

POST COUNCIL MEETING

January 12, 2006

10:00 a.m.

Department of Public Safety
Calvin Rampton Building

AGENDA

1. WELCOME AND INTRODUCTIONS – *Director Rich Townsend*
2. NEW COUNCIL CHAIRMAN – *Director Rich Townsend*
3. DISCIPLINARY ACTIONS – *Chairman Chief Greiner & Cheryl Luke*
4. NEXT POST COUNCIL MEETING – March 20th in St. George



POST COUNCIL MEETING

January 12, 2006
Calvin Rampton Bldg.
Salt Lake, Utah

MINUTES

On January 12, 2006, a regularly scheduled POST Council meeting was held at 10:00 a.m. at the Department of Public Safety, Calvin Rampton Building, Salt Lake City, Utah. Chairman Jon Greiner conducted.

The following POST Council members were in attendance:

Chief Jon Greiner, Chairman, Ogden City P.D.
Sheriff Mike Lacy, San Juan County Sheriffs Office
Chief Val Shupe, South Ogden City P.D.
Sheriff Lynn Nelson, Cache County Sheriff's Office
Ben Jones, At Large
Chief Robert Allinson, Cedar City P.D.
SAC Tim Fuhrman, FBI
Sheriff Bud Cox, Davis County Sheriff's Office
Vice-President Donna Dillingham-Evans, Dixie College
Sheriff Dave Edmunds, Summit County Sheriff Office
Councilman Robert D. Robertson, Murray City Council
Attorney General Mark Shurtleff, Attorney Generals Office
Executive Director Scott Carver, Department of Corrections
Officer Mike Galieti, West Jordan Police Department (Proxy for Lt. Dennis Bailey UPOA)
Major Mike Kuehn, Utah Highway Patrol (Proxy for Colonel Scott Duncan)

The following were excused and/or absent:

Colonel Scott Duncan, Superintendent Utah Highway Patrol (Represented by Major Mike Kuehn)
Commissioner James J. Eardley, Washington County
Lt. Dennis Bailey, St. George P.D., Rep. UPOA (Represented by Officer Mike Galieti, West Jordan P.D.)

POST staff present:

Major Rich Townsend, Director
Capt. Bob Morris, Deputy Director
Shaunna McCleve, Administrative Secretary
Lt. Lee Perry, POST Investigations Bureau Chief
Kevin Nitzel, POST Investigations
Jerry Jorgensen, POST Investigations (on loan from DOC)
Dan Altenes, POST Investigations
Cheryl D. Luke, Assistant Attorney General representing POST

Others present:

Ken Wallentine, Attorney Generals Office
Ken Pearce, Salt Lake City P.D.
Kim Kavanagh, Department of Public Safety
Scott Barnett, Department of Public Safety
Mayor Lew Marchant, Kamas City
Errik Ovard
Nancy Ovard

WELCOME AND INTRODUCTIONS

Director welcomes all those in attendance. Chairman Mike Lacy is thanked for doing an outstanding job as the Chairman of POST Council. The gavel was then turned over to the new Chairman Chief Jon Greiner. Elections for a new Vice-Chairman will be held at the next POST Council meeting in March. Chairman Greiner called the meeting to order at 10:15 am. The meeting was turned over to Cheryl Luke for disciplinary actions.

DISCIPLINARY ACTIONS

Assistant Attorney General Cheryl D. Luke presented the following disciplinary cases, giving an overview of each.

ERRIK E. OVARD – (Domestic Violence)

Mr. Ovard has been employed by the Kamas City Police Department since 1995. Ovard is the Chief of a two-man department. On March 3, 2005, Ovard was involved in a domestic dispute with his stepdaughter. On April 26, 2005, Ovard entered a "No Contest" plea to domestic violence/assault, Class A Misdemeanor and unlawful detention, Class B Misdemeanor in Third District Court. Ovard's "No Contest" pleas are held in Abeyance for 12 months. Ovard must complete Anger Management and Domestic Violence Counseling and pay a \$150.00 fine.

On page 10 of the ALJ findings in the third paragraph it states; "POST was able to prove that Ovard's plea of no contest, currently being held in abeyance by the trial court, meets the standard necessary to prove conduct which discredits law enforcement. As was described in detail above, this allegation by POST is supported by the relevant Utah case law. Although Ovard has not been convicted of a crime, his plea of no contest meets the technical requirements of an admission of guilt as described in the Administrative Rules."

