

POST COUNCIL MEETING

June 22, 2015

Public Safety Education and Training Center, Sandy, UT

MINUTES

On June 22, 2015, a regularly scheduled POST Council meeting was held at 10:00 a.m. at the Public Safety Education and Training Center in Sandy, Utah. Chairman James Tracy conducted and welcomed those in attendance.

The following POST Council members were in attendance:

Sheriff James O. Tracy, Chairman, Utah County Sheriff's Office
Chief Wade Carpenter, Vice-Chairman, Park City Police Department
Chief Spencer Austin, Utah Attorney General's Office
Christie Moren, At Large
Frank Budd, At Large
Dr. Matthew Checketts, At Large
Sheriff Cameron Noel, Beaver County Sheriff's Office
Executive Director Rollin Cook, Utah Department of Corrections
Colonel Danny Fuhr, Superintendent, Utah Highway Patrol
Bruce Bayley, Weber State University
Chief Kim Hawkes, North Park Police Department
Commissioner Kerry Gibson, Weber County
Mayor Toby Mileski, Pleasantview City
John Crowley, UPOA Representative

The following were excused and/or absent:

Chief Chris Burbank, Salt Lake City Police Department
Chief Marlon Stratton, St. George City Police Department
Sheriff Robert Dekker, Millard County Sheriff's Office

POST staff present:

Scott Stephenson, Director
Atty. Kevin Bolander, DPS Legal Counsel representing POST, Asst. Attorney General
Atty. Marcus Yockey, DPS Legal Counsel representing POST, Asst. Attorney General
Shaunna McCleve, Administrative Secretary
Al Acosta, POST Investigations Bureau Chief
Brad Macfarlane, POST Investigations
Robert Bench, POST Investigations
Mary Kaye Lucas, POST Investigations
Wade Breur, POST Basic Training Bureau Chief
Christopher Fielding, POST Media Producer
Taylor Conti, POST Technician
Sarah Larsen, POST Technician

Others present:

Kirk Christensen
Larry Benson
Spencer Turley
Ben Winslow
Sid Groll
Jack Rickards
Jim Hudspeth
Lindsay Jarvis
Chance Kirkham
Sal Tascano
Travis Allen
Nick Hidalgo
Brian Gwilliam
Nate Carlisle
Joe Deluca
Chris Koorring

WELCOME AND INTRODUCTIONS

Chairman James Tracy called the meeting to order at 10:00 a.m. and excused Sheriff Dekker and Chief Stratton. He also welcomed those in attendance and introduced new Council members, Mayor Toby Mileski and Chief Kim Hawkes.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of March 16, 2015, were reviewed and the following motion was made:

Motion: ***Spencer Austin motioned to approve the minutes of March 16, 2015.***
Second: ***John Cowley seconded the motion.***
Vote: ***The motion passed with all in favor.***

QUARTERLY REPORT

Lt. Acosta gave the following report from March 16, to June 16: Investigations received 28 complaints, opened 23 cases, conducted 0 administrative hearings and closed 4 cases with no action. Investigations has received 5 voluntary relinquishments and conducted 246 background investigations for applicants attending an academy, dispatch training or going through a reactivation/waiver process. There are currently 69 active investigations.

Lt. Wade Breur reported the following: Two basic training classes started and graduated. Session #312, graduated in April with 32 law enforcement officers. Session #313, graduated 16 law enforcement officers on June 11. Session #314, began the law enforcement block with 28 cadets scheduled to graduate in August.

POST hosted 35 in-service training classes, totaling 717 officers and 44 dispatchers trained. Total hours taught were 554.

SATELLITE AUDITS

Lt. Wade Breur conducted two satellite audits this quarter. The first being Weber State University Academy, at the last Council meeting Lt. Breur reported there was a policy violation regarding physical fitness requirement to enter the LEO block of training. During this audit Lt. Breur followed up with Director Rickards and feels this violation will not occur again. Bridgerland Academy was the second academy audited, they currently have one class in session and there were no exceptions to the audit.

***AGENDA CHANGE**

Chairman Tracy moved item "Discussion on Prescription Drug Use" to after "Disciplinary Cases" on the agenda.

