

Corrections Policy Committee

Minutes

November 16, 2010

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, November 16, 2010 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Pro-Tem Lisa Settell called the meeting to order at 1:32 p.m.

Attendees:

Committee Members:

Raimond Adgers, Oregon Sheriff's Jail Command Council
Tom Cramer, Department of Corrections Training Division Director
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Nancy Howton, Department of Corrections Security Manager
David Nielsen, Non-Management Corrections
Amanda Rasmussen, Non-Management Corrections Officer
Lisa Settell, Parole and Probation Officer
Diana Simpson, Oregon State Sheriff's Association
Marie Tyler, Oregon Sheriff's Jail Command Council
Jeff Wood, Oregon Assoc. of Community Corrections Directors

Committee Members Absent:

Ida Rovers, Department of Corrections, Women's Correctional Facility
Todd Anderson, Oregon State Sheriff's Association, Chair

Guests

Paul Peloquin

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorance, Certification and Records Supervisor
Carolyn Kendrick, Administrative Specialist
Bob Sigleer, DOC-BCC Auditor
Debbie Anderson, DOC-BCC Administrative Support
Linsay Bassler, Rules and Compliance Coordinator



Lisa Settell acted as Chair Pro-Tem due to Chair Todd Anderson's unavailability to attend this meeting.

1. Minutes (August 17, 2010)

Approve the minutes of the August 17, 2010 Corrections Policy Committee meeting.

See Appendix A for details.

Marie Tyler moved that the committee approve the minutes of the August 17, 2010 Corrections Policy Committee meeting as written. Michael Gower seconded the motion. The motion carried unanimously.

2. **Tyron BIRDSONG – DPSST #35394**

Presented by Marilyn Lorange

See Appendix B for details

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report, with amendments, as the record upon which its recommendations are based. Raimond Adgers seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others by exposing the young barista to inmates**.
 - d. The identified conduct did involve **Misuse of Authority based on the fact that BIRDSONG was in uniform using the staff entrance to the coffee shop, going behind the counter, and asking for speedy service while hinting for free coffee**.
 - e. The identified conduct did involve **Gross Misconduct based on deviation of practice by making an unscheduled stop with inmates**.
 - f. The identified conduct did involve **Misconduct - violation of policy**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the letter from the Sheriff regarding BIRDSONG's continued poor judgment; lack of personal accountability; the letter to the Sheriff with the statement "BIRDSONG does off the wall things all the time."; and the letter of reprimand along with two letters of caution in the last three years.*

One committee member noted as a possible mitigating circumstance, the fact that BIRDSONG did leave one officer with the inmates while he went in for coffee.

- *Marie Tyler moved that the Corrections Policy Committee finds BIRDSONG's conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Amanda Rasmussen seconded the motion. The motion carried unanimously.*
- *Diana Simpson moved that the Corrections Policy Committee recommends to the Board that BIRDSONG's misconduct reached the top level of all categories noted above with a focus on Disregard for the Rights of Others-a fifteen year minimum period of ineligibility; BIRDSONG may reapply for certification after fifteen years from the date of revocation. Raimond Adgers seconded the motion. The motion carried unanimously.*

3. **Samuel LEIDIG – DPSST #49033**

Presented by Marilyn Lorange

See Appendix C for details

- Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Amanda Rasmussen seconded the motion. The motion carried unanimously.
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty based on lies to the officer, then changing his story, and the lie in his letter about his cooperation and honesty.**
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**
 - d. The identified conduct did not involve **Misuse of Authority**
 - e. The identified conduct did not involve **Gross Misconduct.**
 - f. The identified conduct did involve **Misconduct based on violation of the law—illegal fireworks.**
 - g. The identified conduct did not involve **Insubordination**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as an aggravating circumstance the lies within LEIDIG's letter. However, in the same letter, the fact that LEIDIG seemed remorseful was noted as a mitigating circumstance.*
- Amanda Rasmussen moved that the Corrections Policy Committee finds LEIDIG's conduct does rise to the level to warrant the revocation of his certification(s) based on his dishonesty and therefore recommends to the Board that these certification(s) be revoked. Marie Tyler seconded the motion. The motion carried in a 9-2 vote with Erik Douglass and David Nielsen voting no.
- Nancy Howton moved that the Corrections Policy Committee recommend to the Board that LEIDIG's misconduct reached the top level of the Dishonesty category—a lifetime disqualifier; LEIDIG may never reapply for certification. Amanda Rasmussen seconded the motion. The motion carried in a 9-2 vote, with Erik Douglass and David Nielsen voting no.

4. Breanna REYES – DPSST #48250

Presented by Theresa King

See Appendix D for details

- Diana Simpson moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion.

