

Corrections Policy Committee Minutes

June 16, 2020

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on June 16, 2020, at the Oregon Public Safety Academy in Salem, Oregon. Chair, Nadine Purington called the meeting to order at 1:30 pm.

Committee Members:

Nadine Purington, Chair, Non-Management Parole & Probation
Carol Dishon, Non-Management DOC, Coffee Creek
Rob Perrson, DOC Superintendent
Michael Gower, Director of DOC (Designee)
Greg Martin, AOCE Representative, DOC
Kevin Marshal, Public Member - Phone
Jaime Hepner, Oregon Association of Community Corrections Directors
Matt English, Oregon State Sheriff's Association
Gary Ninman, Professional Development Unit, DOC - Phone
Cody Smith, Non-Management Corrections Officer - Phone
Jamie Russell, Oregon Sheriff's Jail Command Council
Brian Pixley, Oregon State Sheriff's Association
Lee Eby, Oregon Sheriff's Jail Command Council

Committee Members Absent:

Gary Bergeron, Non-Management Corrections Officer
James Cook, Vice Chair, AFSCME Representative, DOC

Guests:

Patricia Lyon
Lianna Mechanic
Michael Payne
Sarah Stewart

DPSST Staff:

Eriks Gabliks, Director
Linsay Hale, Professional Standards/Interim Training Division Director
Wendy Nunez, Criminal Justice Office Specialist
Jennifer Howald, Administrative Rules Coordinator
Marsha Morin, Criminal Justice Certification Program Manager

1. Introductions

Introductions of members, guest and staff were presented.

2. Approve Meeting Minutes

Matt English moved to approve the minutes from the 2/11/2020, Corrections Policy Committee meeting with minor changes. Brian Pixley seconded the motion. The motion passed with Lee Eby abstaining.

3. Administrative Closures – Corrections / Parole & Probation

Presented by Linsay Hale

Staff presented the following professional standards cases to the Corrections Policy Committee for administrative closure.

Officer	Certifications	Summary
Barnes, Ethan DPSST #60610	None	Conviction – <i>Underage Alcohol Consumption</i> in West Virginia. Conviction occurred 6 years prior to employment and is the only conviction.
Bottomely, Donald DPSST #50816	Basic Corrections	Arrest – <i>Driving Under the Influence (DUI)</i> in Idaho. Entered into diversion resulting in dismissal of the DUI.
Cassady, Janice DPSST #22869	Advanced Corrections	Arrest – <i>Theft In the Second Degree</i> . Case dismissed by prosecutor.
Caswell, Daniel DPSST #60684	None	Conviction – <i>Disorderly Conduct in the Second Degree</i> . Conviction occurred 9 years prior to employment and is the only conviction.
Coffman, Jacob DPSST #60671	None	Conviction – <i>Driving Under Twenty-One Consuming Alcohol or Marijuana</i> in Washington. Conviction occurred 14 years prior to employment and is the only conviction.
Haight, Bryant DPSST #60661	None	Conviction – <i>Soliciting Prostitution</i> in Virginia. Conviction occurred 6 years prior to employment and is the only conviction.
Milla, Timothy DPSST #60666	None	Conviction – <i>Driving Under the Influence</i> in California. Conviction occurred 16 years prior to employment and is the only convictions
Roeber, Patrick DPSST #60818	None	Conviction – <i>No Valid Operators License without Identification and Fail or Neglect to Pay for a Transfer of Ownership</i> in Washington. Convictions occurred 18 years prior to employment and are the only conviction stemming from single incident.

Storm, Katie DPSST #60664	None	Conviction – <i>Possession of Marijuana, less than One Ounce and Within 1,000 Feet of a School</i> . Conviction occurred 9 years prior to employment and is the only conviction.
Yepez, Jeremy DPSST #58318	None	Conviction – <i>Unlawful to Urinate or Defecate in Public</i> in California. Conviction occurred 8 years prior to employment and is the only conviction.
Benson, Will DPSST #37169	Management Parole & Probation Officer and Basic Corrections	Separation – Performance issues and allegation of misrepresentation. Insufficient evidence to prove intentional misrepresentation
Hussey, James DPSST #54815	Basic Corrections	Separation – Issues surrounding his attendance.
Goss, Corey DPSST #51722	Basic Corrections	Separation – Left a secured door in the jail unsecured. Determined conduct was not intentional or reckless.

Rob Persson moved to approve the recommendations made by staff to administratively close the above listed cases. Jamie Hepner seconded the motion. The motion passed unanimously.

