

POST COUNCIL MEETING

March 23, 2009

*Dixie State College-Kenneth Gardner Student Center
St. George, UT*

MINUTES

On March 23, 2009, a regularly scheduled POST Council meeting was held at 8:00am at the Dixie State College-Kenneth Gardner Student Center in St. George, Utah. Chairman Bud Cox conducted.

The following POST Council members were in attendance:

Sheriff Bud Cox, Chairman, Davis County Sheriff's Office
Director Mike Larsen, Vice-Chairman, Orem DPS
Sheriff Lynn Nelson, Cache County Sheriff's Office
Sheriff Lamont Smith, Kane County Sheriff's Office
SAC Tim Fuhrman, FBI
Sheriff Dave Edmunds, Summit County Sheriff's Office
Executive Director Tom Patterson, Department of Corrections
Vice-President Donna Dillingham-Evans, Dixie State College
Chief Terry Keefe, Layton City P.D.
Chief Val Shupe, South Ogden City P.D.
Deputy Commissioner Keith Squires, DPS (Proxy for Colonel Dan Fuhr, Superintendent, Utah Highway Patrol)
Chief Ken Wallentine, Attorney General's Office (Proxy for Attorney General Mark Shurtleff)
Dr. Sterling R. Provost, At Large
Lt. Kyle Shepherd, UPOA

The following were excused and/or absent:

LuWayne Walker, Juab County Commissioner
Attorney General Mark Shurtleff, Attorney General's Office (Proxy by Ken Wallentine)
Mayor Joe Ritchie, Roy City
Councilman Robert D. Robertson, Murray City Council
Dan Fuhr, Superintendent, Utah Highway Patrol (Proxy by Deputy Commissioner Keith Squires)

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Shaunna McCleve, Administrative Secretary
Steve Winward, POST Investigations Bureau Chief
Bryant Green, POST Investigations
Paul Kotter, POST Investigations
Rich Fordham, POST Investigations
Wade Breur, POST Basic Training Bureau Chief
Lana Taylor, DPS Legal Counsel representing POST, Asst. Attorney General
Robert C. Morton, DPS Legal Counsel representing POST, Asst. Attorney General
John Jacobs, Training Manager

Others present:

David Holm, Dixie State College Police Academy
Dennis Hutchinson, Department of Corrections Training
Ben Winslow, Desert Morning News
Jack Rickards, Weber State University Police Academy
Scott Folsom, University of Utah P.D.
Chris Burbank, Salt Lake City P.D.
Stephen Chapman, Sandy P.D.
Nate Carlisle, Salt Lake Tribune
John C. Brewer, Utah Valley University P.D.
Justin Gray, Dixie State College Police Academy
Sid Groll, DNR Law Enforcement
Lance London, South Ogden P.D.
Allen Swanson, Layton P.D.
Jewel Fuchs, Weber County S.O.
Kevin McLeod, Weber County S.O.
Brad W. Slater, Weber County S.O.
Terry McKinnon, Utah Highway Patrol
Jim Hoffman, Salt Lake Community College
Rod Peterson, Bridgerland Applied Technology College
Tracey Jensen, Syracuse P.D.
Brian Wallace, Syracuse P.D.
Lance Jensen, Syracuse P.D.

WELCOME AND INTRODUCTIONS

Chairman Bud Cox welcomed those in attendance at POST Council and called the meeting to order at 8:00am.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of December 10, 2008, were reviewed and the following motion was made:

- Motion:** *Dr. Sterling Provost motioned to approve the minutes of December 10, 2008.*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with all in favor.*

ANNUAL REPORT

Director Scott Stephenson presented the Annual Report and gave the following numbers.

Basic Training

Cadets Trained	Attrition	Agencies Served
21 SFO only	1 Academic	26 City
138 Full block	1 EVO	14 County
65 LEO only	1 DT	9 State
224 TOTAL	4 Misconduct	49 TOTAL
	6 PT	
	7 Personal Reasons	
	4 Unacceptable Performance	
	2 Injury	
	1 Dismissed by Department	
	27 TOTAL	

INVESTIGATIONS

124	OPENED	1	FELONY LETTER
86	CLOSED	23	REVOICATIONS
19	OPEN/PENDING CASES	30	SUSPENSIONS
19	PENDING MARCH POST COUNCIL	1	MEDICAL SUSPENSION
AVERAGE CASE CLOSED IN 58.5 DAYS		17	LETTER OF CAUTION
		7	DENIAL TO ATTEND
		7	NO ACTION

IN-SERVICE

62	CLASSES SPONSERED	1,450	OFFICERS TRAINED ON-LINE
1,219	OFFICERS TRAINED	12	OFFICERS HOURS OFFERED ON-LINE
1,440	TOTAL HOURS	157	AGENCIES SERVED ON-LINE
6	CLASSES CANCELED	5,586	TOTAL HOURS COMPLETED ON-LINE

TECHNOLOGY

- Produced Physical Fitness Training DVD. This is provided to cadets and satellite academies.
- Recorded and produced all lecture portions of the academy. Used if a cadet misses a lecture or for review.
- Replaced training manager tracking system with a new system that will allow agencies to view records.
- Launched an online testing system to handle all assessments. This system is also used by the satellite academies.
- Added a 48 station computer lab. Used for delivering assessments, training, and report writing.
- Instituted a curriculum review process with POST Basic Training and Satellite academies.

Administrative Rules

POST added one new rule

R-728-503 Minimum Standards for pursuits

Rule amendments- three rules

R728-409: Refusal, Suspension, or Revocation of Peace Officer Certification (changes made to update codes and recent changes such as lying under Garrity is a 3-yr suspension)

R728-403-2: United States Citizenship Requirement (Changes made to allow for use of a U.S. passport as proof of citizenship)

R728-402: Application Procedures to Attend a Basic Peace Officer Training Program (Clarify verbiage that full time officers will be allowed to attend POST)

AUDIT REPORT ON SATELLITE ACADEMIES

Lt. Wade Breur reported on the Weber State Satellite Academy audit. There were no exceptions to the audit.

TECHNOLOGY REPORT

Manager John Jacobs reported POST is testing the on-line reporting system for in-service hours with a couple of administrators. Once the system appears to be stable, POST will gradually add agencies to view training records and report training hours on-line. Agencies will have access this coming summer and fall.

POST is going to offer broadcast training over the internet. There will be both live and archived training available. The first live training that will be broadcast is the "Legislative Update" offered by the Utah Prosecution Council on April 30, 2009.

The audit and reporting of in-service hours is coming up. POST will be sending out agency reports to have each agency verify current officers and then begin the process of reporting training hours.

INTRODUCTION OF POST'S NEW LEGAL COUNSEL

Director Stephenson introduced Attorney Lana Taylor. Ms. Taylor received her Juris Doctorate and her Honors Bachelor Degrees at the University of Utah. She has worked in several capacities with the Attorney General's Office and started her career in the District Attorney's Office. POST has had the opportunity to work with her for the last couple of weeks and have been very impressed.

DISCIPLINARY ACTIONS

Attorney Robert Morton presented the following disciplinary cases.

CHAD L. SHUMWAY - (Criminal Defamation, Lying Under Garrity, Code of Ethics Violations)

Appendix A-1

Aggravating Circumstances: Pre-Existing Warning, Repetitive Conduct, Disruption to the Agency and Community.

Mitigating Circumstances: None.

Motion: Chief Terry Keefe motioned to accept the Administrative Law Judge's ruling for revocation of Chad Shumway's peace officer certification.

Second: Sheriff Lynn Nelson seconded the motion.

Vote: The motion passed with all in favor.

JOHN W. ROODS III - (Custodial Sexual Misconduct, Lying Under Garrity)

Appendix A-2

Aggravating Circumstances: On-duty status, Repetitiveness of conduct, Disruption to the department, Misuse of position of authority, Custodial environment, at workplace.

Mitigating Circumstances: None.

Motion: Chief Val Shupe motioned to accept John Roods' signed consent agreement for revocation of his peace officer and correctional officer certification.

Second: Sheriff Dave Edmunds seconded the motion.

Vote: The motion passed with all in favor.

DAVID A. KWANT- (False Information to a Police Officer, Lying Under Garrity, Interfering with a Peace Officer)
Appendix A-3

Aggravating Circumstances: Disruption to the Agency and Community, Conviction in criminal court.

Mitigating Circumstances: None.

- Motion:** Sheriff Lynn Nelson motioned to accept David Kwant's signed consent agreement for revocation of his peace officer certification.
- Second:** Chief Terry Keefe seconded the motion.
- Vote:** The motion passed with all in favor. (Lt. Kyle Shepherd abstained from voting)

DAVID G. HILL - (Child Sex Abuse)
Appendix A-4

Aggravating Circumstances: Repetitiveness of conduct.

Mitigating Circumstances: None.

- Motion:** VP Donna Dillingham-Evans motioned to accept the David Hill's signed consent agreement revoking his peace officer and correctional officer certification.
- Second:** Sheriff Dave Edmunds seconded the motion.
- Vote:** The motion passed with all in favor.

SHAWN B. DRAPER- (Sodomy on a Child)
Appendix A-5

Aggravating Circumstances: None.

Mitigating Circumstances: None.