Discussion: Attorney General Mark Shurtleff feels the ALJ's ruling is just a recommendation and states that the judge in his own findings contradicts himself. He does not agree with the recommendation of the ALJ and feels that there should be some form of discipline. The Council also discussed possibility of a Brady law violation.

Mayor Lew Marchant addressed the Council in support of Chief Ovard. He conveyed to the Council that Chief Ovard has the community of Kamas's support. He would like to keep Mr. Ovard as the Chief of Police.

Chief Errik Ovard addressed the Council and stated that the Brady issue was researched by his attorney. His attorney assured him that he is not in violation of that law. The reason for the plea and abeyance is not because of guilt, but his desire not to involve his family in the court system.

Sheriff Dave Edmunds presented a brief summary of the evidence that was collected by the investigating officers. Sheriff Edmunds has the investigation report and video statements available to review by the Council if necessary. He points out that an unlawful arrest was made, and while the victim was under arrest, Ovard used excessive and unreasonable force. Then, he plead "No Contest" to domestic assault, as well as unlawful detention. He is currently violating federal law by carrying a firearm.

Chief Ovard responded and disagreed with the allegations of choking the victim twice.

Attorney General Shurtleff asked Chief Ovard if he had even choked the victim once.

Chief Ovard answered that he did not choke her at all. He stated that he grabbed her inappropriately for seconds around the neck, and only once. She was not in handcuffs at the time he placed his hands on her neck.

Cheryl Luke informs the Council that this case has been brought before the Council at this time because a plea in abeyance, under POST rules, is a conviction.

Director Rich Townsend advised the Council that he often receives complaints from citizens about the manner in which law enforcement officers are conducting themselves. The citizens frequently ask who polices the police; Director Townsend replies with the statement "we rely heavily on a Council that is made up of Chief Law Enforcement Administrators, Mayors, City Councilman, and at Large positions. These members help us make decisions that are necessary in keeping the integrity of law enforcement intact." He adds that Sheriff Edmunds and the Summit County Sheriffs Department were put in an untenable position. If his office would not have acted appropriately and enforced the law he would have been accused, as well as POST Council, of being a "good old boy network and protecting our own". The Council needs to determine if these actions tend to disrupt, or diminish the integrity, or reputation of law enforcement. That is what is before this Council today.

Chief Ovard stated he does not believe he has diminished public trust; this was a personal issue between him and his daughter.

Attorney Cheryl Luke expressed the following concerns. Was Chief Ovard trying to make an arrest or issue a citation for reckless driving not committed in his presence? POST clearly argues that he does not have the authority to place her under arrest. That constitutes an unlawful arrest. He then un-arrested and un-handcuffed her because he was concerned about the conflicts inherent in arresting his own stepdaughter, the effect on his family, and potential responsibility of having to pay the fine. That was part of the concern in the pattern of conduct. First, he shouldn't have taken the investigation from the other officer to begin with. The crime was not committed in Chief Ovard's presence. Second, was he acting as a police officer, or was he acting as a stepfather? Those two roles became confused. Also there is a 911 call that has to be responded to. We have evidence that there is physical injury.

Nancy Ovard addressed the Council in behalf of Chief Ovard. She stated the reason Mr. Ovard plead "no contest" was in behalf of her daughter. She explained that her daughter Nicole has had a rough life and gave some examples.

Vice-President Donna Dillingham-Evans asked the question as to why some members are requesting a two-year suspension and how they arrived at that number.

Attorney General Mark Shurtleff said at first POST was looking at a four-year suspension. The reason for this is because of Ovard's position as Chief of Police. The recommendation was then reduced to two years because of mitigating circumstances; such as the Mayor came in his behalf and community support. These mitigating circumstances would bring Attorney General Shurtleff down to a two-year suspension.

Cheryl Luke added that four-years is what is suggested on the Matrix for a plea in abeyance to Domestic Violence. There is another case today that recommends a four-year suspension.

Aggravating Circumstances: None.
Mitigating Circumstances: None.

Motion: Sheriff Mike Lacy made a motion for a two-year suspension of Chief Errik Ovards peace officer certification from the date of his plea of no contest.
Second: Attorney Mark Shurtleff seconded the motion.
Discussion: Sheriff Lynn Nelson pointed out that if they don't stop acting as a peace officer, then how can POST Council backdate the disciplinary action. Cheryl Luke says we usually date it from the date of POST Council. Sheriff Mike Lacy withdrew and changed the motion. Attorney Mark Shurtleff withdrew the second.

