

POST COUNCIL MEETING

January 4, 2016

Public Safety Education and Training Center – Sandy, Utah

MINUTES

On January 4, 2016, a regularly scheduled POST Council meeting was held at 10:00 a.m. at the Public Safety Education and Training Center in Sandy, Utah. Chairman James O. Tracy conducted and welcomed those in attendance.

The following POST Council members were in attendance:

Sheriff James O. Tracy, Chairman, Utah County Sheriff's Office
Chief Wade Carpenter, Vice-Chairman, Park City Police Department
Chief Spencer Austin, Representing Utah Attorney General
Frank Budd, At Large
Colonel Danny Fuhr, Superintendent, Utah Highway Patrol
Dr. Matthew Checketts, At Large
John Crowley, UPOA Representative
Chief Marlon Stratton, St. George City Police Department
Sheriff Robert Dekker, Millard County Sheriff's Office
Mayor Toby Mileski, Pleasant View City
Chief Kim Hawkes, North Park Police Department
Executive Director Rollin Cook, Utah Department of Corrections
Commissioner Kerry Gibson, Weber County Commissioner
Bruce Bayley, Weber State University

The following were excused and/or absent:

Sheriff Cameron Noel, Beaver County Sheriff's Office
Christie Moren, At Large

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Atty. Kevin Bolander, DPS Legal Counsel representing POST, Asst. Attorney General
Atty. Marcus Yockey, DPS Legal Counsel representing POST, Asst. Attorney General
Julie Gomez, Administrative Secretary
Al Acosta, POST Investigations Bureau Chief
Brad Macfarlane, POST Investigations
Robert Bench, POST Investigations
Mary Kaye Lucas, POST Investigations
Jeff Adams, POST Investigations
Wade Breur, POST Basic Training Bureau Chief
Christopher Fielding, POST Media Producer
Diedra Ha, POST Technician

Others present:

Melinda Greenwood
Jim Hudspeth
Dave Stobart
Bill Hansen
Scottie Sorensen
Christine Warren
Deborah Mecham
Sid Groll
Brad Gailey
Tammy Wilkerson
Pat Reavy
Bowdy Nielson
Doug Eldredge
Nate Carlisle
Brian Gwilliam
Sheila Reed
John Reed
Diana Stratton

WELCOME AND INTRODUCTIONS

The meeting was called to order at 10:08am. Chairman James Tracy welcomed those in attendance and excused Christie Moren and Sheriff Cameron Noel.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of September 14, 2015, were reviewed and the following motion was made:

- Motion:*** ***Sheriff Robert Dekker motioned to approve the minutes of September 14, 2015.***
Second: ***Mayor Toby Mileski seconded the motion.***
Vote: ***The motion passed with all in favor.***

INTRODUCTIONS

Chairman Tracy turned the time over to Director Stephenson. Director Stephenson introduced Julie Gomez as the new executive assistant at POST. She will be replacing Shaunna McCleve. Lt. Acosta introduced Jeff Adams, a new investigator with POST. Director Stephenson informed the council that an offer has been extended to another new POST investigator who will be starting mid to late January.

Uintah Basin Applied Technology Satellite Academy Proposal

Lt. Wade Breur addressed the Council in regards to a request from Uintah Basin Applied Technology College (UBATC), to host a satellite academy. He reviewed administrative rule R728-401, which establishes the

requirements for a new satellite academy and stated the requirements were met. Lt. Breur turned the time over to Tammy Wilkerson, associate vice president of program development at UBATC, to address the council.

Tammy spoke to the Council and reported on the need for an academy in the area. She has received requests from several law enforcement agencies to bring back the academy again after closing in 2007. They have the infrastructure and facility in place. UBATC would initially hold one session per year. They would hold classes Monday – Thursday, ten hours per day, therefore allowing the officers to continue to work nights and the three day weekends. They would hire a part time director who would work directly with POST. She informed the POST Council that part of the college's accreditation through the council of occupational education would be to ensure jobs to all of those who complete the course and not flood the market.

A Council member asked how long it would take to complete the course. Tammy replied that it would take approximately five months to complete the three blocks. Sheriff Tracy asked if there would be an issue finding capable staffing in the area. Tammy said she has been assured they have multiple qualified POST instructors in the area and this would not be an issue. The part time director would be POST certified and would be able to instruct as well.

POST believes this academy would greatly benefit law enforcement in that area and UBATC is capable and prepared to operate a satellite academy. The POST administration supports their request.

After more discussion by the Council the following motion was made.

Motion: Frank Budd motioned to approve the request of Uintah Basin Applied Technology College to host a satellite academy.

Second: John Crowley seconded the motion.

Vote: The motion passed with all in favor.

QUARTERLY REPORTS

Lt. Acosta reported the following: Since last Council meeting (September), Investigations Bureau received 35 complaints, opened 21 cases, conducted 0 administrative hearings and closed 3 cases with no action.

Investigations has received 1 voluntary relinquishment with the following allegation: Misappropriation of public money. Investigations conducted 151 background investigations for applicants attending a police academy, 17 application reviews for waiver/reactivation and 31 dispatch application reviews for a total of 199 applications reviewed. There are currently 68 active investigations and a total of 104 open cases.

Basic Training

315 LEO August 12, 2015 – October 22, 2015. The session started with 31 cadets and certified 31 Law Enforcement Officers.

316 LEO September 16, 2015 – November 25, 2015. The session started with 28 cadets and certified 24 Law Enforcement Officers. The four departures were for the following reasons: Failed LEO entrance exam, did not have NPOST completed, unable to pass the SFO certification exam, and dismissed--agency decision.

