

1 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

2 STATE OF OREGON

3 2 In the Matter of:

4 3 **ABIGAIL MOBLEY**
RESPONDENT
5 DPSST #45844

6 **NOTICE OF INTENT TO REVOKE**
CERTIFICATION AND PROPOSED/FINAL
ORDER ON DEFAULT

7 6 TO: [REDACTED]

8 8 NATURE OF PROPOSED ACTION

9 The Department of Public Safety Standards and Training (Department) proposes to
10 revoke your Basic and Intermediate Corrections Certifications (Certification) under its
11 authority in Oregon Revised Statute (ORS) 181A.410(1)(e) and ORS 181A.640(1)(c). The
12 Department proposes revocation because you do not meet the minimum moral fitness
13 standards required of an officer according to Oregon Administrative Rule (OAR) 259-008-
0010(5); OAR 259-008-0300(3)(a)(B) and (C)(i); and OAR 259-008-0300(3)(b)(C).

14 The Department's proposed revocation is based on the following:

15 15 FINDINGS OF FACT

16 16 1. Abigail Mobley (Respondent) currently holds Basic and Intermediate Corrections
17 Certifications.

18 2. On December 17, 2009, the Grant County Sheriff's Office (GCSO) hired the
19 Respondent as a Corrections Officer.

20 3. On July 29, 2007, the Respondent signed a Criminal Justice Code of Ethics.

21 4. On December 26, 2020, Respondent resigned from employment with the GCSO
22 following an investigation into allegations they had a relationship with an Adult in
23 Custody (AIC).

24 5. The Department determined that Respondent violated moral fitness standards under
25 OAR 259-008-0300(3)(a)(B) and (C)(i) and proposes to revoke Respondent's public
safety Certification.

ULTIMATE FINDINGS OF FACT

1. The OAR 259-008-0010(5) requires all public safety professionals meet moral fitness standards for certification defined in OAR 259-008-0300.
2. The Department may revoke a public safety professional's certification under OAR 259-008-0300(3)(b)(C) if it finds that the certified individual has engaged in misconduct as defined in OAR 259-008-0300(3)(a)(B) or (C)(i).
3. Respondent does not meet the moral fitness standards required of a public safety professional for the following reasons:
 - a. Pursuant to OAR 259-008-0300(3)(a)(B), Respondent committed acts constituting misuse of authority, which includes: intentional conduct that uses or attempts to use one's position or authority as a public safety professional to obtain a benefit, avoid a detriment or harm another. Respondent used their position as a public safety professional to have a relationship with an AIC. This conduct is evidence of misuse of authority and is a separate and sufficient basis to revoke Respondent's Certification under OAR 259-008-0300(3)(a)(B).
 - b. Pursuant to OAR 259-008-0300(3)(a)(C)(i), Respondent committed acts constituting misconduct, which includes conduct that violates criminal laws, conduct that threatens or harms persons, property or the efficient operations of any agency, or discriminatory conduct. Respondent threatened the efficient operation of the GCSO by having a personal relationship with an AIC and placed the staff at the GCSO at risk of injury from the AIC because of Respondent's relationship with them. This conduct is evidence of misconduct and is a separate and sufficient basis to revoke Respondent's Certification under OAR 259-008-0300(3)(a)(C)(i).
4. Under OAR 259-008-0310(10)(c)(A), there are aggravating circumstances present in the Respondent's case: The Department of Justice investigated the Respondent's conduct for criminal charges. The Respondent's conduct was a PREA violation. Respondent's conduct put other family members working at the GCSO in a bad position because of the animosity from their peers due to Respondent's conduct. Respondent would have been unable to have a relationship with the AIC if not for

their position at the GCSO. Respondent neglected their duties. While under investigation, Respondent received criminal charges for *Driving Under the Influence of Intoxicants*.

