

POST COUNCIL MEETING

December 9, 2009

*Public Safety Education and Training Center
Sandy, UT*

MINUTES

On December 9, 2009, 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
Sheriff Dave Edmunds, Summit County Sheriff's Office
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
Commissioner LuWayne Walker, Juab County Commissioner
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

The following POST Council member was in attendance via telephonic:

Vice-President Donna Dillingham-Evans, Dixie State College

The following were excused and/or absent:

SAC Jim McTaghe, FBI
Mayor Joe Ritchie, Roy City

POST staff present:

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

Others present:

Jeff Nigbur, Department of Public Safety
David Holm, Dixie State College Police Academy
Dennis Hutchinson, Department of Corrections Training
Ben Winslow, Fox 13
Jack Rickards, Weber State University Police Academy
Dave Attridge, Salt Lake Community College
Geoff Liesik, Deseret News
Chris Burbank, Salt Lake City PD
Sid Groll, Division of Wildlife Resource
Dan Weist, Davis County – Standard Examiner

WELCOME AND INTRODUCTIONS

The meeting was called to order at 10:05am. Chairman Bud Cox welcomed those in attendance at POST Council and introduced Al Acosta, the new POST Investigations Bureau Chief. Chairman Cox welcomed Donna Dillingham-Evans via teleconference and excused Mayor Joe Ritchie.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of September 29, 2009, were reviewed and the following motion was made:

Motion: *Sheriff Lynn Nelson motioned to approve the minutes of September 29, 2009.*
Second: *Robbie Robertson seconded the motion.*
Vote: *The motion passed with all in favor.*

OPEN MEETING TRAINING

Attorney Lana Taylor presented the following PowerPoint to the Council for their annual open meeting training.

OPEN & PUBLIC MEETINGS ACT

UCA 52-4-101 et. Seq

Utah Code Ann. § 52-4-201

- ❖ The Legislature intended for all government officials to deliberate and take actions openly.
- ❖ The Open Meetings Act requires all meetings of any public body to be open to the public.
 - This includes a workshop or executive session of a public body.

What is a Public Body?

- ❖ Any state administrative, advisory, executive, or legislative body of the state which:
 - Is created by the Utah Constitution, statute, rule, ordinance, or resolution;
 - Consists of two or more persons;
 - Spends, distributes, or is supported by tax money; and
 - Has authority to make decisions about the public's business.

A Public Body Does Not Include

- ❖ Political parties, groups and caucuses.
- ❖ Legislative conference, rules and sifting committees.

What Constitutes a Meeting?

- ❖ A quorum or simple majority of a public body meeting in person or through electronic equipment to discuss or act on a matter under its authority.
- ❖ A chance meeting or social gathering of a public body is not considered a "meeting" under the statute.

Public Notice of Meetings

- ❖ Notice must be given at least 24 hours before the meeting.
 - This may be waived in an emergency.
- ❖ Public bodies which meet regularly are required to give annual notice of their upcoming meeting schedule.
- ❖ The notice must include the agenda, date, time and place.

How Notice is Provided

- ❖ Notice must be provided by:
 - Posting a written notice at the place where the meeting will be held;
 - Placing a notice on the Utah Public Notice Website found at: <http://www.utah.gov/pmn/index.html>; and
 - Providing notice to a newspaper or a local media correspondent.

Emergency Meetings

- ❖ An emergency meeting can be held if the majority of the body votes to consider matters of an "emergency or urgent manner."
- ❖ The body must provide the best notice practicable.
- ❖ Minutes of the meeting should include a statement of unforeseen circumstances that made the meeting necessary.

Electronic Meetings

- ❖ An "electronic meeting" occurs whenever one member participates by electronic means, such as a telephone.
- ❖ A public body may only hold an electronic meeting after adopting a resolution, rule, or ordinance governing the use of electronic meetings.
- ❖ A public body must provide notice of an electronic meeting which describes how the members and the public can attend or participate.

Closed Meetings

- ❖ Discussing an individual's character, professional competence, or physical or mental health;
- ❖ Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property;
- ❖ Discussions regarding security personnel, devices or systems; or
- ❖ Investigative proceedings regarding allegations of criminal misconduct.

Deliberations of an Adjudicative Body

- ❖ As long as the "information obtaining" procedures are conducted in the open and any final or formal action is announced or issued in the open, the "decision making" or deliberation of a public body during a judicial process may be held in private and is exempt from the requirements of the Act.

