

# **Corrections Policy Committee**

## **Minutes**

### **May 8, 2012**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, May 8, 2012, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. The executive session was held pursuant to ORS 192.660(2)(f) for the purpose of considering information or records that are exempt by law from public disclosure. Chair Diana Simpson called the meeting to order at 9:01 a.m.

#### **Attendees:**

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

Diana Simpson, Oregon State Sheriff's Association, Chair  
Brian Burger, Department of Corrections AFSCME Representative  
Daryl Borello, Department of Corrections Training Division  
Erik Douglass, Non-Management Corrections Officer  
Michael Gower, Designee for Director of Department of Corrections  
Nancy Howton, Department of Corrections Security Manager  
Tami Jackson, Non-Management DOC  
Andy Long, Oregon State Sheriff's Association  
Joseph Pishioneri, Non-Management Law Enforcement  
Amanda Rasmussen, Non-Management Corrections Officer  
Barbara Shipley, Oregon Sheriff's Jail Command Council

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

Lisa Settell, Parole and Probation Officer  
Jeff Wood, Oregon Association of Community Corrections Directors  
Linda Yankee, Oregon Sheriff's Jail Command Council

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

Eriks Gabliks, Director  
Debbie Anderson, Administrative Specialist  
Leon Colas, Professional Standards Coordinator/Investigator  
Linsay Hale, Certification Coordinator  
Ryan Keck, Academy Class Coordinator  
Theresa King, Professional Standards Coordinator/Investigator  
Marilyn Lorange, Standards and Certifications Supervisor  
Bob Sigleer, Certification & Compliance Coordinator  
Kristy Witherell, Administrative Support



1. **Minutes (February 14, 2012)**

Approve the minutes of the February 14, 2012 Corrections Policy Committee meeting.

See Appendix A for details.

- *Joseph Pishioneri moved that the committee approve the minutes of the February 14, 2012 Corrections Policy Committee meeting. Amanda Rasmussen seconded the motion. The motion carried unanimously.*

2. **Police to Corrections and Basic Corrections Local Update**

Presented by Ryan Keck

*Ryan gave a brief summary on the Basic Corrections Local class that ran in January. This was the first class that ran the six week curriculum expansion. Through implementing a pre-test to all of the students, the academy was able to capture key performance measures. There was an average of a 30% improvement in their academic testing. There were zero skills deficiencies in the class and no physical injuries. The students really appreciated the scenario based training.*

*The Police to Corrections class was run successfully with an academic average of 89%. Half of the class was administrators and supervisors. The class had an improved appreciation of scenario based training. Some areas of improvement that the students stated they would like to see were test preparation and course logistics.*

3. **Quarterly Review of DOC Basic Corrections Course by the DPSST Audit Team**

Presented by Theresa King

See Appendix B for details

*Theresa King stated the DOC BCC program meets the minimum training standards for the certification of corrections officers.*

*Michael Gower shared with the policy committee that DOC BCC is working closely with DPSST to meet or exceed the minimum standards. The next project will be getting the BCC re-write in time so it can go through the Corrections Policy Committee and the Board to be accepted.*

4. **OAR-008-0025 – Temporary/Proposed Administrative Rule Change**

Presented by Linsay Hale

See Appendix C for details.

- *Joseph Pishioneri moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0025 with the Secretary of State as a temporary rule. Brian Burger seconded the motion. The motion carried unanimously.*

- *Joseph Pishioneri moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0025 with the Secretary of State as a proposed rule. Michael Gower seconded the motion. The motion carried unanimously.*
- *Joseph Pishioneri moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0025 with the Secretary of State as a permanent rule. Nancy Howton seconded the motion. The motion carried unanimously.*

*It is the consensus of the committee there is no significant fiscal impact on small business.*

- *Joseph Pishioneri moved that the Corrections Policy Committee recommend forwarding proposed rule OAR-259-008-0025 to the Executive Committee for final determination. Erik Douglass seconded the motion. The motion carried unanimously.*

#### **5. OAR-259-008-0060 – Proposed Rule**

Presented by Linsay Hale

*See Appendix D for details.*

- *Erik Douglass moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0060 with the Secretary of State as a proposed rule. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- *Erik Douglass moved that the Corrections Policy Committee recommend to the Board filing the proposed language for OAR-259-008-0060 with the Secretary of State as a permanent rule if no comments are received. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

*It is the consensus of the committee there is no significant fiscal impact on small business.*

#### **6. Sean Rarey, Josephine County Sheriff's Office – DPSST #20930**

Request for Medical Waiver

Presented by Linsay Hale

- *Michael Gower moved that the Corrections Policy Committee recommend approval of a medical waiver for Sean Rarey. Nancy Howton seconded the motion. The motion carried unanimously.*
- *Michael Gower moved that the Corrections Policy Committee forward the recommendation of a medical waiver to the Executive Committee. Nancy Howton seconded the motion. The motion carried unanimously.*

7. **John W. Slyter**

Request for Medical Waiver  
Presented by Linsay Hale

- *Amanda Rasmussen moved that the Corrections Policy Committee recommend denial of a medical waiver for John Slyter. Joseph Pishioneri seconded the motion. The motion carried unanimously.*
- *Amanda Rasmussen moved that the Corrections Policy Committee forward the denial of a medical waiver to the Executive Committee. Joseph Pishioneri seconded the motion. The motion carried unanimously.*

8. **Abel Coronado, Department of Corrections – DPSST #26914**

Presented by Leon Colas

See Appendix E for details.

- *Erik Douglass 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 in a 9-2 vote with Andy long and Tami Jackson abstaining.*
- By discussion and consensus:
  - a. Identify and articulate the misconduct that is specific to this case. *Violations of DOC policies, code of conduct, code of ethics, and a respectful workplace.*
  - b. The identified conduct did not involve **Dishonesty**
  - c. The identified conduct did involve a **Disregard for the Rights of Others based on CORONADO's repeated defamatory accusations toward staff when managers advised CORONADO his accusations were unfounded.**
  - d. The identified conduct did not involve **Misuse of Authority**
  - e. The identified conduct did involve **Gross Misconduct based on a confrontations CORONADO had with another staff member in front of inmates. This created a danger or risk to persons.**
  - f. The identified conduct did involve **Misconduct when CORONADO showed a disregard to management's attempts to redirect him on proper policies and procedures of the facility. CORONADO violated work email policies and the respectful workplace policy.**
  - g. The identified conduct did involve **Insubordination when CORONADO was directed verbally and in writing by multiple superior parties to discontinue his behavior and he did not remediate his behavior.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *CORONADO did not correct his behavior*

*even after management's repeated attempts to correct him. CORONADO had five separate disciplinary actions against him including, a two week suspension. Coworkers attempted to redirect CORONADO, which he did not take advantage of. In the letter CORONADO wrote to the Superintendent, he did not take responsibility for his actions.*

*No mitigating circumstances were identified by the policy committee.*

- *Joseph Pishioneri moved that the Corrections Policy Committee finds CORONADO'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. Brian Burger seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*
- *Erik Douglass moved that the Corrections Policy Committee recommends to the Board that CORONADO's conduct encapsulated the lowest end of the categories noted above with a focus on Disregard for the Rights of Others, therefore recommending a five-year disqualifier; CORONADO may reapply for certification five years from the date of revocation. Brian Burger seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*

9. Enrique Enriquez, Department of Corrections – DPSST #40977  
Presented by Leon Colas

*See Appendix F for details.*

- *Joseph Pishioneri moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Brian Burger seconded the motion. The motion carried in an 8-3 vote with Amanda Rasmussen, Andy Long, and Tami Jackson abstaining.*
- *By discussion and consensus:*
  - a. Identify and articulate the misconduct that is specific to this case. **ENRIQUEZ's falsification of tier checks and sloppy record keeping.***
  - b. The identified conduct did involve **Dishonesty based on ENRIQUEZ falsifying information on the log sheets.***
  - c. The identified conduct did involve a **Disregard for the Rights of Others based on ENRIQUEZ's falsification of records; he put inmates and staff in danger.***
  - d. The identified conduct did not involve **Misuse of Authority.***

- e. The identified conduct ***did*** involve **Gross Misconduct based on ENRIQUEZ failing to act in doing tier checks. This endangered fellow coworkers, inmates, and the facility which is a gross deviation of the standard of care.**
  - f. The identified conduct ***did*** involve **Misconduct with ENRIQUEZ's violation of Oregon State Statute 169.076.**
  - g. The identified conduct ***did*** involve **Insubordination based on supervisors advising ENRIQUEZ to correct his behavior, and ENRIZUEZ stating that he clearly understood the expectations placed on him. He continued to falsify log books.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The committee noted as mitigating circumstances that ENRIQUEZ was dealing with personal family issues at the time.*

*The committee noted as aggravating circumstances that ENRIQUEZ did not change his behavior after being advised to do so several times.*

- ***Brian Burger moved that the Corrections Policy Committee finds ENRIQUEZ'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. Michael Gower seconded the motion. The motion carried unanimously with Amanda Rasmussen, Andy Long, and Tami Jackson abstaining.***
- ***Joseph Pishioneri moved that the Corrections Policy Committee recommends to the Board that ENRIQUEZ's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore, recommending a lifetime disqualifier; ENRIQUEZ may never reapply for certification. Michael Gower seconded the motion. The motion carried unanimously with Amanda Rasmussen, Andy Long, and Tami Jackson abstaining.***

#### **10. Douglas S. Hawker, Department of Corrections – DPSST #36735**

Presented by Leon Colas

See Appendix G for details.

- ***Joseph Pishioneri 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 with Andy Long and Tami Jackson abstaining.***

- By discussion and consensus:
  - a. Identify and articulate the misconduct that is specific to this case. *Dishonesty based on writing a disrespectful note to a coworker.*
  - b. The identified conduct did involve *Dishonesty based on HAWKER lying to supervisors about a disrespectful note he wrote and placed on a coworker's car.*
  - 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 not involve **Misconduct**
  - 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 committee identified as mitigating circumstances were HAWKER's letter he wrote to the committee seemed sincere. HAWKER received treatment for his behavior, including taking medication to correct his behavior. There were several letters of reference from a wide range of staff that supported HAWKER. In 12 years of employment, HAWKER had no disciplinary infractions in his file.*

*The committee identified as aggravating circumstances that HAWKER lied multiple times about writing the note to a coworker. This was a small situation that would have been recoverable if he did not lie about it.*

- *Michael Gower moved that the Corrections Policy Committee finds HAWKER'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. Barbara Shipley seconded the motion. The motion carried in an 8-3 vote with Andy Long and Tami Jackson abstaining and Erik Douglass voting no.*
- *The Corrections Policy Committee voted on the categories listed below and recommends to the Board that Hawker's conduct receive the following periods of ineligibility:*
  - Category I: Dishonesty (five years to Lifetime). *Michael Gower moved that the Corrections Policy Committee recommend to the Board a lifetime revocation based on dishonesty. David Borello seconded the motion. The motion carried in a 7-4 vote with*

*Andy Long and Tami Jackson abstaining and with Erik Douglass and Brian Burger voting no.*

*Since the Corrections Policy Committee voted for the highest level of the Dishonesty category—a lifetime disqualifier, HAWKER may never reapply for certification.*

**11. Angela R. Osipovich, Josephine County Sheriff's Office – DPSST #50765**  
Presented by Leon Colas

*See Appendix H for details.*

- *Brian Burger 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 with Andy Long and Tami Jackson abstaining.*
- By discussion and consensus:
  - a. Identify the conduct that is at issue: *OSIPOVICH violated jail policies; she crossed the line with inmates. She changed inmate's classification levels to allow gang affiliated inmates contact each other. OSIPOVICH communicated with federal detained inmates. She provided contraband to inmates.*
  - b. The identified conduct did involve **Dishonesty based on OSIPOVICH falsifying records and documents.**
  - c. The identified conduct did involve a **Disregard for the Rights of Others based on OSIPOVICH changing sanctions for gang inmates to congregate in unauthorized areas of the jail. She created a dangerous situation in the jail for staff and other inmates. She watched inmates undress.**
  - d. The identified conduct did involve **Misuse of Authority based on OSIPOVICH using her position as a deputy to manipulate inmate classifications. She violated the public's trust.**
  - e. The identified conduct did involve **Gross Misconduct based on OSIPOVICH's actions which created a danger and a risk to the efficient operations of the facility. OSIPOVICH engaged in personal relationships with inmates which is a gross deviation of standard of care.**
  - f. The identified conduct did involve **Misconduct by deviating from public standards and practices a peace officer would adhere to. OSIPOVICH allowed gang members to mingle.**
  - g. The identified conduct did involve **Insubordination by OSIPOVICH overriding supervisor's decisions.**
- By discussion and consensus, the Corrections Policy Committee must identify and consider any mitigating and aggravating circumstances.