5. Under OAR 259-008-0310(10)(c)(B), there were no mitigating circumstances present in the Respondent's case.
6. Respondent's conduct and concurrent separation from employment are substantially related to Respondent's fitness and ability to perform the duties of a certified Corrections officer. The Respondent's behavior directly violated the Criminal Justice Code of Ethics and compromised the public's trust in the public safety profession. Respondent's conduct adversely reflects on the public safety profession when they used their position as a corrections officer to have a relationship with an AIC, which threatened the efficient operation of the GCSO and created a safety risk for the staff who worked there. Respondent's conduct has compromised their integrity and renders them ineffective to serve in public safety.
7. After reviewing the facts and weighing the identified aggravating and mitigating circumstances unique to this case, the Department proposes the Respondent's Certification be revoked.

CONCLUSION OF LAW

Based on the Respondent's conduct, the Respondent does not meet the requirement of good moral fitness required under OAR 259-008-0010(5). Respondent committed acts of misuse of authority under OAR 259-008-0300(3)(a)(B) when they used their position as a public safety professional to have a relationship with an AIC. Respondent committed acts of misconduct, according to OAR 259-008-0300(3)(a)(C)(i) when Respondent threatened the efficient operation of the GCSO by having a personal relationship with an AIC and placed the staff at the GCSO at risk of injury from the AIC because of Respondent's relationship with them.

PROPOSED/FINAL ORDER

Abigail Mobley's Basic and Intermediate Corrections Certifications are REVOKED. Respondent's ineligibility period during which they may not apply for any public safety professional certification is for ten (10) years under OAR 259-008-0310(10)(d)(B).

NOTICE OF RIGHT TO A HEARING

You are entitled to a contested case hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and the administrative rules of the Department. Requests for hearings must be made in writing and must be filed with the Department no later than twenty (20) days from the date of mailing this notice to you. To be effective, your request must be mailed to:

Melissa Lang-Bacho
Department of Public Safety Standards and Training
4190 Aumsville Hwy SE
Salem, OR 97317

If you request a hearing, you will be notified of the time and place of the hearing and provided with a description of the hearing procedures, right of representation, and other rights of parties related to the hearing in accordance with ORS 183.413(2), prior to the commencement of the hearing. At the hearing, you have the right to represent yourself or be represented by legal counsel. Legal aid organizations may be able to assist a party with limited financial resources.

Notice to Active-Duty Servicemembers. Active duty servicemembers are entitled to stay in these proceedings under the federal Servicemembers Civil Relief Act, 50 U.S.C. App. 501. You may contact the Oregon State Bar toll-free at (800) 452-8260, the Oregon Military Department toll-free at (800) 511-6944, or the United States Armed Forces Legal Assistance Legal Services Locator via the web at: **Armed Forces Legal Assistance (AFLA)** or legalassistance.law.af.mil for assistance.

NOTICE OF FINAL ORDER AND APPEAL RIGHTS

If you fail to request a hearing within the time specified above, withdraw a hearing request, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, this Notice of Proposed Revocation of Certification and Proposed/Final Order automatically becomes a Final Order by Default effective upon Board affirmation. In the event of a default, the Department designates the file, including any materials you submitted that relate to this matter, as the record for purpose of proving a *prima facie* case.

1 You are entitled to judicial review of any final order issued in the matter of this
2 Notice of Intent to Revoke Certification under ORS 183.482. You may request judicial
3 review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days
4 from the date of this order.

5 IT IS SO ORDERED THIS 20th day of September 2022.

6 Suzy Herring

7 Suzy Herring, Professional Standards Director FOR
8 Brian Henson, Acting Director
9 Department of Public Safety Standards and Training

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1 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
2 STATE OF OREGON

3 In the Matter of:

CERTIFICATE OF SERVICE

4 **ABIGAIL MOBLEY**
5 **RESPONDENT**
5 DPSST #45844

6

7 I certify that on the 20th day of September, 2022, I served the foregoing, *Notice of Intent*
8 *to Revoke Certification and Proposed/Final Order by Default* on the Respondent by mailing, by
9 regular mail, postage prepaid and certified mail, return receipt requested, true, exact, and full
10 copies thereof to:

11 [REDACTED]

12 [REDACTED]

13 **Via Regular Mail Only**

14 Sheriff Todd N. McKinley
15 Grant County Sheriff's Office
15 205 S. Humbolt Street
15 Canyon City, OR 97820

16 Department of Public Safety Standards & Training

17 By: 
18 _____
19 Melissa Lang-Bacho
20 Professional Standards Case Manager

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: October 27, 2022

To: Board on Public Safety Standards and Training

From: Melissa Lang-Bacho
Professional Standards Case Manager

Subject: **Professional Standards Review/Recommendation**
Abigail Mobley; DPSST No. 45844

Reason for Discretionary Review:

On February 27, 2020, the Department opened a professional standards case for Mobley after receiving notification that she had been arrested on February 8, 2020, for *Driving Under the Influence of Intoxicants (DUII)*.

