

# **Corrections Policy Committee**

## **Minutes**

### **May 14, 2019**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 14, 2019 at the Oregon Public Safety Academy in Salem, Oregon. Chair, Jason Myers called the meeting to order at 1:30 PM.

#### **Committee Members:**

Jason Myers, Chair, Oregon State Sheriff's Association  
Nadine Purington, Vice Chair, Non-Management Parole & Probation  
Carol Dishon, Non-Management DOC, Coffee Creek  
Rob Perrson, DOC Superintendent  
Jamie Russell, Oregon Sheriff's Jail Command Council  
Michael Gower, Director of DOC (Designee)  
Greg Martin, AOCE Representative, DOC (Phone)  
Kevin Marshal, Public Member  
Jaime Hepner, Oregon Association of Community Corrections Directors  
Matt English, Oregon State Sheriff's Association  
Gary Bergerson, Non-Management Corrections Officer  
James Cook, AFSCME Representative, DOC  
Matthew Frohnert, Oregon Sheriff's Jail Command Council

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

Gary Ninman, Professional Development Unit, DOC

#### **Guests:**

James Thomas, DOC  
Aaron McGehee, DOC  
Greg Clouser, DOC

#### **DPSST Staff:**

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



#### **1. Introductions**

Introductions of members, guest and staff were presented.

#### **2. \*Minutes of February 12, 2019**

- *Matt English moved to approve the minutes from the February 12, 2019 Corrections Policy Committee meeting. Michael Gower seconded the motion. The motion carried unanimously.*

#### **3. Proposed Rule Changes for OAR 259-008-0015: Background Investigations**

Presented by Jennifer Howald

Current rule requires public and private safety agencies conduct a background investigation on each individual being considered for employment or utilization as a public safety professional to determine if the applicant is a good character. The current standard lists elements that must be included in a background investigation and elements that must be included.

The Criminal Justice Moral Fitness Workgroup recommends that conducting a search of DPSST records should be a mandatory element of all pre-employment background investigations to ensure that hiring agencies are aware of any past or pending DPSST professional standards reviews or the individual was the subject of any complaint filed with DPSST. The Workgroup also approved removing the requirement that the applicant's required personal history statement to be notarized, instead requiring an acknowledgment of "declaration under penalty of perjury."

- *Matt English moved to recommend the Board adopt the changes as proposed and that the Board approved filing the changes to OAR-259-008-0015 as a permanent rule change with the Secretary of State if no comments are received. Nadine Purington seconded the motion. The motion passed unanimously.*
- *By consensus the committee approved the fiscal impact prepared by staff.*

**4. Proposed Rule Changes for OAR 259-008-0010, 259-008-0011, 259-008-0060 and 259-008-0067: Establishing the Expiration of DPSST Public Safety Professional Certifications.**

Presented by Jennifer Howald

DPSST public safety professional certifications are lifetime certifications. Once the certification has been issued to the public safety professional, the individual remains certified for life unless their certifications are relinquished or revoked.

Because the certification is a lifetime certification, certified public safety professionals are held to the moral fitness standards beyond their period of employment. This means from time to time, the Policy Committees receive discretionary professional standards cases for individuals who have been out of the public safety profession for many years due to retirement or any other separation from employment.

A current Policy Committee member requested the Criminal Justice Moral Fitness Workgroup consider whether or not public safety professional certifications should continue to be considered lifetime certifications, holding individuals who have been retired or otherwise separated for an extended period to the same moral fitness standards for currently employed public safety professionals. The Workgroup recommended that certifications expire after five years of separation. The five year period recognizes the current Board standard that requires a person who has been separated from their certified discipline for longer than five years be required to recomplete their basic training course in order to be eligible for recertification.

The workgroup was also asked to consider the impact of expiration on the levels of certification that an individual may have received prior to their separation from employment and subsequent expiration of certification. The Workgroup recommended that the years of

service would remain applicable to the experience requirements for upper levels of certification. The Workgroup recommended that the training requirements for upper levels of certification should be satisfied with new training in recognition of the impact of the absence from the profession on knowledge and skills. The training recommendation mirrors the current practice for recompletion of basic training in order to be eligible for reissuance of basic certification.

