

POST COUNCIL MEETING

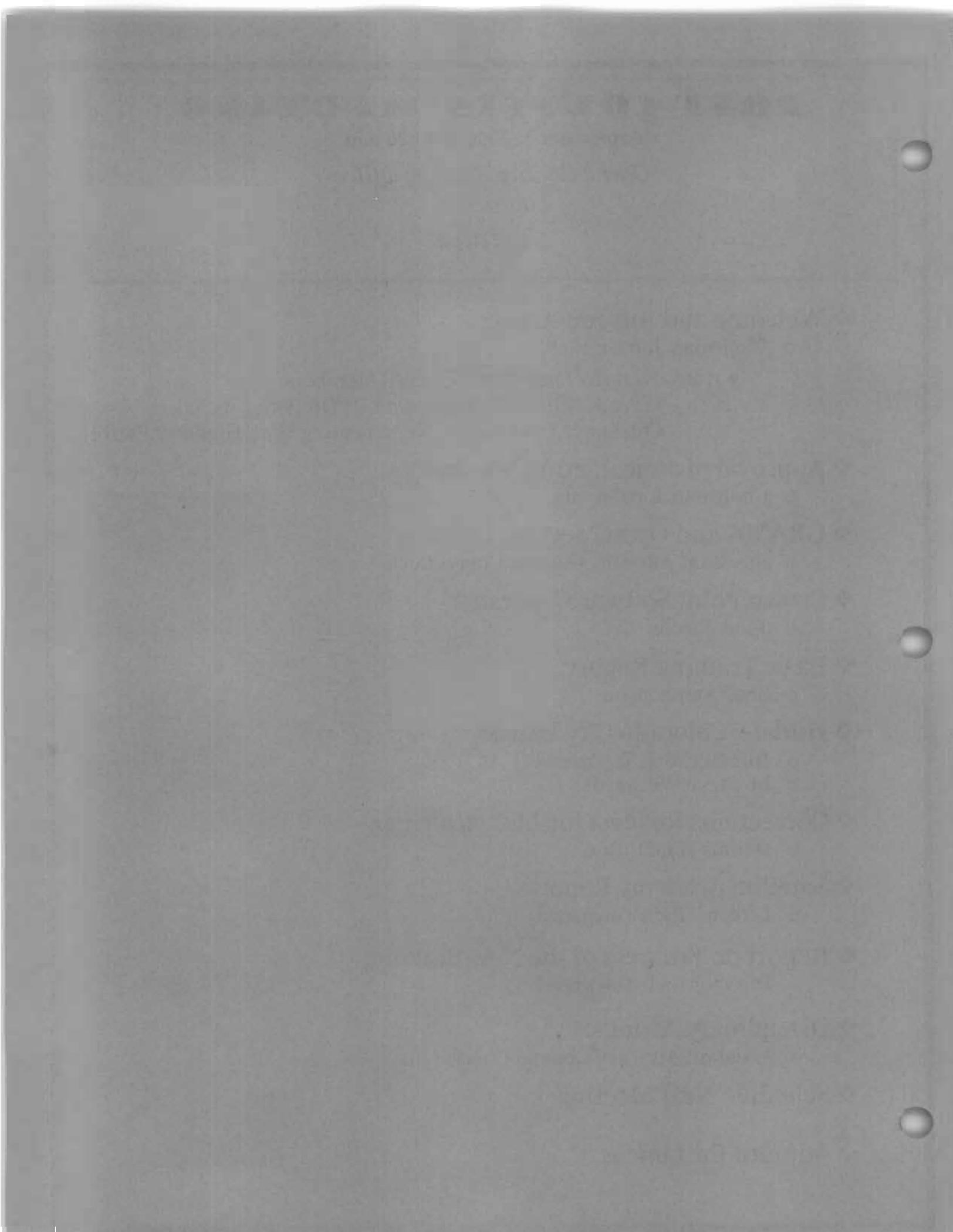
September 7, 2006 at 10:30 a.m.

Cache County Sheriffs Office

Logan, UT

Agenda

- ❖ **Welcome and Introductions:**
 - Chairman Jon Greiner
 - Introduction of new POST Council Members
 - ~ Larry J. Gillett– Representing UPOA (letter included)
 - ~ Col. Lance Davenport – Representing Utah Highway Patrol
- ❖ **Approval of June 2, 2006 Minutes:**
 - Chairman Jon Greiner
- ❖ **GRAMA and Open Meeting Training:**
 - Assistant Attorney General Cheryl Luke
- ❖ **Crown Point Software Upgrade:**
 - John Jacobs
- ❖ **Basic Training Report:**
 - Scott Stephenson
- ❖ **Hildale/Colorado City Issues:**
 - Director Rich Townsend
 - Lt. Steve Winward
- ❖ **Corrections Request for LEO Academy:**
 - Dennis Hutchinson
- ❖ **Satellite Academy Report:**
 - Director Rich Townsend
- ❖ **Report on Progress of the New Building:**
 - Director Rich Townsend
- ❖ **Disciplinary Actions:**
 - Assistant Attorney General Cheryl Luke
- ❖ **Schedule Next Meeting:**
- ❖ **Adjourn for Lunch:**



POST COUNCIL MEETING

September 7, 2006
Cache County Sheriff's Office
Logan, Utah

MINUTES

On September 7, 2006, a regularly scheduled POST Council meeting was held at 10:30 a.m. at the Cache County Sheriff's Office, in Logan, Utah. Chairman Jon Greiner conducted.

The following POST Council members were in attendance:

Chief Jon Greiner, Chairman, Ogden City P.D.
Sheriff Lynn Nelson, Vice-Chairman, Cache County Sheriff's Office
Sheriff Mike Lacy, San Juan County Sheriff's Office
Chief Val Shupe, South Ogden City P.D.
Ben Jones, At Large
Chief Robert Allinson, Cedar City P.D.
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
Assistant Attorney General Ken Wallentine, Attorney General's Office (Proxy for Attorney General, Mark Shurtleff)
Dr. Chris Mitchell, Department of Corrections (Proxy for Executive Director Scott Carver)
Larry Gillett, UPOA
Colonel Lance Davenport, Superintendent Utah Highway Patrol
Mayor Joe Ritchie, Roy City
Vice-President Donna Dillingham-Evans, Dixie College
Commissioner James J. Eardley, Washington County

The following were excused and/or absent:

Executive Director Scott Carver, Department of Corrections (Represented by Chris Mitchell)
Attorney General Mark Shurtleff, Attorney General's Office (Represented by Ken Wallentine)

POST staff present:

Major Rich Townsend, Director
Capt. Scott Stephenson, Deputy Director
Shaunna McCleve, Administrative Secretary
Lt. Steve Winward, 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
John Jacobs, Training Manager
Barlow Elton, Media Specialist
Scott Barnett, POST Investigations

Others present:

Dennis Hutchinson, Department of Corrections
Frank W. Budd, UCOPA
Gaylyn Larsen, Salt Lake County S.O.
Dave Burdett, Salt Lake County S.O.



Librada Chacon
Steve Mecham, Utah State University P.D.
Edward L Rhoades, Heber City P.D.
Joey Smolinski, Heber City Animal Control
Chris Barone, Federal Protective Services
Kelly Sparks, Weber State Police Academy
Dave Bennett, Cache County S.O.

WELCOME AND INTRODUCTIONS

Chairman Jon Greiner welcomed the Council Members and visitors. He thanked Cache County Sheriff's Office for hosting the meeting. He introduced the two new members to the Council, Colonel Lance Davenport representing The Utah Highway Patrol and Larry Gillett representing the Utah Peace Officer's Association.

APPROVAL OF POST COUNCIL MINUTES

The minutes of June 2, 2006 were reviewed. The following motion was presented.

Motion: *Sheriff Mike Lacy motioned to approve the minutes of June 2, 2006.*
Second: *Sheriff Dave Edmunds seconded the motion.*
Vote: *The motion passed with all in favor.*

GRAMA Training

Assistant Attorney General Cheryl Luke informed the Council this training is required by legislation to be held annually. Under GRAMA (Government Records and Management Act) every person should have a right to look at public records free of charge and take a copy during normal working hours. Records are the same regardless of the format. There are four types of records, Public, Private, Controlled, and Protected.

1) Examples of public records are: Employee info (gross compensation, name, gender, work address, phone, history), finalized government contracts, budget records, formal (court filed or recorded documents), public meeting transcripts, initial police reports (case by case).

2a) Examples of private records: Home address/phone, social security numbers, date of birth, social service, welfare information, library patrons, release would interfere with fair trial or contract negotiations.

2b) Examples of private record special considerations: Release will be embarrassing to the subject of record (crime photos, graphic details of sex offenses, weight, age, cross dressing details), release will be shocking and inappropriate (name of victim before notification of next of kin, children), release will put subject in danger (witnesses, confidential informants, complainant's). If in question deny and redact.