317 SFO August 31, 2015 – October 6, 2016. The session started with 22 cadets and certified 21 Special Functions Officers. The one departure was for the following reason: enrolled and departed when failed to pass psychological test.

317 LEO October 7, 2015 – December 17, 2015. The session started with 23 cadets and certified 19 Law Enforcement Officers. The four departures were for the following reasons: cancel enrollment--agency decision, unable to pass the LEO entrance exam, academy injury, cancel enrollment--cadet decision.

Lt. Breur informed the Council that POST had an applicant waiting list. He stated that an SFO class started today. POST added an additional session that will start the SFO block January 25, 2016, and the LEO block will start March 4, 2016. This will allow POST to eliminate the waiting list. Both classes are already full. POST's goal is to add classes as needed to meet the needs of law enforcement agencies and to avoid a waiting list.

In-Service Training

From October 1 to December 31, 2015, POST has offered 28 in-service classes, training 562 officers and 31 dispatchers for a total of 324 hours of training.

Classes Administered:

- | | |
|----------------------------------|-------------------|
| • Basic Dispatch | 1 (31 enrolled) |
| • EVO, not including POST cadets | 3 (52 enrolled) |
| • Field Training Officer (FTO) | 1 (42 enrolled) |
| • Instructor Development | 1 (22 enrolled) |
| • Intoxilyzer Certification | 6 (191 enrolled) |
| • RADAR/LIDAR Certification | 15 (219 enrolled) |
| • Employee Discipline | 1 (36 enrolled) |

TOTAL CLASSES

28

DISPATCH CURRICULUM

Lt. Wade Breur presented the Dispatcher Training Curriculum to the Council. He stated that similar to the basic peace officer curriculum that POST updates each year, POST also does a review and an update of the dispatcher curriculum. It has been a couple of years since we have had an update. Normally this is done in June, but we missed the June cut off. We would like to make these recommendations now and see if the Council will approve them for the January class that we will be conducting. POST has been working with the executive committee for the dispatch group and these are the recommendations we would like to make to the Council.

The old units 3 and 4, *Emergency Medical Dispatcher* and *State and National Computer Files*, have been combined into unit 2, *Role of the Dispatcher in Public Safety*. We have added a class titled *Callers in Crisis*, which is now the new Unit 9. *Callers in Crisis* provide the dispatcher some background on individuals who may be in crisis. This supports the mental health training POST currently provides peace officers.

Motion: *Executive Director Rollin Cook motioned to accept the changes to the dispatch curriculum as proposed.*

Second: *Mayor Toby Mileski seconded the motion.*

Vote: *Motion passed with all in favor.*

SATELLITE AUDITS

Lt. Wade Breur reported POST conducted three satellite academy audits; the first was on Salt Lake Community College (SLCC). There was one exception to their audit. During the audit process, we review the instructors being used to teach. We found that a couple of their Defensive Tactics instructors were not currently certified. Every three years defensive tactics instructors need to go through a recertification process. We are working with the community college to ensure these folks have an opportunity to have their certification renewed. We have informed the college they may not use these instructors to teach until they complete the

recertification process. Our goal is to make sure the instructors are teaching the most current POST standards. Dave Attridge is director of the SLCC academy.

The second audit was on Utah Valley University (UVU). The current director of the UVU academy is Steve Demille. There were no exceptions to the audit.

The third audit was on Dixie State University (DSU). The current director of the DSU academy is Chief Robert Flowers. The only exception was a student to instructor ratio with defensive tactics instructors. DSU has been utilizing just one defensive tactics instructor. POST requires a 1 to 8 ratio [not a 1 to 7 ratio as reported in the meeting], when teaching defensive tactics. We are working with them to make sure they have enough core instructors for their training. DSU puts on one class per year.

DRUG GUIDELINES

Director Scott Stephenson thanked the Subcommittee members (listed below) for their efforts. He informed the Council that the Subcommittee met back in October, as mandated by this Council, to re-evaluate the acceptance of applications for training and certification regarding prescription drug issues. It's been very frustrating because everyone wants an exception. These are never easy situations to deal with, especially with prescription drugs and people not knowing the gravity of the decision to take a drug that is not prescribed to them. We came up with guidelines. These guidelines are what we revisited when we met in October. Director Stephenson stated that a lot of the discussions were around illicit drug usage. We had to add a bullet point to state there will be no variance for illicit drug usage, when it comes to considering someone's application.

The Director informed the Council that in red, on the proposed policy, is the language that we are proposing to be removed (see attachment A). The committee found it necessary to simplify the guidelines and make them easier to use. The biggest difference is when it comes to emergency medical use. We condensed those columns and put five or fewer instances instead of having a layered break down of waiting periods for someone who has used a drug in an emergency situation.

We defined what the term "incident" means. Number one, ingestion of a single dose generally consistent with the typical prescribed dosage of the drug; Number two, ingestion of any amount of the drug less than the typical prescribed dosage; and number three, ingestion of any amount of the drug greater than the typical dosage would be considered inappropriate medical use of the drug. The reason why we defined that is because there are varying levels of dosages. We wanted to clarify "incident" with the anticipation that someone may argue they were below the recommended dosage as prescribed. As for ongoing medical usage, we eliminated that sentence completely. The reasoning, someone shouldn't be able to continually take these drugs in the name of emergency usage. If they have an emergency, they should go to a doctor and receive their own prescription. We consolidated and condensed the guidelines to make them easier to reference. Those are the highlights for accepting applications. This is not for officers who are already in the system, but for those who are now trying to get into the system.