On December 26, 2020, before the *DUII* case concluded, Mobley resigned from the Grant County Sheriff's Office (GCSO).

On February 11, 2021, the Department received an amended F4s, documenting that Mobley separated from the GCSO and that her separation resulted from an active or pending investigation into allegations of misconduct. As a result of the amended F4s, the Department requested information related to her separation and the investigation into the allegations of misconduct.

Policy Committee Recommendation:

The Corrections Policy Committee (CPC), in a unanimous vote, recommends that the Board take **ACTION** against Abigail Mobley's certification.

The committee, in a unanimous vote, further recommends Mobley be ineligible to hold public safety certification for ten (10) years.

Policy Committee Review

The committee considered the following moral fitness violations and factors in making their decision.

Moral Fitness Violations:

- Dishonesty: The committee did not identify elements of dishonesty.
- Misuse of Authority: Mobley used her position as a public safety professional to have a relationship with an Adult in Custody (AIC).
- Misconduct: Mobley threatened the efficient operations of the GCSO by having a personal relationship with an AIC and placed the staff at the GCSO at risk of injury from the AIC because of her relationship with them.

Aggravating Factors:

- The Department of Justice investigated Mobley's conduct for criminal charges.
- Mobley's conduct was a PREA violation.
- Mobley's conduct put other family members working at the GCSO in a bad position because of the animosity from their peers due to Mobley's conduct.
- Mobley would have been unable to have a relationship with the AIC if not for her position at the GCSO.
- Mobley neglected their duties.
- While under investigation, Mobley received criminal charges for *Driving Under the Influence of Intoxicants*.

Mitigating Factors:

- The committee did not identify any mitigating factors

Information Used in Determination:

- CPC Staff Report, with exhibits.

Action Item:

Review the committee recommendation and approve or return the recommendation to the policy committee.

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: August 9, 2022

To: Corrections Policy Committee

From: Melissa Lang-Bacho
Professional Standards Case Manager

Subject: **Staff Report – Separation/Criminal Citation**
Abigail Mobley; DPSST No. 45844

Reason for Discretionary Review

On February 27, 2020, the Department opened a professional standards case for Mobley after receiving notification that she had been arrested for *Driving Under the Influence of Intoxicants (DUII)* on February 8, 2020.

Prior to the DUII case concluding, Mobley resigned from the Grant County Sheriff's Office (GCSO) on December 26, 2020. On February 11, 2021, the Department received an amended F4s, documenting that Mobley separated from the GCSO and that her separation resulted from an active or pending investigation into allegations of misconduct. As a result of the amended F4s, the Department requested information related to her separation and the investigation into the allegations of misconduct.

The Department determined that the conduct being presented to the committee violates the Board's moral fitness standards. Through the case review process, the committee will affirm, modify, or negate the below-identified elements of moral fitness violations and make a determination on the disposition of this case:

Dishonesty: The Department did not identify elements of dishonesty.

Misuse of Authority: Mobley used her position as a public safety professional for the purpose of having a relationship with an Adult in Custody (AIC).

Misconduct: Mobley threatened the efficient operations of the GCSO by having a personal relationship with an AIC; Mobley placed the staff at the GCSO Office at risk of injury by the AIC she was in a personal relationship with.

Material Events and Conduct

In an undated memo, a Sergeant with the GCSO documented that he was monitoring AIC phone calls and thought the woman's voice in a call with an AIC sounded familiar to him. After listening to the call, which took place on February 4, 2019, for several minutes, the Sergeant identified the woman as Mobley. The Sergeant shared his concerns with another Sergeant, the Undersheriff, and the Sheriff at the GCSO. The GCSO initially requested that Deschutes County Sheriff's Office (DCSO) assist with the investigation; however, DCSO determined that the

conduct may be criminal and indicated that any criminal investigation related to the conduct needed to be completed prior to an administrative investigation.