- Motion:** Sheriff Lamont Smith motioned to accept the Administrative Law Judge's ruling for revocation of Shawn Draper's peace officer certification.
- Second:** Deputy Commissioner Keith Squires seconded the motion.
- Vote:** The motion passed with all in favor.

RICHARD B. DAVIDSON - (Domestic Violence, Lying Under Garrity)

Appendix A-6

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned to accept Richard Davidson's signed consent agreement for revocation of his peace officer certification.*

Second: *Executive Director Tom Patterson seconded the motion.*

Vote: *The motion passed with all in favor.*

LEE E. MORRIS JR. - (Gambling, Promotion of Gambling)

Appendix A-7

Aggravating Circumstances: Repetitiveness of conduct. Disruption to the Agency and Community, Lack of cooperation with Internal Affairs Investigation, Conviction in criminal court.

Mitigating Circumstances: None.

Motion: *Chief Terry Keefe motioned to accept the Administrative Law*

Judge's ruling for revocation of Lee Morris' peace officer certification.

Second: *Executive Director Tom Patterson seconded the motion.*

Vote: *The motion passed with all in favor.*

ROBERT B. RASMUSSEN - (Sexual Harassment, Pattern of Conduct)

Appendix A-8

Aggravating Circumstances: On-duty, Repetitiveness of conduct, Disruption to community and/or department.

Mitigating Circumstances: None.

Motion: *Dr. Sterling Provost motioned to accept Robert Rasmussen's signed consent agreement for revocation of his peace officer certification.*

Second: *Sheriff Lynn Nelson seconded the motion.*

Vote: *The motion passed with all in favor.*

TROY J. QUINTANA – (Interfering with an Arrest, Lying under Garrity)

Appendix A-9

Aggravating Circumstances: Conviction in criminal court.

Mitigating Circumstances: None.

Motion: *Sheriff Dave Edmunds motioned to accept the Administrative Law Judge's ruling for revocation of Troy Quintana's peace officer and correctional officer certification.*

Second: *VP Donna Dillingham-Evans seconded the motion.*

Vote: *The motion passed with all in favor.*

ROLINA A. MCQUISTON - (Sexual Misconduct On-Duty)

Appendix A-10

Aggravating Circumstances: On-duty or perception on on-duty status, Supervisory authority.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned to accept Rolina McQuiston's signed consent agreement for revocation of her peace officer and correctional officer certification.*

Second: *Sheriff Lamont Smith seconded the motion.*

Discussion: Chief Ken Wallentine questioned if the other party was being investigated. Lt. Winward stated the case is open and pending.

Vote: *The motion passed with all in favor.*

DANIEL SEGO - (Domestic Violence)

Appendix A-11

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Executive Director Tom Patterson motioned to accept Daniel Segó's signed consent agreement for a four-year suspension of his peace officer and correctional officer certification. (10/24/08-10/24/12)*

Second: *Sheriff Dave Edmunds seconded the motion.*

Vote: *The motion passed with all in favor.*

KIM R. OLIVERSON - (Possession or Use of Tier 2 Drug)

Appendix A-12

Aggravating Circumstances: On-duty status.

Mitigating Circumstances: Years of service with no prior disciplinary history.

Motion: *Sheriff Lynn Nelson motioned to accept the Administrative Law Judge's ruling of a four-year suspension of Kim Oliverson's peace officer certification. (3/23/09-3/23/13)*

Second: *VP Donna Dillingham-Evans seconded the motion.*

Discussion: Ken Wallentine inquired why pushing a small statured victim was not an aggravator in this investigation. Lt. Winward stated the Administrative Law Judge considered all aspects of the case.

Vote: *The motion passed with all in favor.*

TRISHA A. THOMPSON - (Failure to remain at the scene of an accident)

Appendix A-13

Aggravating Circumstances: Pre-existing warning (letter of caution).

Mitigating Circumstances: None.

Motion: *Chief Terry Keefe motioned to accept the Administrative Law Judge ruling of a three-year suspension of Trisha Thompson's peace officer certification.*

Second: *Deputy Commissioner Keith Squires seconded the motion.*

Discussion: Executive Director Patterson feels this officers failure to cooperate with the investigation is an aggravating circumstance. Sheriff Edmunds feels this is something that should be looked at in the future. Director Patterson stated to add non-cooperation from officers to the guidelines. Director Larsen stated this will take away officers constitutional rights. Winward informed the Council Trisha Thompson did respond to the Administrative Complaint and by the time a hearing was arranged, Ms. Thompson did not want to work in law enforcement. Atty. Morton stated there is a difference between an officer's cooperation and participation. In this case Thompson cooperated, but didn't participate in the hearing.

Vote: *The motion passed with all in favor.*

BRETT A. WILLYERD - (Malfeasance)

*Case pending, remanded back to POST investigations.

Aggravating Circumstances: On-duty or perception of on-duty status, Repetitiveness of conduct, Custodial environment.

Mitigating Circumstances: None.

Motion: *Chief Val Shupe motioned to accept Brett Willyerd's signed consent agreement for a two-year suspension of his peace officer certification.*

Second: *Chief Terry Keefe seconded the motion.*

Discussion: Sheriff Edmunds commented he felt there was an inappropriate sexual relationship in this case and feels two-years is not long enough.

Sub-motion: *Sheriff Dave Edmunds motioned to have the POST Investigator seek a consent agreement for a four-year suspension of Brett Willyerd's peace officer certification.*

Second: *Chief Ken Wallentine seconded the motion.*

Discussion: Director Patterson stated his agency did concur with POST's recommendation, but agrees a more severe suspension would be appropriate in this case. Director Larsen stated he is uncomfortable with Council members assuming there was a sexual relationship and feels the Council should stick to the facts presented by the POST Investigators. Dr. Provost asked Director Patterson if he would be willing to rehire this individual. Director Patterson replied "absolutely not".

Vote: *The motion passed with 8 in favor and 4 against.*

CECELIA D. WALSH - (Driving Under the Influence of Alcohol)

Appendix A-14

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned to accept Cecelia Walsh's signed consent agreement for a two-year suspension of her correctional officer certification. (9/15/08 –9/15/10)*

Second: *Executive Director Tom Patterson seconded the motion.*

Vote: *The motion passed with all in favor.*

PATRICK E. VEGA - (False Reports)

Appendix A-15

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Dr. Sterling Provost motioned to accept Patrick Vega's signed consent agreement for a two-year suspension of his peace officer certification. (12/3/08 – 12/3/10)*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with all in favor. (Chief Val Shupe abstained from voting)*

NOREEN OATES - (Driving Under the Influence of Alcohol)

Appendix A-16

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Chief Terry Keefe motioned to accept Noreen Oates' signed consent agreement for a two-year suspension of her peace officer and correctional officer certification. (10/28/08-10/28/10).*
Second: *Lt. Kyle Shepherd seconded the motion.*
Vote: *The motion passed with all in favor.*

JASON K. KELSCH - (Intoxication, Mifeseance or Nonfeaseance)

*Case pending, remanded back to POST investigations.

Aggravating Circumstances: On-duty, Disruption to the department.

Mitigating Circumstances: None.

Motion: *Lynn Nelson motioned to accept Jason Kelsch's signed consent agreement for a two-year suspension of peace his peace officer certification. (9/22/08 –9/20/10)*
Second: *Chief Val Shupe seconded the motion.*
Discussion: Sheriff Edmunds asked if the officer was armed when the incident occurred and Lt. Winward stated yes. Sheriff Edmunds stated this is an additional violation for the officer to be armed while intoxicated and should be considered an aggravating circumstance. Director Larsen asked if there was a statute that applies to this case. Sheriff Edmunds stated there was a statute (UCA 76-10-528). Chief Ken Wallentine inquired why the officer was not charged with a Class B Misdemeanor. There was no explanation offered.
Sub-Motion: *Sheriff Dave Edmunds motioned not to accept the signed consent agreement and have the POST Investigator seek an agreement for a three-year suspension of Jason Kelsch's peace officer certification. (9/20/08-9/20/11)*
Second: *Sheriff Lamont Smith seconded the motion.*
Vote: *The motion passed with all in favor.*

SELINDA IORG - (Driving Under the Influence of Drugs)

Appendix A-17

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Deputy Commissioner Keith Squires motioned to accept the Administrative Law Judge's ruling for a two-year suspension of Selinda Iorg's correctional officer certification. (3/23/09-3/23/11)*

Second: *Sheriff Lamont Smith seconded the motion.*

Vote: *The motion passed with all in favor.*

DONALD W. BALL - (Assault)

Appendix A-18

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Executive Director Tom Patterson motioned to accept Donald Ball's signed consent agreement for a two-year suspension of his special function officer certification. (12/11/08-12/11/10)*

Second: *Chief Val Shupe seconded the motion.*

Vote: *The motion passed with all in favor.*

JAMES R. CAMPBELL - (Consensual Sexual Misconduct Off-Duty)

*Case pending, remanded back to POST investigations.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Chief Val Shupe motioned to accept James Campbell's signed consent agreement for a one-year suspension of his peace officer certification.*

Second: *Sheriff Lynn Nelson seconded the motion.*

Discussion: Director Patterson asked how the officer met the female involved. Investigator Fordham stated this officer, along with other officers, arrested this woman's husband and had been to the residence many times in response to incidents. Sheriff Edmunds feels there should be more than a year suspension. Chief Wallentine asked if Campbell was aware of her husband's incarceration. Lt. Winward stated Campbell was the one who arrested her husband.