Sheriff Tracy stated that there was a considerable amount of discussion, during the October meeting, to try and clarify a few things to make it easier to understand for those who are applying and for those here at POST who would have to look at a situation and make recommendation. He believes the committee did a good job at trying to clean up and basically solidify the major issues of what concerns POST and law enforcement in these kinds of cases. Colonel Fuhr asked about omissions of prescription drug usage on the application. Would this be considered falsification or a mistake? Director Stephenson replied that is evaluated on a case by case basis. Most people know that it's illegal to take someone else's prescription drug, but they don't understand the severity of it or the implications when they apply to become an officer.

Motion: *Mayor Toby Mileski motioned to accept the proposed drug guidelines policy.*
Second: *John Crowley seconded the motion.*
Vote: *Motion passed with all in favor.*

Sub Committee Members: Executive Director Rollin Cook, Dr. Matt Checketts, John Crowley, Mayor Toby Mileski, Colonel Daniel Fuhr, Christie Moren, Sheriff James Tracy, Director Scott Stephenson, Deputy Director Kelly Sparks

DISCIPLINARY GUIDELINES

Director Scott Stephenson discussed the proposed disciplinary guidelines. He noted that as seen in red (see attached B), we will be adding not subtracting from the guidelines. The new law, which was passed by the legislature last year, lowered drug categories or classifications. A felony is now a class A and class A is now a class B. We had to adjust the guidelines to reflect those changes in the law.

Motion: *Dr. Bruce Bailey motioned to accept the proposed disciplinary guidelines.*
Second: *Commissioner Kerry Gibson seconded the motion.*
Vote: *Motion passed with all in favor.*

DISCIPLINARY CASES

Attorney Marcus Yockey presented the following cases to the POST Council:

KYLE ANDERSEN

Offence – Falsification of Government Record
Category – E
Recommended Discipline – 6 month suspension
Status – ~~Demoted from Agent to C.O.~~ Retired 7/28/2015
Agency – Utah Department of Corrections

On September 30, 2014, Kyle Andersen was investigated by his agency for signing his supervisor's name on a Pre-sentence Addendum Report which he had prepared. During Garrity interviews with UDC and POST, Andersen admitted he looked at his supervisor's signature on another report in order to replicate it. Andersen admitted to signing his supervisor's name without her knowledge or consent. Andersen said he signed his supervisor's signature because she was out of town and he did not want to drive to another location to find a supervisor to sign the document.

On November 20, 2015, Andersen waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Attorney Yockey informed Council that Andersen has since retired. The information previously stated that Andersen is currently working for Utah Department of Corrections is null and void.

Motion: *Frank Budd motioned to accept recommended 6 month suspension of Kyle Andersen's peace officer certification.*

Second: **Commissioner Kerry Gibson seconded the motion.**
Vote: **The motion passed with all in favor.** (Executive Director Cook recused himself)

JERRY L. ANDERSON JR.

Offence – Sex on duty, BCI Violation
Category/s – B, E
Recommended Discipline – 3 year suspension
Status – Resigned 8/11/14
Agency – Pleasant View City Police Department

On or about April 23, 2014, Jerry Anderson began a sexual relationship with a woman he met during a police call for service. Anderson had at least one sexual encounter with the woman while he was on duty and his relationship later became public via social media. An administrative investigation was conducted by a neighboring agency. During a Garrity interview, Anderson admitted going to the woman's home and having sex while he was on duty. Anderson also admitted to using his BCI access to view an outstanding warrant on the woman and then contacting the court to pay for it. An interview with the woman confirmed Anderson's admission regarding him having sex while on duty. On August 11, 2014, Anderson resigned from his agency.

Anderson declined to participate in the POST investigative process.

On December 15, 2015, Anderson waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Commissioner Gibson asked why the recommendation was a 3 year suspension. Attorney Yockey stated that the 3 years is based on the two offences, a category B and a category E. Sex on duty is a 3 year baseline. Commissioner Gibson stated that this case happened in his county proper, but he did not have any connection to it. He feels there was a lot of fallout from this case and it was very damaging to his community and this profession.

Motion: *Commissioner Gibson motioned to not accept the recommendation and recommended revocation of Jerry Anderson's peace officer certification.*

Second: *Spencer Austin seconded the motion.*

Vote: *The motion failed with 4 in favor and 8 against.*

Motion: **Chief Marlon Stratton motioned to accept the recommended 3 year suspension of Jerry Anderson's peace officer certification.**

Second: **Commissioner Kerry Gibson seconded the motion.**

Vote: **The motion passed with all in favor.** (Mayor Toby Milesky recused himself)

BRAD GAILEY

Offence – Disorderly Conduct
Category – F
Recommended Discipline – Letter of Caution
Status – Letter of Reprimand, 1day w/out pay
Agency – Utah Highway Patrol

On November 7, 2014, at about 8:00 p.m., Gailey's neighbors were having a party as Gailey and his family were attempting to sleep. Gailey confronted his neighbors and asked them to keep the noise down. They agreed, but the noise continued and about an hour later, Gailey again confronted the neighbors about the noise. A female swore at Gailey and told him to go home. Gailey approached her and knocked a cup from her

hand splashing the contents on nearby people. The neighbors called the local police, who responded and conducted an investigation. At the conclusion of the investigation, the case was screened with the county attorney. Gailey was charged and pled guilty to disorderly conduct, a class C misdemeanor. During the agency and POST Garrity interviews, Gailey admitted he became angry at comments the female made and knocked the cup she was holding out of her hand.

On November 24, 2015, Gailey waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Mr. Gailey addressed the Council. He stated he is very sorry for his actions and is prepared for whatever is deemed necessary.

A Council member asked how long Mr. Gailey has been in service and does he have any prior incidence with POST. Attorney Yockey stated Mr. Gailey has 2 ½ years of service and has had no prior incidence with POST.

