

Board Approved

Department of Public Safety Standards and Training Memo

Date: April 22, 2021

To: Board on Public Safety Standards and Training
From: Lindsay Hale, Professional Standards Director
Subject: Professional Standards Review/ Recommendation
Loren Peters; DPSST No. 55373

Reason for Discretionary Review:

DPSST received a notice from Loren Peters that he was arrested on 12/12/19 for *Driving While Under the Influence of Intoxicants (DUII)* in Eugene, Oregon. On 2/19/20, Peters pled no contest and was convicted of *DUII*, a crime that requires discretionary review.

Policy Committee Recommendation:

The Corrections Policy Committee (CPC), in a 13 to 1 vote, recommends that the Board take **ACTION** against Peters' certification. The committee further recommended Peters be ineligible to hold public safety certification for 5 years.

The committee considered the following aggravating and mitigating factors in making their decision.

- Aggravating:
 - Peters' conduct occurred during his employment as a public safety professional;
 - Peters' is still on probation and has not paid any of the fines or fees since March of 2020;
 - Peters' Blood Alcohol Content (BAC) level at the time of his arrest was (0.22);
 - Peters' inability to answer the officer's questions due to his high BAC;
 - Peters' careless driving behavior that was observed by citizens and law enforcement;
 - Peters was observed by the officer to be actively drinking a substance, believed to be beer, before initial contact was made; and
 - Peters was previously arrested for DUII in 2013.
- Mitigating:
 - Peters' previous DUII was before his employment as a public safety professional; and
 - Peters' high BAC may have accounted for the inability to answer the officer's questions.

Information Used in Determination:

- CPC Staff Report, with exhibits.

Action Item:

Review and affirm the recommendation of the committee.

1 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

2 STATE OF OREGON

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4 In the Matter of the Proposed
5 Revocation of the Basic Corrections
6 Certification Issued to:

7 **LOREN PETERS**
8 DPSST #55373

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

TO: Loren Peters

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NATURE OF PROPOSED ACTION

The Department of Public Safety Standards and Training (“DPSST” or “Department”) proposes to revoke your Basic Corrections Certification (“Certification”) pursuant to its authority in Oregon Revised Statute (“ORS”) 181A.410(1)(e) and ORS 181A.640(1)(c). The Department proposes revocation because you do not meet the minimum moral fitness standards required of an officer pursuant to Oregon Administrative Rule (“OAR”) 259-008-0010(5), OAR 259-008-0300(3)(a)(C) and OAR 259-008-0300(3)(b)(A).

The Department’s proposed revocation is based on the following:

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FINDINGS OF FACT

18 1. You currently hold Basic Corrections Certification.

19 2. On July 6, 2015, you were hired by the Department of Corrections (DOC) as a

20 Corrections Officer.

21 3. On August 29, 2016, you signed your Criminal Justice Code of Ethics.

22 4. On February 19, 2020, you pled no contest and were convicted of Driving Under the

23 Influence of Intoxicants (DUII), ORS 813.010(4), a Class A Misdemeanor.

5. The Department has determined that you lacked moral fitness pursuant to OAR 259-008-0300(3)(a)(C) and proposes to revoke your public safety certification.

ULTIMATE FINDINGS OF FACT

1. 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)(A) if it finds that the certified individual has engaged in misconduct as defined in OAR 259-008-0300(3)(a)(C).
3. You have not met the moral fitness standards required of a public safety professional for the following reasons:
 - a. Pursuant to OAR 259-008-0300(3)(a)(C), you have committed acts constituting misconduct, which includes conduct that violates criminal laws or conduct that threatens or harms persons, property or the efficient operations of any agency. You violated criminal law when you were convicted of DUII on February 19, 2020. This conduct is evidence of misconduct and is sufficient basis to revoke your certification under OAR 259-008-0300(3)(a)(C).
4. Pursuant to OAR 259-008-0310(10)(c)(A), there are aggravating circumstances present in your case: your conduct occurred during your employment as a public safety professional, you are still on probation and have not paid any of your fines or fees since March 2020, your high Blood Alcohol Content (BAC) level at the time of your arrest (0.22), this was your second DUII arrest (the first occurring in 2013), your inability to answer the officer's questions due to your high BAC, your careless driving behavior that was observed by citizens and law enforcement, and you were observed by the officer to be actively drinking a substance believed to be alcohol before initial contact was made.
5. Pursuant to OAR 259-008-0310(10)(c)(B), there were mitigating circumstances present in your case: your previous DUII was before your employment as a public safety professional and your high BAC may have accounted for your inability to answer the officer's questions.
6. The facts underlying your conviction are substantially related to your fitness and ability to perform the duties of a certified corrections officer because you are required to prescribe to the Criminal Justice Code of Ethics, which includes swearing to be

1 exemplary in obeying the laws of the land. You knowingly violated criminal law
2 when you drove impaired and were subsequently convicted of DUII. Your conduct is
3 particularly egregious because you've demonstrated a pattern of behavior having
4 previously been arrested and pleading guilty to DUII. Additionally your behavior
5 during the most recent arrest is indicative of poor judgement. As a corrections officer
6 tasked with supervising offenders and holding others accountable, your conduct
7 demonstrates your inability to meet these requirements for certification. Your conduct
8 has compromised your integrity and renders you ineffective to serve in public safety.

7. After review of the facts and weighing the identified aggravating and mitigating
8 circumstances unique to this case the Department proposes that your certifications be
9 revoked.

10 CONCLUSION OF LAW

11 Based on your conduct, you do not meet the requirement of good moral fitness
12 required pursuant to OAR 259-008-0010(5). You committed acts of misconduct pursuant
13 to OAR 259-008-0300(3)(a)(C) when you violated criminal law by being convicted of
14 DUII.

