

POST COUNCIL MEETING

December 3, 2012

*Public Safety Education and Training Center
Sandy, UT*

MINUTES

On December 3, 2012, a regularly scheduled POST Council meeting was held at 10:00am at the Public Safety Education and Training Center, Sandy, Utah. Chairman Mike Larsen conducted.

The following POST Council members were in attendance:

Director Mike Larsen, Chairman, Orem Department of Public Safety
Chief Terry Keefe, Vice-Chairman, Layton City Police Department
Sheriff Lamont Smith, Kane County Sheriff's Office
Executive Director Tom Patterson, Utah Department of Corrections
Chief Ken Wallentine, Attorney Generals Office (Proxy for Attorney General Mark Shurtleff)
Vice-President Donna Dillingham-Evans, Dixie State College
Dr. Matthew Checketts, At Large
Robert D. Robertson, At Large
John Crowley, UPOA Representative
Colonel Daniel Fuhr, Utah Highway Patrol
Sheriff Dave Edmunds, Summit County Sheriff's Office

The following were excused and/or absent:

Chief Chris Burbank, Salt Lake City Police Department
Attorney General Mark Shurtleff, Attorney General's Office (Proxy by Chief Ken Wallentine)
Mayor Melissa Johnson, West Jordan City
Chief Wade Carpenter, Park City Police Department
Commissioner Kerry Gibson, Weber County
Sheriff James O. Tracy, Utah County Sheriff's Office

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Atty. Lana Taylor, DPS Legal Counsel representing POST, Asst. Attorney General
Shaunna McCleve, Administrative Secretary
Al Acosta, POST Investigations Bureau Chief
Rex Dana, POST Investigations (DOC)
Rich Fordham, POST Investigations
Alex Garcia, POST Investigations
Brad Zeeman, POST Investigations
Wade Breur, POST Basic Training Bureau Chief
John Jacobs, Training Manager
Erin Nixon, Investigation Secretary
Christopher Fielding, POST Media Producer

Others present:

Gerri Miller-Fox, Utah Department of Corrections Training
 Charles Gallegos, Utah Department of Corrections
 Erik Olsen, Utah Department of Corrections
 Jeremy Shaw, Utah Department of Corrections
 Nate Carlisle, Salt Lake Tribune
 Sid Groll, Division of Natural Resources
 Roy Healy, Self
 Machel Gallegos, Utah Department of Corrections

WELCOME AND INTRODUCTIONS

The meeting was called to order at 10:00am. Chairman Mike Larsen welcomed those in attendance.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of September 10, 2012, were reviewed and the following motion was made:

Motion: *Sheriff Lamont Smith motioned to approve the minutes of September 10, 2012.*

Second: *Robby Robertson seconded the motion.*

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

SATELLITE ACADEMY AUDIT

Lieutenant Wade Breur addressed the Council to report on the Salt Lake Community College satellite academy audit. They currently have two classes in session. There were no exceptions found during the audit.

IN-SERVICE TRAINING REPORT

Director Stephenson addressed the Council to report twenty-three officers who did not meet the 40 hour training requirement as mandated by statute. Subsequently these officers have been suspended. Most of these officers do not qualify for public safety retirement and, therefore, will not be reported to Utah Retirement System. Chairman Larsen asked how many agencies were reporting hours electronically. Director Stephenson stated about ninety-five percent of agencies reported on-line.

DISCIPLINARY ACTIONS:

Director Stephenson presented the following cases to the POST Council:

CHARLES B. GALLEGOS

Offence – Disorderly Conduct

Category – E

Recommended Discipline - Letter of Caution

Status – Still Employed

Agency – Utah Department of Corrections

Director Stephenson stated on April 4, 2012, Charles Gallegos was involved in a traffic incident.

Gallegos

maneuvered his vehicle in front of another vehicle and stopped in the travel lane, forcing the other vehicle to stop. Gallegos exited his vehicle, approached the female driver of the other vehicle, and proceeded to yell at her for the way she was driving. This incident was observed by a city police officer. The city officer approached and gave Gallegos verbal commands to return to his vehicle. Gallegos returned to his vehicle and was subsequently cited for disorderly conduct, an infraction. On April 17,

2012, Gallegos entered a guilty plea to be held in abeyance to disorderly conduct.

Mr. Gallegos addressed the Council and explained the situation. He stated this was not typical behavior for himself. He apologized to the Council and said this type of behavior will never happen again.

