

POST COUNCIL MEETING

March 15, 2010

*Public Safety Education and Training Center
Sandy, UT*

MINUTES

On March 15, 2010, a regularly scheduled POST Council meeting was held at 10:00am at the Public Safety Education and Training Center, in Sandy, Utah. Chairman Bud Cox conducted.

The following POST Council members were in attendance:

Sheriff Bud Cox, Chairman, Davis County Sheriff's Office
Director Mike Larsen, Vice-Chairman, Orem DPS
Sheriff Lamont Smith, Kane County Sheriff's Office
Chief Chris Burbank, Salt Lake City P.D.
Executive Director Tom Patterson, Department of Corrections
Chief Terry Keefe, Layton City P.D.
Chief Val Shupe, South Ogden City P.D.
Dr. Sterling R. Provost, At Large
Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol
Councilman Robert D. Robertson, Murray City Council
John Crowley, UPOA President
Sheriff Lynn Nelson, Cache County Sheriff's Office
Attorney General Mark Shurtleff, Attorney General's Office
Vice-President Donna Dillingham-Evans, Dixie State College
SAC Jim McTighe, FBI
Mayor Joe Ritchie, Roy City

The following were excused and/or absent:

Commissioner LuWayne Walker, Juab County Commissioner

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Shaunna McCleve, Administrative Secretary
Bryant Green, POST Investigations (DOC)
Rich Fordham, POST Investigations
Paul Kotter, POST Investigations
Wade Breur, POST Basic Training Bureau Chief
Lana Taylor, DPS Legal Counsel representing POST, Asst. Attorney General
Chris Fielding, Media Producer
Al Acosta, POST Investigations Bureau Chief
John Jacobs, Training Manager

Others present:

Jeff Nigbur, Department of Public Safety
Dennis Hutchinson, Department of Corrections Training



Ben Winslow, Fox 13
 Jack Rickards, Weber State University Police Academy
 Geoff Liesik, Deseret News
 Ken Wallentine, Attorney General's Office
 Nate Carlisle, Salt Lake Tribune
 David Bennett, Cache County SO
 Ryan Hancey, Attorney for Jack Guenon

WELCOME AND INTRODUCTIONS

The meeting was called to order at 10:00am. Chairman Bud Cox welcomed those in attendance at POST Council.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of December 9, 2009, were reviewed and the following motion was made:

- Motion:** Chief Terry Keefe motioned to approve the minutes of December 9, 2009.
Second: Sterling Provost seconded the motion.
Vote: The motion passed with all in favor.

ANNUAL REPORT

Director Scott Stephenson presented the 2009 annual report (below) to the Council and gave them comparison numbers for 2008. He also reported the following cadet statistics for satellite academies: 46 sessions, 776 cadets and 1100 certifications issued, which combines special function, law enforcement and basic correction components.

INVESTIGATIONS		
2009	Cases	2008
106	OPENED	124
80	CLOSED	86
26	OPEN/PENDING CASES	19
10	PENDING MARCH POST COUNCIL	19
AVERAGE CASE CLOSED IN 50.1 DAYS		
2009	Action	2008
3	FELONY LETTER	1
20	REVOCATIONS	23
18	SUSPENSIONS	30
1	MEDICAL SUSPENSION	1
26	LETTER OF CAUTION	17
4	NO ACTION	7
8	CADET DISMISSED/DENIED	7

BASIC TRAINING					
Cadets					
2009	Trained	2008	2009	Attrition	2008
11	SFO only	21	2	Firearms	0
74	Full block	138	3	Injury	2
50	LEO only	65	4	Misconduct	4
135	TOTAL	224	1	Personal Reasons	7
			9	Physical Training	6
	Agencies		2	Unacceptable Performance	4
2009	Served	2008	0	Academic	1
14	City	26	0	EVO	1
16	County	14	0	Dismissed by Department	1
7	State	9	4	Resigned	0
37	TOTAL	49	0	DT	1
			25	TOTAL	27

IN-SERVICE					
	2009	2008		2009	2008
CLASSES SPONSORED	69	62	OFFICERS TRAINED ON-LINE	2,845	1,450
OFFICERS TRAINED	1,532	1219	OFFICERS HOURS OFFERED ON-LINE	24	12
TOTAL HOURS	1,744	1440	AGENCIES SERVED ON-LINE	180	157
CLASSES CANCELED	3	6	TOTAL HOURS COMPLETED ON-LINE	11,768	5,586



POST'S POLICY AND PROCEDURE UPDATE

Deputy Director Sparks informed the Council of the POST Policy Review and Revision for 2010. These policies have been in effect and are now being incorporated in the block of policy (see attachment 1).

