

# POST COUNCIL MEETING

December 10, 2008

*Larry H. Miller Community College  
Public Safety Education Building -Sandy, UT*

## MINUTES

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On December 10, 2008, a regularly scheduled POST Council meeting was held at 10:00am at the Larry H. Miller Community College/Public Safety Education Building in Sandy, Utah. Chairman Lynn Nelson conducted.

**The following POST Council members were in attendance:**

Sheriff Lynn Nelson, Chairman, Cache County Sheriff's Office  
Sheriff Mike Lacy, San Juan County Sheriff's Office  
SAC Tim Fuhrman, FBI  
Sheriff Bud Cox, Davis County Sheriff's Office  
Sheriff Dave Edmunds, Summit County Sheriff's Office  
Councilman Robert D. Robertson, Murray City Council  
Executive Director Tom Patterson, Department of Corrections  
Vice-President Donna Dillingham-Evans, Dixie State College  
Director Mike Larsen, Orem DPS  
Chief Robert Allinson, Cedar City Police Department  
Chief Val Shupe, South Ogden City P.D.  
Colonel Lance Davenport, Superintendent, Utah Highway Patrol  
Attorney General Mark Shurtleff, Attorney General's Office (Proxy by Ken Wallentine, second half of the meeting)  
Chief Ken Wallentine, Attorney General's Office (Proxy for Attorney General Mark Shurtleff, second half of the meeting)  
Dr. Sterling R. Provost, At Large  
Lt. Kyle Shepherd, UPOA  
LuWayne Walker, Juab County Commissioner

**The following were excused and/or absent:**

Mayor Joe Ritchie, Roy City

**POST staff present:**

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

**Others present:**

Terry Keefe, Layton City PD  
Lamont Smith, Kane County SO  
Marylee Smith, Visitor  
Mike Bastian, Self  
Brian Johnson, Attorney for Mike Bastian  
Antone Clark, Standard Examiner  
David Holm, Dixie State College Police Academy  
Dennis Hutchinson, Department of Corrections Training  
Ben Winslow, Desert Morning News  
Letisha Gerrick, Department of Public Safety  
Jeff Nigbur, Department of Public Safety  
Stephen Chapman, Sandy City PD  
Brian Stecklen, Weber State University  
Jack Rickards, Weber State University Police Academy  
Gary Jensen, Vernal City PD  
Cameron Noel, Beaver County SO

**WELCOME AND INTRODUCTIONS**

Chairman Lynn Nelson welcomed those in attendance at POST Council and called the meeting to order at 10:05am.

**APPROVAL OF POST COUNCIL MINUTES**

The POST Council minutes of September 11, 2008, were reviewed and the following motion was made:

- Motion:**        *Sheriff Bud Cox motioned to approve the amended minutes of September 11, 2008.*  
**Second:**      *Robby Robertson seconded the motion.*  
**Vote:**         *The motion passed with all in favor.*

**OPEN MEETING TRAINING**

Attorney Bob Morton presented the annual training on the Open Public Meetings Act required by state statute to the Council members. All decisions made by the Council need to be done in an open meeting. It is discouraged to discuss matters outside of the public meeting regarding how a Council member may vote on an agenda item. Utah Code Annotated (UCA) 52-4-205 outlines reasons the Council may go into executive session and close a meeting (non-voting items, discussing medical or character issues, etc.) UCA 52-4-202, states 24 hour notice be given to the public containing the agenda, date, time and place. This is currently done on the public website.

An item not listed on the agenda may be discussed, but cannot have action taken until it is placed on the agenda and public notice has been given; catch-all categories such as, old business, new business and other business, are not permissible.

Detailed records must be kept of the open meeting including a complete and unedited recording of the entire meeting. These records are public and subject to Government Records Management Act (GRAMA).

Criminal sanctions may be given to persons in violation of UCA 52-4-305 which reads "a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor".

## **AUDIT REPORT ON SATELLITE ACADEMIES**

Wade Breur stated the purpose of auditing the satellite academies is to ensure they are using the POST Council approved curriculum. These audits enable the POST staff to discuss any questions or issues with the satellite directors.

Lt. Breur reported on the Dixie State College Satellite Academy audit. He stated Dixie State College passed the audit with no exceptions.

Director Jack Rickards reported on the pilot program at the Weber State Satellite Academy. He informed the Council the new cadet's starting the practical skills pilot academy in January will not have conditional offers of employment. Sheriff Nelson asked if this was the only difference in the upcoming practical skills academy—Director Rickards responded this was the case.

## **REQUEST FROM SHERIFF NOEL**

Sheriff Noel withdrew his agency's request for a satellite special functions academy.

## **REPORT ON REQUEST FROM SHERIFF WINDER**

Director Stephenson reported Sheriff Winder would like POST to add "Agency Action and Administrator's Recommendation" to the disciplinary coversheet provided to the Council. This information is currently in the case summary, but when added to the coversheet this information will be reiterated by the person presenting the cases to the Council.

## **TECHNOLOGY REPORT**

Manager John Jacobs reported audio visual installation in the Council room is almost complete. POST is in the process of scanning all officer records into an electronic format. This will improve POST's record management process.

All satellite academies are utilizing the testing system. This testing system enables POST to validate the testing process through a statistical review. This process will assist POST with updating test questions.

**DISCIPLINARY ACTIONS**

Attorney Robert Morton presented the following disciplinary cases.

**RAYMOND C. GOODWIN - (Misfeasance of Office)**

*Appendix A-1*

Aggravating Circumstances: On-duty. Supervisory authority. Repetitiveness of conduct. Misuse position of trust and authority. Disruption to the community and the department.

Mitigating Circumstances: None.

**Discussion:** Commissioner Walker asked for an explanation of the allegations. Investigator Green gave several examples of inappropriate comments made by Mr. Goodwin. Commissioner Walker stated he felt the recommendation was too harsh. Attorney Morton reiterated that with aggravating circumstances this recommendation rises to a two-year suspension on the Council approved disciplinary guidelines. Sheriff Noel addressed the Council and stated Mr. Goodwin’s behavior was disruptive to his department and agreed with POST’s recommendation of a two-year suspension.

**Motion:** ***Robby Robertson motioned to accept Raymond Goodwin’s signed consent agreement for a two-year suspension of his peace officer and correctional officer certification. (12/10/2008 – 12/10/2010)***

**Second:** ***Director Mike Larsen seconded the motion.***

**Vote:** ***The motion passed with 14 in favor 1 opposed.***

**JEFFERY S. MCKINNEY - (Malfeasance)**

*Appendix A-2*

Aggravating Circumstances: Misuse position of trust and authority. Disruption to the community and the department.

Mitigating Circumstances: None.

**Motion:** ***Sheriff Dave Edmunds motioned to accept Jeffery S. McKinney’s signed consent agreement for a two-year suspension of his peace officer and correctional officer certification. (02/11/2008 – 02/11/2010)***

**Second:** ***Sheriff Mike Lacy seconded the motion.***

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

**BRANDON T. WISEMAN - (Domestic Violence)**

\*Case pending, remanded back to POST investigations.

Aggravating Circumstances: Pre-existing warning (POST Letter of Caution).  
Repetitiveness of conduct. Conviction in criminal court. Criminal conduct that has domestic violence attached to the charge.

Mitigating Circumstances: None.

Motion: Sheriff Mike Lacy motioned to accept Brandon Wiseman's signed consent agreement for a two-year suspension of his peace officer and correctional officer certification. (12/11/08–12/11/10)

Second: Chief Val Shupe seconded the motion.

Discussion: Robby Robertson and Sheriff Cox asked if the charge of domestic violence would keep Wiseman from being able to carry a firearm. Attorney Morton stated he was not convicted in criminal court of domestic violence, he pled guilty to disorderly conduct. However, the Council does not have to rely on a plea to a lesser charge for the Council to impose discipline.

Sub-Motion: Sheriff Dave Edmunds motioned not to accept the signed consent agreement and to revoke Brandon Wiseman's peace officer and correctional officer certifications.

Second: Robby Robertson seconded the motion.

Discussion: Sheriff Noel addressed the Council and stated he requested POST suspend Wiseman for two-years. VP Donna Dillingham-Evans asked if alcohol was involved. Sheriff Noel stated it was a factor in both instances and Wiseman has completed an alcohol rehabilitation program.

Vote: The motion failed with 5 in favor and 8 against.

**2<sup>nd</sup> Sub-Motion: *Executive Director Tom Patterson motioned not to accept the signed consent agreement and to ask for a three-year suspension Brandon Wiseman's peace officer and correctional officer certification. (12/11/2008 – 12/11/2011)***

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

Discussion: Commissioner LuWayne Walker asked the condition of domestic violence counseling be added to the motion.

**Vote: *The motion passed with 11 in favor and 2 against.***

**ERIC W. BETTS - (Sexual Misconduct On-duty)**

Appendix A-3

Aggravating Circumstances: On-duty or perception of an on-duty status.  
Willingness to participate in conduct. Disruption to community and/or department.

Mitigating Circumstances: None.

**Motion:** Sheriff Mike Lacy motioned to accept the Administrative Law Judge ruling for revocation of Eric Betts peace officer certification.  
**Second:** Attorney General Mark Shurtleff seconded the motion.  
**Vote:** The motion passed with all in favor.

**ALLEN T. BRAYTON**- (Lying Under Garrity, Illegal Drug Use, Willful Falsification to Obtain Certified Status)  
Appendix A-4

Aggravating Circumstances: Repetitiveness of conduct. Lack of cooperation during an investigation.  
Mitigating Circumstances: None.

**Motion:** Executive Director Tom Patterson motioned to accept the Administrative Law Judge ruling for revocation of Allen Brayton's peace officer certification.  
**Second:** Sheriff Bud Cox seconded the motion.  
**Vote:** The motion passed with all in favor.

**DAVID A. FOLEY** - (Misuse of Public Money)  
Appendix A-5

Aggravating Circumstances: None.  
Mitigating Circumstances: None.

**Discussion:** Commissioner Walker inquired where the theft occurred. Investigator Green stated it occurred at the state capitol work site.

**Motion:** Dr. Sterling Provost motioned to accept David Foley's signed consent agreement for revocation of his peace officer certification.  
**Second:** Colonel Lance Davenport seconded the motion.  
**Vote:** The motion passed with all in favor.

**BRUCE GILES** - (Aggravated Sex Abuse, Sodomy on a Child)  
Appendix A-6

Aggravating Circumstances: Repetitiveness of conduct. Activity involving a non-consensual participant. Substantial age difference.  
Mitigating Circumstances: None.

