

POST COUNCIL MEETING

September 25, 2013

*Dixie State University, Kenneth Gardner Center
St. George, UT*

MINUTES

On September 25, 2013, a regularly scheduled POST Council meeting was held at Dixie State University in St. George, Utah. Chairman Terry Keefe conducted and welcomed those in attendance.

The following POST Council members were in attendance:

Chief Terry Keefe, Chairman, Layton City P.D.
Sheriff Lamont Smith, Vice-Chairman, Kane County Sheriff's Office
Executive Director Rollin Cook, Department of Corrections
Dean Donna Dillingham-Evans, Utah State University
Robert D. Robertson, At Large
Sheriff David Edmunds, Summit County Sheriff's Office
Supervisory Special Agent Leo Lucey, Attorney General's Office (Proxy for Ken Wallentine, Attorney General's Office)
Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol
Matt Checketts, At Large
Sheriff James O. Tracy, Utah County Sheriff's Office

The following were excused and/or absent:

Mayor Melissa Johnson, West Jordan City
Commissioner Kerry Gibson, Weber County Commissioner
Wade Carpenter, Park City P.D.
Christie Moren, At Large
Chief Chris Burbank, Salt Lake City P.D., At Large
John Crowley, Representing UPOA
Chief Ken Wallentine, Attorney General's Office (Proxy by Supervisory Special Agent Leo Lucey)

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Shaunna McCleve, Administrative Secretary
Al Acosta, Investigations Bureau Chief
Rich Fordham, Investigator
Brad MacFarlane, Investigator
Mary Kaye Lucas, Investigator
Rex Dana, Investigator (DOC)
Wade Breur, Basic Training Bureau Chief
Kevin Bolander, DPS Legal Counsel representing POST, Asst. Attorney General
Chris Fielding, Media Specialist

Others present:

Kyle Whitehead
Keith Squires
Lana Taylor
Jim Hudspeth
Scott Crowther
Jose Ricardo Rosales
Bret Rawson
Allen Swanson
Nate Carlisle
Jaren Anderson
Ron Lance
Brock Lance
Luke Emack
Tolly Ivie
Brandon Dunbar
Nate Mutter

WELCOME

The meeting was called to order at 1:10 p.m. and Chairman Terry Keefe welcomed those in attendance at POST Council. He informed everyone there is not a quorum to vote on agenda action items, but the meeting will begin in anticipation a tenth member will arrive. (Tenth member arrived at 1:22 p.m.)

POST BUDGET REPORT

Director Stephenson reported on POST's 2013, budget challenges. The three previous years' POST staff has worked very hard to reflect savings and, with legislative approval, has been granted carryover money for the past few years-reflecting approximately \$400,000. This year (fiscal year 2013) the surcharge account did not generate POST's appropriated budget. POST budget had a \$400,000 shortfall; therefore, any reflected savings from the previous years was utilized to fill the shortfall. Staff is working hard to save money and find a solution. Dir. Stephenson thanked Commissioner Squires and Colonel Fuhr for the assistance they have given to POST. Sheriff Edmunds asked if this was a trend. Dir. Stephenson stated POST usually operates in the red until late in the fiscal year.

SATELLITE AUDITS

Lieutenant Breur reported on two satellite training academy audits this quarter, Salt Lake County Sheriff's Academy and Dixie State University Academy. No exceptions were reported in either audit. Lt. Breur received feedback from both academies stating they are pleased with the new online records management system.

CRISIS INTERVENTION TEAM (CIT) TRAINING FOLLOW-UP

(Sheriff Tracy arrived at 1:22 p.m. making a quorum.)

Lieutenant Breur reported he contacted several people involved with the CIT program. He looked into creating CIT as a component of basic training and researched the possibilities. Lt. Breur discovered many challenges in implementing the CIT training program into the basic training curriculum.

After some discussion, the Council decided to create a committee to explore the feasibility of implementing the CIT training into the basic academy. Dr. Matt Checkets, Executive Director Cook, one member of the Utah Sheriff's Association and one member of the Utah Chief's Association will make-up the committee.