After further discussion regarding missing reports, Diana Simpson withdrew the motion and Nancy Howton withdrew the second.

Michael Gower moved to post-pone this case until the next Corrections Policy Committee meeting to allow staff time to collect additional information. Marie Tyler seconded the motion. The motion carried unanimously.

5. Timothy GALLAGHER, Jr. – DPSST #49465

Presented by Marilyn Lorance

See Appendix E for details

The committee took a 15-minute break to review additional last-minute information regarding the GALLAGHER case.

- *Erik Douglass moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Raimond Adgers seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did not involve **Gross Misconduct**.
 - f. The identified conduct did involve **Misconduct based on conviction for the crime of unlawful taking of a game animal**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact that since this was in the newspapers it was a public embarrassment to the DOC community, his father was a fish and game officer so GALLAGHER clearly knew better, and the fact that there was no response to DPSST from GALLAGHER.*

No mitigating circumstances were noted.
- *David Nielsen moved that the Corrections Policy Committee finds GALLAGHER's conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Diana Simpson seconded the motion. The motion carried unanimously.*
- *Marie Tyler moved that the Corrections Policy Committee recommends to the Board that GALLAGHER's misconduct reached the top level of the Misconduct category-a seven year minimum period of ineligibility; GALLAGHER may reapply for certification after seven years from the date of revocation. Michael Gower seconded the motion. The motion carried unanimously.*

The committee did not convene in Executive Session and did not discuss matters exempt from public disclosure relating to the Gregory BURROUGHS case.

6. Gregory BURROUGHS – DPSST #19971

Presented by Linsay Bassler

- *Michael Gower moved that the Corrections Policy Committee recommends to the Board the approval of a waiver of the depth perception standard for Gregory BURROUGHS. Marie Tyler seconded the motion. The motion carried unanimously.*

7. Quarterly Review of DOC BCC by the DPSST Audit Team

Presented by Marilyn Lorance

See Appendix F for details

A committee member asked about the student exit surveys. Staff reminded the committee that this is the first class that was taught and surveys are a tool to better the course.

- *After hearing the quarterly review and discussing changes that have been made, Diana Simpson moved that the Corrections Policy Committee recommends to the Board and the Executive Committee that the Oregon Department of Corrections Basic Corrections Course 2011 meets or exceeds the minimum standard required for equivalency of the DPSST Basic Corrections Course. Erik Douglass seconded the motion. The motion carried unanimously.*

8. OAR 259-008-0025 – Proposed Administrative Rule Change

Presented by Linsay Bassler

See Appendix G for details

Diana Simpson moved that the Corrections Policy Committee recommend to the Board the filing of OAR 259-008-0025 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Marie Tyler seconded the motion. The motion carried unanimously.

It is the consensus of the committee that there is no significant fiscal impact on small businesses.

9. Additional Business

Presented by Eriks Gabliks

- At the next Corrections Policy Committee meeting, staff will deliver reports from DPSST's Basic Corrections Local classes as well as the quarterly review of DOC BCC.
- DPSST just finished the first Police to Corrections class. We will have analysis and review at the next Corrections Policy Committee meeting.
- Intermediate and Advanced Certification Matrix: This work was delayed due to the uncertainty with the legislature over the last couple of years. The individual discipline subcommittees have finished their work on definitions. The large group Matrix Committee met to look at the work from each discipline subcommittee to cross-reference rules, etcetera for consistency. We hope to have reports for the Policy Committees soon.

10. Next Scheduled Meeting – February 8, 2011 at 1:30 p.m.

With no further business before the committee, the meeting adjourned at 4:00 p.m.

Appendix A

Corrections Policy Committee Minutes (Draft) August 17, 2010

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, August 17, 2010 in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. Chair Todd Anderson called the meeting to order at 1:32 p.m.

Attendees:

Committee Members:

Todd Anderson, Oregon State Sheriff's Association, Chair
Raimond Adgers, Oregon Sheriff's Jail Command Council
Tom Cramer, Department of Corrections Training Division Director
Erik Douglass, Non-Management Corrections Officer
Michael Gower, Designee for Director of Department of Corrections
Nancy Howton, Department of Corrections Security Manager
Amanda Rasmussen, Non-Management Corrections Officer
Ida Rovers, Department of Corrections, Women's Correctional Facility
Lisa Settell, Parole and Probation Officer
Marie Tyler, Oregon Sheriff's Jail Command Council
Thomas Wright, DOC Bargaining Unit Representative

Committee Members Absent:

Diana Simpson, Oregon State Sheriff's Association
Jeff Wood, Oregon Assoc. of Community Corrections Directors

DPSST Staff:

Eriks Gabliks, Director
Marilyn Lorance, Certification and Records Supervisor
Carolyn Kendrick, Administrative Specialist
Theresa King, Professional Standards Coordinator/Investigator



1. Minutes (May 18, 2010)

Approve the minutes of the May 18, 2010 Corrections Policy Committee meeting.

