

POST COUNCIL MEETING

December 6, 2007 @ 10:00am

Public Safety Education & Training Center
Council Room (Third Floor) 410 West 9800 South

Agenda

- ❖ Welcome and Introductions: Chairman Lynn Nelson
 - New Deputy Attorney General – Bob Morton

- ❖ Approval of September 18, 2007 Minutes: Chairman Lynn Nelson

- ❖ Committee Report on Bachelor Degree; Consolidated: Scott Stephenson and Kelly Sparks

- ❖ Yearly POST Record Reconciliation Audit: John Jacobs

- ❖ Report on Arizona Ruling Regarding Colorado City, Arizona Officers: Steve Winward

- ❖ Report on POST Instructor Symposium: Scott Stephenson

- ❖ Report on Utah Retirement System (URS): Scott Stephenson

- ❖ Opening of Indoor Firearms Range: Wade Breur
 - Tour of Range and Media Production Studio

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- ❖ Disciplinary Actions: Steve Winward
  
- ❖ Schedule Next Meeting: (In conjunction with annual Chiefs Meeting)
  
- ❖ Adjourn for Lunch:



# POST COUNCIL MEETING

December 6, 2007

*Public Safety Education and Training Center  
Sandy, Utah*

## MINUTES

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On December 6, 2007, a regularly scheduled POST Council meeting was held at 10:00am at the Public Safety Education and Training Center, Sandy, Utah. Chairman Lynn Nelson conducted.

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

Sheriff Lynn Nelson, Chairman, Cache County Sheriff's Office  
Ben Jones, Vice-Chairman, At Large  
Sheriff Mike Lacy, San Juan County Sheriff's Office  
ASAC Mary Rook, FBI (Proxy for 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  
Attorney General Mark Shurtleff, Attorney General's Office  
Executive Director Tom Patterson, Department of Corrections  
Larry Gillett, UPOA  
Colonel Lance Davenport, Superintendent, Utah Highway Patrol  
Director Mike Larsen, Orem DPS  
Chief Robert Allinson, Cedar City Police Department  
Commissioner James J. Eardley, Washington County  
Mayor Joe Ritchie, Roy City

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

Vice-President Donna Dillingham-Evans, Dixie State College  
Chief Val Shupe, South Ogden City P.D.

**POST staff present:**

Capt. Scott Stephenson, Deputy Director  
Shaunna McCleve, Administrative Secretary  
Lt. Steve Winward, POST Investigations Bureau Chief  
Kevin Nitzel, POST Investigations  
Bryant Green, POST Investigations (on loan from DOC)  
Robert C. Morton, DPS Legal Counsel-representing POST  
John Jacobs, Training Manager  
Paul Kotter, POST Investigations  
Lt. Wade Breur, POST Basic Training Bureau Chief

**Others present:**

Ken Wallentine, Attorney General's Office  
Director David Holm, Dixie State Police Academy  
Director Kelly Sparks, Weber State Police Academy

Director Dennis Hutchinson, Department of Corrections Training  
Ben Winslow, Desert Morning News  
Nate Carlisle, Salt Lake Tribune  
Sheriff Brad Slater, Weber County S. O.  
Larry Barlage, Salt Lake Community College  
Brian Stecklein, Weber State University  
Michael Boone  
Susan Hornbuckle  
Assistant Chief Greg Krusi, Clearfield P.D.  
Chief Jim Schilling, Clearfield P.D.  
Mike Stenquist, Clearfield P.D.  
Kay Gillespie, Weber State University  
Jewel Fuchs, Weber County S.O.  
Derk Palfreyman  
Sheriff James O. Tracey, Utah County S. O.

### **WELCOME AND INTRODUCTIONS**

Chairman Lynn Nelson welcomed the Council Members and visitors. He introduced the new Assistant Attorney General Robert Morton, representing DPS and POST.

### **APPROVAL OF POST COUNCIL MINUTES**

The minutes of September 18, 2007 were reviewed and the following motion was presented.