SPECIAL FUNCTIONS COURSE APPROVAL

Sheriff Nathan Curtis requested Council approval to conduct a satellite special function officer course in Sevier County. Three years ago the Council approved this same request and almost all of the officers have been hired by the county. This academy also served Wayne County Sheriff's Office and Richfield City Police Department. Director Stephenson reported to the Council the last class was a huge success and it was a good partnership.

Motion: *Sheriff Smith motioned to approve the satellite SFO academy.*

Second: *Sheriff Edmunds seconded the motion.*

Vote: *The motion passed with all in favor*

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of June 5, 2013, were reviewed and the following motion was made:

Motion: *Robbie Robertson motioned to approve the minutes of June 5, 2013.*

Second: *Sheriff Edmunds seconded the motion.*

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

DISCIPLINARY DOCUMENTS TO THE COUNCIL

Attorney Kevin Bolander addressed the Council regarding a matter he was directed to research, "should POST provide the investigative file or more information in addition to what they are already receiving." Currently the Council is receiving the pleadings, which includes the "Notice of Agency Action" and either one of three documents: ALJ decision with the "Findings of Facts", a "Hearing Waiver" or a "Default Order." The Council may also review a letter from the chief administrator of the employing agency.

After researching and consulting with colleagues at the Attorney General's Office, Attorney Bolander recommends POST not provide the entire investigative file to the Council during sanction phase of the process. The primary reason, the investigative file is not part of the administrative record. The use of the information in the investigative file can distort the record and it becomes a liability if the POST Council decision is appealed. For this reason the Council's decision need to be made on the information contained in the administrative record.

The Council may consider mitigating facts introduced in the Council meeting, however, the Council is not a fact finding body. Therefore, members should not initiate fact finding questions or attempt to obtain new evidence, but follow-up questions are appropriate. Bolander stated the Council needs to trust that the POST staff will provide relevant information the Council needs to make an informed decision.

The Council asked if clarifying questions were appropriate. Bolander said yes, but the questions should be based on the record. The Council questioned why they should not have full access to all the documents pertaining to the case. Bolander explained the fact finding should be separated from issuing of the sanction.

Sheriff Edmunds feels it puts the Council at a disadvantage to not have access to the investigative file. Director Stephenson informed the Council the notice of agency action includes aggravators and mitigators. All of this information is taken into consideration and is part of the fact finding process.

REPORT ON IN-SERVICE TRAINING HOURS AUDIT

Deputy Director Sparks reported on the in-service training audit of June 30, 2013; there were 8,862 officers in the audit with 52 remaining deficient in their training for the past year. All of the deficient officers have been issued a letter notifying them that their peace officer authority has been suspended until the deficiency is made up. Those officers who are still deficient on October 1st of this year will be reported to the Utah Retirement System.

REPORT ON VOLUNTARY RELINQUISHMENTS

Deputy Director Sparks addressed the Council and stated in the last meeting the Council requested POST provide statistics on voluntary relinquishments. In 2010, the Utah State Legislature passed state code 53-6-211.5, which for the first time authorized peace officers to voluntarily relinquish their certification when a disciplinary matter had been reported to POST. In 2011, a similar law was passed for certified dispatchers.

Since those two laws were passed; thirty six law enforcement officers, thirteen correctional officers, three special function officers and two dispatchers have voluntarily relinquished their POST certification.

The following outlines the number of certifications relinquished each year and the allegations that were referred to POST prior to the relinquishment of the certification. In some cases the relinquishment comes early in the investigation process but, in many other cases POST has had to conduct a full investigation and present it to the officer before POST retains a voluntary relinquishment.

