

POST COUNCIL MEETING

March 28, 2013

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

MINUTES

On March 28, 2013, a regularly scheduled POST Council meeting was held at 1:00 p.m. 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
Acting Executive Director Mike Haddon, Department of Corrections
Executive Director Donna Dillingham-Evans, Tooele Utah State University
Commissioner Kerry Gibson, Weber County Commissioner
Robert D. Robertson, At Large
Sheriff James O. Tracy, Utah County Sheriff's Office
Sheriff David Edmunds, Summit County Sheriff's Office
Chief Chris Burbank, Salt Lake City P.D., At Large
Chief Ken Wallentine, Attorney General's Office
John Crowley, Representing UPOA
Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol
Christie Moren, At Large
Matt Checketts, At Large
Wade Carpenter, Park City P.D.

The following were excused and/or absent:

Mayor Melissa Johnson, West Jordan City

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Shaunna McCleve, Administrative Secretary
Al Acosta, Investigations Bureau Chief
Rich Fordham, Investigator
Alex Garcia, Investigator
Brad Zeeman, 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
John Jacobs, Training Manager

Others present:

Sid Groll
Jared Rigby
Aristro H. Tristan
Donavan Lucas
Nate Carlisle
Mike Brown
Brian Gwilliam
Mike Giles
Troy Anderson
Bret Rawson
Ken Carpenter

WELCOME AND INTRODUCTIONS

The meeting was called to order at 1:00 p.m. and Chairman Terry Keefe welcomed those in attendance at POST Council. He thanked Dixie State University for the use of their facility. Chief Keefe turned the time over to Director Stephenson to introduce a new Council member and new legal representation. Director Stephenson informed the Council Attorney Lana Taylor has been promoted and is no longer the legal counsel for POST Council. Dir. Stephenson introduced the new legal counsel, Kevin Bolander, and also introduced Mary Kaye Lucas, a new investigator with POST. He also introduced Christie Moren as a new Council member holding an at large position on the Council.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of December 3, 2012, were reviewed, it was noted Kerry Gibson's title listed as Wayne County Commissioner needs to be changed to Weber County Commissioner, on the first page. The following motion was made:

Motion: *Sheriff Edmunds motioned to approve the amended minutes of December 3, 2012.*
Second: *Chief Wade Carpenter seconded the motion.*
Vote: *The motion passed with all in favor.*

SATELLITE ACADEMY AUDITS:

Lieutenant Wade Breur explained the audit process to the Council and stated part of the goal of meeting with each satellite academy individually is to give one on one support to the academy. Lt. Breur stated POST has implemented a new testing system and that has been a focus area during the audit. Both Salt Lake City Academy and Utah Department of Corrections Academy had no exceptions.

ANNUAL REPORT:

Deputy Director Kelly Sparks gave a summary of the activities of POST for the calendar year of 2012:
(See attachment A)

UPDATE ON CONSENT/WAIVER FORM:

Lieutenant Al Acosta addressed the Council to explain the title change of a "Consent Agreement" to a "Hearing Waiver". During a Council meeting last year some issue arose and Atty. Taylor felt it was important to readdress the form titled "Consent Agreement" and created a new form titled "Hearing Waiver". In actuality the officer is waiving their right to the hearing process. Some of the older cases will still have consent agreements, in essence they are both the same document.

LEGISLATIVE UPDATE:

Director Stephenson addressed the Council and said HB 213, sponsored by Rep. Greenwood, states an officer is required to carry a firearm. If an individual is a restricted person and therefore not eligible to carry a firearm, in their personal life, they are not eligible to be a peace officer.

SB 215 changes the age requirement to enter the police academy. This law states that an individual must be 21 years of age by the time they are eligible to take the special function certification test.

DISCIPLINARY ACTIONS:

Director Stephenson presented the following cases to the POST Council.