3) Examples of controlled records: Medical, psychiatric/psychological, release may be detrimental to subject's mental health, or release would violate normal professional ethics.

4) Examples of protected records: Trade Secrets, procurement information, test questions, papers prepared for litigation, fair trial and hearing issues, parole and pardon recommendations, investigative files, drafts, and any release that would interfere with commercial practice, litigation, investigation or jeopardize security. The division head, department head or the Governor can release protected records.

Summary of the classifications;

- 1) **Public Record:** Can be released to anyone.
- 2) **Private Record:** Ordinarily may only be disclosed to the subject of the record, their legal representative or with a written consent and release.
- 3) **Controlled Record:** Ordinarily may be disclosed only to a physician, psychologist, social worker, insurance provider or public health agency.
- 4) **Protected Record:** May be disclosed only to the person who submitted the record, or with a release from entity or interest protected.

Four things to do before you receive a GRAMA request:

- Make sure your agency has a designated records officer.
- Adopt rules (through rule making process) to implement a classification schedule, storage and retention rules, and a fee schedule for costs.
- Report to State archives the designation of the record series (classifications).



- Establish and report to state archives a retention schedule.

Things to watch for:

- Subpoenas are not a GRAMA request, send those to legal counsel.
- Government sharing (UCA§33-2-206) No agreement is needed with Utah agencies, but it doesn't hurt. Mark or notify the classifications.

Denial:

- Needs to be in writing.
- Describe denial and reason for the denial.
- The requester has the right to appeal the denial to the chief administrative officer, the time limit to file and the name and business address of the CAO.

Appeals:

- Chief Administrative officer.
- Records Committee or District Court.

5 steps when you get a GRAMA request are:

- 1) Is request properly made?
- 2) Determine time limit for response.
- 3) Determine classification of record. (Is it your record?)
- 4) Determine if the record may properly be disclosed to the specific requester.
- 5) Respond by (1) approving request and providing the record, (2) seeking more time to respond, (3) denying the request in all or part in writing.

It is a crime to release protected and private information or to intentionally violate the GRAMA Act. Denials can be appealed.

Open Meeting Training

Cheryl Luke continued with Open Meeting Training. She informed the Council that POST Council meetings fall under the open and public meetings act. She emphasized the key changes enacted in 2006. They are as follows:

UCA§52-4-104 TRAINING

- The presiding officer of the public body shall ensure that the members of the public body are provided with annual training. (Place on an agenda and document the training in your minutes each year.)

UCA 52-4-201 OPEN MEETING EXCEPTIONS

- Requires a public body to hold workshops or executive sessions scheduled on the same day as the regularly scheduled meeting at the regularly scheduled locations.

EXCEPTIONS:

- Workshop is at the regularly scheduled location and you move regularly scheduled meeting for that day (with notice)(workshop held separate from other business)
- Any of the meetings are publicly announced site visit or traveling tour(site visits with no action)
- It is not practicable to conduct the workshop or executive session at the regular location due to emergency or extraordinary circumstance.
- An electronic meeting under 52-4-207

Do the public's business at the time and place it is expected. Don't blend workshop issues with your regular public business.

UCA 52-4-202 PUBLIC NOTICE:

- At least 24 hour notice (unless emergency procedure) including agenda.
- Include Agenda with date, time, and place. (Reasonable specificity as to topics considered required).
- Additionally, if body holds regular meeting scheduled in advance over a year MUST give notice at least one each year of annual schedule.
- Post at principal office of public body, send to one newspaper of general circulation in area or to media correspondent.
- Encouraged to post on internet and to provide electronic notice. (e-mail to press etc.)
- Prohibits action on items not posted on agenda unless it meets emergency standards.

UCA § 52-4-203 MINUTES AND RECORDING OF MEETINGS

- All open meetings must be recorded, in addition to keeping written minutes.
- It is now required to record "closed" portions of the public meeting. Make sure record shows closure as that will be a GRAMA protected piece of the record.



UCA § 52-4-204 CLOSED MEETING

- The quorum present.
- Must have 2/3 vote to close.
- You cannot approve ordinance, resolution, rule, regulation, contract, or appointment in a closed meeting.
- The following needs to be put on the record:
 - Record of individual vote regarding closure.
 - Reason for closure (52-4-205).
 - Location held for the closed meeting.

UCA § 52-4-205 PURPOSE OF CLOSED MEETING (Abridged)

- Discussion of individual's professional competence, character, physical or mental health.
- Collective bargaining strategy.
- Litigation strategy.
- Purchase, sale, exchange, or lease of real property strategy that it would interfere with the deal.
- Deployment of security.
- Investigative proceedings regarding criminal misconduct.
- County legislative body discuss commercial information.

UCA § 52-4-206

- Shall record (complete and unedited) and may keep written minutes.
- Protected records under GRAMA (only disclose with court order).
- If closed under 52-4-205(1)(a) or (1)(f) person presiding must sign sworn purpose.
- Required to publicly announce the location of a closed meeting.(52-4-204)

UCA § 52-4-207 ELECTRONIC MEETINGS

- Requires a public body to adopt a resolution, rule or ordinance governing the use of electronic meetings prior to holding an electronic meeting.

UCA §52-4-208 CHANCE OR SOCIAL MEETINGS

- Open meeting law does not apply to any chance meeting or social meeting.
- Do not use a social meeting to get around the law.

UCA §52-4-301 DISRUPTION OF MEETINGS

- A person who becomes willfully disruptive can be removed if the orderly conduct of the meeting is seriously compromised.

UCA § 52-4-302 thru 4 LAW SUITS AND ACTIONS TO ENFORCE THE LAW

- Violation of law will result in making any action taken void.
- AG and County Attorneys shall enforce the law.
- Individuals can sue and get attorney fees.

UCA § 52-4-305 CRIMINAL PENALTY FOR CLOSED MEETING VIOLATION

- Knowing and intentional violation is a class B misdemeanor, as is abetting or advising a violation.

BASIC TRAINING REPORT

John Jacobs informed the Council the curriculum changes are still in process and he is currently video taping one entire session from beginning to end. This is helping to determine if the curriculum is being presented in the correct order. Capt. Scott Stephenson also gave a quick update on the curriculum. He informed the Council the objectives are complete and the lesson plans are in the process of being developed now that the objectives are complete. The main goal is that the written tests will continually be evaluated, practical tests (meaning DT, EVO and Firearms) will be under constant scrutiny and will be supported by the objective that has been written. Scenario testing will become the final test, this will show what the cadets are retaining and comprehending and will show any weaknesses.

Capt Stephenson reported to the Council a timeline for the satellite academies.

- Objectives are currently being implemented.
- Scenario Training will be to them by February of 2007.
- Lesson Plans will be to them by February of 2007.
- Assessment and New Curriculum, pending approval of the Council, will be to them by July of 2007.

Capt Stephenson reported on the Salt Lake City PD academy. They are doing very well and started 20 recruits in this class July 17, 2006 and are currently in week 8. They are having huge success and have not lost any recruits. This academy will save their department approximately one-hundred-thousand dollars.



Capt. Stephenson also informs the Council that Corrections has a huge demand for AP&P officers. We will work closely with them to put together an LEO academy that will start the first of October. He also notified the Council, POST is starting a UHP session on September 11, 2006 with 24 cadets and they will provide resources to reduce the impact on POST budget.

Director Rich Townsend informed the Council of the promotion of Capt. Scott Stephenson and told the Council members Commissioner Scott Duncan has assigned him to be the new Deputy Director at POST. He also introduced two new POST staff members: Barlow Elton over media production, and Scott Barnett in Investigations.

Capt. Stephenson was asked by Director Townsend to tell the new Council members what POST has been through to get to this point with the objectives and how we have tested them. Capt. Stephenson told the Council we solicited feedback from the FTO's from across the state. We needed to find out where POST was meeting their demands and where we were falling short. The FTO's gave us very valuable feedback and we are using the feedback to determine changes that need to be done.

CROWN POINT SOFTWARE UPGRADE

John Jacobs reports to the Council that POST has created a POST portal to open the gates of communication. This will be a secured site and will be password protected. It will have the curriculum available with the lesson plans, POST assessments for the satellite academies so they can have test questions, documents, and forms. It was POST's goal last year to have the Policy/Procedure Manual in electronic format and is now done and available through this portal.

John Jacobs informed the Council on who will have access to the portal. There are different sections and each section has a unique combination of what they receive.

POST portal access will be given to:

- ~ Satellite Academies (will have access to curriculum and test questions).
- ~ POST Staff (will have access to internal documents and forms used at POST).
- ~ Instructor Section (will have access to the curriculum and lesson plans).
- ~ Training Officer (will have access to in-service information).
- ~ Peace Officer (will have access to their own records).
- ~ POST Council (will have access to Minutes, Policy and Procedure Manual, and Curriculum).