Motion: *Commission Kerry Gibson motioned to accept the recommended letter of caution.*

Second: *John Crowley seconded the motion.*

Vote: *The motion passed with all in favor. (Colonel Danny Fuhr recused himself)*

BILL R. HANSEN

Offence – Driving Under the Influence

Category – D

Recommended Discipline – 18 month suspension

Status – Resigned 8/7/2015

Agency – Weber County Sheriff's Office

On July 16, 2015, Bill Hansen was stopped by a law enforcement officer for not wearing his seatbelt and failing to maintain his lane of travel. The officer detected the odor of alcohol coming from Hansen and asked Hansen to perform standardized field sobriety tests (SFST's). The officer determined Hansen was impaired and arrested him for DUI; Hansen's BrAC was .16. The officer cited and released Hansen to a responsible party. Hansen did not notify his supervisor about his arrest. When his agency became aware of the arrest, Hansen was placed on administrative leave and later resigned.

On September 2, 2015, Hansen entered a guilty plea to the amended charge of impaired driving.

On November 23, 2015, Hansen waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Attorney Yockey informed the Council that there is a letter from Mr. Hansen's administration to review.

Mr. Hansen addressed the Council. He stated that he did not show up for duty in his uniform, his administration found out before he could tell them. He is very sorry for his actions and feels he has no one to blame but himself. This has been very difficult on his family.

A Council member asked why the recommendation is for 18 months. Attorney Yockey answered that Mr. Hansen's blood alcohol level was twice the legal limit.

Motion: *Colonel Danny Fuhr motioned to accept the recommended 18 month suspension.*

Second: *Dr. Matthew Checketts seconded the motion.*

Vote: *The motion passed with all in favor. (Commissioner Gibson recused himself)*

MIKE LITTLE

Offence – Issuing a bad check x 4, Lying under Garrity

Category – A

Recommended Discipline – Revocation

Status – Terminated 5/5/2014

Agency – Utah Dept. of Corrections

Between December 16, 2013, and December 17, 2013, Mike Little wrote three checks to three retail stores totaling \$2346.39. On December 31, 2013, Little's bank closed his checking account with a negative balance of \$1099.21. None of the three checks he wrote cleared the bank. On January 1, 2014, Little went to a local shooting range and wrote a check on his closed account for \$68.09 to pay for some ammunition. This check was also returned to the business.

On January 22, 2014, Little was investigated by a local police agency for issuing a bad check to the retail store on December 17, 2013. During the investigation, Little told the investigating officer the checks were fraudulent and a family member wrote them. Little told the officer he did not use checks. Little was charged in District Court for issuing a bad check, but the case was dismissed after Little paid the retail stores the money he owed.

On March 10, 2014, Little submitted to a Garrity interview with UDC. In the interview, Little said he did not know how much money was in his account when he wrote the checks. During the interview, Little told investigators he did not know how much money was in his account and that he had deposited \$1000 in his account, at the time he wrote the checks. On March 17, 2014, Little called UDC and said he had not deposited the \$1000, but had used the money to live on. Little did not participate in the POST investigative process.

Little failed to respond to the notice of agency action. On November 13, 2015, an order of default was signed by the administrative law judge and mailed to Little.

Motion: *Chief Kim Hawkes motioned to accept recommended revocation of Mike Little's peace officer certification.*

Second: *Dr. Bruce Bailey seconded the motion.*

Vote: *The motion passed with all in favor. (Ex. Director Cook recused himself)*

**Sheriff James Tracy recused himself as Chairman and turned the next case over to Chief Wade Carpenter to Chair due to the case being one of his employees.*

BOWDY NIELSON

Offence – Unlawful use or possession of a controlled substance & Lying on POST Application

Category – A (B under proposed guidelines)

Recommended Discipline – 3 year suspension

Status – Still Employed

Agency – Utah Co SO

Sometime between January and March of 2014, Bowdy Nielson, a special functions officer with the Utah State Hospital, became sick and used three doses of his wife's left over prescription cough medicine. The cough medicine was a schedule II controlled substance. On March 23, 2015, POST reviewed Nielson's application for correctional officer training and became aware of Nielson's unlawful use of the prescription drug which he disclosed in his application.

Nielson also disclosed he took two doses of his father's prescribed Lidocaine patches before he started the SFO academy in 2012 and two doses of his mother's prescribed testosterone gel, while he was attending the

LEO academy in 2013. Nielson did not disclose the Lidocaine use on his POST application in 2012 and did not notify POST of the testosterone use while he was attending the academy.

On March 24, 2015, during a *Garrity* interview with POST, Nielson admitted using his father's Lidocaine patches and omitting the information on his 2012 application. He also admitted using his mother's Testosterone gel while he was attending the academy and admitted not notifying POST. Nielson also admitted to using his wife's prescription cough medicine. Nielson said he was aware he could not use another person's prescription, but didn't really think it was "that big of a deal" and he wanted to save a trip to the doctor.

On August 24, 2015, Bowdy Nielson waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Vice Chairman Carpenter informed the Council that there is letter from Sheriff Tracy to review.

A Council member asked if the cough medicine was listed on the application. Investigator Macfarlane stated the cough medicine was listed on the most recent application for correctional officer training. A Council member asked why there was a 3 year suspension recommendation. Attorney Yockey informed Council that once an officer becomes certified, we use the POST disciplinary guidelines. This recommendation would be from the disciplinary guidelines that were adopted today.