How a Meeting May be Closed

- ❖ Two-thirds of the body must vote to close the meeting.
- ❖ The public body must hold an open meeting with public notice before closing a meeting.
- ❖ The votes to close and the reason for closing must be recorded in the minutes.
- ❖ An affidavit must be signed by presiding officer if the purpose of the closed meeting was to discuss private information about a person or security measures.

Action Prohibited in a Closed Meeting

- ❖ The body cannot approve any ordinance, resolution, rule, regulation, contract or appointment.
- ❖ The body cannot take final action on a matter.
- ❖ The body cannot interview a person applying to fill an elected position.
- ❖ The discussion in the closed meeting must be limited to only those topics for which a closed meeting is permitted.

Recording Meetings

- ❖ A recording and written minutes must be made of the entire meeting.
- ❖ This applies to both open and closed meetings unless the purpose of the meeting is to discuss private information about a person or security measures.
 - The recording and written minutes from open meetings are public records under GRAMA.
 - The recording and written minutes from closed meetings are protected records under GRAMA and can only be disclosed by court order.

Public Access to Minutes

- ❖ The recording must be made available for listening within three business days after the end of the meeting.
- ❖ The written minutes must be available within a *reasonable time* after the end of the meeting.
 - The written minutes may be released to the public in "draft" form.
 - A public body must establish procedures to approve the minutes of each meeting.
 - The written minutes, once approved, are the official record of action taken at the meeting.

What the Minutes Must Include

- ❖ The date, time, and place of the meeting;
- ❖ The names of all members present or absent;
- ❖ All matters proposed, discussed, or decided;
- ❖ Individual votes on each matter;
- ❖ The name and substance of the information given by individuals at the hearing after being recognized by the presiding officer; and
- ❖ Any additional information requested by a member.

Violations of the Act

- ❖ A court can void any action taken in violation of the law.
- ❖ A violation can sometimes be cured in a subsequent meeting by following the law.

- ❖ A violation of the law may result in the payment of attorney's fees and court costs which are incurred to enforce the law.

Criminal Violation

- ❖ A member of a public body who knowingly or intentionally violates the law or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Discussion: Commissioner Walker asked if going into executive session for contractual matters is legal. Attorney Taylor replied it is limited to strategy session for collective bargaining, imminent litigation, or discussion on hiring personnel, which includes: discussing their character, their ability to perform job function and items of a personal nature. Commissioner Walker inquired if last minute meeting with someone dropping into the area was allowed. Attorney Taylor stated any public business needs to be done in an open meeting.

PROCEDURE FOR ENTRANCE TO A SKILLS ACADEMY

Director Scott Stephenson presented the proposed policy for students that will be applying to attend a skills academy. He reported the following changes to the curriculum: Sudden and In-Custody Deaths has been added to the SFO, O-Track Introduction was eliminated from the BCO, and Introduction to Crisis Intervention was added to the LEO.

When an application to the skills academy is received, the POST staff will verify the following: the applicant obtained a Criminal Justice Degree, the accreditation of the institution and the degree meets the waiver criteria. This will be done by course descriptions found in the official catalog and applicant transcripts.

Director Stephenson requested guidance from the Council on accreditation for colleges and universities. If the proposed policy is approved, POST would accept those schools with accreditation from the Northwest Commission on Colleges and Universities or other similar regional accrediting agencies. A second option is to consider accrediting agencies recognized by the Secretary of US Department of Education. The first option would eliminate colleges such as Phoenix, Columbia, Strayer, and similar colleges. Second option would allow those institutions into the skills based academy. Donna Dillingham-Evans stated the Northwest Commission on Colleges and Universities recognizes universities and colleges properly accredited in other regions. Director Larsen referred to the proposed policy and stated he feels POST has covered everything needed in the new policy.

Motion: *Robbie Robertson motioned to approve the curriculum change and to accept the new POST policy for entrance into a skills academy (POST Policy 2440, 2450, & 2460).*
Second: *Dr. Sterling Provost seconded the motion.*
Vote: *The motion passed with all in favor.*

IN-SERVICE AUDIT REPORT

Director Stephenson informed the Council only two officers were reported to URS as being deficient in training hours which is a low number considering there is almost 9,000 officers in the state. The POST staff has worked diligently on this report. Director Stephenson then gave the following statistics;

Agencies-209

Sworn officers-8,915

Officers eligible to retire-536

Officers 15 years to 19.9 years of service-1041

Officers 10 years to 14.9 years of service-1562

SATELLITE ACADEMY AUDIT REPORT

Lt. Breur reported on the audit of the Salt Lake Community College (SLCC) Academy. POST has included in the audit observation of scenarios and classroom teaching. Lt. Breur found no exceptions with the SLCC Academy audit.