The other part of the portal that is being launched is peace officer records:

- ~ Agencies will have access to their agency records.
- ~ Officers will have access to their personal records.
- ~ Agencies will be able to report training hours.
 - By class
 - By Individual
 - Yearly

Chairman Jon Greiner asked if this would be password protected. John Jacobs told the Council it would be and that POST is not putting any personal information in this portal. All officers will have an ID #, Social Security numbers, DOB and addresses will not be on the portal. John Jacobs also gave an update on how the Training Manager Academy is coming along. He told them we are implementing the ability for a satellite academy to receive curriculum, test questions and they can return test results.

HILDALE/COLORADO CITY ISSUES:

Director Rich Townsend reports on the letter sent to Mica Barlow and had the Council read it. He reminded the Council members during the March POST Council meeting he presented letters that were going to be hand delivered to Mayor Zitting and Marshall Fred Barlow, warning that they were to comply with orders of the court. During depositions there were indications they were selectively answering the questions. They were warned in the letters if they refused to answer court ordered questions their certification would be in jeopardy. Mica Barlow was jailed in May of 2006 for refusing to answer questions to the Arizona Grand Jury. He was released because of the capture of Warren Jeffs. The Arizona Grand Jury no longer needed information about Warren Jeffs from Mica Barlow. At that point Director Townsend indicated he felt the need to send a message of disapproval of Mica Barlow's actions and his unwillingness to comply with court orders. He stated Mica



Barlow's actions were inexcusable.

Director Townsend reported that as of today his peace officer powers are suspended under the Administrative Rule that allows the Director to do this. He felt this action was essential to send a message to the other law enforcement officers of Hildale and let them know these actions will not be tolerated. He asked the Council Members to endorse the action he has taken against Mica Barlow.

Motion: *Ken Wallentine motioned to concur with Director Townsend action of suspension of the Mica Barlow's peace officer certification.*

Second: *Sheriff Dave Edmunds seconded the motion.*

Discussion: *Larry Gillett asked Director Townsend how long the suspension is for. Director Townsend responded by telling the Council he will defer this to them. He told the Council there is an investigation started on Mica Barlow and when POST has all of the information they will present it to the Council for them to take further action. SAC Tim Fuhrman asked if this was a Federal Grand Jury and Director Townsend replied, "yes". SAC Fuhrman then told the Council if this was a Federal Grand Jury, they would not proceed with any further action against Mica Barlow. Ken Wallentine told the Council he has also failed to respond to civil depositions questions too. Chairman Greiner informed the Council this is a temporary suspension pending the investigation. Sheriff Bud Cox asked if Mr. Barlow were not in jail, would it have made a difference? Director Townsend answered by telling the Council, there are other officers who are being compelled to answer questions on other matters who are refusing to answer. These officers are having a problem separating state and religion and are currently refusing to answer questions. Director Townsend feels if this motion passes it will send a message to these officers they are going to be held accountable for their actions and this behavior will not be tolerated. Sheriff Bud Cox asked if Mr. Barlow is being suspended for contempt of court or for refusing to answer questions. He voiced his concern that this may set a precedence to finding officers who miss a court date, in contempt of court and being suspended for that. Ken Wallentine informed the Council that Mr. Barlow was held in contempt for refusing to answer questions about a crime or potential crime. Director Townsend reminded the Council these officers have been warned and they are still violating the warning.*

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

CORRECTIONS REQUEST FOR LEO ACADEMY:

Dennis Hutchinson reported to the Council. He stated the Department of Corrections has lost a lot of officers and is in need of several law enforcement officers. He is asking the Council for approval for Corrections to hold their own LEO session at the Corrections Academy.

Motion: *Chief Val Shupe motioned to approval the LEO session at the Corrections Academy.*

Second: *Sheriff Bud Cox seconded the motion.*

Vote: *Motion passed with all in favor.*

SATELLITE ACADEMY REPORT

Director Townsend informed the Council on the progress of the satellite academies. He reports some academies are more successful than others on having graduates being hired by agencies. POST is going to hold these academies to a higher expectation, there are too many students not being hired by an agency after graduating. He also informed the Council that Commissioner Scott Duncan would be informing the satellite academies they will not be able to use the EVO range for training any longer. The range is going to be used by current officers and POST will certify any satellite cadet that gets hired by an agency. These officers will get first priority. Commissioner James Eardley asked Director Townsend if southern Utah would get a satellite academy. Director Townsend told the Council in order for us to do this we need a commitment from local law enforcement they will support and hire these students. Vice President Donna Dillingham-Evans stated Dixie



College is in the process of trying to start an academy there. The question was asked, if a satellite academy has the resource to do EVO on their own track, would POST indorse it? Director Townsend said POST would welcome that. There is just not enough room on the EVO track to provide the training for all of the academies.

Chief Val Shupe asked if Weber State Academy would run the Weber County Sheriff's Academy? Kelly Sparks from the Weber State Academy reported they would. Chief Val Shupe then asked if this has been approved by the Council and if they are using approved curriculum. Kelly Sparks said Weber County Sheriff's Office received approval last year from the Council. Chief Shupe replied Weber County Sheriff's received approval to do this with the Corrections component but the academy has not. POST was not made aware of WCSO's academy moving over to WSU's satellite academy. Sheriff Bud Cox asked if they are running the Sheriff's academy or if they are one in the same. Kelly Sparks replied they are one in the same. Director Townsend commented this would be put on the next POST Council agenda and will be handled through the proper channels. Ken Wallentine told the Council that POST doesn't have the resources to maintain the satellite academies. Chief Robert Allinson asked about a criminal justice degree along with POST certification. Director Townsend advised the Council POST is exploring the possibility of allowing a cadet to test (clep) out of certain portions of the academy. For example, if a cadet has taken a college course on Constitutional Law, the cadet may take a test on search and seizure, etc. If the test is passed, that class at the academy could be waived.

Director Townsend told the Council the new POST building is almost completed and the next POST Council meeting will be at the new facility.

DISCIPLINARY ACTIONS

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

GARY J. BURNHAM - (Forcible Sexual Abuse, Code of Ethics Violation)

Mr. Burnham was employed by the South Salt Lake Police Department (SSLPD) from August 1999 until his resignation on August 26, 2005. He was previously employed by the Tremonton Police Department for approximately 2 years. It was alleged Mr. Burnham had sexually assaulted a young female adult. A civil law suit by the victim is pending. During the course of the POST investigation, Mr. Burnham was uncooperative and failed to respond to requests from the investigator or to the requirements of an Administrative Complaint issued by the Chairman of the POST Council.

An administrative hearing was conducted on July 27, 2006. Mr. Burnham failed to appear and was held in default. Following the presentation of evidence, the Administrative Law Judge issued a finding that recommends the revocation of Mr. Burnham's peace officer certification effective on the date of the next POST Council meeting.

Aggravating Circumstances: Subject was uncooperative during the investigation. As the subject of a previous investigation by POST. Mr. Burnham received a Letter of Caution related to an incident of domestic violence.

Mitigating Circumstances: None.

Motion: *Sheriff Mike Lacy to accept the ALJ's recommendation and revoke Mr. Burnham's peace officer certification. (Starting June 2, 2006 – June 2, 2008)*
Second: *Commissioner James Eardley seconded the motion.*
Vote: *The motion passed with all in favor.*



CAMERON D. CAFFERTY – (Lewdness, code of Ethics Violation)

Mr. Cafferty was employed by the Salt Lake City Police Department (SLCPD) from October 1998, until his resignation on February 15, 2006.

Mr. Cafferty allegedly exposed his genitals to an employee of a Taylorsville, Utah, beauty supply store in November of 2003 and a second time in November of 2004. When confronted by a SLCSO deputy, Mr. Cafferty identified himself as a "Security Officer" rather than a police officer. On December 1, 2004, Mr. Cafferty was charged with lewdness, a class B misdemeanor. On April 6, 2006, he entered a guilty plea to the charge of attempted stalking. The penalties assessed included a fine of \$300, submission to a psychosexual evaluation and cooperating with POST to sign a Consent Agreement, which revokes his peace officer certification. On June 28, 2006, Mr. Cafferty signed a Consent Agreement revoking his peace officer certification effective February 15, 2006.

Aggravating Circumstances: Mr. Cafferty was identified in two instances of lewdness.

Mitigating Circumstances: None.

Motion: *Chief Val Shupe motioned to accept Cameron Cafferty's signed Consent Agreement for a revocation of his peace officer certification.*

Second: *Ben Jones seconded the motion.*

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

LIBRADA T. (Trina) CHACON (DUI, Code of Ethics Violation)

Librada T. Chacon was employed by Salt Lake County Sheriff's Office (SLCSO) from June 2001 until her resignation on February 01, 2006. Since her resignation was employed by Salt Lake Count Constable's Office.