Motion: *Chief Terry Keefe motioned to accept the recommendation for a Letter of Caution.*
Second: *John Crowley seconded the motion.*
Vote: *The motion passed with all in favor. (Executive Director Patterson recused himself)*

PAIGE BRADY

Offence – Disorderly Conduct
 Category – E
 Recommended Discipline – Letter of Caution
 Status – Still Employed
 Agency – Utah Department of Corrections

Director Stephenson stated on December 2, 2011, Paige Brady was involved in a verbal altercation with her estranged husband regarding custody of their son. The altercation occurred outside while Brady and her estranged husband were exchanging custody for visitation purposes. During the exchange, Brady became angry and struck her husband's vehicle with her open hand. There was no damage to the vehicle. The police were called to the scene and Brady was subsequently charged with disorderly conduct.

Motion: *Robby Roberson motioned to accept the recommendation of a Letter of Caution.*
Second: *Sheriff Lamont Smith seconded the motion.*
Vote: *The motion passed with all in favor. (Executive Director Patterson recused himself)*

PHILLIP A. ROGERS

Offence – Electronic Communications Harassment
 Category – D
 Recommended Discipline – 1 year suspension
 Status – Resigned 5/22/12
 Agency – Davis County Sheriff's Office

Director Stephenson stated on March 29, 2012, Davis County Sheriff's Office Deputy Phillip A. Rogers sent 49 anonymous text messages to another deputy in one day. The texts claimed the deputy's wife was having an extramarital affair with the sender. This claim was untrue, but was intended to cause stress for the deputy. The deputy filed a complaint with a local police agency. Rogers eventually confessed to the deputy. Rogers was charged with electronic communications harassment, a class B misdemeanor. On June 19, 2012, Rogers entered a plea of nolo contendere (no contest), to be held in abeyance.

Patterson asked if Rogers initially denied the allegation and inquired if there was a Garrity issue in this case. Investigator Dana reported to the Council Mr. Rogers did not have any Garrity violations.

Motion: *Executive Director Tom Patterson motioned to accept the recommendation for a 1 year suspension (5/22/2012-5/22/2013).*
Second: *VP Donna Dillingham-Evans seconded the motion.*
Vote: *The motion passed with all in favor.*

JASON R. SORENSEN

Offence – Wanton Destruction of Protected Wildlife
 Category – B

Recommended Discipline – 18 month suspension
 Status – Resigned 5/16/2012
 Agency – Utah Department of Corrections

Director Stephenson stated in February of 2012, Utah Division of Wildlife Resources (UDWR) officers investigated Jason Sorensen for illegally killing a cougar sometime in January 2012. Sorensen told the investigators he was training his dogs and they killed the cougar. Sorensen admitted to transporting the cougar to his residence, storing it in his freezer, and attempting to find someone with a permit to tag the cougar. Sorensen stated he knew his actions were illegal, but he wanted the cougar to count towards the quota (established by UDWR) for that area and not "go to waste."

Donna Dillingham-Evans asked what the fine was for killing a cougar. Investigator Garcia said "per state statute the cougar's value is five-hundred dollars."

Motion: *Chief Terry Keefe motioned to accept the recommended 18 month suspension. (5/16/2012-11/16/2013).*

Second: *Colonel Daniel Fuhr seconded the motion.*

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

ROY HEALY

Offence – Driving Under the Influence
 Category – D
 Recommended Discipline – 18 month suspension
 Status – N/A
 Agency – Not Employed

Director Stephenson stated on October 7, 2011, Healy was arrested for Driving Under the Influence (DUI). Healy submitted to an intoxilyzer test and had a breath alcohol content of .238. On January 9, 2012, Healy plead guilty to the charge of impaired driving, a class B misdemeanor. On August 20, 2012, Healy came to POST and asked to speak with a POST investigator. Healy told POST he had been out of law enforcement since February 2011, and wanted to know what he had to do to reactivate his certification. During the conversation, Healy told POST he was arrested for DUI on October 7, 2011. POST informed Healy that a POST investigation needed to be conducted due to his DUI arrest. POST opened an investigation and conducted a Garrity interview with Healy. Healy admitted to being in control of his vehicle while intoxicated.

Mr. Healy addressed the Council and explained his situation. He has not consumed alcohol since the day of this incident.

Motion: *Colonel Daniel Fuhr motioned to accept the recommended 18 month suspension (10/07/2011-4/07/2013).*

Second: *VP Donna Dillingham-Evans seconded the motion.*

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

JOHN E. HALACY

Offence – Assault Public Intoxication
 Category – C
 Recommended Discipline – 3 year
 Status – Resigned 12/29/2011
 Agency – Weber County Sheriff's Office

Director Stephenson stated, On December 11, 2011, at approximately 1:55 a.m., a police officer was

dispatched to a local bar in response to an assault involving Deputy John Halacy, a correctional officer with the Weber County Sheriff's Office (WCSO). Halacy, who was at the bar off-duty, when he began bothering other patrons after consuming several alcoholic beverages. Halacy was escorted to the door and asked to leave the building. Halacy remained in the bar parking lot until closing time. He then approached a pickup truck and began a conversation with the passenger. For no apparent reason and without provocation, Halacy punched the passenger in the face. An altercation ensued and the police were notified. Halacy was subsequently charged criminally with assault and intoxication. He resigned his employment with WCSO on December 29, 2011.