Sub-Motion: *Chief Ken Wallentine motioned not to accept the signed consent agreement and have the POST Investigator seek an agreement for a two-year suspension of James Campbell's peace officer certification. (10/21/08-10/21/10)*
Second: *Executive Director Tom Patterson seconded the motion.*
Vote: *The motion passed with all in favor.*

GREGORY K. MATANI - (Misfeasance)

*Case pending, remanded back to POST investigations.

Aggravating Circumstances: Pre-Existing Warning.

Mitigating Circumstances: Cooperation with Investigation.

Motion: *Dr. Sterling Provost motioned to accept Gregory Matani's signed consent agreement for a one-year suspension of his peace officer and correctional officer certification.*

Second: *Sheriff Lynn Nelson seconded the motion.*

Discussion: Director Larsen asked if this case was related to a similar case presented to the Council in December. Lt. Winward indicated the previous case in December was related, but the officer was a supervisor and he was involved in other incidents. Matani cooperated and was only involved in one incident. Director Patterson stated Matani attempted to reach his supervisor. Matani was told by the on-site supervisor he was authorized to take the recyclable material. Attorney Lana Taylor stated Matani could have been charged with a Class B Misdemeanor, Theft. Lt. Winward stated he cooperated with the investigation and charges against Matani were dropped.

Sub-Motion: *Chief Terry Keefe motioned not to accept the signed consent agreement and have the POST Investigator seek an agreement for a two-year suspension of Gregory Matani's peace officer and correctional officer certification. (3/23/09-3/23/11)*

Second: *Chief Ken Wallentine seconded the motion.*

Vote: *The motion passed with all in favor.*

RECONSIDERATION:

Chairman Cox approved the reconsideration request by Daniel Kotter. Mr. Kotter addressed the Council to explain the situation. He acknowledged his actions were inappropriate. He reported his work history and informed the Council the charges against him from this incident have been dropped. Director Larsen asked if there are any different facts from when Kotter signed the consent agreement. He stated that the charges in this case had been dismissed. Chief Wallentine asked if Kotter had an offer of employment in law enforcement. Kotter stated not at this time.

Chairman Cox asked if there were any comments or motions from the Council. No comments or motions were made. Chairman Cox ruled the previous suspension will remain and no amendments will be made.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at the Public Safety Education Training Center in Sandy on June 4, 2009, at 10:00am.

ADJOURNMENT

Motion: Chief Val Shupe motioned to adjourn.

Second: Chief Terry Keefe seconded the motion.

Meeting adjourned at 9.15am.

{APPENDIX}





POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-086LE
SUBJECT: Chad L. Shumway
Investigator: Lt. Steven Winward

ALLEGATION(S)

Criminal Defamation
Lying Under Garrity
Code of Ethics Violations

EMPLOYMENT HISTORY

- Beaver County Sheriff's Office (BCSO) employed and certified as a correctional officer on September 8, 2000
- Certified as a peace officer for BCSO on February 27, 2002
- Resigned from BCSO on November 5, 2003
- Hired by Logan City Police Department (LPD) as a peace officer on June 4, 2005
- Terminated from LPD on June 29, 2007
- Hired by Ogden City Police Department (OPD) as a peace officer on October 29, 2007
- Resigned from OPD during a POST investigation on December 5, 2008

POST INVESTIGATION OF ALLEGATION(S)

On September 8, 2008, LPD Chief Russ Roper and members of his administration met with POST to discuss unethical behavior of former employee Chad Shumway. Shumway was terminated for policy violations during his probationary period with LPD. Shumway obtained employment with OPD and continued to work a security job at a hospital in Logan. While working at the hospital he made several false statements to staff members about LPD and its administration. These comments included:

- Shumway had sued LPD for false termination and won the lawsuit
- Shumway arrested the daughter of a LPD captain for drug possession
- Shumway stated the captain had destroyed the arrest report
- Shumway reported the captain to POST investigations to take away his certification

None of these statements were true. The statements were intended to discredit and defame LPD and its administrators.

In March of 2008, LPD investigators met with Shumway to discuss the false statements. Shumway denied making the statements and acknowledged the content of the statements were not true. The investigators advised Shumway to refrain from making false statements regarding LPD and its administrators.

In June of 2008, a female employee of the hospital contacted investigators with LPD. The female stated Shumway had solicited her to have a sexual relationship with a LPD detective. According to the female, Shumway blamed this particular detective for losing his job with LPD, and he wanted her to have this relationship to get the detective fired. Shumway was hoping the sexual relationship would devastate the detective's family and discredit LPD. The female confirmed Shumway had continued to make the same false statements he made before.

On September 23, 2008, POST met with Shumway. Shumway was given a Garrity warning prior to the interview. During the interview, Shumway denied and minimized making the false statements about LPD and its administration. During the interview he admitted soliciting the female to have a sexual relationship with the LPD detective. Shumway stated the sexual relationship never occurred and he solicited the female because he was bitter toward the detective after losing his job with LPD.

On October 15, 2008, an administrative complaint was sent to Shumway. He accepted the complaint on October 17, 2008, as per certified mail receipt. Shumway did not respond to the complaint. Due to Shumway's failure to respond he was believed to be in default.

ADMINISTRATIVE LAW JUDGE RECOMMENDATION

On December 16, 2008, a default hearing was held in absentia to revoke Chad L. Shumway's peace officer certification before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Shumway was in default and found to be in violation of state statute and the Law Enforcement Code of Ethics. Judge Catten recommended Shumway's peace officer certification be revoked.

CHIEF ADMINISTRATOR'S RECOMMENDATION

On January 21, 2009, both Chief Roper of LPD and Assistant Chief Tarwater of OPD were notified of the ruling of the ALJ. Both agreed with the recommendation of the ALJ.

VIOLATION(S)

Shumway's actions violated the following:

1. Utah Code Ann § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
2. Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics
3. Administrative Code R728-409-3 (J)(1)(l)(ii) Lying under Garrity

AGGRAVATING CIRCUMSTANCE(S)

Pre-Existing Warning
Repetitive Conduct
Disruption to the Agency and the Community

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category D and C (Dishonesty and Lying under Garrity) on the POST Disciplinary Guidelines. Taking into account the aggravating circumstances, POST recommends the Council accept the ALJ's recommendation to revoke Shumway's peace officer certification.

POST-COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-117LE/C
SUBJECT: John W. Roods III
Investigator: Bryant Green

ALLEGATION(S)

Custodial Sexual Misconduct
Lying Under Garrity

EMPLOYMENT HISTORY

- Roods was employed and certified as a correctional officer by the Weber County Sheriff's Office (WCSO) on February 14, 2002.
- Roods resigned from the WCSO on December 31, 2008, after an Internal Affairs investigation.

POST INVESTIGATION OF ALLEGATION(S)

On December 1, 2008, a sergeant with the WCSO reported a female inmate was claiming she had an inappropriate relationship with a WCSO staff member. An administrative inquiry was initiated to validate the information. During the inquiry, a search was conducted of Roods' work locker-five handwritten notes containing sexual type comments were found.

On December 8, 2008, an IA was initiated and Roods was issued a Garrity warning. During questioning, Roods admitted to an inappropriate relationship with a female inmate. The relationship included Roods:

- showing a picture of his genitals to the inmate on two different occasions
- admitted to soliciting the sexually oriented notes from the inmate
- admitted to viewing the inmate masturbate on five to seven occasions
- rubbed the inside of his leg near his genitals in front of the inmate on one occasion
- asked another inmate to show him her genitals

Roods claimed he never asked the inmate to masturbate for him. Roods stated he never had any sexual relationships with any inmates. Roods was directed to submit to a polygraph examination.

As a result of the polygraph, it was discovered Roods had lied during his Garrity interview. Specifically, Roods admitted to asking the inmate on at least two occasions to

masturbate. Additionally, Roods admitted to engaging in sexual activities with a female probationer in 2006.

On January 15, 2009, Roods was interviewed by POST. After a Garrity warning, Roods admitted to the material facts of the case. Roods signed a Consent Agreement for the revocation of his correctional officer certification.

CHIEF ADMINISTRATOR'S OPINION

POST contacted Weber County Sheriff Brad Slater. Sheriff Slater concurs with POST's recommendation for revocation of Roods correctional officer certification.

VIOLATION(S)

Roods' actions violated the following:

1. Utah Code Ann. § 76-5-412 custodial sexual relations
2. Utah Code Ann. § 53-6-211(1)(d)(v) pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust in law enforcement
3. Utah Administrative Code R728-409-3(J)(1)(l)(ii) lying under Garrity

AGGRAVATING CIRCUMSTANCES

On duty status
Repetitiveness of conduct
Disruption to the department
Misuse of position of authority
Custodial environment
At workplace

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category C and A (Lying under Garrity and Custodial Sexual Misconduct) on the POST Disciplinary Guidelines. Based upon the aggravating factors of this case, POST recommends the Council accept Roods signed consent agreement for a revocation of his correctional officer certification.

