

# **Corrections Policy Committee**

## **Minutes**

### **February 12, 2019**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 12, 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  
Matt English, Oregon State Sheriff's Association (phone @ 2:00)  
Carol Dishon, Non-Management Corrections – DOC/Coffee Creek  
Rob Perrson, DOC Superintendent  
James Cook, AFSCME Representative Department of Corrections  
Jamie Hepner, Oregon Association of Community Corrections Directors (phone @ 2:00)  
Jamie Russell, Oregon Sheriff's Jail Command Council  
Gary Ninman, DOC Professional Development Unit  
Michael Gower, Designee for Director of DOC  
Greg Martin, Non-Management Corrections – DOC  
Matthew Frohnert, Oregon Sheriff's Jail Command Council

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

Nadine Purington, Vice Chair, Non-Management Parole & Probation  
Gary Bergerson, Non-Management Corrections Officer

#### **Guests:**

Kim Menjou, Lane County P&P  
Jenalee Nichols, Lane County P&P  
Donovan Dumire, Lane County P&P  
Hannah Foster, Umatilla County Sheriff's Office  
Andrew Jackson

#### **DPSST Staff:**

Eriks Gabliks, Director  
Linsay Hale, Professional Standards Division Director  
Mike Leloff, Training Division Director  
Kristen Hibberds, Professional Standards Coordinator/Investigator  
Jennifer Howald, Administrative Rules Coordinator  
Jordan James-Largent, Criminal Justice Compliance Specialist



#### **1. Introductions**

Introductions of members, guest and staff were presented.

**2. \*Minutes of November 13, 2018**

Approve meeting minutes from November 13, 2018

*Michael Gower moved to approve the minutes from the November 13, 2018 Corrections Policy Committee meeting. Matt Frohnert seconded the motion. The motion carried unanimously.*

**3. \*Minutes of December 13, 2018**

Approve meeting minutes from December 13, 2018

*Michael Gower moved to approve the minutes from the December 13, 2018 Corrections Policy Committee meeting. Rob Perrson seconded the motion. The motion carried unanimously.*

**4. \*Proposed Rule Changes for OAR 259-008-0070; Criminal Justice Moral Fitness Workgroup Recommendations, Part One**

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 in August, 2017. The Workgroup was formed to review a number of unintended tensions in the revised administrative rule language as well as address some additional issues that have arisen based upon procedural and legal changes. While the review process is still ongoing, the Workgroup's discussions have resulted in the following recommendations:

- Current administrative rule requires Policy Committee review of all criminal dispositions received by current and future public safety professionals. The current definitions of a criminal disposition includes convictions, violations, adjudications, entered pleas of guilty or no contest, or finding of guilty except for insanity or its equivalent in Oregon or any other jurisdiction. The Workgroup recommends adding of civil compromises to the definition of criminal disposition.
- Allowing public safety professionals who are the subject of a complaint filed with DPSST the ability to submit mitigation prior to Policy Committee review.
- Adjusting the administrative closure criteria to allow staff to recommend administrative closure of cases that involve a criminal disposition that occurred five years prior to employment in public safety, the only criminal dispositions are the result of a single incident in the public safety professional's history, the conduct did not involve dishonesty or deceit, and the public safety has met all court-ordered obligations, including the payment of fines and fees.

*Michael Gower moved to recommend the Board adopt the changes as proposed and that the Board approve filing the changes to OAR 259-008-0070 as a permanent rule change with the Secretary of State if no comments are received. Gary Ninman seconded the motion. The motion passed unanimously.*

*By consensus the committee found no fiscal impact to small businesses.*

## 5. **\*Review/Approval of Policy Committee Bylaws**

Presented by Linsay Hale

In an effort to enhance professionalism of the policy committee professional standards case review process, the Criminal Justice Moral Fitness Workgroup recommends the following revisions to the Policy Committee bylaws:

- Expansion of the Board Chair authority to remove a policy committee member for non-participation, lack of participation or unexcused absences.
- The addition of mandatory Board/Policy Committee orientation training prior to participating in policy committee discussions or votes.
- The addition of a requirement to record all member votes by conducting a verbal roll-call.
- The addition of a definition for conflict of interest.
- The addition of a non-participation clause for a committee member who is the subject individual in an open DPSST professional standards case.