BASIC TRAINING CURRICULUM

Lt. Wade Breur presented the 2015/2016 basic training curriculum to the Council. POST is requesting to make two minor changes to the Special Function Officer (SFO) block (see attachment A). The first change is to add one hour of training to the ethics block, specifically Ethical Decision Making. The second change is to add the pilot course Law Enforcement Encounters with Citizen Dogs. The objectives have been created and the class has been taught three times at the academy. The core of this curriculum was taken from the Department of Justice's COPS program (see attachment B).

The Law Enforcement Officer (LEO) block has no recommended changes (see attachment C). Director Stephenson asked the Council to include in the motion authority for POST to add more time regarding Crisis Intervention Team (CIT) and mental crisis training as needed.

Motion: *Dr. Bruce Bayley motioned to adopt the 2015/2016 basic training curriculum as proposed.*
Second: *Executive Director Rollin Cook seconded the motion.*
Vote: *The motion passed with all in favor.*

CORRECTION TRAINING CURRICULLUM

Director Kirk Christensen presented the Correctional Officer Training Curriculum to the Council. He asked for two changes: changes in course numbering and the physical fitness (PT) standards. Currently the Basic Correctional Officer (BCO) exit standard and the SFO exit standard are the same. Director Christensen proposed to raise the BCO exit standard (see attachment D). This will allow a gradual increase in the standard that will allow the cadets to continually better themselves. They have been using these standards and the failure rate has not changed.

Motion: *Chief Wade Carpenter motioned to adopt the 2015/2016 basic correctional officer training curriculum as proposed.*
Second: *Chief Spencer Austin seconded the motion.*
Vote: *The motion passed with all in favor.*

DISCUSSION ON PRESCRIPTION DRUG USE

Agenda item moved after disciplinary cases.

UTAH SEARCH WARRANT SERVICE MODEL GUIDELINES

Director Scott Stephenson said during the last Legislative Session, Senator Urquhart sponsored a law which requires a model search warrant policy for law enforcement. The model policy will include checks and balances to ensure every administrator/department is meeting the criteria before serving a search warrant. Prior to this law going into effect, a committee of law enforcement administrators drafted these guidelines (see attachment E).

Director Stephenson was grateful for their work on this project prior to POST being statutorily tasked to develop the policy. There were a few minor changes with wording, but most of the original language stayed the same. The policy has been presented to the chief and sheriff's associations for input and reviewed by POST legal counsel. Dir. Stephenson presented this to the Council because he would like to handle this model policy similar to the pursuit policy, through administrative rule. He would like advice and consent from the Council to move this process forward. The law goes into effect July first, but because of the rule making timeframe, the administrative rule will be in effect the first of August. Chief Carpenter stated there was a request from Weber County Metro to make a wording change on the last page. The changed wording for this is "Firearms are likely to be present at the target location" which previously read, "Firearms should be present at the target location".

Motion: *Dr. Frank Budd motioned to support POST in implementing the Utah Search Warrant Service Model Policy into administrative rule.*
Second: *Chief Kim Hawkes seconded the motion.*
Vote: *The motion passed with all in favor.*

DISCIPLINARY CASES

Attorney Marcus Yockey presented the following cases to the POST Council:

AARON M. BIRD

Offence – Use/Possession of a controlled substance
Category – C
Recommended Discipline – 2 year suspension
Status – Resigned 1/8/15
Agency – Tooele County SO

On December 31, 2014, Aaron Bird was investigated by his agency for allegations of drug use. After Bird was selected for a random drug test, Bird admitted smoking marijuana to his supervisor. Bird also admitted using marijuana to POST during a *Garrity* interview. Bird resigned from his department on January 7, 2015.

On May 14, 2015, Bird waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: *Chief Wade Carpenter motioned to accept the recommended 2 year suspension of Aaron Bird's peace officer certification.*
Second: *John Crowley seconded the motion.*
Vote: *The motion passed with all in favor.*

JEFFERY CLEGG

Offence – Falsification or alteration of government record

Category – D

Recommended Discipline – 1 year suspension

Status – Terminated 7/1/13

Agency – Salt Lake County SO

On February 4, 2013, Jeffery Clegg submitted an inaccurate timecard to his supervisor. The supervisor discovered the discrepancy, which initiated an internal administrative investigation into Clegg’s previous timecards. Results of the administrative and POST investigation discovered Clegg had claimed approximately 45.75 hours of overtime on his timecard in 2011 and 2012 for shifts he did not work. Clegg admitted that one of the overtime hours he claimed was intentionally falsified, but said the rest were an “oversight.”