On December 11, 2005, Ms. Chacon drove her personal car to a local gas station to assist two friends who were involved in a physical altercation. Upon arrival, a Taylorsville police officer present at the scene noted that Ms. Chacon had driven her car over a curb while turning into the gas station. The officer detected an odor of an alcoholic beverage on her breath. The officer administered FST's and came to the conclusion that Ms. Chacon was DUI. On Aril 4, 2006, Ms. Chacon entered into a plea agreement with Taylorsville court. The court accepted a plea in abeyance to the charge of DUI. Ms. Chacon was placed on probation for 12 months and ordered to pay a fine of \$1850.

On July 26, 2006, Ms. Chacon signed a Consent Agreement, agreeing to a one-year suspension of her peace officer certification effective September 7, 2006.

Aggravating Circumstances: Declined to provide a breath test.

Mitigating Circumstances: None.

Ms. Chacon addressed the Council and took responsibility for her actions. She apologized for her actions and feels she deserves reduced time.

Chief Val Shupe asked about her plea in abeyance and asked if the date was April 4, 2006.

Cheryl Luke informed the Council Ms. Chacon worked as a bailiff until August 1, 2006.



Motion: *Chief Val Shupe motioned not to accept the Consent Agreement of a one-year suspension starting on September 7, 2006. He motioned to a one-year suspension of her peace officer certification. (Starting April 1, 2005 – April 1, 2006)*

Second: *Mayor Joe Ritchie seconded the motion.*

Discussion: The Council discussed the issues created by moving the date of suspension to April when she worked as a peace officer until August. Sheriff Bud Cox asked if the motion could be changed to reflect the date of August 1, 2006. Chief Shupe said the motion stood as presented.

Vote: *The motion passed with 8 For and 7 Opposed.*

HAL W. COX – (Assault)

Mr. Cox graduated from the Fred House Academy in 1999. He was hired by the Utah Department of Corrections on July 2, 1999. Cox has been on active military leave from the Department of Corrections since the time this case was referred to POST.

It was discovered that Mr. Cox had pled guilty to Assault, a class B misdemeanor on October 22, 2004, in Fourth District Court. Orem Police were dispatched to a family fight on August 20, 2004. Cox began to argue with his wife and during the argument Mr. Cox opened his car door knocking his wife to the ground.

In attempting to contact Mr. Cox for an interview, it was discovered that he was on active military leave and Corrections was notified that Mr. Cox needed to be interviewed by POST before he was allowed back to work from military duty. On June 30, 2006, Mr. Cox was interviewed at POST and stated that while he was working graveyards at the Utah State Prison his wife had started an affair. He stated that after he was charged with Domestic Violence, he thought it would be better to plead to Simple Assault, a class B misdemeanor than face a trial for Domestic Violence.

The POST staff recommends Mr. Cox's peace officer certification be suspended for four-years from the date he pled guilty. Mr. Cox signed a consent agreement, agreeing to the suspension of his peace officer certification for four-years, from October 22, 2004 through October 22, 2008.

Aggravating Circumstances: Mr. Cox pled guilty to assault, a class B misdemeanor.

Mitigating Circumstances: Mr. Cox cooperated in the POST investigation. He was being manipulated and deceived by his wife.

Motion: *Sheriff Bud Cox motioned to accept the Consent Agreement of a four-year suspension of Hal W. Cox's peace officer certification. (Starting October 22, 2004 – October 22, 2008)*

Second: *Larry Gillett seconded the motion.*

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

BRADFORD CVETNICH – (DUI)

Mr. Cvetnich was employed as a correctional officer by the Salt Lake County Sheriff's Office from November 1, 2001 until his termination on May 17, 2005.

On February 25, 2005, a SLPD officer stopped Mr. Cvetnich. He was arrested for DUI and tested a .102 on the Intoxilyzer. He pled guilty to the charges and was terminated from SLCSO on May 17, 2005 and has not worked as a sworn officer since.



On June 26, 2006 a meeting was held with Mr. Cvetnech. He was under the impression that he could not work in law enforcement since his employment was terminated. He signed a consent agreement for a one-year suspension from the time he was terminated, May 17, 2005.

Aggravating Circumstances: None.

Mitigating Circumstances: Mr. Cvetnich has accepted responsibility for his actions. He has completed all the requirements set forth in his sentencing. He has not worked in a law enforcement job since his termination. Salt Lake County did not submit information on this case until over a year after the termination date.

Discussion: Ken Wallentine asked POST investigator why this case was so late in coming to POST Council. Kevin Nitzel informed the Council this case was not reported to POST until June 13, 2006. Director Townsend tells the Council POST doesn't have control on when an agency reports these kinds of issues to POST.

Motion: *Larry Gillett motioned to accept the Consent Agreement of a one-year suspension of Bradford Cvetnich's Peace Officer certification. (Starting May 17, 2005 – May 16, 2006)*

Second: *Ken Wallentine seconded the motion.*

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

ANDREW DECKER – (Sexual Misconduct)

Mr. Decker was employed by the Utah Department of Corrections on August 15, 2005, until his termination on January 24, 2006.

Mr. Decker was investigated by the Utah Department of Corrections when they received information he was viewing child pornography on his workstation computer. Mr. Decker was interviewed and admitted to using his computer at the State Prison to access the internet and view pornography including child pornography and down loading them onto an external X-drive in an attempt to bypass the workstation hard-drive.

During the POST investigation, Mr. Decker admitted to the above information. There is an ongoing criminal investigation into the child pornography accessed by Decker on both his home and department computer. This investigation is still open.

POST staff recommends Mr. Decker's peace officer certification be revoked. On July 5, 2006, Mr. Decker signed a consent agreement, agreeing to the revocation of his peace officer certification.

Aggravating Circumstances: Mr. Decker was involved in felony activity accessing and downloading child pornography from his work and home computers.

Mitigating Circumstances: None.



Motion: *Commissioner James Eardley motioned to accept Andrew Decker's signed Consent Agreement for revocation of his peace officer certification.*
Second: *Robbie Robertson seconded the motion.*
Vote: *The motion passed with all in favor.*

CORY HATCH – (2 Counts Disorderly Conduct)

Mr. Hatch was employed by the Ivins Police Department at the time of the original incident. He was terminated by Ivins P.D. on June 27, 2005, and hired by Naples Police Department. The POST investigation was delayed until December 16, 2005, due to not receiving information on the first subpoena. POST was waiting for the outcome of the criminal action by St. George PD on the disorderly conduct charge when another referral came in on Mr. Hatch from Vernal PD. Mr. Hatch resigned employment with Naples PD on May 8, 2006 after allegation of inappropriate conduct involving the use of alcohol.

On June 20, 2005 Mr. Hatch went to the Applebee's Restaurant to confront his wife about an affair. Mr. Hatch was cited for excessive speed in a parking lot and disorderly conduct.

Vernal P.D. notified POST that on May 7, 2006, Officer Larsen had been called to handle a report of a Naples P.D. officer seen getting into his police vehicle with a bottle and may be DUI. Officer Larsen saw Hatch standing in his front yard and stopped to check on him. Officer Larsen confronted Mr. Hatch about his condition and he told Officer Larsen that he was drunk but all right, he was just in the process of picking up his daughter from his mother's house next door. Officer Larsen did not see Mr. Hatch in the vehicle or see the bottle of alcohol, but could tell he was intoxicated.

Mr. Hatch was interviewed on May 26, 2006, and he admitted to transporting the bottle of alcohol in his patrol vehicle. He had acquired the bottle from his sister's house but insisted that he drank it when he got home.

On May 26, 2006, Cory Hatch signed a consent agreement for a two-year suspension of his peace officer certification starting May 26, 2006 until May 25, 2008.

Aggravating Circumstances: Driving a police vehicle while intoxicated (not charged)
Pattern of conduct (to include termination from South Salt Lake P.D. for using excessive force, termination from Ivins P.D. and Naples P.D.)

Mitigating Circumstances: None.

Discussion: Investigator Jorgenson tells the Council he had just completed the investigation on the Ivins P.D. and was going to issue a letter of caution when the second complaint from Vernal P.D. came in. Mr. Hatch has never been charged with DUI and denies these allegations. Ken Wallentine asked about another allegation that Mr. Hatch backed up an officer responding to a party and Mr. Hatch stayed at the party. Investigator Jorgenson told the Council Mr. Hatch did stay for a minute and was off duty. Shortly after, he left with a female.

Motion: *Commissioner James Eardley motioned to accept the Consent Agreement of a two-year suspension of Cory Hatch's Peace Officer certification.*
Second: *Sheriff Mike Lacy seconded the motion.*

Discussion: Ken Wallentine informed the Council Mr. Hatch has had a complaint on in him come into the Attorney Generals Office for DUI. Vice President Donna Dillingham-Evans asked if the Council ever considers treatment or counseling for these officers. Chairman Greiner replied, at times it does play a role in aggravating circumstances, but that is rare. Cheryl Luke told the Council Mr. Hatch will be afforded due process.



