

POST COUNCIL MEETING

June 4, 2012

*Public Safety Education and Training Center
Sandy, UT*

MINUTES

On June 4, 2012, a regularly scheduled POST Council meeting was held at 10:00am at the Public Safety Education and Training Center, in Sandy, Utah. Chairman Mike Larsen conducted.

The following POST Council members were in attendance:

Director Mike Larsen, Chairman, Orem DPS
Chief Terry Keefe, Vice-Chairman, Layton City P.D.
Chief Ken Wallentine, Attorney General's Office (Proxy for Attorney General Mark Shurtleff)
Sheriff Lamont Smith, Kane County Sheriff's Office
Executive Director Tom Patterson, Department of Corrections
Vice-President Donna Dillingham-Evans, Dixie State College
Commissioner Kerry Gibson, Weber County Commissioner
Dr. Sterling R. Provost, At Large
Mayor Melissa Johnson, West Jordan City
Chief Chris Burbank, Salt Lake City P.D.
Chief Val Shupe, South Ogden City P.D.
John Crowley, UPOA President
Major Mike Rapich, Utah Highway Patrol (Proxy for Colonel Daniel Fuhr)

The following were excused and/or absent:

Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol (Proxy by Mike Rapich)
Attorney General Mark Shurtleff, Attorney General's Office (Proxy by Ken Wallentine)
Robert D. Robertson, At Large
Sheriff David Edmunds, Summit County Sheriff's Office
Sheriff James O. Tracy, Utah County Sheriff's Office

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Shaunna McCleve, Administrative Secretary
Rex Dana, POST Investigations (DOC)
Rich Fordham, POST Investigations
Brad Zeeman, POST Investigations
Wade Breur, POST Basic Training Bureau Chief
Robert C. Morton, DPS Legal Counsel representing POST, Asst. Attorney General
Al Acosta, POST Investigations Bureau Chief
John Jacobs, Training Manager
Erin Nixon, Investigations Secretary

Others present:

Jack Rickards, Weber State Academy
Michael Fowlks, Natural Resources
Sid Groll, Natural Resources
Matthew Evans, Self
Michael Petro, Atty. for Matt Evans
Tinielle Young, GOPB
Bret Rawson, Atty. for Mike Daugherty
Jeremy Shaw, Utah Department of Corrections
Geri Miller-Fox, Utah Department of Corrections

WELCOME AND INTRODUCTIONS

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

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of March 22, 2012, were reviewed and the following motion was made:

Motion: ***Executive Director Patterson motioned to approve the minutes of March 22, 2012.***
Second: ***Sheriff Smith seconded the motion.***
Vote: ***The motion passed with all in favor.***

SATELLITE ACADEMY AUDIT

Lieutenant Wade Breur reported on two satellite audits conducted this quarter. The first one was Salt Lake County Sheriff's Office. There was one exception on this audit-applications have not been submitted in four weeks prior to the commencement of the academy session as directed per POST policy. This exception will be remedied with their HR department. The second audit was Bridgerland Applied Technology College Academy; this academy had no exceptions and is currently conducting a class of 27 cadets.

BASIC TRAINING CURRICULUM

Lieutenant Breur informed the Council, POST has conducted a time intensive overview of objectives during the last 18 months. All objectives have been reviewed by instructors and POST staff. In conjunction with the curriculum objectives review, all test questions have been reviewed to insure they are tied to an objective.

In the special function officer course, POST would like to recommend a reduction of hours in "Introduction to Homeland Security" from four to two hours. Chief Keefe asked if SIAC was consulted on the two hour reduction of Introduction to Homeland Security. Lt. Breur stated POST originally coordinated with SIAC to create the objectives when this began as an experimental class. Over the past year, the instructors, many of them from SIAC, are only taking two hours to teach the objectives. Chief Keefe asked if the DVD from the Department of Homeland Security was being presented to the cadets. Lt. Breur stated the Department of Public Safety presented a DVD as in-service training and POST could, in the future, show it to the cadet. Director Stephenson stated the video is being added to the POST website for all officers in the state to be able to view it. POST would like to change the name of "Sudden and In Custody Deaths" to "Management and Recognition of Excited Delirium", this is more descriptive to what is being taught. Chief Wallentine recommended the class "Management and Recognition of Excited Delirium" be changed to "Management and Recognition of Excited Delirium/Agitated Chaotic Event", the term excited delirium has not been accepted by many medical

groups. Chief Larsen asked where the two hour reduction was going. Lt. Breur stated the two hours will be added to the LEO Block .