DISCIPLINARY ACTIONS

Attorney Lana Taylor presented the following disciplinary cases.

ANNA BARNEY - (Custodial Sexual Misconduct)

Appendix A-1

Aggravating Circumstances: On-duty, Custodial environment.

Mitigating Circumstances: None.

Motion: ***Commissioner LuWayne Walker motioned to accept Anna Barney's signed consent agreement for revocation of her peace officer certification.***

Second: ***Executive Director Tom Patterson seconded the motion.***

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

SCOTT T. DUNCAN - (Driving under the Influence of Prescription Drugs, Falsely Obtaining Prescription Drugs, Insurance Fraud)

Appendix A-2

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: ***Chief Terry Keefe motioned to accept Scott Duncan's signed consent agreement for revocation of his peace officer certification.***

Second: ***Chief Val Shupe seconded the motion.***

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

TRAVIS HARVEY - (Sexual Assault, Lying under Garrity)

Appendix A-3

Aggravating Circumstances: On-duty or perception of on-duty. .

Mitigating Circumstances: None.

Motion: ***Robbie Robertson motioned to accept Travis Harvey's signed consent agreement for revocation of his peace officer certification.***

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

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

EVAN SCHIPAANBOORD - (Driving under the Influence, Open Container, Possession of Marijuana, Possession of Drug Paraphernalia)

Appendix A-4

Aggravating Circumstances: Conviction in criminal court.

Mitigating Circumstances: None.

Motion: Chief Val Shupe motioned to accept Evan Schipaanboord's signed consent agreement for revocation his peace officer certification.

Second: Sheriff Dave Edmunds seconded the motion.

Vote: The motion passed with all in favor.

DARREN E. WATSON- (Consensual Sexual Misconduct On-duty, Lying under Garrity)

Appendix A-5

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: Sheriff Lynn Nelson motioned to accept Darren E. Watson's signed consent agreement for revocation his peace officer certification.

Second: Dr. Sterling Provost seconded the motion.

Vote: The motion passed with all in favor.

HILARY MILLS - (Driving under the Influence)

Appendix A-6

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: Sheriff Lynn Nelson motioned to accept Hilary Mills' signed consent agreement for a two-year suspension of her peace officer certification (8/7/2009-8/7/2011).

Second: Chief Terry Keefe seconded the motion.

Vote: The motion passed with all in favor.

TRAVIS WILLIAM TURNER - (Malfeasance)

Appendix A-7

Aggravating Circumstances: None.

Mitigating Circumstances: None.

Motion: *Dr. Sterling Provost motioned to accept Travis Turner's signed consent agreement for a one-year suspension of his peace officer certification (12/9/2008-12/9/2009).*

Second: *Robbie Robertson seconded the motion.*

Discussion: Executive Director Patterson asked if the motion is approved, could Travis Turner return to work by next week. Attorney Taylor replied Turner's consent agreement was dated the date of separation with his agency and this practice is consistent with all cases similar to the Turner case that have been presented to the Council. Council members questioned Attorney Taylor about the protective order against Turner. Attorney Taylor replied a civil protective order being issued is not a violation under POST statute or rules.

Sub-Motion: *Executive Director Tom Patterson motioned not to accept the signed consent agreement and suspend Travis Turner's peace officer certification for two-years and add the provision Mr. Turner would have to reapply for reinstatement and show proof the protective order is no longer in effect.*

Second: *Sheriff Dave Edmunds seconded the motion.*

Discussion: Council members inquired if the protective order was still in effect. Attorney Taylor stated the officer agreed to a one-year suspension for Malfeasance and if the Council is going to take into account the protective order, the Council should send it back to the POST investigator to attain more information and preserve Mr. Turner's due-process rights. Investigator Kotter was contacted and the Council was informed Mr. Turner no longer has a protective order against him. Council members inquired about the details of Mr. Turner's protective order. Attorney Taylor replied it was not the reason for the investigation, so the facts are not available. The POST investigator would need to go back and obtain that information.