*No mitigating circumstances were identified by the policy committee.*

*The policy committee meeting noted as aggravating circumstances were OSIPOVICH's multiple violations of jail policies. She received STG training and yet still allowed inmates to comingle.*

- *Joe Pishioneri moved that the Corrections Policy Committee finds OSIPOVICH's conduct did rise to the level to warrant the revocation of her certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Brian Burger seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that OSIPOVICH's conduct encapsulated the highest end of the categories noted above with a focus on Dishonesty, therefore, recommending a lifetime disqualifier; OSIPOVICH may never reapply for certification. Amanda Rasmussen seconded the motion. The motion carried unanimously with Andy Long, and Tami Jackson abstaining.*

## **12. Stephen Wedekind, Department of Corrections – DPSST #33194**

Presented by Leon Colas

See Appendix I for details.

- *Brian Burger moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Joseph Pishioneri seconded the motion. The motion carried unanimously with Andy long and Tami Jackson abstaining.*
- By discussion and consensus:
  - a. Identify the conduct that is at issue: **WEDEKIND was charged with using an ATV to harvest deer and was charged with a misdemeanor criminal trespass**
  - 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 WEDEKIND violating the 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 policy committee noted as mitigating circumstances that WEDEKIND took responsibility for his actions. The game warden believed WEDEKIND's reason for being on the land. The land owner declined to press charges of trespass. WEDEKIND was cooperative and respectful throughout the whole process.*

*The policy committee noted as aggravating circumstances that WEDEKIND had two previous game violations in 1994 and 2003.*

- *Michael Gower moved that the Corrections Policy Committee finds WEDEKIND's conduct did not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Amanda Rasmussen seconded the motion. The motion carried in an 8-3 vote with Andy Long and Tami Jackson abstaining and Barbara Shipley voting no.*

**13. Richard W. Wilson, Marion County Sheriff's Office – DPSST #49156**

Presented by Leon Colas

See Appendix J for details.

- *Joseph Pishioneri 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 with Andy Long and Tami Jackson abstaining.*
- By discussion and consensus:
  - a. Identify the misconduct that is at issue: *WILSON's failure to return to work after a period of absence. He was a no call, no show. He did not contact his supervisors, failure to follow directives, and did not notify department of address change.*
  - b. The identified conduct did not involve **Dishonesty**.
  - c. The identified conduct did involve a **Disregard for the Rights of Others based on WILSON not showing up for work created staffing problems. He did not fulfill his fundamental duty to protect and serve.**
  - d. The identified conduct did not involve **Misuse of Authority**.
  - e. The identified conduct did involve **Gross Misconduct based on the possible lack of efficient operation of the agency. There was a significant draw on resources into finding out why WILSON was not showing up for work.**
  - f. The identified conduct did involve **Misconduct based on WILSON's failure to follow the minimum standards.**
  - g. The identified conduct did involve **Insubordination based on WILSON's failure to follow directions when ordered to two times.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

*The policy committee noted as mitigating circumstances that WILSON stated he was taking medication that made him forget things. The jail Commander made an error when filing the proper documents for reasons of termination of employment.*

*The policy committee noted as aggravating circumstances that WILSON abandoned his job and he did not write a letter of resignation.*

- *Amanda Rasmussen moved that the Corrections Policy Committee finds WILSON's conduct did rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) be revoked. Brian Burger seconded the motion. The motion carried in an 8-3 vote with Andy Long and Tami Jackson abstaining and Erik Douglass voting no.*
- *Amanda Rasmussen moved that the Corrections Policy Committee recommends to the Board that WILSON's conduct encapsulated the lowest end of the categories noted above with a focus on Disregard for the Rights of Others, therefore recommending a five-year disqualifier; WILSON may reapply for certification five years from the date of revocation. Joseph Pishioneri seconded the motion. The motion carried unanimously with Andy Long and Tami Jackson abstaining.*

**14. Next Scheduled Meeting – August 14, 2012 at 1:30 p.m.**

*With no further business before the committee, the meeting adjourned at 12:20 p.m.*

**Appendix A**

**Corrections Policy Committee  
Minutes  
February 14, 2012**

The Corrections Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on Tuesday, February 14, 2012, in the Governor Victor G. Atiyeh Boardroom at the Department of Public Safety Standards and Training located in Salem, Oregon. The executive session was held pursuant to ORS 192.660(2)(f) for the purpose of considering information or records that are exempt by law from public disclosure. Chair Todd Anderson called the meeting to order at 1:36 p.m.

**Attendees:**

**Committee Members:**

Todd Anderson, Oregon State Sheriff's Association, Chair  
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  
Joseph Pishioneri, Non-Management Law Enforcement  
Amanda Rasmussen, Non-Management Corrections Officer  
Ida Rovers, Department of Corrections, Women's Correctional Facility  
Lisa Settell, Parole and Probation Officer  
Diana Simpson, Oregon State Sheriff's Association  
Jeff Wood, Oregon Association of Community Corrections Directors  
Linda Yankee, Oregon Sheriff's Jail Command Council

**Committee Members Absent:**

Barbara Shipley, Oregon Sheriff's Jail Command Council  
Brian Burger, Department of Corrections AFSCME Representative

**Guests:**

Robert Gable, Department of Corrections

**DPSST Staff:**

Eriks Gabliks, Director  
Carolyn Kendrick, Administrative Specialist  
Marilyn Lorange, Standards and Certifications Supervisor  
Theresa King, Professional Standards Coordinator/Investigator  
Leon Colas, Professional Standards Coordinator/Investigator  
Kristy Witherell, Office Specialist II  
Karen Evans, Investigator Trainer  
Teresa Plummer, Private Security/Investigators Supervisor  
Suzzane Weinert, Compliance Specialist II



**15. Minutes (November 8, 2011)**

Approve the minutes of the November 8, 2011 Corrections Policy Committee meeting.

See Appendix A for details.

*Michael Gower reminded the committee members of the importance of reviewing the minutes in their entirety prior to voting approval.*

- *Michael Gower moved that the committee approve the minutes of the November 8, 2012 Corrections Policy Committee meeting. Diana Simpson seconded the motion. The motion carried unanimously.*

**16. Quarterly Review of DOC BCC by the DPSST Audit Team**

Presented by Theresa King

See Appendix B for details

*Committee members stated appreciation of the relationship and partnership between the Department of Corrections and DPSST.*

*The policy committee agrees with staff's presentation of the Quarterly Review of Department of Corrections Basic Corrections Course.*

**17. Fallen Law Enforcement Officer Memorial Wall Nomination- Buddy Herron, DOC/EOCI**

Presented by Eriks Gabliks

See Appendix C for details.

- *Diana Simpson moved that the Corrections Policy Committee recommend to the Executive Board the approval of adding Buddy Ray Herron's name to the Law Enforcement Memorial Wall. Amanda Rasmussen seconded the motion. The motion carried unanimously.*

**18. Status Update – Ron Hager**

Regarding proposed denial of certification

Presented by Marilyn Lorange

See Appendix D for details.

- *Marilyn Lorange summarized the background for Ron Hager's request that information regarding his withdrawn professional standards case be included in the record of Committee minutes.*

**19. Ryan M. Fernandez, Marion County Sheriff's Office – DPSST #45198**

Presented by Leon Colas

See Appendix E for details.

- *Michael Gower moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Joe Pishioneri seconded the motion. The motion carried unanimously.*
  
- By discussion and consensus:
  - h. Identify and articulate the misconduct that is specific to this case. *Truthfulness issues. FERNANDEZ was subpoenaed to appear as a witness in court but did not show stating he could not get time off work. Improper release of inmate. Improperly accessed LEDS for personal use.*
  - i. The identified conduct did involve **Dishonesty based on untruthfulness regarding failure to appear in court and not working when he said he was.**
  - j. The identified conduct did involve a **Disregard for the Rights of Others based on failure to appear in court which caused a delay of trial. Did not fulfill his duties to protect and serve; use of other coworker's access code into LEDS.**
  - k. The identified conduct did involve **Misuse of Authority through the use of LEDS for personal use; used the color of the badge as latitude to get out of a subpoena to appear in court.**
  - l. The identified conduct did involve **Gross Misconduct based on the violation of inmate release procedure.**
  - m. The identified conduct did involve **Misconduct when he violated the practice or standard normally followed by public safety personnel when being subpoenaed to appear in court.**
  - n. The identified conduct did involve **Insubordination when he failed to appear in court when subpoenaed; he violated the general order of the agency three times.**
  
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the fact that FERNANDEZ lied about working so he didn't have to appear in court, he changed his story about where he was that day, and he lied in the letter to DPSST about the reason he resigned from his position. FERNANDEZ had multiple incidents of discipline in his personnel file.*

*No mitigating circumstances were identified.*

- *Michael Gower moved that the Corrections Policy Committee finds FERNANDEZ'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. Nancy Howton seconded the motion. The motion carried unanimously.*
- *Michael Gower moved that the Corrections Policy Committee recommends to the Board that FERNANDEZ's misconduct encapsulated all six of the categories noted above with a focus on the highest end of the Dishonesty category- a lifetime disqualifier; FERNANDEZ may never reapply for certification. Linda Yankee seconded the motion. The motion carried unanimously.*

**20. Robert A. Gable, Department of Corrections – DPSST #48832**

Presented by Leon Colas

*See Appendix F for details.*

- *Diana Simpson 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:
  - h. Identify and articulate the misconduct that is specific to this case. *GABLE was convicted of contempt of court following a domestic violence conviction in February of 2010. He was also convicted of reckless driving in August of 2010.*
  - i. The identified conduct did not involve **Dishonesty**.
  - j. The identified conduct did involve a **Disregard for the Rights of Others based on his contempt of court charge and his road rage incident that potentially put everyone on the road in danger.**
  - k. The identified conduct did not involve **Misuse of Authority**.
  - l. The identified conduct did involve **Gross Misconduct based on his reckless driving which created a risk to property and persons on the road; violation of the code of ethics.**

m. The identified conduct did involve **Misconduct with his contempt of court conviction.**

n. The identified conduct did not involve **Insubordination.**

- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as mitigating circumstances that GABLE maintained employment throughout his convictions of contempt of court and reckless driving. GABLE has taken full responsibility for his behavior and has taken the appropriate steps to change it. GABLE submitted letters of reference to his employer and DPSST to support his change in behavior. GABLE did notify his agency of both convictions the day after they occurred. The committee noted that there was a misunderstanding in the details of the no contact order that led to the contempt conviction.*