In the law enforcement officer course, POST would like to add an experimental course, "Care under Fire". This class teaches tactics and techniques to respond to traumatic injuries received in a high risk situation. Sheriff Smith asked if this class could be available for in-service training. Lt. Breur stated POST could host this class as in-service training as well. Chief Larsen asked if the class had been reviewed by the Bureau of EMS. Lt. Breur said it has not, but he will contact them and have them review it. Chief Burbank requested a change in the order material is presented during this class. Lt. Breur agreed to move the objective concerning, suppression or elimination of hostile fire to the beginning of the objectives.

- Motion:** *Chief Val Shupe motioned to accept the proposed changes to the Basic Training Curriculum.*
- Second:** *Chief Terry Keefe seconded the motion.*
- Vote:** *The motion passed with all in favor*

CORRECTION TRAINING CURRICULUM

Director Geri Miller-Fox addressed the Council and stated they have been coordinating with colleges and county partners to develop curriculum for this year. The overall recommendation is an additional five hours from 183 to 188.

Additions:

Conversation with Leadership	1 hour
Generational Perspectives	2 hours
Correctional Ethics & Professionalism	2 hours
Correction Terminology and Operational Guidelines	2 hours

Changes:

- Staff/Offender Relation has been changed to Staff/Offender Interactions. In addition, this class has increased from 4 to 6 hours.
- Head Counts has been increased from 2 to 3 hours.
- Decision Making and Problem Solving has been decreased from 6 to 4.
- Offender Supervision Strategies has been decreased from 8 to 4 hours.
- Transportation of Prisoners has been increased from 3 to 4 hours.

All objectives have been updated and are ready to go out to other agencies.

- Motion:** *Executive Director Patterson motioned to accept the proposed changes to the Corrections Training Curriculum.*
- Second:** *John Crowley seconded the motion.*
- Vote:** *The motion passed with all in favor*

POST POLICY UPDATE

Deputy Director Sparks reported there have been three changes to POST's Policies.

- Policy 1130 to 1135 – Use of POST Facilities.
 - Policy 3020 – Reporting of In-Service Training
 - Policy 3060 – Duplicate certificates and Cards – Applicable Fees
- A member of the Council requested a copy of the POST Policies. Deputy Director Sparks replied, he would send him a copy (see attachment 1).

Deputy Director Sparks informed the Council two administrative rules have been changed and filed. They are both still open for public comment until the 16th of July and will go into effect on the 30th. First one is R728-409-16, at the bottom of that rule the POST Council date of March 22, 2012 was added because the Disciplinary Guidelines were amended. Second change is R728-401, additions clarify the approval process for an entity to qualify and receive approval to become a satellite academy to conduct basic training. In the future, POST will be reviewing the background of new satellite directors in the event a new academy is requested.

WILDLIFE LAW OVERVIEW

Director Sid Groll addressed the Council and stated more officers are coming before the Council with wildlife violations. He introduced Chief Mike Fowlks to the Council to present a presentation on Utah Code Annotated Title 23 (see attachment 2).

DISCIPLINARY ACTIONS

Director Stephenson presented the following cases to the POST Council.

MICHAEL S. DAUGHERTY

Offence – Lying Under Garrity

Category – B

Recommended Discipline- 3 year

Status – Resigned 8/25/10

Atty. Bret Rawson addressed the Council in behalf of Mr. Daugherty who is in Iraq and could not attend the meeting. Daugherty's secondary employer sold over 40 million dollars annually in miss shipped goods, many of which are reported stolen. Atty. Rawson asked the Council for a reduced suspension due to mitigating circumstances.