Motion: *Sheriff Mike Lacy's new motion is a two-year suspension of Chief Errik Ovards peace officer certification starting with today's date January 12, 2006 – January 12, 2008.*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with 12 in favor and 1 opposed. Sheriff Dave Edmunds abstained from voting.*

KIMBERLY S. KARREN – (Sexual Misconduct with an inmate)

Ms. Karren was a Cache Co. Correctional officer. She became sexually involved with an inmate. She admitted to having sexual conduct with him. When he was transferred to the Utah State Prison she continued writing sexually explicit letters and sending nude photos of herself to the inmate.

Ms. Karren signed a consent agreement, agreeing to the revocation of her peace officer certification from the date of POST Council and not function as a peace officer in the State of Utah from this time forward.

Aggravating Circumstances: Karren was married at the time of this incident. Karren engaged in sexual activity with an inmate housed at the Cache County Jail.
Mitigating Circumstances: Karren cooperated and took responsibility for her actions.

Motion: *Ben Jones motioned to accept Kimberly Karren's signed Consent Agreement for a revocation of her peace officer certification.*
Second: *Donna Dillingham-Evans seconded the motion.*
Vote: *The motion passed with all in favor.*

JOSHUA RASMUSSEN – (Falsification of POST Application)

Mr. Rasmussen was a self-sponsored cadet who graduated from the Utah Valley State College Criminal Justice Program in September 2004. Rasmussen has never been employed in Law Enforcement.

Rasmussen was going through the hiring process with Orem City Police Department and prior to the voice stress analysis test admitted to stealing \$1200.00 worth of gift cards from a warehouse where he was working as a security guard in June 2000. He stated no one ever found out about the theft and he only used \$200.00 of the gift cards and discarded the remaining gift cards. Rasmussen stated the theft of the gift cards did not enter his mind as he filled out the POST application. When Orem PD asked him about thefts from employers under \$100.00, the gift cards flashed in his mind because they were \$100.00 each.

On October 28, 2005, Rasmussen signed a consent agreement, agreeing to a two-year suspension of his peace officer certification from the date of his POST application, July 21, 2004 through July 21, 2006.

Aggravating Circumstances: Rasmussen stated he forgot about his theft of gift cards until he was faced with a voice stress analysis test.

Mitigating Circumstances: Rasmussen cooperated and took responsibility for his actions.

Motion: *Chief Val Shupe motioned to accept POST's recommendation for a two-year suspension of Joshua Rasmussen's peace officer certification from July 21, 2004 through July 21, 2006.*

Second: *Attorney General Mark Shurtleff seconded the motion.*

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

DONALD F. SAGENDORF– (Unlawful Theft)

Mr. Sagendorf was employed by the Utah Department of Public Safety, Utah Highway Patrol as a Trooper from July 19, 1993 until July 30, 2004.

Sagendorf was the treasurer of the Utah Highway Patrol Association between August 2002 through August 2004. Sagendorf stole \$33,776.00 from the Association during this time. An audit uncovered the theft and Sagendorf resigned and was charged with Unlawful Dealing of Property by a Fiduciary, a second-degree felony. Sagendorf has since paid the money back in full.

Sagendorf entered a guilty plea. The plea is held in abeyance and Sagendorf was placed on 36 months probation, ordered to pay \$500.00 court costs, and complete 200 hours of community service.

On December 21, 2005, Sagendorf was sent a Felony Revocation Letter, revoking his peace officer certification.

Aggravating Circumstances: Sagendorf, while in a position of trust, stole money donated by his co-workers.

Mitigating Circumstances: Sagendorf cooperated and took responsibility for his actions.

Motion: *Sheriff Mike Lacy motioned to accept Donald Sagendorf's Felony Revocation Letter.*

Second: *Attorney General Mark Shurtleff seconded the motion.*

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

TERRY L. BEGAY – (Use/Distribution of a Controlled Substance)

Ms. Begay has been employed by the Salt Lake City Police Department since October 1986. In May 2002, Salt Lake City Police received an unsigned letter alleging Lt. Terry L. Begay was using peyote at Native American Church Ceremonies, and she is not a Native American. Begay freely admitted her use of peyote and indicated she had some peyote plants growing in her home. Salt Lake City P.D. responded to Begay's home and confiscated several growing peyote plants and a jar of processed peyote. Begay did not have a DEA registration number that would allow her to possess, transport, grow or distribute peyote under Federal Law. Begay was not a member of a federally or state recognized Native American Tribe at the time of this incident. In March 2003, Begay was terminated by the Salt Lake City Police Department. Begay appealed her termination and the Civil Service Commission overturned her termination and Begay was reinstated. The City has appealed the ruling by the Civil Service Commission, and referred the case to POST in October 2003.