*The committee noted as aggravated circumstances that GABLE disregarded the rights of others with the domestic violence conviction in the presence of a child.*

- *Michael Gower moved that the Corrections Policy Committee finds GABLE's conduct does not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Diana Simpson seconded the motion. The motion carried unanimously.*

**21. Douglas S. Hawker, Department of Corrections – DPSST #36735 –PULLED FROM AGENDA**

**22. Christopher L. Hill, Department of Corrections – DPSST #45247**

Presented by Leon Colas

*See Appendix H for details.*

- *Nancy Howton moved that the Corrections Policy Committee adopts the Staff report as the record upon which its recommendations are based. Diana Simpson seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
  - h. Identify and articulate the misconduct that is specific to this case. *Hill was convicted two separate times within a thirteen month period of DUII. He was also convicted with DWS. He was dishonest with the arresting officer on the second DUII and DWS conviction.*

- i. The identified conduct did involve **Dishonesty based on HILL lying to the arresting officer about having a valid driver's license. HILL told the officer that he left the license at home; he gave the officer an expired temporary license and a passport. He was also dishonest about having current insurance on the vehicle.**
- j. The identified conduct did not involve a **Disregard for the Rights of Others.**
- k. The identified conduct did not involve **Misuse of Authority.**
- l. The identified conduct did involve **Gross Misconduct based on having two DUII convictions in thirteen months.**
- m. The identified conduct did involve **Misconduct based on having a DWS conviction which was a violation of HILL's probation.**
- n. The identified conduct did not involve **Insubordination.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. **The committee identified as aggravating circumstances HILL had been addressed by his agency on multiple occasions for his conduct. HILL failed to respond to DPSST's letter. HILL did not report his DUII to his agency. HILL was convicted of two DUII's in one year.**

*No mitigating circumstances were identified*

- **Amanda Rasmussen moved that the Corrections Policy Committee finds HILL'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.**
- **The Corrections Policy Committee voted on the categories listed below and recommends to the Board that HILL's conduct receive the following periods of ineligibility:**

Category I: Dishonesty (5 years to Lifetime). **Diana Simpson moved that the Corrections Policy Committee recommend to the Board a lifetime revocation based on dishonesty. Amanda Rasmussen seconded the motion. The motion carried unanimously.**

Category IV: Gross Misconduct (5 years to 10 years). **Diana Simpson moved that the Corrections Policy Committee recommend to the Board a 5 year revocation based on gross misconduct. Amanda Rasmussen seconded the motion. The motion carried unanimously.**

Category V: Misconduct (3 years to 7 years). *Diana Simpson moved that the Corrections Policy Committee recommend to the Board a 3 year revocation based on misconduct. Amanda Rasmussen seconded the motion. The motion carried unanimously.*

*Since the Corrections Policy Committee voted for the highest level of the Dishonesty category—a lifetime disqualifier, HILL may never reapply for certification.*

**23. Robert L. Myers, Department of Corrections – DPSST #42937**

Presented by Leon Colas

*See Appendix I for details.*

- *Joseph Pishioneri 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 discussion and consensus:
  - h. Identify the conduct that is at issue: *MYERS misused his agency computer and email. MYERS used derogatory references toward supervisors and coworkers. MYERS attempted to coerce coworkers into deleting incriminating emails. Dishonesty in regards to MYERS calling in sick when he was not.*
  - i. The identified conduct did involve **Dishonesty in regards to MYERS' use of sick time when he was not sick.**
  - j. The identified conduct did involve a **Disregard for the Rights of Others based on MYERS' derogatory comments about supervisors and coworkers. MYERS violated the agency's code of ethics. MYERS became distracted from his duties which put inmates and coworkers in danger.**
  - k. The identified conduct did involve **Misuse of Authority in regards to MYERS accessing and using the AS400 for personal use. MYERS looked up information for a person who did not have access to the AS400.**
  - l. The identified conduct did involve **Gross Misconduct based on MYERS' not using work time effectively, creating a danger/risk to inmates and staff.**
  - m. The identified conduct did involve **Misconduct based on the content of emails and destroying emails.**
  - n. 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 policy committee noted the flavor of the letter MYERS wrote as an aggravating circumstance. The only mitigating circumstance the committee noted is the emails appeared to stop after MYERS was addressed by his Captain.*

- *Diana Simpson moved that the Corrections Policy Committee finds MYERS' conduct did rise to the level to warrant the revocation of his certifications(s) and, therefore, recommends to the Board that these certification(s) be revoked. Linda Yankee seconded the motion. The motion carried unanimously.*
- *The Corrections Policy Committee voted on the categories listed below and recommends to the Board that MYERS' conduct receive the following periods of ineligibility:*

Category I: Dishonesty (5 years to Lifetime). *Joe Pishioneri moved that the Corrections Policy Committee recommend to the Board a lifetime revocation based on dishonesty. Ida Rovers seconded the motion. The motion carried unanimously.*

Category II: Disregard for the Rights of Others (5 years to 15 years). *Joe Pishioneri moved that the Correction Policy Committee recommend to the Board a 5 year revocation based on disregards of the rights of others. Ida Rovers seconded the motion. The motion carried unanimously.*

Category III: Misuse of Authority (5 years to 10 years). *Joe Pishioneri moved that the Corrections Policy Committee recommend to the Board a 5 year revocation based on misuse of authority. Ida Rovers seconded the motion. The motion carried unanimously.*

Category IV: Gross Misconduct (5 years to 10 years). *Joe Pishioneri moved that the Corrections Policy Committee recommend to the Board a 5 year revocation based on gross misconduct. Ida Rovers seconded the motion. The motion carried unanimously.*

Category V: Misconduct (3 years to 7 years). *Joe Pishioneri moved that the Corrections Policy Committee recommend to the Board a 5 year revocation based on misconduct. Ida Rovers seconded the motion. The motion carried unanimously.*

*Since the Corrections Policy Committee voted for the highest level of the Dishonesty category—a lifetime disqualifier, MYERS may never reapply for certification.*

#### **24. Ubaldo S. Perez, Department of Corrections – DPSST #48545**

Presented by Leon Colas

*See Appendix J for details.*

- *Diana Simpson 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 discussion and consensus:
  - h. Identify the conduct that is at issue: *PEREZ was in violation of the law when he was convicted of DUII and driving while suspended.*
  - i. The identified conduct did not involve **Dishonesty**.
  - j. The identified conduct did not involve a **Disregard for the Rights of Others**.
  - k. The identified conduct did not involve **Misuse of Authority**.
  - l. The identified conduct did not involve **Gross Misconduct**.
  - m. The identified conduct did involve **Misconduct based on PEREZ's driving while suspended violation.**
  - n. 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 policy committee noted as mitigating circumstances that PEREZ took responsibility for his DUII conviction and he successfully completed diversion. PEREZ also wrote a letter informing his supervisor of his DUII and DWS the day after it occurred.*
- *Nancy Howton moved that the Corrections Policy Committee finds PEREZ's conduct did not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Lisa Settell seconded the motion. The motion carried unanimously.*

**25. Matthew W. Wilson, Department of Corrections – DPSST #31753**

Presented by Leon Colas

*See Appendix G for details.*

- *Michael Gower moved that the Corrections Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Pishioneri seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
  - h. Identify the misconduct that is at issue: *WILSON was convicted of DUI in February of 2007.*
  - i. The identified conduct did not involve **Dishonesty**.
  - j. The identified conduct did not involve a **Disregard for the Rights of Others**.
  - k. The identified conduct did not involve **Misuse of Authority**.
  - l. The identified conduct did involve **Gross Misconduct based on WILSON's DUI conviction.**
  - m. The identified conduct did not involve **Misconduct**.

- n. The identified conduct **did not** involve **Insubordination**.
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The policy committee noted as mitigating circumstances that WILSON complied with all that was necessary for the DUI conviction. It has been 5 years since the conviction and WILSON has had no further issues. The policy committee noted as an aggravating circumstance the fact that WILSON was burping during BAC testing to give a false read.*
  - *Michael Gower moved that the Corrections Policy Committee finds WILSON's conduct did not rise to the level to warrant the revocation of his certification(s) and, therefore, recommends to the Board that these certification(s) not be revoked. Erik Douglass seconded the motion. The motion carried unanimously.*

## **26. Richard W. Wilson, Marion County Sheriff's Office – DPSST #49156**

Presented by Leon Colas

*See Appendix H for details.*

- *Michael Gower moved to ask Marion County for more information on the case. Linda Yankee seconded the motion. The motion carried unanimously.*

## **27. Additional Business**

Director's Report

There are a number of new faces around the table. Linda Yankee joins us as the new Sheriff's Jail Command Council representative. She takes the place of Raimond Adgers who was termed out. Linda is also from Multnomah County Sheriff's Office. Joe Pishioneri is from Lane County Sheriff's Office. He is a Deputy in the Corrections Division. Joe is the committee's new non-management representative and he is taking the place of David Nielsen. Ida Rovers has served two terms and cannot serve a third so this is her last meeting. The committee is working with Amanda Rasmussen to find a replacement. Tami Jackson has been selected to take Ida's place. Tami is going in front of the Board at the April meeting. Tami will come on board at the May meeting as the Department of Corrections, Women's Correctional Facility representative. Todd approved her nomination this morning, so we'll have that on the Board agenda.

Sheriff Simpson appeared in front of the Senate Rules Committee last Friday for her nomination and confirmation as one of the two new Sheriff's Association representatives on the Board. That is moving forward, so she will move seats but she will still remain on this committee as one of the Board members.

Todd Anderson has retired but he has stayed on the Board until the confirmation process has been completed. Todd's term will end March 1 and Sheriff Simpson will start on March 1<sup>st</sup>.

In the back of the room, DPSST staff from Private Security and Private Investigation has been sitting in on this and other committee meetings to see how they are run so they can get a feeling for the process.

Last Friday, our staff met with the Certification Matrix Group. Amanda and Jeff were in on that meeting. The group talked about the intermediate and advanced matrix and what it takes to move up in the chart. We have not looked at the chart in more than 15 years. The group will disseminate that information to all of the stakeholder groups to see if there is any feedback which you will probably see at your next meeting in May. Corrections, Parole and Probation, and Law Enforcement will be in the same matrix and Telecommunication will be in a separate matrix.

The new Basic Corrections class is currently in session. We are using the 6-week format that the Corrections policy Committee approved at the end of last year. The class is at the mid-point and everything seems to be working well. There is a lot more hands on training with the new 6-week curriculum. There will be a report at the next meeting on the success of the new format.

There has been some consternation in POL/ COR, also known as Police to Corrections Class. This is for Officers or Deputies who have law enforcement certification but also have interest in having corrections certification and/ or training. A lot of interest has come from Lebanon and Springfield police which have city jails that sometimes augment them with police officers. They would come to this 2-week class as well as counties that may be losing deputies due to layoffs that have outdated correction certification. The consternation is two-part; first, is the training class itself. Second is getting certified if you complete the class as a corrections officer as well as a police officer. The certification standard requires that the officer or deputy go through another physical exam because they have to meet the entry standard of the basic officer. One of the issues is the cost of having incumbent officers, some of which are command staff, get another medical evaluation. Some will result in waivers coming in front of the policy committee because some of the officers/deputies have been working for 20 to 25 years and their vision or hearing may not be what it once was when they first started their career. DPSST wanted to share this information with the committee to see if there are any questions, concerns, or thoughts. The class doesn't have a physical element, so it is not a requirement to have a physical exam prior to signing up for the class. If a person wants to take the class and subsequently become multidiscipline-certified, they are required to have a current physical in order to meet the standard. It would take a rule change to say that somebody could transfer disciplines without meeting the minimum physical standard for basic certification. Diana Simpson offered to work with Marilyn Lorange on this issue.