- *Mike Gower moved to recommend the Board adopt the changes as proposed and that the Board approve filing the changes to OAR 259-008-0010, 259-008-0011, 259-008-0060 and 259-008-0067 as a permanent rule change with the Secretary of State if no comments are received. Carol Dishon seconded the motion.*

*After further discussion, Mike Gower withdrew his motion and the committee tabled the issue due concerns about the reactivation of expired certifications.*

## **5. Proposed rule for OAR 259-008-0070: Criminal Justice Moral Fitness Workgroup Recommendations, Part Two**

Presented by Jennifer Howald

On October 17, 2018, the Criminal Justice Moral Fitness Workgroup began a review of the denial, suspension and revocation standards that were updated and implemented on August 1, 2017. The Workgroup was formed to review a number of unintended tensions in the revised administrative rule language as well as additional issues resulting from procedural and legal changes occurring after the standards became effective.

These proposed rule changes amend the denial/suspension/revocation standards or processes. In whole, the amendments seek to further clarify the intent of the existing standards and provide clear guidance regarding professional standards case review processes. Changes include:

- Mandatory Grounds for Denial/Revocation – Amendments to the definition of discharge for cause adding destruction of evidence and removing category titles.
- Discretionary Grounds for Denial/Revocation –
  - Clarifying amendments such as word order and punctuation for the definitions of the moral fitness categories Dishonesty, Misuse of Authority and Gross Misconduct;
  - Deleting the category of Disregard for the Rights of Others. Conduct previously considered disregard for the rights of others may still be grounds for denial/revocation under the definitions of Misuse of Authority and Gross Misconduct.
- Updates to the Department's processes for administrative closure of professional standards cases.
- Updates to the Policy Committee's review processes for discretionary professional standards cases.
- Removing suspension of certification for discretionary cases. Discretionary cases will result in the certification being denied or revoked.
- Changes start date for the certification ineligibility period from the date of separation/conviction to the date the Board approves denial/revocation.
- Updates to the Department's processes for review of complaints.

- An administrative rule reorganization that separates the currently existing single OAR 259-008-0070 into multiple, specific purpose/process rules in order to make the rules easier to read.
- *Matthew Frohnert moved to recommend the Board adopt the changes as proposed and that the Board approve filing the changes to OAR 259-008-0070, including the adoption of new rule numbers, with the Secretary of State as a permanent rule if no comments are received. Rob Persson seconded the motion. The motion passed unanimously.*
- *By consensus the committee approved the fiscal impact prepared by staff.*

## **6. Administrative Closures – Corrections/Parole & Probation**

Presented by Kristen Hibberds

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

Officer	Certifications	Summary	Flagged for Review (if hired in future)
Meeks, Antonio #59538 DOC-EOCI	None	Arrest – Driving – Inattentive or careless. Meeks resigned to move out of state. Criminal History check will be completed if hired in the future.	No
Collins, Jeffrey #57015 WCSO	None	Conviction – Trespassing II. Conviction occurred 7 years prior to employment and is the only conviction.	No
Wabel, Jeanette #51747 DOC-SRCI	Basic Corrections	Separation – Insufficient evidence to prove misconduct. Will re-open for follow up if she is hired in the future.	Yes
Quintana, Thea #45187 DOC-TRCI	Basic Corrections	Separation – Employment reinstated.	No
Phan, Michael #38612 DOC-CCCF	Intermediate Corrections	Separation – Employment reinstated.	No
Leighton, Jamison #58469 LCSO	None	Separation – Violated DPSST's Student Rules and Regulations while attending Basic Corrections Academy	Yes

Hazen, Christopher #59536 DOC-EOCI	None	Conviction/Arrest – Convicted of Prohibited Littering in Idaho in 2014. Prior to review he was released during probation. Criminal History check will be completed if hired in the future.	No
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- *Michael Gower moved to approve the recommendations made by staff to administratively close the above listed cases. Matt English seconded the motion. The motion carried unanimously.*

**7. Emilio Carbajal DPSST #48277 Basic Corrections Certification--Department of Corrections – SRCI**

Presented by Kristen Hibberds

Issue: In December 2018, Carbajal reported his arrest for Unlawful Taking of Game Animals. After reviewing investigative materials, staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Carbajal was convicted of a crime.
- Staff did not identify violations of **Dishonesty, Disregard for the Rights of Others, or Misuse of Authority.**