Motion Relinquished: Sheriff Dave Edmunds requested Commissioner Eardley relinquish his motion. Commissioner Eardley relinquished his motion and Sheriff Mike Lacy relinquished the second to the motion.

Discussion: Sheriff Edmunds reminded the Council Mr. Hatch was under investigation by POST when the second incident occurred. Investigator Jorgenson told the Council normally they would recommend a one-year suspension on DUI and added another year for the domestic. Investigator Jorgenson reported to the Council there was only approximately 5 minutes from when Mr. Hatch got home to when the officer arrived to investigate.

Sub-Motion: *Sheriff Dave Edmunds motioned to revoke Cory Hatch's Peace Officer Certification.*

Second: *Chief Robert Allinson seconded the motion.*

Vote: *The motion failed with, 7 For - 8 Against.*

Motion: *Commissioner James Eardley motioned to accept the Consent Agreement of a two-year suspension of Cory Hatch's Peace Officer certification.*

Second: *Sheriff Mike Lacy seconded the motion.*

Vote: *The motion passed with, 10 For – 5 Opposed.*

GREGORY S. HUBERT – (DUI, Illegal Importation/Use of Controlled Substance, Code of Ethics Violation)

Mr. Hubert was employed by the Weber County Sheriff's Office (WCSO) as a correctional officer from August 28, 2000 until his resignation on June 15, 2006.

On June 5, 2006, Mr. Hubert was involved in a traffic accident on I-15 in Kaysville, Utah. During the course of the accident investigation, Mr. Hubert made statements indicating he was under the influence of a controlled substance. He was arrested and jailed on a charge of driving under the influence of alcohol and/or drugs. During a subsequent WCSO internal investigation Mr. Hubert admitted to smuggling controlled substances (Lortab and steroids) into the United States from Mexico.

On August 15, 2006, Mr. Hubert signed a consent agreement revoking his peace officer certification, effective June 15, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned to accept the signed Consent Agreement for the revocation of Gregory S. Hubert's peace officer certification.*

Second: *Sheriff Bud Cox seconded the motion.*

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

WILLIAM R. HOBBS – (Code of Ethics Violation)

Mr. Hobbs was employed by the Weber County Sheriff's Office (WCSO) from 1999 until his resignation in 2006.

Mr. Hobbs was implicated in the illegal purchase, importation and use of a controlled substance by another WCSO deputy during an internal investigation. Mr. Hobbs verified the allegations that came to light during the investigation. He confirmed that he had illegally purchase Lortab in Mexico and that he had imported a quantity of that drug, as well as a bottle of steroids purchased by the other deputy. He admitted to consuming the Lortab without a valid prescription. Following completion of the WCSO investigation, Mr. Hobbs resigned from the department on June 15, 2006.



On July 21, 2006, Mr. Hobbs signed a consent agreement revoking his peace officer certification as of June 15, 2006.

Aggravating Circumstances: Prior two-year suspension related to domestic violence and controlled substance use.

Mitigating Circumstances: None.

Motion: *Sheriff Mike Lacey motioned to accept the Consent Agreement for revocation of William R. Hobbs' peace officer certification.*

Second: *Sheriff Lynn Nelson seconded the motion.*

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

GARY D. HUTCHINGS – (Sex on Duty)

Mr. Hutchings was employed by the Utah County Sheriff's Office as a correctional officer on April 7, 2000. For a brief time Mr. Hutchings left and was working for the Salt Lake Airport Police before being rehired by the Utah County Sheriff's Office. Hutchings was working for the Utah County Sheriff's Office at the time of the incident and resigned on April 17, 2006.

Mr. Hutchings pursued a relationship with a female bail bondsman. He was married at the time. While on break he would meet her in the parking lot and had sexual encounters. Mr. Hutchings agreed with the allegations but felt he was off duty, as the incidents occurred during his breaks.

On June 17, 2006, Mr. Hutchings signed a consent agreement for a four-year suspension of his peace officer certification, to start September 7, 2006 until September 6, 2010.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Ken Wallentine motioned to accept the Consent Agreement for a four-year suspension of Gary D. Hutching's' peace officer certification.*

Second: *Sheriff Mike Lacy seconded the motion.*

Discussion: Larry Gillett questioned why this officer was not receiving revocation when similar cases today were. Cheryl Luke told the Council one of the issues here was whether this took place while the officer was on the clock or off the clock. These happened while on lunch or break.

Motion Relinquished: Commissioner James Eardley requested Ken Wallentine relinquish his motion. Ken Wallentine relinquished his motion and Sheriff Mike Lacy relinquished the second to the motion.

Sub-Motion: *Commissioner James Eardley motioned to revoke Gary D. Hutching's peace officer certification.*

Second: *Sheriff Dave Edmunds seconded the motion.*

Vote: *The motion passed with 14 For - 1 Opposed.*



JEWETT H. INGRAM – (Possession of Child Pornography, code of Ethics Violation.)

Mr. Ingram was employed by the Utah Department of Corrections (DOC) prior to his graduation from the Fred House Academy in January of 1999. He was involuntarily terminated by DOC on August 26, 2004.

DOC conducted an investigation of Mr. Ingram following discovery of child pornography on his state-owned computer. Mr. Ingram accessed the child pornography at work and the computer became infected with a virus. When he reported computer problems to the Information Technology section at DOC, the offensive material was discovered. Following a complete investigation, Mr. Ingram was terminated by DOC on August 26, 2004. The facts of the case were screened by the U.S Attorney's General's Office, and they charged Mr. Ingram with two counts of possession of child pornography (Federal Felony Violation). On March 22, 2006, Mr. Ingram entered into a plea bargain and entered a plea of guilty on one count of possession of child pornography. Sentencing is pending.

On June 19, 2006, the POST Director issued a Felony Revocation letter to Mr. Ingram.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned for revocation of Jewett H. Ingram's peace officer certification.*

Second: *Robbie Robertson seconded the motion.*

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

JORDAN R. JOHN – (Sexual Misconduct on Duty)

Mr. Jordan John was employed by the Davis County Sheriff's Office on October 23, 1985. Mr. John worked for the Davis County Sheriff's Office until he retired on May 10, 2006, following an internal affairs investigation.

On May 1, 2006, the Davis County Sheriff's Office received information that an allegation of rape had been made against Deputy John by another Davis County Sheriffs' Office Deputy's wife. An internal affairs investigation began and the case was screened by the Farmington Police Department and the Davis County Attorney's Office. The criminal case was never pursued because the statute of limitations had expired. Mr. John denies that any force or intimidation was used and claims that it was consensual sex. Jordan R. John submitted his resignation with plans to retire on May 10, 2006.

On July 17, 2006, Mr. Jordan R. John signed a consent agreement for revocation of his peace officer certification.

Aggravating Circumstances: More than one victim and occurrence. Victim was another Deputy Sheriff's wife and he was married.

Mitigating Circumstances: None.

Motion: *Ben Jones motioned to accept the Consent Agreement for revocation of Jordan R. John's peace officer certification.*

Second: *Larry Gillett seconded the motion.*

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



AARON B. JOHNSON – (Shoplifting)

Mr. Johnson was employed by the Utah Department of Corrections as a correctional officer on June 27, 2005 and was terminated on March 30, 2006.

On December 12, 2005, Officer Johnson walked out of a Wal-Mart store without paying for a package of condoms and received a ticket for shoplifting when caught by store security.

On July 12, 2006, Mr. Johnson signed a consent agreement for a six-month suspension of his peace officer certification starting March 30, 2006 – September 30, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: Corrections Administrators have agreed to hire Johnson back after his suspension is complete. They believe he has made a mistake and feel that he is a good employee.

Motion: Chief Val Shupe motioned to accept the Consent Agreement for a six-month suspension of Aaron Johnson's peace officer certification. (Starting March 30, 2006 – September 30, 2006)
Second: Vice President Donna Dillingham – Evans seconded the motion.
Vote: The motion passed with all in favor.

TRAVIS Y. LIM – (Sex with Probationer)

Mr. Lim was employed as a correctional officer by the Salt Lake County Sheriff's Office on May 11, 1998 until he resigned on April 18, 2005.

During April of 2004, Mr. Lim became friends with a female inmate at the Salt Lake County Jail. He gave her his telephone number, and after she was released from jail they met several times. She was booked into jail again. When she was released from jail the second time, they met again several times. They continued to meet and she performed oral sex on Mr. Lim several times. The last time she was booked into jail she was overheard by officers stating that she had a personal relationship with Mr. Lim, which led to an investigation. On April 18, 2005, Mr. Lim resigned from the Salt Lake County Sheriff's Office following an internal affairs investigation.

On June 29, 2006, Travis Y. Lim signed a consent agreement for revocation of his peace officer certification.

Aggravating Circumstances: Sex with probationer.

Mitigating Circumstances: None.