DANIEL J. KOTTER

Offence – Bribery or Offering a Bribe

Category – A

Recommended Discipline- Revocation

Status – Reserve for Perry City

On August 27, 2011, a friend of Daniel J. Kotter was arrested for driving under the influence of alcohol. On September 7, 2011, Kotter contacted the arresting officer and offered him a bribe of \$1,000.00 to not appear at the driver license hearing. Kotter asked the officer to find out the results of his friend's blood alcohol test. The officer informed Kotter the blood results were .100. Kotter then offered the officer \$2,500.00. A State Agency was advised of the bribe and set up the meeting with the assistance of the officer. On September 13, 2011, Kotter agreed to meet with the officer at a gas station to give him the money. Money was exchanged, investigators observed as Kotter gave the officer \$2,000.00. Kotter was stopped and arrested a short distance from the gas station.

Chairman Keefe asked for the outcome of the court hearing. Investigator Garcia stated Mr. Kotter pled guilty to a felony.

Motion: *Chief Ken Wallentine motioned to accept the recommendation for revocation of Daniel Kotter's peace officer certification.*

Second: *Chief Chris Burbank seconded the motion.*

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

CAMERON G. CARTER

Offence – BCI Violation and Falsification or Alteration of Government Records

Category – D

Recommended Discipline- 2 year suspension

Status – Resigned 12/15/2012

On October 5, 2011, Cameron G. Carter's supervisor became aware Carter had claimed 44 vehicle stops during a one month period which could not be confirmed.

During an Internal Affairs (IA) *Garrity* interview, Carter admitted he intentionally accessed and used driver license information maintained by the Bureau of Criminal Identification (BCI) in order to fabricate vehicle traffic stops. Carter admitted he made false entries to his agency's electronic citation system to create fictitious warning citations. Carter said he did this to bolster his performance statistics.

POST made multiple attempts to contact Carter for an interview. Carter failed to respond.

Motion: *John Crowley motioned to accept the recommended two year suspension of Cameron Carter's peace officer certification (12/15/12-12/15/2014).*

Second: *Robbie Robertson seconded the motion.*

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

TROY ANDERSON

Offence – DUI

Category – D

Recommended Discipline- 18 month suspension

Status – Resigned 7/8/2012

On March 29, 2012, about 10:00 p.m., Troy R. Anderson and a friend drove to a local bar and consumed a “few beers.” About an hour later they drove to another local bar where they continued drinking into the early morning hours of March 30, 2012. After leaving the bar, Anderson drove his friend home then continued towards his home. Anderson was stopped by a police officer for speeding. Anderson submitted to Standardized Field Sobriety Tests (SFST) and was subsequently arrested. Anderson took a breath test, which indicated his breath alcohol content (BrAC) was .177. Anderson plead guilty to DUI.

Troy Anderson addressed the Council and took responsibility for his actions and stated his actions were out of character for him. He would like to return to law enforcement in the future.

Bret Rawson, attorney for Anderson, asked for a reduction from 18 months to 12 months. He presented a letter from Chief Burbank which indicated he would consider Anderson for re-appointment when his suspension is complete. Mr. Anderson has attended alcohol counseling and has completed court ordered classes. Atty. Rawson presented a chart compiled by his office, indicating officers charged with DUI have received an average of a 15 month suspension. Rawson again requested a reduction for Mr. Anderson.

Director Stephenson stated POST requested an 18 month suspension because Anderson’s BrAC was double the legal limit. Mr. Anderson has been cooperative and honest throughout the entire investigation.

Motion: *John Crowley motioned to not accept the recommended 18 month suspension and recommended a suspension of 1 year of Troy Anderson’s peace officer certification (7/8/12-7/8/13).*

Discussion: Dr. Checkettes’ asked Mr. Anderson a few follow-up questions.