Sadly, this is Carolyn Kendrick's last meeting with us. She has accepted a position with the Department of Justice. Kristy Witherell is filling in on a temporary basis. For those of you outside the state, we cannot fill Carolyn's position until she is gone and that is only if a state panel approves our request.

The next Policy Committee meeting is scheduled during the Law Enforcement Memorial. The meeting will begin at 9:00am instead of 1:30pm.

Starting March 1<sup>st</sup>, the Corrections Policy Committee will not have a chair or a vice chair. The chair and the vice chair have to be Board members. You have the choice in selecting Brian Burger, Diana Simpson, Lisa Settell or the Director of DOC.

***Michael Gower moved to recommend Diana Simpson as the new chair. Nancy Howton seconded the motion. The motion carried unanimously. Michael Gower moved to recommend Lisa Settell as the new vice chair. Ida Rovers seconded the motion. The motion carried unanimously.***

**28. Next Scheduled Meeting – May 8, 2012 at 9:00am.**

***With no further business before the committee, the meeting adjourned at 3:47p.m.***

## Appendix B

### Department of Public Safety Standards and Training

**DATE:** May 8, 2012

**TO:** Eriks Gabliks, Director

**THRU:** Marilyn Lorange  
Standards and Certification Manager

**FROM:** Theresa M. King  
DOC BCC Audits Unit Coordinator

**SUBJECT:** Quarterly Review of DOC BCC by DPSST Audit Team

**Issue:**

Is the 2011 DOC BCC meeting the established standards for Basic Corrections Training?

**Background:**

The concept of Oregon Department of Corrections (DOC) providing its own training as an alternative to the DPSST 200-hour Basic Corrections Course (BCC) was proposed in the 2009 Governors' Recommended Budget as a cost saving for DOC. This concept was given statutory approval for a period of four years with the requirement that it meets or exceeds the DPSST BCC, that DPSST audit the DOC BCC and that DPSST provide a written report to the legislature in 2011.

Since 2010, the Audit Team has provided the Corrections Policy Committee with quarterly updates of the DOC BCC. Within the quarterly updates, the Audit Team has identified areas in which the DOC BCC has met the minimum standards or has exceeded the minimum standard. In cases in which the DOC BCC has not met the minimum standards, the Audit Team has identified the areas of non-compliance and the required remedy.

During this reporting period, **January through March 2012**, the Audit Team conducted a series of audits of the 2011 DOC BCC, which included Administrative Records Audits and On-Site Training Audits. Each audit includes Audit Team determinations of whether the training did not meet the standards, met the standards, or exceeded the standards. Additional observations and recommendations were made in areas of concern.



## **Audit Program Overview**

### **DOC BCC Training**

#### **DOC BCC in-session classes**

During this reporting period, DOC BCC began one new BCC and a total of seven BCC classes were in some phase of the BCC.<sup>1</sup>

#### **DOC BCC training completed**

During this reporting period, DOC provided documentation in this area that has not been reconciled as of the deadline for this staff report.<sup>2</sup>

#### **DOC COD**

During this reporting period, DOC submitted no applications for Career Officer Development (COD) to DPSST.

#### **DOC BCC testing results**

During this reporting period, the cumulative average for Test #1 was 95%. To date, the cumulative average for Test #2 is 87.8.

### **DOC BCC Training Failures/Remediation**

#### **Academic**

During this reporting period, DOC provided documentation in this area that has not been reconciled as of the deadline for this staff report.<sup>3</sup>

#### **Skills**

During this reporting period, DOC provided documentation in this area that has not been reconciled as of the deadline of this staff report.<sup>4</sup>

#### **Firearms - -Compliance concern**

During this reporting period the Audit Team continued to identify concerns relating to the DOC firearms training and the resultant high rate of students unable to successfully qualify at the conclusion of the initial training.

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<sup>1</sup> Information from March 7, 2012 BCC Master Calendar

<sup>2</sup> Ex 2, 3 and 4

<sup>3</sup> Ex 2, 3 and 4

<sup>4</sup> Ex 2, 3 and 4

During this reporting period, the Audit Team notified DOC regarding the need for improvement in the high failure rate as a result of the training they delivered. Discussions with DOC are ongoing in this area.

During the 2011 reporting period, there was an average of 29% failure to qualify rate. During this reporting period two firearms classes were conducted. The first class resulted in a failure rate of 29.4%. The next class was held at DPSST and was a Firearms Instructor Development class focused on the problem shooter. In that three day class there were 12 problem shooters who had not successfully qualified in the BCC program on one or more occasions. DPSST firearms instructors coached DOC firearms instructors while working with the problem shooters. The result of this firearms training was a failure rate of 8.3%; one student qualified during the practice session but did not do so during the actual PQC event. Two students achieved the Excellence in Marksman rating. Factoring in both classes, the overall DOC BCC firearms failure rate from this period improved to 20.6%.

## **Basic Corrections Certifications**

### **DOC BCC Basic Corrections certifications issued**

TO date DOC PDU has submitted 153 applications for certification. Of these, DPSST has issued 101 Basic Corrections certificates. Of the remaining, seven certificates were not issued because the applicants separated from employment and 45 certificates are being held pending review of the DOC Class Notebooks.

### **DOC Class Notebooks**

Oregon law requires correctional officers to certify within one year of the date of hire, unless a request for extension is approved.

In compliance with DPSST requirements, when the portion of BCC that DPSST oversees concludes its training, DOC PDU is required to prepare a Class Notebook that is submitted to DPSST. This Class Notebook a prerequisite for Basic Corrections certification. PDU has submitted class notebooks for the classes attended by the officers for whom certification has been requested. However, not all of the required notebook information was initially received for those classes. Some additional information has been submitted and DPSST will be finalizing its review of notebooks, determining what information may still be needed, and granting certifications as soon as possible.

## **DOC “Temporary Employees”**

Issues relating to DOC’s use of temporary employees have resulted in non-compliance with the statute governing regarding the timeframe to begin training and obtain certification.<sup>5</sup> A comprehensive analysis was provided to DOC PDU regarding this issue in August 2010.

## **Curriculum/Instructors**

### **2011 Curriculum Updates**

During this reporting there have been no curriculum update requests from PDU.

PDU began piloting a new DOC Firearms Course in the summer of 2011 and had anticipated submitting it for review and approval during the fall of 2011.

### **2012 DPSST Basic Corrections Curriculum**

In January 2012 DPSST began delivering a new six-week BCL program, which is now the new state standard for Basic Corrections Training. The new program represents a substantial restructuring of basic corrections training, both with areas of additional instruction and with a significant increase in participatory learning activities. Specifically, 51 hours of reality based scenarios and eight hours of problem-based learning exercises were added to the program. Meetings including DOC PDU were scheduled to include them in curriculum development discussions, and they were invited to participate with the curriculum development workgroup.

The first Basic Corrections Local (BCL) class began in January and DOC PDU was invited to observe this class. The Audit Team observed the majority of these classes during the six week program to understand the improvements in the program for purposes of being able to accurately assess equivalency between the BCC and the BCL as required under the law authorizing the BCC.

### **2012 DOC BCC Curriculum**

On March 9, 2012 DOC PDU submitted their new 2012 DOC BCC program for the Audit Team’s review during this reporting period. After review, the Audit Team identified a number of concerns with regard to its equivalency to the minimum state requirements. DOC PDU tentatively identified that they may need to delay presentation of the 2012 curriculum until the August 2012 CPC meeting. However, on March 29, 2012 a new curriculum binder was delivered to DPSST.

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<sup>5</sup> Training must commence within 90 days from the date of employment, certification must be issued within 12 months from the date of employment. See August and November 2011 CPC staff reports

It will not be possible to audit this new curriculum before the deadline for this staff report. DPSST Audit Team will update its findings, provide the information to DOC PDU and to the CPC as soon as possible. The Audit Team clarified that a delay in curriculum approval will result in the need to delay any new DOC Basic Corrections classes for student between July 1, 2012 and the date that the 2012 DOC BCC program is approved by the Corrections Policy Committee and the Board, or by an earlier Executive meeting. The permanent rulemaking process will take longer, unless the CPC and Board approve a temporary rule implementing the new BCC.

## **Instructor Training and Certification**

### **Instructor Development Courses**

DOC PDU has delivered one Defensive Tactics Instructor class within this reporting period and DOC firearms instructors attended a three-day DPSST Firearms Instructor Development Course focused on the Problem Shooter.<sup>6</sup>

### **Instructor Applications**

A total of 287 DOC instructors are certified for the BCC program.<sup>7</sup>

## **Audits**

### **Training On-Site Audits**

During this reporting period, the Audit Team conducted **35** on-site audits. Training on-site audits included observation of the training, review of the lesson plans, student handout materials, instructor presentation, student participation, and related areas. In general the DOC BCC training meets the state standards.

### **Administrative Records Audits**

During this reporting period, the Audit Team conducted two administrative records audits. Administrative records audits include reviewing the timekeeping records and shift assignments of both the trainees and the trainers, as well as training documentation. The two audits included **BCC 014** (Westside) and **BCC 023** (Eastside).

During the *prior* reporting period (Oct – Dec 2011) there were two audits that were incomplete due to lack of information from PDU. PDU has since provided additional information. However, due to time constraints the Audit Team has not

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<sup>6</sup> Information provided by DOC PDU

<sup>7</sup> This is a decrease from previous reporting periods; a number of instructors' certifications have expired and they are no longer active instructors.

had opportunity to review this new material. The report on those audits will be included in the next quarterly report.

### **CORPAT Data Collection:**

During this reporting period, four additional CORPAT were delivered for purposes of data collection.

### **Findings**

In general the 2011 DOC BCC *meets* the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

### **Attachments:**

- Ex 1** BCC Master Calendar
- Ex 2** BCC Student Training Log, by class
- Ex 3** 2011 DOC BCC Remediation
- Ex 4** BCC Student Progress Report, by class
- Ex 5** BCC Instructor Development Courses
- Ex 6** 2011 Audit Tracking Jan – March 2012
- Ex 7** 2010/2011 Student Survey
- Ex 8** Firearms Remediation Statistics
- Ex 9** 011212 BCC 035 RBT Day 1
- Ex 10** 012312 BCC 043 Firearms Day 1
- Ex 11** 012412 BCC 043 Firearms Day 2
- Ex 12** 012512 BCC 043 Firearms Day 3
- Ex13** 022912 BCC 038/40 CORPAT
- Ex 14** 022812 BCC 038/40 DT 4 RBT
- Ex 15** 022812 BCC 038/40 DT 4
- Ex 16** 030112 BCC 038/40 Cell Extraction
- Ex 17** 030112 BCC 038/040 RBT Day 1
- Ex 18** 030212 BCC 038/40 RBT Day 2
- Ex 19** 030512 BCC 038/040 Medical Escorts/Restraints
- Ex 20** 030612 BCC 038/40 DT 4
- Ex 21** 030612 BCC 038/40 DT 4 RBT
- Ex 22** 030612 BCC 048 OAM
- Ex 23** 030612 BCC 048 Respectful Workplace
- Ex 24** 030612 BCC 048 STM
- Ex 25** 030712 BCC 038/040 IPC Pt 3
- Ex 26** 030712 BCC 048 Use of Force
- Ex 27** 030812 BCC 038/040 Cell Extraction
- Ex 28** 030812 BCC 038/040 RBT Day 1
- Ex 29** 030812 BCC 038/040 RBT Day 2
- Ex 30** 030812 BCC 048 Inmate Prohibited Conduct
- Ex 31** 030912 BCC 038/040 Wellness Pt 2

**Ex 32** 031312 BCC 038 DT 4 RBT  
**Ex 33** 031312 BCC 038 DT 4  
**Ex 34** 031412 BCC039 Medical Escorts/Restraints  
**Ex 35** 031412 BCC 039 CORPAT  
**Ex 36** 031512 BCC 039 IPC Pt 3  
**Ex 37** 031512 BCC 039 RBT Day 1  
**Ex 38** 031512 BCC 039 RBT Day 2  
**Ex 39** 031912 BCC048 DT 2 Control/Restraints  
**Ex 40** 031912 BCC 048 DT 2 RBT  
**Ex 41** 032112BCC 048 DT 3  
**Ex 42** Administrative Audit BCC 014  
**Ex 43** Administrative Audit BCC 023  
**Ex 44** 032112 BCC 048 OC  
**Ex 45** 032112 BCC 048 DT3 RBT

## Appendix C

### Department of Public Safety Standards and Training Memo

**Date:** May 8, 2012

**To:** Corrections Policy Committee

**From:** Theresa M. King, DOC BCC Audit Coordinator  
Linsay Hale, Rules Coordinator

**Subject:** OAR 259-008-0025 – Temporary/Proposed Administrative Rule Change  
Minimum Standards for Training

**Issue:** When the five-week DOC BCC was approved in 2011, 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 Learning Goals.