**Motion:** *Executive Director Tom Patterson motioned to approve the minutes of September 18, 2007.*  
**Second:** *Larry Gillett seconded the motion.*  
**Vote:** *The motion passed with all in favor.*

### **COMMITTEE REPORT ON BACHELOR DEGREE; CONSOLIDATED**

Sheriff Brad Slater presented a proposal for an accelerated skills academy and is seeking approval from the Council to conduct this concept as a pilot program. This academy will accept recent Criminal Justice graduates from Weber State University and put them through the accelerated skills academy. There have been approximately 10 students selected to begin the academy. The pilot program will begin on January 2, 2008. Each student will have to meet minimum requirements that include; Criminal Justice Bachelor degree, pass a waiver examination, pass physical fitness test, pass a background check, and complete the application process. Upon completion of the program, graduates will enter into an FTO program with their agencies. The committee will track these students after completion of the academy.

**Motion:** *Sheriff Dave Edmunds motioned to accept the proposal for a pilot program to begin.*  
**2<sup>nd</sup>:** *Sheriff Mike Lacy seconded the motion.*  
**Vote:** *Motion passed with all in favor.*

## **YEARLY POST RECORD RECONCILIATION AUDIT**

John Jacobs reported to the Council that it is POST's goal to accurately track the employment and mandatory minimum training hours for all officers in the state. There was a great deal learned last year with the recent audit. In April, POST will send its law enforcement employment records to all department administrators, so the respective departments can reconcile their records with POST records. They will then have the opportunity to report to POST any discrepancies. After an agency has contacted POST with the changes, they will be given access to the web site to begin reporting their officers' training hours until July 31st. The reporting deadline is August 1<sup>st</sup>; at which time all officers without training hours will be suspended. If the deficiency is not made up before October 1<sup>st</sup> they will be reported to URS.

## **REPORT ON ARIZONA'S RULING REGARDING COLORADO CITY, ARIZONA OFFICERS**

Steve Winward reported on the Hildale/Colorado City officers and the outcome of the Arizona hearings. On September 19, 2007, Arizona POST revoked Chief Fred Barlow and Preston Barlow's certification. On October 16, 2007, Lt. Winward served both Fred Barlow and Preston Barlow with an administrative complaint from UTAH POST seeking to suspend or revoke their certification. Chief Rowndy informed Lt. Winward that both officers had resigned and were not working in law enforcement. POST has not received a response from either officer in regards to the administrative complaint. Because of their failure to respond within thirty-days, POST will move forward to schedule a default hearing.

## **REPORT ON POST INSTRUCTOR SYMPOSIUM**

Scott Stephenson informed the Council of an Instructor Symposium hosted by the POST staff-all adjunct instructors were encourage to attend. During the symposium, POST staff emphasized the importance of lesson plan uniformity and professionalism. This training was well attended with only a couple of instructors not in attendance.

## **REPORT ON UTAH RETIREMENT SYSTEM (URS)**

Scott Stephenson reported on officers that were reported to the Utah Retirement System (URS). As of August 1, 2007, there were seventy-two officers that had their peace officer powers suspended. On October 1, there were only twelve officers reported to URS. One officer came to POST in November and reported he had complete training before the October 1<sup>st</sup> deadline and provided supportive documentation to support his claim. Officially, only eleven were reported to the URS. The officers who were reported will not receive peace officer retirement benefits for the year they were deficient in training hours and reported to the URS. Once an officer has made up the training hours, they may work in a certified capacity. However, they cannot get the retirement benefits reinstated for the deficient year.

## **DISCIPLINARY ACTIONS**

Lt. Steve Winward and Attorney Robert Morton presented the following disciplinary cases, giving an overview of each.

### **RICHARD L. BENSON - (Sexual Misconduct)**

Richard L. Benson was certified and employed by Wasatch County SO on April 4, 1996, where he was employed until his resignation on August 1, 2007. During his tenure with Wasatch County Sheriff's Office, Benson was promoted to the rank of sergeant.