**Motion:** Sheriff Mike Lacy motioned to accept Bruce Giles' signed consent agreement for revocation of his correctional officer certification.  
**Second:** VP Donna Dillingham-Evans seconded the motion.  
**Vote:** The motion passed with all in favor.

**CHRISTOPHER FRANCIS** - (Falsification of POST Application)

Appendix A-7

Aggravating Circumstances: None.

Mitigating Circumstances: None.

**Motion:** Chief Val Shupe motioned to accept Christopher Francis' signed consent agreement for revocation of his peace officer certification.  
**Second:** Director Mike Larsen seconded the motion.  
**Vote:** The motion passed with all in favor.

**BARRY MARSHALL** – (Distribution Harmful Material to a Minor)

Appendix A-8

Aggravating Circumstances: Repetitiveness of conduct.

Mitigating Circumstances: None.

**Motion:** Robby Robertson motioned to accept Barry Marshall's signed consent agreement for revocation of his special function officer certification.  
**Second:** Sheriff Mike Lacy seconded the motion.  
**Vote:** The motion passed with all in favor.

**JOHN MCAULIFFE** - (Custodial Sexual Misconduct)

Appendix A-9

Aggravating Circumstances: Repetitiveness of Conduct. At workplace. On-duty.

Mitigating Circumstances: None.

**Motion:** Colonel Lance Davenport motioned to accept John McAuliffe's signed consent agreement for revocation of his correctional officer certification.  
**Second:** Chief Val Shupe seconded the motion.  
**Vote:** The motion passed with all in favor.

**DUSTIN STRINGHAM** - (Lying under Garrity)

Appendix A-10

Aggravating Circumstances: Pre-existing warnings. Repetitiveness of conduct. Violation of POST policy and procedure. .

Mitigating Circumstances: None.

**Motion:** Sheriff Mike Lacy motioned to accept Dustin Stringham's signed consent agreement for a three-year suspension of his special function officer certification. (11/6/08-11/6/11)  
**Second:** Dr. Sterling Provost seconded the motion.  
**Vote:** The motion passed with all in favor.

**MICHAEL BASTIAN** - (Failure to Report Child Abuse, Witness Tampering)

Appendix A-11

Aggravating Circumstances: None.

Mitigating Circumstances: None.

**Motion:** Chief Val Shupe motioned to accept Michael Bastian's signed consent agreement for a three-year suspension of his peace officer certification. (9/1/2006-9/1/2009)  
**Second:** Lt. Kyle Shepherd seconded the motion.  
**Vote:** The motion passed with all in favor.

**CHRISTIE HOLDAWAY** - (Theft, Pattern of Conduct)

Appendix A-12

Aggravating Circumstances: On-duty. At workplace.

Mitigating Circumstances: None.

**Motion:** *Dr. Sterling Provost motioned to accept the Administrative Law Judge ruling of a three-year suspension of Christie Holdaway's peace officer certification.*

**Second:** *Sheriff Mike Lacy seconded the motion.*

**Discussion:** *Sheriff Cox asked if the drugs that were stolen were scheduled drugs. Lt. Winward stated they were not. There was discussion if the drug is scheduled and Attorney General Shurtleff made the following sub-motion.*

**Sub-motion:** *Attorney General Mark Shurtleff motioned to table the case pending the outcome of the research to find out if the drug used was a scheduled drug.*

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

**Vote:** *The motion passed with 11 in favor and 2 against.*

*After the conclusion of the Barker case, the Council returned to the Holdaway case and the following motion was made:*

**Motion:** *Chief Ken Wallentine motion to raise the Holdaway case it to the table.*

**Second:** *Robby Robertson seconded the motion.*

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

**Motion:** *The Council returned to the origin motion to accept the Administrative Law Judge ruling (after being informed the drug used was not a scheduled drug) of a three-year suspension of Christie Holdaway's peace officer certification.*

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

**HAZEL LOPEZ - (Theft)**

*Appendix A-13*

Aggravating Circumstances: None.

Mitigating Circumstances: None.

**Motion:** *Commissioner LuWayne Walker motioned to accept Hazel Lopez's signed consent agreement for a three-year suspension of her dispatcher certification. (12/10/08-12/10/11)*

**Second:** *Colonel Lance Davenport seconded the motion.*

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

**DAVID RASMUSSEN - (Selling Vehicles without a Dealer's License)**

*Appendix A-14*

Aggravating Circumstances: Pre-existing warnings.

Mitigating Circumstances: None.

**Motion:** *Chief Val Shupe motioned to accept David Rasmussen's signed consent agreement for a three-year suspension of his correctional officer certification. (2/14/08 – 2/14/11)*

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

Discussion: SAC Tim Fuhrman asked how many cars were involved. Lt. Winward stated it was undetermined how many vehicles he sold. However Rasmussen had been previously warned by the Motor Vehicle Enforcement Division.

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

**CHARLES A. ROMERO - (Sexual Harassment)**

\*Case pending, remanded back to POST investigations.

Aggravating Circumstances: Pre-existing warnings.

Mitigating Circumstances: None.

**Motion:** *Dr. Sterling Provost motioned to accept Charles A. Romero signed consent agreement for a three-year suspension of his correctional officer certification. (10/20/08 – 10/20/11)*

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

Discussion: Sheriff Dave Edmunds stated this rises to a level of wrongful touching-assault. He then made the following motion.

**Sub-motion:** *Sheriff Dave Edmunds motioned not to accept Charles Romero's signed consent agreement for a three-year suspension and to seek a four-year suspension of his correctional officer certification. (10/20/08 – 10/20/12)*

**Second:** *Director Mike Larsen seconded the motion.*

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

**DEREK W. WELLS - (Theft)**

Appendix A-15

Aggravating Circumstances: None.

Mitigating Circumstances: None.

**Motion:** *Robby Robertson motioned to accept Derek Wells signed consent agreement for a three-year suspension of his peace officer certification. (6/13/08-6/13/11).*

**Second:** *Lt. Kyle Shepherd seconded the motion.*

Discussion: A Council member asked the value of the property. Investigator Fordham stated it was under one thousand dollars.

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

**GEORGE S. ALEXANDERSON - (Consensual Sexual Misconduct off Duty)**

Appendix A-16

Aggravating Circumstances: Misuse position of trust and authority. Supervisory level.

Mitigating Circumstances: None.

**Motion:** Chief Val Shupe motioned to accept George Alexanderson's signed consent agreement for a two-year suspension of peace his peace officer certification. (7/2/08 – 7/2/11)

**Second:** Chief Ken Walletine seconded the motion.

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

**KENNETH F. CURTIS - (Malfeasance)**

Appendix A-17

Aggravating Circumstances: On-duty. Supervisory authority. At workplace. Custodial environment.

Mitigating Circumstances: None.

**Motion:** Dr. Sterling Provost motioned to accept Kenneth Curtis' signed consent agreement for a two-year suspension of his correctional officer certification. (7/1/08-7/01/10)

**Second:** Sheriff Mike Lacy seconded the motion.

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

**NATHAN E. HANSEN - (Misfeasance of Office)**

Appendix A-18

Aggravating Circumstances: Repetitiveness of conduct. Supervisor authority. On-duty. Disruption to the department.

Mitigating Circumstances: None.

**Motion:** Chief Val Shupe motioned to accept Nathan Hansen's signed consent agreement for a two-year suspension of his correctional officer certification. (6/07/07 – 6/07/09)

**Second:** Robbie Robertson seconded the motion.

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

**TONY C. LUNCEFORD - (DUI)**

Appendix A-19

Aggravating Circumstances: Lack of cooperation with investigation. Disruption to the community and/or department.

Mitigating Circumstances: None.

- Motion:** Chief Ken Wallentine motioned to accept the Administrative Law Judge's ruling for a two-year suspension of his peace officer certification. (12/10/08 - 12/10/10)
- Second:** Robby Robertson seconded the motion.
- Vote:** The motion passed with all in favor.

**JEFFERY A. FEWKES - (Misfeasance of Office)**

Appendix A-20

Aggravating Circumstances: None.

Mitigating Circumstances: None.

- Motion:** Chief Val Shupe motioned to accept Jeffery Fewkes' signed consent agreement for an eighteen-month suspension of his peace officer and correctional officer certification. (09/19/08 – 02/19/10)
- Second:** Dr. Sterling Provost seconded the motion.
- Vote:** The motion passed with all in favor.

**DANIEL J. KOTTER - (Misfeasance of Office)**

Appendix A-21

Aggravating Circumstances: None.

Mitigating Circumstances: None.

- Motion:** Sheriff Bud Cox motioned to accept Daniel Kotter's signed consent agreement for an eighteen-month suspension of his peace officer and correctional officer certification. (07/07/08 – 01/07/10)
- Second:** Executive Director Tom Patterson seconded the motion.
- Vote:** The motion passed with all in favor.

**GARRETT H. WHATCOTT - (Consensual Sexual Misconduct Off-Duty)**

Appendix A-22

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Discussion: Chief Gary Jensen of Vernal City PD addressed the Council. Chief Jensen stating Whatcott is a good officer and he asked for leniency from Council.

Motion: Executive Director Tom Patterson motioned to accept Garrett Whatcott's signed consent agreement for a one-year suspension of his peace officer certification. (07/07/08 – 01/07/10)

Second: Chief Bob Allinson seconded the motion.

***Sub-motion: Chief Val Shupe motioned to give a six-month suspension of Garrett Whatcott's peace officer certification, from September 20, 2008, until March 20, 2009.***

***Second: Director Mike Larsen seconded the motion.***

Discussion: Chief Ken Wallentine stated he understood this incident to be disruptive to the community and heard about this incident from four separate people. Attorney Morton stated the Council should only take mitigating circumstances into account when deciding to reduce a suspension. Sheriff Cox asked if Whatcott was separated from his wife at the time of the incident. Chief Jensen stated that was correct.

2<sup>nd</sup> Sub-Motion: Director Mike Larsen motioned to back date the one-year suspension to July 20, 2008, until July 20, 2009.

Second: Motion failed due to lack of a second.

Discussion: Chief Wallentine asked when Whatcott resigned from Vernal PD. Attorney Morton stated the date of separation was September 20, 2008. Sheriff Cox stated that back dating the suspension or imposing a six-month suspension, achieves the same result. Sheriff Cox continued, if the Council gives a six-month suspension and doesn't back date the suspension it would enable the Council to avoid legal ramifications.

Chief Wallentine and Director Larsen feel that the Chief coming and speaking in favor of an officer should be taken into consideration by the Council.

2<sup>nd</sup> Sub-motion: Director Mike Larsen again motioned to back date the one-year suspension to July of 2008 until July of 2009.