Begay was interviewed at POST on December 17, 2003, where she admitted to last using peyote at a church ceremony on December 13, 2003. Begay also admitted that she was "gifted fresh medicine" (peyote), which she planted and preserved in dirt. Begay also ground up the remaining peyote and provided it to Native American Church members for consumption in ceremonies. Begay stated she is not currently a member of a Federal/State recognized Native American Tribe, but she is currently petitioning to be accepted by a tribe. Begay had recently married a Native American. Begay admitted she did not have a DEA number to possess/transport/provide peyote, but, when she was gifted peyote, her duty as an Indian wife was to take care of it.

On February 27, 2004, an Administrative Complaint was issued notifying Begay that POST intended to seek a five-year suspension of her peace officer certification. Four separate hearings were scheduled, but were continued by motions of counsel. On November 21, 2005, an Administrative Hearing was convened. The Administrative Law Judge issued a recommendation that Terry L. Begay peace officer certification be suspended for a period of five years from the last known date of usage, December 13, 2003.

Discussion: Council members questioned if Terry Begay was within her rights to practice this because she was married to a Native American. Attorney Cheryl Luke informs the council that Begay could not be prosecuted in Utah for the use but the growing and distribution of this substance requires you to have a DEA number, and Begay does not. She had approximately 87 plants in her home.

Aggravating Circumstances: Begay used/distributed a controlled substance, peyote.

Mitigating Circumstances: Begay defended her actions as religious freedom and as an Indian wife.

Motion: *Attorney General Mark Shurtleff motions not to accept the ALJ's recommendation of a five-year suspension but instead revoke Terry Begay's Peace Officer certification.*

Second: *Sheriff Dave Edmunds seconded the motion.*

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

SEAN REGISTER – (Aggravated Assault, 3rd Degree Felony)

Sean A. Register was certified as a Correctional Officer on Sept 25th, 1997 and employed by the Utah State Department of Corrections. The Dept of Corrections terminated Register on October 22, 2004, following his arrest for Sexual Assault and Rape.

This case involves Sean Register using the LDSMINGLE.com chat service to locate and pursue women. In this particular case Register arranged to meet a woman and then sexually assaulted her on Sept. 11th, 2004. Register plead to a third degree felony for aggravated assault. On October 11, 2005 Register was sentenced to 60 days in jail with 48 days credit for time served.

On September 13th, 2005, Sean Register was issued a Felony Letter from POST, stating the intention of POST to revoke the certification of Mr. Register to be a law enforcement officer in Utah.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Chief Val Shupe motioned the revocation of Sean Register's peace officer certification based on his felony conviction.*
Second: *Sheriff Bud Cox seconded the motion.*
Vote: *The motion passed with all in favor.*

MICHAEL GRAF– (Theft and Dishonesty)

Michael Graf was working as a Police Officer for St. George Police Department at the time of the incident. Michael Graf was hired by St. George Police Dept. on November 12th, 2004 and resigned on September 23rd, 2005.

On September 14th, 2005, Michael Graf attended a St. George Police Dept. firearms training. After the qualification shoot Officer Graf took 4 boxes of duty ammo and put them in his car, he concealed them and took two of them to his house. Standard procedure is that each Officer is to take one box of duty ammo. When confronted about the extra ammo Graf initially denied taking 4 boxes, and only admitted to taking an extra box for his off duty weapon. Graf later admitted to taking 4 boxes and dropping 2 off at his residence. An internal affairs investigation was started and Graf was placed on administrative leave. Graf submitted his resignation to St. George Police Department on September 23rd, 2005.

Michael Graf signed a Consent Agreement for a 1-year suspension.

<p><u>Aggravating Circumstances:</u> Honesty issues. <u>Mitigating Circumstances:</u> None.</p>

Motion: *Attorney General Mark Shurtleff moved to accept the one-year suspension of Michael Graf's Peace Officer certification.*
Second: *Director Scott Carver seconded the motion.*
Vote: *The motion passed with 10 in favor and 3 opposed.*

JOSHUA V. HOLDAWAY– (Domestic Violence)

Joshua V. Holdaway was working as a Correctional Officer for the Department of Corrections at the time of the incident. Holdaway was terminated by Utah Dept. of Corrections on Oct 19th 2004.