Motion: *Mayor Toby Mileski motioned to not accept recommendation and recommended an 18 month suspension of Bowdy Nielson's peace officer certification.*

Second: *Commissioner Kerry Gibson seconded the motion.*

Discussion: A Council member asked Mr. Nielson why he was using the medications. Mr. Nielson explained that he was using the Lidocaine patches for sore muscles and the testosterone gel for infertility. He's since gone to the doctor to address the infertility issue. A Council member appreciated the letter from Sheriff Tracy stating none of the uses were an attempt to break the law, to provide economic gain or to cover or hide an addiction.

Director Stephenson stated this is not part of the discussion, but he wants to emphasize that he will never go outside of the disciplinary guidelines. It is the prerogative of the Council to do so.

The Council asked clarifying questions and discussed the case further. Mr. Neilson addressed the council and explained why he used the cough syrup. After more discussion by the Council the original motion was revisited.

Vote: *Returned to the original motion which passed with all in favor.*

(Sheriff Tracy recused himself)

*Sheriff James Tracy returned as Chairman.

Sheila Reed

Offence – Driving Under the Influence

Category – D

Recommended Discipline – 1 year suspension

Status – Moved to civilian position 9/13/15

Agency – Wasatch County Sheriff's Office

On June 7, 2015, Sheila Reed was arrested for driving under the influence (DUI) by a local agency. Prior to her arrest, Reed had consumed two shots of vodka at her residence and then left when she and her daughter began to argue. At approximately 2130 hours, Reed was observed by police driving toward her home. As she approached, Reed turned off her headlights and failed to signal before turning into her driveway. Reed was contacted by police after she pulled into her driveway and asked to perform standardized field sobriety tests (SFST's). During the tests, Reed showed signs of impairment and was arrested. Reed's BrAC was .091.

On September 10, 2015, Reed pled guilty to the amended charge of impaired driving.

On November 7, 2015, Reed waived her right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Ms. Reed addressed the Council and explained the situation that led to her bad choice of getting behind the wheel. A Council member asked a clarifying question and the following motion was made.

Motion: *Commissioner Kerry Gibson motioned to accept recommended 1 year suspension of Sheila Reed's peace officer certification.*
Second: *Sheriff Robert Dekker seconded the motion.*
Vote: *The motion passed with all in favor.*

Matthew Routt

Offence – Assault with Bodily Injury
Category – C
Recommended Discipline – 3 year suspension
Status – Resigned 1/20/15
Agency – Salt Lake County Sheriff's Office

On July 21, 2014, Matthew Routt was involved in an altercation with a disruptive prisoner in a court holding cell. After telling the prisoner to be quiet, Routt began to close the cell door. The prisoner, who was significantly smaller than Routt, was restrained with handcuffs and leg restraints when he, started to move toward the cell door. Routt allegedly perceived a threat and stepped inside the cell, hitting the prisoner in the chest with open hands and sending the prisoner back into a corner. Routt went into the cell and placed his hands around the prisoner's neck and threw him to the other side of the cell. According to Routt, the prisoner struck Routt in the groin several times with his knee during the incident. Routt reported he was attempting to use the pressure points under the prisoner's jaw to get him to stop.

On December 12, 2015, Routt waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Motion: *Executive Director Rollin Cook motioned to accept the recommended 3 year suspension of Matthew Routt's peace officer certification.*
Second: *Colonel Danny Fuhr seconded the motion.*
Vote: *The motion passed with all in favor.*

SCOTTIE SORENSEN

Offence – Use/possession of controlled substance (schedule II) not obtained under a valid prescription
Category – A (B under proposed guidelines)
Recommended Discipline – Revocation (3 years under proposed guidelines)
Status – Resigned 3/27/2015
Agency – Weber County SO

On March 12, 2015, the Weber County Sheriff's Office (WCSO) learned Scottie Sorensen was obtaining prescription narcotics (Oxycodone) from a friend and had been doing so for more than a year. An internal investigation was conducted by WCSO and a local agency was asked to conduct a criminal investigation into the matter. WCSO conducted a Garrity interview with Sorensen where he admitted to obtaining the Oxycodone from a friend in order to supplement his own prescription. Sorensen had a prescription for Oxycodone to alleviate his pain from an on the job injury sustained a couple of years earlier. Sorensen stated he would not take his Oxycodone as prescribed and took as many as he needed when he was not working. Sorensen said he would only obtain Oxycodone from his friend when he ran out of his own prescription. Sorensen's friend declined to participate in the internal investigation. On March 27, 2015, Sorensen submitted his resignation to WCSO. On March 30, 2015, the criminal case on Sorensen was closed due to lack of information. Both Sorensen and his friend refused to cooperate with criminal investigators.

POST conducted a Garrity interview with Sorensen who admitted to obtaining additional Oxycodone pills from his friend when he ran out of his own. Sorensen said he hesitated to go back to his doctor for fear the doctor would think Sorensen was addicted to the Oxycodone. Sorensen said it was easier to get extra Oxycodone from his friend and he took advantage of their friendship.

On November 17, 2015, Sorensen waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Mr. Sorensen addressed the Council and apologized for his actions.

Motion: *Chief Wade Carpenter motioned to accept the recommended 3 year suspension of Scottie Sorensen's peace officer certification.*

Second: *Frank Budd seconded the motion.*

Vote: *The motion passed with all in favor. (Commissioner Gibson recused himself)*

DAVID R. STOBART

Offence – Intoxication

Category – F

Recommended Discipline – 9 month suspension

Status – Still Employed

Agency – DNR Parks & Recreation

On February 22, 2014, David Stobart was at his home consuming alcohol with his girlfriend. Stobart's girlfriend got upset because Stobart had too much to drink and was ignoring her. Stobart's girlfriend left the residence and drove to her home. Approximately 30 minutes later, Stobart drove to his girlfriend's residence to try and talk to her. Stobart's girlfriend told him she did not want to talk to him and told him to leave several times. According to Stobart's girlfriend, he knocked on the door and window while yelling at her to open the door. After approximately 45 minutes of Stobart knocking on the door and windows, his girlfriend called the police.