Mr. Benson began a relationship with Officer Kramer under his command. However, Kramer stated she rebuffed all his advances.

In May 2007, Kramer agreed to clean Benson's house for \$75.00. After she finished cleaning his house, she stated she started to leave when Benson trapped her in his bedroom closet. She claimed he forced her pants down and attempted to have sexual intercourse with her. After this incident, she left his house and did not have contact with him again. During the investigation, Kramer stated Benson was her sergeant and she did not want to cause any problems, thinking no one would believe her accusations.

The Wasatch County Sheriff referred the case to be criminally screened by the Utah County Attorney's Office to avoid a potential conflict of interest. The Utah County Attorney declined to file charges against Richard Benson for insufficient evidence.

POST contacted Benson numerous times, via telephone, to schedule an interview. During one of the telephone conversations, Benson stated the conduct was consensual. POST Investigators were unsuccessful with their attempts to interview Benson. However, Benson waived his right to an interview and agreed to sign a consent agreement to revoke his Peace Officer Certification. On October 23, 2007, Benson signed a consent agreement for the revocation of his Peace Officer Certification.

Aggravating Circumstances: ~ Supervisory authority.  
~ Caused a disruption to the community and/or department.

Mitigating Circumstances: ~ Off Duty

***Motion:*** ***Larry Gillett motioned to accept Richard L. Benson's signed consent agreement for revocation of his Peace Officer Certification.***

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

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

### **JAROM H BROWN - (Inappropriate Relationship with a Prisoner/Associating with Criminals)**

Jarom H. Brown was certified and employed by the Salt Lake County Sheriff's Office (SLCSO) as a correctional officer on January 1, 2006. He resigned on June 27, 2007, following an Internal Affairs (IA) investigation.

On May 29, 2007, SLCSO opened an IA investigation on Brown. While conducting an IA investigation on another officer, it was discovered Brown might have been involved in an inappropriate relationship with a female inmate.

While listening to recordings of inmate phone calls, IA investigators heard Brown's name prominently mentioned in connection with him providing female inmates with his web site address and site name. They also heard a female inmate openly discuss a rumor that Brown may have had sex with another female inmate.

During the first week of June 2007, IA Investigators interviewed several female inmates. As the interviews progressed, it was apparent Brown had provided some female inmates with his personal information. He also provided them his contact information so they could contact him after their release from incarceration. IA found no evidence of Brown having any sexual contact with female inmates.

On June 22, 2007, IA Investigators interviewed Brown. During questioning, Brown was untruthful about his relationship with female inmates. On June 26, 2007, the polygraph examination was administered. In the opinion of the examiner, Brown was deceptive during the examination. After the examination, Brown was re-interviewed to confirm the deception detected during the polygraph examination. Brown admitted to making contact with former female inmates but claimed it was unintentional. On June 27, 2007, Brown resigned from the SLCSO.

On September 14, 2007, Brown was interviewed by POST. After a Garrity warning, he admitted to providing one female inmate his web address and site name. However, Brown never admitted to intentionally contacting former inmates. Brown signed a consent agreement for a one-year suspension of his peace officer certification beginning on June 27, 2007, to June 27, 2008.

Aggravating Circumstances: ~ On-duty.

~ Untruthfulness with Investigators.

~ Custodial Environment.

Mitigating Circumstances: None.