*Michael Gower moved to adopt the recommended changes to the Corrections Policy Committee Bylaws. Matt Frohnert seconded the motion. The motion carried unanimously.*

## 5. **\*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)
Rosebalm, Timothy #56033 Not Affiliated	Basic Corrections	Arrest – Obstruction, Recklessly Endangering and Disorderly Conduct. No charges filed by DA	No
Kelsch, Jesse #51752 DOC-SRCI	Basic Corrections	Arrest – DV Assault in the presence of a child, no contact order violation and Resisting or Obstructing Officer. All charges were dismissed	No
Durkan, Michael #46571 Jefferson County SO	Basic Corrections, Advanced Police	Arrest – Criminally Negligent Homicide. Acquitted	No
Hansen, Anthony #52939 Jefferson County SO	Intermediate Corrections	Arrest – Criminally Negligent Homicide. Acquitted	No

Skidgel, Cory #44094 Jefferson County SO	Basic Corrections	Arrest – Criminally Negligent Homicide. Acquitted	No
Amaya, William #58800 DOC-EOCI	None	Conviction – Criminal Driving while Suspended on 3/25/09, only conviction, occurred over 7 years ago	No
Wetherell, William #58321 Multnomah County SO	None	Separation & Academy Dismissal – Inappropriate remarks and touching of another student	Yes

*Rob Perrson moved to approve the recommendations made by staff to administratively close the above listed cases. Carol Dishon seconded the motion. The motion carried unanimously.*

**6. \*Nichols, Jeanlee DPSST #59284-Application for Training and Subsequent Certification; Lane County Parole & Probation**

Presented by Kristen Hibberds

Issue: In October 2018, Nichols submitted an Application for Training and failed to disclose her 2005 conviction of Hit and Run.

After communication with Lane County it was determined that she did disclose the conviction to her employer during the background process and the omission on the application was unintentional.

On November 2, 2018, Nichols submitted an amended Application for Training and self-disclosed her conviction and provided an explanation.

*Jenalee Nichols presented verbal mitigation.*

Vote/Consensus	Second	Vote	Outcome
Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Matthew Frohnert	9 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Nichols' conduct did violate the Board's moral fitness standards, specifically by engaging in <b>Gross Misconduct</b> as defined by administrative rule when she recklessly disregarded the law and was convicted of a crime.			

The Corrections Policy Committee reviewed and considered the **Aggravating and Mitigating** circumstances specific to this case.

Pursuant to OAR 259-0080070(4)(f)(F), there are aggravating circumstances present: The behavior resulted in a criminal disposition and the individual was found guilty of a Class A misdemeanor.

Pursuant to OAR 259-008-0070(4)(f)(F), there are mitigating circumstances present: The conduct occurred prior to employment in public safety, the conviction occurred over 13 years ago, Ms. Nichols' age at the time of conviction, Ms. Nichols has satisfied all the court ordered obligations, Ms. Nichols does not have more than one criminal disposition on her record. Additionally mitigating was the verbal and written mitigation provided by Ms. Nichols, the fact that Ms. Nichols was hired by a criminal justice agency after conducting a full background investigation, and that Ms. Nichols took full responsibility for her actions.

Matt Frohnert made a motion after considering the totality of the case to recommend to the Board that no action be taken against Nichols' certification.	Greg Martin	9 ayes; 0 nays	Motion passes unanimously
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7. **\*Foster, Hannah DPSST #58034 Application for Training and Subsequent Certification Umatilla County Sheriff's Office**

Presented by Kristen Hibberds

Issue: In May 2018, Foster was separated from employment with the Department of Corrections during her trial service.

On September 4, 2018, Foster was hired as a telecommunicator with the Umatilla County Sheriff's Office.

Foster's conduct while employed with the Department of Corrections will be reviewed to determine if she is eligible for training and certification.

