that the procedures outlined in the following proposed rule change provide adequate review for Academy dismissals while providing for due process protection when more long-term matters of eligibility for employment, training and certification are at stake.

The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**). A flowchart is provided as an attachment to clarify the process involved in a student dismissal:

**259-012-0035**

**Penalties**

(1) A person attending any course as a student or other participant, or a person residing at the Academy for any purpose, is subject to the rules which have been promulgated by the Department. The rules will be posted in a prominent location at the Academy. All persons attending the Academy will be expected to be knowledgeable of and to conform their conduct to the standards set forth in the rules.

(2) Failure to comply with the rules may result in the person being dismissed from the Academy, suspended from participating in Academy activities, or any other disciplinary action deemed appropriate. A student dismissed from the Academy or suspended from Academy participation for conduct or behavior in violation of the rules may not be given training credit or credit for completion of the course in which that student was enrolled. Any decision to withhold credit will be subject to Department approval.

(3) Any alleged violation of these rules, wherein a formal written report is made, shall be communicated to the student's department administrator by the DPSST staff. All disciplinary actions shall be made in accordance with the Oregon Public Safety Academy Student Rules and Regulations.

(4) Dismissal, suspension, or other disciplinary action may be ordered by the Director, or any DPSST staff delegated that authority.

(a) ~~In addition to the procedures for due process outlined in the Student Rules and Regulations, if~~ **If** a student is to be dismissed **from the Academy**, the student may request a meeting with the Director and present written evidence **on his/her behalf**.

**(b) If the Director, or designee, upholds the dismissal, the student's employer may appeal the Director's decision to the Board within 30 days of the dismissal. The appeal must be in writing and state the employer's reason for disagreeing with the dismissal.**

**(A) If the student's employer does not appeal the student's dismissal within 30 days, the dismissal is final.**

**(B) If the Board upholds the student's dismissal, the dismissal is final.**

**(c) Eligibility to return to the Academy following a final dismissal is subject to the provisions of this rule. This applies whether the Board upholds a dismissal or an employer fails to appeal a student's dismissal within 30 days.**

**(d) If the Board upholds the Department's dismissal, or an employer fails to appeal a student's dismissal within 30 days, any student coursework previously completed in a Basic Course will not be considered to have been successfully completed. If the student is determined to be eligible to return to the Academy, the entire course must be retaken and successfully completed for credit toward certification.**

**(e) If the Board overturns the Department's dismissal, the student will be eligible to return to the Academy to attend a subsequent Academy class if the employer submits a new Application for Training. If the Department determines training effectiveness would not be compromised, the student may be allowed to complete only the remaining coursework not previously completed due to the dismissal.**

**(f) Following any dismissal from the Academy, the Department will review a student's file and all materials relating to the dismissal to determine whether the student's conduct should be reviewed by the appropriate Policy Committee and Board for possible violation of the minimum standards for public safety officers. The provisions of OAR 259-008-0070 (Denial and Revocation) will apply.**

**(A) If Policy Committee and Board review is required, the student will remain ineligible to return to the Academy until the Board makes a determination regarding denial or revocation of a student's certification.**

**(B) A student will remain ineligible to return to the Academy pending any contested case proceeding initiated under the provisions of OAR 259-008-0070.**

~~(A) If the Director, or designee, agrees with the dismissal, the student's agency may appeal within 30 days of the dismissal to the Board. The appeal must be in writing and state the agency's case against the dismissal.~~

~~(5) Any person subject to sanctions for violation of these rules can request a hearing in accordance with OAR 259-005-0015.~~

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

*Shane Hagey moved to recommend filing the proposed language for OAR 259-012-0035 with the Secretary of State as a proposed rule. Thomas Wright seconded the motion. The motion carried in a unanimous vote.*

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

*Shane Hagey moved to recommend filing the proposed language for OAR 259-012-0035 with the Secretary of State as a permanent rule if no comments are received. Thomas Wright seconded the motion. The motion carried in a unanimous vote.*

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

*The committee agreed there was no significant fiscal impact on small business.*

#### **10. OAR 259-025-0000 – Proposed Rule**

Fees

Bonnie Salle reviewed the issue before the committee.

**Background:** The Department has adopted rules relating to fees charged for copying and printing materials. However, some references in the rule still include fixed charges by Western Oregon University (WOU), when the Department is no longer maintaining tenancy on WOU property. The Department seeks to amend the rule to eliminate irrelevant charges and update the rule to clarify the Department policy on disseminating information.