Chairman Cox asked if the new retirement law would change policy 3010 (reporting of in-service training hours). Deputy Dir. Sparks stated it would not affect this policy. Chief Keefe asked Deputy Dir. Sparks to explain policy 2390. Deputy Dir. Sparks stated previously when a cadet graduated an academy they had up to four years to pass the physical fitness requirements. This policy was changed to one year by the Council.

TECHNOLOGY REPORT

Manager John Jacobs informed the Council of the technology upgrades POST has made. The biggest accomplishment this quarter is the on-line registration and tracking of the in-service classes. This enables a department's training officer the ability to log on to the POST portal, view available classes and register officers. This service also allows an officer to access their individual training records via the POST portal. The access and viewing of the records will increase the accuracy of POST's record management system.

POST increased its online in-service training from twelve hours to twenty-four hours. POST's will continue to increase online in-service to forty hours by the end of the calendar year. POST now has the capability to email all certificates.

HEARING ON JACK GUENNON CASE

Chairman Cox issued a caution to stay in the guidelines of the complaint.

Attorney Ryan Hancey, representation for Jack Guennon, gave a brief law enforcement background on Jack Guennon. Atty. Hancey then presented the Guennon case to the POST Council. Atty. Hancey closed by stating there is no evidence submitted on the charge brought against officer Guennon and said the Council should dismiss the complaint.

Attorney Lana Taylor, representation for POST, addressed the POST Council and argued there is ample evidence Guennon committed a violation listed as a category F violation on the POST Council Disciplinary Guidelines.

Chief Shupe asked if Guennon had a certificate from the Drug Recognition Expert (DRE) training. Atty. Taylor stated there are three certificates that are given during the course. Guennon received a certificate for sitting through the class room portion of the course, but had not completed the course requirements for certification. Executive Director Patterson inquired what the value of a certificate is after attending the classroom portion of the training. Atty. Taylor said the certificate verifies the individual has received the classroom training, but does not provide the final practical test indicating an individual has the knowledge to be DRE certified. Executive Director Patterson asked to see the certificate. A copy of the DRE certificates were later reviewed by Council members after both Attorney's stipulated to these copies being representative of the certificate received by Guennon.

Chairman Cox asked Atty. Hancey if he would like to address the Council again.

Attorney Hancey addressed the Council and reviewed Mr. Guennon's case. He stated the certificate Mr. Guennon received said, "Congratulations you've completed the drug recognition course."

**For specific details refer to the recorded minutes.*

Motion: **Attorney General Mark Shurleff motioned to accept the ALJ's ruling of a 6 month suspension of Jack Guennon's peace officer certification, but reject the finding there was no malfeasance (10/29/08-4/29/09).**

Second: **Sheriff Lynn Nelson seconded the motion.**



Discussion: Executive Director Patterson asked the Attorney General why he felt there was Malfeasance in this case. Attorney General Shurtleff indicated Guennon's hero statements states he completed the DRE Course when he did not complete all the requirements for certification.

Vote: *The motion passed with 10 favor and 4 against.*

Discussion concerning DRE certification:

VP Donna Dillingham-Evans asked if a distinction could be made with the certificates to ascertain the difference between training received and being certified to function as a DRE. Colonel Fuhr explained the certificates provide proof the officer attended the training for in-service training credit. Colonel Fuhr will look into possible changes in the language on the certificates. Director Larsen feels the verbiage does not need to be changed because of one isolated case. Director Larsen expounded that officers know the difference between course (attendance) and certification. The Council further discussed this issue and concluded this issue comes down to officer credibility.

DISCIPLINARY ACTIONS

Attorney Lana Taylor presented the following disciplinary cases.

NELSON P. TUATAGALOA- (Convicted of a Felony)

Appendix A-1

This case is informational only. Letter of Revocation issued by POST Director as required by statute.

Aggravating Circumstances: None.

Mitigating Circumstances: None.