In January 2012 DPSST began delivering the new six-week basic corrections program, which is now the new state standard for basic corrections training. The new program represents a substantial restructuring of basic corrections training, both with areas of additional instruction and with a significant increase in participatory learning activities. Specifically, 51 hours of reality based scenarios and eight hours of problem-based learning exercises were added to the program.

This rule update increases the overall minimum course hours for DOC BCC to correspond with the new DPSST course, and outlines the required program restructuring to reflect those updates. This rule update also clarifies the documentation required for purposes of determining equivalency of the overall program structure and of training delivery. Both DOC and DPSST have identified that additional clarity in the rules will assist both programs to ensure compliance and facilitate the ongoing auditing process.

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

**259-008-0025**

## Minimum Standards for Training

\*\*\*

(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 (DOC) on or after July 1, 2009, but prior to January 1, 2014, must satisfactorily complete the DOC Basic Corrections Course (DOC BCC), including the field training portion. All corrections officers must complete the DOC BCC and field training portion must be completed within twelve months from the date of employment.

(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 minimum course hours are 240. DOC BCC Course hours refer to hours of training related to DPSST Instructional Goals and may include classroom, scenarios, skills sheets or other related training methodology**

**(i) The DOC BCC must include, at a minimum, the following hours addressing all Instructional Goals within each of the following sections:**

(I) Section A – ~~22~~ **20** hours in ~~Law and Legal Topics~~ **Legal Considerations;**

(II) Section B – ~~20~~ **37** hours in ~~Community Relations and Human Behavior~~ **Security Procedures;**

(III) Section C – ~~35~~ **43** hours in ~~Security~~ **Inmate Supervision;**

(IV) Section D – ~~40~~ **16** hours in ~~Investigations~~ **Inmate Health Care**;

(V) Section E – ~~27~~ **16** hours in ~~Health and Safety~~ **Professional Skills**;

(VI) Section F – ~~8~~ **27** hours in ~~Mental Health~~ **Personal Fitness**;

(VII) Section G – ~~37~~ **41** hours in ~~Skills—Survival~~ **Defensive Tactics**; and

(VIII) Section H – ~~24~~ **26** hours in Skills – Firearms.

(ii) Administrative time is not included within the hours identified above **in subsection (i). Administrative time may be up to 6% of the overall course hours, or a maximum of 14 hours.**

**(iii) A minimum of 80% of the classes in the DOC BCC must include:**

**(I) Participatory learning activities which include, but are not limited to, scenario training, hands-on training and problem-based learning; and**

**(II) Sufficient hours to address the Instructional Goals in subsection (i).**

(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 **during** classes **in which the following Instructional Goals are covered:**

(i) ~~Health and Fitness~~ **B1.2 Instruction and practice applying safe and efficient tactics for inmate monitoring, inmate counts and facility perimeter checks;**

(ii) ~~Defensive Tactics~~ **B2.2 Instruction and practice conducting appropriate, safe and systematic searches of inmates and correctional facilities;**

(iii) ~~Firearms~~ **B5.2 Instruction and practice restraining individuals in an appropriate, safe and systematic manner;**

(iv) ~~Medical Escorts/Restraints~~ **B8 Reality based scenarios that enhance a new corrections professional's understanding and application of security procedures in a correctional facility;**

(v) ~~Contraband/Searches~~ **C3.2 Instruction and practice using interpersonal skills to effectively communicate with inmates and other persons in a correctional setting;**

~~(vi) Report Writing~~ **C10 Reality-based scenarios that enhance a new corrections professional's understanding and application of inmate supervision strategies within a correctional facility;**

**(vii) D3.2 Instruction and practice applying appropriate intervention strategies for dealing with inmates with major mental illnesses;**

**(viii) G1 Decision-making skills related to the use of reasonable force to effectively overcome and control resistive and/or hostile behavior;**

**(ix) G2 Instruction and practice using reasonable force tactics to effectively overcome and control resistive and/or hostile behavior;**

**(x) G3 Reality-based scenarios that enhance a new corrections professional's understanding and application of reasonable force decision-making and tactics within a correctional facility.;**

**(xi) H1 Basic gun-handling skills;** and

**(vii)xii) H2 Basic understanding of the use, limitations and techniques of a service handgun, and proficiency in safety, proper gun-handling, marksmanship and firearms tactics.**

(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 ~~Learning Goals~~ **Instructional 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 ~~Learning Goals~~ **Instructional 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. 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.

(I) Test Security and Integrity.

(i) DOC must develop and strictly enforce measures to ensure the security of test questions and integrity of all testing processes.

(ii) DOC must randomize the order of test questions and must develop a sufficient bank of test questions to ensure that students who fail to achieve a passing score and are remediated are given a randomized test that includes some questions that are different than those in the test the student originally failed.

### *Instructor Requirements*

(J) Instructor Qualifications.

**(i)** All instructors for the DOC BCC must meet or exceed the Instructor Certification standards for instructors at DPSST Basic courses and must be currently certified by the Department in the categories instructed.

**(ii) DOC must verify that an instructor providing instruction within a category has the requisite subject matter knowledge, skills and abilities.**

**(d) The equivalency of the DOC BCC is subject to approval by the Board and verified by ongoing audits.**

**(K) DOC BCC documentation must include, but is not limited to:**

**(i) Training schedules, to include all training related to DOC BCC hours, such as classroom, skills sheets, online training and scenarios;**

**(ii) Classes with associated Instructional Goals and related hours;**

**(iii) Participatory learning activities within each class;**

**(iv) Testing Measures for each class; and**

**(v) Attendance rosters.**

**(L) DOC BCC Class Training Schedule documentation for each DOC BCC must include, but is not limited to:**

**(i) Notification of all anticipated DOC BCC training dates to include DOC BCC remediation training;**

**(ii) Times of DOC BCC training;**

**(iii) Locations of DOC BCC training; and**

**(iv) Instructors scheduled to provide training.**

**(M) Ongoing DOC BCC student documentation during each DOC BCC must include, but is not limited to:**

**(i) A list of students scheduled to attend training;**

**(ii) Student names, DPSST numbers, dates of employment and employing institutions;**

**(iii) Identification of any class or skill failure requiring remediation to including, but not limited to, the date and location of failure, date and location of remediation, the instructor who had oversight over remediation, and the result of remediation.**

*Documentation Requirements*

~~(K) Required documentation for the DOC BCC must include but is not limited to:~~

~~(i) Name, DPSST number and employing institution of each student;~~

~~(ii) Topics;~~

~~(iii) Number of training hours per topic;~~

~~(iv) Name, DPSST number, and topics taught for all instructors utilized;~~

~~(v) Total hours attended per student;~~

~~(vi) Any student absences;~~

~~(vii) Any remediation of training;~~

~~(viii) Any instructor notes or observations relating to any students' performance during the training; and~~

~~(ix) All academic and skills testing for each student.~~

#### *Certification Requirements*

~~(L)~~ **N** Officer Certification. The applicant must meet the minimum standards for certification as a corrections officer contained in OAR 259-008-0060. DOC must submit the following documents at the time Basic certification is requested:

(i) F-7 (Application for Certification);

(ii) F-6 (Course Roster) for DOC BCC including the number of hours and the final cumulative score;

(iii) F-6 (Course Roster) for DOC Advanced Corrections Course with attached itemized list of classes attended;

(iv) Proof of current First Aid/CPR;

(v) F-11 (Criminal Justice Code of Ethics); and

(vi) FTO Manual Completion Report.

**(O) Course Certification. Each DOC BCC class must be certified before officers who complete that BCC may be certified. The following Class Notebook requirements are needed prior to course certification:**

**(i) F-6 DPSST Class Roster, listing all students who began the course, passed or failed the course, and those who did not complete the course.**

**(ii) Curriculum for all components of the BCC, to include classroom, skills, online, and scenario training. The curriculum components must include lesson outlines, PowerPoint, handouts and other related documents to support each class.**

**(iii) Schedule of classes within the course, to include roster for each class, weekly schedule outlining the dates of training, the location of training, the phases of training, the number of hours for each class, the name of the class, the instructors who provided instruction.**

**(iv) Documentation of all training failures and remediation, to include class, date and location of training failure, the type of failure, the date, location and instructor who had oversight over the remediation of the failure and the result of the remediation.**

**(v) Testing measures, to include test questions and answers, individual student tests, student scores by student name, DPSST number and date of examination, and the overall class percentage.**

**(vi) Individual student records, to include evaluation forms, POC qualification card, training records, and absence reports.**

**(vii) All skill sheets for every student completing some or all of the required skill sheets.**

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

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-008-0025 with the Secretary of State as a proposed rule.

**ACTION ITEM 3:** 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 4:** Determine whether there is a significant fiscal impact on small businesses.

**ACTION ITEM 5:** The Committee needs to decide whether they approve forwarding the matter to the Executive Committee for final determination.

## Appendix D

### Department of Public Safety Standards and Training

#### Memo

**Date:** May 2012

**To:** Telecommunications Policy Committee  
Corrections Policy Committee  
Police Policy Committee

**From:** Linsay Hale  
Rules Coordinator

**Subject:** OAR 259-008-0060 – Proposed Rule  
Public Safety Officer Certification

**Background:** A multi-disciplined workgroup was formed in 2007 to evaluate the current Intermediate and Advanced certification charts (Att. A). The mission of the workgroup was to review the charts and update the minimum standards for achieving these upper levels of certification in the criminal justice profession. The workgroup was comprised of management and represented staff from each of the four disciplines – Police, Corrections, Parole & Probation, and Telecommunications.

Over the last several years, the workgroup met and developed updated charts which they felt better met the needs of the profession as well as the needs of public safety personnel. The group worked to develop discipline-specific certification charts which included some form of a competency evaluation. In 2011, these initial drafts were presented to the DPSST Policy Committees and provided to OSSA, OACP, APCO/NENA, and OACCD members for comment. Concern was expressed about the difficulties of enforcing multiple charts and the complexity of the proposed competency evaluations.

To address these concerns, the workgroup reconvened and updated the proposed charts to allow police, corrections, and parole & probation to work from the same chart, which adjusts the minimum years of experience and education required and also breaks the required training into specific categories (Att. B). Telecommunications would work from a chart specific to their needs, including updated years of experience, training, and education as well as a minimum competency requirement (Att. C).