When a deputy arrived and began to exit his vehicle, he could hear Stobart pounding on the door and yelling, "Open the fucking door." Stobart was issued a citation and Stobart's supervisor drove him home.

The following morning, Stobart drove back to his girlfriend's house. Stobart was contacted by his supervisor at the girlfriend's house, and taken home again. The supervisor said Stobart appeared to have been up all night and still seemed intoxicated. Stobart pled no contest to intoxication, the other charges were dismissed.

On November 2, 2015, David Stobart waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action.

Attorney Yockey informed the Council that POST received a letter submitted by Mr. Stobart's administration. The Council took a minute to review the letter.

Mr. Stobart addressed the Council. He thanked the Council and stated that there are no words to describe the level of shame he feels. He asked the Council to consider a three month suspension so he could keep his employment with DNR. A Council member asked if the department took any disciplinary action. Attorney Yockey stated there was administrative action taken. Mr. Stobart informed the Council he was put on administrative leave and reviewed. A Council member asked Mr. Stobart if he received a written warning from his division. Mr. Stobart stated he was unaware if anything had been added to his file or not.

After further discussion from a Council member, the following motion was made.

Motion: *Commissioner Kerry Gibson motioned to accept the recommended 9 month suspension of David Stobart's peace officer certification.*

Second: *Chief Wade Carpenter seconded the motion.*

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

SCHEDULE NEXT MEETING

Next meeting will be held in conjunction with the Chief's Conference in St. George, March 24, 2016, at 1:00 p.m. Location to be announced.

Adjourn for lunch

Chief Kim Hawkes motioned to adjourn.

Executive Director Rollin Cook seconded the motion.

Meeting adjourned at 11:39am.

ATTACHMENT

A

CRIMINAL HISTORY

A criminal history background check of local, state, and national criminal history files shall be conducted to determine if the applicant has a criminal record. An applicant with a criminal history as outlined below may be denied entrance into a peace officer training program.

FELONY CONVICTION

Applicants who are convicted of a felony in this or any other state are not eligible for peace officer training. Felony convictions which have been expunged shall be considered as part of the background check and may be cause for denial of training or certification.

DISMISSED FROM ARMED SERVICES UNDER DISHONORABLE CONDITIONS

Applicants who have been dismissed from the armed services under dishonorable conditions are not eligible for peace officer training.

RESTRICTED PERSON AS DEFINED BY STATE AND/OR FEDERAL LAW

Applicants who are restricted from possession of a firearm under state or federal law are not eligible for law enforcement officer (LEO) training or certification.

STATE OR FEDERAL CRIMINAL OFFENSES

Applicants who have been convicted of, or involved in conduct which is a state or federal criminal offense may not be allowed to make application to attend a basic peace officer training program or receive peace officer certification for a period of time consistent with the current POST disciplinary guidelines for the specific crime involved.

The waiting period shall run from the date of the involvement unless the applicant is still under court supervision (i.e. probation) for the violation in which case the applicant will not be allowed to make application until the probation has been successfully completed and/or the applicant is no longer under court supervision.

Waiting periods shall run consecutively for applicants who have been convicted of, or involved in multiple violations.

1. Four Year Waiting Period

Engages in conduct which is a state or federal criminal offense that is a felony, but where the applicant was not convicted of a felony. Engages in conduct which is a class A misdemeanor and which involves an act of violence. Engages in conduct which is a class A misdemeanor and which involves the possession or use of a controlled substance.

2. Three Year Waiting Period

Engages in conduct which is a state or federal criminal offense that is a class A misdemeanor.

3. Two Year Waiting Period

Falsifies any information to obtain certification. Engages in conduct which is a Class B misdemeanor and which involves an act of violence. Engages in conduct which is a Class B misdemeanor and which involves the possession or use of a controlled substance.

4. One Year Waiting Period

Engages in any conduct which is a state or federal criminal offense that is a class B misdemeanor and involves sexual acts, harassment, theft, crimes of dishonesty, the use of alcohol or the misuse of prescription drugs.

5. Six Month Waiting Period

Engages in conduct which is a state or federal criminal offense that is a class B misdemeanor, but does not involve violence, sexual acts, harassment, theft, crimes of dishonesty, the use of alcohol or the misuse of prescription drugs.

6. Three Month Waiting Period

Engages in conduct which is a state or federal criminal offense that is a class C misdemeanor or infraction, but not including a traffic offense that is a class C misdemeanor or infraction.

CRIMES INVOLVING DOMESTIC VIOLENCE

Applicants who have been convicted of Domestic Violence are not eligible for peace officer training unless the conviction has been expunged or set aside.

MISUSE OF PRESCRIPTION DRUGS

Misuse of a prescription drug includes, but is not limited to, taking a prescription drug that has not been legally prescribed to you personally, taking a prescription drug in a manner inconsistent with the prescription or labeling information or providing a prescription drug to another person knowing that the drug has not been legally prescribed to that individual.

Applicants who have been involved in the misuse of prescription drugs shall not be allowed to make application to attend a basic peace officer training program or receive peace officer certification for a period of time consistent with the current POST disciplinary guidelines for the specific crime involved.

Some variance to this policy may be granted based on mitigating circumstances of a specific case.