POST COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-041LE
SUBJECT: David A. Kwant
Investigator: Bryant Green

ALLEGATION(S)

**False Information to a Police Officer
Lying Under Garrity
Interfering with a Peace Officer**

EMPLOYMENT HISTORY

- Employed and certified as a law enforcement officer by the West Jordan Police Department (WJPD) on October 3, 1997
- Resigned from WJPD on August 21, 2002
- Rehired and certified by WJPD on May 9, 2005
- Resigned from WJPD on March 7, 2008, after an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On January 14, 2008, Kwant notified his supervisors someone had crashed into his police vehicle while it was parked in a store parking lot. Kwant claimed he was inside the store at the time of the crash. Salt Lake City Police Department (SLCPD) responded to investigate the hit and run accident. The SLCPD officers, who investigated the crash, concluded the crash did not occur in the parking lot as Kwant had claimed.

On January 17, 2008, Kwant was interviewed by WJPD IA. Kwant initially maintained his claim the crash occurred in the store parking lot. After being issued a Garrity warning, Kwant stated, on the morning of the incident, he noticed damage to the driver's side of the vehicle when the car was parked in his garage. After noticing the damage, he drove the vehicle to the store parking lot and noticed the damage was more severe than he originally thought. During a second interview, on January 22, 2008, Kwant changed his story claiming he first noticed damage to the side view mirror while he was driving to the store.

As a result of the SLCPD investigation, Kwant was charged with False Information to a Law Enforcement Officer, a class B misdemeanor. The charges are still pending.

On June 14, 2008, Murray Police Department (MPD) was investigating a domestic violence incident. Kwant, who was not the focus of their investigation, interfered several times and was taken into custody. Kwant was then placed into the arresting officer's police car.

A short time after the arrest, the officer removed Kwant from the car and found baggies of methamphetamine and LSD where Kwant was sitting in the back seat. Kwant was charged by the MPD with Possession of a Controlled Substance (POCS), with the Intent to Distribute and Interfering with a Peace Officer. The POCS with Intent was dismissed and Kwant plead guilty to Interfering with a Peace Officer, a class B misdemeanor.

On January 29, 2008, Kwant was interviewed by POST. During the interview Kwant signed a consent agreement for revocation of his peace officer certification.

CHIEF ADMINISTRATORS OPINION

West Jordan Chief of Police Kenneth McGuire concurs with POST's recommendation for revocation of David Kwant's peace officer certification.

VIOLATION(S)

Kwant's actions violated the following:

1. Utah Code Ann. §76-8-305 Interfering with a Peace Officer
2. Utah Code Ann. §76-8-506 False Information to a Law Enforcement Officer
3. Utah Code Ann. § 53-6-211(1)(d)(v) Conduct that would tend to disrupt, diminish or otherwise jeopardize public trust and fidelity in law enforcement
4. Administrative Code R728-409-3(J)(1)(I)(i-ii) Violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCES

Disruption to the department and community
Conviction in criminal court

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to the level of Category D and C (two crimes charged as class B misdemeanors and lying under Garrity) on the POST Disciplinary Guidelines. Based upon the aggravating factors, POST recommends the Council accept Kwant's signed consent agreement for revocation of his peace officer certification.

POST COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-103LE/C
SUBJECT: David G. Hill
Investigator: Paul Kotter

ALLEGATION(S)

Child Sex Abuse

EMPLOYMENT HISTORY

- Utah County Sheriff's Office (UCSO) – employed and certified as a correctional officer on February 23, 1982
- Retired from UCSO on February 12, 2008, following a criminal and internal affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On December 12, 2007, the UCSO received a complaint regarding Hill's involvement in a child sex abuse incident many years ago while employed at the UCSO. UCSO initiated an IA investigation and contacted the complainant. The complainant informed IA investigators Hill had "molested his [Hill's] two nieces," one of which was now the complainant's estranged wife.

UCSO investigators interviewed the estranged wife. She confirmed that she and her sister had been sexually abused by Hill. She stated the abuse took place starting in approximately 1985 and continued into their teenage years. She indicated the abuse involved Hill tickling her and her sister over the clothing. She indicated, in the midst of tickling, Hill would touch their private areas. According to the victim, the abuse occurred many times.

The second victim was interviewed as well. She indicated the abuse took place approximately 20 years ago. She indicated Hill would play the "chicken game" (moving his hand up her thigh until she told him stop). She indicated Hill would tickle her and would massage her breasts in intervals of 5 to 10 seconds while being tickled. She indicated the abuse continued until she was approximately 14 years old.

On January 10, 2008, Hill was interviewed by UCSO. After being issued a Garrity warning, he indicated he did tickle his nieces, but denied ever touching their private areas. Hill denied ever playing the "chicken game" with his niece and claimed he didn't know what the game even was. During the interview he indicated he may have accidentally touched his niece's private areas. Hill submitted to a polygraph test. The results of the polygraph test indicated he was being deceptive regarding the sexual touching of his two nieces.

A criminal investigation was conducted by the Springville Police Department. The findings were submitted to the Utah County Attorney's Office. The Utah County Attorney's Office declined to file any charges on Hill due to possible statute of limitations issues.

On December 4, 2008, POST interviewed Hill. After being issued a Garrity warning, Hill denied all the allegations, but ultimately decided to sign a consent agreement revoking his correctional officer certification.

CHIEF ADMINISTRATOR'S OPINION

On November 18, 2008, POST Investigations contacted UCSO Sheriff James Tracy. Sheriff Tracy concurs with POST's recommendation for the revocation of Hill's correctional officer certification.

VIOLATION(S)

Hill's actions violated the following:

1. Utah Code Ann § 76-5-404.1 Sexual abuse of a child
2. Utah Code Ann § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
3. Administrative Code R728-409-3 (G) crimes involving unlawful sexual conduct
4. Administrative Code R728-409-3 (J)(1)(a) uncharged conduct which could be considered criminal, although such conduct does not result in the filing of criminal charges against the person, but where the evidence shows that the criminal act did occur, that the person committed the act, and the burden of proof by a preponderance of the evidence could be established by the division
5. Administrative Code R728-409-3 (J)(1)(g)(i-iv) unlawful sexual conduct
6. Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCE(S)

Repetitiveness of conduct

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category A (commission of any crime that is charged or could have been charged as a felony) on the POST Disciplinary Guidelines. Taking into account the aggravating circumstances, POST recommends the Council accept Hill's signed consent agreement revoking his correctional officer certification.

POST-COUNCIL ACTION **FINAL ORDER**



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-007LE
SUBJECT: Shawn B. Draper
Investigator: Rich Fordham

ALLEGATION(S)

Sodomy on a child

EMPLOYMENT HISTORY

- May 24, 1985, Draper was employed and certified as a peace officer with Kane County Sheriff's Office (KCSO)
- December 12, 1994, hired by Washington Terrace Police Department (WTPD) part-time
- January 15, 1995, resigned from KCSO
- October 20, 2002, hired by Weber County Sheriff's Office (WCSO)
- 2006 WTPD disbanded and consequently released
- August 6, 2007, Draper was terminated from WCSO after an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

In May 2007, a male foster child told his caseworker that Draper had sexual relations with him. The sexual encounters occurred in 2005 when the child was thirteen years old and was living in Draper's house as a foster child. The allegations were reported to WCSO.

On May 17, 2007, Draper denied the allegations during an interview with WCSO IA. During the IA investigation; all three of Draper's adopted children were interviewed. None of the children witnessed an inappropriate sexual relationship between Draper and the complainant, or any other child, while living at home.

On June 21, 2007, Draper submitted to a computerized voice stress analysis examination (CVSA). Draper showed deception when asked if he ever had sexual intercourse with the foster child. The foster child also submitted to the CVSA examination and showed no deception.

On July 6, 2007, Draper submitted to a polygraph examination. Draper showed deception when asked about having sexual relations with the foster child.

WCSO referred the case to the Davis County Attorney's office, but they declined to file charges, for lack of evidence.

On August 5 and 20, 2008, POST conducted telephonic interviews with Draper. Draper denied that any sexual relationship ever occurred between him and the complainant.

On October 6, 2008, POST issued Draper an administrative complaint. On December 1, 2008, the administrative complaint was sent back to POST as unclaimed.

Due to Draper's failure to respond he was believed to be in default.

ADMINISTRATIVE LAW JUDGE RECOMMENDATION

On January 22, 2009, a hearing was held in absentia before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Draper was in default and recommended Draper's peace officer certification be revoked.

CHIEF ADMINISTRATOR'S OPINION

On January 27, 2009, POST reviewed Draper's case with Under-Sheriff Kevin McCloud of the WCSO. Under-Sheriff McCloud concurs with the ALJ's recommendation for the revocation of Draper's peace officer certification.