**Discussion:** *The Council discussed the offence being categorized as only a "G" and questioned why it was not a "D". POST investigator stated it was only a policy violation and did not rise to the level of Category "D" and lying under Garrity to his agency was only an aggravating circumstance. Council members discussed the issue of lying under Garrity, whether lying to a POST investigator or an internal investigator should be treated at same level of discipline. The following motion followed this discussion.*

**Motion:** *Robbie Robertson motioned to revise the guideline to reflect that lying under Garrity to any agency investigator be the same. (Category "C")*

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

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

**Inclusion:** *Attachment 1 is the updated Guidelines to reflect the changes in the previous motion.*

**The Council returned to the Brown case and the following motion was made.**

**Motion:** *Attorney General Mark Shurtleff motioned to reject the signed Consent Agreement and have a POST Investigator seek a two-year suspension of Jarom H. Brown's Peace Officer Certification.*

**Second:** *Sheriff Bud Cox seconded the motion.*

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

**RONALD R. FRIEND - (Inappropriate Relationship with a Prisoner/Associating with Criminals)**

Ronald R. Friend was certified and employed by the Salt Lake County Sheriff's Office (SLCSO) as a correctional officer on May 11, 1998. He was terminated on May 30, 2007, following an Internal Affairs investigation.

On January 26, 2007, SLCSO opened an IA investigation on Friend. Information from an inmate alleged several female inmates were receiving preferential and inappropriate treatment from Friend. The allegations included Friend placing money in their inmate accounts, smuggling in contraband for inmates and, on occasion, taking inmates out of their cells to be alone with him.

On March 12, 2007, IA Investigators interviewed Friend. After receiving a Garrity warning, Friend failed to admit to any of the investigators findings. Subsequently, Friend was re-interviewed on March 29, 2007, to clarify his statements from the previous interview. During the 2<sup>nd</sup> interview, he admitted to visiting the former jail inmate at her apartment, along with buying her lunch, a bed and clothing for her children. Friend insisted there was never a sexual relationship between him and this inmate.

On September 10, 2007, Friend was interviewed by POST. After a Garrity warning, he admitted to all of the material facts of the case, but still insisted there were no sexual relationships between him and the female inmates. Friend signed a consent agreement for a one-year suspension of his Peace Officer Certification beginning on May 30, 2007, to May 30, 2008.

Aggravating Circumstances: ~ On duty.

~ Untruthfulness with Investigators.

~ Lying under Garrity to Department.

~ Custodial Environment.

Mitigating Circumstances: None.

**Discussion:** The Council discussed the facts of this case and debated whether Friend was truthful with investigators while under Garrity. At which time the following motion was made.

**Motion:** *Attorney Mark Shurtleff motioned to deny Ronald Friend's signed consent agreement for a one-year suspension and motioned to have a POST Investigator seek a signed consent agreement for a two-year suspension of his Peace Officer Certification (May 30, 2007- May 30, 2009).*

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

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

**CAMILLE M. KRAMER – (Sexual Misconduct)**

Camille M. Kramer graduated from the UVSC Basic Training Academy and was employed by Wasatch County Sheriff's Office on June 13, 2005, until her termination on October 24, 2007. Kramer was terminated because she failed to report for duty after being cleared from medical leave in an off-duty vehicle crash.

On September 18, 2007, Wasatch County Sheriff's Office contacted POST to report their IA findings on the investigation of Sgt. Richard Benson (refer to Benson case) and the conduct of Kramer. They reported that Kramer had a sexual affair with a married Wasatch County Fire employee.

Kramer was interviewed by POST on October 2, 2007. During the interview, Kramer stated her Sergeant (Benson) sexually assaulted her, but she was afraid to come forward because she thought nobody would believe her (Utah County Attorney's Office refused to file charges due to a lack of evidence). Kramer also admitted to a sexual affair with a married Wasatch County Fireman. The Wasatch County Sheriff's Office and the community became aware of the relationship when she became pregnant. Kramer stated all the sexual activity with the Wasatch County Fireman occurred when she was off duty. However, the fireman was on duty during several of the sexual encounters. She confessed they would leave together and drive down the road where they would engage in sexual activity.

Kramer stated she would sign a consent agreement for a one-year suspension of her Peace Officer Certification based upon the sexual misconduct with a married Wasatch County fireman.