ZACHARY R. BELLOCK - (Convicted of a Felony)

Appendix A-2

This case is informational only. Letter of Revocation issued by POST Director as required by statute.

Aggravating Circumstances: None.

Mitigating Circumstances: None.



DOUGLAS PAULSEN - (Dealing Harmful Material to a Minor, Enticing a Minor over the Internet)

Appendix A-3

Aggravating Circumstances: None

Mitigating Circumstances: None.

Motion: Sheriff Lynn Nelson motioned to accept Douglas Paulsen's signed consent agreement for revocation of his peace officer certification.

Second: Executive Director Tom Patterson seconded the motion.

Vote: The motion passed with all in favor.

JOAN M. HILL - (Custodial Sexual Misconduct, Lying under Garrity)

Appendix A-4

Aggravating Circumstances: On-duty and custodial environment.

Mitigating Circumstances: None.

Motion: Chief Terry Keefe motioned to accept Joan Hill's signed consent agreement for revocation her peace officer certification.

Second: Colonel Daniel Fuhr seconded the motion.

Vote: The motion passed with all in favor.

SHAWN R. BORBA- (Sexual Misconduct On-duty)

Appendix A-5

Aggravating Circumstances: On-duty or perception of on-duty status and repetitiveness of conduct.

Mitigating Circumstances: None.

Motion: Robbie Robertson motioned to accept Shawn Borba's signed consent agreement for revocation his peace officer certification.

Second: Sheriff Lamont Smith seconded the motion.

Vote: The motion passed with all in favor.



JASON RYAN LITTLE - (Custodial Sexual Misconduct)

Appendix A-6

Aggravating Circumstances: Repetitiveness of conduct.

Mitigating Circumstances: None.

- Motion:** *Sterling Provost motioned to accept the administrative Law Judge's ruling for a four-year suspension of Jason Little's peace officer certification (8/14/2009-8/14/2013).*
- Second:** *John Crowley seconded the motion.*
- Vote:** *The motion passed with all in favor.*

DEAN E. LIVINGSTON - (Lying under Garrity)

Appendix A-7

Aggravating Circumstances: Perception of on-duty status.

Mitigating Circumstances: None.

- Motion:** *Sheriff Lynn Nelson motioned to accept Dean Livingston's signed consent agreement for a three-year suspension of his peace officer certification (12/16/09-12/16/12).*
- Second:** *Executive Director Tom Patterson seconded the motion.*
- Vote:** *The original motion passed with 12 in favor and 2 against.*

EVERARDO REYNOSO - (Attempted Assault)

Aggravating Circumstances: Conviction in Criminal Court.

Mitigating Circumstances: None.

- Motion:** *Sterling Provost motioned to accept Everardo Reynoso signed consent agreement for a three-year suspension of his peace officer certification (4/16/09-4/16/12).*
- Second:** *Chief Chris Burbank seconded the motion.*
- Discussion:** *Attorney General Shurtleff asked if revocation had been considered on the case. Investigator Kotter states mitigating circumstances are; he was on Ambien, suicidal and bipolar. Reynoso has been cleared by a physician and is considered fit for duty.*



Sub-Motion: *Attorney General Shurtleff motioned to reject the recommendation and seek a four-year suspension of Everardo Reynoso's peace officer certification.*

Second: *Colonel Fuhr seconded the motion.*

Discussion: Chief Larson asked for aggravating circumstances to be noted. Council members listed being in possession of a gun, monitoring police traffic on his department issued handheld radio, terroristic threats and conviction in criminal court.

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

DAVID L. JOHNSON- (Nonfeasance)

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Chief Keefe motioned to reject the ALJ's ruling and seek a four-year suspension of David L. Johnson's peace officer certification. He would like POST to investigate Johnson for Obstruction of Justice.*

Second: *Attorney General Shurtleff seconded the motion.*

Discussion: Chief Keefe stated this officer should have been charged with Obstruction of Justice. The Council discussed concerns over the officer withholding this information and not revealing it until a messy divorce transpired between him and his wife.

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

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at Public Safety Education and Training Building in Sandy, June 7, 2010, at 10:00am.

ADJOURNMENT

Sheriff Lynn Nelson motioned to adjourn.

John Cowley seconded the motion.

The POST Council meeting adjourned at 11:55am.