VIOLATION(S)

Draper's actions violated the following:

1. Utah Code Ann. §76-5-403.1 sodomy on a child
2. Utah Code Ann. §53-6-211(1)(d)(v) conduct or pattern of conduct that would tend to disrupt or diminish public or otherwise jeopardize public trust and fidelity in law enforcement
3. Administrative Code R728-409-3(J)(1)(a) uncharged crimes involving unlawful sexual conduct

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to the level of a Category A (Commission of a crime that could be charged as a felony) on the POST Disciplinary Guidelines. POST recommends the Council accept the ALJ's recommendation to revoke Draper's peace officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-104LE
SUBJECT: Richard B. Davidson
Investigator: Rich Fordham

ALLEGATION(S)

Domestic Violence
Lying under Garrity

EMPLOYMENT HISTORY

- On November 15, 2004, Davidson was employed and certified as a special function officer by the Ogden City Police Department (OPD)
- In March of 2005, Davidson resigned from OPD
- In April of 2005, Davidson was hired by the Summit County Sheriff's Office (SCSO) as a law enforcement officer
- On September 24, 2008, Davidson resigned from SCSO after an internal affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On September 19, 2008, Davidson and his wife were involved in an argument at their home. Davidson's wife discovered a phone in Davidson's patrol vehicle that contained sexually explicit pictures of her adult female cousin. Davidson demanded that his wife return the phone to him. When Davidson's wife refused to return the phone, he pushed her down onto a couch while she was holding their one-year old baby. Davidson's wife tried to leave the house by running into the front yard. Davidson grabbed her by the arm forcing her back into the house and prevented his wife from making any phone calls for help. Later, when Davidson left for work, his wife contacted the Morgan County Sheriff's Office (MCSO).

MCSO responded and conducted an investigation. Officers discovered marks and bruising on Davidson's wife that were consistent with the alleged physical assault. Davidson was arrested and charged with Domestic Violence in the presence of a child and Interfering with a communication device.

On September 23, 2008, SCSO IA conducted a Garrity interview with Davidson. During the interview, Davidson denied having a sexual relationship with the female, his wife's

cousin, whose sexually explicit pictures were on the cell phone. He also denied physically assaulting his wife.

Davidson entered a plea in abeyance on January 6, 2009, to the charges of Interfering with a communication device (class B misdemeanor) and Domestic Violence in the presence of a child (class B misdemeanor).

On November 24, 2008, POST conducted a telephonic interview with Davidson. Davidson did not confirm nor deny the allegations made against him, but agreed to sign a consent agreement revoking his peace officer certification.

CHIEF ADMINISTRATOR'S OPINION

On December 10, 2008, POST reviewed Davidson's case with Sheriff Dave Edmunds of the SCSO. Sheriff Edmunds concurs with POST recommendation for revocation of Davidson's peace officer certification.

VIOLATION(S)

Davidson's actions violated the following:

1. Utah Code Ann. §76-5-109.1 domestic violence in the presence of a child
2. Utah Code Ann. §76-6-108 interfering with a communication device
3. Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
4. Administrative Code R728-409-3 (H) Crimes involving physical violence
5. Administrative Code R728-409-3 (J)(1)(l)(ii) lying under Garrity warning

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category C and D (lying under Garrity and two class B misdemeanors) on the POST Disciplinary Guidelines. POST recommends the Council accept Davidson's signed consent agreement for the revocation of his peace officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-065LE
SUBJECT: Lee E. Morris Jr.
Investigator: Bryant Green

ALLEGATION(S)

Gambling
Promotion of Gambling

EMPLOYMENT HISTORY

- Employed and certified as a special functions officer by Salt Lake County Protective Services (SLCPS) on January 19, 1991
- Resigned from SLCPS and employed and certified as a correctional officer by the Salt Lake County Sheriff's Office (SLCSO) on February 1, 1994
- Employed and certified as a law enforcement officer by the SLCSO on November 16, 1996
- Terminated from SLCSO on July 4, 2008, after a criminal investigation

POST INVESTIGATION OF ALLEGATION(S)

In the spring of 2008, the SLCSO was conducting an investigation into an ongoing criminal enterprise-an illegal gambling operation. During the course of the investigation it was determined Morris was involved in the enterprise as a card dealer and player.

On April 9, 2008, SLCSO deputies served a search warrant on the premises of the gambling operation. During an interview with the confessed operator of the enterprise, he told the deputies Morris participated in the illegal gambling operation as a card dealer and player. Morris was subsequently arrested.

During a Miranda interview, Morris admitted he participated in the illegal gambling operation as a card dealer and player. Morris confessed, as a dealer, he was paid in tips by the players of the card game. He also admitted the operators and patrons of the poker games were aware he was a SLCSO deputy. Morris admitted he regularly carried his duty weapon and drove his SLCSO unmarked car to the games. Morris was subsequently charged with and entered a plea of guilty to Gambling and Promotion of Gambling, both class B misdemeanors. On two occasions, Morris refused to cooperate with SLCSO Internal Affairs investigators.

On September 2, 2008, Morris was interviewed by POST. After a Garrity warning, Morris minimized his involvement in the illegal operation, but he admitted to dealing

poker for compensation and gambling. During the interview, Morris was served an Administrative Complaint. Morris failed to answer the Administrative Complaint and a hearing was scheduled.

RECOMMENDATION OF ADMINISTRATIVE LAW JUDGE

On December 16, 2008, a hearing was held in absentia before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Morris' conduct violated Utah Criminal Code Ann. and Utah Administrative Rules. Judge Catten recommended Morris' certifications be revoked.

CHIEF ADMINISTRATOR'S OPINION

On February 24, 2009, POST reviewed Morris' case with Sheriff Jim Winder with SLCSO. Sheriff Winder concurs with the ALJ's recommendation to revoke Morris' peace officer certification.

VIOLATION(S)

Morris' actions violated the following:

1. Utah Code Ann. §76-10-1104 Promotion of Gambling
2. Utah Code Ann. §76-10-1102 Gambling
3. Utah Code Ann. § 53-6-211(1)(d)(v) Conduct that would tend to disrupt, diminish or otherwise jeopardize public trust and fidelity in law enforcement
4. Administrative Code R728-409-3(J)(1)(l)(i) Violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCES

Repetitiveness of conduct
Disruption to the department and community
Lack of cooperation with Internal Affairs investigation
Conviction in criminal court

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category C (two crimes charged as class B misdemeanors) on the POST Disciplinary Guidelines. Based upon the aggravating factors, POST recommends the Council accept the ALJ's recommendation for revocation of Morris' certifications.

POST COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-119LE
SUBJECT: Robert B. Rasmussen
Investigator: Rich Fordham

ALLEGATION(S)

**Sexual Harassment
Pattern of Conduct**

EMPLOYMENT HISTORY

- January 2, 2007, Rasmussen was hired and certified as a special functions officer with the St. George Police Department (SGPD)
- August 1, 2007, Rasmussen was certified as a law enforcement officer with SGPD
- September 16, 2008, Rasmussen resigned after an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On August 22, 2008, Rasmussen was “texting” a female ambulance employee who works in the St. George area. During the text conversation, Rasmussen asked the female, several times, if she would send a picture of her breast to him over the phone. A co-worker of the female discovered this conversation had taken place and reported it to SGPD.

SGPD conducted an IA investigation. Rasmussen admitted to the text conversation with the female ambulance employee. Rasmussen also admitted to having sexually explicit “texting” conversations with several female SGPD employees. The general contexts of the conversations were sexual in nature. Rasmussen requested the females send him pictures of their breasts and invited them to have sexual relations with him and his wife.

These conversations occurred on and off-duty over a period of several months in 2008. Rasmussen told the SGPD investigator he struggled with wanting to participate in extramarital relationships and, as a result of these urges, needed professional help. SGPD IA interviewed the female victims, although none of them reported the conversations with Rasmussen or told him it was unwelcome, they all said that it was unwanted.

On January 13 and 15, 2009, POST conducted interviews with the female victims. Four of the females were SGPD employees and one was the female ambulance employee. All four SGPD employees stated that Rasmussen had texted them sexually explicit requests. They all stated the sexually explicit nature of the text messages were unwelcomed. Two of the females stated that it made them extremely uncomfortable. During the interview

with the female ambulance employee, she stated she was somewhat flirtatious with her text messages to Rasmussen, but his request to see a picture of her breast made her uncomfortable.

On January 13, 2009, POST interviewed Rasmussen. Rasmussen stated he had sexually explicit conversations with the female victims, but he felt that it was mutual. He stated that if the females were uncomfortable with the conversations he would not have continued. Rasmussen also stated his goal was to either see them naked or to have sexual relations with them. Rasmussen signed a consent agreement recommending the revocation of his peace officer certification.

CHIEF ADMINISTRATOR'S OPINION

On February 10, 2009, POST reviewed Rasmussen's case with Chief Marlon Stratton of the SGPD. Chief Stratton concurs with POST recommendation for revocation of Rasmussen's peace officer certification.

VIOLATION(S)

Rasmussen's actions violated the following:

1. Utah Code Ann. §53-6-211(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
2. Administrative Code R728-409-3 (J)(1)(g)(ii-iv) sexual conduct
3. Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCES

On-duty
Repetitiveness of conduct (five victims)
Disruption to community and/or department

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category D (sexual harassment) on the POST Disciplinary Guidelines. Due to the predatory nature of conduct and aggravating circumstances, POST recommends the Council accept Rasmussen signed consent agreement revoking his peace officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-068LE/C
SUBJECT: Troy J. Quintana
Investigator: Paul Kotter

ALLEGATION(S)

**Interfering with an Arrest
Lying under Garrity**

EMPLOYMENT HISTORY

- Salt Lake County Sheriff's Office (SLCSO) – employed and certified as a correctional officer on November 16, 1999
- Terminated from SLCSO on June 19, 2008, following an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On Sunday March 2, 2008, Quintana was a passenger in a motor vehicle that was stopped by West Jordan Police Department (WJPD). During the officer's initial approach of the vehicle, Quintana identified himself as being an employee with the Salt Lake County Sheriff's Department, Corrections Division. The WJPD officer smelled alcohol in the vehicle and called for backup and a supervisor to respond for assistance.