Second: Chief Ken Wallentine Seconded the motion.

Discussion: Lt. Winward told the Council the reason POST is involved in this case is because this case was reported by a chief administrator.

**Withdrawn: Director Mike Larsen withdrew his 2<sup>nd</sup> sub-motion and referred back to the first sub-motion made by Chief Val Shupe.**

**Vote:** *Motion passed with 9 in favor and 5 against.*

**Discussion:** Dr. Provost requested the minutes reflect the reduction in his suspension was because Whatcott was a good officer.

**ARLEESA C. PAMBERTON - (Consensual Sexual Misconduct Off-duty)**

*Appendix A-23*

Aggravating Circumstances: None.

Mitigating Circumstances: None.

**Motion:** *Chief Ken Wallentine motioned to accept Arleesa Pamberton signed consent agreement for a one-year suspension of her peace officer and correctional officer certification. (09/20/08-9/20/09)*

**Second:** *Sheriff Dave Edmunds seconded the motion.*

**Discussion:** Executive Director Patterson questioned whether it is appropriate to be inconsistent with this case (Pamberton was the other party in the Whatcott case). Executive Director Patterson recommended the two cases be treated with consistency. Chief Wallentine stated that Pamberton's chief administrator did not come to POST Council to advocate for her and he knows the chief administrator agrees with POST's actions.

**Vote:** *The motion passed with 9 in favor and 5 against.*

**JESSE TUCKER - (Disorderly Conduct)**

*Appendix A-24*

Aggravating Circumstances: None.

Mitigating Circumstances: None.

**Motion:** *Chief Ken Wallentine motioned to accept Jesse Tucker's signed consent agreement for a one-year suspension of his correctional officer certification. (01/03/08 - 01/03/09)*

**Second:** *Colonel Lance Davenport seconded the motion.*

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

**LAUREN K. BARKER - (Pattern of Conduct, Malfeasance)**

\*Case pending, remanded back to POST investigations.

Aggravating Circumstances: Lack of cooperation with investigation. Disruption to the community and/or department.

Mitigating Circumstances: None.

**Motion:** *Executive Director Tom Patterson motioned to not accept the Administrative Law Judge's recommendation and revoke Lauren Barker's correctional certification.*  
**Second:** *Chief Ken Wallentine seconded the motion.*

**Discussion:** Executive Director Tom Patterson stated officers should not associate with inmates because this creates a lack of trust in the officer's ability to perform their duties.

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

**The Council returned to the Holladay case above (A-12).**

**RECOGNITION AND INTRODUCTIONS OF COUNCIL MEMEBERS**

Director Stephenson recognized Sheriff Mike Lacy and Chief Robert Allinson for their dedicated service with the POST Council. Sheriff Lynn Nelson was recognized for his exemplary service as the POST Council Chairman.

Director Stephenson introduced two new Council members, Sheriff Lamont Smith of Kane County and Chief Terry Keefe of Layton City PD.

**ELECTION OF NEW CHAIRMAN AND VICE CHAIRMAN**

The POST Council elected Sheriff Bud Cox of Davis County as Chairman of the Council and Director Mike Larsen of Orem Department of Public Safety as Vice-Chairman.

**NEXT POST COUNCIL MEETING**

The next POST Council meeting will be at Dixie State College in St. George, Utah on March 23, 2008.

**ADJOURNMENT**

**Motion:** Sheriff Mike Lacy motioned to adjourn.  
**Second:** Dr. Sterling Provost

Meeting adjourned at 11:55am.



# [ APPENDIX – A ]





# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-089LE  
**SUBJECT:** Raymond C. Goodwin  
**Investigator:** Bryant Green

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### ALLEGATION(S)

#### Misfeasance of Office

### POST INVESTIGATION OF ALLEGATION(S)

Raymond C. Goodwin was employed and certified as a law enforcement officer with the Beaver County Sheriff's Office (BCSO) on October 1, 1982. During his tenure with the BCSO, he attained the rank of lieutenant and was appointed as the undersheriff.

On September 15, 2008, BCSO Sheriff Cameron Noel received a complaint from an employee of the State's Division of Child and Family Services (DCFS). She alleged Goodwin had been sexually harassing her over a four month period. Noel placed Goodwin on administrative leave after receiving the complaint.

On September 16, 2008, Noel received a letter from the regional director of DCFS, claiming two DCFS workers reported inappropriate conduct committed by Goodwin. On September 19, 2008, at the request of Noel, POST opened an investigation into the allegations.

On September 24, 2008, POST interviewed the two complainants at the Beaver DCFS office. The complainants each explained they had no personal relationship with Goodwin and their interaction with him was strictly business related, based upon his duties as the BCSO's child abuse investigator. Both complainants stated Goodwin's behavior, although not criminal, amounted to unwanted sexual harassment. Each cited specific incidents when, while alone with Goodwin, he made sexually based comments.

Later that same day, POST interviewed Goodwin at the BCSO. After being issued a Garrity warning, Goodwin was asked to specifically comment on each of the allegations. Goodwin in some cases denied ever making some of the comments. In other cases he acknowledged the comment, but minimized context. By the end of the interview Goodwin admitted to, "crossing over the line," but never accepted complete responsibility.

On September 30, 2008, POST contacted Goodwin and requested he submit to a polygraph examination. Goodwin refused, but agreed to sign a consent agreement for a two-year suspension of his certification.

### **CHIEF ADMINISTRATORS OPINION**

Beaver County Sheriff Cameron Noel concurs with POST's recommendation of a two-year suspension of Goodwin's peace officer certification.

### **VIOLATION(S)**

Goodwin'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**

On-duty status  
Supervisory authority  
Repetitiveness of conduct  
Misuse position of trust and authority  
Disruption to the community and the department

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a level of a Category F (misfeasance of office) on the POST Disciplinary Guidelines. POST recommends the Council accept Goodwin's signed consent agreement for two-year suspension of his peace officer and correctional officer certifications beginning December 10, 2008, and ending on December 10, 2010.

### **POST COUNCIL ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-037LE  
**SUBJECT:** Jeffery S. McKinney  
**Investigator:** Paul Kotter/ Lt. Steven Winward

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### ALLEGATION(S)

**Malfeasance**

### EMPLOYMENT HISTORY

- Iron County Sheriff's Office (ICSO) – employed and certified as a correctional officer on June 10, 2005
- Resigned from ICSO on December 31, 2005
- Washington City Police Department (WCPD) – employed and certified as a peace officer on December 31, 2005
- Resigned WCPD on April 30, 2007
- Beaver County Sheriff's Office (BCSO) – employed as a peace officer on August 1, 2007
- Terminated from BCSO on February 4, 2008 for failing his probation period

### POST INVESTIGATION OF ALLEGATION(S)

In February of 2007, a citizen reported to Sheriff Noel of BCSO he had donated money to the “shop with a cop” program through McKinney. The citizen stated towards the end of November, McKinney requested the citizen write a check directly to McKinney, so he could spend extra money on the child he was assigned. The citizen gave McKinney a check for \$200.00. McKinney also asked if he could put a donation jar in the business owned by the citizen. The citizen agreed to allow him to put the jar in the business to gather additional donations. The amount of additional money donated could not be proven, however, the citizen thought there was over \$300.00 in cash donations. McKinney reported there was only \$45.00 the jar.

McKinney went to the bank the day of the event and withdrew cash from his account in the amount of \$260.00. The “Shop with a Cop” coordinator issued McKinney a gift card for \$100.00. McKinney then advised the event coordinator he had some extra money to spend on the child he was assigned.

McKinney reported the child bought an I-pod, three X-box games, boots, and cookie tins. McKinney stated he used the gift card and additional cash for these purchases. McKinney stated the amount spent was well over the amount issued by “Shop with a Cop” and donations collected from the citizen. However, he did not have receipts to prove how much he spent.

Sheriff Noel asked Millard County Sheriff's Office to conduct an internal affairs investigation into the allegation of misuse of public funds and theft. The investigation concluded the amount of money collected could have been as high as \$527.00. Charges were filed for Theft - Class A Misdemeanor and Misuse of Public Funds- 3<sup>rd</sup> Degree Felony. However, the charges were dismissed due to lack of evidence.

The POST investigation determined at least \$245.00 was collected as donations. However, approximately the same amount of money was withdrawn from McKinney's bank account the day of the event. POST could not determine the exact amount that was spent on the child assigned to McKinney. McKinney violated an unwritten procedure to turn the donated money into BCSO for the "Shop with a Cop" program.

On October 2, 2008, McKinney through his attorney, signed a consent agreement for a two-year suspension of his peace officer and correctional officer certification, February 2, 2008-February 2, 2010 for malfeasance of office.

### **CHIEF ADMINISTRATOR'S OPINION**

On September 24, 2008, POST reviewed McKinney's case with Sheriff Cameron Noel of BCSO. He concurs with POST's recommendation for the two-year suspension of McKinney's peace officer certification and correctional officer certification.

### **VIOLATION(S)**

McKinney's actions violated the following:

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

### **AGGRAVATING CIRCUMSTANCES**

Disruption to community and/or department  
Misuse position of trust

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a Category F (Malfeasance of Office) on the POST Disciplinary Guidelines. POST recommends the Council accept McKinney's signed consent agreement for a two-year suspension of his peace officer and correctional officer certifications beginning on February 4, 2008 through February 4, 2010.

### **POST COUNCIL'S ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-035LE  
**SUBJECT:** Eric W. Betts  
**Investigator:** Paul Kotter

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### ALLEGATION(S)

**Sexual Misconduct On-Duty**

### EMPLOYMENT HISTORY

- Grand County Sheriff's Office (GCSO) – employed and certified as a peace officer on July 19, 1999
- Terminated from GCSO on March 6, 2008

### POST INVESTIGATION OF ALLEGATION(S)

On February 21, 2008, Moab City Police were dispatched to Betts' residence where he was involved in an assault. The assault involved Betts and a male who struck Betts in the face with his fist and then entered Betts' residence. Moab City Police arrested the male assailant for burglary and assault and booked him into the Grand County Jail.

A Moab City investigator interviewed Betts. Betts told the investigator he had been involved in a sexual relationship with the man's wife and "had it coming to him."

On February 26, 2008, GCSO internal affairs interviewed the female who was involved in the relationship with Betts. She told investigators the relationship with Betts began when she went on ride-a-longs with him. She stated their sexual relationship began on November 7, 2007, when she rented a hotel room and rendezvoused with Betts. She stated Betts told dispatch via cell phone he was out on a call and would not need security checks.