These draft charts were distributed to workgroup member constituencies, OACP and OSA members, APCO-NENA members, and subscribers to the DPSST and DPSST Criminal Justice ListServes. Constituents were given until March 15, 2012 to make comments or voice any

concerns regarding the proposed charts. On March 22, 2012, the workgroup reconvened to discuss the comments and finalize the proposed charts.

**Issue:** Once implemented, these new charts are to be phased in by allowing officers to apply for intermediate or advanced certification under either the current or the proposed chart for a period of two years after the effective date of the proposed chart. Although, DPSST will have the final say on the appropriateness of completed training fulfilling the required training requirement, the current DPSST Standardized Course List was categorized to serve as a reference for law enforcement officers and agencies (Att. D). A Form F-7WS Intermediate/Advanced Certification Supplemental Worksheet (Att. E) was created as a vehicle for police, corrections, or parole & probation officers to report training at the time of application for an upper level of certification. Portfolios from telecommunicators requesting upper levels of certification will be presented to the Telecommunications Policy Committee for approval.

Staff is requesting approval to update the administrative rule governing public safety officer certification to reflect the updated requirements for achieving intermediate/advanced certification for law enforcement officers.

The following revised language for OAR 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

## **259-008-0060**

### **Public Safety Officer Certification**

\*\*\*

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants must possess a Basic Certificate in the field in which certification is requested; and

(b) Applicants must have acquired the ~~following~~ combinations of education hours and training hours combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience **as identified on the chart effective through September 30, 2012.** [Table not included. See ED. NOTE.]

(14) **Effective October 1, 2012:**

**(a) Applicants for an Intermediate Certificate in police, corrections or parole and probation must have acquired the combinations of education hours and training hours combined with the prescribed years of experience, or the college degree designated combined with the prescribed years of experience as identified on the chart effective October 1, 2012. [Table not included. See ED. NOTE.]**

**(b) Applicants for an Intermediate Certificate in telecommunications must have acquired the following combinations of education hours, training hours, prescribed years of telecommunications experience, and competency: [Table not included. See ED. NOTE.]**

**(c) The years of experience must be full-time employment within the discipline for which Intermediate certification is being applied.**

**(d) The training hours originating from a single training event that are used to meet the training hour requirement for Intermediate certification cannot be applied towards future levels of certification.**

**(e) The required years of experience are for the purpose of developing and demonstrating competency at the Intermediate level. The signature of the agency head or designee on an F-7 Application for Certification at the Intermediate level represents the agency's attestation that the applicant is performing at a level of competence expected at that certification level.**

**(15) Applicants for Intermediate certification may apply by satisfying the requirements described in subsection (13) or the requirements described in subsection (14) through September 30, 2014.**

(14 **16**) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants must possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested; and

(b) Applicants must have acquired the following combinations of education and training hours combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

**(17) Effective October 1, 2012:**

**(a) Applicants for an Advanced Certificate in police corrections or parole and probation must have acquired the following combinations of education and training hours combined with the prescribed years of experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]**

**(b) Applicants for an Advanced Certificate in telecommunications must have acquired the following combinations of education hours, training hours, prescribed years of telecommunications experience, and competency: [Table not included. See ED. NOTE.]**

**(c) The years of experience must be full-time employment within the discipline from which Advanced certification is being applied.**

**(d) The training hours originating from a single training event that are used to meet the training hour requirement for Advanced certification cannot be applied towards future levels of certification.**

**(e) The required years of experience are for the purpose of developing and demonstrating competency at the Advanced level. The signature of the agency head or designee on an F-7 Application for Certification at the Advanced level represents the agency's attestation that the applicant is performing at a level of competence expected at that certification level.**

**(18) Applicants for Advanced certification may apply by satisfying the requirements described in subsection (16) or the requirements described in subsection (17) through September 30, 2014.**

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**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule.

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-008-0060 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.

**Attachments:**

Attachment A – Current Intermediate/Advanced Certification Charts

Attachment B – Proposed Intermediate/Advanced Certification Charts (Police, Corrections, Parole & Probation)

Attachment C – Proposed Intermediate/Advance Certification Charts/Portfolio (Telecommunications)

Attachment D – Sample Categorized Course List

Attachment E – Form F-7WS – Intermediate/Advanced Certification Supplemental Worksheet (Police/Corrections/Parole & Probation)

**Attachment A - Current Intermediate/Advanced Certification Charts:**

| INTERMEDIATE CERTIFICATION  |                   |                   |                   |                   |                   |                    |                    |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|--------------------|
| Minimum Years of Experience   | 8 years           | 7 years           | 6 years           | 5 years           | 4 years           | 4 years            | 2 years            |
| Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses) | 15<br>(300 hours) | 23<br>(460 hours) | 30<br>(600 hours) | 38<br>(760 hours) | 45<br>(900 hours) | DPSST Basic Course | DPSST Basic Course |
| Minimum College Education Credits   | 15                | 23                | 30                | 38                | 45                | Assoc. Degree      | Bachelor Degree    |

| ADVANCED CERTIFICATION  |                   |                   |                   |                   |                    |                    |                    |                    |
|---|-------------------|-------------------|-------------------|-------------------|--------------------|--------------------|--------------------|--------------------|
| Minimum Years of Experience   | 12 years          | 11 years          | 10 years          | 9 years           | 8 years            | 9 years            | 6 years            | 4 years            |
| Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses) | 30<br>(600 hours) | 35<br>(700 hours) | 40<br>(800 hours) | 45<br>(900 hours) | 60<br>(1200 hours) | DPSST Basic Course | DPSST Basic Course | DPSST Basic Course |
| Minimum College Education Credits   | 30                | 35                | 40                | 45                | 60                 | Assoc. Degree      | Bachelor Degree    | Master Degree      |

- Allows training hours to “roll-over”  
*e.g. An officer who is awarded a basic certificate after completing 200 hours of Basic Training can again use those 200 hours to reach the minimum required training level to achieve the intermediate certificate.*
- Time served can cross disciplines. For example, an officer with no experience in a new discipline may qualify for all levels of certification based solely on their years of experience in a different discipline.
- Topics of training required to receive upper level certifications are not specified.
- There is no minimum “waiting” period between obtaining Intermediate certification and Advanced certification

**Attachment B - Proposed Intermediate/Advanced Certification Charts  
(Police/Corrections/Parole & Probation):**

**INTERMEDIATE POLICE/CORRECTIONS/P&P CERTIFICATION ONLY**

*In addition to Basic Training, a police/corrections/P&P officer must meet the following minimum requirements for Intermediate Certification (Hours from Basic Training/FTM completion do not apply):*

| <b>MIN. YEARS EXPERIENCE</b> | 3 years              | 4 years               | 5 years               | 6 years              |
|------------------------------|----------------------|-----------------------|-----------------------|----------------------|
| <b>EDUCATION</b>             | Bachelor Degree      | Assoc. Degree         | 45 Credits            | None                 |
|                              | + 80 Training Hours: | + 120 Training Hours: | + 160 Training Hours: | + 200 Training Hours |
| Communications               | 16                   | 28                    | 40                    | 52                   |
| Advanced Technical Skills    | 40                   | 60                    | 80                    | 100                  |
| Leadership                   | 16                   | 20                    | 24                    | 28                   |
| Risk Management              | 8                    | 12                    | 16                    | 20                   |
| <b>TOTAL TRAINING HOURS</b>  | 80                   | 120                   | 160                   | 200                  |

**ADVANCED POLICE/CORRECTIONS/P&P CERTIFICATION ONLY**

*In addition to Basic Training and Intermediate Certification, a police/corrections/P&P officer must meet the following minimum requirements for Advanced Certification. There is a minimum period of two years between obtaining Intermediate Certification and obtaining Advanced Certification. Training hours reset after receiving intermediate certification.*

| <b>MIN. YEARS EXPERIENCE</b> | 6 years              | 7 years               | 9 years               | 11 years             | 13 years             |
|------------------------------|----------------------|-----------------------|-----------------------|----------------------|----------------------|
| <b>EDUCATION</b>             | Master's Degree      | Bachelor Degree       | Assoc. Degree         | 45 Credits           | None                 |
|                              | + 80 Training Hours: | + 120 Training Hours: | + 160 Training Hours: | + 200 Training Hours | + 240 Training Hours |
| Communications               | 16                   | 28                    | 40                    | 52                   | 64                   |
| Advanced Technical Skills    | 40                   | 60                    | 80                    | 100                  | 120                  |
| Leadership                   | 16                   | 20                    | 24                    | 28                   | 32                   |
| Risk Management              | 8                    | 12                    | 16                    | 20                   | 24                   |
| <b>TOTAL TRAINING HOURS</b>  | 80                   | 120                   | 160                   | 200                  | 240                  |

- Training hours reset after certification is awarded  
*After a basic or intermediate certificate is awarded, an officer must achieve the prescribed training hours for the next level of certification starting from zero. (This does NOT mean that the number of training hours in the officer's DPSST Training Record is changed; only that the officer may not count the same hours towards each subsequent level of certification. The number of training hours required at each level in the charts is substantially reduced to reflect this change.)*
- The minimum years' experience must be within the discipline for which Intermediate or Advanced certification is being applied.
- Number of training hours needed is reduced but broken into four required categories: Communications, Advanced Technical Skills, Leadership, and Risk Management.

**Attachment B (cont.)- Proposed Intermediate/Advanced Certification Charts  
(Police/Corrections/Parole & Probation):**

**Training Categories:**

**Risk Management:** Training that provides law enforcement officers with tools to recognize risks, the type of risks and effective tactics to manage risks.

**Communication:** Training that provides law enforcement officers with tools to effectively communicate with members of the public, individuals suspected of criminal activity, individuals under supervision, individuals with special needs, as well as managers and co-workers.

**Leadership:** Training that enhances leadership ability, teaches effective leadership styles, or encourages the adoption of effective leadership behaviors.

**Advanced Technical Skills:** Discipline-specific training that enhances technical or tactical skills as a law enforcement officer. This does not include courses that are required to maintain the basic level of certification.

**Attachment C - Proposed Intermediate/Advanced Certification Charts/Portfolio (Telecommunications):**

**INTERMEDIATE TELECOMMUNICATOR CERTIFICATION**

|   |  |  |
|---|--|--|
| Minimum Years of Experience   | 6 years  | 5 years  |
| Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses) | DPSST Basic Course + 200 hours post certificate training | DPSST Basic Course + 160 hours post certificate training |
| Minimum College Education Credits   | None   | 45   |
| Minimum Competency  | 3 portfolio points                                       | 3 portfolio points                                       |

**ADVANCED TELECOMMUNICATOR CERTIFICATION**

|   |  |  |  |  |
|---|--|--|--|--|
| Minimum Years of Experience   | 10 years   | 9 years  | 8 years  | 7 years  |
| Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses) | Intermediate Certificate + 240 hours post certificate training | Intermediate Certificate + 200 hours post certificate training | Intermediate Certificate + 160 hours post certificate training | Intermediate Certificate + 120 hours post certificate training |
| Minimum College Education Credits   | None   | 45   | Assoc. Degree  | Bachelor Degree  |
| Minimum Competency  | 6 portfolio points   | 6 portfolio points   | 6 portfolio points   | 6 portfolio points   |

- Telecommunicator chooses from the Portfolio Items List to include in his or her application. (Application must include at least two separate categories for intermediate and three separate categories for advanced certification requests.)
- Telecommunicator completes and provides documentation of the applicable Portfolio Items to the agency head (include detailed description, transcripts, recordings of calls for service, and other supporting documentation).
- Agency head reviews and makes recommendation for approval to DPSST.
- DPSST (Telecommunications Policy Committee) reviews the portfolio and makes final approval.
- The Portfolio Items List is non-inclusive. Other categories may be suggested for consideration for agency director and Telecommunications Policy Committee review.
- Years of experience must be within the discipline.