4. Payne, Michel (34804) Certification Review: Corrections

Presented by Linsay Hale

Reason for Discretionary Review

DPSST was notified that Michael Payne, a Corrections Officer employed by the Department of Corrections Snake River Correctional Institution (DOC/SRCI), was arrested on 12/22/18 for *Driving While Under the Influence of Alcohol, Drugs or any other Intoxicating Substances (DUII)* and *Weapon-Carry Concealed Weapon while Under the Influence of Alcohol*.

On 8/22/19, Payne pled guilty and was convicted of *Driving-Reckless*, a crime which requires discretionary review.

Michael Payne provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Mike Gower moved that the Corrections Policy Committee adopt the staff report.	Matt English	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously
<p>The committee discussed the moral violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Mitigating <ul style="list-style-type: none"> ○ Payne has 22 years of employment with the Department of Corrections which included positive performance evaluations. ○ The verbal and written mitigation provided by Payne. ○ Payne pled guilty and took responsibility for the lapse of judgment. ○ Drug and alcohol treatment was started by Payne prior to the judgment being issued. ○ Payne completed a victim's impact panel that was not required by the judgment. • Aggravating <ul style="list-style-type: none"> ○ Payne failed to notify DPSST of his arrest. ○ Payne was in possession of a firearm while intoxicated. 			
Mike Gower moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, to recommend no Board action against Payne's certifications.	Kevin Marshall	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously

5. Lyon, Patricia (57573) Certification Review: Corrections

Presented by Linsay Hale

Reason for Discretionary Review

DPSST was forwarded the incident report from the Sherwood Police Department as a courtesy notifying DPSST that Patricia Lyon, a Corrections Officer employed by the Department of Corrections Coffee Creek Correctional Institution (DOC/CCCF), was arrested on 11/30/19 for *Driving Under the Influence of Intoxicants (DUII)* and *Reckless Driving*.

Lyon pled guilty and was convicted of *DUII* on 1/6/20 and the *Reckless Driving* charge was dismissed

Patricia Lyon provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Brian Pixley moved that the Corrections Policy Committee adopt the staff report.	Lee Eby	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously
<p>The committee discussed the moral violation identified and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Aggravating: <ul style="list-style-type: none"> ○ The conduct occurred during Lyon’s employment as a public safety professional. ○ Lyon’s Blood Alcohol Content (BAC) level at the time of her arrest (.20). ○ The recentness of the behavior. ○ Lyon was combative and argumentative during her arrest. ○ Lyon’s previous arrest for DUI in 2011 demonstrates a pattern of alcohol abuse. • Mitigating: <ul style="list-style-type: none"> ○ Lyon took responsibility for her actions by entering alcohol treatment on her own volition. ○ Lyon is up-to-date with all court-ordered obligations. ○ The verbal and written mitigation provided by Lyon. ○ Lyon’s mental state at the time having recently learned of the suicide of a friend. 			
Brian Pixley moved, after considering the identified violations of the Board’s moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, to recommend Board action be taken against Lyon’s certification.	Lee Eby	7 ayes; 6 nays; 0 recused	Motion Passed
Greg Martin moved, after considering the totality of the case, that Lyon be ineligible to hold public safety certification for 3 years.	Cody Smith	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously

6. Lianna, Mechanic (53161) Certification Review: Corrections

Presented by Linsay Hale

Reason for Discretionary Review

On 10/16/19, DPSST received a notification from the Multnomah County Sheriff's Office that Lianna Mechanic, a corrections officer employed by their agency, was arrested for *Driving Under the Influence of Intoxicants (DUII)* and *Reckless Driving* on 9/14/19.

Mechanic ultimately pled guilty and was granted diversion for *DUII* on 10/22/19 and pled guilty and received a setover plea agreement for *Reckless Driving* on 11/15/19.

Lianna Mechanic provided verbal mitigation for committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Matt English moved that the Corrections Policy Committee adopt the staff report.	Carol Dishon	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously
<p>The committee discussed the moral violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none">• Mitigating<ul style="list-style-type: none">○ Mechanic received diversion for <i>DUII</i>.○ Mechanic is not on probation.○ Mechanic completed residential treatment and is currently attending ongoing support groups.○ The verbal mitigation provided to the CPC.○ Mechanic was cooperative with the officers during her arrest.• Aggravating<ul style="list-style-type: none">○ Mechanic failed to notify DPSST of the arrest.○ Mechanic is currently employed as a public safety professional.○ The recentness of the conviction.○ Mechanic initially pled not guilty, then changed her plea to guilty.○ The incident involved a motor vehicle crash into a parked car which caused extensive damage.○ Mechanic's blood alcohol content was over three times the legal limit.○ There was multiple cans of alcohol in the vehicle with Mechanic.○ Mechanic was misleading to the officer when questioned about the amount of alcohol consumed.○ Mechanic was arrested the day before she was scheduled to enter a residential treatment facility.			
Brian Pixley moved, after considering the identified violations of the Board's moral fitness	The motion was not seconded and failed.		