On June 10, 2004, Lehi City Police Officers were dispatched to the home of Joshua Holdaway. His wife Jennifer had called the police and reported that her husband had been drinking for two days and was threatening suicide. Holdaway was taken to Wasatch Mental Health Facility where his BAC was .19. He was treated and released; no criminal charges were filed on that case. On July 27th, 2004, Jennifer again called Lehi Police to report that her husband Joshua had assaulted her. Joshua was arrested and booked into jail for Domestic Violence, Criminal Mischief, and Intoxication. Joshua plead guilty on April 27th 2005 to Criminal Mischief, a Class B Misdemeanor and Simple Assault a Class B Misdemeanor. Domestic Violence in the presence of a Child and Unlawful Detention were dismissed. It should be noted that POST has investigated Joshua Holdaway before, for DUI in 2001, Case # 01-80LE/C, Joshua received a Letter of Caution from POST and 15 days off without pay from Corrections. Corrections investigated Holdaway again in 2001 and sustained allegations for threats against his ex-wife Karen. Holdaway received 3 days off without pay. Holdaway has signed a consent agreement revoking his POST certification.

Aggravating Circumstances: At least 4 Police responses to the residence in three years for Domestic Violence.

Previous DUI, and POST action.

Holdaway threatened to break his wife's neck.

Holdaway threatened his own life.

Holdaway is by his own admission an alcoholic.

Corrections terminated Holdaway.

Mitigating Circumstances: None.

Motion: *Director Scott Carver motioned to accept the consent agreement and revoke Joshua Holdaway's peace officer certification based on his history.*

Second: *Sheriff Bud Cox seconded the motion.*

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

ROBERT L. FOOTE – (Theft)

Robert L. Foote was working for Utah State Parks and Recreation at the time of the incidents. Foote was hired on December 15th, 1993 and has a law enforcement certification. Foote was terminated by Utah State Parks and Recreation on May 31st 2004. His termination was upheld in a hearing with the Utah Career Service Review Board on April 5th, 2005.

On February 27th, 2004 Robert Foote was charged with six counts of Theft and Theft by Deception. The thefts occurred at the Utah State Park in Provo, Utah between early February 2002 and May 31st 2002. Robert Foote was charged with various thefts of Utah State Parks property including lights, rock, mining equipment, desk, and tile. He was also charged with Theft by Deception. Six charges were filed, 3 Class A misdemeanors and 3 Class B Misdemeanors. On June 1, 2005 Robert Foote entered into a Diversion Agreement on all six counts of Theft and Theft by Deception. The Diversion Agreement required Foote to permanently relinquish his Peace Officer Certification. POST is seeking a permanent revocation of Mr. Foote's certification.

Aggravating Circumstances: Multiple thefts from employer and pattern of behavior.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned to accept POST's recommendation of the revocation of Robert L. Foote's peace officer certification.*

Second: *Vice President Donna Dillingham-Evans seconded the motion.*

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

TYLER R. FAILS – (Intoxication, Damaging road signs)

Tyler R. Fails was hired as a Correctional Officer for Beaver County Sheriff's Office on June 22, 1998. Fails was working as Correctional Sgt. for Beaver County Sheriff's Office at the time of the incident. Beaver County Sheriff Yardley demoted Fail's to an Officer position; he is still employed as a Correctional Officer.

On July 3rd 2005 at approximately 0253 hrs Fails was arrested in Milford, Utah and charged with Intoxication and Destruction of Property. Fails was parking his vehicle and knocked over a road sign and then engaged in an argument with some of the Milford citizens. A shoving match and some name calling escalated and Sheriff's deputies responded. Fails was arrested and transported to Beaver where a breath test was administered; results indicated a BAC of .164. Fails was not charged with DUI. On July 11th, 2005, Fails plead guilty to intoxication and damaging a road sign and was fined \$282.00. Fails was referred to POST Investigations in December 2003 for an inappropriate incident at a Beaver gas station where he streaked through the parking lot with a friend. Fails received a letter of Caution from POST.

Aggravating Circumstances: Driving vehicle while intoxicated (not charged)BAC .164.
Destruction of Road Signs.
December of 2003, referral for Streaking, (letter of Caution issued).
Disruption to Community and Department.

Mitigating Circumstances: Sheriff Yardley is very supportive of Fails, and wants to retain him during his suspension in a non-certified position, possibly in Maintenance. The Sheriff state that Fails is a great Officer and well respected by his peers and that he needs him to open his new jail wing in September. Fails is still employed and has been an asset to the Jail Division according to Sheriff Yardley.