Motion: Chief Robert Allinson motioned to accept the Consent Agreement for revocation of Travis Y. Lim's peace officer certification.
Second: Sheriff Lynn Nelson seconded the motion.
Vote: The motion passed with all in favor.

BUDDY H. LINZA – (Obtaining Prescription drugs under false pretenses, Distribution of prescription drugs)

Mr. Linza was employed by the West Jordan City Police Department from February 25, 2002 until he resigned on January 19, 2006 following an internal affairs investigation.



On December 29, 2005, Officer Buddy Linza was found passed out on the floor of the police substation. From January 1, 2005 through December 31, 2005, Mr. Linza obtained and used prescription drugs under false pretenses and shared or sold them to others. Due to back pain from a previous injury, Mr. Linza became dependant on the medication and has visited six or seven different doctors. Mr. Linza also obtained pain medication from an informant then shared and sold it to a friend. On March 21, 2006, Mr. Linza was charged with a 3rd degree felony for Obtaining a Prescription Under False Pretenses. On April 18, 2006, Mr Linza plead guilty in a plea agreement to a class A misdemeanor of attempt to commit prescription alteration or acquire a controlled substance. Linza was sentenced to 365 days in jail with 363 suspended, 12 months probation, and fined \$535.00.

On June 28, 2006, Buddy H. Linza signed a consent agreement for revocation of his peace officer certification.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Robbie Roberson motioned to accept the Consent Agreement for revocation of Buddy Linza's peace officer certification.*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with all in favor.*

SCOTT K. MALTBY – (Code of Ethics Violation)

Mr. Maltby was employed by the Perry City Police Department (PCPD) from November 1, 1999 until his termination on June 15, 2006.

On or about June 24, 2005, Mr. Maltby discharged 11 rounds from his duty weapon into a couch in his residence following a verbal argument with his wife. Mr. Maltby was the only person present when he discharged his weapon and then reported it. Mr. Maltby was charged in city court with discharge of a firearm within city limits. Prior to any court action, Mr. Maltby sought out professional counseling related to the incident and received a fitness for duty evaluation by Dr. Erik Nielsen. Mr. Maltby entered into a plea agreement with the Perry City Court for discharge of a weapon with the intent to harass or intimidate.

On July 3, 2006, Mr. Maltby signed a consent agreement for a one-year suspension of his peace officer certification, effective June 15, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: No other person present when weapon discharged.

Discussion: Robbie Robertson told the Council of a test they performed in some abandoned homes and the bullet traveled completely through 2 homes and half way through a third. Cheryl Luke replied that is why they are asking for a one-year suspension.

Motion: *Chief Val Shupe motioned to accept the Consent Agreement for a one-year suspension of Scott Maltby's peace officer certification. (Starting June 15, 2006 – June 15, 2007)*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with all in favor.*



DARRYL MCCOY – (Sexual Misconduct)

Mr. McCoy was employed by the Utah County Sheriff's Office on October 26, 1989. Mr. McCoy left law enforcement for several years starting in 1990. On November 10, 1999 he returned and graduated from Weber State SFO Academy and was hired by the Washington County Sheriff's Office from February 5, 2000, until his resignation on March 31, 2006.

In March 2006, the Washington County Sheriff's Office began an investigation of alleged inappropriate sexual behavior between officer and female inmates at the Washington County Jail. Mr. McCoy was interviewed by investigators and during the interview he admitted giving two female inmates his personal phone number when they were being released and having sexual intercourse with them. Mr. McCoy also admitted to engaging in sexual intercourse with a former female deputy in the female locker room. There is an ongoing criminal investigation into the sexual relationships between officers and female inmates and the investigation is still open.

On June 13, 2006, Darryl McCoy signed a consent agreement, agreeing to the revocation of his peace officer certification.

Aggravating Circumstances: McCoy is married and engaged in a on-duty sexual relationship with a female coworker and two former inmates.

Mitigating Circumstances: The conduct was consensual.

- Motion:** *Commissioner James Eardley motioned to accept the Consent Agreement for revocation of Darryl McCoy's peace officer certification.*
- Second:** *Sheriff Bud Cox seconded the motion.*
- Vote:** *The motion passed with all in favor.*

JOHN A NASH – (Sexual Misconduct Code of Ethics Violation)

Mr. Nash was employed by the Syracuse Police Department (SPD) from June 26, 2004, until his resignation on April 15, 2006.

Following a complaint, the SPD initiated an internal investigation related to possible incidents of sexual misconduct while on duty. It was determined that Mr. Nash had sexual relations with three females while on duty. Mr. Nash confessed to each incident during the investigative interview.

On May 9, 2006, John Nash signed a consent agreement, agreeing to the revocation of his peace officer certification, effective April 12, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

- Motion:** *Ken Wallentine motioned to accept the Consent Agreement for revocation of John Nash's peace officer certification.*
- Second:** *Colonel Lance Davenport seconded the motion.*
- Vote:** *The motion passed with all in favor.*



KEVIN B. NOLLENBERG – (DUI, Code of Ethics Violation)

Mr. Nollenberg was employed by the University of Utah Police Department from June of 1995 until his termination on June 17, 2005.

On May 22, 2005, a UHP trooper stopped Mr. Nollenberg for speeding on I-15 and during the stop the trooper detected the odor of an alcoholic beverage on Mr. Nollenberg's breath. Mr. Nollenberg performed various FST's and the trooper determined that he was impaired. Mr. Nollenberg's breath test indicated a BAC of .141. On March 30, 2006, Mr. Nollenberg entered a plea of guilty to the charge of Alcohol Related Reckless Driving and was sentenced to one-year probation and fined \$300. He was also ordered to complete a substance abuse program through the Veterans Administration.

On June 30, 2006, Kevin Nollenberg signed a consent agreement for a one-year suspension of his peace officer certification, effective March 30, 2006 (date of sentencing).

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Larry Gillett motioned to accept the Consent Agreement for a one-year suspension of Kevin Nollenberg's peace officer certification. (Starting March 30, 2006 – March 30, 2007)*
Second: *Sheriff Mike Lacy seconded the motion.*
Vote: *The motion passed with all in favor.*

BRIAN B. OLSEN – (Code of Ethics Violation)

Mr. Olsen was employed by the BYU Police Department from August 1994, until March 1997. He was hired by the Utah Department of Public Safety in February of 1997, until his resignation on May 22, 2006.

On May 5, 2005, the Department of Public Safety received information that Trooper Olsen made false claims when he applied for a vacancy on the Eagle Mountain City Council and also during his campaign for Mayor of Eagle Mountain. Olsen admitted that he misrepresented two Certified Public Manager certificates that he received while a member of the Utah Highway Patrol in 2003.

During the POST investigation Olsen took responsibility for implying and in some cases telling people that he had a Masters Degree in Public Administration. Olsen is currently the Mayor of Eagle Mountain and has expressed his sorrow for misrepresenting his educational degree and any discredit to the UHP organization.

On July 26, 2006, Brian Olsen signed a consent agreement for a two-year suspension of his peace officer certification, effective May 22, 2006.

Aggravating Circumstances: Mr. Olsen misled not only the Utah Department of Public Safety but the citizens of Eagle Mountain.

Mitigating Circumstances: Mr. Olsen has expressed his remorse to the Utah Highway Patrol and the citizens of Eagle Mountain.

Motion: *Larry Gillett motioned to accept the Consent Agreement for a two-year suspension of Brian Olsen's peace officer certification. (Starting May 22, 2006 – May 22, 2008)*
Second: *Sheriff Lynn Nelson seconded the motion.*
Vote: *The motion passed with 14 For and 1 Opposed.*



MARK R. PECK – (Inappropriate Relationship with Subordinate, Code of Ethics Violation)

Mr. Peck was employed by the Salt Lake City Police Department (SLCPD) from October 1, 1985, until his retirement on January 27, 2006.

SLCPD conducted an investigation of Mr. Peck following a complaint that he was having an extra-marital affair with a dispatcher under his direct supervision. During the investigation Mr. Peck admitted to an on-going affair and said it had been going on for approximately 2 ½ years. While denying that any sexual activity had occurred while on duty, Mr. Peck admitted to a sexual encounter while both parties were attending a training conference.

Mr. Peck resigned/retired from SLCPD on January 27, 2006.

On June 20, 2006, Mark Peck signed a consent agreement for revocation of his peace officer certification, effective, January 28, 2006.

Aggravating Circumstances: Previous reprimand for conduct unbecoming related to a relationship with subordinate.

Mitigating Circumstances: None.

Motion: *Ken Wallentine motioned to accept the Consent Agreement for revocation of Mark Peck's peace officer certification.*

Second: *Robbie Robertson seconded the motion.*

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

THOMAS PIERCE – (DUI)

Mr. Thomas graduated from UVSC Police Academy and became certifiable as a special function officer on May 14, 2005 and as a law enforcement officer on December 7, 2005. Mr. Pierce was not employed at graduation, nor has he been employed by a law enforcement agency since.