In 2010 there were eight relinquishments resulting from the following allegations:

- Illegal use of prescription drug*
- Forgery*
- Insurance Fraud*
- Leaving the Scene of an accident*
- Custodial sexual conduct*
- Prescription fraud*
- BCI information restriction violation*
- Assault on a prisoner*

In 2011 there were 11 relinquishments resulting from the following allegations:

- Theft*
- Sexual Assault*
- Smuggling and possession of a controlled substance*
- Custodial sexual conduct (3)*
- Child sexual abuse*
- Sexual conduct on-duty*
- Sexual exploitation of a minor (2)*
- Lying after receiving a Garrity warning*

In 2012 there were 18 relinquishments resulting from the following allegations:

- Aggravated assault*
- Possession and distribution of a controlled substance*
- Possession of a controlled substance (3)*
- Custodial sexual relations (7)*
- Misuse or misappropriation of public money (2)*
- Criminal mischief*
- Burglary, Possession, DUI, Theft*
- Failure to pay over fine, theft, robbery*
- Unlawful sex with a minor*

In 2013 to date, there have been 17 relinquishments resulting from the following allegations:

Physical or mental disability – fitness for duty (3)
 Credit card fraud
 Possession of controlled substance – failed random drug screen
 Unlawful sexual activity with a minor
 Insurance fraud
 Possession of child pornography
 Domestic violence assault in the presence of a child
 Sexual conduct on-duty (4)
 Aggravated assault (2)
 Theft/Fraud
 Assault

Chief Keefe asked if a voluntary relinquishment is signed by an officer, can he ever return to law enforcement. Deputy Director Sparks stated a voluntary relinquishment is equivalent to revocation, it is a lifelong decertification and their names are entered on the national decertification data base. Director Stephenson also told the Council once the officer relinquishes their certification the investigation stops.

POST INVESTIGATION STATUS REPORT

Lieutenant Al Acosta addressed the Council to report on the investigations bureau and gave the following report:

The following is a synopsis of activity within the POST Investigations Bureau since the last POST Council meeting held June 5, 2013.

Total Complaints Received	60
Investigations Opened	41
Administrative Hearings Conducted	2
Cases Closed With No Action Following Investigation	5
Voluntary Relinquishments Received	8
<i>Allegations related to Voluntary Relinquishment</i>	
1- Aggravated Assault (2)	
2- Fitness for Duty	
3- Sexual Conduct on Duty (3)	
4- Theft/Fraud	
5- Assault	
Applicant Background Reviews Completed	300
Active Investigations	65
Current Open Cases	120

DISCIPLINARY ACTIONS:

Director Stephenson presented the following cases to the POST Council.

JAREN ANDERSON

Offence – Fishing without a Valid License
 Category – E
 Recommended Discipline- Letter of Caution
 Status Agency Action – Letter of Reprimand

On May 4, 2013, Jaren Anderson was fishing at Lake Powell. While fishing, Anderson was contacted by a police officer who asked to see Anderson's fishing license. Anderson gave the officer his license. The officer discovered Anderson's license had expired at the end of March 2013. Anderson received a citation for fishing without a valid license, a class B misdemeanor. Anderson admitted to the offense during *Garrity* interviews with his agency and POST investigators.

Jaren Anderson addressed the Council and explained the details of his case; he stated he was not aware his fishing license had expired.

Motion: *Donna Dillingham-Evans motioned to accept the recommended letter of caution of Jaren Anderson's peace officer certification.*

Second: *Leo Lucy seconded the motion.*

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

RON J. LANCE

Offence – BCI Violation

Category – E

Recommended Discipline- Letter of Caution

Status Agency Action – Letter of Reprimand

On August 18, 2010, Ron Lance ran a criminal history check on a man he believed to be a danger to his family. A 2011 BCI audit brought attention to the criminal history check as it was run without a case number. When Lance recalled the incident, he reported his mistake to his supervisor. BCI was notified and Lance was given a letter of reprimand by his supervisor. On April 3, 2013, the agency became aware this incident should have been reported to POST. POST was notified of the incident and an investigation opened. On May 14, 2013, a *Garrity* interview with Lance was conducted where he admitted to running the criminal history.

Ron Lance addressed the Council and said this was not done with malicious intent. He believed a family member was in danger, but realized this was poor judgment.

Director Stephenson added all Mr. Lance needed to do was submit a case number, he was perfectly legitimate in his purposes in accessing BCI, just failed to draw a case number.