Vote: *The sub-motion failed with 2 in favor and 12 against.*

Vote: *The original motion passed with 12 in favor and 2 against.*

RECONGNITION AND INTRODUCTIONS

Director Stephenson thanked Sheriff Dave Edmunds for his four-year service on the Council and introduced the new at large position, Chief Chris Burbank.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at Dixie State College, March 22, 2010 at 8:00am.

ADJOURNMENT

The POST Council meeting adjourned at 11:07am.



{APPENDIX}





POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-080LE
SUBJECT: Anna L. Barney
Investigator: Rich Fordham

ALLEGATION(S)

Custodial Sexual Misconduct

EMPLOYMENT HISTORY

- On September 6, 1997, Barney was employed and certified as a law enforcement officer by the Utah County Sheriff's Office (UCSO)
- On February 6, 2009, Barney resigned from the UCSO after an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On February 3, 2009, UCSO interviewed a male inmate (inmate 1) after he stated he held a Deputy's career "in the palm of his hands". Inmate 1 stated that in the summer of 2007 he worked in the jail industries program and Deputy Barney was one of the inmate supervisors. Inmate 1 stated on several occasions he, another male inmate (inmate 2) and Barney would engaged in sexually explicit conversations. Inmate 1 stated that in September or October 2008, Barney told him she had been having a sexual relationship with inmate 2. Due to the allegations made by inmate 1, UCSO opened an IA investigation.

On February 5, 2009, IA investigators interviewed Barney. Barney told the investigators she had sexually explicit conversations with both inmate 1 and 2. Barney admitted that in September 2008, she engaged in a sexual relationship with inmate 2 while he was in custody and she was on-duty (in uniform). This incident occurred by Utah Lake in a county owned vehicle.

On April 4, 2009, IA investigators interviewed inmate 2. Inmate 2 denied having any inappropriate or sexual relationship with Barney.

UCSO requested the Provo Police Department (PPD) conduct a criminal investigation. Criminal charges were not filed because there was no cooperative victim willing to testify.

On August 28, 2009, POST held a telephonic interview with Barney. Barney did not deny

any of the material facts of the case and agreed to sign a consent agreement for the revocation of her peace officer certification.

CHIEF ADMINISTRATOR'S OPINION

On August 31, 2009, POST reviewed Barney's case with Utah County Sheriff James Tracy. Sheriff Tracy concurs with POST's recommendation for the revocation of Barney's peace officer certification.

VIOLATION(S)

Barney's actions violated the following:

Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCES

On-Duty
Custodial environment

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category A (Custodial Sexual Misconduct) on the POST Disciplinary Guidelines. POST recommends the Council accept Barney's signed consent agreement for the revocation of her peace officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-055LE
SUBJECT: Scott T. Duncan
Investigator: Bryant Green

ALLEGATION(S)

Driving Under the Influence of Prescription Drugs
Falsely Obtaining Prescription Drugs
Insurance Fraud

EMPLOYMENT HISTORY

- Duncan was employed and certified as a law enforcement officer by the Utah Highway Patrol (UHP) on December 16, 1976
- Retired from UHP on January 29, 1999
- Employed as a law enforcement officer by the Utah State Tax Commission (USTC) on February 8, 1999. Resigned from USTC January 6, 2001
- Employed as a law enforcement officer by the Department of Public Safety (DPS) on January 6, 2001
- Resigned from DPS on January 20, 2009

POST INVESTIGATION OF ALLEGATION(S)

On the morning of January 15, 2009, Duncan, who was in St. George, left to return to Salt Lake City. During his return trip, Duncan was stopped by a Washington County deputy who spoke to him briefly at the roadside and then released him. Duncan continued northbound on I-15. In Cedar City, Duncan was subsequently contacted by members of the UHP who transported him to the hospital after perceiving he may be experiencing a medical problem. After a doctor's evaluation was completed, Duncan was released from the hospital and drove himself to Beaver City. In Beaver City, Duncan met with his deputy commissioner who then drove him to Sandy City. Duncan has little to no recollection of the day's events.

On January 19, 2009, Duncan, directed DPS Internal Affairs (IA) to open an investigation. At the conclusion of the IA, DPS referred the case to POST (May 14, 2009)

On May 28, 2009, POST interviewed Duncan. The interview was conducted in two parts: first was a review of the event on January 15, 2009 and the second part of the interview focused on Duncan's health and his prescription medication usage.