On March 4, 2008, Betts was interviewed by GCSO IA investigators. Betts told the investigator the relationship with the female began in October 2007, when she went on a ride-a-long with him and engaged in kissing. On November 7, 2007, the relationship turned sexual when Betts and the female met at a hotel, rented a room, and engaged in sexual relations while he was on-duty. However, Betts denied telling dispatch he was out on a call to cover up the time he was engaged in the sexual conduct. Betts and the female stated they engaged in sexual relations again in January when Betts' wife was away from home.

POST attempted to contact Betts by phone and by mail. Betts did not contact POST as directed by the messages on phone or by mail.

On June 25, 2008, an administrative complaint was sent to Betts. He accepted the complaint on July 2, 2008, as per certified mail receipt. Betts did not respond to the complaint and was believed to be in default and a hearing was scheduled.

### **ADMINISTRATIVE LAW JUDGE RECOMMENDATION**

On August 27, 2008, a default hearing was held in absentia to revoke Eric Betts' peace officer certification before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Betts was in default and found to be in violation of state statute and the Law Enforcement Code of Ethics. Judge Catten recommended Betts' peace officer certification be revoked.

### **CHIEF ADMINISTRATOR'S RECOMMENDATION**

POST contacted Sheriff James Nyland with Grand County Sheriff's Office. Sheriff Nyland concurs with POST's recommendation to revoke Betts' peace officer certification.

### **VIOLATION(S)**

Betts' actions violated the following:

1. Utah Code Ann § 53-6-211(l)(d)(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)(i-ii) sexual relations while on-duty
3. 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 an on-duty status  
Willingness to participate in conduct  
Disruption to community and/or department

### **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 the ALJ's decision to revoke Betts' peace officer certification.

### **POST-COUNCIL ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-047SFO  
**SUBJECT:** Allen T. Brayton  
**Investigator:** Paul Kotter

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### ALLEGATION(S)

**Lying Under Garrity  
Illegal Drug Use**

### EMPLOYMENT HISTORY

- Attended Salt Lake Community College Police Academy (SLCCPA) – January 7, 2008
- Achieved special function officer certification – April 16, 2008
- Released from the academy following an investigation by POST – June 5, 2008

### POST INVESTIGATION OF ALLEGATION(S)

On May 13, 2008, POST was informed that Allen Brayton, a cadet attending the SLCCPA, was suspected of using marijuana by a former employer. The employer suspected drug use based on Brayton's past history of drug use and his refusal to submit to a drug test.

On May 22, 2008, POST interviewed Brayton. After being issued a Garrity warning, Brayton told POST his last drug usage was October 31, 2005, as listed on his POST application. Brayton stated he would submit to a polygraph test to show he was truthful regarding the drug issue. A polygraph examination was scheduled and he failed to show up.

POST left several messages for Brayton, however he failed to respond. POST contacted a friend of Brayton's, whose name was listed on the original complaint to POST. This friend worked for Brayton's former employer and is currently a certified police officer for a local police agency. The friend told POST, Brayton had contacted him following his interview and stated he would not pass the polygraph examination due to his recent use of marijuana.

On June 9, 2008, an administrative complaint was sent to Brayton. He accepted the complaint on June 16, 2008, as per certified mail receipt. Brayton did not respond to the complaint and was believed to be in default and a hearing was scheduled.

### ADMINISTRATIVE LAW JUDGE RECOMMENDATION

On August 28, 2008, a default hearing was held in absentia to revoke Allen Brayton's special function officer certification before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Brayton was in default and found to be in violation of state statute and the Law Enforcement Code of Ethics. Judge Catten recommended Brayton's special function officer certification be revoked.

## **CHIEF ADMINISTRATOR'S RECOMMENDATION**

POST contacted Dave Attridge SLCCPA Training Supervisor. Dave Attridge concurs with POST's recommendation to revoke Brayton's special function officer certification.

## **VIOLATION(S)**

Brayton's actions violated the following:

1. Utah Code Ann § 58-37-8 possession or use of a controlled substance
2. Utah Code Ann § 53-6-211(l)(d)(i) willful falsification of any information in order to obtain certified status
3. Utah Code Ann § 53-6-211(l)(d)(iii) addiction to or the unlawful use of drugs or drug paraphernalia
4. Administrative Code R728-409-3 (J)(1)(l)(i-ii) lying under Garrity and violated the Law Enforcement Code of Ethics

## **AGGRAVATING CIRCUMSTANCE(S)**

Repetitiveness of conduct  
Lack of cooperation during an investigation

## **MITIGATING CIRCUMSTANCE(S)**

None

## **POST RECOMMENDATION**

These charges rise to a category B, C, and D (Possession or use of tier 2 drugs, lying under Garrity, Willful falsification to obtain certified status) on the POST Disciplinary Guidelines. Taking into account the aggravating circumstances, POST recommends the Council accept the ALJ's decision to revoke Brayton's peace officer certification.

## **POST-COUNCIL ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-060LE/C  
**SUBJECT:** David A. Foley  
**Investigator:** Bryant Green

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### ALLEGATION(S)

#### **Misuse of Public Money**

### POST INVESTIGATION OF ALLEGATION(S)

David A. Foley was employed and certified as a correctional officer by the Utah Department of Corrections (UDC) on May 28, 1988. On June 30, 2008, Foley retired from UDC after the internal affairs (IA) investigation.

On May 16, 2008, Foley was assigned as an inmate work crew supervisor at the Utah State Capitol renovation work site. At the end of his shift, Foley took scrap aluminum and cooper from the job site and removed it to his home. On May 17, 2008, Foley took the scrap materials to a recycling site and was paid \$711.60 for the materials.

UDC supervisors received several complaints of scrap material being stolen from the renovation job. As a result of the complaints, a request for an investigation was sent UDC internal affairs investigators.

On June 24, 2008, Foley was interviewed by UDC IA investigators. Foley admitted to taking the scrap materials from the renovation job site and exchanging them for money. Foley also admitted to keeping the money for personal use. Foley was subsequently charged with Misuse of Public Money or in the alternative Failure to Keep, Pay Public Money (The charges are still pending).

On November 6, 2008, POST interviewed Foley. After being given a Garrity warning Foley admitted to the material facts of the case. Foley signed a consent agreement for revocation of his correctional officer certification.

### CHIEF ADMINISTRATORS OPINION

UDC's Law Enforcement Bureau Chief Brent Wiechman concurs with POST's recommendation of revocation of Foley's correctional officer certification.

### VIOLATION(S)

Foley's actions violated the following:

1. Utah Code Ann. § 76-8-402(2) Misuse of public money or in the alternative § 76-8-403 Failure to keep, pay public money
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(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 level of a Category A (a crime that could have been charged as a felony) on the POST Disciplinary Guidelines. POST recommends the Council accept Foley's signed consent agreement for revocation of his correctional officer certification.

### **POST COUNCIL ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-071LE/C  
**SUBJECT:** Bruce Giles  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

**Aggravated Sexual Abuse of a Child  
Sodomy on a Child**

### Employment History

On March 10, 1999, Bruce Giles was employed and certified as a correctional officer by the Millard County Sheriff's Office (MCSO). On June 6, 2008, Giles resigned from the MCSO after being placed on administrative leave.

### POST INVESTIGATION OF ALLEGATION(S)

On May 8, 2008, Giles' ex-wife reported to the MCSO that Giles had molested two female children in the late eighties and the early nineties. MCSO reported the crimes to the State Bureau of Investigation (SBI) and a criminal case was subsequently opened. Criminal charges are currently pending.

The allegations are as follows:

- In the fall of 1990, Bruce Giles sexually molested a thirteen year old female at his house in Salt Lake City. The incident was witnessed by Giles' wife who failed to report it to police.
- In April of 1991, Giles sexually molested a twelve year old female on a house boat in Lake Powell, Utah. This incident was witnessed by a young male relative who did not report it to the authorities.

On November 17, 2008, POST received a signed consent agreement for the revocation of Giles' correctional officer certification.

### CHIEF ADMINISTRATOR'S OPINION

On July 31, 2008, POST reviewed Giles' case with Sheriff Dekker of the MCSO. Sheriff Dekker concurs with POST's recommendation for the revocation of Giles' correctional officer certification.

## **VIOLATION(S)**

Giles' actions violated the following:

1. Utah Code Ann. §76-5-403.1 sodomy on a child
2. Utah Code Ann. §76-5-404.1 aggravated sexual abuse of a child
3. Utah Code Ann. §53-6-211(l)(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 (G) Crimes involving unlawful sexual conduct

## **AGGRAVATING CIRCUMSTANCES**

Repetitiveness of conduct

Activity involving a non-consensual participant

Substantial age difference

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Category A (Commission of any crime that is charged or could have been charged as a felony) on the POST Disciplinary Guidelines. POST recommends the Council accept Giles' signed consent agreement for the revocation of his correctional officer certification.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-085LE  
**SUBJECT:** Christopher J. Francis  
**Investigator:** Bryant Green

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### ALLEGATION(S)

**Falsification of POST application**

### POST INVESTIGATION OF ALLEGATION(S)

Christopher J. Francis was employed and certified as a law enforcement officer by the Sandy City Police Department (SCPD) on December 9, 2004. On September 18, 2006, Francis resigned from SCPD and was hired by the South Salt Lake Police Department (SSLPD) as a law enforcement officer.

On June 10, 2008, Francis was taking a polygraph examination as part of a background investigation for employment with the U.S. Secret Service. During the process, Francis revealed between 2002 and 2004 he viewed and downloaded child pornography on approximately fifty occasions. The U. S. Secret Service notified SSLPD of Francis' statements. SSLPD then notified POST.

On September 9, 2008, POST initiated an investigation into the allegations. A review of Francis' application to attend POST training, dated June 24, 2004 revealed Francis never listed the illegal activity.

On September 30, 2008, POST met with Francis and his attorney. Francis declined to be interviewed but agreed to sign a consent agreement for revocation of his peace officer certification.

### CHIEF ADMINISTRATORS OPINION

South Salt Lake Police Chief Chris Snyder concurs with POST's recommendation of revocation of Francis' peace officer certification.

## **VIOLATION(S)**

Francis' actions violated the following:

1. Utah Code Ann. § 53-6-211(l)(d)(i) willful falsification of any information to obtain certified status
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 level of a Categories D and A (willful falsification to obtain certified status and commission of a crime that could have been charged as a felony) on the POST Disciplinary Guidelines. POST recommends the Council accept Francis' signed consent agreement for revocation of his peace officer certification.