standard and weighing the aggravating and mitigating circumstances unique to this case, to recommend Board action should be taken against Mechanic's certifications.			
Greg Martin moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, to recommend no Board action be taken against Mechanic's certifications	Cody Smith	13 ayes; 1 nays; (Pixley) 0 recused	Motion Passed

7. Stewart, Sarah (60771) Certification Review: Corrections

Presented by Linsay Hale

Reason for Discretionary Review

DPSST received an amended Application for Training (F5) for Sarah Stewart, where she disclosed a prior conviction. The amended F5 was received after Staff confirmed with the Curry County Sheriff's Office (CCSO) that the conviction was a violation but the charge is punishable as a misdemeanor. On 8/18/14 Stewart pled no contest and was convicted of *Giving False Liability Insurance Information to Police*.

Because this criminal disposition involves elements of dishonesty/deceit, Oregon Administrative Rule requires a discretionary professional standards review be conducted.

Sarah Stewart provided verbal mitigation committee consideration.

<i>Policy Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Brian Pixley moved that the Corrections Policy Committee adopt the staff report.	Carol Dishon	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously
<p>The committee discussed the moral violation and identified the following aggravating and mitigating factors specific to this case:</p> <ul style="list-style-type: none"> • Mitigating <ul style="list-style-type: none"> ○ Stewart's age at the time of the disposition. ○ The time that has passed since the criminal disposition. ○ Stewart has no other criminal dispositions in her record. ○ This conduct occurred prior to employment in public safety. 			

<ul style="list-style-type: none"> ○ The multiple mitigation letters submitted related to Stewart’s good character. ○ The original charge of a misdemeanor was reduced to a violation by the judge. • Aggravating <ul style="list-style-type: none"> ○ The committee did not identify any aggravating factors. 			
Greg Martin moved, after considering the identified violations of the Board’s moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, to recommend no Board action be taken against Stewart’s certification.	Cody Smith	13 ayes; 0 nays; 0 recused	Motion Passed Unanimously

8. Proposed Rule Changes to Adopt OAR 259-006-0000 and 259-008-0290 Establishing DPSST Applicant Moral Fitness Standard

Presented by Jennifer Howald

The Criminal Justice Background Investigation Workgroup was formed in 2019 to review the current Board/DPSST standards and processes for the pre-employment background investigation required for employment or utilization as a public safety professional. One of the issues identified during the Workgroup’s discussions addressed hiring individuals into certifiable public safety positions who have a past criminal disposition which requires a professional standards review by a Policy Committee and the Board.

The current moral fitness standards and discretionary review processes for public safety professionals do not differentiate between currently employed public safety professionals and new hires. This means that a new hire who engaged in criminal behavior prior to entering a career in public safety, signing a Code of Ethics and becoming certified is subjected to the same review process as an employed, certified public safety professional who engaged in bad behavior.

Due to meeting schedules and agenda limitations, it is not uncommon for agencies to hire someone without knowing for months if the individual will be eligible for certification. This delay directly impacts the operations of the hiring agency as well as the public safety professional’s training and certification timelines.

The following proposed rule adoptions and amendments present the Workgroup’s recommendations for establishing standards and processes for review of criminal dispositions that occurred prior to employment in public safety. The outcome for implementing these recommendations is a more streamlined discretionary review process that incorporates mitigation factors to consider the pre-employment nature of the individual’s past criminal dispositions.

These recommendations:

- Establish a discipline neutral review committee that would meet on a monthly or as needed basis (Applicant Review Committee).
- Delegate the discretionary review process to DPSST staff and the Applicant Review Committee (ARC).
 - Staff will be responsible for the initial review and determination that the applicant for training and certification has a past criminal disposition that meets the definition of a discretionary moral fitness violation.
 - The ARC will be responsible for reviewing cases that staff identify as discretionary moral fitness violations. The ARC's decision regarding denial and ineligibility will be the final disposition.
- Establish separate discretionary grounds for denial that apply only to a newly hired public safety professional who has never been employed in public safety before.
 - Dishonesty – uses the same definition as the discretionary moral fitness violation used for certified public safety professionals.
 - Gross misconduct - identifies egregious behavior including violence against another person and sex-related offenses.
- Require the consideration of mitigating factors related to the pre-employment nature of the criminal disposition.
 - The criminal disposition occurred prior to employment in public safety which means there is no color of office to consider and no violation of a code of ethics.
 - The individual has been hired by a public safety agency that completed a background investigation, is aware of the past criminal history and did not find it an obstacle to employment within their agency.
- Establish an ineligibility period range from zero days to 10 years:
 - A Zero-days minimum ineligibility period recognizes that while the discretionary moral fitness violation exists the mitigation outweighs the violation.
 - A 10-year maximum ineligibility period recognizes that because the discretionary criminal disposition occurred before employment in public safety the individual cannot be precluded from certification for life. This is consistent with other occupational licenses and in line with national regulation that recognizes that at a minimum the passage of time mitigates the behavior.