During the interview, Duncan stated he had minimal recollection of the event on January 15th. Duncan reported prior to going to bed, the night before, he took a prescribed amount of Ambein CR and a prescribed amount of Lortab.

During the second part of the interview, Duncan stated he was under the care of two primary doctors. One prescribed Lortab for back pain, the other prescribed Ambein CR to help him sleep.

POST reviewed Duncan's Controlled Substance Prescription [History] Report from the Utah Controlled Substance Database. In the report one doctor was listed as prescribing Ambien for Duncan. However, there were six different doctors listed as prescribing Lortab to Duncan. (Note: the report was a one year record of Duncan's controlled substance prescriptions) Duncan offered explanations for each of the doctors who prescribed the Lortab.

As a result of POST's investigation, the Utah State Division of Insurance Fraud (UDIF), was contacted and requested to review the evidence in the case for potential criminal charges. A UDIF investigator reviewed Duncan's Controlled Substance Prescriptions Report for the last three years and noted some possible impropriety. In accordance with Administrative Rule R728-409-5.E (2-3), requiring all complaints with possible criminal implications be handled by an agency having jurisdiction, the case was referred to UDIF for further investigation.

As a result of the UDIF investigation, Duncan was charged with two counts of Falsely Obtaining Prescription Drugs, 3rd Degree felonies and one count of Insurance Fraud, a Class B misdemeanor.

On November 9, 2009, Duncan entered pleas of guilty to the charges, which are being held in abeyance.

On November 30, 2009, Duncan signed a consent agreement for the revocation of his peace officer certification.

CHIEF ADMINISTRATORS OPINION

DPS Commissioner Lance Davenport concurs with POST's recommendation for the revocation of Duncan's peace officer certification.

VIOLATION(S)

Duncan's actions violated the following:

Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Categories A and D (Commission of any crime that was charged as a felony and commission of any crime that was charged as a Class B Misdemeanor.) on the POST Disciplinary Guidelines. POST recommends the Council accept Duncan's signed consent agreement for the revocation of his peace officer certification.





POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-091C
SUBJECT: Travis Harvey
Investigator: Rich Fordham

ALLEGATION(S)

Sexual Assault
Lying Under Garrity

EMPLOYMENT HISTORY

- On August 4, 2008, Harvey was employed and certified as a correctional officer with the Utah Department of Corrections (UDC)
- On October 13, 2009, Harvey was terminated from the UDC for failing to successfully complete his probationary period

POST INVESTIGATION OF ALLEGATION(S)

On September 9, 2009, Harvey was riding in the passenger seat of a corrections vehicle while a female UDC officer was driving the perimeter of the Central Utah Correctional Facility. During the ride, Harvey placed two fingers inside of the female officer's shirt and touched her breast. The female officer indicated to Harvey that the touching was not welcome. As Harvey withdrew his hand, he rubbed across and under the female officer's breast. The next day the female officer reported the incident to her supervisor.

On September 10, 2009, a UDC investigator conducted an interview with Harvey under the Miranda warning. Harvey claimed he had accidentally touched the female officer's breast while holding the steering wheel for her as she checked her cell phone. Harvey could not give an explanation for putting his fingers inside the female officer's shirt. Harvey is currently under investigation for Sexual Battery, a class A misdemeanor, in relation to this incident.

On November 4, 2009, POST conducted a Garrity interview with Harvey. Harvey stated that while he was riding in the vehicle with the female officer, he touched her leg, gave her a massage and accidentally touched her breast when removing his hand from the steering wheel. Harvey stated that he did not have any other physical contact with her.

On November 12, 2009, Harvey submitted to a polygraph examination. The results of the polygraph revealed Harvey was being deceptive to questions that were specific to this case. POST held another Garrity interview after the polygraph examination. Harvey

could not give an explanation for the deception on the polygraph. Harvey stated that while he was “flicking (the female officer’s) buttons” on her shirt, his fingers accidentally entered into her shirt. POST pointed out to Harvey that he had not mentioned the “flicking buttons” incident during his first POST interview. POST informed Harvey that he was in violation of the Garrity warning. Harvey agreed to sign a consent agreement for the revocation of his correctional officer certification.