## **POST COUNCIL ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-077SFO  
**SUBJECT:** Barry L. Marshall  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

**Distributing harmful materials to a minor**

### POST INVESTIGATION OF ALLEGATION(S)

On April 21, 2008, Barry Marshall began training in the Dixie State College satellite academy. Marshall was released from the academy on August 29, 2008, after a POST investigation.

During November of 2007 through April of 2008, Marshall sent sexually explicit e-mails and a photo to someone he assumed was a 14-year-old girl. The 14-year old girl was actually a Davis County Sheriff Office (DCSO) Deputy working an internet crime case.

In August 2008, POST was informed of Marshall's criminal activity. POST obtained the e-mails and the photo that Marshall had sent to the deputy.

On August 29, 2008, POST interviewed Marshall. Marshall admitted to all the material facts of the case and signed a consent agreement for the revocation of his Special Function Officer Certification.

Charges in this case are in the process of being screened with the Davis County Attorney.

### CHIEF ADMINISTRATOR'S OPINION

On August 29, 2008, POST reviewed Marshall's case with Director Dave Holm of the Dixie State College Academy. Director Holm concurs with POST's recommendation for the revocation of Marshall's Special Function Officer Certification.

### VIOLATION(S)

Marshall's actions violated the following:

1. Utah Code Ann. §76-10-1206 Dealing harmful material to a minor
2. Utah Code Ann. §76-4-401 Enticing a minor

3. Administrative Code R728-409-3(G) in that he violated the Law Enforcement Code of Ethics.

**AGGRAVATING CIRCUMSTANCES**

Repetitiveness of conduct

**MITIGATING CIRCUMSTANCES**

None

**POST RECOMMENDATION**

These charges rise to a level of a Category A (crime that could have been charged as a felony) on the POST Disciplinary Guidelines. POST recommends the Council accept Marshall's signed consent agreement for the revocation of his Special Function Officer Certification.

**POST COUNCIL'S ACTION**

**FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-090LE/C  
**SUBJECT:** John F. McAuliffe  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

#### **Custodial Sexual Misconduct**

### POST INVESTIGATION OF ALLEGATION(S)

October, 27, 2003, John McAuliffe was employed and certified as a correctional officer by the Utah Department of Corrections (UDC). McAuliffe resigned from UDC on September 17, 2008, after an internal affairs (IA) investigation.

On August 28, 2008, UDC employees witnessed McAuliffe and a female parolee engaging in a conversation at the Orange Street Community Correctional Center. During the conversation McAuliffe and the parolee were sitting very close which had the appearance of a personal, intimate conversation. This caused the UDC employees concern, so a search was done of the parolee's room. Correspondences between the parolee and McAuliffe were found that suggested an inappropriate relationship existed.

On September 9, 2008, UDC investigators interviewed the female parolee. She admitted to kissing McAuliffe, but nothing else. She told the investigators that another female inmate and McAuliffe had engaged in a sexual relationship at the prison.

On September 10, 2008, UDC investigators interviewed the female inmate that was alleged to have had sexual relations with McAuliffe. During the interview, the inmate admitted to having sexual encounters with McAuliffe on three separate occasions. She stated that McAuliffe had also provided her with sexually explicit literature.

On September 11, 2008, UDC IA interviewed McAuliffe. McAuliffe admitted to having a sexual relationship with the inmate in his office at the prison. He also admitted to providing her with sexually explicit literature. McAuliffe also admitted to kissing the female parolee.

On October 7, 2008, POST contacted McAuliffe by telephone. McAuliffe refused to be interviewed, but agreed to sign a consent agreement for revocation of his correctional officer certification.

## **CHIEF ADMINISTRATOR'S OPINION**

On October 27, 2008, POST reviewed McAuliffe's case with Bureau Chief Brent Wiechman of UDC. Chief Wiechman concurs with POST recommendation for the revocation of McAuliffe's correctional officer certification.

## **VIOLATION(S)**

McAuliffe's actions violated the following:

1. Utah Code Ann. §76-5-412 custodial sexual relations
2. Utah Code Ann. §53-6-211(l) (d) (iv) any crime involving unlawful sexual conduct
3. Administrative Code R728-409-3 (G) Crimes involving unlawful sexual conduct

## **AGGRAVATING CIRCUMSTANCES**

Repetitiveness of conduct  
At workplace  
On-duty

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to the level of a Category A (Custodial Sexual Misconduct) on the POST Disciplinary Guidelines. POST recommends the Council accept McAuliffe's signed consent agreement for the revocation of his correctional officer certification.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-099SFO  
**SUBJECT:** Dustin Stringham  
**Investigator:** Paul Kotter

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### ALLEGATION(S)

**Dishonesty**  
**Lying under Garrity**

### EMPLOYMENT HISTORY

Davis County Sheriff's Office (DCSO) – hired and sent to POST for training  
Special Function Officer Certified – October 3, 2008  
Released from POST and terminated from DCSO following a POST investigation –  
November 6, 2008

### POST INVESTIGATION OF ALLEGATION(S)

A POST civilian staff member observed Stringham's performance on his physical fitness workout in mid October and believed Stringham was not completing the required workout. From this time forward the basic staff began to closely monitor his workouts.

On November 6, 2008, Dustin Stringham's POST class was participating in a physical training workout- the workout consisted of 25 push-ups, 50 sit-ups, 75 air squats, a broad jump exercise, and an 800 meter run (four times). The same civilian staff member counted 48 sit-ups and 62 air-squats in Stringham's second set and 43 sit-ups, 58 air-squats in Stringham's third set. The POST staff member informed a POST sergeant about his observations.

The POST Sergeant counted Stringham's repetitions and noted Stringham only completed 36 of 50 sit-ups and 47 of 75 air-squats in the forth set. The Sergeant noted Stringham did not appear to be trying very hard and was blatantly not completing the assigned workout.

Lieutenant Breur, Sergeant Mason and Sergeant McBride, interviewed Stringham about his workout. During the interview, Stringham denied not completing the workout in its entirety. The POST Basic Training staff interviewed several of Stringham's classmates. The classmates had witnessed Stringham cheating during several previous workouts. As a result of their observations they confronted Stringham and emphasized the importance of completing workouts. Unfortunately, this warning failed to motivate Stringham to correct his behavior.

The case was referred to POST Investigations. A POST Investigator reviewed the witness statements and interviewed the POST Basic Training staff who had interviewed Stringham.

After being issued a Garrity warning, Stringham vehemently denied cheating during physical fitness training. The investigator had Stringham recite the workout for November 6, to ensure he understood the expectations. Stringham recited the exact workout requirements. When Stringham was asked if he did each pushup, situp, air squat, and 800 meter run for each set, Stringham again stated he had. Later during the interview, Stringham admitted it was possible he did not do the full workout, but believed he had.

Based on the evidence gathered from the POST staff, the witness statements of Stringham's classmates and Stringham's own inconsistent statements, POST concluded Stringham lied under Garrity.

Based on the aggravating circumstances, Stringham agreed to sign a consent agreement for the revocation of his special function officer certification. However, upon further review and staff deliberation of this case, it was determined a three year suspension would be more appropriate and more consistent with POST guidelines.

### **CHIEF ADMINISTRATOR'S OPINION**

POST reviewed Stringham's case with Sheriff Bud Cox of DCSO. Sheriff Cox concurs with POST's recommendation for a three year suspension of Stringham's special function officer certification and dismissal from POST.

### **VIOLATION(S)**

Stringham's actions violated the following:

1. Utah Code Ann. §53-6-211(l)(d)(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)(l)(i-ii) in that he violated the Law Enforcement Code of Ethics

### **AGGRAVATING CIRCUMSTANCES**

Pre-existing warnings  
Repetitiveness of conduct  
Violation of POST policy and procedure

### **MITIGATING CIRCUMSTANCES**

None

**POST RECOMMENDATION**

These charges rise to category D and C (Dishonesty and Lying under Garrity to POST) on the POST Disciplinary Guidelines. POST recommends the Council accept a three year suspension of Stringham's special function officer certification, beginning November 6, 2008 through November 6, 2011

**POST COUNCIL'S ACTION**

**FINAL ORDER**





# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 07-022LE  
**SUBJECT:** Michael R. Bastian  
**Investigator:** Bryant Green

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### ALLEGATION(S)

**Failure to Report Child Abuse  
Witness Tampering**

### POST INVESTIGATION OF ALLEGATION(S)

Michael R. Bastian was employed and certified as a correctional officer by the Utah Department of Corrections (UDC) on December 16, 1991. On September 2, 1994, Bastian resigned from UDC and was employed and certified as a law enforcement officer by the Provo City Police Department (PCPD). Bastian is currently on unpaid leave with PCPD.

In September of 2006, Bastian was living with his fiancé in Provo. Also living with Bastian was his fourteen year-old son and his fiancé's four year-old daughter. Sometime between September 1, 2006, and September 4, 2006, Bastian became aware his son sexually abused the four year-old girl. Immediately after discovering the abuse, Bastian relocated his son to live with the boy's mother in St. George Utah. Bastian never reported the abuse incident to the proper authorities. (Note: Several years prior, Bastian's son also abused two other young girls.)

On November 16, 2006, the victim's father (biological) learned of the abuse and reported the incident to the Division of Family Services (DCFS). DCFS notified Provo PD of the reported allegations. As a result of the allegations, Provo PD requested Orem Department of Public Safety (ODPS) to open a criminal investigation into the incident.

On November 22, 2006, at the request of ODPS, St. George PD (SGPD) investigators interviewed Bastian's son. During the interview, Bastian's son admitted to the abuse and also told investigators he informed his father of what he had done to the victim prior to moving to St. George.

On November 27, 2006, ODPS interviewed Bastian. During the interview, Bastian denied knowing the details of the abuse, and explained the primary reason for moving his son to St. George was because of his bad grades.

On December 20, 2006, ODPS and SGPD conducted a second interview with Bastian's son. During this interview the boy changed his story, stating he was confused during the first interview and he never told his father what he did to the victim. It was later learned that Bastian had several telephone conversations with his son immediately after the first interview.

On March 27, 2007, Bastian was charged with Failure to Report Child Abuse, a Class B misdemeanor and Witness Tampering, a Class A misdemeanor. On December 18, 2007, Bastian entered a plea of guilty to an amended charge of Failure to Report Child Abuse, a Class C misdemeanor. The charge of witness tampering was dismissed.

On October 9, 2008, during an Administrative Hearing, Bastian agreed to sign a consent agreement for a three-year suspension of his peace officer certification.

### **CHIEF ADMINISTRATORS OPINION**

POST contacted PCPD Chief Craig Geslison and he concurs with POST's actions.