*Hannah Foster presented verbal mitigation.*

Vote/Consensus	Second	Vote	Outcome
Carol Dishon moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Gary Ninman	8 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Foster's conduct did violate the Board's moral fitness standards, specifically by engaging in <b>Misuse of Authority</b> as defined by administrative rule when she attempted interfere with a police investigation and obtain preferential treatment for another public safety professional who was the subject of a criminal investigation.			

The Corrections Policy Committee reviewed and considered the **Aggravating and Mitigating** circumstances specific to this case.

Pursuant to OAR 259-0080070(4)(f)(F), there are aggravating circumstances present: The conduct occurred during Ms. Foster's employment in public safety. Additionally mitigating was Foster's high blood alcohol content (BAC) at the time of the incident, and her uncooperative and disruptive behavior throughout the incident.

Pursuant to OAR 259-008-0070(4)(f)(F), there are no mitigating circumstances present. The committee found as additionally mitigating Ms. Foster's verbal mitigation, the fact that Ms. Foster took responsibility for her actions and sought treatment, and the fact that this behavior appears to be out of character due to her high BAC.

Matt Frohnert made a motion after considering the totality of the case to recommend to the Board that no action be taken against Foster's certification.	Carol Dishon	10 ayes; 1 nay (Ninman)	Motion passes.
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8. **\*Jackson, Andrew DPSST #54783 Basic Corrections Certification – Polk County Sheriff's Office**

Presented by Kristen Hibberds

Issue: In September, 2018, DPSST received a Personnel Action Form (F-4) from the Polk County Sheriff's Office indicating that Jackson had resigned during an investigation.

*Andrew Jackson presented verbal mitigation.*

Vote/Consensus	Second	Vote	Outcome
Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Rob Perrson	11 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Jackson's conduct did violate the Board's moral fitness standards, specifically by engaging in <b>Gross Misconduct</b> as defined by administrative rule when he impacted the efficient operations of his agency by sharing personal and intimate information with his co-workers about having sexual relations with a contract provider and by engaging in <b>Dishonesty</b> as defined by administrative rule when he was deceitful during the investigation into his behavior.			
<p>The Corrections Policy Committee reviewed and considered the <b>Aggravating and Mitigating</b> circumstances specific to this case.</p> <p>Pursuant to OAR 259-0080070(4)(f)(F), there are aggravating circumstances present: The conduct occurred during Jackson's employment in public safety and the conduct occurred over a period of several months. The committee found additionally aggravating Mr. Jackson's egregious violation of his employer's policies relating to</p>			

sexual harassment and personal conduct and the fact that he recently completed sexual harassment training.			
Pursuant to OAR 259-008-0070(4)(f)(F), there are no mitigating circumstances present. The committee found no additional mitigating circumstances.			
Michael Gower made a motion after considering the totality of the case to recommend to the Board that action be taken against Jackson's certification.	Jamie Russell	11 ayes; 0 nays	Motion passes unanimously.
Michael Gower made a motion after considering the totality of the case to recommend to the Board that Mr. Jackson be ineligible to hold public safety certification for life.	Jamie Russell	11 ayes; 0 nays	Motion passes unanimously.

9. **\*Yancey, Douglas DPSST #37761 Basic and Intermediate Corrections and Instructor Certifications - Department of Corrections Inspector General's Office**

*Case pulled due to voluntary relinquishment of certifications.*

10. **\*Theriacult, Brandon DPSST #59154 Application for Training and Subsequent - Certification Department of Corrections SRCI**

Presented by Kristen Hibberds

Issue: In August, 2018, Theriacult submitted an Application for Training and self-disclosed a conviction for Violation of the Migratory Bird Treaty Act, Title 16 – Taking More than the Daily Bag Limit of Migratory Game Birds.

Vote/Consensus	Second	Vote	Outcome
Matt Frohnert moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Gary Ninman	11 ayes; 0 nays	Motion passes unanimously.
Consensus reached that Theriacult's conduct did violate the Board's moral fitness standards, specifically by engaging in <b>Gross Misconduct</b> as defined by administrative rule when he recklessly disregarded the law and by engaging in <b>Dishonesty</b> as defined by administrative rule when he intentionally hid bird he had shot and was dishonest with the responding officer.			
The Corrections Policy Committee reviewed and considered the <b>Aggravating and Mitigating</b> circumstances specific to this case.			