Motion: *Chief Keefe motioned to accept the recommended 3 year suspension of Michael Daugherty's peace officer certification (8/25/2010-8/25/2013).*

Second: *Sterling Provost seconded the motion.*

Vote: *The motion passed with all in favor. (Mayor Johnson recused herself)*

MATTHEW L. EVANS

Offence – Assault, Domestic Violence in the Presence of a Child and Interruption of a Communication Device.

Category – C

Recommended Discipline- 3 year

Status – Still Employed

Atty. Mike Petro addressed the Council and stated the case was a category D offence due to the amended consent agreement, which would warrant a one year suspension. Atty. Petro stated there are several mitigating circumstances in this case and provided the Council supporting letters and read one from Evans' father. Atty. Petro stated the only offence Evans committed was Interruption of a Communication Device and asked the POST Council to issue a letter of caution.

The Council discussed the amended notice of agency action and the consent agreement.

Motion: Chief Shupe motioned to not accept the recommended 3 year suspension and recommend reducing it to category D, impose a 2 year suspension, suspend 1 year of that due to mitigating circumstances and impose a 1 year suspension of Matthew Evan's peace officer certification (6/4/12-6/4/2013).
Second: VP Dillingham-Evans seconded the motion.
Vote: The motion passed with all in favor. (Executive Director Patterson recused himself)

MARK A. PETERSON

Offence – Obstruction of Justice and Disorderly Conduct
Category – B/E
Recommended Discipline- 3 year
Status – Terminated 12/9/10

Motion: Chief Wallentine motioned to accept the recommended 3 year suspension of Mark Peterson's peace officer certification (12/09/10-12/09/13).
Second: Sterling Provost seconded the motion.
Vote: The motion passed with all in favor.

Discussion: The Council discussed the manner in which the Evans case was negotiated between attorneys and expressed concerns with that process.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at Public Safety Education and Training Building in Sandy, September 10, 2012, at 10:00am.

ADJOURNMENT

Chief Val Shupe motioned to adjourn.
The POST Council meeting adjourned at 11:44pm.

Attachment 1

PEACE OFFICER STANDARDS AND TRAINING POLICY AND PROCEDURE MANUAL

IN-SERVICE TRAINING

3020 REPORTING OF IN-SERVICE TRAINING

POLICY

As per POST policy 3010 (4), "At the conclusion of each training year (July 1 - June 30), agencies employing peace officers or dispatchers are required to report to POST the number of training hours received by each officer or dispatcher employed by that agency regardless of current employment status. This report is due to POST by July 31st and must be submitted electronically."

The purpose of this policy is to provide instruction to the agency on how to report the hours to POST.

PROCEDURE

1. USE OF POST ID NUMBER

In order to protect the officer's personal information, POST will only accept training hour reports that utilize the officers POST ID number. Social security numbers will no longer be used. This change in policy is to conform to security requirements in protecting the officer's personal information from being intercepted in an email or internet transmission. If requested, POST will provide to the agency an electronic file or hard copy of each officers POST ID number for reference.

2. HOURS REQUIRED TO REPORT

In order to eliminate duplication of effort and avoid double reporting of In-Service hours, each agency must report only those hours which were not part of a POST sponsored course. POST in-service courses, conferences, online training and basic academy training are automatically entered into an officer's individual training record.

3. REPORTING HOURS ELECTRONICALLY

The preferred method for submitting hours to meet the statutory annual training requirement is electronically via the POST portal. Each agency has the opportunity to enter hours via the POST portal either on an annual basis

at the end of the training year, or hours may be entered periodically throughout the year. Other electronic submission methods are available for exigent circumstances. The POST website at post.utah.gov will have instructions for obtaining agency access to the system and on how to properly report training hours.

3060 DUPLICATE CERTIFICATES AND CARDS – APPLICABLE FEES

POLICY

All certificates that have been issued to an officer may be printed free of charge from the individual officer's POST portal account. Portal accounts may be accessed and certificates printed irrespective of current employment or certification status.

Agency administrators or individual officers may also request POST to print duplicate certificates. The cost for POST to print a duplicate copy of a certificate is \$10.00. The cost for a duplicate certification card is \$5.00. Payment must be received prior to issuing the certificate or card.

The POST website at post.utah.gov will have information on how to obtain an individual portal account.