On April 30, 2006, an officer from Moab Police Department stopped Thomas Pierce for a traffic violation. The officer detected alcohol on Pierce's breath and after a field sobriety test was given, Mr. Pierce was arrested for DUI. Pierce submitted to a breath test that indicated a blood alcohol level of .133. On July 5, 2006, Mr. Pierce pled guilty to driving under the influence of alcohol and failure to signal. Mr. Pierce was given a fine of \$1589.00 and 48 hours of community service. Mr. Pierce has no other arrests on his record.

On July 30, 2006, Thomas Pierce signed a consent agreement for a one-year suspension of his peace officer certification, effective September 8, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Mike Lacy motioned to accept the Consent Agreement for a one-year suspension of Thomas Pierce's peace officer certification. (Starting September 8, 2006 – September 8, 2007)*

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

Discussion: Chairman Greiner asked why is his effective date September 8, 2006. Cheryl Luke replied he was not employed by an agency and that was the date he accepted.

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



GREGORY POLLEI – (DUI While on Duty)

Mr. Pollei was working for the Salt Lake County Sheriff's Office at the time of the incident. Mr. Pollei was certified as a correctional officer and a law enforcement officer and had previous experience with St. George P.D. from September 9, 1992 until March 16, 1995 when he was hired by Salt Lake County Sheriff's Office. He worked there until the time of the incident.

On October 7, 2006, Mr. Pollei was assigned graveyard shift and was working the west side Magna area. At approximately 0130 hrs. an officer requested backup in Magna and Pollei could not be located. At 0200 hrs. Mr. Pollei answered his radio and was directed by a supervisor to go directly to the Magna substation. Mr. Pollei was questioned about his activities and whereabouts and was asked to take a breath test. The results of the PBT indicated .261. A blood test was taken at 0324 hrs. and tested by the State Toxicologist and the results of that test were .24 blood alcohol level. Mr. Pollei was relieved of duty and transported home. Found inside Pollei's patrol vehicle under the seat was a liter of vodka over half empty and two coffee cups on the console containing vodka. Mr. Pollei was originally charged with Intoxication and Open Container but later charged with DUI. Pollei plead guilty to a reduced charge of Reckless-Alcohol/Drug related, a class B misdemeanor on May 18, 2006.

On June 8, 2006, Gregory Pollei signed a consent agreement for a two-year suspension of his peace officer certification, effective June 8, 2006.

Aggravating Circumstances: Driving a police vehicle while on duty and intoxicated.
BAC .26.
2 previous DUI's, August 7, 1982 and July 29, 1984. None.

Mitigating Circumstances: None.

Motion: Sheriff Mike Lacy motioned to accept the Consent Agreement for a two-year suspension of Gregory Polei's peace officer certification.

Second: Colonel Lance Davenport seconded the motion.

Discussion: Ken Wallentine questioned why this took so long to come before POST Council. Investigator Jorgenson told the Council he was waiting for the case to be adjudicated before he had Mr. Pollei come in and sign a consent agreement. He has been out of law enforcement the entire time. Ken Wallentine stated he was on administrative leave. Investigator Jorgenson said he was not aware of that. Another POST Council member reminded that he had 2 previous DUI's.

Motion Relinquished: Ken Wallentine requested Sheriff Mike Lacy relinquish his motion.

Sheriff Lacey relinquished his motion and Colonel Lance Davenport relinquished the second to the motion.

Sub-Motion: *Ken Wallentine motioned to revoke Gregory Pollei's peace officer certification.*

Second: *Commissioner James Eardley second the motion.*

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

DOUGLAS J. POWELL – (Forcible Sexual Abuse, Code of Ethics Violation)

Mr. Powell was employed by the South Jordan Police Department (SJPD) from December 3, 1999, until his resignation on April 21, 2006.

SJPD initiated an investigation on Mr. Powell following receipt of information that he was sexually involved with a female student while on-duty. The victim and Mr. Powell confirmed that the sexual activity had been occurring since 2001 when the victim was 14 years old. The sexual activity occurred both on and off duty. The incidents occurred on school property, on private property and in an assigned patrol vehicle. Additionally, the contact



began while Mr. Powell was a resource officer at a junior high school and sexual activities continued into 2005. The accusations against Mr. Powell are currently being screened by the Salt Lake District Attorney.

On July 13, 2006, Douglas Powell signed a consent agreement revoking his peace officer certification, effective April 21, 2006.

Aggravating Circumstances: Mr. Powell was a school resource officer when the activity began. He is also married.

Mitigating Circumstances: None.

Motion: *Vice President Donna Dillingham-Evans motioned to accept the Consent Agreement for revocation of Douglas J. Powell's peace officer certification.*

Second: *Ben Jones seconded the motion.*

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

RON J. ROMERO – (DUI While on Duty)

Mr. Romero was employed by the Utah Highway Patrol as a Trooper. Romero was certified as a Corrections Officer and a Law Enforcement Officer. He had previous experience with the Utah Department of Corrections from May 6, 1998 until he was hired by the Utah Highway Patrol on July 14, 2000. Romero resigned his employment with the Utah Highway Patrol on May 30, 2006.

On May 21, 2006, at approximately 0510 hrs, Mr. Romero called his supervisor Sgt. Jeff Plank and told him that he had overslept and would be in as soon as possible. Mr. Romero checked on duty at 0600 hrs. At approximately 0930 hrs. Mr. Romero reported to Sgt. Plank's office for a meeting. While in the meeting Sgt. Plank thought he could smell alcohol coming from Mr. Romero. When Mr. Romero left the office another trooper walked in and also noticed the smell of alcohol. Sgt. Plank called Romero back to his office and asked him if he had been drinking, Mr. Romero denied that he had. Sgt Plank asked Mr. Romero to take a breath test and Romero tested positive on the portable breath machine. Mr. Romero was transported to the Salt Lake County special operations facility for an intoxilyzer test. At 1127 hrs. Romero tested .072 establishing that he had been working and driving while under the influence of alcohol. Mr. Romero was relieved of duty and placed on administrative leave.

On August 10, 2006, Ron Romero signed a consent agreement for a one-year suspension of his peace officer certification, effective May 30, 2006 until May 29, 2007.

Aggravating Circumstances: Driving a Police vehicle while on duty and intoxicated. Previous disciplinary of 5 days off on January 2, 2002 for driving while under the influence of alcohol (no criminal charge, not on duty, not in a police vehicle).

Mitigating Circumstances: Employer (Utah Highway Patrol) supports Ron Romero and has indicated to him a possibility of rehire after his suspension is fulfilled. Mr. Romero has admitted his alcohol dependency and has completed a 28-day inpatient program at Highland Ridge Hospital.

Motion: *Larry Gillett motioned to deny the Consent Agreement for a one-year suspension and motioned for a two-year suspension of Ron Romero's peace officer certification.*

Second: *Sheriff Dave Edmunds seconded the motion.*

Discussion: Larry Gillett informed the Council Mr. Romero has received 5 days off previously for a DUI. Cheryl told the Council there was no court action on the previous incident and it was handled



internally. Investigator Jorgenson stated Mr. Romero claims the first time he had only one drink and was not DUI.

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

CORY D. SMITH – (Sexual Misconduct)

Mr. Smith was employed by the Utah County Sheriff's Office and the American Fork Police Department. He is currently employed with the Utah Valley State College full time and Provo Police Department part-time.

This case involved Lisa Wind (case # 06-066/LE) and Sergeant Cory Smith, both employees of UVSC Police Department. Several months after Ms. Wind started working at UVSC they started a relationship. Mr. Smith had conveyed to her that he was married but was in the process of getting divorced. As the relationship got more serious, they engaged in sexual activity at the work place while on duty several times. The relationship ended when Ms. Wind discovered that Mr. Smith was still married and had not sought for a divorce as he had indicated to her. Ms. Wind contacted POST and reported herself and Mr. Smith about the misconduct in which she was involved.

On August 9, 2006, Cory Smith signed a consent agreement suspending his peace officer certification for four-years, effective September 7, 2006 until September 8, 2010.

Aggravating Circumstances: Sexual activity took place at the work place while on duty. Mr. Smith was Wind's Supervisor. He was ten-years older and was married at the time of the relationship.

Mitigating Circumstances: Mr. Smith has been up front during the investigation. He has backing and support from Chief Marrott. He has been an asset in Utah County as a dog handler and trainer.

Motion: *Ben Jones motioned to deny the Consent Agreement for a four-year suspension and motioned for revocation of Cory Smith's peace officer certification.*

Second: *Larry Gillett seconded the motion.*

Vote: *The motion passed with 14 for and 1 opposed.*

CHESTER J. SMOLINSKI – (DUI, Code of Ethics Violation)

Mr. Smolinski was employed by the Heber City Police Department (HCPD) from June of 1998, until his resignation on May 5, 2006.

