

POST COUNCIL MEETING

March 24, 2011

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

MINUTES

On March 24, 2011, a quarterly POST Council meeting was held at 11:05am at the Kenneth Gardner Center located at Dixie State College, in St. George, 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.
Sheriff Lamont Smith, Kane County Sheriff's Office
Executive Director Tom Patterson, Department of Corrections
Chief Val Shupe, South Ogden City P.D.
Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol
John Crowley, UPOA Representative
Commissioner Kerry Gibson, Weber County Commissioner
Chief Deputy Kirk Torgensen, Attorney General's Office (Proxy for Attorney General Mark Shurtleff)
Dr. Sterling R. Provost, At Large
Robert D. Robertson, At Large
Sheriff James O. Tracy, Utah County Sheriff's Office
Sheriff Lynn Nelson, Cache County Sheriff's Office
Mayor Melissa Johnson, West Jordan City

The following were excused and/or absent:

SAC Jim McTighe, FBI
Chief Chris Burbank, Salt Lake City P.D.
Vice-President Donna Dillingham-Evans, Dixie State College
Attorney General Mark Shurtleff (Proxy by Chief Deputy Kirk Torgensen)

POST staff present:

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

Others present:

Ken McGuire, West Jordan PD
Richard Hendricks
R.W. Hendricks
Nate Carlisle, Salt Lake Tribune
Michael Forshee, Utah County SO
Stephen Chapman, Sandy PD
Wade Carpenter, Park City PD
Kurt Beuer, Washington County SO
Jamie Keil, Washington County SO
Bob Flowers, Dixie State College
Dave Edmunds, Summit County SO
Jack Rickards, Weber State Academy
Matthew Fisher

WELCOME AND INTRODUCTIONS

The meeting was called to order at 11:05am. Chairman Mike Larsen welcomed those in attendance at POST Council.

INTRODUCTION OF NEW COUNCIL MEMBERS

Director Scott Stephenson introduced the new Council members, Melissa Johnson - West Jordan Mayor, Dave Edmunds – Summit County Sheriff, who will replace Sheriff Nelson at the next POST Council meeting, Sheriff Jim Tracy – Utah County Sheriff, and Commissioner Kerry Gibson – Weber County Commissioner.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of December 6, 2010, were reviewed and the following motion was made:

- Motion:*** Chief Val Shupe motioned to approve the minutes of December 6, 2010.
- Second:*** Robbie Robertson seconded the motion.
- Vote:*** The motion passed with all in favor.

ANNUAL REPORT

Director Stephenson reported the following annual report to the Council;

Basic Training:

Demographics – 699 Cadets
Gender - Female: 61 - 9%
Male: 638 – 91%
Age – Min: 20
Max: 65
Average: 28

Special Function Certification – 539 Entrance; 482 Graduate; 10% Attrition
Law Enforcement Certification – 402 Entrance; 348 Graduate; 13% Attrition
Basic Correction Certification – 253 Entrance; 218 Graduate; 13% Attrition

In-Service Training:

Live Courses Offered – 30; Total Course Hours – 544
Online Course Hours – 61; Registered for Classes – 2,483

K-9 Program

Officers Trained – 282
K-9's Trained – 232

EVO Track

Training Events - 165

Hours Used – 2,769

Employment & Certification

New Certificates Issued

- Special Function Officer: 379
- Law Enforcement Officer: 249
- Corrections Officer: 256
- Dispatcher: 86

Active Employment Positions

Peace Officers – 8,702

- Special Function: 409
- Law Enforcement: 5,880
- Corrections: 2,413

Dispatcher – 801

Demographics

Gender

- Female: 977 – 11%
- Male: 7,725 – 89%

Age

- Min: 21
- Max: 77
- Average: 37

Investigations

Sanctions Issued:

- Revocations – 13
- 4 year suspension – 1
- 3 1/2 year suspension - 1
- 3 year suspension – 7
- 2 year suspension – 10
- 1 year suspension – 8
- 9 month suspension- 2
- 3 month suspension – 1
- Indefinite suspension – 1
- Letter of Caution – 2
- Cases returned for further investigation – 1