See Appendix A for details.

Raimond Adgers moved that the committee approve the minutes of the May 18, 2010 Corrections Policy Committee meeting as written. Marie Tyler seconded the motion. The motion carried unanimously.

2. Quarterly Review of DOC Basic Corrections Class

Presented by Theresa King

See Appendix B for details

Chair Todd Anderson thanked the Audit Team for their work and efficiency.

3. Darrel A. BLAIN – DPSST #35540

Presented by Theresa King

See Appendix C for details

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Nancy Howton seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on violation of law—contempt of court**.
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee considered a number of mitigating circumstances including the appeal from BLAIN’s wife, the fact he’s received counseling and fulfilled his obligations, and that BLAIN has proven himself during the last four years. No aggravating circumstances were noted.*
- *Michael Gower moved that the Corrections Policy Committee finds BLAIN’s conduct does not rise to the level to warrant the revocation of his certifications(s) or denial of Advanced Certification, and therefore recommends to the Board that these certification(s) not be revoked and his Advance Certification not be denied. Lisa Settell seconded the motion. The motion carried unanimously.*

4. Robert Owen DAVIS –DPSST #25755 – RE-CONSIDERATION

Presented by Theresa King

See Appendix D for details

- *Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Erik Douglass seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty—sexual harassment; endangering staff; racial comments**.

- c. The identified conduct ***did*** involve a **Disregard for the Rights of Others—*racial comments to stir people up; wouldn't take accountability for actions.***
 - d. The identified conduct ***did*** involve **Misuse of Authority—*was in uniform***
 - e. The identified conduct ***did*** involve **Gross Misconduct.**
 - f. The identified conduct ***did*** involve **Misconduct—*violation of law, DUII***
 - g. The identified conduct ***did*** involve **Insubordination—*failure to follow the rules of a respectful workplace.***
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The committee noted as an aggravating circumstance, DAVIS' additional poor behavior since the past issue, which is serious enough to cause fall from rank. No mitigating circumstances were noted.***
 - ***Marie Tyler moved that the Corrections Policy Committee finds that the new information does not alter but only enhances the previous Policy Committee's recommendation that DAVIS' misconduct rose to the level to warrant the revocation of his certification(s), and that DAVIS' certifications should be revoked.***
 - ***Marie Tyler moved that the Corrections Policy Committee finds that the new information does additionally support the Policy Committee's recommendation that DAVIS' misconduct continues to rise to the level to warrant the revocation of his certification(s), and that DAVIS' certifications should be revoked.***
 - ***Based on the totality of factors, Marie Tyler moved that the Corrections Policy Committee recommends to the Board that DAVIS' misconduct reached the top end of all categories noted above with a focus on Dishonesty—a lifetime disqualifier; he may never reapply for certification. Erik Douglass seconded the motion. The motion carried unanimously.***

5. **Steven D. COWLES – DPSST #38208**

Presented by Theresa King

See **Appendix E** for details

- ***Amanda Rasmussen moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Ida Rovers seconded the motion. The motion carried unanimously.***
- **By discussion and consensus:**
 - a. Identify the conduct that is at issue.
 - b. The identified conduct ***did not*** involve **Dishonesty**
 - c. The identified conduct ***did*** involve a **Disregard for the Rights of Others—*Using a taser for no lawful reason.***
 - d. The identified conduct ***did not*** involve **Misuse of Authority**
 - e. The identified conduct ***did*** involve **Gross Misconduct—*Tased with aggression, a gross deviation of procedure and expectation of behavior.***
 - f. The identified conduct ***did*** involve **Misconduct—*violation of law.***
 - g. The identified conduct ***did not*** involve **Insubordination.**
- **By discussion and consensus,** the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances. ***The committee noted as an aggravating***

circumstance the fact that COWLES' use of alcohol has gotten worse. No mitigating circumstances were noted.