Vote/Consensus	Second	Vote	Outcome
Matthew English moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Mike Gower	12 ayes; 0 nays (Martin dropped from phone call)	Motion passes unanimously
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			

<p>The Corrections Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(B) the following mitigating circumstances were considered:</p> <ul style="list-style-type: none"> <li>• Conduct did not occur while acting in an official capacity;</li> <li>• The individual's conduct did not occur multiple times;</li> <li>• The individual was not convicted of more than one criminal offense;</li> <li>• The individual has complied with all of the court ordered obligations;</li> <li>• The individual self-reported the conviction.</li> </ul> <p>No additional mitigating circumstances were considered.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(B) the following aggravating circumstances were considered:</p> <ul style="list-style-type: none"> <li>• Conduct occurred during employment in public safety;</li> <li>• The individual's conduct resulted in a criminal disposition after pleading guilty to a Misdemeanor.</li> </ul> <p>No additional aggravating circumstances were considered.</p>			
Matthew Frohnert moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that no board action should be taken against Carbajal's certification	Nadine Purington	13 ayes; 0 nays	Motion passes unanimously

8. **\*McGehee, Aaron DPSST #57858 Application for Training and Subsequent Certification Department of Corrections**

Presented by Kristen Hibberds

Issue: In January 2019, DPSST became aware of two criminal dispositions of Driving Inattentive or Careless (ID) in McGehee's criminal history. After reviewing investigative materials, staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when McGehee was twice convicted of a crime.
- **Dishonesty** when McGehee failed to disclose his 2015 conviction on his Application for Training.
- Staff did not identify violations of **Disregard for the Rights of Others** or **Misuse of Authority**.

*Aaron McGehee presented verbal mitigation.*

Vote/Consensus	Second	Vote	Outcome
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Jamie Russell moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Carol Dishon	13 ayes; 0 nays	Motion passes unanimously
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			
<p>The Corrections Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(B) staff has identified the following <b><u>mitigating</u></b> circumstances:</p> <ul style="list-style-type: none"> <li>• Conduct occurred before employment in public safety for #1 above;</li> <li>• Conduct did not occur while acting in an official capacity;</li> <li>• The individual has complied with all of the court ordered obligations.</li> </ul> <p>No additional mitigating circumstances were found considered.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(B) staff has identified the following <b><u>aggravating</u></b> circumstances:</p> <ul style="list-style-type: none"> <li>• The individual's conduct occurred during their employment in public safety for above;</li> <li>• The individual's conduct occurred multiple times;</li> <li>• The individual was convicted of more than one criminal offense;</li> <li>• The individual did not self-report either conviction;</li> <li>• The individual was sentenced to jail time in #2 above;</li> <li>• The individual was found guilty of two Misdemeanors.</li> </ul> <p>No additional aggravating circumstances were considered.</p>			
Jamie Russell moved, after considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that board action should be taken against McGehee's certification	Matt Frohnert	13 ayes; 0 nays	Motion passes unanimously.
Greg Martin made a motion that, after considering the totality of the case, that McGehee be ineligible to hold public safety certification for life.	None		Motion dies.
Matt Frohnert made a motion that, after considering the totality of the case, that McGehee be ineligible to hold public safety certification for three years.	Matt English	13 ayes, 0 nays	Motion passes unanimously.

9. \* **Thomas, James #59381 Application for Training and Subsequent Certification**

**Department of Corrections – TRCI**

Presented by Kristen Hibberds

Issue: In November 2018, DPSST received on Application for Training and the applicant self-disclosed a criminal conviction of Hit and Run. After reviewing investigative materials, staff has identified violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- **Gross Misconduct** when Thomas was convicted of a crime.
- **Dishonesty** when Thomas left the scene of an accident.
- Staff did not identify violations of **Disregard for the Rights of Others** or **Misuse of Authority**.