Motion: *Colonel Fuhr motioned to accept the recommended letter of caution of Ron Lance's peace officer certification.*

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

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

JEFFREY R. BIGLER

Offence – BCI Violation

Category – E

Recommended Discipline - 6 month suspension

Status Agency Action – 80 hour suspension without pay and retired on 4/16/13

On January 15, 2012, Jeffery Bigler accessed the Bureau of Criminal Identification (BCI) and the Utah Criminal Justice Information System (UCJIS) for personal reasons. On January 31, 2012, the BCI Terminal Access Coordinator (TAC) conducted an audit of the system where the illegal access by Bigler was discovered. During a department internal investigation, Bigler admitted he accessed the system to acquire information about his ex-wife's location. Bigler was charged criminally with unlawful, access or use of a criminal investigations and technical services division record, a class B misdemeanor. Bigler pled guilty to a reduced charge, a Class C misdemeanor.

Motion: *Sheriff Tracy motioned to accept the recommended 6 month suspension of Jeffrey Bigler's peace officer certification (4/16/12-10/16/2012).*
Second: *Sheriff Smith seconded the motion.*
Vote: *The motion passed with all in favor. (Colonel Fuhr recused himself)*

JASON WEBB

Offence – DUI/Impaired Driving
Category – D
Recommended Discipline- 1 year suspension
Status Agency Action – Terminated 10/31/12

On October 6, 2012, Webb, a corrections officer with the Utah Department of Corrections, was stopped for speeding. The officer detected the odor of alcohol and believed Webb was possibly under the influence. After Webb failed the Standardized Field Sobriety Tests (SFST's), it was determined he was impaired and was not safe to operate a motor vehicle. Webb was placed under arrest and submitted to a chemical breath test, which indicated his breath alcohol content (BrAC) was .10.

Motion: *Sheriff Dave Edmunds motioned accept the recommended 1 year suspension of Jason Webb's peace officer certification. (10/31/12-10/31-13)*
Second: *Robbie Robertson seconded the motion.*
Vote: *The motion passed with all in favor. (Ex. Director Cook recused himself)*

CLINT BRANDON DOWNS

Offence – Disorderly Conduct, Electronic Communications Harassment
Category – D & F
Recommended Discipline- 1 year suspension
Status Agency Action – Retired 8/16/12

On June 28, 2012, Brandon Downs sent a text message threatening physical harm to a man who was having an affair with Downs' wife.

On July 2, 2012, Downs went to his wife's place of employment and initiated a verbal argument with his wife in the parking lot. Downs' wife reported both incidents to police and Downs' was charged with disorderly conduct, an infraction, for the July 2 incident. Downs entered into a plea in abeyance to disorderly conduct, an infraction.

Motion: *Sheriff Smith motioned to accept the recommended 1 year suspension of Clint Downs' peace officer certification (8/16/12-8/16/13).*
Second: *Leo Lucy seconded the motion.*
Vote: *The motion passed with all in favor. (Ex. Director Cook recused himself)*

WESLEY L. ERVIN

Offence – Driving Under the Influence
Category – D
Recommended Discipline- 18 month suspension
Status Agency Action – Terminated 5/19/13

On May 5, 2013, Wesley Ervin was arrested for driving under the influence of alcohol. Ervin was initially stopped by police for making an illegal turn. Ervin performed the standardized field sobriety tests (SFST's) which indicated he was impaired. After Ervin's arrest, he submitted to an intoxilyzer test which showed he had a breath alcohol content (BrAC) of .178. Ervin entered into a plea in abeyance to the amended charge of impaired driving, a class B misdemeanor.

Attorney Bret Rawson addressed the Council and stated Mr. Ervin completed two counseling programs, one of which was court ordered. He also provided a list his office created which was purported to represent prior Council rulings on DUI cases. He told the Council the average suspension was 12 months, even with a higher BAC. He asked the Council to reduce the suspension to 12 months and stated Mr. Ervin would like to return to law enforcement in the future.