On June 3, 2015, Officer Clegg waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

- Motion:** *Executive Director Rollin Cook motioned to accept the recommended 1 year suspension of Jeffery Clegg’s peace officer certification.*
- Second:** *Bruce Bayley seconded the motion.*
- Vote:** *The motion passed with all in favor.*

BRYAN SCOTT CUNNINGHAM

Offence – Driving under the influence

Category – D

Recommended Discipline – 1 year suspension

Status – Resigned 9/30/14

Agency – Utah Valley University PD

On September 25, 2014, Bryan Cunningham was stopped for failure to operate in a single lane of travel. The officer detected a strong odor of an alcoholic beverage coming from Cunningham. Cunningham performed standardized field sobriety tests, during which he displayed signs of impairment. Cunningham also submitted to a preliminary breath test which indicated positive for alcohol. Cunningham was subsequently arrested for driving under the influence of alcohol. Cunningham submitted to an intoxilyzer test, which indicated he had a breath alcohol content of .139.

On May 29, 2015, Bryan Cunningham waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

- Motion:** *Commissioner Kerry Gibson motioned to accept the recommended 1 year suspension of Bryan Cunningham’s peace officer certification.*
- Second:** *Colonel Daniel Fuhr seconded the motion.*
- Vote:** *The motion passed with all in favor.*

CHANCE KIRKHAM

Offence – Furnish alcohol to a minor & unlawful transport of alcohol from out of state

Category – D

Recommended Discipline – 1 ½ year suspension

Status – Resigned 2/4/14

Agency – Iron County SO

On December 28, 2013, Chance Kirkham and an underage female drove out of state where Kirkham purchased alcoholic beverages. Kirkham then transported the alcoholic beverages back to Utah. Kirkham gave the alcohol to the underage female for her to deliver to their friends and collect the purchase price of the alcohol. An internal and a criminal investigation determined Kirkham violated Utah State law by furnishing alcohol to a minor and unlawfully transporting alcohol from out of state. Kirkham was charged criminally with both violations, which are still pending adjudication. On February 4, 2014, Kirkham resigned from his agency.

On May 21, 2015, Officer Kirkham waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Lindsay Jarvis, attorney for Chance Kirkham addressed the Council. She reported Kirkham entered one plea of guilty to unlawful furnishing of alcohol to a minor, class B misdemeanor. He received 12 months probation and is required to write a letter of apology to the minor, attend a class and pay a fine. Chance Kirkham addressed the Council and apologized for his actions. He would like to return to law enforcement.

Council members asked if the people that received the alcohol from the minor were over 21 and Ms. Jarvis stated they were.

Motion: *Chief Spencer Austin motioned to accept the recommended one and a half year suspension of Chance Kirkham's peace officer certification.*

Second: *Executive Director Rollin Cook seconded the motion.*

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

MICHAEL PETERSEN

Offence – Diving under the influence

Category – D

Recommended Discipline – 1 year suspension

Status – Terminated 1/31/14

Agency – Utah Department of Corrections

On January 4, 2014, Michael Petersen and his wife were involved in a verbal argument. Petersen, who had been consuming alcohol, made the decision to leave the house. Petersen got inside his personal vehicle, started the engine, and turned on the heater to stay warm. Petersen was sitting inside the vehicle when police, who had been summoned by Petersen's wife, arrived at the home. Petersen was taken into custody and transported to the police station where Standardized Field Sobriety Tests (SFST's) and an intoxilyzer test were conducted. Petersen showed indications of impairment and had a BrAC of .216.

On June 5, 2015, Officer Michael Peterson, waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: Chief Wade Carpenter motioned to accept the recommended one year suspension of Michael Petersen peace officer certification.
Second: Colonel Daniel Fuhr seconded the motion.
Discussion: Dr. Checketts stated the aggravating circumstances should not over-ride the mitigating. The officer did the right thing by leaving the home during the conflict and did not operate the vehicle.