- *Marie Tyler moved that the Corrections Policy Committee finds COWLES' conduct does rise to the level to warrant the revocation of his certification(s) and therefore recommends to the Board that these certification(s) be revoked. Amanda Rasmussen seconded the motion. The motion carried unanimously.*
- *Nancy Howton moved that the Corrections Policy Committee recommend to the Board that COWLES' misconduct reached the top level of all categories noted above with a focus on Disregard for the Rights of Others—a fifteen year minimum period of ineligibility; COWLES may reapply for certification after fifteen years from the date of revocation. Raimond Adgers seconded the motion. The motion carried unanimously.*

6. **Jason O. JONES – DPSST #51425**

Presented by Theresa King

See Appendix F for details

- *Marie Tyler moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Ida Rovers seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others—reckless driving and DUII**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did not involve **Gross Misconduct**.
 - f. The identified conduct did involve **Misconduct—violation of law**
 - g. The identified conduct did not involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The fact that JONES' was 19 years old (9 years ago) and not involved in law enforcement when this misconduct occurred, and that the DUII was dismissed were mitigating circumstances stated by the committee. No aggravating circumstances were noted.*
- *Michael Gower moved that the Corrections Policy Committee finds JONES' conduct does not rise to the level to warrant the denial of his training and subsequent certifications(s) and therefore recommends to the Board that these certification(s) not be denied. Marie Tyler seconded the motion. The motion carried unanimously.*

7. **Alicia M. SILER – DPSST #44849**

Presented by Theresa King

See Appendix G for details

Chair Todd Anderson stated for the record that SILER is his employee and therefore recused himself from discussion and voting on this case.

- *Raimond Adgers moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Michael Gower seconded the motion. The motion carried unanimously by all voting with Chair Todd Anderson abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did involve **Dishonesty**—*lied in the letter; lied about the timeline and when she left.*
 - c. The identified conduct did involve a **Disregard for the Rights of Others**—*the mooning issue.*
 - d. The identified conduct did not involve **Misuse of Authority.**
 - e. The identified conduct did involve **Gross Misconduct**—*the use of her child in the area of the event.*
 - f. The identified conduct did involve **Misconduct**—*bizarre behavior and use of child.*
 - g. The identified conduct did involve **Insubordination**—*consistently late for work.*
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee stated as aggravating the fact SILER had been late for work twenty-eight times in the last five years and that she had used her child in the bizarre behavior. No mitigating circumstances were noted.*
- *Amanda Rasmussen moved that the Corrections Policy Committee finds SILER’s conduct does rise to the level to warrant the revocation of her certification(s) and therefore recommends to the Board that these certification(s) be revoked. Ida Rovers seconded the motion. The motion carried unanimously by all voting with Chair Todd Anderson abstaining.*
- *Marie Tyler moved that the Corrections Policy Committee recommends to the Board that SILER’s misconduct reached the top end of all categories noted above with a focus on Dishonesty—a lifetime disqualifier; she may never reapply for certification. Nancy Howton seconded the motion. The motion carried unanimously by all voting with Chair Todd Anderson abstaining.*

The committee convened in Executive Session at 3:18pm to discuss matters exempt from disclosure under ORS 192.660(1)(h) related to Eric HOHLT and Tyler PLAGMANN cases.

The committee reconvened in Regular Session at 3:24pm to take final action in the matters of HOHLT’s and PLAGMANN’s request for medical waivers.

8. Eric Hohlt

Presented by Marilyn Lorance

- *Michael Gower moved that the Corrections Policy committee recommends to the Board the approval of a waiver of the depth perception standard for Deputy HOHLT. Marie Tyler seconded the motion. The motion carried unanimously.*

9. Tyler PLAGMANN

Presented by Marilyn Lorance

- *Michael Gower moved that the Corrections Policy Committee recommends to the Board and the Executive Board the approval of a waiver of the depth perception standard for Deputy PLAGMANN. Marie Tyler seconded the motion. The motion carried unanimously.*

10. DUII Related Discretionary Cases

Presented by Marilyn Lorance

See Appendix H for details

The committee agreed this chart is a valuable resource and thanked staff for their work on this project.

11. Additional Business

Presented by Eriks Gabliks

- **The 2010 Leadership Seminar** was well received and we are currently working with the Sheriff's, Chief's, OSP, DOC, FBI, and a few others on the next training, which will occur Spring 2011.
- Thomas Wright has termed out with this committee. Oregon AFSCME is working on his replacement. This position requires the Governor's confirmation and Senate approval.
- The new two-week Police to Corrections class and is scheduled to begin October 25, 2010. So far there are 20 people registered to attend. The class can hold 40 participants.
- Basic Corrections Local 003 is currently in session, scheduled to graduate August 27, 2010.
- There are discussions regarding the Criminals Fines and Assessments Fund being dedicated for this agency and the other agencies currently funded by this source. The Legislature is working on this. We'll keep you posted as we learn more.
- This week DPSST is updating the Range 3000 MILO system equipment which is deployed often around the state for in-service training.