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

Motion: *Sheriff Edmunds motioned not accept the recommended 18 month suspension and recommended a 1 year suspension of Wesley Ervin's peace officer certification (5/19/13-5/19/14).*

Second: *Leo Lucy seconded the motion.*

Vote: *The motion passed with 8 in favor and 2 opposed. (Chief Keefe recused himself)*

TODD R. NIELSEN

Offence – DUI, Open Container

Category – D

Recommended Discipline- 18 month suspension

Status Agency Action – Terminated 2/21/13

On January 26, 2013, Todd Nielsen was arrested for driving under the influence of alcohol (DUI), open container, and speeding. The investigating officer's report indicated Nielsen refused any and all field sobriety tests and a warrant was obtained to draw his blood. Blood test results indicated a blood alcohol content (BAC) of .09. On February 21, 2013, Nielsen was terminated by his employing agency. On May 6, 2013, Nielsen entered a guilty plea to the amended charge of reckless driving.

Motion: *Colonel Fuhr motioned to accept the recommended 18 month suspension of Todd Nielsen's peace officer certification (2/21/13-8/21/14).*

Second: *Sheriff Tracy seconded the motion.*

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

JOSE RICARDO ROSALES

Offence – Provided False Information to obtain Certification

Category – C

Recommended Discipline- 2 year suspension

Status Agency Action – Withdrew from academy 4/25/13

On April 17, 2013, POST received information from a local police agency regarding Jose Ricardo Rosales, a cadet at a satellite academy. Rosales had submitted an application with the agency and disclosed many criminal violations that were not in his original POST application. On April 18, 2013, POST opened an investigation and notified the director of the satellite academy. On April 25, 2013, POST conducted a *Garrity* interview with Rosales where he admitted to omitting information from his application. Rosales had

withdrawn from the academy earlier that day.

Mr. Rosales addressed the Council and admitted leaving some things off his POST application, but stated it was not to deceive anyone. He said the employment application packet from St. George Police Department had detailed questions that jogged his memory and that is the reason he disclosed more information. Colonel Fuhr asked if the applications were a lot different. Investigator Lucas stated the St. George application is extremely specific. POST asks some of the same questions but is more general in nature.

Motion: *Sheriff Dave Edmunds motioned to accept the recommended 2 year suspension of Jose Rosales' peace officer certification (4/25/13-4/25/15).*
Second: *Execute Director Cook seconded the motion.*
Vote: *The motion passed with all in favor.*

NATE COSTA

Offence – Criminal Trespass in a Dwelling
Category – B
Recommended Discipline- 3 year suspension
Status Agency Action – Resigned 1/29/12

On September 15, 2011, Nate Costa, a correctional officer with the Salt Lake County Sheriff's Office (SLCSO), unlawfully entered the home of a female co-worker when she was not at home. Costa used a credit card to unlock a side door and gain entry into the home where he remained until the next morning. The co-worker reported the break-in by Costa to local police and Costa was cited. On October 28, 2011, Costa entered a guilty plea for criminal trespass, a class B misdemeanor. On January 29, 2012, Costa resigned from the Sheriff's Office.

A Council member asked if he was invited to the home. Investigator Lucas stated he had been invited but no one was home when he arrived. He then entered the home without permission.

Motion: *Robbie Robertson motioned to accept the recommended 3 year suspension of Nate Costa's peace officer certification (1/29/12-1/29/15).*
Second: *Colonel Fuhr seconded the motion.*
Vote: *The motion passed with all in favor. (Ex. Director Cook recused himself)*

SCOTT HARPER

Offence – Misuse of Prescription Drugs
Category – A
Recommended Discipline- 3 year suspension
Status Agency Action – Resigned 2/3/13

On February 2, 2013, Scott Harper attempted suicide by taking several Lortab and morphine pills that were not prescribed to him. After taking the pills, Harper called 911 to report his suicide attempt and asked that medical personnel respond and transport him to a hospital. Harper was admitted to the mental health division of the hospital and was later released. Harper attended therapy with a mental health doctor. The doctor who treated Harper feels Harper is no longer a danger to himself. There was never a determination if Harper was fit for duty.

A Council member asked why a fit for duty was not done. Investigator Fordham stated he resigned before the IA was complete and there is no one to compel him to take the evaluation.