On or about April 30, 2006, Mr. Smolinski was driving his ATV/4 wheeler on the streets of Heber City. The passenger he was transporting fell from the vehicle and required hospitalization. A WCSO deputy who responded to the hospital to interview the victim also responded to Mr. Smolinski's residence, when it was determined that he was the driver of the ATV. At the residence, the deputy noted an odor of an alcoholic beverage coming from Mr. Smolinski's person. When asked, he confirmed that he had consumed approximately 7 beers and 2 shots. The deputy requested that Mr. Smolinski accompany him to the Sheriff's Office and submit to a breath alcohol test. Mr. Smolinski submitted to the test and the results indicated a BAC of .142. He was arrested and booked into the Wasatch County Jail. Mr. Smolinski resigned from the HCPD on May 5, 2006. On July 6, 2006, Mr. Smolinski agreed to a plea bargain that dropped the charge/conviction to an alcohol related reckless driving charge. He was sentenced to pay a \$932 fine, serve 16 hours of community service and complete 12 months of probation.

On August 2, 2006, Chester J. Smolinski signed a consent agreement for a one-year suspension of his peace officer certification, effective July 6, 2006.



Aggravating Circumstances: None.

Mitigating Circumstances: Mr. Smolinski was cooperative during the investigation and legal proceedings. The department administration supports Mr. Smolinski in his desire to be re-hired following completion of imposed sanctions.

Heber City Police Chief Edward L. Rhoades addressed the Council in behalf of Mr. Smolinski. Chief Rhoades was impressed with how Mr. Smolinski took responsibility for his actions and he told the Council it was an off road vehicle that was being driven. He also stated this incident was not a crash but it was an individual who fell off the back. Chief Rhoades told the Council he was a good officer and he would hire him back. He also asked the Council for leniency for Mr. Smolinski.

Mr. Smolinski addressed the Council. He said he was not there to deny anything but he wanted to ask for leniency.

Motion: *Ken Wallentine motioned to a six-month suspension of Chester Smollnski's peace officer certification, effective on May 5, 2006 or until the end of his probation.*

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

Vote: *The motion passed with 14 For – 1 Against.*

BRIAN STUBBS – (Custodial Sexual Relations, Custodial Sexual Misconduct)

Mr. Stubbs was employed by the Washington County Sheriff's Department from June 7, 2006 until his resignation on March 21, 2006 following an internal affairs investigation.

This case involves Mr. Stubbs having sexual relations and sexual misconduct with at least one inmate at the Purgatory Correctional Facility between January 1, 2005 and November 15, 2005, and sexual contact with a parolee between January 1 and January 10, 2006. Stubbs engaged in sexual acts with a female inmate in different areas of the Jail, particularly in the mechanical room. Mr. Stubbs was aware of an on going relationship that Sgt Mrkvicka was having with another female inmate and allowed Sgt. Mrkvicka to have one-on-one time with another female inmate, which eventually led to his termination and charges being filed against him. Mr. Stubbs resigned and was charged in 5th District Court with the crimes of Custodial Sexual Relations and Custodial Sexual Misconduct. On May 17, 2006 Mr. Stubbs plead guilty to both counts, and 3rd degree felony Custodial sexual Relations and one Class A Misdemeanor Custodial Sexual Misconduct.

Mr. Stubbs was issued a Felony Letter from POST on May 23, 2006, revoking his peace officer certification.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Sheriff Lynn Nelson motioned to accept the Felony Letter revoking Brian Stubbs' peace officer certification.*

Second: *Ben Jones seconded the motion.*

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

LISA WIND – (Sexual Misconduct)

Ms. Wind was employed by the Moab Police Department from June 26, 2004 until July 11, 2005, and Utah Valley State College Police Department (UVSCPD) as a reserve officer.



This case involves Lisa Wind and Sergeant Cory Smith (case # 06-067LE) both employees of UVSC Police Department. Several months after Ms. Wind started working at UVSC she started a relationship with Sgt. Cory Smith. Sgt. Smith had conveyed to her that he was married but was in the process of getting divorced. As the relationship got more serious, they engaged in sexual activity at the work place while on duty several times. The relationship ended when Ms. Wind discovered that Sgt. Smith was still married and had not sought for a divorce as he had previously indicated. Ms. Wind contacted POST to report herself and Sgt. Smith and the misconduct in which she was involved.

On August 23, 2006, Ms. Wind signed a consent agreement suspending her peace officer certification for six-months from September 7, 2006 until March 8, 2007.

Aggravating Circumstances: Sexual activity took place at the work place while on duty.

Mitigating Circumstances: Ms. Wind was 10-years younger than Cory Smith. She was a subordinate employee to Sgt. Smith and reported the incident to POST.

Motion: Chief Val Shupe motioned to accept the consent agreement for a six-month suspension of Lisa Wind's peace officer certification.

Second: Lance Davenport seconded the motion.

Discussion: Sheriff Edmunds brought up the fact this behavior was while on duty and felt six months was to light of a suspension. Larry Gillett reminded the board of a case he was the investigator on that was similar to this and the Council revoked the supervisor and suspended the subordinate for four-years.

Motion Relinquished: Chief Val Shupe withdrew his motion.

Colonel Lance Davenport withdrew the second to the motion.

Chairman Jon Greiner asked for a new motion:

Motion: ***Sheriff Dave Edmunds motioned to a four-year suspension of Lisa Wind's peace officer certification.***

Second: ***Commissioner James Eardley seconded the motion.***

Discussion: Cheryl Luke informed the Council this motion really brings this off the matrix and she was under the impression consensual sexual conduct cases were moving towards being more lenient. Chairman Greiner stated these individuals have already been dealt with in a punitive manner by the agencies and we are giving DUI's only six-months. He also said it was this very issue of why the matrix was developed. Vice President Dillingham-Evans asked the investigator if Ms. Wind ever felt there was coercion. POST Investigator Lt. Winward replied the sexual contact was consensual and not forced.

Vote: ***The motion passed with 9 For – 6 Against.***

TREVOR M. WOOD – (Impersonating a Police Officer, Code of Ethics Violation)

Mr. Wood was employed by the Helper Police Department (HPD) from February 2004 until his termination on April 12, 2006.

HPD requested that DPS/IA conduct an investigation following reports that Mr. Wood had sexually assaulted a female at his residence. The female who claimed to have been assaulted met Mr. Wood on an Internet chat line. The DPS investigation and the POST investigation determined that Mr. Wood was using his department computer to contact females whose ages were as young as 14 years and he admitted to conducting on-line



chats with over 100 females and to having had assorted types of sexual contact with as many as 30 of those individuals. Mr. Wood denies having sexual contact with any female younger than age 18. Two weeks after his termination, Mr. Wood was stopped by a UHP trooper for speeding. During the traffic stop, Mr. Wood informed the trooper that he had a concealed weapon in the vehicle. The trooper asked "why?" and Mr. Wood displayed a Helper PD business card. The trooper was left with the impression that Mr. Wood was an active officer and therefore released him with a verbal warning. Some time later, the trooper determined that Mr. Wood was NOT a Helper PD officer. The trooper filed a charge of impersonating a police officer with the Carbon County Attorney. On June 20, 2006, Mr. Wood entered a plea of no contest to the charge of impersonating a police officer, a class B misdemeanor. He was fined \$1400 and placed on probation for a period of one-year.

On June 28, 2006, Mr. Wood signed a consent agreement suspending his peace officer certification for a period of four-years, effective April, 12, 2006.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Ken Wallentine motioned to deny the Consent Agreement for a four-year suspension and motioned for revoking Trevor M. Wood's peace officer certification.*

Second: *Robbie Robertson seconded the motion.*

Discussion: Chairman Greiner asked Investigator Altenes about the case. Investigator Altenes told the Council he feels this person is a sexual predator.

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

Director Townsend addressed the Council and reported that some agency administrators are not getting these cases to POST in a timely manner. Also, some cases are never getting to POST. He would like any help in resolving this problem and the issue lies with compliance of the law. Larry Gillett inquired about putting the discipline bulletin in the UPOA magazine. Chairman Greiner stated part of the problem is an officer may resign and the allegations will never come to his desk. Sheriff Nelson requested Director Townsend go to the Chief and Sheriff conferences and make a presentation to educate the administrators of the state. Ben Jones asked what other states do. Director Townsend told the Council he would research that and find out.

FEDERAL PROTECTIVE SERVICE

Chairman Greiner introduced Inspector Chris Barone. He informed the Council in the last POST Council Meeting there was a discussion about The Federal Protective Service (FPS) receiving certification in the State of Utah. Since Inspector Barone was not on the agenda for today's meeting, any action will need to take place at the next meeting.

NEXT POST COUNCIL MEETING

The Council approved the date of December 6, 2006 at 10:00am for the next POST Council meeting to be held in Salt Lake City at the New POST Academy Building.

ADJOURNMENT

The POST Council meeting adjourned at 1:45pm.