Motion: *Sheriff Mike Lacy motioned to decline the 6-month suspension and recommends a two-year suspension of Tyler Fails peace officer certification to start on today's date January 12, 2006-January 12, 2008.*

Second: *Robbie Robertson seconded the motion.*

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

AARON M. MONTOYA - (Aggravated Sexual Abuse of a Child)

Aaron M. Montoya attended Weber State University law enforcement academy and became certifiable January 20, 1994. He was hired by Salt Lake County Sheriff's Dept. on February 13, 1995, and worked there as a correctional officer until his arrest on December 21st, 2004.

On or about December 12th 2004, Montoya sexually abused several children in Davis and Weber counties, some as young as 4 years old. Montoya placed his hands on the buttocks and genitalia of all of his victims. Some of the victims were abused during church services wherein Montoya was in the role of teacher for the victims. Montoya was arrested on December 21st, 2004, and charged with 10 Counts of Aggravated Sexual Abuse of a Child, all 1st degree Felonies. Montoya plead not guilty and a trial was held in late August. Montoya was found guilty on August 24th, 2005, of 4 Counts of Aggravated Sexual Abuse of a Child. On September 26th, 2005, Montoya was sentenced to 5 years to Life in the Utah State Prison. The other cases are still pending.

On October 3rd, 2005, Aaron M. Montoya was issued a Felony Letter from POST, stating the intention of POST to revoke the certification of Mr. Montoya to be a law enforcement officer in Utah.

Aggravating Circumstances: There were multiple victims over a period of months or years and Montoya was serving as a teacher to some of the victims at the time of the assaults.

Mitigating Circumstances: None.

Motion: Sheriff Lynn Nelson motioned to accept POST recommendation of revocation of Aaron Montoya's peace officer certification.
Second: Officer Mike Galieti seconded the motion.
Vote: The motion passed with all in favor.

JAMES R. MITCHELL - (Attempted Misuse of Public Money)

James R. Mitchell was working as a Correctional Officer for Iron County Sheriff's Office at the time of the incident. Mitchell was hired on December 22, 1987 and has a correctional officer certification. Mitchell was terminated by Iron County Sheriff's Office on June 21, 2004.

In early June of 2004, Mitchell and some inmates on his work crew went to his house in Enoch and loaded up his personal lawn and garden tractor and took it to Cedar City to a repair shop to have it repaired. Once the tractor was repaired Mitchell submitted the bill to the county for payment. The investigation shows that Mitchell lied about who owned the tractor. He claimed Enoch City owned it and he had borrowed it to do work for the county. This was a false claim as he had traded Enoch City his old lawn tractor for the one in question approximately seven years before. Mitchell kept and used the tractor at his house during that time. He also claimed that he had tipped it over and damaged it while working for the county at the shooting range. He later admitted that he had lied about the ownership and wrecking the tractor but tried to minimize his conduct by stating that he had used it for county work in the past. Mitchell submitted his resignation on June 21, 2004 to Iron County. Mitchell was prosecuted by Washington County and entered into a plea in abeyance for Attempted Misuse of Public Money, a Class A Misdemeanor. Mitchell was ordered to pay \$546.07 and the plea in abeyance to be held for 12 months.

Mitchell signed a Consent Agreement for a 2-year suspension.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: Chief Robert Allinson motioned to accept a two year suspension of James R. Mitchell's peace officer certification to start on today's date January 12, 2006-January 12, 2008.
Second: Officer Mike Galieti seconded the motion.
Vote: The motion passed with all in favor.

THOMAS STONE – (Alcohol Related Reckless)

Thomas Stone is employed by the Utah Department of Corrections as a correctional officer. He began his employment with DOC in July of 1987.

On July 18, 2004, a UHP Trooper stopped Officer Stone after being observed exceeding the posted speed limit. The trooper detected an odor of an alcoholic beverage and requested that Officer Stone complete field sobriety testing. Based upon the test results, Officer Stone was arrested for DUI. A breath test was conducted and Officer Stone's BAC was observed to be .098.

Officer Stone entered into a plea agreement on July 5, 2005, which reduced the DUI charge to an Alcohol Reckless charge. He was sentenced to complete a twelve-hour counseling program, 48 hours of community service and payment of a \$1200 fine. As of September 1, 2005, Officer Stone has completed these requirements.

Officer Stone remains employed by DOC. DOC has offered Officer Stone a non-sworn position of employment to be effective upon his receipt of sanctions by the POST Council.

Officer Stone signed a Consent Agreement specifying a suspension of his peace officer certification effective September 28, 2005 and running through March 07, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: No prior arrests.
DOC willing to continue employment

Motion: *Sheriff Bud Cox motioned to accept the six-month suspension of Thomas Stone's peace officer certification.*

Second: *Sheriff Mike Lacy seconded the motion.*

Vote: The motion passed with all in favor.