On October 17, 2007, Kramer signed a consent agreement for a one-year suspension of her Peace Officer Certification from the date of POST Council's ratification-December 6, 2007.

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| <p><u>Aggravating Circumstances:</u> ~ causing a disruption to the community and/or department.</p> <p><u>Mitigating Circumstances:</u> None.</p> |
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- Motion:** *Executive Director Tom Patterson motioned to accept Camille Kramer's signed consent agreement for a one-year suspension of her Peace Officer Certification. (December 6, 2007 – December 6, 2008)*
- Second:** *Larry Gillett seconded the motion.*
- Vote:** *The motion passed with all in favor.*

**JOHN J. WILLIAMS - (Custodial Sexual Relation/Misconduct)**

John J. Williams was employed as a correctional officer with the Utah County Sheriff's Office until his resignation on September 12, 2007, following an Internal Affairs (IA) investigation.

On August 30, 2007, Lieutenant Scott W. Carter, Utah County Sheriff's Office, received a phone call from a complainant. The complaint was about a relationship that developed between the

complainant's daughter, a former Utah County inmate, and a Utah County corrections officer. On May 29, 2007, Williams processed the female inmate for her release. During the inmate release process, the IA investigation revealed the female inmate had made some flirtatious comments towards Williams. After the female inmate was released, Williams accessed the jail computer to obtain her cell phone number. Williams sent text messages and called the female inmate. Over the course of the next few days, Williams went to her house, off-duty, and assisted her with some court paperwork and engaged in sexual relations. He ended the sexual relationship on or about July 15, 2007, but continued to send text messages to her until the middle of August. During the IA investigation, Williams and the female inmate confessed to the sexual relationship.

During POST's investigation, investigators were concerned the female inmate may have been on probation or parole at the time they engaged in sexual relations. POST Investigators contacted the Utah County Sheriff's Office and the Department of Corrections and confirmed the female inmate was not on probation or parole.

On October 24, 2007, POST sent a consent agreement to Williams for revocation of his Correctional Officer Certification. On October 27, 2007, Williams signed and returned the consent agreement for the revocation of his Correctional Officer Certification.

Aggravating Circumstances: ~ Willingness to participate in conduct.  
~ Disruption to community and/or department.  
~ Misuse of position of trust and authority.

Mitigating Circumstances: ~ Off-duty status

**Motion:** *Larry Gillett motioned to accept John Williams' signed consent agreement for revocation of his Correctional Officer Certification.*  
**Second:** *Sheriff Mike Lacy seconded the motion.*  
**Vote:** *The motion passed with all in favor.*

***The next two cases were given permission from Chairman Nelson to seek reconsideration of their case. Both cases were previously heard and voted on at the September 18<sup>th</sup> POST Council meeting.***

### **MICHAEL J. BOONE - Request for Reconsideration**

Michael J. Boone addressed the Council and stated he was there to inform the Council of information that was not allowed at the previous meeting. He told the Council he had a one-time sexual encounter with a married dispatcher while off-duty. He takes full responsibility for his actions and he feels this situation should have been handled internally with his department. He will soon graduate from Weber State with a Bachelor Degree in Criminal Justice and stated he would like reconsideration of his suspension. Boone lost his job after signing a two-year consent agreement. He felt there was more mitigating circumstances that should have been considered. He feels his suspension hurts the community when there is a huge need for good officers in this

profession.

Boone was asked by a Council member if the reason he self reported the sexual relationship was due to his subordinates threatening to report the affair if he did not. Boone stated he reported the incident when he discovered the officers he supervised knew about the sexual misconduct. Boone feels the action against him should be only a letter of caution.

Chief Jim Schilling addressed the Council and stated Boone has received due process throughout the entire proceedings of this case. He was demoted and placed on probation for his actions. There was a disruption in the Clearfield Police Department and the dispatch office. Chief Schilling feels it is the Council's responsibility to discipline Boone and feels he has been dealt with fairly.

Lt. Winward reported to the Council that Boone has the option to appeal their decision to a court hearing.