On March 16, 2020, the Oregon Department of Justice (DOJ) issued a letter summarizing their investigation, findings, and decision to not criminally charge Mobley with *Official Misconduct* or *Custodial Sexual Misconduct*. The DOJ noted in their report that Mobley had declined to be interviewed as a part of their investigation and lacked sufficient information to determine if Mobley and the AIC had kissed while the AIC was incarcerated at the Grant County Jail.

Following the determination from the DOJ, the GCSO proceeded with an internal investigation into the matter, which was conducted by Umatilla County Sheriff's Office (UCSO). In the final report of findings dated October 7, 2020, the UCSO sustained the following findings:

- Conformance to Law
- Unbecoming Conduct
- Abuse of Position
- Prohibited Associations
- Neglect of Duty
- Sexual Harassment
- Conduct Unbecoming an Employee

Mobley was interviewed on September 11, 2020, as a part of the UCSO internal investigation. In the interview, Mobley indicated:

- Initially, her relationship with the AIC, who was serving a felony sentence in custody at the Grant County Jail, began as professional but slowly became more.
- Mobley indicated that she got to know the AIC more when he became an inmate worker and started to develop a personal relationship with the AIC.
- While the AIC was incarcerated at the Grant County Jail, Mobley indicated that she communicated with the AIC over the jail telephone system and the intercom system.
- Mobley remembered the AIC from prior incarcerations at the Grant County Jail.
- Mobley indicated that she heard her phone conversations were sexual in nature but that she was drinking alcoholic beverages at the time and does not remember the conversations. The phone conversations that Mobley had were while the AIC was incarcerated at the facility and continued after the AIC was released to another facility.
- Mobley indicated that she spoke with the AIC over the jail intercom system and these conversations were not work-related.
- Mobley received phone calls from the AIC between January and February 2019 while he was incarcerated, and those phone calls were sexual in nature.
- Mobley indicated the AIC told her she was not allowed to talk to other AIC's.
- Mobley stated that she had physical contact with the AIC while at the facility at the door frame of the dry storage facility by the kitchen. Mobley indicated the AIC grabbed the back of her neck and kissed her at that location.
- Mobley stated that the AIC threatened her if she did not answer the phone when he called. Mobley stated there was a time when she did not answer his phone call and the AIC became upset and swung and punched the glass at one of the Deputy's heads.

Relevant Circumstances for Consideration

Mobley obtained Basic and Intermediate Corrections Certifications.

Mobley was employed as a public safety professional for approximately 14 years.

On February 8, 2020, Mobley received a criminal citation for *Driving Under the Influence of Intoxicants*. Mobley pled guilty to the charge and received a diverted sentence. Mobley completed the terms of her diversion, and her case was dismissed on May 17, 2021.

On December 10, 2020, the Grant County Sheriff issued a letter of Intent to Impose Formal Discipline. Mobley was placed on a thirty (30) day suspension without pay starting on November 26, 2020, through December 25, 2020.

Exhibits Reference

DPSST Employee Profile Report	A1
F4s Personnel Action Separation Form	A2
Amended F4s Personnel Action Separation Form	A3
Memo About Phone Calls	A4
DCSO Administrative Investigation Recommendation	A5
DOJ Decline Memo	A6
UCSO Final Report of Findings	A7
Transcript of Interview with Mobley	A8
Formal Discipline Letter	A9
Resignation Letter	A10

Committee Member Instructions:

Committee members shall review and discuss each record for moral fitness violations as defined by rule, including aggravating and mitigating circumstances and, upon adoption of the record, make a recommendation to the Board of *action* or *no action* against an officer's certification.

Following the officers verbal statement (if provided), the committee will discuss the case in its entirety and affirm, modify, or negate the Department-identified moral fitness violations.