The following factors could be considered for reducing or eliminating the waiting period for this violation:

- The prescription drug was used for a legitimate injury or acute medical illness prior to being able to receive a physician's diagnosis
- Extenuating circumstances existed which made it impractical to see a physician within a reasonable time
- The use of the prescription drug was limited to a few doses over a short period of time. The time period must be limited so as to preclude the reasonable opportunity to seek a physician's care

Any of the following factors could preclude the granting of any variance from the policy thus requiring the standard waiting periods to apply:

- The prescription drug was taken for any recreational or experimental purpose
- The prescription drug was taken to enhance performance, maintain alertness or for any similar non-injury or non-illness related purpose
- The prescription drug was used for any purpose other than its intended medical purpose
- The prescription drug use was on-going or intermittent to such an extent that there would have been reasonable opportunity to seek a physician's care
- The applicant has had previous training or experience, including training or experience as a peace officer, which would make it reasonable to assume the applicant had knowledge or understanding of the criminal nature or seriousness of this violation
- The use of the prescription drug was part of a pattern of substance abuse
- No variance will be granted when an illicit or schedule one drug has been used

When considering the approval of a variance under this policy POST may utilize the following guideline:

		Substance Schedule 1 or 2	Substance Schedule 3, 4, 5	Substance Unscheduled
Circumstance of Use	Recreational, Experimental or Performance Enhancement (4 incidents within 4 years)	4 Years	2 Years	1 Year
	Recreational, Experimental or Performance Enhancement (2 or 3 incidents within 4 years)	3 years	1 Year	Six Months
	Recreational, Experimental or Performance Enhancement (one time use within 4 years)	2 Years	Six Months	Warning
	On-Going Medical Use (5 or more incidents within 2 years)	4 Years	2 Years	1 Year
	Inappropriate Medical Use (1-4 incidents within 2 years)	3 Years	18 Months	Six Months
	Extended Medical Use (3-4 incidents within 2 years)	2 Years	1 Year	Three Months
	Short Term Medical Use With Availability of a Doctor (2 incidents within 2 years)	1 Year	Six Months	Warning
	Short Term Medical Use Without Availability of a Doctor (2 incidents within 2 years)	Six Months	Warning	Warning
	Emergency Medical Use (1 incident 5 or fewer incidents)	Warning	Warning	Warning

Chart Details:

- Recreational or Experimental means the prescription drug was not used for any legitimate medical purpose such as injury or acute illness
- Performance Enhancement means the prescription drug(s) was:
 - used to aid in or improve performance in some physical endeavor, or activity, or
 - was used to facilitate focus, concentration or some other mental ability, or
 - was used to combat drowsiness or maintain alertness, or
 - was used with an intent to accomplish anything similar to the above
- Incident means: 1) ingestion of a single dose of a prescription drug generally consistent with the typical prescribed dosage of the drug; (2) ingestion of any amount of the drug less than the typical prescribed dosage; (3) ingestion of any amount of the drug greater than the typical dosage would be considered inappropriate medical use of the drug.
- ~~On-going Medical Use means a single dose of a prescription drug was used for what the applicant perceived to be a legitimate medical purpose five or more times within any two-year period~~
- Inappropriate Medical Use means the prescription drug was used for what the applicant perceived to be a legitimate medical need, however its use was not consistent with purpose for which it is normally prescribed, or it was consumed in a manner inconsistent with the prescription or labeling instructions

- ~~*Extended Medical Use means a single dose of a prescription drug was used for what the applicant perceived to be a legitimate medical purpose three or four times within any two year period*~~
- ~~*Short Term Medical Use With the Availability of a Doctor means a single dose of a prescription drug was used for what the applicant perceived to be a legitimate medical purpose two times under circumstances where it would have been reasonably possible for the applicant to seek the care of a physician*~~
- ~~*Short Term Medical Use Without the Availability of a Doctor means a single dose of a prescription drug was used for what the applicant perceived to be a legitimate medical purpose two times under circumstances which would have made it impossible for the applicant to seek the care of a physician*~~
- ~~*Emergency Medical Use means a single dose of a prescription drug was used for what the applicant perceived to be a legitimate medical purpose five or fewer times only one time and thereafter, the applicant sought the care of a physician and obtained their own prescription, or the applicant's symptoms were alleviated to such an extent as to make diagnosis or treatment by a physician unnecessary*~~
- *Substance Schedule means a prescription drug or substance included in Schedules I, II, III, IV, or V of Section 58-37-4 or the Federal Controlled Substance Act*
- *Waiting Period means the time that must expire from the date of last use of the prescription drug until the applicant is eligible to attend peace officer training or until the applicant is eligible for certification*

ALCOHOL OR DRUG ABUSE

Any activity(s) involving the abuse of alcohol or drugs may be considered in determining if an applicant will be allowed to attend a basic peace officer training academy or receive peace officer certification.

WILLFUL DISREGARD FOR LAWFUL BEHAVIOR

Applicants convicted of, or involved in minor crimes not identified in this policy, including traffic when willful disregard for lawful behavior is evidenced by repetitiveness of conduct or other aggravating factors, shall not be allowed to make application to attend a basic peace officer training session or receive peace officer certification prior to one year from the latest conviction or involvement. In cases where arrest warrants are issued, the one-year waiting period will begin at the time of the warrant service.

FALSIFICATION OF APPLICATION

If a person is found to have falsified any information to gain admittance into a basic training program, a two-year waiting period will be applied from the date POST becomes aware of the falsification.

If the information falsified is covered by other sections of this policy, (i.e., drug use, crime of violence, crime of dishonesty, unlawful sexual conduct) and a specific waiting period is required, POST will require the person to wait the longer of the two periods. Waiting periods will not be combined to run consecutively.