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

**259-025-0000**

Fees

**(1) All information in the custody of the Director of the Department of Public Safety Standards and Training (Department) will be disclosed or protected from disclosure in accordance with Chapter 192 of the Oregon Revised Statutes and other applicable state and federal laws.**

**(2) As used in this rule, the following definitions apply:**

**(a) “Certified copies” means, photocopies, that on the date copied, are true and accurate copy of the original record. The Department cannot certify as to any subsequent changes or manipulation of the record.**

**(b) “Research” means the compilation or retrieval of information:**

**(A) That is not readily and immediately available from a single source or a group of related sources; or**

**(B) For which a search is required before the requested information can be located.**

**(3) A request for photocopies, facsimile (fax) copies, electronically distributed (e-mail) copies and certifications of public records that are on file with the Department must be made in writing, by fax or by e-mail.**

**(a) The request must:**

**(A) Include name and address of the person requesting the public record;**

**(B) Include telephone number of the person requesting the public record; and**

**(C) Adequately describe the record(s) requested including subject matter, and approximate creation date(s) when applicable.**

**(b) The request should:**

**(A) Be dated;**

**(B) Identify or be signed by the person requesting the public record; and**

**(C) Indicate a date by which the records are being requested.**

**(4) The Department will respond to the request in a reasonable amount of time.**

**(a) In its response, the Department will:**

**(A) Acknowledge the request;**

**(B) Provide an estimate of the expected cost of meeting the request;**

**(C) Identify any requested records that may be exempt from disclosure; and**

**(D) Identify the estimated date by which the information will be provided.**

**(b) The regular duties of the Department will be neither interrupted nor interfered with because of time or effort required to respond to the request.**

**(5) Unless otherwise provided by statute or other administrative rule, fees will be calculated as follows:**

~~(1) Material printed by the Department may have a unit price appearing in the publication. In the absence of any such printed price, f(a) Fees charged for in-stock publications, pamphlets or outlines will be as listed below:~~

~~(a) (A) 1-10 pages -- \$ 5.00;~~

~~(b) (B) 11-25 pages -- \$ 7.50;~~

~~(c) (C) 26-50 pages -- \$ 10.00;~~

~~(d) (D) 51-100 pages -- \$15.00;~~

~~(e) (E) Over 100 pages -- \$15.00, plus twenty-five cents (\$.25) per page for each additional page over 100.~~

~~(2) (b) Documents other than publications will be charged at the rate of \$5.00 for the first 1-10 pages and \$.50 for each additional page.~~

~~(3)~~ **(6)** The Department may charge fees for recovering actual costs of staff time;

(a) For locating, compiling, making available for inspection and delivering public records; and

(b) Researching and documenting information.

~~(4)~~ **(7)** No charge will be made for furnishing normal and necessary records or publications to public safety officers, or public safety agencies.

~~(5) Training which is not under the purview of the Department, shall be charged at the room and board charge fixed by Western Oregon University cost plus \$100.00 per week for instructors and materials.~~

~~(6)~~ **(8)** The Department may charge for the use of facilities at the Public Safety Academy.

~~(7)~~ **(9)** The Department may charge replacement cost for lost or damaged keys, equipment, or meal cards.

**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-025-0000 with the Secretary of State as a proposed rule.

*Shane Hagey moved to recommend filing the proposed language for OAR 259-025-0000 with the Secretary of State as a proposed rule. Chris Hoy seconded the motion. The motion carried in a unanimous vote.*

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-025-0000 with the Secretary of State as a permanent rule if no comments are received.

*Shane Hagey moved to recommend filing the proposed language for OAR 259-025-0000 with the Secretary of State as a permanent rule if no comments are received. Chris Hoy seconded the motion. The motion carried in a unanimous vote.*

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

*The committee agreed there is no significant fiscal impact on small business.*

## **11. ORPAT for Corrections – Discussion**

Doug Burch and Rick Gardner presented information and answered questions pertaining to adding Oregon Physical Abilities Testing (OR-PAT) to the Corrections curriculum. Chair Wolfe would like to see this become part of the course. The course should be extended to provide additional weeks. Chris Hoy and Shane Hagey will take this information to their groups for input and report at the next meeting in August. Brian Belleque agreed to come back and talk about the DOC position also.

## **12. Policy Discussion – Leadership, Intermediate & Advanced Level Certificates**

Marilyn Lorange reviewed the issue before the committee.

**Background:** In 1983, the Board on Police Standards and Training adopted rules creating Intermediate and Advanced levels of certification. At the time, the Board's jurisdiction was over police, corrections, and parole and probation officers. The Basic Police Course was 280 hours; the Basic Corrections and Basic Parole and Probation courses were both 160 hours. At that time, the "Certification Chart" identifying the required combination of training, education, and experience for upper levels of certification was adopted. It has remained unchanged for 24 years. A copy of the original proposed rules is attached.

In the intervening years, the length of the Basic Police Course has increased to 640hours; Basic Corrections is 200 hours; Basic Parole and Probation remains at 160 hours, with an optional 40 hours for Firearms; and the Basic Telecommunications Course has been added at 80 hours. And additional 50 hours credit is given for successful completion of the Field Training Manual.

Other rules provide that college credit may be applied either towards the college credit requirement, or towards training hour requirements, whichever is to the advantage of the applicant for an upper level of certification.

In 1999, the curricula for the Basic Police and Basic Corrections courses were reviewed, and both were determined to be eligible for college credit. Through a grant with Clatsop Community College, up to 21 transfer credits are offered for successfully completing the Basic Police Course and up to 12 transfer credits are offered for the Basic Corrections Course.

This means that Basic Police and Corrections students now receive both Training and Education credit towards upper levels of certification for having completed the Basic course requirements.