**Attachment C (cont.) - Proposed Intermediate/Advanced Certification Charts/Portfolio (Telecommunications):**

INTERMEDIATE/ADVANCE TELECOMMUNICATOR PORTFOLIO

| CATEGORY           | PORTFOLIO ITEM  | POINTS   |
|--------------------|---|----------|
| Leadership         | Policy Writing/Revision   | 1 point  |
| Leadership         | APCO/NENA Membership<br>(active participation within past 2 years)  | ½ point  |
| Leadership         | APCO/NENA Leadership<br>(Hold Office, Committee Chair, National Committee, etc. within past 5 years)        | 1 point  |
| Leadership         | Agency Leadership Role (agency defined)   | 1 point  |
| Leadership         | Professional Development (agency defined)   | 1 point  |
| Calls for Service* | Multi-jurisdictional (cross-dispatch) events  | ¼ point  |
| Calls for Service* | Mass casualty events  | ¼ point  |
| Calls for Service* | Major Media Events  | ¼ point  |
| Calls for Service* | Incident dispatch team member   | ¼ point  |
| Calls for Service* | Unusual or Exemplary call for service (agency defined)  | ¼ point  |
| Awards             | Agency/local award recipient  | ½ point  |
| Awards             | State award recipient   | 1 point  |
| Awards             | National award recipient  | 2 points |
| Training           | 1 year Communications Training Officer<br>(within past 5 years)   | ½ point  |
| Training           | 2+ years Communications Training Officer<br>(within past 5 years)   | 1 point  |
| Training           | Industry, DPSST or Agency Instructor<br>(within past 2 years)   | 1 point  |
| Training           | Attend industry related training course – 8 hour minimum (does not count toward yearly certification hours) | 1 point  |
| Longevity          | Every year as an Agency Head  | 1 point  |
| Longevity          | Every two years as a mid-level manager  | 1 point  |
| Longevity          | Every three years as a first line supervisor  | 1 point  |
| Longevity          | Every four years as a lead worker   | 1 point  |

\* Calls for Service Category: (Requires significant participation in high impact calls for service)

## Appendix E

### Department of Public Safety Standards and Training Memorandum

**DATE:** May 8, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: ABEL CORONADO DPSST #26914**  
**Dept. of Corrections – Powder River Correctional Facility**

**ISSUE:**

Should Abel Coronado'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?

This case involves CORONADO's misconduct resulting in an internal investigation that sustained violations of department policy and resulted in a discharge for cause.

**BACKGROUND and OVERVIEW:**

1. *On or about March 2, 1992, CORONADO was hired by the Department of Corrections as a corrections officer.<sup>8</sup> He signed his Code of Ethics<sup>9</sup> and ultimately obtained his Basic and Intermediate Corrections certifications.<sup>10</sup>*
2. *In December, 2010, DPSST received information that CORONADO had been discharged for cause in May of 2010.<sup>11</sup> DPSST sought and obtained information on the discharge.<sup>12</sup>*
3. *In January, 2011, DPSST issued CORONADO a Notice of Intent to Revoke, Opportunity to be Heard, and Final Order Revoking Certifications if No Request for Hearing is Received.<sup>13</sup>*
4. *On February 9, 2011, DPSST received a request for hearing through CORONADO's attorney.<sup>14</sup> CORONADO had also filed a grievance challenging the discharge and DPSST stayed its action pending the outcome of the grievance.*

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<sup>8</sup> Ex A1

<sup>9</sup> Ex A3

<sup>10</sup> Ex A1

<sup>11</sup> Ex A2

<sup>12</sup> Ex A4, A5

<sup>13</sup> Ex A6, A7

5. *In March, 2011, CORONADO's union issued a letter withdrawing CORONADO's grievance of his discharge. DPSST was informed of this in July, 2011.*<sup>15</sup>
6. *After further review of the underlying investigation, DPSST determined it was appropriate to withdraw the action against CORONADO's certifications and proceed under moral fitness grounds. In December, 2011, DPSST issued a Withdrawal of Notice and Termination of Proceedings on the discharge for cause and informed CORONADO that his case would proceed under moral fitness grounds.*<sup>16</sup>
7. *In December, 2011, DPSST notified CORONADO via certified mail 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.*<sup>17</sup> *CORONADO, through his attorney, Paul MEADOWBROOK, requested a stay of the proceedings due to a civil trial involving the same circumstances that led to CORONADO's termination.*<sup>18</sup>
8. *After initially agreeing to a stay, DPSST determined it was not appropriate to stay this proceeding for the purpose of a civil trial, therefore DPSST advised MEADOWBROOK the case would proceed to the February CPC meeting.*<sup>19</sup> *MEADOWBROOK objected, stating that the information he needed to assist in the response for the CPC was covered by a "do not disclose" provision by DOJ attorneys. DPSST ultimately agreed to remove the case from the February CPC agenda and wait until at least the May, 2012 CPC meeting to present the case, pending additional review.*<sup>20</sup>
9. *On January 24, 2012, DPSST e-mailed MEADOWBROOK to find out if he had made any progress in getting the judge in the civil trial to broaden the protective order to allow CORONADO access to the documents he needed to provide a response to the CPC.*<sup>21</sup> *MEADOWBROOK did not reply to that e-mail.*
10. *On March 16, 2012, DPSST notified MEADOWBROOK a letter advising him that, upon advice of our Dept. of Justice counsel, the case would proceed to the May CPC meeting. Department of Justice counsel had advised DPSST that they had made multiple offers to MEADOWBROOK to provide the information he needed under a protective order, and MEADOWBROOK had not taken advantage of their offers.*<sup>22</sup>
11. *In March, 2012, DPSST received numerous documents from DOJ that are the internal investigation disciplinary reports that led to CORONADO's discharge from DOC.*<sup>23</sup>
12. *CORONADO did not provide a response to the CPC.*

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<sup>14</sup> Ex A8

<sup>15</sup> Ex A9

<sup>16</sup> Ex A10

<sup>17</sup> Ex A10

<sup>18</sup> Ex A11

<sup>19</sup> Ex A12, p. 1-2

<sup>20</sup> Ex A12, p. 4-8

<sup>21</sup> Ex 13

<sup>22</sup> Ex A14

<sup>23</sup> Ex A15

**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))

**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:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

**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)]

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke CORONADO’s certifications based on violation of the established moral fitness standards:

2. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

3. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case**.

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b. The identified conduct *did/did not* involve **Dishonesty**.

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c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

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d. The identified conduct *did/did not* involve **Misuse of Authority**.

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e. The identified conduct *did/did not involve* **Gross Misconduct**.

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f. The identified conduct *did/did not involve* **Misconduct**.

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g. The identified conduct *did/did not involve* **Insubordination**.

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4. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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5. By vote, the Policy Committee finds CORONADO'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 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.

Attachments:

*Information Only - **SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

## Appendix F

### Department of Public Safety Standards and Training Memorandum

**DATE:** May 8, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: ENRIQUE ENRIQUEZ DPSST #40977**  
**Dept. of Corrections – Coffee Creek Correctional Facility**

#### **ISSUE:**

Should Enrique Enriquez' 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?

This case involves Enriquez' resignation during an internal investigation that revealed violations of agency policies including procedures and truthfulness.

#### **BACKGROUND and OVERVIEW:**

13. *On July 9, 2001, ENRIQUEZ was hired by the Department of Corrections as a corrections officer.<sup>24</sup> He signed his Code of Ethics<sup>25</sup> and obtained his Basic and Intermediate Corrections Certifications.<sup>26</sup>*
14. *In January of 2012, DPSST received information that ENRIQUEZ had resigned during an internal investigation.<sup>27</sup> DPSST sought and obtained information relating to the resignation.<sup>28</sup>*
15. *In February of 2012, DPSST notified ENRIQUEZ via certified mail 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.<sup>29</sup> ENRIQUEZ did not provide a response.*

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<sup>24</sup> Ex A1

<sup>25</sup> Ex A2

<sup>26</sup> Ex A1

<sup>27</sup> Ex A3

<sup>28</sup> Ex A4 – A5

<sup>29</sup> Ex A6

## **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))

## **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:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

**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)]

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke ENRIQUEZ' certifications based on violation of the established moral fitness standards:

6. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

7. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

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b. The identified conduct *did/did not* involve **Dishonesty.**

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c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others.**

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d. The identified conduct *did/did not* involve **Misuse of Authority.**

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- e. The identified conduct *did/did not involve* **Gross Misconduct**.

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- f. The identified conduct *did/did not involve* **Misconduct**.

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- g. The identified conduct *did/did not involve* **Insubordination**.

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8. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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9. By vote, the Policy Committee finds ENRIQUEZ' 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 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.

## Attachments

### *Information Only - SUBSEQUENT DUE PROCESS:*

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

Appendix G

Department of Public Safety Standards and Training  
Memorandum

**DATE:** May 8, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: DOUGLAS S. HAWKER DPSST #36735**  
**Dept. of Corrections – Snake River Correctional Institution**

**ISSUE:**

Should Douglas S. Hawker'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?

This case involves HAWKER's discharge and subsequent reinstatement during an internal investigation for misconduct that included dishonesty.

**BACKGROUND and OVERVIEW:**

16. *Since December 28, 1998, HAWKER has been employed as a corrections officer with the Department of Corrections – Snake River Correctional Institution.<sup>30</sup> He has obtained his Basic and Intermediate Certifications<sup>31</sup> and signed his Code of Ethics.<sup>32</sup>*
17. *In April of 2010, DPSST received information that HAWKER had been discharged for cause.<sup>33</sup> DPSST sought and obtained information relating to the discharge.<sup>34</sup>*
18. *In October of 2010, DPSST served HAWKER with a Notice of Intent to Revoke Certifications based on the discharge for cause.<sup>35</sup> In response, HAWKER requested a hearing and requested a stay on the matter pending arbitration of his discharge.<sup>36</sup>*

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<sup>30</sup> Ex A1

<sup>31</sup> Ex A1

<sup>32</sup> Ex A2

<sup>33</sup> Ex A3

<sup>34</sup> Ex A4, A5

<sup>35</sup> Ex A6, A7

<sup>36</sup> Ex A8

19. *DPSST granted HAWKER the stay, and on March 10, 2011 a hearing was held.<sup>37</sup> On May 9, 2011, the arbitrator issued his decision and award, sustaining HAWKER's grievance based on provisions of employment law and the Collective Bargaining Agreement. The arbitrator ordered HAWKER's reinstatement and reduced HAWKER's discipline to a 60-day suspension.<sup>38</sup> However, the arbitrator found that the conduct alleged by the employer had occurred,<sup>39</sup> therefore this case proceeds to the CPC pursuant to OAR 259-008-0070(9).*
20. *In October of 2011, DPSST issued a Withdrawal of Notice and Termination of Proceedings for the discharge,<sup>40</sup> notified HAWKER via certified mail 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.<sup>41</sup> HAWKER did not provide a response, and the case was prepared for the February CPC meeting.*
21. *On January 30, 2012, I received a phone call from HAWKER advising me he had never received notification of the CPC meeting in February, when this case was first scheduled to be presented. I advised him of the particulars and he requested an extension to the May 8, 2012 CPC meeting. I advised him to send a written request, and I would grant the extension. I let him know he could submit a response to the CPC.*
22. *On February 6, 2012, DPSST received HAWKER's request for an extension.<sup>42</sup>*
23. *HAWKER has submitted a response, with letters of support.<sup>43</sup>*

#### **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))

#### **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;*

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<sup>37</sup> Ex A9

<sup>38</sup> Ex A9 – A12

<sup>39</sup> Ex A9

<sup>40</sup> Ex A13

<sup>41</sup> Ex A13

<sup>42</sup> Ex A14

<sup>43</sup> Ex A15

*(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:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

**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)]

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke HAWKER's certifications based on violation of the established moral fitness standards:

10. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
11. By discussion and consensus:
  - a. Identify and articulate the **misconduct that is specific to this case.**

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b. The identified conduct *did/did not* involve **Dishonesty**.