Legislative Update: Presented by Marilyn Lorance

DPSST is discussing with DOC the definitions of Corrections Officers that is in statute. When individuals are promoted to a certain level at DOC, they no longer meet the DPSST statutory definition of a Corrections Officer due to change in duties. As a result their certifications lapse. Staff has worked with DOC to develop an amendment to the definition of "Corrections Officer" that doesn't just apply to DOC but could also apply to the larger jails where command staff is separated from performing the direct supervision of inmates. This amendment will be put forward to the Legislature.

The committee asked if this would grandfather people back into certification... This is a continuing discussion. Staff will keep you posted as we learn more.

12. Next Scheduled Meeting – November 16, 2010

The next regularly scheduled meeting is November 16, 2010 at 1:30 p.m.

With no further business before the committee the meeting adjourned at 3:52 p.m.

Appendix B

Department of Public Safety Standards and Training Memorandum

DATE: November 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Tyron BIRDSONG DPSST #35394

ISSUE:

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

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to BIRDSONG:

On April 13, 1998, BIRDSONG was hired by the Malheur County Sheriff's Office as a corrections officer.

On March 24, 2005, BIRDSONG signed his Criminal Justice Code of Ethics.

On June 28, 1999, BIRDSONG was granted a Basic Corrections Certificate.

On March 30, 2005, BIRDSONG was granted an Intermediate Corrections Certificate.

On April 28, 2010, BIRDSONG resigned in lieu of termination. DPSST sought and obtained information relating to the resignation.

In September 2010, DPSST mailed BIRDSONG a letter advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke BIRDSONG's certification based on violation of the established moral fitness standards:

1. By vote, the Corrections Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Corrections Policy Committee finds BIRDSONG's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE: November 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Samuel LEIDIG DPSST #49033

ISSUE:

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

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to LEIDIG:

On October 21, 2007, LEIDIG was hired by the Oregon Department of Corrections as a corrections officer.

On July 9, 2008, LEIDIG signed his Criminal Justice Code of Ethics.

On September 18, 2008, LEIDIG was granted a Basic Corrections Certificate.

DPSST sought and obtained information relating to a conviction for Unlawful Sale or Use of Fireworks, a discretionary disqualifying misdemeanor crime.

In September 2010, DPSST mailed LEIDIG a letter advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

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

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

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

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

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

(E) Whether the misconduct involved domestic violence;

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

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

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

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

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke LEIDIG's certification based on violation of the established moral fitness standards:

1. By vote, the Corrections Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Corrections Policy Committee finds LEIDIG's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: November 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator
SUBJECT: Breanna REYES DPSST #48250

ISSUE:

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

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to REYES:

On May 13, 2007, REYES was hired by the Oregon Department of Corrections as a corrections officer.

On July 12, 2007, REYES signed her Criminal Justice Code of Ethics.

On March 18, 2008, REYES was granted a Basic Corrections Certificate.

On June 30, 2010, REYES resigned in lieu of termination. DPSST sought and obtained information relating to the resignation.

In September 2010, DPSST mailed REYES a letter advising her that her case would be heard before the Corrections Policy Committee (CPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

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

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

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

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

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

(E) Whether the misconduct involved domestic violence;

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

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

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

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

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke REYES' certification based on violation of the established moral fitness standards:

1. By vote, the Corrections Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Corrections Policy Committee finds REYES' conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: November 16, 2010
TO: Corrections Policy Committee
FROM: Theresa King
Professional Standards Investigator/Coordinator

SUBJECT: Timothy GALLAGHER, Jr. DPSST #49465

ISSUE:

Should Timothy GALLAGHER's Basic Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to GALLAHER:

On March 24, 2008, GALLAHER was hired by the Oregon Department of Corrections as a corrections officer.

On June 18, 2008, GALLAHER signed his Criminal Justice Code of Ethics.

On March 10, 2009, GALLAHER was granted a Basic Correction Certificate.

DPSST sought and obtained information relating to a conviction for a Fish and Game crime, Unlawful Removal of Parts of a Wildlife Carcass or Wasting Edible Portions of Any Wildlife, a discretionary disqualifying misdemeanor crime.

In September 2010, DPSST mailed GALLAGHER a letter advising him that his case would be heard before the Corrections Policy Committee (CPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

DISCUSSION:

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

STANDARD OF PROOF:

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

DISCRETIONARY DISQUALIFYING MISCONDUCT

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

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

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

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

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

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

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

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

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

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

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

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

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

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

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

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

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

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

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

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

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

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

(E) Whether the misconduct involved domestic violence;

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

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

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

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

ACTION ITEM 1:

Staff requests the Corrections Policy Committee review the matter and make a recommendation to the Board whether or not to revoke GALLAGHER's certification based on violation of the established moral fitness standards:

1. By vote, the Corrections Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Corrections Policy Committee finds GALLAGHER's conduct *does/does not* rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

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

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

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

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

Appendix F

Supplemental Audit Team Staff Report – November 2010 CPC Page 1 of 3

Department of Public Safety Standards and Training Memo

DATE: November 16, 2010

TO: Corrections Policy Committee

FROM: Theresa King,

DOC Audit Program Coordinator

SUBJECT: Oregon Department of Corrections Basic Corrections Course 2011

Issue:

Does the Oregon Department of Corrections Basic Corrections Course 2011 (BCC 2011) meet or exceed the minimum standards of the DPSST Basic Corrections Course?