15 PROPOSED/FINAL ORDER

16 Loren Peters' Basic Corrections Certification is hereby REVOKED. Your
17 ineligibility period during which you may not apply for any public safety professional
18 certifications is for five years pursuant to OAR 259-008-0310(10)(d)(B).

19 NOTICE OF RIGHT TO A HEARING

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

22 **Melissa Lang**
23 **Department of Public Safety Standards and Training**
4190 Aumsville Hwy SE
Salem, OR 97317

1 If you request a hearing, you will be notified of the time and place of the hearing
2 and provided with a description of the hearing procedures, right of representation and
3 other rights of parties related to the hearing in accordance with ORS 183.413(2), prior to
4 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.

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

10 NOTICE OF FINAL ORDER AND APPEAL RIGHTS

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

18 You are entitled to judicial review of any final order issued in the matter of this
19 Notice of Intent to Revoke Certification in accordance with ORS 183.482. You may
20 request judicial review by filing a petition with the Court of Appeals in Salem, Oregon,
21 within 60 days from the date of this order.

22 IT IS SO ORDERED THIS _____ day of _____ 2021.
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24 Les Hallman, Acting Director
25 Department of Public Safety Standards and Training

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

3 In the Matter of the Proposed
4 Revocation of the Basic Corrections
4 Certification issued to:

5 **LOREN PETERS**
6 DPSST #55373

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8 **CERTIFICATE OF SERVICE**

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10 I certify that on the _____ day of _____, 2021, I served the foregoing, *Notice of Intent*
11 to *Revoke Certification and Proposed/Final Order by Default* on the party hereto by mailing, by
12 regular mail, postage prepaid and certified mail, return receipt requested, true, exact and full
13 copies thereof to:

14 Loren Peters
15 [REDACTED]
16 [REDACTED]

17 **Via Electronic Mail Only:**
18 Richard Ackley, Interim Superintendent
19 Department of Corrections, Deer Ridge Correctional Institution
20 [REDACTED]

21 Department of Public Safety Standards & Training
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23 By: _____
24 Melissa Lang
25 Professional Standards Case Manager

Department of Public Safety Standards and Training

Memo

Date: February 9, 2021

To: Corrections Policy Committee

From: Lindsay Hale, Professional Standards Division Director

Subject: Loren Peters, DPSST No. 55373

Reason for Discretionary Review

DPSST received a notice from Loren Peters that he was arrested on 12/12/19 for *Driving While Under the Influence of Intoxicants (DUII)* in Eugene, Oregon. On 2/19/20, Peters pled no contest and was convicted of *DUII*, a crime that requires discretionary review.

Material Events and Conduct

On 12/12/19, police received a call from another driver that was observing Peters' vehicle failing to maintain its lane, nearly going off embankments and traveling into oncoming lanes of traffic.

When the police located the vehicle, it was observed swerving side-to-side and going outside both the left and right side of the lanes with both front and back tires. After the officer initiated the stop, he witnessed Peters drive over the curb with both right side tires "causing the vehicle to jerk suddenly and bounce."

Upon approaching Peters' vehicle, the officer observed Peters take a drink from a cup. Peters would later tell another officer that he didn't know what was in the cup. The officer was not able to determine what was inside the cup. It smelled consistent with beer and that is what Peters indicated he was drinking.

When the officer made contact with Peters, he observed:

- Appearng confused;
- Head nodding in a swaying motion;
- Red, glassy and watery eyes;
- Strong smell of alcoholic beverage;
- Slow and deliberate speech.

Peters was asked to provide his driver's license and handed the officer his bank card, then provided the officer with is driver's license after being asked again.

Peters consented to the standardized field sobriety tests (SFST) and failed all tests.

When the officer questioned Peters as to how much had he had to drink, when he started drinking, who he was visiting, and if he was drinking while driving earlier in the day, he stated "I don't know." Peters told the officer that he was coming from Redmond and that he believed he was drinking beer.

Peters was placed under arrest for *DUII*.

Peters agreed to provide a breath sample, which was a 0.22% blood alcohol content.

Peters was cited and released for *DUII*.

On 2/19/2020 Peters pled no contest and was convicted of *DUII*.

Judgment Orders:

- 1 year probation, effective until 2/18/21;
- 4 days custody on the Adult Work Crew;
- Successfully complete an alcohol treatment program;
- Attend a Victim Impact Panel;
- 1 year driver's license suspension

\$2010.00 fines and fees.

Relevant Circumstances for Consideration

Peters obtained Basic Corrections certification.

Peters is currently employed at DOC/Deer Ridge Correctional Institution.

Peters was employed in public safety at the time of the incident.

Peters has over 5 years of experience as a public safety professional in Oregon.

Peters was previously arrested for *DUII* and successfully completed diversion. The *DUII* was dismissed on 1/28/15.

The arrest and disposition was prior to employment in public safety.

Peters reported his arrest to DPSST within 5 days as required by OAR.

Exhibits Reference

DPSST Employee Profile Report	A1
Notification of Arrest	A2
Eugene Police Department Incident Report	A3

Judgment	A4
Ecourt Summary – 13CR10446	A5
Mitigation	A6

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*.

By discussion, motion, and vote, the committee members shall take the following action(s):

- Following discussion, adopt the record or return to staff with instructions regarding the record.
- 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:

- 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.

Aggravating and Mitigating Circumstances:

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:

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 *Gross Misconduct*. If the committee recommends Board action for Misuse of Authority or Gross Misconduct, the committee must recommend an ineligibility period of three to ten years.
- *Dishonesty*. If the committee recommends Board action for Dishonesty, the committee must recommend an ineligibility period of three to ten years but may increase it to life.