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c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

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d. The identified conduct *did/did not* involve **Misuse of Authority**.

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e. The identified conduct *did/did not involve* **Gross Misconduct**.

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f. The identified conduct *did/did not* involve **Misconduct**.

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g. The identified conduct *did/did not* involve **Insubordination**.

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12. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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13. By vote, the Policy Committee finds HAWKER's conduct *does/does not* rise to the level to warrant the revocation of his certifications(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 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.

## Attachments

### *Information Only - **SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

## Appendix H

### Department of Public Safety Standards and Training Memorandum

**DATE:** May 8, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT:** **ANGELA R. OSIPOVICH DPSST #50765**  
**Josephine County Sheriff's Office**

**ISSUE:**

Should Angela R. Osipovich'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?

The issue in this case involves OSIPOVICH's resignation during an internal investigation.

**BACKGROUND and OVERVIEW:**

1. In April, 2009, OSIPOVICH was hired by the Josephine County Sheriff's Office as a corrections officer.<sup>44</sup> She signed her Code of Ethics,<sup>45</sup> and obtained her Basic Corrections Certification.<sup>46</sup>
2. In October, 2011, DPSST received a Form F-4, Personnel Action Report, showing that OSIPOVICH resigned in August, 2011, during an internal investigation.<sup>47</sup> DPSST sought and received the information that led to the resignation.<sup>48</sup> The internal investigation revealed numerous violations of department policies, generally centered on improper association with jail inmates.<sup>49</sup>
3. In February, 2012, DPSST notified OSIPOVICH via certified mail that her case would be heard before the Corrections Policy Committee (CPC) and allowed her an opportunity to

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<sup>44</sup> Ex A1

<sup>45</sup> Ex A2

<sup>46</sup> Ex A1

<sup>47</sup> Ex A3

<sup>48</sup> Ex A4, A5

<sup>49</sup> Ex A6

provide mitigating circumstances for the Committee's consideration.<sup>50</sup> OSIPOVICH did not provide a response.

**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))

**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*

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<sup>50</sup> Ex A7

*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:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

**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)]

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke OSIPOVICH's certification based on violation of the established moral fitness standards:

14. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

15. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

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b. The identified conduct *did/did not* involve **Dishonesty.**

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c. The identified conduct *did/did not* involve **Disregard for the Rights of Others.**

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d. The identified conduct *did/did not* involve **Misuse of Authority.**

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e. The identified conduct *did/did not involve* **Gross Misconduct**.

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f. The identified conduct *did/did not involve* **Misconduct**.

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g. The identified conduct *did/did not involve* **Insubordination**.

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16. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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17. By vote, the Policy Committee finds OSIPOVICH's 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 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.

## Attachments

**Information Only - *SUBSEQUENT DUE PROCESS:***

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

**Appendix I**

**Department of Public Safety Standards and Training  
Memorandum**

**DATE:** May 8, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: STEPHEN T. WEDEKIND DPSST #33194  
Department of Corrections**

**ISSUE:**

Should Stephen T. Wedekind's Basic and Intermediate Corrections certifications be revoked, and his application for Advanced Certification be denied, based on discretionary disqualifying misconduct as defined in OAR 259-008-0070(4), and as referenced in OAR 259-008-0010?

This case involves WEDEKIND's 2008 conviction in Idaho for Hunting With the Aid of a Motorized Vehicle and his 2009 conviction in Idaho for Trespass in Violation of Warning Signs.

**BACKGROUND and OVERVIEW:**

24. *Since December 2, 1996, WEDEKIND has been employed by the Department of Corrections as a corrections officer.<sup>51</sup> He has signed his Code of Ethics<sup>52</sup> and obtained his Basic and Intermediate Corrections Certifications.<sup>53</sup>*
25. *In January of 2012, DPSST received a Form F-4 Application for Certification (Advanced) from WEDEKIND's agency. On that form, WEDEKIND acknowledged misdemeanor criminal convictions in the state of Idaho.<sup>54</sup> DPSST sought and obtained information relating to the convictions.<sup>55</sup>*
26. *WEDEKIND's convictions, to which he pled guilty, are for two fish and game offenses, I.C. 18-2011 Trespass in Violation of Warning Signs, and I.C. 36-1101(B)2 Hunting with the Aid of a Motorized Vehicle. The equivalent Oregon statutes are ORS 164.245 Criminal Trespass*

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<sup>51</sup> Ex A1

<sup>52</sup> Ex A2

<sup>53</sup> Ex A1

<sup>54</sup> Ex A3

<sup>55</sup> Ex A4 - A5

*II (a class C misdemeanor), and ORS 498.136 Hunting from a Motorized Vehicle, (a Class A misdemeanor for the first conviction).*<sup>56</sup>

27. *In February of 2012, DPSST notified WEDEKIND via certified mail 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.*<sup>57</sup> *WEDEKIND has provided a response, including a letter from the officer who cited him for the 2009 incident.*<sup>58</sup> *WEDEKIND later e-mailed me asking if the response was adequate.*<sup>59</sup>

## **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))

## **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.*

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<sup>56</sup> Ex A6

<sup>57</sup> Ex A7

<sup>58</sup> Ex A8

<sup>59</sup> Ex A9

*(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.*

### **SPECIFIC TO THIS CASE:**

**OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of Criminal Trespass II as a Category V, Misconduct, based on the elements of the crime. Hunting from a Motorized Vehicle is not a specified crime in the OAR list, but the wildlife violations that are listed are all in Category V. For this category of misconduct, the presumptive length of ineligibility for reconsideration of certification is three to seven years.**

### **POLICY COMMITTEE AND BOARD REVIEW:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

**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)]

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke and/or deny WEDEKIND's certifications based on discretionary disqualifying misconduct:

18. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

19. By discussion and consensus:

- a. Identify and articulate the **misconduct that is specific to this case.**

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- b. The identified conduct *did/did not* involve **Dishonesty**.

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c. The identified conduct *did/did not* involve **Disregard for the Rights of Others**.

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d. The identified conduct *did/did not* involve **Misuse of Authority**.

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e. The identified conduct *did/did not* involve **Gross Misconduct**.

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f. The identified conduct *did/did not* involve **Misconduct**.

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g. The identified conduct *did/did not* involve **Insubordination**.

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20. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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21. By vote, the Policy Committee finds WEDEKIND's conduct *does/does not* rise to the level to warrant the revocation and/or denial of his certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked* and/or *denied/not denied*.

**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 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 or denial.

**Attachments**

**Information Only - SUBSEQUENT DUE PROCESS:**

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

**Appendix J**

**Department of Public Safety Standards and Training  
Memorandum**

**DATE:** May 8, 2012

**TO:** Corrections Policy Committee

**FROM:** Leon S. Colas  
Professional Standards Investigator/Coordinator

**SUBJECT: RICHARD W. WILSON DPSST #49156  
Marion County Sheriff's Office**

**ISSUE:**

Should Richard W. Wilson'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?

This case involves WILSON's resignation through abandonment of his job.

**BACKGROUND and OVERVIEW:**

28. *Between 2007 and 2010, WILSON was employed as a deputy sheriff, obtained his Basic Corrections certification<sup>60</sup> and signed his Code of Ethics.<sup>61</sup>*
29. *In December 2010, DPSST received information that WILSON had been discharged for cause.<sup>62</sup> With that F-4 Personnel Action Report, the agency also sent a copy of a letter to WILSON indicating that, according to agency policy, he was considered to have resigned his position because of his failure to return from leave.<sup>63</sup> DPSST sought and obtained information on the discharge<sup>64</sup>, and later sought clarification on the discrepancy between the F-4 and the letter as to the form of the separation from employment.<sup>65</sup>*
30. *In September 2011 the agency sent an amended form F-4 indicating WILSON's separation as 'Resignation – Other.'<sup>66</sup> No new information was included with the amended form.*

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<sup>60</sup> Ex A1

<sup>61</sup> Ex A2

<sup>62</sup> Ex A3

<sup>63</sup> Ex A3

<sup>64</sup> Ex A4, A5

<sup>65</sup> Ex A6

<sup>66</sup> Ex A7

31. In December 2011, DPSST notified WILSON via certified mail 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.<sup>67</sup> WILSON did not provide a response.
32. On February 14, 2012, WILSON's case was presented to the Corrections Policy Committee. After adopting the staff report and discussing the case briefly, the committee voted to return the case to staff for further investigation. The specific questions were the discrepancies between the two different F-4 Personnel Action Reports, and why there was such a long time between the first and second F-4 submissions to DPSST.<sup>68</sup>
33. On February 16, 2012, I e-mailed Commander Kevin Schultz of the Marion County Sheriff's Office and explained the concerns of the Corrections Policy Committee. He replied by e-mail on February 17, 2011 to explain,<sup>69</sup> and sent the full Administrative Investigation on WILSON.<sup>70</sup>

#### **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))

#### **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*

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<sup>67</sup> Ex A8, A9

<sup>68</sup> Ex A10

<sup>69</sup> Ex A11

<sup>70</sup> Ex A12

*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:**

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, (criminal or non-criminal) 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.*

**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)]

**ACTION ITEM 1:**

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke WILSON's certification based on violation of the established moral fitness standards:

22. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.

23. By discussion and consensus:

a. Identify and articulate the **misconduct that is specific to this case.**

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b. The identified conduct *did/did not* involve **Dishonesty.**

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c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others.**

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d. The identified conduct *did/did not* involve **Misuse of Authority**.

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e. The identified conduct *did/did not* involve **Gross Misconduct**.

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f. The identified conduct *did/did not* involve **Misconduct**.

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g. The identified conduct *did/did not* involve **Insubordination**.

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24. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

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25. By vote, the Policy Committee finds WILSON'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 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.  
Attachments

*Information Only - SUBSEQUENT DUE PROCESS:*

*Each Oregon public safety professional is entitled to due process when revocation or denial action is considered.*

- *If the Policy Committee recommends revocation, DPSST will issue a Notice of Intent to Revoke to the officer. The officer will have twenty (20) days to request a hearing to contest the revocation action.*
- *The Policy Committee's recommendation will be forwarded to the Board. Upon review the Board will either affirm the Policy Committee's decision, or overturn it with a 2/3 vote. If the Board determines that revocation action is not appropriate, DPSST will close the case and issue a Notice of Withdrawal and Termination of Proceedings.*

*Due process is an important part of the contested case hearing. Every public safety professional has the right to:*

- *Appear in person.*
- *Examine reports and evidence against them as a part of discovery.*
- *Call witnesses.*
- *Face or cross-examine their accuser.*
- *Be represented by counsel.*

*The case will be heard before an Administrative Law Judge (ALJ) who is assigned the case through the Office of Administrative Hearings. All hearings are subject to the Administrative Procedures ACT. The hearing is similar to a trial; full discovery is provided and each side calls witnesses and offers evidence. The ALJ issues a Proposed Order; each side may review it and file legal exceptions. A Final Order is then issued. Due process allows for a judicial review to the Court of Appeals where three Oregon justices will review the case.*