Background:

In August 2009, the DPSST Audit Team submitted a report on the initial Oregon Department of Corrections Basic Corrections Course (BCC). The report contained an evaluation of the BCC and determined that the BCC met the minimum standards and in several categories exceeded the minimum standards. The evaluation was based on subjects, hours of instruction, and critical and essential tasks. However, no curriculum review was conducted at that time.

The Corrections Policy Committee (CPC) and the Board on Public Safety Standards and Training (Board) approved the BCC as an equivalency, for purposes of Basic Corrections certifications. DPSST drafted Oregon Administrative Rules (OAR) which reflected the requirements for the BCC, and these were also adopted.

In May 2010, DPSST provided an update to the CPC, advising that the DPSST Basic Corrections course had been updated. This update changed the minimum standards. The Audit Team notified the Department of Corrections Professional Development Unit (PDU) of the new standard and allowed them six months to update their program.

During the subsequent months, PDU has been updating their curriculum and lesson plans to reflect the DPSST updates. PDU has provided their BCC 2011 program to the Audit Team for review.

Analysis:

I have received and reviewed the DOC BCC 2011 subject hour breakdown which includes components such as the learning objectives, the physical and non-physical essential tasks and the hours per course category. In a comparison with the current minimum standards in each of these components I find the following:

1. DOC BCC 2011 *exceeds* the minimum hours for overall training. Their training totals 227 hours, including 17 administrative hours.
2. DOC BCC *exceeds* the minimum hours in four of the eight course categories. Their training includes 21 hours over the required training in Security, two hours over the required training

Supplemental Audit Team Staff Report – November 2010 CPC Page 2 of 3

in Investigations, two hours over the required training in Health and Safety and two hours over the required training in Survival Skills.

3. DOC BCC *exceeds* the minimum number of testing measures, in both academic and skills areas by the number of tests administered and the minimum score required.
 - a. DOC requires students pass both 100-question tests at a minimum 75% rather than a 75% cumulative score. DOC will require trainees to attain a score of 100% on all Use of Force questions and remediate those questions missed by using the DPSST Use of Force Remediation Form.
 - b. DOC administers an additional 44 short quizzes.
 - c. DOC uses eight additional Skills Sheets, beyond seven skills sheets used by DPSST, for a total of 15 Skills Sheets.
4. DOC BCC *meets* the minimum essential tasks required to be covered in the Basic Course.
5. DOC BCC *meets* the minimum instructor qualification and certification requirements consistent with DPSST policy.
6. DOC BCC *meets* the minimum attendance requirements. No student may miss more than 10%; with 100% attendance required in specific listed classes. DOC provides a list of trainees and their attendance records for each Basic Corrections class through sign-in rosters for each class.
7. DOC BCC *meets* the minimum conduct requirements; DOC enforces, investigates and documents any Zero Tolerance Offenses defined in OAR 259-008-0025(6).
8. DOC BCC *meets* the documentation requirements for audit purposes, which include records of attendance, training, testing and instructor qualification.
9. DOC *meets* the equivalency requirement by ensuring that local-specific curriculum that reflects a critical and essential task is covered at an awareness level.
10. DOC BCC *meets* the certification requirements, which include submission of the F-7, F-6, F-11, FTO Completion Report and proof of current First Aid/CPR.

The Audit Team provided PDU with the minimum standards criteria to meet the required standards for curriculum content. The Audit Team also provided PDU with criteria beyond the minimum standard requirement and to which an “*exceeds*” finding would apply. DOC PDU has *exceeded* the minimum standards in the following curriculum areas:

1. DOC PDU has identified **Performance Objectives** within each class. Performance objectives are educational objectives; what the student should learn in the class. Currently DPSST requires only that Learning Goals be identified and met within each class. [DPSST also uses Performance Objectives and therefore exceeds the minimum requirement in this area.]
2. DOC PDU has identified **Competencies** within each class. Competencies are the skills, behaviors and knowledge that are necessary to be successful; i.e., how one knows the student has learned the topic. DOC PDU used the Competencies that DPSST JTA Coordinator Steve Winegar had begun to develop for Basic Corrections and has continued their refinement and implementation into Basic Corrections. DPSST Basic Corrections has not yet included Competencies in its program.
3. DOC PDU has included the use of **Curriculum Mapping** to demonstrate when a topic is introduced in the training program, when it is reinforced, and when the student demonstrates

mastery. Curriculum mapping demonstrates a sequential flow of where the curriculum fits within a program based on educational building blocks.