When backup arrived, they approached the vehicle. Prior to asking the female driver to exit and perform field sobriety tests, Quintana opened the door on the passenger side and requested to speak with the officers. The WJPD officer observed a clear plastic bottle on the front passenger floor underneath Quintana's legs. Quintana appeared to be intoxicated and his speech was slurred. Quintana exited the vehicle and walked toward the officers. Quintana was told he was impeding the investigation and was ordered several times to get back in the vehicle.

Quintana did not comply with the order and took a step back and appeared to prepare for a physical confrontation. Quintana refused to comply with the officers' orders to place his hands behind his back. Due to his noncompliance and resistance to apprehension, Quintana was wrestled to the ground and arrested. Quintana was verbally abusive to the officers throughout the arrest. Quintana was later cited and released for interfering with an arrest and open container.

On March 20, 2008, Salt Lake County Sheriff's Office interviewed Quintana. After being issued a Garrity warning he claimed to not remember being abusive or disrespectful to the WJPD officers, nor did he believe that he had physically challenged the officers in any way. Quintana was interviewed a second time on March 25. Quintana admitted to the material facts of the case, but minimized his noncompliance and abusiveness toward the WJPD officers. Due to the inconsistencies between the two interviews, SLCSO IA believed he lied under Garrity.

On April 29, 2008, Quintana pled no contest and entered into a plea in abeyance for interfering with an arrest, a class B misdemeanor. The open container charge was dismissed.

On August 5, 2008, POST conducted a telephonic interview with Quintana. Quintana admitted to the charges he was cited for and agreed to sign a consent agreement. Quintana was sent the consent agreement, but failed to return it. Quintana failed to respond to mail or phone messages from POST. An administrative complaint was sent to Quintana and he responded-an administrative hearing was scheduled.

ADMINISTRATIVE LAW JUDGE RECOMMENDATION

On January 9, 2009, a hearing was held before Administrative Law Judge (ALJ) J. Richard Catten. Quintana was present at the hearing. ALJ Catten ruled Quintana's conduct violated Utah Criminal Codes and Utah Administrative Rules. ALJ Catten recommended Quintana's peace officer certification be revoked.

CHIEF ADMINISTRATOR'S OPINION

On February 24, 2009, POST reviewed Quintana's case with Sheriff Jim Winder with SLCSO. Sheriff Winder concurs with the ALJ's recommendation to revoke Quintana's peace [correctional] officer certification.

AGENCY ACTION

Quintana was terminated following an IA investigation.

VIOLATION(S)

Quintana's actions violated the following:

1. Utah Code Ann. §76-8-305 Interfering with an arrest
2. Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
3. Administrative Code R728-409-3(J)(1)(c) where the filing of a criminal charge has resulted in a finding of guilt based on evidence
4. Administrative Code R728-409-3(J)(1)(l)(ii) lying under the Garrity warning

5. Administrative Code R728-409-3(J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCES

Conviction in criminal court

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category C (lying under Garrity) on the POST Disciplinary Guidelines. Based upon the aggravating circumstances, POST recommends the Council accept the ALJ's recommendation for the revocation of Quintana's peace [correctional] officer certification.

POST COUNCIL'S ACTION

FINAL ORDER





POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-001LE
SUBJECT: Rolina A. McQuiston
Investigator: Paul Kotter

ALLEGATION(S)

Sexual Misconduct On-Duty

EMPLOYMENT HISTORY

- Utah State Department of Corrections (UDC) – employed and certified as a law enforcement officer on May 2, 1994
- Resigned from UDC on December 6, 2008, following an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On December 2, 2008, the Director of Adult Probation and Parole (AP&P) received information alleging, Assistant Regional Administrator Rolina McQuiston had engaged in an inappropriate extramarital relationship with a male AP&P agent.

The case was referred to UDC IA for further follow up. During an interview with McQuiston, she admitted to engaging in off-duty sexual misconduct, one time, with the male agent in 2004. McQuiston also admitted she had engaged in inappropriate telephone calls and e-mails with the male agent between 2004 and 2008. McQuiston denied being involved in any other sexual conduct with the male agent.

The male agent was interviewed by UDC IA. During the first interview he stated he had engaged in two off-duty sexual encounters with McQuiston between 2004 and 2007. During these encounters, McQuiston was in the male agent's chain of command, but never his direct supervisor. The male agent was asked if he felt McQuiston was harassing him. He stated the situation was not hostile, just a little uncomfortable and he declined to file a sexual harassment complaint.

The male was given a subsequent Garrity interview. The male agent told IA that he had engaged in additional sexual relations with McQuiston four or five times, on-duty, in a state vehicle in addition to the two off-duty sexual relationships he had previously divulged.

On January 28, 2009, POST interviewed McQuiston. After being issued a Garrity warning, McQuiston admitted to one off-duty sexual encounter with the male agent in 2004 and the inappropriate e-mails and phone calls. McQuiston denied being involved in any other sexual incidents with the male. McQuiston stated she wanted to move on and put this incident behind her. McQuiston signed a consent agreement recommending revocation of her peace officer certification.

CHIEF ADMINISTRATOR'S OPINION

On January 20, 2009, POST Investigations contacted UDC Bureau Chief Brent Wiechman. Chief Wiechman concurs with POST's recommendation for the revocation of McQuiston's peace officer certification.

VIOLATION(S)

McQuiston's actions violated the following:

1. Utah Code Ann § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
2. Utah Administrative Code R728-409-3 (J)(1)(g)(ii-iv) sexual conduct
3. Utah Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCE(S)

On-duty or perception of on-duty status
Supervisory authority

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category C (Consensual sexual misconduct on-duty) on the POST Disciplinary Guidelines. Taking into account the aggravating circumstances, POST recommends the Council accept McQuiston's signed consent agreement revoking her peace officer certification.

POST-COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-095LE/C
SUBJECT: Daniel Segó
Investigator: Rich Fordham

ALLEGATION(S)

Domestic Violence

EMPLOYMENT HISTORY

- On September 24, 2007, Segó was employed and certified as a correctional officer by the Utah Department of Corrections (UDC)
- Segó was terminated from the UDC on October 24, 2008, following an internal affairs investigation (IA)

POST INVESTIGATION OF ALLEGATION(S)

On September 29, 2008, Segó and his wife were having a verbal altercation. During the altercation Segó grabbed his wife and threw her on their couch. Segó held on to his wife's shoulders and would not let her off the couch. Segó's wife tried to break free of his grasp and defend herself by slapping him in the face. Segó grabbed his wife by the ankles and pulled her onto the floor. Segó hit his wife several times with a pillow and would not allow her to call the police until an hour and a half after the incident.

The Ephraim Police Department (EPD) arrived at Segó's house and conducted an investigation. Segó was arrested and booked into the Sanpete County Jail on the charge of domestic violence assault.

On October 16, 2008, UDC IA interviewed Segó, he admitted to assaulting his wife. Segó pled guilty to domestic violence assault (class B misdemeanor) in the Ephraim City Justice Court.

On December 8, 2008, POST conducted a telephonic interview with Segó. Segó agreed to sign a consent agreement for a four-year suspension of his correctional officer certification October 24, 2008, through October 24, 2012.

CHIEF ADMINISTRATOR'S OPINION

On January 6, 2008, POST reviewed Sego's case with Bureau Chief Brent Wiechman of the UDC. Chief Wiechman concurs with POST's recommendation of a four-year suspension of Sego's correctional officer certification.

VIOLATION(S)

Sego's actions violated the following:

1. Utah Code Ann. §76-5-102 Assault (domestic violence)
2. Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
3. Administrative Code R728-409-3 (H) Crimes involving physical violence

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category B (Conviction of a crime involving domestic violence) on the POST Disciplinary Guidelines. POST recommends the Council accept Sego's signed consent agreement for a four-year suspension of his correctional officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-022LE
SUBJECT: Kim R. Oliverson
Investigator: Paul Kotter

ALLEGATION(S)

Possession or Use of Tier 2 Drug

EMPLOYMENT HISTORY

- Salt Lake City Police Department (SLCPD) – employed and certified as a law enforcement officer on December 13, 1990
- Terminated from SLCPD on February 5, 2008, following an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On August 24, 2007, SLCPD received a complaint on Oliverson. The complaint alleged Oliverson was rude and had a bad attitude when he arrived at the scene of a hit and run accident.

On September 26, 2007, it was reported by an employee of Adult Protective Services (APS), Oliverson acted rude, unprofessional, and refused to take a telephonic report. APS attempted to report a suspected crime against an elderly victim.

On September 27, 2007, Oliverson responded to assist the South Salt Lake Police Department (SSLPD) on a report of a sexual assault that had taken place within the Salt Lake City boundaries. After arriving on scene, Oliverson acted unprofessional and became accusatory toward the 17 year-old victim. Oliverson escalated the situation by using inappropriate language and refused to take a report. Oliverson also used an inappropriate amount of force to push the small statured victim away from him when she began walking towards him. Oliverson's behavior was witnessed by two SSLPD officers.