*James Thomas presented verbal mitigation.*

Vote/Consensus	Second	Vote	Outcome
Matt English moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Rob Perrson	12 ayes; 0 nays	Motion passes unanimously
Consensus reached affirming the staff analysis identifying violations of the Board's moral fitness standard.			
<p>The Corrections Policy Committee reviewed and considered the Aggravating and Mitigating circumstances specific to this case.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(B) the following mitigating circumstances were considered:</p> <ul style="list-style-type: none"> <li>• Conduct occurred before employment in public safety;</li> <li>• Conduct did not occur while acting in an official capacity;</li> <li>• The individual's conduct did not occur multiple times;</li> <li>• The individual was not convicted of more than one criminal offense;</li> <li>• The individual self-reported the conviction;</li> <li>• The individual's age at the time of conviction and the date of the conviction;</li> <li>• The individual has complied with all of the court ordered obligations.</li> </ul> <p>Thomas' verbal statements to the CPC were considered as additional mitigation.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(B) the following <b><u>aggravating</u></b> circumstances were considered:</p> <ul style="list-style-type: none"> <li>• The individual's conduct did result in a criminal disposition.</li> </ul> <p>No additional aggravating circumstances were considered.</p>			
Rob Perrson moved, after considering the identified violations of the Board's moral	Jamie Russell	13 ayes; 0 nays	Motion passes unanimously.



fitness standard and weighing the aggravating and mitigating circumstances unique to this case, that no board action should be taken against Thomas' certification			
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#### 10. Election of a New Chair/Vice Chair

- Jason Myers moved that Nadine Purington be elected as the new chair of the Corrections Policy Committee and James Cook as the vice-chair. Matt Frohnert seconded the motion. The motion passes unanimously.

#### Department Update

Linsay Hale reported:

- DPSST has recently formed a Workgroup to review the role of DPSST/BPSST in pre-employment background investigations. This multi-disciplined workgroup is expected to have its initial meeting soon.
- Linsay welcomed Wendy Nunez as the newly hired Criminal Justice Office Specialist. Wendy will be assisting with meeting coordination and minute taking moving forward. Linsay also congratulated and welcome Jordan James-Largent into her new role in the Professional Standards unit.
- The update to the A/V equipment in the Board room is expected to begin shortly. This equipment will allow for internet streaming of all Board/Policy Committee meetings, increasing transparency and room security.
- With the approval of the CPC to proceed with the update to the CJ Moral Fitness rules, staff will begin conducting outreach to ensure all interested parties, including members of the public, have an opportunity to comment prior to any final filing. Staff will be scheduling rule hearings throughout the state.
- Staff is working with OACCD to review and possibly update the training requirements for Parole & Probation Officers who are armed during the course of their duties.

Eriks Gabliks reported:

- DPSST presented its 2019-2021 budget to the Public Safety Sub-Committee Ways & Means in January. DPSST now awaits the initial budget presentations of our partner public safety agencies to be completed. The main discussion points between the Legislative Fiscal Office and DPSST staff have been regarding the number of classes needed to address the retirement wave and the positions needed for HB 2355 (racial profiling) program.
- On the policy front, the 2019 legislative session continues at full speed. More than 3,000 bills have been introduced and DPSST is actively monitoring legislation, providing factual information to legislators and stakeholders, participating in public safety legislative forums, and completing fiscal impacts on proposed legislation. Bills of interest to DPSST includes campus public safety legislation (Kaylee's Law), law

enforcement officer wellness, law enforcement officer pre-employment psych evaluations, and regulatory streamlining initiatives.

- The recently approved revisions to the Parole and Probation Basic Course were well-received by the recent class with positive feedback.
- The enrollments for Academy classes continue to be monitored on an on-going basis. The next Basic Corrections and Parole and Probation classes are scheduled for July and both still have vacancies.
- The Oregon Fallen Officer Memorial was held on May 7 at 1:00 pm at the Academy. The names of four fallen officers, approved by the Board, were honored during this year's ceremony. Ashland Police Officer Malcus Williams, Bend Police Sgt. John Lawrence, and two Multnomah County Sheriff's Deputies, Deputy Robert Ray "Bobby" Anderson and Deputy Sheriff Irving Burkett, who were seriously injured in the line of duty and retired as a result of their injuries. Both of these are being added under the historic recognition program which allows fallen officers from previous years to be honored on the memorial after careful review and approval. Governor Brown attended the event and former State Representative Andy Olson was the keynote speaker.
- DPSST will begin an overview and update on the Supervision and Management classes over the next few months. Committee members and stakeholders (police, corrections, 9-1-1, parole and probation, OLCC) from around the state will be invited to assist. Interested parties should contact Leadership Program Training Coordinator Terry Moss at DPSST.

#### **Next Corrections Policy Committee Meeting August 13, 2019**

##### *Administrative Notes:*

- *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.*