4. DOC PDU has included **Essential Principles**; principles that carry a common theme throughout the course. DOC BCC has selected the Oregon Accountability Model which includes the 3 R's (Role Model, Reinforce and Redirect). DOC BCC has also selected the Interpersonal Communication series which includes Positioning, Posturing, Observing and Listening.

5. DOC PDU has included **Reality Based Training** throughout the training. The foundation of the DOC BCC program was on the training methodology of "learn, practice, and demonstrate." Reality based training provides scenarios and exercises that support the demonstration of competencies.

6. DOC PDU has identified the **Critical and Essential Physical and Non-physical Tasks** within each class. The Critical and Essential Physical and Non-Physical Tasks are derived from the Job Task Analysis (JTA) that DPSST conducts on each public safety discipline. Both the DPSST and the DOC BCC are developed based on the JTA; however, the DOC curriculum exceeds the minimum standard in its identification of which critical and essential tasks are the focus in each portion of its curriculum.

The Audit Team evaluated the current and proposed curriculum to:

- a. Ensure student-centered learning, which includes activities or questioning that require a student to produce and defend a response.
- b. Ensure the curriculum is appropriately linked to other subjects (essential principles).
- c. Ensure the students are engaged in the process of grasping difficult or challenging concepts through applying what they have learned (reality based training)
- d. Ensure the instructor understands what the goals of the training are (performance objectives).
- e. Ensure the instructor understands when a student has demonstrated they understood the training (competencies).
- f. Ensure the instructor understands the flow of information in the class (through the lesson outline).
- g. Ensure the instructor understands how the class fits into the overall program and ensures the training methodologies of "learn, practice, demonstrate" are carried through the program (curriculum mapping).

Findings:

Based on the information I have been given, the result of my analysis of the DOC BCC 2011 is that it *exceeds* the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

Action Item:

By a vote, determine if the Oregon Department of Corrections Basic Corrections Course 2011 meets or exceeds the minimum standard required for equivalency.

Appendix G

Department of Public Safety Standards and Training Memo

Date: November 16, 2010

To: Corrections Policy Committee

From: Linsay Bassler

Rules Coordinator

Subject: OAR 259-008-0025 - Proposed Administrative Rule Change
Minimum Standards for Training

Issue: When DOC BCC was approved in 2009, the course certification focus was on the subject and hour breakdown to ensure that DOC BCC met the minimum state standards and that training in critical and essential tasks was addressed through conceptual performance objectives. In May 2010, DPSST Basic Corrections staff completed a curriculum and subject/hour breakdown update. This rule update adjusts the minimum course hours for DOC BCC to reflect those updates. This update also implements plain language standards and makes additional housekeeping changes for clarity and consistency.

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

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in **OAR 259-008-0035**, all law enforcement officers, telecommunicators, and emergency medical dispatchers must satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion must be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual must be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and OAR 259-008-0005, subsections (7), **(19), (23), and (24), (16), (21), and (22)** during the last five (5) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18), and **OAR 259-008-0005(14) and (32) (12) and (31)** for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), **(19), (23) and (24) (16), (21), and (22)** for over two and one-half (2-1/2) years but less than five (5) years must complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(i) Corrections and police officers who have not completed the Basic Course must begin training within 90 days of their initial date of employment.

(A) A police officer must begin training at an academy operated by the Department.

(B) A corrections officer who is employed by Oregon Department of Corrections (**hereinafter referred to as DOC**) during the period July 1, 2009 through January 1, 2014 must begin DOC Basic Corrections Course (**hereinafter referred to as DOC BCC**) training provided by DOC as described in section (6) of this rule. ***

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2-1/2) years and five (5) years, must satisfactorily complete a Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course must also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. **See[refer to OAR 259-008-0025(1)(b)].**

(A) A law enforcement officer who fails to achieve a minimum passing test score after completing a Career Officer Development Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(B) A law enforcement officer who fails to achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(C) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing test score within the timeframe set by the Department. Failure to successfully complete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position must

satisfactorily complete Supervision training that complies with the requirements outlined in DPSST Form F-21. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred **to a supervisory position from** within a department, or is appointed from an outside department, without having completed the required Supervision training within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete Middle Management training that complies with the requirements outlined in DPSST Form F-22. The required training must be completed within 12 months after initial promotion, appointment, or transfer to

such position. This section applies whether the individual is promoted or transferred to a middle management position within a department, or **employed is appointed to the position from an outside a department and appointed to a middle manager position** without having completed the required **mMiddle mManagement** training within the preceding five (5) years.