By motion, discussion, and vote, the committee members shall:

- Adopt the staff report, to include any changes identified after discussion, or return to staff with instructions for a future policy committee meeting.
- If the record is adopted, make a recommendation to the Board of *action or no action*.
- If Board action is recommended, recommend the period of ineligibility.

Definitions and Standards (Abridged):

Moral Fitness Violations as defined in Oregon Administrative Rules (OAR) 259-008-0300(3)(a):

- Dishonesty - intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth
- Misuse of Authority - intentional conduct that includes the use or attempted use of one's position or authority as a public safety professional to obtain a benefit, avoid a detriment or harm another
- Misconduct - conduct that violates criminal laws or conduct that threatens or harms persons, property or the efficient operations of any agency or discriminatory conduct.
 - Discriminatory conduct includes a pattern of conduct or a single egregious act that evidences knowing and intentional discrimination based on the perception of a person's race, color, religion, sex, sexual orientation, gender identity, national origin, disability, age or any protected class as defined by state or federal law, and would lead an objectively reasonable person to conclude that the public safety professional cannot perform the duties of office in a fair and impartial manner.

Aggravating and Mitigating Circumstances as defined in OAR 259-008-0310(10)(c):

Aggravating and mitigating circumstances are conditions, factors, or actions that increase or decrease the total impact that the identified moral fitness violation has on the public safety professional's fitness for certification.

- Aggravating circumstances generally increase the severity of the impact the moral fitness violation has on fitness for certification and may, in addition to the moral fitness violation, be grounds to deny or revoke certification. Aggravating circumstances may increase the recommended ineligibility period. Circumstances that may be considered aggravating include, but are not limited to, the degree of the criminal disposition, prior criminal dispositions or misconduct, lack of accountability, number of persons involved in the underlying conduct, number of separate incidents, passage of time from date of incident or incidents, or any other circumstance the Department or the Policy Committee consider aggravating given the specific issues in the case.
- Mitigating circumstances do not excuse or justify the conduct, but generally decrease the severity of the impact the moral fitness violation has on fitness for certification and may decrease the recommended ineligibility period or result in no action. Circumstances that may be considered mitigating include, but are not limited to, written letters of support, truthfulness, cooperation during the incident or investigation, or any other circumstance the Department or the Policy Committee consider mitigating given the specific issues in the case.

Ineligibility Periods as defined in OAR 259-008-0310(10)(d):

The *ineligibility period* is the time that the public safety professional or applicant is ineligible to hold a DPSST certification or to apply for training or certification, based upon the moral fitness violation(s) and the aggravating and mitigating circumstances. If Board action is recommended, a single ineligibility period of three years to life, inclusive and concurrent of all violations, shall be recommended.

- *Misuse of Authority and/or Misconduct that is not discriminatory.* If the committee recommends Board action for Misuse of Authority or Misconduct, the committee must recommend an ineligibility period of three to ten years.
- *Dishonesty and/or Misconduct that is Discriminatory.* If the committee recommends Board action for Dishonesty or Misconduct that is Discriminatory, the committee must recommend an ineligibility period of three years to lifetime.

Eligibility for Certification Following Denial/Revocation as defined in OAR 259-008-0320(4)

The first day of an ineligibility period will vary based on the following circumstances:

- When certifications are denied or revoked for a criminal disposition that resulted from conduct that occurred prior to or after separation from employment as a public safety professional, the first day of the ineligibility period is the date of the conviction or the plea of guilt for a deferred sentence or other criminal disposition. When there is more than one criminal disposition determined to be a moral fitness violation, the most recent disposition will be used to determine the first day of the ineligibility period.
- When certifications are denied or revoked for any moral fitness violation concurrent to a separation of employment as a public safety professional, the first day of the ineligibility period is the date of the separation from the certifiable position as reported to the Department pursuant to OAR 259-008-0020.
- When certifications are denied or revoked for any moral fitness violation that occurred during employment as a public safety professional and the public safety professional is employed in a certifiable position at the time of the Board's review, the first day of the ineligibility period is the date that the Board makes the final determination to deny or revoke. Periods of separation from a certifiable position as a result of the moral fitness violation will be applied to the satisfaction of the ineligibility period.