### **VIOLATION(S)**

Bastian's actions violated the following:

1. Utah Code Ann. § 62A-4a-411 Failure to Report Child Abuse
2. Utah Code Ann. § 76-8-508 Witness Tampering
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) Violation of the Law Enforcement Code of Ethics

### **AGGRAVATING CIRCUMSTANCES**

None

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a level of Categories D and C (crimes charged as Class B and A misdemeanors) on the POST Disciplinary Guidelines. POST recommends the Council accept Bastian's signed consent agreement suspending his peace officer certification beginning on September 1, 2006, and ending on September 1, 2009.

### **POST COUNCIL ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-0067LE/C  
**SUBJECT:** Christie E. Holdaway  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

**Theft**  
**Pattern of Conduct**

### POST INVESTIGATION OF ALLEGATION(S)

On January 16, 1993, Christie Holdaway was employed and certified by the Salt Lake County Sheriff's Office (SLCSO) as a correctional officer. Holdaway was terminated on October 3, 2008, after an internal affairs (IA) investigation.

On March 11, 2008, Holdaway was investigated by SLCSO for arriving to work with a detectable and measurable amount of alcohol in her system. The IA investigation showed that her breath alcohol concentration was .03. Holdaway was disciplined by SLCSO for this incident. This case was not referred to POST at that time.

On June 14, 2008, two SLCSO correctional officers observed Holdaway take prescription pills from the locker of another employee inside the Salt Lake County Jail. The officers observed Holdaway take an undetermined number of pills and ingest them. Holdaway was on duty at the time of the theft. The owner of the pills did not give Holdaway permission to take them. The pills were identified as *Ultram*, a non-scheduled synthetic narcotic.

The officers confronted Holdaway about the theft of the prescription pills. She stated that she had received a prescription for the same drug a few years earlier. The deputies explained to her that the pills she had just ingested might show up on a blood test. Holdaway stated that if the department had her submit to a blood test, she would just say the pills belonged to her.

SLCSO IA interviewed Holdaway and she admitted to all the material facts of the case.

On July 23, 2008, POST interviewed Holdaway and she admitted to all the material facts of both cases.

On August 25, 2008, Holdaway was issued an administrative complaint. Holdaway received the complaint on September 2, 2008. Holdaway failed to respond to the complaint and was believed to be in default.

### **ADMINISTRATIVE LAW JUDGE RECOMMENDATION**

On October 27, 2008, a default hearing was held in absentia to suspend Christie E. Holdaway's correctional officer certification before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Holdaway was in default and she violated the Law Enforcement Code of Ethics. Judge Catten recommended Holdaway's correctional officer certification should be suspended for three years.

### **CHIEF ADMINISTRATOR'S OPINION**

On October 7, 2008, POST reviewed Holdaway's case with Sheriff James Winder of the SLCSO. Sheriff Winder concurs with POST's recommendation for a three-year suspension of Holdaway's correctional officer certification.

### **VIOLATION(S)**

Holdaway's actions violated the following:

1. Utah Code Ann. §76-6-404 Theft
2. Utah Code Ann. §53-6-211(l)(d)(v) any conduct or pattern of conduct that would tend disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement
3. Administrative Code R728-409-3(J)(1)(l)(i) Violation of the Law Enforcement Code of Ethics

### **AGGRAVATING CIRCUMSTANCES**

On duty  
At workplace

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a level of a Category D (Crime that could have been charged as a class B misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept the ALJ's recommendation of suspension of her correctional officer certification for three-years starting on December 10, 2008 to December 10, 2011.

### **POST COUNCIL'S ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-074D  
**SUBJECT:** Hazel M. Lopez  
**Investigator:** Steven Winward

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### ALLEGATION(S)

#### **Theft**

### POST INVESTIGATION OF ALLEGATION(S)

Hazel M. Lopez was hired as a dispatcher by the Salt Lake County Sheriff's Office (SLCSO) on September 25, 1989. Lopez became certified as a dispatcher on July 1, 1996. Lopez is currently employed with SLCSO.

On March 8, 2008, Lopez was working a shift at her part time job at K-Mart. Her daughter-in-law came into the store and bought a television for \$250.00. The next day, Lopez's son returned the same television (with substantial damage) to the store while Lopez was working at the customer service desk. Lopez's son exchanged the television with the help of Lopez for a television valued at \$699.00. Neither Lopez nor her son paid the difference for the television.

On March 13, 2008, a K-Mart loss prevention officer was conducting an audit of the electronics department and noticed the discrepancies with the television exchange. The loss prevention officer reviewed the video tapes and saw the exchange with Lopez and a person who was identified as her son. The loss prevention officer identified several violations of K-Mart policies in the exchange and provided Lopez with several opportunities to pay the difference, but she failed to do so.

K-mart Loss prevention attempted to interview Lopez about the television exchange, however, Lopez resigned from K-Mart prior to the interview. K-Mart referred the case to Salt Lake City Police Department. Salt Lake City conducted an investigation and filed theft charges against Lopez. On May 25, 2008, Lopez entered into a plea in abeyance agreement and pled to the Class A misdemeanor theft.

On September 19, 2008, Lopez, through her attorney, signed a consent agreement for a three-year suspension of her Dispatcher Certification- December 10, 2008, through December 10, 2011.

## **CHIEF ADMINISTRATOR'S OPINION**

On September 2, 2008, POST reviewed the case with Sheriff Winder of the SLCSO. Sheriff Winder concurs with POST's recommendation for a three-year suspension of Lopez's Dispatcher Certification.

## **VIOLATION(S)**

Lopez's actions violated the following:

1. Utah Code Ann. §76-6-404 Theft
2. Utah Code Ann. §53-6-211 (1)(d)(iv) Conviction of a crime of dishonesty
2. Administrative Code R728-409-3(F) in that she violated the Law Enforcement Code of Ethics.

## **AGGRAVATING CIRCUMSTANCES**

None

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Category C (Charged or could have been charged with a Class A Misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept Lopez's signed consent agreement for a three-year suspension of her Dispatcher Certification, from December 10, 2008 to December 10, 2011.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 07-067LE/C  
**SUBJECT:** David M. Rasmussen  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

**Selling Vehicles without a Dealer's License**

### POST INVESTIGATION OF ALLEGATION(S)

David Rasmussen was hired and certified by the Utah Department of Corrections (UDC) on January 19, 1988. He retired from UDC on February 14, 2008.

In the summer of 2006, Motor Vehicle Enforcement (MVE) discovered that Rasmussen had been selling numerous vehicles on KSL.com and Craig's List without a dealer's license. Rasmussen had been warned, a few years prior to this incident, by MVE that he was required to have a dealer's license.

In July of 2007, Rasmussen was charged with three Class A misdemeanor's for acting as a dealer without a license. Rasmussen entered a plea in abeyance to one count and the other charges were dropped.

On September 15, 2008, POST conducted a telephonic interview with Rasmussen. He told POST that he did not want to contest the allegations and agreed to sign a consent agreement for a three-year suspension of his correctional officer certification.

### CHIEF ADMINISTRATOR'S OPINION

On September 29, 2008, POST reviewed Rasmussen's case with UDC Bureau Chief Brent Wiechman. Chief Wiechman concurs with POST's recommendation of a three-year suspension of Rasmussen's correctional officer certification.

### **VIOLATION(S)**

Rasmussen's actions violated the following:

1. Utah Code Ann. §41-3-201(2) license required
2. Utah Code Ann. 53-6-211 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(F) crime of dishonesty

### **AGGRAVATING CIRCUMSTANCES**

Pre-existing warnings

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a level of a Category C (commission of a class A misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept Rasmussen's signed consent agreement for a three year suspension of his correctional officer certification, starting February 14, 2008 to February 14, 2011.

### **POST COUNCIL'S ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-073LE  
**SUBJECT:** Derek W. Wells  
**Investigator:** Rich Fordham

---

### ALLEGATION(S)

**Theft**

### POST INVESTIGATION OF ALLEGATION(S)

Derek Wells was employed and certified by Washington County Sheriff's Office (WCSO) on March 22, 2004. On June 13, 2008, Wells resigned from WCSO at the conclusion of the department's internal affairs (IA) investigation.

On June 9, 2008, WCSO received information that Wells was in possession of a set of stolen tires and rims. The owner of the property recognized the tires and rims after he saw a picture of them on a "For Sale" sign. When the owner met with Wells and told him the tires and rims were his, Wells returned the property to the owner.

On June 13, 2008, WCSO IA interviewed Wells. Wells admitted to stealing the tires and rims and trying to sell them to make money.

On July 31, 2008, POST conducted a telephonic interview with Wells. Wells admitted to stealing the tires and rims and agreed to sign a consent agreement suspending his Peace Officer Certification for three-years.

Charges in this case were not screened with the county attorney.

### CHIEF ADMINISTRATOR'S OPINION

On August 21, 2008, POST reviewed Wells' case with Sheriff Kirk Smith of WCSO. Sheriff Smith concurs with POST's recommendation for the three-year suspension of Wells' Peace Officer Certification.

**VIOLATION(S)**

Wells' actions violated the following:

1. Utah Code Ann. §76-6-404 theft
2. Administrative Code R728-409-3(F) in that he violated the Law Enforcement Code of Ethics.

**AGGRAVATING CIRCUMSTANCES**

None

**MITIGATING CIRCUMSTANCES**

None

**POST RECOMMENDATION**

These charges rise to a level of a Category C (crime that could have been charged as a Class A misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept Wells' signed consent agreement for a three-year suspension of his Peace Officer Certification, starting June 13, 2008 to June 13, 2011.

**POST COUNCIL'S ACTION**

**FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 07-047LE  
**SUBJECT:** George S. Alexanderson  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

**Consensual Sexual Misconduct off Duty**

### POST INVESTIGATION OF ALLEGATION(S)

George Alexanderson was employed and certified by the Utah County Sheriff's Office (UCSO) on March 4, 1988. During his tenure he attained the rank of Sergeant. Alexanderson was terminated from UCSO on June 1, 2007, after an internal affairs (IA) investigation.

On March 8, 2007, UCSO IA began an investigation into allegations that Alexanderson had a sexual encounter with a female motorist he met during a traffic stop. During the stop Alexanderson gave the female a warning for a cracked windshield. Alexanderson used county resources to look up the female's personal information several times. While off duty, Alexanderson made contact with the female at her place of work and offered to pay for a new windshield.

In February or March of 2007, Alexanderson and the female engaged in an off duty sexual encounter. Alexanderson was married when the sexual encounter occurred. During the IA investigation, the female told UCSO IA that she felt Alexanderson had used his position as a police officer to take advantage of her.