Second: *Chief Ken Wallentine seconded the motion.*

Vote: *The motion passed with 12 in favor and 1 opposed. (Chief Burbank recused himself)*

ARISTEO H. TRISTAN

Offence – DUI

Category – D

Recommended Discipline- 18 month suspension

Status – Resigned 1/6/13

On December 16, 2012, Tristan, a corrections officer with the Tooele County Sheriff’s Office, was stopped for improper lane travel. The investigating officer detected the odor of alcohol and believed Tristan was possibly under the influence. After Tristan failed the Standardized Field Sobriety Tests (SFST’s) it was determined he was under the influence and he was not safe to operate a motor vehicle. Tristan was placed under arrest and submitted to a chemical breath test, which indicated his breath alcohol content (BrAC) was .17. There is a letter of support for Tristan from Sheriff Park.

Aristeo Tristan addressed the Council and apologized for his actions. Tristan explained why he is fighting the DUI charge and answered questions from the Council.

Executive Session

Motion: *Chief Ken Wallentine motioned for the Council to go into executive session at 1:37pm*

Second: *Sheriff Dave Edmunds seconded the motion.*

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

**Meeting
Called to**

Order: The Council returned from executive session at 1:54pm and the following motion was made.

Motion: *Chief Ken Wallentine motioned to remand this case back to POST and have it presented to the Council once there is a conclusion of the criminal case.*

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

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

SUMMER KNOTTS

Offence – DUI

Category – D

Recommended Discipline- 1 year suspension

Status – Not Employed

On July 26, 2012, local law enforcement was dispatched to an attempt to locate a possible drunk driver. The vehicle was located and stopped for making an improper turn. The driver, Summer Knotts, failed Standardized Field Sobriety Tests (SFST's) and was placed under arrest. Knotts submitted to a chemical breath test. Knotts' BrAC was .077. On September 6, 2012, Knotts pled no contest to an amended charge of impaired driving, a class B misdemeanor.

Motion: *Sheriff James Tracy motioned to accept the recommended 1 year suspension of Summer Knotts' peace officer certification (7/26/2012-7/26/2013).*

Second: *Colonel Daniel Fuhr seconded the motion.*

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

BOONE R. THOMAS

Offence – Retail Theft

Category – D

Recommended Discipline- 1 year suspension

Status – Resigned 4/12/12

On February 16, 2012, Boone R. Thomas, a correctional officer with the Utah Department of Corrections (UDC) was cited for retail theft. Thomas entered the store, picked up two jackets, and draped them over the handle of his cart. He then pushed the cart through the store to the mattress area where he stopped briefly. Thomas then pushed his cart to the other side of the store, picked up the jackets from the cart, and walked back to the mattresses. Once at the mattresses, Thomas put one jacket down on a stack of mattresses and put one on. He then picked up a mattress and carried it to the cart he had left on the opposite side of the store. Once the mattress was on the cart, Thomas proceeded to the checkout area while still wearing the jacket. He used the self-check option where he paid for the mattress, but not the jacket which he was still wearing. When Thomas attempted to leave the store, he was confronted by the Loss Prevention Officer. Thomas explained he had "forgotten" to pay for the jacket. Thomas was detained until the local police department arrived and cited him for retail theft.

Motion: *Colonel Daniel Fuhr motioned to accept the recommended 1 year suspension of Boone Thomas' peace officer certification (4/12/12-4/12/13).*

Second: *Chief Wade Carpenter seconded the motion.*

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

MATTHEW HADLEY

Offence – Electronic Communication Harassment

Category – D

Recommended Discipline- 1 year suspension

Status – Terminated 10/19/12

On August 31, 2012, Matthew Hadley, a cadet attending the Utah Department of Corrections Training Academy, submitted an amendment to his POST application. The amendment stated Hadley, while working at a local grocery store, sent multiple sexually explicit messages to several women he worked with. These messages were not welcomed by the women and the women asked him to stop sending the messages. Hadley continued to send these harassing messages to the women which ultimately resulted in his termination.