Pursuant to OAR 259-0080070(4)(f)(F), there are aggravating circumstances present: The conduct occurred multiple times, the conduct resulted in a criminal disposition and Mr. Theriault was found guilty of a Class B Misdemeanor. The Committee found additionally aggravating the demonstration of a pattern of behavior (two separate contacts by the same officer), the Mr. Theriault's claim that he was employed in public safety in California at the time, and his attempt to downplay the incident on his explanation of the crime to DPSST.

Pursuant to OAR 259-008-0070(4)(f)(F), there are mitigating circumstances present: The conviction occurred over 11 years ago, Mr. Theriault's age at the time of the conviction and the fact that the conviction was self-reported. The committee found no additional mitigating circumstances.

Matt Frohnert made a motion after considering the totality of the case that Board action be taken on Theriault's certification.	Michael Gower	11 ayes; 0 nays	Motion passes unanimously.
Jamie Russell made a motion after considering the totality of the case that Board that Mr. Theriault be ineligible to hold public safety certification for life.	Michael Gower	11 ayes; 0 nays	Motion passes unanimously.

# **11. \*Singleton, Roger DPSST #45748 Basic and Intermediate Corrections Certifications – Department of Corrections WCCF**

Presented by Kristen Hibberds

Issue: In August, 2017, DPSST received a Personnel Action Form (F-4) from the Department of Corrections that Singleton had been discharged from employment. On October 23, 2018, an Agreement and Release was issued accepting Singleton's resignation effective December 11, 2017.

*James Cook recused himself due to a conflict of interest.*

Vote/Consensus	Second	Vote	Outcome
Gary Ninman moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Rob Perrson	10 ayes; 0 nays; 1 abstention (Cook)	Motion passes.
Consensus reached that Singleton's conduct did violate the Board's moral fitness standards, specifically by engaging in <b>Gross Misconduct</b> as defined by administrative rule when he failed to conduct bunk searches and by engaging in <b>Dishonesty</b> as defined by administrative rule when he falsified official reports indicated that he had completed the bunk searches.			



The Corrections Policy Committee reviewed and considered the **Aggravating and Mitigating** circumstances specific to this case.

Pursuant to OAR 259-0080070(4)(f)(F), there are aggravating circumstances present: The conduct occurred during Mr. Singleton's employment in public safety and while Mr. Singleton was acting in his official capacity. The committee found no additional aggravating circumstances.

Pursuant to OAR 259-008-0070(4)(f)(F), there are no mitigating circumstances present and the committee found nothing additionally mitigating.

Matt English made a motion after considering the totality of the case that Board action be taken on Singleton's certification.	Matt Frohnert	10 ayes; 0 nays; 1 abstention (Cook)	Motion passes.
Matt English made a motion after considering the totality of the case that Board that Mr. Singleton be ineligible to hold public safety certification for life.	Gary Ninman	10 ayes; 0 nays; 1 abstention (Cook)	Motion passes.

**12. \*Abundis, Richard DPSST #48657 Basic, Intermediate and Advanced Parole and Probation and Instructor Certifications – Lane County Parole and Probation**

Issue: In December, 2017, DPSST received a Personnel Action Report (F-4) from Lane County Parole & Probation indicating that Abundis had been discharged from employment.

Vote/Consensus	Second	Vote	Outcome
Gary Ninman moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Carol Dishon	10 ayes; 0 nays (Gower absent)	Motion passes.

*By consensus, the committee tabled the case to allow staff to provide additional information.*

**13. \*Muschek, Steven DPSST #46720 Basic, Intermediate and Advanced Corrections Certifications – Washington County Sheriff's Office**

Issue: In January, 2018, DPSST received a Personnel Action Report (F-4) from Washington County Sheriff's Office indicating that Muschek resigned during an investigation.