Example: If a person puts on the application that they have not used cocaine within the past four years, and POST discovers they used cocaine two years ago, they will have to wait another two years because the policy requires a wait of four years for cocaine. The policy requiring a two-year wait for falsifying the application will not be applied.

If a cadet completes the academy and prior to taking the final certification exam, POST becomes aware of a falsification, the cadet will not be allowed to take the certification exam. In this instance the cadet will not be eligible for further peace officer training or certification until the two-year waiting period has been met. If a cadet becomes certifiable and then is subsequently discovered to have falsified information to obtain certified status, that officer will be subject to suspension of their peace officer certification.

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ⁱ Developed by subcommittee October 2015
Proposed to full Council January 4, 2016

ATTACHMENT

B

POST Council Disciplinary Guidelines*

Officer Name: _____

Case # _____

These guidelines provide guidance regarding the administrative sanctions that may be imposed when a peace officer or certified dispatcher is found to have violated Utah Code Ann. § 53-6-211 or § 53-6-309. The intent of these guidelines is to facilitate fairness and consistency; however the guidelines are not binding. The POST Council may consider all of the facts in the record to determine an appropriate sanction. In every case review, the council retains the authority to issue any sanction ranging from no sanction to the revocation of POST certification.

Category A

Baseline – Revocation, Range – 3 Years Suspension to Revocation

- Engages in conduct which is a state or federal criminal offense that is a felony
- Engages in conduct which is a state or federal criminal offense that is a class A misdemeanor and which involves an act of violence
- Engages in conduct which is a state or federal criminal offense that is a class A misdemeanor and which involves the possession or use of a-an illicit or schedule one controlled substance
- Refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on *Garrity vs. New Jersey*
- Dismissed from armed services under dishonorable conditions

Category B

Baseline – 3 Year Suspension, Range – 1 ½ Years Suspension to Revocation

- Engages in conduct which is a state or federal criminal offense that is a class A misdemeanor and which does not involve an act of violence nor the possession or use of a-an illicit or schedule one controlled substance
- Sexual conduct on duty
- Engages in conduct which is a state or federal criminal offense that is a class A misdemeanor and which involves the use of a prescription drug

Category C

Baseline – 2 Year Suspension, Range – 9 Month Suspension to 3 ½ Years Suspension

- Willfully falsifies any information to obtain certification
- Engages in conduct which is a state or federal criminal offense that is a class B misdemeanor and which involves an act of violence
- Engages in conduct which is a state or federal criminal offense that is a class B misdemeanor and which involves the possession or use of a-an illicit or schedule one controlled substance

Category D

Baseline – 1 Year Suspension, Range – 3 Month Suspension to 2 ½ Years Suspension

- Engages in conduct which is a state or federal criminal offense that is a class B misdemeanor and which involves sexual acts, harassment, theft, crimes of dishonesty, the use of alcohol or the misuse of prescription drugs.

Category E

Baseline – 6 Month Suspension, Range – Letter of Caution to 1 ½ Years Suspension

- Engages in conduct which is a state or federal criminal offense that is a class B misdemeanor, but does not involve sexual acts, harassment, theft, crimes of dishonesty, the use of alcohol or the misuse of prescription drugs.

Category F

Baseline – 3 Month Suspension, Range – Letter of Caution to 1 Year Suspension

- Engages in conduct which is a state or federal criminal offense that is a class C misdemeanor or infraction, but not including traffic offenses that are class C misdemeanors or infractions.

Category G

Indefinite Suspension pending successful completion of a prescribed treatment or rehabilitation program. An approved medical physician or mental health practitioner must certify the officer fit for duty.

- Has any physical or mental disability affecting the peace officer's ability to perform duties
- Is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process

Notes:

1. A disciplinary sanction becomes effective on the date the final order is signed by the POST Council chairperson. Absent any extenuating circumstances to the contrary, the officer will receive credit for time served based upon the last date the officer was able to function as a peace officer, i.e. date terminated from all law enforcement or certified dispatcher employment or date suspended with restrictions from engaging in any law enforcement activity.
2. Disciplinary sanctions for all conduct which is closely related in time and is incident to the accomplishment of a single objective will run concurrently. Disciplinary sanction for violations that are not related will run consecutively.
3. Any officer or dispatcher suspended in accordance with these guidelines, including those suspended indefinitely for physical or mental disability or addiction, are subject to the provisions of Utah Code Ann. § 53-6-208 or 53-6-306 regarding inactive or lapsed certificates.
4. Untruthfulness in an official investigation where the individual has not received a properly administered *Garrity* warning is not a cause for suspension or revocation under 53-6-211 or 53-6-309. Such untruthfulness however may be considered by the Council when deliberating a sanction for a violation under either of these statutes.

Addendum One

<u>Category</u>	<u>Letter of Caution</u>	<u>3 Months</u> Class C Misdemeanor or Infraction Level Crimes	<u>6 Months</u> Class B Misdemeanor Level Crimes	<u>9 Months</u>	<u>1 Year</u> Class B Misdemeanor Crimes involving sexual acts, harassment, theft, crimes of dishonesty, alcohol or prescription drugs	<u>1 ½ Years</u>	<u>2 Years</u> Willful Falsification to Obtain Certification Class B Misdemeanors involving violence or <i>illicit</i> controlled substance	<u>2 ¼ Years</u>	<u>3 Years</u> Class A Misdemeanor Level Crimes Sexual Conduct On- Duty	<u>3 ½ Years</u>	<u>4 years</u>	<u>Revocation</u> Felony Level Crimes Lying Under Garrity Class A involving violence or <i>illicit</i> controlled substance
A												Base Line
B									Base Line			
C							Base Line					
D					Base Line							
E			Base Line									
F		Base Line										
G												