1130 USE OF POST FACILITIES

The POST facility exists for the purpose of peace officer training. For that reason, peace officer training will have priority over any other use.

POLICY

POST facilities will primarily be used for peace officer training. POST basic training academy classes, the Utah Department of Corrections basic training academy classes and any in-service training courses sponsored by POST shall have priority in scheduling of the facilities.

State and local public safety agencies in Utah may utilize POST facilities for training classes sponsored by their agency with approval of the POST Director or designee and subject to availability.

Federal, national or out-of-state public safety agencies may be granted limited use of POST facilities with approval of the POST Director or designee and subject to availability. These entities may be subject to a usage or maintenance fee in accordance with POST Policy 1135.

For-profit training entities or vendors will not be allowed to utilize POST facilities without the expressed approval of the POST Director. These entities may (depending on law enforcement's demand for a particular training course) be subject to a usage or maintenance fee in accordance with POST Policy 1135.

The Director of POST must approve any other use of the facility.

PROCEDURE

1. Use of the fitness area must be approved by the POST Facilities Coordinator or the Basic Training Bureau Chief.
2. Use of the Defensive tactics area must be approved by the POST Defensive Tactics Training Coordinator
3. Use of the Firearms simulator and Firearms Ranges must be approved by the POST Facilities Coordinator or the Firearms Training Coordinator.
4. Use of the K-9 Building or K-9 Practical area must be approved by the K-9 Coordinator.
5. Use of classrooms, conference rooms, the emergency vehicle operations range, and any other POST facilities not listed elsewhere in this policy must be approved by the POST Facilities Coordinator.

6. Salt Lake Community College is responsible for dormitory assignments and usage at POST. All scheduling for dormitories will be coordinated through the POST Facilities Coordinator.
7. Use of any media production facilities and equipment must be approved by the Technology Development Manager.

1135 POST FACILITIES USAGE AND MAINTENANCE FEES

POLICY

In order to provide for additional maintenance and ongoing costs necessitated by the use of POST facilities, out-of-state agencies, for-profit entities and vendors may be charged a usage or maintenance fee (depending on law enforcement's demand for a particular training course).

PROCEDURE

1. Classroom Usage Fee
 - a. Un-sponsored, for-profit training providers and other non-public safety entities - \$50 per day.
 - b. National, Federal or out-of-state law enforcement agencies - \$50 per day.
 - c. Courses sponsored by POST or sponsored by a Utah law enforcement agency— no charge
2. Defensive Tactics or Physical Training Room Usage Fee
 - a. Un-sponsored, for-profit training providers and other non-public safety entities - \$30 per day.
 - b. National, Federal or out-of-state law enforcement agencies - \$30 per day.
 - c. Courses sponsored by POST or sponsored by a Utah law enforcement agency— no charge
3. Indoor Firing Range Maintenance Fee
 - a. Un-sponsored, for-profit training providers and other non-public safety entities are not allowed to use the firing range.
 - b. National, Federal or out-of state law enforcement agencies - \$300 per day or \$150 for 4 hours.

- c. Utah law enforcement agency sponsored courses – \$300 per day or \$150 for 4 hours.
 - d. POST sponsored courses – no charge.
4. Shoot House Maintenance Fee
- a. Un-sponsored, for-profit training providers and other non-public safety entities are not allowed to use the shoot house.
 - b. National, Federal or out-of-state law enforcement agencies - \$150 per day or \$75 for 4 hours.
 - c. Utah law enforcement agency sponsored courses – \$150 per day or \$75 for 4 hours.
 - d. POST sponsored courses – no charge.
5. PIT or Skid Cars at EVO Range Maintenance Fee
- a. Un-sponsored, for-profit training providers and other non-law enforcement entities are not allowed to use the EVO range.
 - b. National, Federal or out-of-state law enforcement agencies - \$100 per vehicle per day.
 - c. Utah law enforcement agency sponsored courses – \$100 per vehicle per day.
 - d. POST sponsored courses – no charge
6. Dormitories
- a. Un-sponsored for-profit training providers and other non-public safety entities are not allowed to use the dormitories.
 - b. National, Federal or out-of-state law enforcement agencies - \$20 per stay 1 to 5 days.
 - c. Utah law enforcement agency sponsored courses – \$20 per stay 1 to 5 days.
 - d. POST sponsored courses – no charge

Attachment 2

Utah Division of Wildlife Resources
Law Enforcement Section

Law Enforcement Section

What is our role?