On July 16, 2008, POST conducted a telephonic interview with Alexanderson. Alexanderson admitted that the sexual encounter had taken place, but stated the female was a willing participant. Alexanderson agreed to sign a consent agreement for a two-year suspension of his peace officer certification.

### CHIEF ADMINISTRATOR'S OPINION

On July 17, 2008, POST reviewed the case with Utah County Sheriff Tracy. Sheriff Tracy concurs with POST's recommendation to suspend Alexanderson's peace officer certification for two-years.

## **VIOLATION(S)**

Alexanderson's actions violated the following:

1. 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
2. Administrative Code R728-409-3(J)(1)(g)(ii-iii) in that he violated the Law Enforcement Code of Ethics.

## **AGGRAVATING CIRCUMSTANCES**

Misuse position of trust and authority  
Supervisory level

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Category E (consensual sexual misconduct off duty) on the POST Disciplinary Guidelines. POST recommends the Council accept Alexanderson's signed consent agreement for a two-year suspension of his peace officer certification starting June 1, 2007 to June 1, 2009.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-075LE/C  
**SUBJECT:** Kenneth F. Curtis  
**Investigator:** Rich Fordham

---

### ALLEGATION(S)

**Malfeasance**

### POST INVESTIGATION OF ALLEGATION(S)

Kenneth Curtis was employed and certified by the Utah Department of Corrections (UDC) as a correctional officer on April 8, 1991. During his tenure he attained the rank of sergeant. On July 1, 2008, Curtis resigned after the conclusion of the internal affairs investigation (IA).

In April of 2008, Curtis developed a relationship with a female inmate and provided her with his personal cell phone number. He also gave this same inmate a napkin with his cologne on it. A UDC officer overheard parts of a conversation between Curtis and the female inmate that was sexual in nature. The officer reported this conversation to a supervisor.

On May 19, 2008, UDC interviewed Curtis. Curtis admitted to giving his cell phone number to the female inmate and giving her the napkin with cologne. Curtis also admitted to being overly friendly (fraternizing) with the inmate and was aware he had violated UDC policy.

On August 20, 2008, POST conducted an interview with Curtis. He admitted to all the material facts of the case and agreed to sign a consent agreement suspending his Correctional Officer Certification for two-years.

### CHIEF ADMINISTRATOR'S OPINION

On August 25, 2008, POST reviewed Curtis' case with Chief Brent Wiechman of UDC. Chief Wiechman concurs with POST's recommendation for the two-year suspension of Curtis' Correctional Officer Certification.

## **VIOLATION(S)**

Curtis' actions violated the following:

1. Utah Code Ann. §53-6-211(l)(d)(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)(i)(i) in that he violated the Law Enforcement Code of Ethics.

## **AGGRAVATING CIRCUMSTANCES**

On duty  
Supervisory authority  
At workplace  
Custodial environment

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Category F (Malfeasance) on the POST Disciplinary Guidelines. POST recommends the Council accept Curtis' signed consent agreement for the suspension of his Correctional Officer Certification for two-years starting on July 1, 2008 to July 1, 2010.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-030LE/C  
**SUBJECT:** Nathan E. Hansen  
**Investigator:** Paul Kotter

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### ALLEGATION(S)

#### Misfeasance

### EMPLOYMENT HISTORY

- Utah State Department of Corrections (UDC) – employed and certified as a correctional officer on September 11, 1998
- Promoted to the rank of Lieutenant June 17, 2006
- Terminated from UDC following an internal affairs (IA) investigation – June 7, 2007

### POST INVESTIGATION OF ALLEGATION(S)

On March 5, 2007, a UDC sergeant wrote a letter to his administration complaining that Hansen had sexually harassed his wife. The complaint alleged over the last two years Hansen had directed many crude and unwanted conversations, email, pictures and other communication to the UDC sergeant's wife.

On March 9, 2007, the female was interviewed by UDC IA. The female informed the investigators the offensive communications were unwanted and unsolicited by her. She stated she told Hansen to stop harassing her many times. When her efforts failed to stop Hansen's communications, she asked her husband to help. She stated after her husband had told Hansen to stop with the harassing communications, Hansen continued the behavior.

On March 14, 2007, Hansen was interviewed by UDC IA. Hansen was forthright in the interview and admitted to sending inappropriate emails to the female. He stated after being confronted by the female's husband he apologized and stopped sending them. There is no evidence to show that other inappropriate emails were sent to the female after Hansen was confronted. Hansen admitted to having sexual conversations in front of the female. He admitted to an inappropriate picture he left on a computer screen as well as inappropriate conversations directed towards the female.

On April 14, 2008, POST met with Hansen. After being issued a Garrity warning, Hansen admitted to the material facts of the case. After consulting with his attorney he decided to proceed with an administrative hearing.

On June 9, 2008, an administrative complaint was sent to Hansen. He accepted the complaint on June 12, 2008. Hansen did not respond to the complaint and was believed to be in default and a hearing was scheduled. On August 19, 2008, Hansen's attorney contacted POST. Hansen's

attorney informed POST that Hansen would sign a consent agreement for a two year suspension of his correctional officer certification.

### **CHIEF ADMINISTRATOR'S OPINION**

POST Investigations contacted UDC Investigations Chief Brent Wiechman, who was acting on behalf of Director Thomas Patterson. Chief Wiechman concurs with POST's recommendation for the suspension of Hansen's correctional officer certification.

### **VIOLATION(S)**

Hansen's actions violated the following:

1. Utah Code Ann § 53-6-211(I)(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)(I)(i) violation of the Law Enforcement Code of Ethics

### **AGGRAVATING CIRCUMSTANCE(S)**

Repetitiveness of conduct  
Supervisor Authority  
On Duty  
Disruption to the department

### **MITIGATING CIRCUMSTANCE(S)**

None

### **POST RECOMMENDATION**

These charges rise to a category F (Misfeasance of office) on the POST Disciplinary Guidelines. Taking into account the aggravating circumstances, POST recommends the Council accept Hansen's signed consent agreement suspending his correctional officer certification from June 7, 2007, through June 7, 2009.

### **POST-COUNCIL ACTION**

### **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-055LE  
**SUBJECT:** Tony C. Lunceford  
**Investigator:** Bryant Green

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### ALLEGATION(S)

DUI  
Open Container

### EMPLOYMENT HISTORY

- Utah Valley State College PD, April 4, 2000 - July 23, 2007
- Mapleton Police Department, February 12, 2001 - August 7, 2006
- Spanish Fork Police Department, July 1, 2004 - June 11, 2008

### POST INVESTIGATION OF ALLEGATION(S)

On June 8, 2008, Tony C. Lunceford was arrested by the Utah Highway Patrol (UHP) for Driving Under the Influence of Alcohol, Open Container and Window Tint. On June 11, 2008, Lunceford resigned from the Spanish Fork Police Department (SFPD).

In the early morning of June 8, 2008, officers from the SFPD and the Salem Police Department responded to a call of a single vehicle crash. While enroute to the call, the officers were advised the vehicle had left the scene. The description of the suspect vehicle was that of a white and tan two tone Ford pickup truck. The responding officers began searching the area for the suspect vehicle.

A short distance from the scene of the accident a SFPD officer observed a white and tan Ford pickup truck parked on a gravel road. The officer saw an individual walking away from the truck. The officer exited his vehicle and identified the individual as Tony C. Lunceford. While speaking with Lunceford the officer was able to smell the odor of an alcoholic beverage on his breath. The officer also observed damage to the rear passenger side of the truck. SFPD requested UHP to respond and investigate the incident.

During the initial UHP investigation, Lunceford made the pre-arrest statement that it was his wife who drove the truck during the crash and he drove the truck away from the scene of the crash. Lunceford failed the SFST's and was placed under arrest for DUI. Lunceford invoked his Miranda rights and refused to submit to any chemical tests.

UHP secured a search warrant to obtain blood and urine samples from Lunceford. The results of the Blood Alcohol test revealed Lunceford's blood contained 0.13 grams ethanol/100 ml blood (criminal case is pending).

Beginning on July 14, 2008, POST made numerous attempts to contact Lunceford to arrange for an interview. On August 7, 2008, a consent agreement and an administrative complaint were sent via certified mail to Lunceford's last known address. The delivery was never accepted and the complaint was returned to POST. Lunceford was believed to be in default and a default hearing was scheduled.

### **ADMINISTRATIVE LAW JUDGE RECOMMENDATION**

On October 27, 2008, a default hearing was held in absentia to suspend Tony C. Lunceford's peace officer certification before Administrative Law Judge (ALJ) J. Richard Catten. The ALJ ruled Lunceford was in default and he violated the Law Enforcement Code of Ethics. Judge Catten recommended Lunceford's peace officer certification should be suspended for two years.

### **CHIEF ADMINISTRATORS OPINION**

SFPD Chief of Police Dee Rosenbaum concurs with POST's recommendation of a two-year suspension of Lunceford's peace officer certification.

### **VIOLATION(S)**

Lunceford's actions violated the following:

1. Utah Code Ann. § 41-6a 502 Driving under the influence of alcohol
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. Administrative Code R728-409-3(J)(1)(l)(i) in that he violated the Law Enforcement Code of Ethics

### **AGGRAVATING CIRCUMSTANCES**

Lack of cooperation with investigation  
Disruption to the community and/or department

### **MITIGATING CIRCUMSTANCES**

None

**POST RECOMMENDATION**

These charges rise to a level of a Category D (DUI and commission of a crime charged as a Class B misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept the ALJ's recommendation of a two-year suspension of his peace officer certification beginning on December 10, 2008 through December 10, 2010.

**POST COUNCIL ACTION**

**FINAL ORDER**





# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-082LE  
**SUBJECT:** Jeffery A. Fewkes  
**Investigator:** Bryant Green

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### ALLEGATION(S)

**Misfeasance of Office**

### POST INVESTIGATION OF ALLEGATION(S)

Jeffery A. Fewkes was employed and certified as a correctional officer by the Utah Department of Corrections (UDC) on June 13, 2005. On April 28, 2006, Fewkes resigned from the UDC and was hired and certified by the Sandy City Police Department (SCPD) as a law enforcement officer. Fewkes resigned from the SCPD on August 19, 2008, after the internal affairs (IA) investigation

On August 10, 2008, a SCPD officer reported to his supervisor he witnessed Fewkes, who was on duty in a public place, embracing and kissing a woman who was not Fewkes's wife. The incident was reported through the SCPD chain of command and an IA was opened on August 12, 2008.