Motion: *Sheriff Tracy motioned to accept the recommended three year suspension of Scott Harper's peace officer certification (2/3/13-2/3/16).*
Second: *Sheriff Smith seconded the motion.*
Vote: *The motion passed with all in favor.*

ADAM RAY

Offence – Sexual Conduct On-Duty
Category – B
Recommended Discipline- 3 year suspension
Status Agency Action – Terminated 5/15/13

Between June 2011, and November 2012, Adam Ray was involved in an extramarital affair. In a meeting with an administrator, Ray admitted to engaging in oral sex, with a female, in his police vehicle and in uniform, on multiple occasions.

Motion: *Colonel Fuhr motioned to accept the recommended 3 year suspension of Adam Ray's peace officer certification (5/15/13-5/15/16).*
Second: *Leo Lucy seconded the motion.*
Vote: *The motion passed with all in favor.*

ANDREW T. BAILEY

Offence – Fitness for Duty
Category – G
Recommended Discipline- Indefinite Suspension
Status Agency Action – Terminated 12/14/12

On December 14, 2012, Andrew Bailey, a correctional officer for Salt Lake County Sheriff's Office (SLCSO), was terminated following a fitness for duty evaluation. The fitness for duty evaluation indicates, "The return to duty is not advised. This finding stems from an evaluation that produced evidence of impairments that would significantly interfere with the ability of Bailey to discharge his duties."

Motion: *Sheriff Smith motioned to accept the recommendation of indefinite suspension of Andrew Bailey's peace officer certification.*
Second: *Executive Director Cook seconded the motion.*
Vote: *The motion passed with all in favor.*

DEREK J. MONAHAN

Offence – Theft and Lying under Garrity
Category – A
Recommended Discipline- Revocation
Status Agency Action – Terminated 1/8/13

On November 23, 2012, Derek Monahan was seen by two city employees loading city owned backhoe cutting blades, designated as scrap metal, onto his personal vehicle and trailer. The following day Monahan sold 1,798 pounds of steel to a local scrap metal company. On December 11, 2012, after a Garrity warning, Monahan denied the theft, stating the city owned scrap metal was only used to protect his

trailer then he returned the metal where he found it. The scrap metal was never located. Monahan submitted to a polygraph examination, which indicated he was being deceptive regarding the theft and sale of the scrap metal. On January 08, 2013, Monahan was terminated. Criminal charges were not pursued.

Motion: *Colonel Fuhr motioned to accept the recommendation of revocation of Derek Monahan's peace officer certification.*

Second: *Robbie Robertson seconded the motion.*

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

CORY C. STALEY

Offence – Child Abuse

Category – A

Recommended Discipline - Revocation

Status Agency Action – Resigned 5/29/12

On April 13, 2012, Cory Staley, a deputy sheriff with the Summit County Sheriff's Office (SCSO) was investigated for child abuse. The parents of the four year old victim alleged Staley choked their son while he was in Staley's care on April 12, 2012. The information was forwarded to the Summit County Sheriff's Office for further investigation. The Summit County Attorney's Office (SCAO) was assigned to conduct an investigation. Staley was interviewed and he admitted to choking the four year old child. Charges were screened and filed by the Summit County Attorney's office. On March 04, 2013, Staley entered a plea of guilty to an amended charge of Child Abuse, a class A Misdemeanor.

Motion: *Executive Director Cook motioned to accept the recommendation of revocation of Cory Staley's peace officer certification.*

Second: *Sheriff Tracy seconded the motion.*

Vote: *The motion passed with all in favor. (Sheriff Edmunds recused himself)*

TOLLY G. IVIE

Offence – Assault

Category – A

Recommended Discipline- Revocation

Status Agency Action – Time off without pay, Administrative leave

On June 10, 2012, Tolly Ivie, after consuming several alcoholic drinks, assaulted another individual while at a party. The victim suffered several facial fractures and a broken nose. On September 11, 2012, a department internal investigation sustained the allegation of unlawful conduct and unprofessional behavior. Ivie was suspended for 48 hours (6 working days) without pay and remained employed with the department. Ivie was convicted of assault, a class B misdemeanor.