The following chart demonstrates the impact of Basic training on eligibility for Intermediate Certification with four years of employment:

<b>Discipline</b>	<b>% of Training Requirement Met by Basic Course</b>	<b>% of Education Requirement Met by Basic Course</b>
<b>Corrections</b>	28%	27%
<b>Parole &amp; Probation with Firearms</b>	22% 28%	-0-
<b>Police</b>	77%	47%
<b>Telecommunications</b>	14%	-0-

The disparity in Basic Course duration means that some disciplines are at a significant disadvantage in their ability to obtain upper levels of certification following completion of Basic training and the award of Basic certification in that discipline. For example, a Basic Telecommunicator would have to complete 770 hours of training and obtain 45 college credits before being eligible for Intermediate Telecommunications Certification, while a Basic Police Officer would be eligible for Intermediate Police Certification with 210 additional hours of training and 24 college credits.

Additionally, the College Credit partnership through Clatsop Community College has legitimized the practice of applying training as both Training and Education when applying for upper levels of certification.

**Recommendations:**

1. DPSST staff has concluded that it may be appropriate to discontinue the historic practice of applying training hours earned from the Basic Course towards upper levels of certification. This would:
  - Provide a consistent set of requirements beyond Basic for public safety professionals in all disciplines.
  - Eliminate the built-in problem of giving duplicate credit for the same training, while still allowing college credit for the Basic Police and Corrections courses to apply towards upper levels of certification.
  - Return to the intention of the Intermediate and Advanced Certification requirements when they were initially implemented in 1983, to encourage professionalism in public safety.
  
2. Because this proposal represents a departure from current practice, we also believe that it may make sense to reduce the current training hour requirements by 100 hours.
  
3. It will also be necessary to determine a phase-in date for the new certification chart.

Because the chart itself is no longer in the Administrative Rule text, no rule change is necessary.

**ACTION ITEM 1:** Determine whether to recommend excluding basic training hours from the intermediate and advanced certification requirements adopted under OAR 259-008-0060. If YES:

**ACTION ITEM 2:** Determine whether to recommend decreasing the number of training hours required for intermediate and advanced certification levels by 100 hours, for each minimum year of experience listed in the certification chart:

INTERMEDIATE CERTIFICATION							
Minimum Years of Experience	8 years	7 years	6 years	5 years	4 years	4 years	2 years
Minimum Training Points, <del>including</del> EXCLUDING DPSST Basic Course (Equivalent hours in parentheses)	15 ( <del>300</del> 200 hours)	23 ( <del>460</del> 360 hours)	30 ( <del>600</del> 500 hours)	38 ( <del>760</del> 660 hours)	45 ( <del>900</del> 800 hours)	DPSST Basic Course -0-	DPSST Basic Course -0-
Minimum College Education Credits <a href="#">New College Credit Rule</a>	15	23	30	38	45	Assoc. Degree	Bachelor Degree

  

ADVANCED CERTIFICATION								
Minimum Years of Experience	12 years	11 years	10 years	9 years	8 years	9 years	6 years	4 years
Minimum Training Points, <del>including</del> EXCLUDING DPSST Basic Course (Equivalent hours in parentheses)	30 ( <del>600</del> 500 hours)	35 ( <del>700</del> 600 hours)	40 ( <del>800</del> 700 hours)	45 ( <del>900</del> 800 hours)	60 ( <del>1200</del> 1100 hours)	DPSST Basic Course -0-	DPSST Basic Course -0-	DPSST Basic Course -0-
Minimum College Education Credits <a href="#">New College Credit Rule</a>	30	35	40	45	60	Assoc. Degree	Bachelor Degree	Master Degree

If YES:

**ACTION ITEM 3:** Determine an effective transition date to phase in the new requirements for intermediate and advanced level certifications.

For example:

- A) New requirement takes effect for all officers hired on or after January 1, 2007;
- B) New requirement takes effect for all officers who obtain Basic certification after July 1, 2007;
- C) New requirement takes effect for all officers (*other options*).

*The committee agreed to join a cross-discipline workgroup to look at certification requirements. The volunteers for the committee were Greg Morton, Shane Hagey, and Chris Hoy. They will also look at some kind of rule changes to address the double credit for training issue.*

**13. Curriculum Sub-Committee Update**

Was not able to get to due to lack of time.

**14. Parole & Probation Sub-Committee**

Discuss Creation of Parole & Probation Sub-Committee

This item was held over pending the outcome of HB 3432.

**Other Item:**

**Certification Review Sub-Committee** – The Board held an emergency meeting on April 11<sup>th</sup> to discuss the effects of HB 3432 and what steps could be taken to preclude the reorganization of the Board. Chair Wolfe explained that the Board will be forming a new committee to address the revocations, denial, waivers, and decertifications for all the policy committees. The policy committees will continue to address all other issues. The Certification Review Sub-Committee will be comprised of three each of management representatives, labor representatives, and one citizen, all Board members. The Board will notify the policy committees when this change will take effect.

There being no further business before the Committee the meeting adjourned at 11:10 a.m.