The investigation revealed Fewkes would notify his dispatch of the times and locations he would check out for lunch and then check back on duty. A cross reference check of Fewkes' in-car GPS locator indicted he would arrive at his lunch location 10 to 15 minutes before notifying his dispatch and would remain at the location 15-20 minutes after checking back in-service . Additionally, the investigation revealed the woman Fewkes was seen with was not his wife.

On August 14, 2008, Fewkes was interviewed as part of the IA investigation. After being issued a Garrity warning, Fewkes admitted to the relationship and spending time with her at lunch. He stated he was unaware of the amounts of time he was taking in excess of his allotted 30 minute lunches. Fewkes volunteered he would "make out" with the woman during these lunches and on two occasions touched her breasts.

On September 23, 2008, POST interviewed Fewkes. After being issued a Garrity warning, Fewkes admitted to the material facts of the case. Fewkes signed a consent agreement for an 18- month suspension of his certifications.

## **CHIEF ADMINISTRATORS OPINION**

Sandy City Police Chief Stephen Chapman concurs with POST's recommendation of an 18- month suspension of Fewkes' peace officer certification.

## **VIOLATION(S)**

Fewkes' 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**

On duty

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Categories F (misfeasance of office) on the POST Disciplinary Guidelines. POST recommends the Council accept Fewkes' signed consent agreement for 18-month suspension of his peace officer and correctional officer certifications beginning on August 19, 2008 through February 19, 2008.

## **POST COUNCIL ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-070LE  
**SUBJECT:** Daniel J. Kotter  
**Investigator:** Bryant Green

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### ALLEGATION(S)

**Misfeasance of office**

### POST INVESTIGATION OF ALLEGATION(S)

Daniel J. Kotter was employed and certified as a correctional officer with the Weber County Sheriff's Office (WCSO) on August 1, 2000. On June 23, 2006, Kotter was certified by the WCSO as a law enforcement officer. On July 7, 2008, Kotter resigned from the WCSO after an internal affair (IA) investigation.

On May 10, 2008, Kotter, who was off-duty, was involved in an argument with the manager of the state liquor store in Harrisville, Utah. Kotter parked his private vehicle behind the store in a restricted area. When the store manager first observed Kotter's car, she asked him to leave. Kotter, who was talking with a friend, didn't immediately move his car. The manager returned ten minutes later and, after finding Kotter's car still parked behind the store, demanded he immediately leave. An argument ensued and the manager called the police.

Officers from the Harrisville Police Department responded to the liquor store and initiated a traffic stop while Kotter was attempting to leave the parking lot. Kotter told the officers he had parked both his private vehicle and his police vehicle behind the liquor on several previous occasions. According to the officer, he advised Kotter not to return to the store for the rest of the day. Kotter then left the parking lot and drove away.

Shortly after leaving the store Kotter realized he left without making his purchase. Kotter returned to the store. After arriving, he saw the same two Harrisville police officers standing outside of the store talking. Kotter walked by the officers and went into the store to make his purchase. A short time later, one of the officers came into the store and confronted Kotter. Kotter was prevented from making his purchase and was told to leave.

During the WCSO IA, Kotter claimed he was never told he couldn't return to the liquor store. Additionally, during the IA, a separate allegation was made that Kotter was having a relationship with another deputy's wife. Kotter denied the allegation and no definitive evidence was uncovered.

The Harrisville police officer screened the case with their city attorney. The city attorney decided to defer filing any charges until March of 2009. At that time, if Kotter is not charged with any other crime, the case will be dropped.

On September 23, 2008, Kotter was interviewed by POST. After being issued a Garrity warning, Kotter stated he always parked behind the store and it was never an issue before the May 10 incident. He also stated he was not given a trespass warning that day by the Harrisville officer. Kotter admitted to participating in "hot-tub" parties with his wife and another deputy and his wife, but he denied having any kind of relationship with this other woman. Kotter agreed to sign a consent agreement for an 18-month suspension of his peace officer certification.

### **CHIEF ADMINISTRATORS OPINION**

WCSO Sheriff Brad Slater concurs with POST's recommendation of an 18- month suspension of Kotter's peace officer certification.

### **VIOLATION(S)**

Kotter's actions violated the following:

1. 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 and fidelity in law enforcement
2. Administrative Code R728-409-3(J)(1)(1)(i) in that he violated the Law Enforcement Code of Ethics.

### **AGGRAVATING CIRCUMSTANCES**

None

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a level of a Categories F (misfeasance of office) on the POST Disciplinary Guidelines. POST recommends the Council accept Kotter's signed consent agreement for 18-month suspension of his peace officer and correctional officer certifications beginning on July 7, 2008 through January 7, 2010.

### **POST COUNCIL ACTION**

### **FINAL ORDER**



# **POST Investigations Bureau**

## **CASE SUMMARY**

**CASE NO:** 08-084LE  
**SUBJECT:** Garrett H. Whatcott  
**Investigator:** Rich Fordham

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### **ALLEGATION(S)**

**Consensual Sexual Misconduct off duty**

### **EMPLOYMENT HISTORY**

- Utah State Wildlife Division (USWD) December 24, 2001 to June 2005
- Duchesne County Sheriff's Office (DCSO) June 28, 2005 to December 2007
- Vernal Police Department (VPD) December 3, 2007 to September 20, 2008

### **POST INVESTIGATION OF ALLEGATION(S)**

On July 23, 2008, VPD responded to a disturbance call at the home of a Uintah County Deputy. The deputy's husband was threatening suicide after becoming suspicious of an affair between his wife and Officer Whatcott.

On July 28, 2008, VPD IA conducted an interview with Whatcott. Whatcott admitted to IA that he did have sexual relations with Deputy Pemberton while off duty; Whatcott was separated from his current wife at the time the sexual relationship occurred.

On September 22, 2008, POST conducted an interview with Whatcott. He admitted to having a sexual relationship with a married county deputy during his separation from his wife. He signed a consent agreement for a one-year suspension of his peace officer certification.

### **CHIEF ADMINISTRATOR'S OPINION**

On September 22, 2008, POST reviewed Whatcott's case with Chief Gary Jensen of the Vernal Police Department. Chief Jensen concurs with POST's recommendation for a one-year suspension of Whatcott's peace officer certification.

## **VIOLATION(S)**

Whatcott's actions violated the following:

1. 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
2. Administrative Code R728-409-3(J)(1)(g)(ii-iii) in that he violated the Law Enforcement Code of Ethics

## **AGGRAVATING CIRCUMSTANCES**

None

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Category E (consensual sexual misconduct off duty) on the POST Disciplinary Guidelines. POST recommends the Council accept Whatcott's signed consent agreement for a one-year suspension of his peace officer certification, starting September 20, 2008 to September 20, 2009.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-083LE  
**SUBJECT:** Arleesa C. Pemberton  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

Consensual Sexual Misconduct off duty

### EMPLOYMENT HISTORY

- Uintah County Sheriff's Office (UCSO) August 6, 2001, to August 20, 2008
- Utah Department of Corrections (UDC) September 4, 2001 to April 30, 2007 as a part-time employee

### POST INVESTIGATION OF ALLEGATION(S)

On July 20, 2008, the Vernal Police Department (VPD) responded to Pemberton's home on a family dispute call. Pemberton's husband was threatening suicide because he had suspicions that Pemberton and a VPD officer were having a sexual relationship.

On July 30, 2008, UCSO IA conducted an interview with Pemberton. Pemberton admitted to having marital problems and to having an off duty sexual relationship with VPD Officer Whatcott.

On September 22, 2008, POST interviewed Pemberton. Pemberton admitted to all the material facts of the case and signed a consent agreement for a one-year suspension of her peace officer certification.

### CHIEF ADMINISTRATOR'S OPINION

On September 23, 2008, POST reviewed the case with Sheriff Merrell of the UCSO. Sheriff Merrell concurs with POST's recommendation for a one-year suspension of Pemberton's peace officer certification.

## **VIOLATION(S)**

Pemberton actions violated the following:

1. 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
2. Administrative Code R728-409-3(J)(1)(g)(ii-iii) in that she violated the Law Enforcement Code of Ethics.

## **AGGRAVATING CIRCUMSTANCES**

None

## **MITIGATING CIRCUMSTANCES**

None

## **POST RECOMMENDATION**

These charges rise to a level of a Category E (consensual sexual misconduct off duty that was disruptive to the agency) on the POST Disciplinary Guidelines. POST recommends the Council accept Pemberton's signed consent agreement for a one-year suspension of her peace and correctional officer certifications, starting August 20, 2008, to August 20, 2009.

## **POST COUNCIL'S ACTION**

## **FINAL ORDER**



# POST Investigations Bureau

## CASE SUMMARY

**CASE NO:** 08-088LE/C  
**SUBJECT:** Jesse Tucker  
**Investigator:** Rich Fordham

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### ALLEGATION(S)

**Disorderly Conduct**

### POST INVESTIGATION OF ALLEGATION(S)

On February 9, 2008, Jesse Tucker was hired and certified as a correctional officer by the Uintah County Sheriff's Office (UCSO). On January 3, 2008, Tucker transferred to a civilian position in the UCSO after the internal affairs (IA) investigation.

On December 23, 2007, Tucker and his brother engaged in a physical altercation outside a bar in Uintah County. Both Tucker and his brother were inebriated when the incident occurred. The bar owner called the police, however, by the time they arrived on scene Tucker and his brother had left. It was later discovered they were taken to their parent's house in Roosevelt by a mutual friend.

Roosevelt Police Department (RPD) responded to Tucker's parent's house. Tucker was not arrested but informed by RPD Officers that charges were going to be screened through the Uintah County Attorney's Office. Tucker was charged with and pled guilty to disorderly conduct, a class C misdemeanor.

On October 1, 2008, POST conducted a telephonic interview with Tucker. He agreed to sign a consent agreement suspending his correctional officer certification for one-year.

### CHIEF ADMINISTRATOR'S OPINION

On October 20, 2008, POST reviewed Tucker's case with Sheriff Merrell of UCSO. Sheriff Merrell concurs with POST's recommendation for a one-year suspension of Tucker's correctional officer certification.

### **VIOLATION(S)**

Tucker's actions violated the following:

1. Utah Code Ann. §76-9-102 Disorderly conduct
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)(I)(i) in that he violated the Law Enforcement Code of Ethics

### **AGGRAVATING CIRCUMSTANCES**

None

### **MITIGATING CIRCUMSTANCES**

None

### **POST RECOMMENDATION**

These charges rise to a level of a Category E (class C misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept Tucker's signed consent agreement for a one-year suspension of his correctional officer certification, starting January 3, 2008 to January 3, 2009.

### **POST COUNCIL'S ACTION**

### **FINAL ORDER**