SLCPD was contacted by SSLPD regarding Oliverson's actions and an IA investigation was opened. Based upon the changes in Oliverson's behavior and personality in his work conduct, which included loud, aggressive, combative behavior, SLCPD ordered Oliverson to submit to a urinalysis drug screen.

The drug screen returned with an extraordinarily high level for the anabolic steroid Nandrolone, a Tier 2 category drug on the POST Disciplinary Guidelines. A second test was conducted on the same sample at a different laboratory, which reported the same results.

POST conducted telephonic interviews with Oliverson on March 20 and June 25, 2008. Oliverson denied using the anabolic steroid.

On August 11, 2008, Oliverson was sent an administrative complaint. Oliverson responded to the complaint and an administrative hearing was scheduled.

ADMINISTRATIVE LAW JUDGE RECOMMENDATION

On December 16 and December 23, 2008, a hearing was held before Administrative Law Judge (ALJ) J. Richard Catten. ALJ Catten ruled Oliverson's conduct violated Utah Criminal Codes and Utah Administrative Rules. ALJ Catten recommended Oliverson's peace officer certification be suspended for four (4) years.

CHIEF ADMINISTRATOR'S OPINION

On January 21, 2009, POST Investigations contacted SLCPD Chief Chris Burbank. Chief Burbank concurs with the ALJ's recommendation for the suspension of Oliverson's peace officer certification.

VIOLATION(S)

Oliverson's actions violated the following:

1. Utah Code Ann § 58-37-8 prohibited use of a controlled substance
2. Utah Code Ann § 53-6-211 (1)(d)(iii) unlawful use of drugs
3. Utah Administrative Code R728-409-3(J)(1)(i)(i-ii) malfeasance and non-feasance
4. Utah Code Ann § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
5. Utah Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCE(S)

On-duty status

MITIGATING CIRCUMSTANCE(S)

Years of service with no prior disciplinary history

POST RECOMMENDATION

These charges rise to a category B (Possession or use of tier 2 drugs) on the POST Disciplinary Guidelines. Based upon the aggravating and mitigating factors, POST recommends the Council accept the ALJ's recommendation suspending Oliverson's peace officer certification from March 23, 2009 through March 23, 2013.

POST-COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 07-069/LE
SUBJECT: Trisha A. Thompson
Investigator: Bryant Green

ALLEGATION(S)

Failure to remain at the scene of an accident

EMPLOYMENT HISTORY

- Thompson was employed and certified as a reserve law enforcement officer by the Farmington City Police Department (FCPD) on January 30, 2003
- On October 21, 2003, Thompson was employed and certified as a correctional officer by the Davis County Sheriff's Office (DCSO)
- On February 12, 2007, Thompson resigned from the FCPD and was employed and certified as a law enforcement officer with the DCSO
- On May 29, 2008, Thompson resigned from the DCSO

POST INVESTIGATION OF ALLEGATION(S)

On September 7, 2007, Thompson was driving her unmarked police vehicle in West Valley City. Thompson was attempting to exit a parking lot when her vehicle struck a van in front of her. Several occupants of the van exited the vehicle and confronted Thompson and an argument ensued. Thompson told them she was driving her police car. They asked Thompson for her identification. She refused to show her police identification or offer to exchange any information with the driver of the van and left the scene of the accident. An occupant of the van copied Thompson's license plate number and they reported the accident to a West Valley City (WVPD) police officer who was conducting traffic control in the area.

A WVPD detective followed up on the case. As a result of the investigation, Thompson was charged with Failure to Remain at the Scene of an Accident, a class B misdemeanor. On March 6, 2008, Thompson entered a plea of guilty to the charge, which was held in abeyance.

POST contacted Thompson to arrange for an interview, but she declined. During POST's investigation into the allegations, a Letter of Caution was found in her POST file. The letter, dated November 21, 2002, specifically addressed several traffic violations which resulted in the suspension of her Utah driver's license. Thompson was served an administrative complaint on May 6, 2008. Thompson answered the complaint and a

hearing date was set. On the day before the hearing, Thompson contacted POST and stated she did not intend to attend the hearing.

RECOMMENDATION OF ADMINISTRATIVE LAW JUDGE

On February 12, 2009, a default hearing was held in absentia for Trisha A. Thompson before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Thompson was in default and she violated the Law Enforcement Code of Ethics. Judge Catten recommended Thompson's peace officer certifications be suspended for three-years.

CHIEF ADMINISTRATOR'S OPINION

POST contacted Davis County Sheriff Bud Cox. Sheriff Cox concurs with the ALJ's recommendation of a three-year suspension of Thompson's certifications.

VIOLATION(S)

Thompson's actions violated the following:

1. Utah Code Ann. § 41-6a-401 failure to remain at the scene of an accident
2. Utah Code Ann. § 53-6-211(1)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust in law enforcement
3. Utah Administrative Code R728-409-3(J)(1)(I)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCES

Pre-existing warning (Letter of Caution)

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category D (commission of a crime that was charged as a class B misdemeanor) on the POST Disciplinary Guidelines. Based upon the aggravating factors of this case, POST recommends the Council accept the ALJ's recommendation of a three-year suspension of Thompson's certification beginning March 23, 2009 and ending March 23, 2012.

POST COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-097LE/C
SUBJECT: Cecelia D. Walsh
Investigator: Paul Kotter

ALLEGATION(S)

Driving Under the Influence of Alcohol

EMPLOYMENT HISTORY

- Utah State Department of Corrections (UDC) – employed and certified as a corrections officer on April 28, 2008
- Terminated from UDC, following her arrest for DUI on September 15, 2008

POST INVESTIGATION OF ALLEGATION(S)

On September 13, 2008, Cecelia Walsh's vehicle was stopped by the Nephi Police Department for failing to dim her headlights. The Nephi Police administered the standardized field sobriety tests to Walsh, which she subsequently failed. Walsh was arrested for driving under the influence of alcohol (DUI). Walsh submitted to a breath alcohol test at the Juab County Jail, the results indicated her breath alcohol level was .087.

On November 17, 2008, POST interviewed Walsh. After being issued a Garrity warning, Walsh admitted to drinking alcohol prior to driving her vehicle. Walsh stated she did not believe she was under the influence of alcohol.

On January 8, 2009, Walsh contacted POST and agreed to sign the consent agreement suspending her correctional officer certification for two years. The outcome of Walsh's criminal case is still pending.

CHIEF ADMINISTRATOR'S OPINION

On November 13, 2008, POST Investigations contacted UDC Bureau Chief Brent Wiechman. Chief Wiechman concurs with POST's recommendation for the suspension of Walsh's correctional officer certification.

VIOLATION(S)

Walsh's actions violated the following:

1. Utah Code Ann § 41-6a-502 DUI
2. Utah Code Ann § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
3. Utah Administrative Code R728-409-3 (I) driving under the influence of alcohol
4. Utah Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCE(S)

None

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category D (1st DUI) on the POST Disciplinary Guidelines. POST recommends the Council accept Walsh's signed consent agreement suspending her correctional officer certification from September 15, 2008 through September 15, 2010.

POST-COUNCIL ACTION

FINAL ORDER



R

POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-110LE
SUBJECT: Patrick E. Vega
Investigator: Bryant Green

ALLEGATION(S)

False Reports

EMPLOYMENT HISTORY

- Vega was employed and certified as a law enforcement officer by the South Ogden Police Department (SOPD) on September 12, 1998.
- He resigned from SOPD on December 3, 2008, after an Internal Affairs investigation.

POST INVESTIGATION OF ALLEGATION(S)

On July 25, 2008, Vega, who had spent the previous 3.5 years as an investigator, was reassigned to the patrol division of the SOPD. At the conclusion of a patrol shift, Vega was required to report his daily activities to his supervisor. These activity reports were to include the number and type of citations issued, number of incidents dispatched, reports submitted and number of arrests. Though Vega submitted activity reports, SOPD discovered several discrepancies between what he reported and the actual numbers of the activities. Consequently, SOPD opened an IA investigation.

During the IA, Vega's reported activity numbers from July 25, 2008, to December 1, 2008, were compared to the number of actual reports and citations submitted. Under the category of citations Vega reported the following:

- 129 Moving citations
- 100 Non-Moving citations
- 30 Traffic School citations

The actual amount of citations submitted in Vega's activity reports were:

- 18 Moving citations
- 20 Non-Moving citations
- 1 Traffic School citation

Additionally, it was discovered Vega had submitted paperwork claiming overtime for a DUI shift he never actually worked. Vega also submitted a fraudulent activity report for the DUI shift. Vega received compensation for the overtime shift; however the money was recovered from his final paycheck.

On December 1, 2008, SOPD IA interviewed Vega and he admitted to the allegations.

On January 12, 2009, POST interviewed Vega. After being issued a Garrity warning, Vega admitted to the material facts of the case. Vega signed a consent agreement recommending a two-year suspension of his peace officer certification beginning December 3, 2008, and ending December 3, 2010.

CHIEF ADMINISTRATORS OPINION

South Ogden Chief of Police Val Shupe concurs with POST's recommendation of a two-year suspension of Vega's peace officer certification.

VIOLATION(S)

Vega's actions violated the following:

1. Utah Code Ann. § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish or otherwise jeopardize public trust and fidelity in law enforcement
2. Administrative Code R728-409-3(J)(1)(l)(i) in that he violated the Law Enforcement Code of Ethics.