MAURA E. NELSON – (Relationship with Inmate)

Maura E. Nelson was employed by the Cache County Sheriff's Office (CCSO) from March of 2003 until her resignation on June 29, 2005.

The CCSO conducted an investigation into an allegation that Ms. Nelson was involved in sexual relationship with a male prisoner incarcerated in the Cache County Jail. The investigation determined that Ms. Nelson had participated in an on-going flirtatious relationship with the prisoner, which involved hand-to-hand touching and kissing. No evidence was found that would support the contention that Ms. Nelson had engaged in any sexual activities with the prisoner. Ms. Nelson admitted and evidence was found that she established an assumed name to conduct an on-going correspondence with the prisoner and that she provided the prisoner with monies. Ms. Nelson admits that she fell in love with the prisoner.

Ms. Nelson resigned from the CCSO on June 29, 2005.

On September 08, 2005, Ms. Nelson signed a Consent Agreement suspending her peace officer certification from June 29, 2005 through June 28, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: Sheriff Dave Edmunds motioned to revoke Maura Nelson's peace officer certification.

Second: Sheriff Mike Lacy seconded the motion.

Discussion: Council discussed in more detail the facts of the case trying to determine if there was enough evidence for revocation. After the discussion the sub-motion was voted on.

Sub-Motion: *Chief Val Shupe motioned for a four-year suspension of Maura Nelson's peace officer certification.*

Second: *Ben Jones seconded the motion.*

Vote: *The motion passed with 7 for and 6 opposed.*

MARK LINDGREN – (Distribution of Drugs, Felony Conviction)

Mark E. Lindgren was employed by the Salt Lake County Sheriff's Office from October 1991 until his resignation on July 23, 2004.

Mr. Lindgren was arrested on June 24, 2004 by the SLCSO for Distribution/Offering/Arranging to Distribute a Controlled Substance (1 count / 2nd Degree felony) and for acquiring a Controlled Substance by Prescription Alteration (3 counts / 3rd Degree felonies).

On November 14, 2005, Mr. Lindgren entered a plea of guilty to one (1) felony count of Distribution/Offering/Arranging to Distribute a Controlled Substance, a 2nd Degree Felony.

On November 23, the POST Director issued a Felony Revocation Letter to Mr. Lindgren.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Bud Cox motioned to accept the POST recommendation of felony revocation of Mark E. Lindgren peace officer certification.*

Second: *Major Mike Kuehn seconded the motion.*

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

MICHAEL W. HOWARD – (Falsification or Alteration of a Government Record)

Michael W. Howard was employed the Utah Department of Corrections from December 1990 until January 1995 and the Uinta County Sheriff's Office (UCSO) as a correctional sergeant from January 1995 until his termination on March 14, 2003.

On or about December 06, 2002, Mr. Howard witnessed an assault on a prisoner in the UCSO jail facility. Mr. Howard instructed a subordinate to make a false written statement regarding the assault. Mr. Howard then submitted the report to his supervisors as true and complete. The subsequent investigation substantiated that Mr. Howard had instructed the subordinate to write the report containing false information.

On September 07, 2005, Mr. Howard signed a Consent Agreement suspending his peace officer certification for a period of four (4) years beginning on March 14, 2003 and ending on March 13, 2007.

Aggravating Circumstances: Mr. Howard directed a subordinate to write and submit a false government document related to the commission of a felony.

Mitigating Circumstances: None.

Motion: *Executive Director Scott Carver motioned to accept POST recommendation of four-year suspension of Michael Howard's peace officer certification.*

Second: *Chief Val Shupe seconded the motion.*

Vote: *The motion passed with 11 for and 2 opposed.*

ROSS DRISHINSKI – (Sexual Misconduct)

Ross A. Drishinski was employed by the Iron County Sheriff's Office (ICSO) from August 2000 until his resignation on July 02, 2004.

For several weeks prior to July 02, 2004, supervisors noted that Mr. Drishinski was not performing his duties up to expected standards. Rumors were also circulating that Mr. Drishinski was involved in an extramarital affair. On the morning of July 02, 2004, a supervisor located Mr. Drishinski in an isolated area of Iron County. The supervisor confirmed that Mr. Drishinski was in the company of a female (not his wife). When confronted by Sheriff Gower, Mr. Drishinski admitted to being in the company of the female and that they had engaged in sexual activities in his patrol vehicle while on-duty.