Compliance with Disciplinary Guidelines:

- Felony Convictions (automatic revocation) – 2
- Administrative Law Judge ruling accepted as recommended – 1
- Administrative Law Judge ruling recommendation rejected – 2
- Consent agreements accepted as recommended – 26
- Consent agreements recommendation rejected – 6
- Order of Default accepted as recommended – 10

Certifications Sanctioned:

- Certified Law Enforcement Officers – 35
- Certified Correctional Officer – 7
- Certified Special Function Officers – 5
- Certified Dispatchers – 0

Cases Closed in 2010:

- 2008 cases closed – 4
- 2009 cases closed – 17
- 2010 cases closed – 26

Incidents of Misconduct Sanctioned:

- Providing false information to obtain certified status – 7
- Driving under the influence – 9
- Lying under Garrity – 5
- Custodial sexual misconduct – 4
- Theft – 4
- Assault – 3
- Domestic Violence - 3
- Sexual misconduct on-duty – 2
- Soliciting sex – 2
- Burglary – 1
- Criminal mischief – 1
- Dealing harmful material to a minor – 1
- Disorderly conduct – 1
- False report – 1
- Illegal transportation of alcohol – 1
- Intoxication – 1
- Possession of a controlled substance – 1
- Unfit for duty – 1

LEGISLATIVE UPDATE

Director Scott Stephenson reported HB 178 (dispatcher disciplinary guidelines) brought certified dispatchers disciplinary actions consistent with law enforcement (53-6-211). HB 179 codifies an administrative rule regarding the waiver process and reactivation process. The waiver and reactivation process requires the candidate to pass a physical fitness standard and a written certification test. This bill requires inactive certificates and waiver applicants to go through the same process. Any lapsed certifications (4 years inactive) will need to complete basic training to be certified. In the past, the POST Director had discretion to waive the academy; HB 179 no longer allows such discretion.

DISPATCH CURRICULUM REPORT

Deputy Director Sparks informed the Council POST of the measures being taken to ensure qualified instructors are teaching the dispatch curriculum. All instructors requesting to teach the new curriculum are required to provide their qualifications and submit a letter of support from a chief administrator from their respective agency. Currently, there are 37 qualified instructors to teach the dispatch curriculum. In March, 63 individuals attended a POST dispatch curriculum overview course.

POST enter into a cooperative effort with a number of dispatch agencies to provide a basic training program; POST will host the first class in May.

SATELLITE ACADEMY AUDITS

Lieutenant Wade Breur stated for the last year and a half POST has been focusing on the scenario/skills training portion of each satellite academy. Salt Lake City and Utah Valley University are the last two academies to be evaluated in this area.

Salt Lake City graduated a 12 officer class on March 10th. POST staff audited their training program and observed no exceptions to report.

Utah Valley University also had no exceptions to the audit, but one recommendation. Lt. Breur recommended cadets should always wear protective gear during scenario training. By always wearing protective gear, cadets will not anticipate which scenarios involve the use of force.

In the future, POST will conduct a more comprehensive audit that will include all training facets (firearms, DT, etc.)

TECHNOLOGY REPORT

Manager John Jacobs addressed the Council and oriented them on how to use the new POST portal.

With the advent of the new technology, POST can provide the following service via the POST portal:

- Allow officers to view personal records and request training
- Allow Training coordinators to view agency records, register officers for courses and print certificates
- Agencies can enter training courses and use the system to track their agency training

John Jacobs explained the procedure on how an officer can create an account on the POST portal. POST is requiring all training requests to be done through the portal.

Online intoxilizer and radar basic course and recertification test is now done through the portal; this is allowing POST to check eligibility, issue certificates, and keep officer records correct.

DISCIPLINARY ACTIONS:

Director Stephenson presented the following cases to the POST Council and gave a brief synopsis of each case and informed the Council there were three "Voluntary Relinquishments".