Sub-Motion: *Dr. Matthew Checketts made a sub-motion to reduce the suspension to a six month suspension of Michael Petersen's peace officer certification.*

Second: *Commissioner Kerry Gibson seconded the motion.*

Vote: *The motion passed with all in favor. (Executive Director Rollin Cook recused himself)*

JOHN R. LYLE

Offence – Driving under the influence
Category – D
Recommended Discipline – 1 year suspension
Status – Resigned 4/25/13
Agency – Utah Transit Authority PD

On August 11, 2013, Lyle was stopped by a local police agency for an equipment violation. The officer suspected Lyle was impaired and had Lyle perform the Standardized Field Sobriety Tests. Lyle showed several clues during the tests, which indicated he was impaired. He was subsequently cited for driving under the influence. Lyle submitted to an Intoxilyzer test, which indicated he had a breath alcohol content of .110.

On April 29, 2015, Lyle waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: *Christy Moren motioned to accept the recommended one year suspension of John Lyle's peace officer certification.*

Second: *Commissioner Kerry Gibson seconded the motion.*

Vote: *The motion passed with all in favor*

ARNOLD O. SAWYER

Offence – Lying on POST application
Category – C
Recommended Discipline – 2 year suspension
Status – Not Employed
Agency – N/A

On November 20, 2013, Sawyer sent a letter to POST requesting he be allowed to change his POST application dated July 10, 2013. Sawyer said while being interviewed in a pre-polygraph examination for a corrections position, he remembered using marijuana one time during high school in 1993. Sawyer did not include the marijuana use on his POST application. A POST investigation disclosed Sawyer had the opportunity to list the marijuana usage not only on his POST application, but again following the POST ethics class on July 25, 2013, in which he was given an opportunity to complete an addendum to his application.

On April 9, 2015, Arnold Sawyer waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: *Chief Wade Carpenter motioned to accept the recommended two year suspension of Arnold Sawyer's peace officer certification.*
Second: *Bruce Bayley seconded the motion.*
Vote: *The motion passed with all in favor.*

JASON SORENSEN

Offence – Wanton destruction of protected wildlife
Category – B
Recommended Discipline – 4 year suspension
Status – N/A
Agency – N/A

On April 17, 2012, Jason Sorensen and a friend treed a mountain lion using trained dogs. Sorensen asked his friend to wait with the mountain lion while Sorensen left to pick up another male who had a permit to hunt mountain lions. When Sorensen returned with the male, the male shot and tagged the mountain lion. According to Utah Administrative Rule R657-10-2, this would meet the definition of a “canned hunt”, which is illegal. On May 14, 2014, Sorensen pled guilty to wanton destruction of protected wildlife, a class A misdemeanor.

On April 29, 2015, Sorensen waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: *Chief Wade Carpenter motioned to accept the recommended four year suspension of Jason Sorensen's peace officer certification.*
Second: *Chief Spencer Austin seconded the motion.*
Vote: *The motion passed with all in favor.*

JAMI SPICER (ANDERSON)

Offence – Disorderly conduct, Domestic violence in the presence of a child
Category – E
Recommended Discipline – Letter of Caution
Status – 2 week suspension
Agency – Box Elder County SO

On June 15, 2013, Jami Spicer was involved in a domestic dispute with her husband at their residence. Spicer's husband called the local police. Police responded and conducted an investigation. At the conclusion of the investigation, Spicer left the residence to stay with family and charges were screened with the city attorney. On October 29, 2013, the city attorney charged Spicer and her husband with disorderly conduct and domestic violence in the presence of a child. On November 13, 2013, Box Elder County Sheriff's Office conducted a *Garrity* interview with Spicer. During the interview, Spicer denied any criminal conduct. On April 11, 2014, Spicer entered a diversion agreement with the court and both charges were dismissed. On June 10, 2014, POST conducted a *Garrity* interview with Spicer. During the interview, Spicer denied any criminal conduct.

On June 2, 2015, Spicer waived her right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: Colonel Daniel Fuhr motioned to accept the recommended letter of caution issued to Jami Spicer.
Second: Commissioner Kerry Gibson seconded the motion.
Vote: The motion passed with all in favor.