Motion: *Chief Chris Burbank motioned to accept the recommended 1 year suspension of Matthew Hadley's peace officer certification (10/19/12-10/19/13).*

Second: *Commissioner Kerry Gibson seconded the motion.*

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

RYAN D. NIELSEN

Offence – Intoxication, Disorderly Conduct

Category – E

Recommended Discipline- Letter of Caution

Status – Resigned 10/2/12

On July 8, 2012, Ryan Nielsen was cited for intoxication and disorderly conduct. Nielsen became intoxicated while at his apartment. He had been experiencing emotional issues over a recent divorce, and in his intoxicated state, he began to throw items inside the apartment. Nielsen was yelling obscene words as he was breaking dishes and throwing things. His neighbors became concerned for his safety and notified the local police agency. Officers arrived and found Nielsen asleep in his bed. Nielsen's supervisor was notified and met the officers at Nielsen's apartment. The supervisor determined Nielsen was not a threat to himself nor others and was allowed to stay in his apartment.

The Council asked a few follow-up questions and investigator Dana explained the incident to the Council. The following motion was made.

Motion: *Sheriff Dave Edmunds motioned to not accept the POST recommendation and proposed a 6 month suspension of Ryan Nielson's peace officer certification (10/2/12-4/2/13).*

Second: *Chief Ken Wallentine seconded the motion.*

Vote: *The motion passed with 9 in favor and 4 against.*

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at the Public Safety Education and Training Building in Sandy, June 5, 2013, at 10:00am.

ADJOURNMENT

Chief Wade Carpenter motioned to adjourn at 2:06pm.

Attachment A

**Peace Officer Standards and Training Annual Report to the POST Council.
Delivered March 28, 2013, outlining POST activities for calendar year 2012.**

Media Services Section – John Jacobs, Supervisor

The Media Services section, had a significant increase in the number of live-webinar training programs which were delivered in 2012, Over 313 peace officers and 290 dispatchers participated in these live training webinars over the internet.

The Media Services section also continued efforts to connect officers and agencies to services on the POST portal. Currently about 69% of all peace officers in the state have active POST portal accounts, and 81% of agencies have agency portal accounts.

Access to the POST portal allows agencies and individual officers to view their training records, register for in-service training programs and access on-line courses. One of the largest uses of these on-line services during the past year has been for renewal of Intoxalyzer and Radar certification. Over 950 officers have viewed this training and completed the testing on our website.

Training Section – Lieutenant Wade Breur, Bureau Chief

The Training Section, conducted 77 in-service training programs on 18 different topics, and these were attended by 1,677 officers.

Five basic training academy sessions were conducted at POST and 91 individuals were certified as Law Enforcement Officers.

The total number of new peace officer certifications issued by POST, including the training programs at POST, the Utah Department of Corrections, and all other satellite academies combined, is 376 Special Function Officers, 487 Correctional Officers, and 393 Law Enforcement Officer certifications.

Investigation Section – Lieutenant Al Acosta, Bureau Chief

Activity for the Investigations Section in 2012:
152 Complaints of peace officer misconduct were received.
From those 152 complaints, 93 Investigations were opened.

In 2012, the Investigations Section presented 40 cases to the POST Council for possible sanction. Those 40 cases resulted in the council revoking the certification of 7 peace officers, and suspending the certification of another 27 officers. The Council also issued 6 letters of caution.

Eight of the 40 cases presented to the POST Council in 2012, were primary alcohol related offenses, and alcohol was a secondary contributor in another 4 cases. 3 cases were primary prescription drug offenses and 2 involved other controlled substances.

The most frequent causes for peace officer discipline in 2012 were: Driving under the influence (7 cases), Domestic violence assault (6 cases), Lying under Garrity (6 cases), Disorderly conduct (5 cases), Domestic violence in the presence of a child (4 cases) Possession of a controlled substance (3 cases)

The POST Investigations Section also conducted 872 background reviews on applicants for peace officer training at POST and the various satellite training academies.