Mr. Drishinski resigned from the ICSO on July 02, 2004.

On March 23, 2005, Mr. Drishinski signed a Consent Agreement specifying a suspension of his peace officer certification from July 02, 2004 through July 01, 2006.

On June 03, 2005, the POST Council rejected the terms of the Consent Agreement and directed that POST seek a four (4) year suspension. A hearing was held on September 28, 2005. On December 8, 2005, the Administrative Law Judge ruled that Mr. Drishinski's certification should be suspended for a period of four (4) years commencing on July 02, 2004.

Aggravating Circumstances: Mr. Drishinski was married at the time of the incident. He was on-duty and in an assigned patrol vehicle at the time of the incident.

Mitigating Circumstances: None.

Motion: Chief Val Shupe motioned to accept POST recommendation of a four-year suspension of Ross Drishinski's peace officer certification.

Second: Vice President Donna Dillingham-Evans seconded the motion.

Sub-Motion: ***Sheriff Dave Edmunds motioned for revocation of Ross Drishinski's peace officer certification.***

Second: ***Executive Director Scott Carver seconded the motion.***

Vote: ***The motion passed with 9 for and 4 opposed.***

TRISDAN M. VELARDE – (Domestic Violence Assault)

Trisdan Velarde was employed by the Utah Department of Corrections from December 1998 until his resignation on September 23, 2005.

On or about May 20, 2005, Mr. Velarde and his wife were involved in a physical domestic dispute. The Springville Police Department investigated the incident. Mr. Velarde was charged with misdemeanor assault and referred to the Springville Justice Court. On or about August 30, 2005, Mr. Velarde was convicted of Domestic Violence Assault, a Class B misdemeanor. He was fined a total of \$957 and placed on probation for a period of one year.

Mr. Velarde resigned from DOC on September 23, 2005.

On December 22, 2005, Mr. Velarde signed a consent Agreement specifying a four-year suspension of his peace officer certification to run from September 23, 2005 through September 22, 2009.

Aggravating Circumstances: None.
Mitigating Circumstances: None.

Motion: *Sheriff Mike Lacy motioned to accept POST recommendation of four-year suspension of Trisdan Velarde's peace officer certification.*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with all in favor.*

CHARLES E.FORBES – (Unlawful Conduct)

Charles E. Forbes is employed by the Utah Department of Corrections (DOC) as an AP&P agent.

The DOC initiated an investigation of an allegation that Agent Forbes had engaged in an inappropriate sexual relationship with a probationer and that he had assaulted a probationer. The investigation established that while a romantic and sexual relationship was established with a female, she was no longer a probationer. It was also determined that a police agency responded to a residence to investigate an alleged assault. The police agency did not file any charges related to the alleged assault.

On September 21, 2005, Agent Forbes signed a Consent Agreement specifying a revocation of his peace officer certification effective January 12, 2006.

The DOC investigation resulted in a 180-hour suspension from work. **The revocation action sought by POST is a direct result of the below enumerated AGGRAVATING CIRCUMSTANCES.**

Aggravating Circumstances: DUI Conviction – 1986.
DUI Conviction – 1993.
Shoplifting conviction – 1995.
Suspension for assault – 1995.
Lied to DOC under Garrity – 2004.
Mitigating Circumstances: None.

Motion: *Robbie Robertson motioned to accept POST recommendation and the signed Consent Agreement of revocation of Trisdan Velarde's peace officer certification.*
Second: *Major Mike Kuehn seconded the motion.*
Vote: *The motion passed with all in favor.*

NEXT POST COUNCIL MEETING – Hosted by Dixie College on March 20, 2006

The Council approved the date of March 20th for the next POST Council meeting. It will be held at Dixie College and begin at 3:00pm. Vice-President Donna Dillingham-Evans will be hosting the POST Council meeting.

POST IS REQUESTING THE ADVICE FROM POST COUNCIL

Director Townsend informs Council members of the importance of the Council to be of assistance to POST in other ways besides disciplinary actions. POST really needs the consent and advise of the council. We need to address issues on the curriculum, job task analysis, and the retooling of basic training. There are also concerns that need to be addressed about in-service training. Chairman Greiner reiterates that there is a huge need for in-service training and that there is an expectation for POST to provide it. This time of year is when we would need to start lobbying for an increase to meet our training needs. POST is petitioning the legislature to increase the restricted fund cap and appropriate the full 18.5% of the fund to POST.

ADJOURNMENT

The POST Council meeting adjourned at 12:25 p.m.