Mr. Ivie addressed the Council and said he has been with corrections for 13 years. He told the Council details of why he had an altercation with this person. Mr. Ivie asked the Council to take all the facts into consideration. Council asked Mr. Ivie if his wife pressed charges against the individual. Mr. Ivie stated they tried to file charges.

Council asked if the POST investigator questioned Ivie's wife. Investigator Lucas stated she received a police report from the incident with his wife, but stated Ivie's wife did not want to cooperate with local police.

Mr. Ivie said his wife gave local police a written statement and did talk to the officer; he felt the local police did not do a proper investigation. Atty. Bolander clarified to the Council, according to administrative rules witnesses do not testify at the POST Council meeting.

Motion: *Sherif Edmunds motioned to accept the recommendation of revocation of Tolly Ivie's peace officer certification.*
Second: *Sheriff Smith seconded the motion.*
Vote: *The motion passed with 7 in favor and 1 against. (Ex. Director Cook recused himself)*

LUKE M. EMACK

Offence – Attempted Aggravated Assault – DV, Class A Misdemeanor
Category – A
Recommended Discipline- Revocation
Status Agency Action – Terminated 10/10/12

On October 6, 2012, Luke M. Emack had an argument with his girlfriend at their home. As Emack was backing out of the garage in the couple's vehicle, the girlfriend threw a shoe at the vehicle. Emack's girlfriend walked past the front of the vehicle towards the interior door to the house. Emack put the vehicle in drive, spinning the tires as he jerked the vehicle forward. Emack's girlfriend jumped onto a step at the door of the home as Emack bumped into a toy horse at the rear of the garage. Emack then backed out of the garage and left the home. A neighbor called police after speaking with the girlfriend who was upset by the incident. On October 10, 2012, Emack was arrested on felony aggravated assault charges and terminated from his department. On October 17, 2012, Emack entered a plea in abeyance to an amended charge of attempted aggravated assault, a class A misdemeanor.

Mr. Emack addressed the Council and apologized for his actions. He told the Council the details of the altercation. He cooperated with the sheriff's office and did a plea in abeyance. He asked the Council for less than revocation.

Motion: *Sheriff Dave Edmunds motioned to accept the recommendation of revocation of Luke Emack's peace officer certification.*
Second: *Executive Director Cook seconded the motion.*
Vote: *The motion passed with 8 in favor and 1 against.*

CHRISTOPHER H. BASSO

Offence – Burglary, Possession of Controlled Substance, Tampering with Evidence
Category – A
Recommended Discipline- Revocation
Status Agency Action – Terminated 1/31/13

On January 16, 2013, Basso was placed on administrative leave following two positive drug tests. On January 23, 2013, it was discovered Basso was entering his agency's evidence storage room after normal business hours. On January 24, 2013, a video surveillance camera was set up and it recorded Basso tampering with drug evidence envelopes. During an IA *Garrity* interview, Basso admitted to taking methamphetamine from the evidence room and ingesting it. Basso was terminated and subsequently charged with burglary, possession of controlled substance and tampering with evidence.

Motion: *Sheriff Tracy motioned to accept the recommendation of revocation of Christopher Basso's peace officer certification.*
Second: *Sheriff Smith seconded the motion.*
Vote: *The motion passed with all in favor.*

PROPOSED LEGISLATION:

Director Stephenson reported on a change he would like to propose for the next legislative session. Statute 53-6-208 covers Inactive certificates—Lapse of certificate—Reinstatement, this statute states the certification of a peace officer becomes inactive if the individual has not been actively engaged in performing the duties of a peace officer for 18 months or lapses after four continuous years. In the past, people who have not been sworn have attempted to argue they were performing police duties. POST would like to add “performing duties as a certified and sworn peace officer” to clarify requirements to maintain peace officer certification. Representative Greenwood has agreed to sponsor this bill.

Director Stephenson also asked the Council to provide feedback on possible changes to 76-10-523.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at the Public Safety Education and Training Building in Sandy, December 6, 2013, at 10:00am.

ADJOURNMENT

Sheriff Lamont Smith motioned to adjourn at 3:10pm.
Sheriff Dave Edmunds seconded the motion.