- We enforce regulations in support of DWR management practices and Wildlife Board policy
- We level the playing field and ensure equal access to the state's wildlife
- We protect the investment of Utah sportsmen
- We protect habitat, vital to the wildlife populations that are dependent upon it
- We provide as best we can a safe and enjoyable outdoor recreation experience
- We assist other law enforcement agencies in their efforts wherever possible

Utah Code Specific to Wildlife

- We are charged with enforcing the provisions of Utah Code Title 23.
- We also enforce rules established under authority of this title.
- We enforce all other laws, rules and ordinances as we encounter violations of them.

Utah Code 23-14-2
Establishes Rule Making Authority

- **Wildlife Board Established**
- **7 Governor Appointed Members**
- **Rule making authority for Wildlife Resources is granted to the wildlife board**

Rule-Making Process

- In addition to Title 23 of Utah Code, UDWR officers are tasked with enforcing rules promulgated by our Wildlife Board.
- Wildlife Board meets approximately 14 times per year to consider proposed regulation changes.
- The Wildlife Board receives input from DWR employees and the public through Regional Advisory Councils.

Most Common Violations

- Unlawful Taking of Protected Wildlife (23-20-3)
- Wanton Destruction of Protected Wildlife (23-20-4)

Penalties

- Penalties for most code violations are Class B Misdemeanors including 23-20-3.
- Penalties for Rule or proclamation violations are **Infractions**
- Penalties for Wanton Destruction (23-20-4) are based on the value, or trophy status of the protected wildlife destroyed
 - Greater than \$500 are third degree felonies
 - Between \$251 and \$500 are Class A misdemeanors
 - \$250 and under are Class B misdemeanors

23-20-3. Unlawful Taking, transporting, selling, or purchasing protected wildlife illegal except as authorized

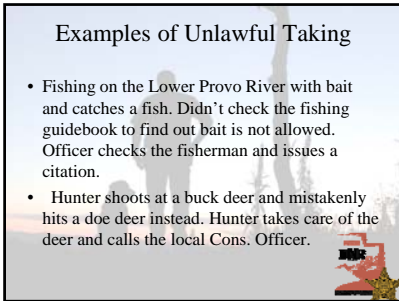
- Except as provided in this title, or a rule, proclamation or order of the Wildlife Board, a person may not
 - Take Protected wildlife or their parts
 - Transport, ship or cause to be shipped protected wildlife
 - Possess protected wildlife or their parts unaccompanied by a license, permit, tag or bill of sale
 - Do so with Criminal Negligence.

Examples of Unlawful Taking

- Unknowingly crosses out of an established hunt area and harvests a sage grouse. They turn themselves in when they figure out they violated.
- Mistakenly harvests a female turkey but has a permit for a male turkey only. Immediately calls the local Conservation Officer and turns themselves in.

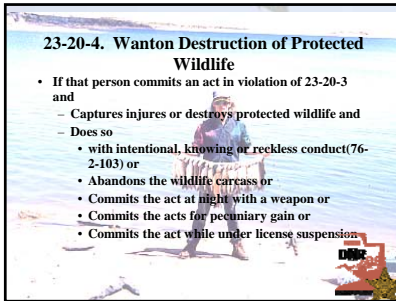
Examples of Unlawful Taking

- Fishing on the Lower Provo River with bait and catches a fish. Didn't check the fishing guidebook to find out bait is not allowed. Officer checks the fisherman and issues a citation.
- Hunter shoots at a buck deer and mistakenly hits a doe deer instead. Hunter takes care of the deer and calls the local Cons. Officer.