ERIK R. BARON

Offense – Abuse of Psycotoxic Chemical Solvents

Category – B

Recommended Discipline- 4 year suspension

Status – Resigned 12/9/2009

Motion: *Sheriff Nelson motioned to not accept the recommended 4 year suspension and recommended revocation of Erik Baron's peace officer certification.*

Second: *Chief Shupe seconded the motion.*

Vote: *The motion passed with all in favor. Sheriff Lamont Smith recused himself.*

STACY D. GILES

Offense – Theft and Lying Under Garrity

Category – B

Recommended Discipline- 4 year suspension

Status – Resigned 10/4/2010

Motion: *Executive Director Patterson motioned to accept the recommended 4 year suspension of Stacy Giles' peace officer certification (10/4/2010-10/4/2014).*

Second: *Robbie Robertson seconded the motion.*

Vote: *The motion passed with all in favor. John Crowley recused himself.*

MATTHEW D. FISHER

Offense – Sexual Conduct On-Duty

Category – B

Recommended Discipline- 3 year suspension

Status – Resigned 2/8/2010

Executive Director Patterson asked about the other officer involved in the case and asked what action was taken against her. Director Stephenson stated she received a 3 year suspension.

Matthew Fisher addressed the Council and took responsibility for his actions. He asked the Council to

recognize he “self reported”. Sheriff Nelson asked if this was disruptive to the agency. Fisher stated, not that he was aware of.

Motion: Chief Shupe motioned to not accept the recommended 3 year suspension and reduce to a 2 year suspension of Matthew Fisher’s peace officer certification due to self reporting.

Second: Sheriff Nelson seconded the motion.

Discussion: Mayor Johnson asked if the mitigating factors had already been considered in this situation and if self reporting is a mitigating factor. Attorney Taylor replied self reporting had been used as a mitigating factor in the past.

Sub-Motion: Executive Director Patterson motioned to not to accept the recommended 3 year suspension and reduce it to a 2 ½ year suspension.

Second: Robbie Robertson seconded the motion.

Discussion: Director Stephenson informed the Council of the process POST used to establish the 3 year recommendation. There were two separate incidents that occurred between the officers, if POST would have used those independently, Fisher’s certification could have been revoked. Because of the mitigating circumstance, POST reported it as one incident making the recommendation a 3 year suspension.

Withdrawn: Executive Director Patterson withdrew his motion for a 2 ½ year suspension.

Sub-Motion: *Chief Keefe motioned to accept the recommendation for a 3 year suspension of Matthew Fisher’s peace officer certification (2/8/2010-2/8/2013).*

Second: *Executive Director Patterson seconded the motion.*

Vote: *The motion passed with 8 in favor and 5 opposed.*

CHRISTIAN TUCKER

Offense – Criminal Trespassing

Category – B

Recommended Discipline- 3 year suspension

Status – Terminated 3/9/2008

Motion: *Sterling Provost motioned to accept the recommended 3 year suspension of Christian Tucker’s peace officer certification (3/9/2008-3/9/2011).*

Second: *Sheriff Smith seconded the motion.*

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

STEVEN M. CHRISTENSEN

Offense – DUI

Category – D

Recommended Discipline- 1 year suspension

Status – Resigned 2/17/2011

Discussion: Executive Director Patterson asked what constitutes an honorable career. Director Stephenson replied the chief administrator reported to POST that Christensen had an honorable career. Director Stephenson also stated POST’s recommendation is the baseline on this case.

Motion: *Colonel Fuhr motioned to accept the recommended 1 year suspension of Steven*

Christensen's peace officer certification (2/17/2011-2/17/2012).

Second: Chief Terry Keefe seconded the motion.

Vote: The motion passed with a 12 in favor and 1 opposed.

RICHARD HENDRICKS

Offense – Sex On-Duty

Category – B

Recommended Discipline- 3 year suspension

Status – Terminated 5/19/2010

Discussion: Executive Director Patterson questioned if Hendricks was truthful under Garrity. Sergeant Zeeman replied Hendricks was truthful under Garrity, just was not forthcoming at first with information.