CHIEF ADMINISTRATOR’S OPINION

On November 16, 2009, POST contacted Executive Director Tom Patterson regarding Harvey’s case. Director Patterson concurs with POST’s recommendation for the revocation of Harvey’s correctional officer certification.

VIOLATION(S)

Harvey’s actions violated the following:

Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCES

On-Duty or perception of On-Duty

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to two counts of a Category C (Commission of a crime that is charged or could be charged as a class A misdemeanor and Lying under Garrity) on the POST Disciplinary Guidelines. POST recommends the Council accept Harvey’s signed consent agreement for the revocation of his correctional officer certification.

POST COUNCIL’S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-084C
SUBJECT: Evan W. Schipaanboord
Investigator: Rich Fordham

ALLEGATION(S)

Driving Under the Influence (DUI)
Open Container
Possession of Marijuana
Possession of Drug Paraphernalia

EMPLOYMENT HISTORY

- On July 9, 2001, Schipaanboord was employed and certified as a correctional officer by the Utah Department of Corrections (UDC)
- On August 17, 2009, Schipaanboord resigned from UDC after an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On July 29, 2009, a Farmington Police Department (FPD) officer observed Schipaanboord's personal vehicle parked on the side of the road with its headlights on and motor running. The officer made contact with Schipaanboord who was in the driver's seat of the vehicle. The officer noticed Schipaanboord's speech was slurred and there was a strong odor of alcohol coming from the vehicle. The officer had Schipaanboord perform Standardized Field Sobriety Tests (SFST's), which he failed. Schipaanboord was subsequently arrested for DUI. During a search incident to the arrest, the FPD officer found open alcohol containers, a small amount of marijuana and drug paraphernalia.

During an interview with the FPD officer, Schipaanboord admitted he had been drinking alcohol in his vehicle. He also claimed he was holding the marijuana and paraphernalia for a friend. Schipaanboord submitted to a breath test, which indicated he had a breath alcohol content of .196. Schipaanboord was booked into jail for DUI, open container, possession of marijuana, and possession of drug paraphernalia. He pled guilty to DUI while the other charges were dismissed.

On August 12, 2009, UDC IA interviewed Schipaanboord, Schipaanboord admitted to all the material facts of the case.

On October 13, 2009, POST held a telephonic interview with Schipaanboord. Schipaanboord admitted to all the material facts of the case. Schipaanboord agreed to sign a consent agreement for the revocation of his correctional and special function officer certification.

CHIEF ADMINISTRATOR'S OPINION

Executive Director Tom Patterson with UDC concurs with POST's recommendation for the revocation of Schipaanboord's correctional and special function officer certification to be consistent with the POST guidelines.

VIOLATION(S)

Schipaanboord's actions violated the following:

- Utah Code Ann. §53-6-211(1)(d)(iii) ...the unlawful sale, possession, or use of narcotics, drugs, or drug paraphernalia
- Utah Code Ann. §53-6-211(1)(d)(iv) ...driving under the influence of alcohol or drugs
- Utah Code Ann §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCES

Conviction in criminal court

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to a Category B (Possession of a tier 2 drug) and 3 counts of a Category D (Commission of any crime that is charged as a class B misdemeanor) on the POST Disciplinary Guidelines. POST recommends the Council accept Schipaanboord's signed consent agreement for the revocation of his correctional and special function officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-005LE
SUBJECT: Darren E. Watson
Investigator: Bryant Green

ALLEGATION(S)

**Consensual Sexual Misconduct on duty
Lying under Garrity**

EMPLOYMENT HISTORY

- Employed and certified as a correctional officer by the Tooele County Sheriff's Office (TCSO) on September 27, 1993
- Resigned from TCSO on May 8, 1999
- Employed and certified as a law enforcement officer by the West Valley City Police Department (WVPD) on May 8, 1999
- Terminated from WVPD on December 17, 2008

POST INVESTIGATION OF ALLEGATION(S)

On December 10, 2007, a complaint was made against Watson alleging he had consensual sexual contact with a female while on duty. These contacts allegedly occurred on one or two occasions in the fall of 2005 when the female was on a ride-along with Watson. It was also alleged Watson engaged in an on-going, off-duty sexual relationship with the female for approximately two years from 2005 to 2007. WVPD initiated an Internal Affairs (IA) investigation.