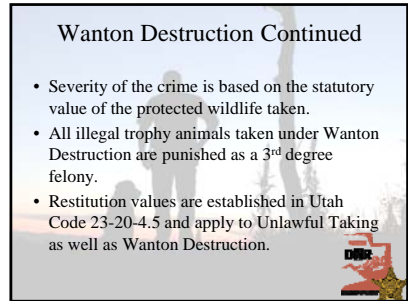
23-20-4. Wanton Destruction of Protected Wildlife

- If that person commits an act in violation of 23-20-3 and
 - Captures injures or destroys protected wildlife and
 - Does so
 - with intentional, knowing or reckless conduct(76-2-103) or
 - Abandons the wildlife carcass or
 - Commits the act at night with a weapon or
 - Commits the acts for pecuniary gain or
 - Commits the act while under license suspension



Wanton Destruction Continued

- Severity of the crime is based on the statutory value of the protected wildlife taken.
- All illegal trophy animals taken under Wanton Destruction are punished as a 3rd degree felony.
- Restitution values are established in Utah Code 23-20-4.5 and apply to Unlawful Taking as well as Wanton Destruction.



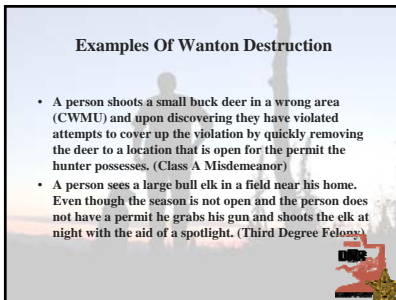
Values Used to Determine the level of the crime

- Bison, Bighorn Sheep, Moose Goat- \$1000.00
- Elk- \$750.00
- Golden Eagle, River Otter- \$500.00
- Deer- \$400.00
- Cougar and Bobcat- \$350.00
- Swan, Sandhill Crane and Turkey- \$100.00
- Trout, Salmon, Bass, Walleye- \$25.00



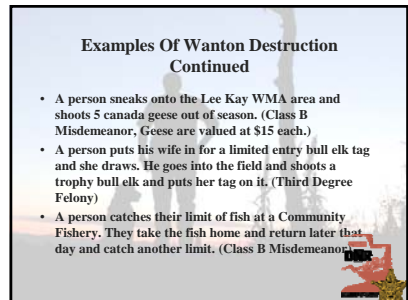
Examples Of Wanton Destruction

- A person shoots a small buck deer in a wrong area (CWMU) and upon discovering they have violated attempts to cover up the violation by quickly removing the deer to a location that is open for the permit the hunter possesses. (Class A Misdemeanor)
- A person sees a large bull elk in a field near his home. Even though the season is not open and the person does not have a permit he grabs his gun and shoots the elk at night with the aid of a spotlight. (Third Degree Felony)



Examples Of Wanton Destruction Continued

- A person sneaks onto the Lee Kay WMA area and shoots 5 canada geese out of season. (Class B Misdemeanor, Geese are valued at \$15 each.)
- A person puts his wife in for a limited entry bull elk tag and she draws. He goes into the field and shoots a trophy bull elk and puts her tag on it. (Third Degree Felony)
- A person catches their limit of fish at a Community Fishery. They take the fish home and return later that day and catch another limit. (Class B Misdemeanor)



Restitution for Wildlife Illegally Taken

- Examples:



ELK

- Any elk: \$750.00
- Trophy Bull Elk: \$8,000.00



Deer

- Any Deer: \$400.00
- Trophy Deer: \$8000.00



Once in a Lifetime Species

- Moose, Bighorn Sheep: \$1000.00
- Trophy Bison, Moose and Rocky Mountain Goat: \$6000.00
- Trophy Bighorn Sheep: \$30,000.00

License Suspension

- The Division has statutory authority to suspend license and permit privileges of wildlife violators.
- Utah is long-time member of the Interstate Wildlife Violator Compact.
- We generally reserve suspension for knowing and intentional violations of Wanton Destruction and repeat offenders.

Our Suggestions

- Focus POST Council Reviews on violations of Wanton Destruction.
- Take into account mitigating circumstances such as officer cooperation, self reporting etc.
- Take into account aggravating circumstances such as lying, hiding facts, multiple violations etc.

Suggestions Continued

- Possible addition of Wildlife, Boating and OHV enforcement to POST curriculum
- Use our staff as a resource on any POST investigations into officers violations of wildlife law.
- Potential future DNR representation on POST Council.