*Matt Frohnert recused himself due to a conflict of interest.*

<b>Vote/Consensus</b>	<b>Second</b>	<b>Vote</b>	<b>Outcome</b>
Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based.	Jamie Russell	10 ayes; 0 nays; 1 abstention (Frohnert)	Motion passes.
Consensus reached that Muschek's conduct did violate the Board's moral fitness standards, specifically by engaging in <b>Gross Misconduct</b> as defined by administrative rule when he failed to conduct proper cell searches, rounds and security checks and by engaging in <b>Dishonesty</b> as defined by administrative rule when he falsified the computer management system indicated the searches, rounds and checks had been completed.			
<p>The Corrections Policy Committee reviewed and considered the <b>Aggravating and Mitigating</b> circumstances specific to this case.</p> <p>Pursuant to OAR 259-0080070(4)(f)(F), there are aggravating circumstances present: The conduct occurred during Mr. Muschek's employment as a public safety officer, the conduct occurred multiple times and the conduct occurred while Mr. Muschek was acting in his official capacity. The committee found as additionally aggravating the fact that Mr. Muschek left a contract employee alone with an inmate for over 3 minutes creating a safety issue and that Mr. Muschek had ample training regarding the importance of timely checks and rounds.</p> <p>Pursuant to OAR 259-008-0070(4)(f)(F), there are no mitigating circumstances present and the committee found nothing additionally mitigating.</p>			
Michael Gower made a motion after considering the totality of the case that Board action be taken on Muschek's certification.	Carol Dishon	10 ayes; 0 nays; 1 abstention (Frohnert)	Motion passes.
Michael Gower made a motion after considering the totality of the case that Board that Muschek be ineligible to hold public safety certification for life.	Jamie Russell	10 ayes; 0 nays; 1 abstention (Frohnert)	Motion passes.

#### **14. Department Update**

Eriks Gabliks reported:

- The 2019 legislative session is under way. More than 2,000 bills have already been introduced and many believe just as many more will be introduced before the session is done. There are dozens of bills that will impact law enforcement agencies ranging from trauma informed care to use of force. Too early to know which bills will move and actually have an impact.

- DPSST presented its 2019-2021 budget to joint ways and means last week. DPSST appreciates the support and testimony provided by all of our statewide association partners.
- The Policy Option Package to add additional dorms and classrooms to the Academy to accommodate the request of DOC to return to the Academy and have DPSST provide their basic corrections officer training was not approved due to limited funds available. DPSST is very supportive of the Governor's budget and looks forward to the discussions that will occur during the 2019 session.
- Enrollment numbers at the Academy remain steady. An additional Corrections class was added to the schedule to accommodate the hiring trends of city and county corrections agencies. Parole and Probation hiring seems steady but no additional classes are needed at this time.
- DPSST issued a letter to all law enforcement agencies regarding the changes made at the Academy to address the recent BOLI investigation and findings. An updated was also shared during the Chiefs and Sheriffs meeting at ELTS in Seaside. If folks have any questions they can contact Mike Leloff at DPSST. DPSST considers the matter closed.
- The Oregon Fallen Officer Memorial is scheduled for Tuesday, May 7 at 1:00 pm at the Academy. The names of four fallen officers have been approved by the Board for addition. Ashland Police Officer Marcus Williams, Bend Police Sgt. John Lawrence, and two Multnomah County Sheriff's Deputies 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.
- DPSST will begin an overview and update on the Supervision and Management classes over the next few months. Committee members and stakeholders from around the state will be invited to assist.

Linsay Hale reported:

- The Criminal Justice Moral Fitness workgroup is continuing its work. The first phase of recommendations were presented and approved during today's meeting. All remaining recommendations from that group will be presented to the Corrections Policy Committee for consideration and recommendation.
- DPSST is in the final stages of purchasing A/V equipment to assist with public meeting transparency and security of Policy Committee meetings.
- Barry Jerkins, the Committee's public members, has moved out of state and can no longer represent the public on this body. We thank Mr. Jerkins for his service and welcome Gary Ninman and Jamie Hepner to the Committee.

**Next Corrections Policy Committee Meeting May 14, 2019 at 1:30 p.m.**

*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.*