On December 20, 2007, Watson was interviewed by IA investigators. After being given a Garrity warning, Watson acknowledged the female accompanied him during the ride-along, but denied ever having any type of sexual relations with her on or off duty.

On March 10, 2008, the female submitted to a polygraph examination. She was asked questions regarding the sexual relationship with Watson. The examiner reported the female was truthful to the relevant questions.

On March 18, 2008, Watson submitted to a polygraph examination. He was asked questions regarding the allegations. The examiner reported Watson was untruthful to the relevant question and he may have employed "countermeasures" in an attempt to manipulate the results of the examination.

On February 3, 2009, WVPD referred Watson's case to POST. On February 11, 2009, Watson was interviewed by POST. After being issued a Garrity warning, Watson was questioned regarding the allegations. During the interview, Watson made several statements that were contrary to the statements he made to the WVPD IA investigators. For example, during the WVPD interview, Watson denied ever having a sexual relationship with the victim. During the POST interview, Watson stated he had sex with the victim on several occasions.

On September 11, 2009, Watson signed a consent agreement recommending the revocation of his peace officer certification.

CHIEF ADMINISTRATOR'S OPINION

On September 11, 2009, POST reviewed the case with WVPD Lieutenant Kory Newbold. Lt. Newbold, acting on behalf of the Chief, concurs with POST's recommendation to revoke Watson's peace officer certification.

VIOLATION(S)

Watson's actions violated the following:

Utah Code Ann. §53-6-211(1)(d)(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCES

None

MITIGATING CIRCUMSTANCES

None

POST RECOMMENDATION

These charges rise to two counts of Category C (Consensual Sexual Misconduct On-duty and Lying under Garrity) on the POST Disciplinary Guidelines. POST recommends the Council accept Watson's signed consent agreement for the revocation of his peace officer certification.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 09-076LE
SUBJECT: Hilary Mills
Investigator: Paul Kotter

ALLEGATION(S)

Driving Under the Influence (DUI)

EMPLOYMENT HISTORY

- Davis County Sheriff's Office – employed and certified as a correctional officer on April 7, 2003; resigned on July 3, 2006
- Syracuse Police Department (SPD) – employed and certified as a peace officer on November 6, 2005; resigned on August 7, 2009 following an Internal Affairs (IA) investigation

POST INVESTIGATION OF ALLEGATION(S)

On July 28, 2009, Davis County Deputies were asked to respond to the Davis Park Golf Course on a citizen assist. The deputy was informed that a female, who had previously identified herself as a SPD officer (later identified as Mills), appeared to be under the influence and was about to drive away.

After the deputy arrived, the complainant told him, Mills came into the Golf Shop stumbling, swaying and had slurred speech. Mills asked the Golf Shop if they carried Coke products. Mills was informed they did not carry Coke products and was given directions to a convenience store. Mills left the area in her truck and returned to the Golf Shop approximately one hour later. The complainant noticed Mills was still stumbling, swaying and appeared to be disoriented. The complainant informed Mills she missed her tee time and Mills returned to her vehicle.

The complainant identified Mills, who was currently sitting in her vehicle, to the deputy. The deputy approached the vehicle and noticed Mills was asleep in the driver seat with the keys laid on the seat beside her. The deputy knocked on the window and woke Mills. Mills opened the door and engaged in a conversation with the deputy. The deputy noticed Mills exhibiting slurred speech, constricted pupils and droopy eyelids. The deputy discovered Mills had taken prescription medication. After observing the aforementioned indicators, the deputy had Mills perform a battery of field sobriety tests. Mills failed the sobriety tests and was arrested for DUI. Mills was then taken to the Fruit Heights City Offices for a Drug Recognition Expert (DRE) evaluation.

A DRE evaluation was conducted and Mills consented to a blood draw at the deputy's request. The DRE evaluation indicated Mills was under the influence of a narcotic and was not safe to operate a motor vehicle. The blood test results indicated positive for Xanax, Codeine and Cyclobenzaprine, the prescriptions Mills was prescribed. The criminal case has been referred to the Weber County Attorney's Office which resulted in the filing of criminal charges. The criminal case is pending.