**Motion:** *Sheriff Mike Lacy motioned to uphold the previous motion of a two-year suspension and not reconsider Michael Boone's request.*  
**Second:** *Sheriff Dave Edmunds seconded the motion.*  
**Vote:** *The motion passed with all in favor.*

### **DERK PALFREYMAN - Request for Reconsideration**

Sheriff Jim Tracy addressed the Council and reported he has known Palfreyman for many years. Palfreyman was a limited time employee for Utah County Sheriff's Office (UCSO) and only worked for them when other employee's were on leave. Sheriff Tracy stated the case involving Palfreyman should have been a civil matter between the two parties. Palfreyman was a good employee with the Sheriff's Office and has the full support of Sheriff Tracy. Palfreyman was cooperative with the IA Investigation conducted by the UCSO and has served the citizens of Utah County honorably.

Derk Palfreyman addressed the Council and thanked Sheriff Tracy for his support. He stated he regretted not being more cooperative with the Salem Police Department during their investigation. He reported to the Council the dispute between himself and the lessee, Jefferson, of his property was a civil matter and felt he shouldn't have been charged criminally. Jefferson had abused the property and was not following the agreement according to the lease. After Palfreyman was unable to negotiate with Jefferson, he removed sheep panels from his property and gave them to his son to store. Once Salem PD opened a case on the incident, Palfreyman admitted that he did not cooperate with the investigation. Executive Director Tom Patterson asked Palfreyman why he didn't contest the charges. Palfreyman said he followed the advice of his attorney and went with a diversion. The panels Palfreyman took from the property were sheep panels valued at approximately five hundred dollars. Palfreyman took the panels because Jefferson failed to vacate the property after being told to do so on October 1st. On Nov. 6<sup>th</sup>, instead of vacating the property, Jefferson told Palfreyman's son he was going to put cattle back on the property (Nov. 6<sup>th</sup>). When Palfreyman was asked why he signed a consent agreement for revocation he stated he felt he didn't have any other options. Sheriff Tracy told the Council Palfreyman was honest and cooperative with the IA investigation conducted by the Utah County SO. The panels were returned to the Sheriff's Office to be returned to the owners.

Attorney General Mark Shurtleff stated Palfreyman couldn't have been charged with a Felony; rather the charge would be a Class A Misdemeanor.

**Motion:** *Chief Bob Allinson motioned to resend Derk Palfreyman's signed consent agreement for revocation of his Peace Officer Certification.*  
**Second:** *Ben Jones seconded the motion.*  
**Vote:** *The motion passed with 12 in favor and 1 against.*

The Council discussed the aggravating circumstance of Palfreyman lying to the Salem PD and the following motion was offered.

**Motion:** *Larry Gillett motioned to seek a four-year suspension of Derk Palfreyman's Peace Officer Certification.*  
**Second:** *Sheriff Dave Edmunds seconded the motion.*  
**Vote:** *The motion failed with 6 in favor and 7 against.*

Palfreyman told the Council he is finished with the conditions included in the diversion plea. Attorney General Mark Shurtleff told the Council there is not a conviction on his record.

**Motion:** *Attorney Mark Shurtleff motioned to seek a three-year suspension of Derk Palfreyman's Peace Officer Certification. (March 15, 2006- March 15, 2009)*  
**Second:** *Director Mike Larsen seconded the motion.*  
**Vote:** *The motion passed with 12 in favor and 1 against.*

### **OPENING OF INDOOR FIREARMS RANGE**

Lt. Breur reported to the Council of the "Range Dedication" hosted by POST. Lt. Breur offered to take Council members on a tour of the new firearms range and the media center.

### **NEXT POST COUNCIL MEETING**

The next POST Council meeting will be held on Monday, March 24, 2008 at 2:00 p.m. The meeting will be held at the Dixie State College.

### **ADJOURNMENT**

Meeting adjourned at 12:05.