Richard Hendricks addressed the Council and took responsibility for his actions. He has entered into therapy and asked the Council to consider his mitigating circumstances. Colonel Fuhr asked why he didn't report the incident. Hendricks stated he wanted to, but did not act upon the thought.

Motion: Sheriff Lynn Nelson motioned to not accept the recommended 3 year suspension and suspend Richard Hendricks' peace officer certification for 2 years.

Second: Sterling Provost seconded the motion.

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

Motion: Executive Director Patterson motioned to accept the recommended 3 year suspension of Richard Hendricks' peace officer certification (5/19/2010-5/19/2013)

Second: Colonel Fuhr seconded the motion.

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

ERIC B. MCLANE

Offense – Domestic Violence in the Presence of a Child, Assault

Category – C

Recommended Discipline- 2 year suspension

Status – Suspended 3/16/2010

Motion: Robbie Robertson motioned to accept the recommended 2 year suspension of Eric McLane's peace officer certification (3/16/2010-3/16/2012).

Second: Sheriff Tracy seconded the motion.

Vote: The motion passed with all in favor.

SHAUN BURKINSHAW

Offense – DUI

Category – D

Recommended Discipline- 2 year suspension

Status – Resigned 4/22/2010

Motion: Robbie Robertson motioned to accept the recommended 2 year suspension of Shaun Burkinshaw peace officer certification.

Second: John Crowley seconded the motion.

Vote: The motion passed with all in favor.

CHARLES J. ANDERSON

Offense – Disorderly Conduct

Category – E
Recommended Discipline- 6 month suspension
Status – Terminated 8/30/2010

Colonel Fuhr questioned the severity of Anderson’s actions and feels it does not rise to the level of a suspension. Dir. Stephenson replied POST is recommending a suspension due to him pleading guilty to the charge “Disorderly Conduct”.

Motion: *Colonel Fuhr motioned to reject the recommended 6 month suspension and recommended a Letter of Caution.*
Second: *Robbie Robertson seconded the motion.*
Vote: *The motion passed with 8 in favor and 4 against. Dir. Patterson recused himself.*

ANTHONY S. PERFETTO

Offense – DUI
Category – D
Recommended Discipline- 6 month suspension
Status – Resigned 9/10/2010

Motion: Robbie Robertson motioned to accept the recommended 6 month suspension of Anthony S. Perfetto’s peace officer certification.
Second: Motion failed due to the lack of a second.

Motion: Chief Shupe motioned that no action be taken against Anthony S. Perfetto’s peace officer certification.

Discussion: Chief Torgensen stated the officer was intoxicated whether the stop was legal or not. Atty. Taylor said the restrictions to a prosecutor due to the 4th amendment and 5th amendment do not apply to POST. Sheriff Tracy asked what the purpose was for the stop. Dir. Stephenson said drifting out of his lane was the reason for the stop. John Crowley stated even on the baseline with Perfetto having an open container it would be a 6 month suspension. Investigator Green reported it was only residual amounts that came from the open containers in the car.

Second: Motion failed due to the lack of a second.

Motion: *Sheriff Nelson motioned to accept the recommended 6 month suspension of Anthony Perfetto’s peace officers certification.*
Second: *Chief Keefe seconded the motion.*
Vote: *The motion passed with 9 in favor 3 against. John Crowley recused himself.*

RECOGNITION

Director Stephenson thanked Sheriff Lynn Nelson for his service on the Council. He has served for eight years with two of those as Chair. Director Stephenson introduced two new POST Investigators, Brad Zeeman and Alex Garcia.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at Public Safety Education and Training Building in Sandy, June 13, 2010, at 10:00am.

ADJOURNMENT

John Crowley motioned to adjourn.

Sheriff Nelson seconded the motion.

The POST Council meeting adjourned at 12:28pm.