



# POST Investigations Bulletin

State of Utah

## Department of Public Safety Peace Officer Standards and Training

March 24, 2011

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One of the duties of the Utah Council on Peace Officer Standards and Training is to establish and enforce rules of conduct for certified peace officers and certified dispatchers throughout the state. During each POST Council Meeting, the Council reviews cases investigated by the POST Investigations Bureau and rules on the suspension or revocation of these peace officers. The decisions the council makes help to define acceptable and unacceptable conduct for Utah peace officers.

Please note that the actions taken by the POST Council are not binding precedent. The POST Council makes every effort to be consistent in its decisions, but each case is considered on its own individual facts and circumstances. The *POST Investigations Bulletin* is published to provide insight into the Council's position on various types of officer misconduct.

On March 24, 2011, POST Council convened and considered 10 cases of officer discipline.

### Case #1

Officer A, a correctional officer for a county sheriff's office, while on duty and in the control room, was discovered by another deputy in a seated position with his legs propped up holding a can of compressed air near his mouth. The officer was in a semi-conscious condition. A City Police department investigated the officer and it was determined that the officer violated Utah Code Ann. § 76-10-107, a class B misdemeanor, abuse of psychotoxic chemical solvents. Officer A signed a consent agreement for a four year suspension of his peace officer certification. The POST Council rejected the consent agreement and, citing the extreme security breach this created in the county jail, voted to revoke Officer A's peace officer certification.

### Case #2

Officer B, a deputy sheriff with a county sheriff's office was investigated and charged with theft by deception. Officer B returned a broken item to a grocery store, where she had not purchased it, for a refund. During an Internal Affairs (IA) investigation Officer B lied to investigators after having been issued a *Garrity* warning. Three days after the IA interview, Officer B notified the investigator that she had lied during the *Garrity* interview and also admitted to committing the theft. Officer B entered a guilty plea, to be held in abeyance, to the charge of theft by deception as provided in Utah Code Ann. § 76-6-405, a class B misdemeanor. Officer B was also found to have violated Utah Code Ann. § 53-6-211(1)(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on *Garrity v. New Jersey*, 385 U.S. 493. Officer B signed a consent agreement for a four year suspension of her peace officer certification. The POST Council voted to accept the consent agreement for a four year suspension of Officer B's peace officer certification.

### **Case #3**

Officer C, a deputy sheriff with a county sheriff's office disclosed to his chief administrator he had been involved in a sexual relationship with another deputy. An Internal Affairs (IA) investigation revealed that the sexual relationship occurred on duty, in uniform, and in a public place. POST conducted an interview with Officer C and after a *Garrity* warning was issued Officer C admitted having sexual intercourse with the other deputy while on-duty. Officer C signed a consent agreement for a three year suspension of his peace officer certification. The POST Council voted to accept the consent agreement for a three year suspension of Officer C's peace officer certification.

### **Case #4**

Officer D, a deputy sheriff with a county sheriff's office was investigated and charged with criminal trespassing for entering the home of his ex-wife without permission during an argument over custody issues. Officer D entered a plea of guilty to a charge of criminal trespassing as provided in Utah Code Ann. § 76-6-206, a class A misdemeanor. Officer D signed a consent agreement for a three year suspension of his peace officer certification. The POST Council voted to accept the consent agreement for a three year suspension of Officer D's peace officer certification.

### **Case #5**

Officer E, a law enforcement officer with a city police department, was involved in a single vehicle accident in his personal vehicle. During the investigation officers smelled an odor of alcohol on Officer E's breath. When investigating officer asked Officer E if he had been consuming alcohol, he answered he may be over the limit. Officer E performed field sobriety tests and it was determined he was impaired. Officer E was arrested for DUI. An intoxilyzer test showed Officer E's BrAC was .178. Officer E violated Utah Code Ann. § 53-6-211(1)(d) engages in conduct which is a state criminal offense, to wit: driving a motor vehicle while under the influence of alcohol as provided by Utah Code Ann. § 41-6a-502, a class B misdemeanor. Officer E signed a consent agreement for a one year suspension of his peace officer certification. The POST Council voted to accept the consent agreement for a one year suspension of Officer E's peace officer certification.