(5) Specialized Courses:.

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. **The Department** staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, must be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs must be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) The DOC Basic Corrections Course.

Course Requirements

(a) Except as provided in **OAR 259-008-0035**, all corrections officers hired by the Oregon Department of Corrections (**hereinafter referred to as DOC**) on or after July 1, 2009, but prior to January 1, 2014, must satisfactorily complete the DOC Basic Corrections Course (**hereinafter referred to as DOC BCC**), including the field training portion. **All corrections officers must complete the DOC BCC and field training portion within twelve months from the date of employment by a corrections officer.**

(b) Prior to attending a DOC BCC, a corrections officer hired by DOC on or after July 1, 2009, but prior to January 1, 2014, must:

(A) Meet the minimum standards for employment as a law enforcement officer contained in OAR 259-008-0010;

(B) Meet the background investigation requirements for a law enforcement officer contained in OAR 259-008-0015; and

(C) Meet the minimum standards for training contained in this section.

(c) The DOC BCC must conform to the content and standard approved by the Board. The DOC BCC must include, but is not limited to:

(A) Minimum training standards for the basic certification of corrections officer employed by DOC. The minimum training developed by DOC must be adopted by the Board and must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than DOC.

(B) Minimum Course Hours. The DOC BCC must include, at a minimum, the following:

(i) **24 hours in Law; Section A – 22 hours in Law and Legal Topics;**

(ii) **38 hours in Human Behavior, Section B – 20 hours in Community Relations and Human Behavior;**

(iii) **36 hours in Security; Section C – 35 hours in Security;**

(iv) **82 hours in General Skills. Section D – 10 hours in Investigations;**

(v) **Section E – 27 hours in Health and Safety;**

(vi) **Section F – 8 hours in Mental Health;**

(vii) **Section G – 37 hours in Skills – Survival; and**

(viii) **Section H – 24 hours in Skills - Firearms**

(ix) Administrative time is not included within the hours identified above.

(C) Attendance Standards. Attendance rosters must be kept and copies of these rosters must be submitted to the Department at the conclusion of a student's training, or when requested by the Department. To successfully complete the DOC BCC, a student may not miss more than 10% of the DOC BCC.

(D) Notwithstanding (C) above, successful completion of the DOC BCC requires 100% attendance at the following mandatory classes:

(i) **ORPAT Health and Fitness;**

(ii) **Defensive Tactics/Reality Based Training;**

(iii) **Firearms;**

(iv) **Medical Escorts/Restraints;**

(v) **Contraband/Searches;**

(vi) **Report Writing; and**

(vii) **Reality Based Training.**

(E) Conduct. An individual attending a DOC BCC is expected to uphold the minimum moral fitness standards for Oregon public safety officers during their training. DOC will document the date, type, and disposition of any student misconduct relating to the minimum standards for correctional officers. These include, but are not limited to, the following Zero Tolerance Offenses:

(i) Any unlawful act;

(ii) Dishonesty, lying or attempting to conceal violations;

(iii) Cheating;

(iv) Harassment; **or**

(v) Alcohol possession or use at the training venue.

(F) Course Curriculum.

(i) The DOC BCC will be based on the critical and essential job tasks identified in the most current Job Task Analysis for corrections officers provided to DOC by the Department.

(ii) The DOC BCC will incorporate the most current **conceptual performance objectives Learning Goals** provided to DOC by the Department.

(iii) The DOC BCC will incorporate curriculum updates provided to DOC by the Department, when those updates address the critical and essential job tasks or conceptual **performance objectives Learning Goals** referenced above.

Testing Requirements

(G) Academic Testing. Academic testing will consist of written test questions that are valid, create reasonable academic rigor, and require students to demonstrate knowledge and application of the essential tasks identified within the DOC BCC curriculum. DOC must administer examinations and maintain a file of examinations conducted.

(i) Academic Testing Passing Score. Except as provided below, to successfully complete the DOC BCC, students must achieve a minimum score of 75% on each academic test. If a student does not attain a 75% score, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. After remediation, a student will be allowed one opportunity to re-test and achieve a minimum score of 75%.

(ii) Students must attain a score of 100% on all academic test questions on Use of Force topics. (iii) If a student fails to attain a 100% score on Use of Force topics, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. Remediation must include the student completing the DPSST Use of Force Remediation form to demonstrate understanding of each topic missed.

(H) Skills Testing. Skills testing will consist of evaluations documented by use of Skills Sheets during which students must demonstrate competence and achieve a “pass” score in each skill tested.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.