Motion: *Sheriff Lamont Smith motioned to accept the recommended 3 year suspension (12/29/2011-12/29/2014).*
Second: *Chief Terry Keefe seconded the motion.*
Vote: *The motion passed with all in favor.*

JOSHUA KIM LEVER

Offence – Lying Under Garrity
 Category – A
 Recommended Discipline – Revocation
 Status – Resigned 1/24/2012
 Agency – Draper City PD

Director Stephenson stated, on October 17, 2011, Officer Joshua Lever called his supervisor and notified him he was taking a sick day off because he had the flu. Because of a pattern of sick leave abuse, when Lever reported back to work he was asked for evidence that he had been to the doctor on October 17, 2011. Lever was unable to provide evidence of a doctor's visit. An internal investigation was conducted. During a *Garrity* interview, Lever was not truthful regarding his whereabouts on October 17, 2011.

Motion: *Sheriff Dave Edmunds motioned to accept the recommendation for revocation.*
Second: *Executive Director Tom Patterson seconded the motion.*
Vote: *The motion passed with all in favor.*

SHAYNE BOLTE

Offence – Criminal Mischief, Lying Under Garrity
 Category – A
 Recommended Discipline – Revocation
 Status – Terminated 9/23/2012
 Agency – Granite School District PD

Director Stephenson stated Shayne Bolte had been placed on paid administrative leave pending a fitness for duty evaluation. Bolte was upset and made several calls to the Chief of Police and Human Resource Director. Bolte was instructed to return his patrol vehicle and equipment to the office. Bolte refused and instructed the department to come pick up their property. In one conversation with the Human Resource Director, Bolte informed her he would park the patrol vehicle in the street and stated, "I live in a crime infested neighborhood and it is going to get vandalized, no doubt about that." Bolte's wife left their residence about 5:00 a.m. the following morning and observed damage to the patrol vehicle, which was parked in the driveway. Bolte called the local police department and reported the damage. Bolte was not cooperative in the criminal investigation and recalled very few details when he was questioned about the damage in the departmental internal affairs investigation. Bolte refused to interview with POST.

Chief Keefe asked if the fit for duty was a mental health evaluation. Investigator Garcia stated the department originally became concerned about a pattern of sick leave use.

Motion: *Sheriff Dave Edmunds motioned to accept the recommendation for revocation.*
Second: *Sheriff Lamont Smith seconded the motion.*
Vote: *The motion passed with all in favor.*

MARVIN SCOTT GREENE

Offence – Lying Under Garrity

Category – A

Recommended Discipline – Revocation

Status – Resigned 1/4/2012

Agency – Unified PD

Director Stephenson stated on or about October 21, 2011, Marvin Greene was off-duty and reported to his administration he shot at a fleeing suspect outside of his home. The Unified Police Department (UPD) conducted an Internal Affairs (IA) investigation which included a *Garrity* interview. During the interview, Greene stated he observed an armed suspect that had just been involved in a shooting in his neighborhood. Greene allegedly identified himself as a police officer and fired two rounds at the fleeing suspect. During the criminal and IA investigation, Greene's expended shell casings were not found at the scene. On a separate *Garrity* interview, Greene admitted to not firing his weapon during the incident.

Motion: *Executive Director Tom Patterson motioned to accept the recommendation for revocation.*
Second: *Chief Terry Keefe seconded the motion.*
Vote: *The motion passed with all in favor.*

RECOGNITION

Director Stephenson recognized Chairman Michael Larsen for his dedicated service on the Council. Chairman Larsen thanked the Council and stated after 35 plus years he is looking forward to retirement.

ELECTION OF NEW VICE-CHAIRMAN

Chairman Larsen opened nominations for POST Council Vice-Chairman.

Nomination: Sheriff Dave Edmunds nominated Sheriff Lamont Smith.

Chairman Larsen asked for any other nomination; none nominated.

Motion: Terry Keefe motioned to close nominations.

Second: Sheriff Dave Edmunds

Vote: All in favor

Sheriff Lamont Smith was voted the new vice-chairman.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be on March 28, 2012, in St. George.

ADJOURNMENT

The POST Council meeting adjourned at 10:35.