### **Case #6**

Officer F, a law enforcement officer with a city police department was investigated by Internal Affairs (IA) for having an on duty sexual relationship with a female he had previously taken a criminal investigative report from. During the IA *Garrity* interview Officer F admitted to having sex once on duty and once off duty. During the POST *Garrity* interview Officer F admitted to having sex with the female twice, both times on duty. Officer F signed a consent agreement for a three suspension of his peace officer certification. The POST Council voted to accept the consent agreement for a three year suspension of Officer F's peace officer certification.

### **Case #7**

Officer G, a cadet attending a satellite basic training academy was cited for assault and domestic violence in the presence of a child. Officer G violated Utah Code Ann. § 53-6-211(1)(d) engages in conduct which is a state criminal offense, to wit: assault as provided in Utah Code Ann. § 76-5-102, a class B misdemeanor and domestic violence in the presence of a child as provided in Utah Code Ann. § 76-5-109.1 a class B misdemeanor. During the POST *Garrity* interview Officer G, admitted to pushing his girlfriend down while she was holding their child in her arms. Officer G signed a consent agreement for a two suspension of his

peace officer certification. The POST Council voted to accept the consent agreement for a two year suspension of Officer G's peace officer certification.

#### **Case #8**

Officer H, a law enforcement officer with a city police department, was involved in a single vehicle accident in his personal vehicle. Witnesses reported Officer H had slurred speech and slowed reactions. During the investigation Officer H appeared to be extremely intoxicated and having trouble standing. Officer H refused to perform field sobriety tests. A warrant was obtained and a sample of blood was taken from Officer H. The results indicated a BAC of 0.35. Officer H violated Utah Code Ann. § 53-6-211(1)(d) engages in conduct which is a state criminal offense, to wit: driving a motor vehicle while under the influence of alcohol as provided by Utah Code Ann. § 41-6a-502, a class B misdemeanor. Officer H did not respond to the Notice of Agency Action from POST Investigations. An Order of Default was issued with POST recommending a two year suspension of Officer H's peace officer certification. The POST Council voted to adopt the recommendation of POST investigations for a two year suspension of Officer H's peace officer certification.

#### **Case #9**

Officer I, a correctional officer was investigated for assaulting his son. During an argument Officer I pushed his son on the shoulder causing his son to take a step back into a wall. During the Internal Affairs (IA) investigation, after being given *Garrity*, Officer I admitted to being the primary aggressor in the incident. POST conducted a *Garrity* interview with Officer I where he admitted he was the first person to make physical contact with his son. Officer I pled no contest to a charge of disorderly conduct. Officer I violated Utah Code Ann. § 53-6-211(1)(d) engages in conduct which is a state criminal offense, to wit: disorderly conduct as provided in Utah Code Ann. § 76-9-102, a class C misdemeanor. Officer I signed a consent agreement for a six month suspension of his peace officer certification. The POST Council rejected the consent agreement for a 6 month suspension of Officer G's peace officer certification and, citing the minimal nature of the contact between Officer I and his son, voted to give Officer I a letter of caution.

#### **Case #10**

Officer J, a law enforcement officer with a city police department, was stopped for a traffic violation. During the traffic stop the investigating officer detected an odor of alcoholic beverage coming from within the vehicle. Officer J performed field sobriety tests and it was determined he was impaired. Officer J was arrested for DUI. An intoxilyzer test showed Officer J's BrAC was .079. A blood sample was obtained from Officer J and the results indicated a BAC of .080. Officer J violated Utah Code Ann. § 53-6-211(1)(d) engages in conduct which is a state criminal offense, to wit: driving a motor vehicle while under the influence of alcohol as provided by Utah Code Ann. § 41-6a-502, a class B misdemeanor. Officer J signed a consent agreement for a six month suspension of his peace officer certification. The POST Council voted to accept the consent agreement for a six month suspension of Officer J's peace officer certification.