The following standards still apply

- All public safety professionals, including new hires, are subject to the same mandatory disqualifiers (felony convictions, convictions involving domestic violence or drugs, and convictions requiring registration as a sex offender).

- Individuals can present written and verbal mitigation for the ARC to consider.
- The ARC's discretionary denial of certification applies to all public safety professional certifications.
- The ineligibility period for a criminal disposition will begin from the date of the criminal disposition.
- All due process rights and contested case procedures still apply.

Consensus reached approving the fiscal impact statements provided by staff.

Brian Pixley moved to recommend that the Board adopt OAR 259-006-000 and 259-008-0290 approve filing the proposed rule change. Jamie Hepner seconded the motion. The motion carried unanimously.

9. Department Update

Linsay Hale Reported:

- Linsay thanked Mike Gower, Carol Dishon and Gary Bergerson for their service on the Corrections Policy Committee.
- Kristen Hibberds has left DPSST to accept a promotion with another State agency. Kristen will be missed and we wish her all the luck in her new position.
 - CPC members reviewed and recommended approval of the formation of the Applicant Review Committee. That recommendation was the result of multiple meetings of the Background Investigator Workgroup which focused on reviewing the DPSST's role in the hiring of public safety officers. This recommendation will be reviewed by the TPC and PPC, and ultimately the Board at their meeting in July. Another Workgroup recommendation regarding the sharing of background information between public safety agencies, and the idea of DPSST serving as a repository for applicant/agency information is being reviewed by the Department of Justice.
 - We are excited to have Basic classes back in session. BCL41 is scheduled to return in August, BPP81 will start Monday, 6/22. All classes will follow DPSST's Health and Safety Plan implemented to help mitigate COVID-19 risks.

Eriks Gabliks Reported:

- DPSST is actively tracking the tragic death of George Floyd due to the actions of a Minneapolis police officer. As the state's standards and training agency for many public safety disciplines, including law enforcement, there is much interest in the work of DPSST. DPSST has responded to inquiries from local, state and federal elected officials. For almost 20 years, DPSST has participated in a national decertification database that is operated by the International Association of Directors of Law Enforcement Standards and Training (IADLEST). This system, the National Decertification Index (NDI), is used by dozens of state criminal justice certification agencies but the challenge is that not all states certify, decertify, or use the same language for their actions. NDI is a "pointer

system” that sends agencies to the state that entered the information for more details. DPSST has pledged to provide whatever information is needed and to assist any legislative committees that are formed that will improve law enforcement professionalism through standards and training.

- On March 17, 2020, DPSST suspended all training classes due to the COVID-19 pandemic and updated CDC and Governor’s guidelines. The suspension was necessary so that DPSST staff could create a health and safety protocol that managed risk and enabled training classes to return. The Academy has resumed operations but under new guidelines around the campus including Aramark food service. Staff have done a great job working with students to address risk and implement proactive cleaning measures and use of PPE. While the Academy was closed, more than three dozen DPSST staff answered the call for assistance issued by Oregon Emergency Management. DPSST staff assisted in the emergency coordination center, joint information center, incident management team, and the Wilsonville PPE distribution center. All DPSST staff have completed their assignments and have returned to normal duties.
- DPSST hosted the State’s Fallen Law Enforcement Officer Memorial On May 5, 2020. While the campus was closed to the public, it was necessary to honor and remember Oregon’s fallen police, corrections and parole and probation officers. A limited number of honor guard members participated in the modified ceremony and the names of all of the fallen were read. DPSST livestreamed the event on Facebook and also created a video afterwards that has generated more than 25,000 views to date.
- DPSST continues to work on its 2021-2023 Agency Request Budget as are other state agencies. DPSST is waiting to hear if reductions will be taken in the current 2019-2021 biennium. If reductions are taken the training programs at the agency would be impacted.
- Eriks echoed Linsay’s thanks to Carol Dishion, Mike Gower and Gary Bergerson for their dedicated years of service on the Board’s Corrections Policy Committee.

10. Next Corrections Policy Committee Meeting: August 11, 2020 at 1:30 p.m.

Administrative Note:

These minutes reflect the order of the discussion/voting items as they appear on the official meeting agenda. The actual order in which they were discussed may vary.