STEPHEN S. STERRETT

Offence – Driving under the influence
Category – D
Recommended Discipline – 1 year suspension
Status – Resigned 3/21/14
Agency – Weber County SO

On March 14, 2014, Stephen Sterrett spent the evening at a local bar. While at the bar, Sterrett consumed approximately five or six alcoholic beverages. After the bar closed, Sterrett went to a friend's home where he consumed approximately two additional alcoholic beverages. About 5:00 AM, Sterrett left the friend's residence to go home. While driving home, Sterrett failed to negotiate a sharp right curve and rolled his vehicle, coming to rest upside down in the water. Sterrett was able to get out of the vehicle and walk to a nearby business, where he called 911 and reported the crash to police. Sterrett was taken back to the accident location where a deputy detected the odor of alcohol and administered standardized field sobriety tests. Sterrett was subsequently arrested for driving under the influence of alcohol. Sterrett submitted to an intoxilyzer test, which indicated he had a Breath Alcohol Content of .112.

On April 10, 2015, Sterrett waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: John Crowley motioned to accept the recommended one year suspension of Stephen Sterrett's peace officer certification.

The motion failed for lack of a second.

Motion: Sheriff Cameron Noel motioned for a two year suspension of Stephen Sterrett's peace officer certification.
Second: Chief Spencer Austin seconded the motion.
Vote: The motion passed with 10 in favor and 2 oppose. (Commissioner Gibson recused himself)

SALVADOR TOSCANO

Offence – Assault
Category – C
Recommended Discipline – 9 month suspension
Status – None
Agency – Smithfield City PD

On April 2, 2014, Salvador Toscano reported to local police he had been involved in an altercation with his teenaged daughter's boyfriend. The boyfriend had been warned by Toscano to stay away from his daughter. When Toscano found the two together, Toscano grabbed the boyfriend by the shirt and pushed him, demanding he stay away from his daughter. When Toscano pushed him, the boyfriend fell to the ground. The boyfriend got up and approached Toscano. Toscano pushed him down a second time. Toscano then took his daughter and left the area. Toscano immediately reported the incident to a local police agency. The boyfriend also reported the incident to police.

Toscano was charged with assault, a class B misdemeanor, and entered a no contest plea to the amended charge of assault with attempt to do bodily injury, a class C misdemeanor. Toscano was not disciplined by his department for the incident.

On June 3, 2015, Toscano waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Attorney Yockey told the Council POST received a letter from Chief of Smithfield City PD for their review. The Council took a minute to review the letter.

Salvador Toscano addressed the Council and explained the situation with his daughter. Council asked if the department took action, Toscano stated they did not.

Motion: *Chief Wade Carpenter motioned to issue a letter of caution to Salvador Toscano.*

Second: *Dr. Frank Budd seconded the motion.*

Vote: *The motion passed with 11 in favor and 1 opposed.*

DISCUSSION ON PRESCRIPTION DRUG USE

Director Stephenson addressed the Council and stated it has been difficult to deal with prescription drug usage. POST designed a matrix to address this problem (see attachment F) and would like the Council to support this guideline. The Council asked if this is generally a problem with not having medication available for an injury or illness on a weekend. Director Stephenson stated the problem has more to do with individuals taking prescription drugs not prescribed to them (e.g. to focus during finals or pain management). The Council asked how many of those situations occur in a year and Director Stephenson stated POST has approximately 45 a year.

Motion: *John Crowley motioned to support the matrix for prescription drug use.*

Second: *Dr. Bruce Bayley seconded the motion.*

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

DISCIPLINARY GUIDELINE DISCUSSION

Director Stephenson stated at the last Council meeting there were members suggesting the guidelines be amended to move lying on a POST application and treating that situation more like lying under Garrity. A handout was presented with a couple of possible changes (see attachment G). A Council member stated she did not feel lying under Garrity and a new applicant lying on an application rises to the same level. Director Stephenson stated a cadet attending classes may discover something illegal just by attending a class. POST teaches a class within the first week of the academy to give cadets an opportunity to divulge anything they may have left off their application. They are allowed to submit an addendum to their application.

Motion: *Christy Moren motioned to adopt the blue changes on attachment G and reject the green.*

Second: *Colonel Daniel Fuhr seconded the motion.*

Vote: *The motion passed with 10 in favor and 2 opposed.*

SCHEDULE NEXT MEETING

Next meeting will be held September 14, 2015, at 10:00 a.m. Location will be at the PSET building in Sandy.

ADJOURN FOR LUNCH

Executive Director Rollin Cook motioned to adjourn.

Chief Austin Spencer seconded the motion.

Meeting adjourned at 11:37pm.