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category D (False Reports) on the POST Disciplinary Guidelines. POST recommends the Council accept Vega's signed consent agreement for two-year suspension of his peace officer certification beginning December 3, 2008, and ending on December 3, 2010.

POST COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-096LE/C
SUBJECT: Noreen Oates
Investigator: Paul Kotter

ALLEGATION(S)

Driving Under the Influence of Alcohol

EMPLOYMENT HISTORY

- Utah State Department of Corrections (UDC) – employed and certified as a peace officer on December 13, 1990
- Resigned from UDC on December 26, 1997
- Weber County Sheriff's Office (WCSO) – employed and certified as a correctional officer on September 20, 2002
- Terminated from WCSO following her arrest for DUI and an internal affairs (IA) investigation on October 28, 2008

POST INVESTIGATION OF ALLEGATION(S)

On September 12, 2008, Noreen Oates was arrested for Driving Under the Influence of Alcohol (DUI) and Open Container by the Ogden City Police Department (OPD). Oates was taken to OPD to obtain a breath alcohol test, the results indicated a breath alcohol level of .230.

On September 17, 2008, Oates was interviewed by WCSO IA investigators. After being issued a Garrity warning, Oates reported she had consumed alcohol prior to being stopped by OPD. Oates reported, before being stopped by OPD, she put an open bottle of alcohol in her briefcase and placed it on the floor in her vehicle.

On November 24, 2008, POST interviewed Oates. After being issued a Garrity warning, Oates admitted to the material facts of the case. Oates agreed to sign a consent agreement suspending her correctional officer certification for two-years, beginning on the date of her termination, October 28, 2008, through October 28, 2010. The outcome of Oates' criminal case is still pending.

CHIEF ADMINISTRATOR'S OPINION

On November 13, 2008, POST Investigations contacted WCSO Sheriff Brad Slater. Sheriff Slater concurs with POST's recommendation for the suspension of Oates' correctional officer certification.

VIOLATION(S)

Oates' actions violated the following:

1. Utah Code Ann. § 41-6a-502 DUI
2. Utah Code Ann. § 41-6a-526 Open Container
3. Utah Code Ann. § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
4. Utah Administrative Code R728-409-3 (I) driving under the influence of alcohol
5. Utah Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCE(S)

None

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category D (1st DUI) on the POST Disciplinary Guidelines. POST recommends the Council accept Oates' signed consent agreement suspending her peace and correctional officer certifications from October 28, 2008 through October 28, 2010.

POST-COUNCIL ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-026LE/C
SUBJECT: Selinda Iorg
Investigator: Bryant Green

ALLEGATION(S)

Driving Under the Influence (Drugs)

EMPLOYMENT HISTORY

- Employed and certified as a correctional officer by the Beaver County Sheriff's Office (BCSO) on July 10, 2006
- Resigned from BCSO and employed as a correctional officer by the Washington County Sheriff's Office (WCSO) on November 12, 2007
- Terminated from the WCSO on February 15, 2008, after an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On February 8, 2008, at 0714 hrs, the WCSO received a complaint of an impaired driver. The complainant reported a brown van was swerving from lane to lane. He reported on two occasions the van crossed into oncoming traffic and he was concerned about a potential head on collision. The WCSO broadcasted an attempt to locate (ATL) for the vehicle. At 0736 hrs, the complainant called a second time and reported the vehicle was heading to the WCSO.

Shortly after the second call, a WCSO supervisor arrived at the WCSO and observed a brown van in the parking lot that matched the description for the ATL. He recognized the vehicle belonged to Iorg.

The supervisor entered the WCSO office and observed Iorg unsteady on her feet. Iorg told him she had been up all night, was very tired and was at the office for training-she regularly worked a grave yard shift.

On a break during the training, three staff members approached the supervisor and reported Iorg was impaired. They described her demeanor as lethargic, she staggered as she walked, her speech was slurred and she had difficulty keeping her eyes open. None of the officers could detect the odor of an alcoholic beverage on Iorg. The supervisor directed that she be driven home. After Iorg was taken home, the WCSO chain of

command decided to ask her to submit to a blood test. Two WCSO staff members went to Iorg's home, but were unable to make contact with her.

On February 12, 2008, Iorg was questioned during an IA investigation. Iorg admitted to taking 50 mg of Zoloft at 0630 hrs. the morning of the incident. She also reported to having five other prescriptions for sleep and pain, but claimed she didn't take anything other than the Zoloft.

On July 8, 2008, POST interviewed Iorg. She claimed, at the time of the incident, she experienced a panic attack. Iorg stated she was under the care of several doctors at the time of the incident. POST requested she provide medical documentation to support her claim. Iorg never provided the documentation. On September 18, 2008, POST sent Iorg a Consent Agreement and Administrative Complaint via certified mail. Iorg never accepted the documents and was believed to be in default. Subsequently, a hearing was scheduled to present the case before an administrative law judge.

RECOMMENDATION OF ADMINISTRATIVE LAW JUDGE

On January 22, 2009, a hearing was held in the matter of Selinda Iorg's correctional officer certification before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Iorg's conduct violated Utah Criminal Code Ann. and Utah Administrative Rules. Judge Catten recommended Iorg's correctional officer certification be suspended for two-years.

CHIEF ADMINISTRATORS OPINION

POST contacted Washington County Sheriff Kirk Smith regarding Iorg. Sheriff Smith concurs with the ALJ's decision recommending a two- year suspension of her correctional officer certification.

VIOLATION(S)

Iorg's actions violated the following:

1. Utah Code Ann. §41-6a-502 DUI
2. Utah Code Ann. §53-6-211(l)(d)(v) any conduct that would tend to diminish, disrupt, or otherwise jeopardize public trust in law enforcement.
3. Administrative Code R728-409-3(J)(1)(l)(i) in that she violated the Law Enforcement Code of Ethics

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category D (DUI, first offense) on the POST Disciplinary Guidelines. POST recommends the Council accept the ALJ's recommendation for a two-year suspension of Iorg's correctional officer certification beginning on March 23, 2009 and ending on March 23, 2011.

POST COUNCIL'S ACTION

FINAL ORDER





POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-111SFO
SUBJECT: Donald W. Ball
Investigator: Paul Kotter

ALLEGATION(S)

Assault

EMPLOYMENT HISTORY

- Attended Salt Lake Community College Police Academy (SLCCPA) – May 5, 2008 through December 10, 2008
- Special Function Officer (SFO) certified – July 31, 2008
- Employed and certified as a bailiff with the Salt Lake County Constable's Office (SLCCO) – October 27, 2008
- Resigned from SLCCO and SLCCPA following a POST investigation – December 10, 2008

POST INVESTIGATION OF ALLEGATION(S)

On July 13, 2008, Donald Ball had been drinking alcohol with his girlfriend. They got into a verbal argument and started driving home. Ball stopped at a fast food restaurant to pick up some food when his girlfriend requested some ketchup. Ball received the ketchup from the drive up window and threw it at his girlfriends face. After Ball arrived at his home, his girlfriend started hitting him. Ball grabbed his girlfriend by the neck and pushed her away. After escaping his grasp, Ball's girlfriend called the police.

West Valley City Police (WVCP) responded and determined Ball was the predominant aggressor and had committed an attempted aggravated assault, a class A misdemeanor. Ball was not arrested, but the case was screened by the city attorney's office. The city attorney's office declined to file charges on Ball, citing possible self-defense issues.

Ball was attending SFO training on July 13, 2008, when the assault occurred. However, he failed to notify his class supervisor, Sergeant Dave Attridge, of the incident-a violation of academy policy. Ball stated he did not want to tell Sgt. Attridge because he was nervous about the charges and wanted to see the results of the screening. On August 25, 2008, when the law enforcement block began, Ball informed Sgt. Attridge of the assault.

On December 10, 2008, POST interviewed Ball. After being issued a Garrity warning, Ball admitted to the material facts of the case. Ball signed a consent agreement recommending the suspension of his SFO certification for two-years.

Following the interview at POST, Ball withdrew from the academy and resigned from SLCCO.

CHIEF ADMINISTRATOR'S OPINION

On December 9, 2008, POST Investigations contacted SLCCO Larry Bringhurst and Sgt. Dave Attridge. Both administrators concur with POST's recommendation for the suspension of Ball's special function officer certification.

VIOLATION(S)

Ball's actions violated the following:

1. Utah Code Ann § 76-5-102 Assault
2. Utah Administrative Code R728-409-3(J)(1)(a) uncharged conduct which could be considered criminal, although such conduct does not result in the filing of criminal charges against the person, but where the evidence shows that the criminal act did occur, that the person committed the act, and the burden of proof by a preponderance of the evidence could be established
3. Utah Code Ann § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
4. Utah Administrative Code R728-409-3 (J)(1)(l)(i) violation of the Law Enforcement Code of Ethics
5. Violation of POST Cadet Rules and Regulations 15(A) a cadet shall report all law enforcement contacts, citations or warnings received; as soon as possible to the training staff

AGGRAVATING CIRCUMSTANCE(S)

None

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category D (commission of any crime that is charged or could have been charged as a class B misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept Ball's signed consent agreement suspending his special function officer certification from December 11, 2008 through December 11, 2010.

POST-COUNCIL ACTION

FINAL ORDER