On October 21, 2009, POST conducted a Garrity interview with Mills. Mills stated on the morning of July 28, she woke up and took Xanax and Tylenol 4, her prescribed medication. Mills took a shower and took the same medication again, by accident. Mills stated she felt incoherent when she left her home and went to the golf course. She remembers driving from the golf course to a gas station and returning to the golf course. Mills admitted to taking too much medication and said this has never happened before. Mills stated she is currently undergoing counseling and has not taken her prescriptions since the day of her arrest. POST informed Mills her actions were subject to a two-year suspension on the POST disciplinary guidelines. Mills signed a consent agreement for a two-year suspension of her peace officer and correctional officer certification.

CHIEF ADMINISTRATOR'S OPINION

On September 9, 2009, POST Investigations contacted SPD Chief Brian Wallace. Chief Wallace concurs with POST's recommendation for the suspension of Mills' peace officer and correctional officer certification.

VIOLATION(S)

Mills' actions violated the following:

Utah Code Ann. § 53-6-211(l)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCE(S)

None

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category D (1st DUI) on the POST Disciplinary Guidelines. POST recommends the Council accept Mills' signed consent agreement suspending her peace officer and correctional officer certification from the date of her resignation-August 7, 2009 through August 7, 2011.

POST COUNCIL'S ACTION

FINAL ORDER



POST Investigations Bureau

CASE SUMMARY

CASE NO: 08-113LE
SUBJECT: Travis William Turner
Investigator: Paul Kotter

ALLEGATION(S)

Malfeasance

EMPLOYMENT HISTORY

- Utah County Sheriff's Office (UCSO) – employed and certified as a special functions officer on September 6, 1997 through April 8, 2002
- Lehi Police Department (LPD) – employed as a law enforcement reserve officer on February 21, 2000, (separation date unavailable)
- Lone Peak Public Safety (LPPS) – employed and certified as a law enforcement officer on November 15, 1998
- Promoted to the rank of Sergeant with LPPS on July 13, 2008
- LPPS – Terminated on December 4, 2008

POST INVESTIGATION OF ALLEGATION(S)

On September 4, 2008, the ex-wife of Travis Turner contacted the LPPS and alleged Turner was harassing her. She requested LPPS order Turner to stop contacting her. She provided abusive texts and voicemails Turner had sent to her to LPPS. She also gave LPPS an audio recording of her and Turner talking on the phone where Turner made death threats against a boyfriend she was allegedly dating.

On or about September 7, 2008, Turner was talking to his ex-wife on the phone. Turner was angry and told his ex-wife that he wanted the Lehi police chief dead. Turner's ex-wife recorded the conversation and gave the recording to the Lehi Police Department (LPD). LPD contacted LPPS and gave them a copy of the recording. The statement made on the recording caused the LPD to take cautionary steps to ensure the Chief's safety. In an interview with LPPS, Turner admitted he had been drinking that day and he recalled making threats against the chief of the LPD to his ex-wife.

Turner's ex-wife told the LPPS she was fearful of Turners potential actions. Turner's ex-wife ultimately was granted a protective order, which was served on Turner. It was later alleged Turner violated the protective order and he was ultimately criminally charged with violating the terms of the protective order.

On January 20, 2009, POST interviewed Turner. Turner denied violating the protective order. The allegation of the protective order violation could not be substantiated by POST.

On May 12, 2009, the criminal charges for violation of the protective order were dismissed and the case was closed.

On November 4, 2009, POST informed Turner's attorney that Turner's actions were subject to suspension on the POST disciplinary guidelines because he committed an act of malfeasance. Turner signed a one year consent agreement for the suspension of his peace officer certification.

At the conclusion of this investigation, POST contacted the LPD Chief who Turner had threatened. The LPD chief concurs with POST's recommendation for suspension of Turner's peace officer certification.

CHIEF ADMINISTRATORS OPINION

POST contacted LPPS Chief Kip Botkin. Chief Botkin concurs with POST's recommendation for the suspension of Turner's peace officer certification.

VIOLATION(S)

Turner's actions violated the following:

Utah Code Ann. § 53-6-211(1)(d)(v) conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement

AGGRAVATING CIRCUMSTANCE(S)

Supervisory Authority

MITIGATING CIRCUMSTANCE(S)

None

POST RECOMMENDATION

These charges rise to a category F (Malfeasance or non-feasance) on the POST Disciplinary Guidelines. Taking into consideration the aggravating circumstance, POST recommends the Council accept Turner's signed consent agreement suspending his peace officer certification from the date of his termination-December 11, 2008, through December 11, 2009.

POST COUNCIL'S ACTION

FINAL ORDER