

POST COUNCIL MEETING

June 13, 2011

*Public Safety Education and Training Center
Sandy, UT*

MINUTES

On June 13, 2011, a regularly scheduled POST Council meeting was held at 10:00 a.m. 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.
Sheriff Lamont Smith, Kane County Sheriff's Office
Executive Director Tom Patterson, Department of Corrections
Major Mike Rapich, Utah Highway Patrol (proxy for Colonel Daniel Fuhr)
Vice-President Donna Dillingham-Evans, Dixie State College
Commissioner Kerry Gibson, Weber County Commissioner
Attorney General Mark Shurtleff, Attorney General's Office
Dr. Sterling R. Provost, At Large
Robert D. Robertson, At Large
Mayor Melissa Johnson, West Jordan City
Sheriff David Edmunds, Summit County Sheriff's Office
Sheriff James O. Tracy, Utah County Sheriff's Office

The following were excused and/or absent:

SAC Jim McTighe, FBI (retired)
Chief Chris Burbank, Salt Lake City P.D.
Chief Val Shupe, South Ogden City P.D.
John Crowley, UPOA President
Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol (proxy by Major Mike Rapich)

POST staff present:

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

Others present:

Jack Rickards, Weber State Academy
Shawn Josephson, Salt Lake City PD
Lee Dobrowolski, Salt Lake City PD
John Brewer, Utah Valley University PD
Nate Carlisle, Salt Lake Tribune
Wes McNeill
Geri Miller-Fox, Corrections Academy
Paula Lozano
Nikkole Malan
Bret Rawson, Attorney for Leah Carpenter
Leah Carpenter
Tennille Young, GOPB

WELCOME AND INTRODUCTIONS

The meeting was called to order at 10:00 a.m. Chairman Mike Larsen welcomed those in attendance at POST Council.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of March 24, 2011, were reviewed and the following motion was made:

Motion: *Sheriff Lamont Smith motioned to approve the minutes of March 24, 2011.*

Second: *Robby Robertson seconded the motion.*

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

BASIC TRAINING & DISPATCH CURRICULUM

Lt. Wade Breur presented 2011/2012 basic training curriculum and dispatch curriculum to the Council.

The dispatch curriculum has two new changes that are directly related to laws that were recently changed. The first change is, objective 7:A. This gives dispatchers 18 months, instead of 12, before their certification becomes inactive and they need to go through the reactivation process.

The second is, objective 9: B, C, & D. These changes in the dispatch disciplinary process were made to be consistent with the peace officer disciplinary statute (see attachment 1).

Motion: *Robbie Robertson motioned to accept the proposed changes to the Dispatch Curriculum.*

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

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

Basic training curriculum recommendation for the SFO block of the academy is to add the experimental course "Homeland Security". PTRL 1161, formerly "Scenario Training", will be changed to "Written Scenarios." On the LEO block there are a few course name changes (see attachment 2).

Motion: *Sterling Provost 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.*

CORRECTIONS TRAINING CURRICULUM

Director Geri Miller-Fox presented the 2011/2012 Corrections' curriculum changes and proposed to increase the Corrections academy from 175 to 183 hours. Additions are 1 hour of Grievance Process, 1 hour of Inmate Classification, 2 hours of Safety and Emergencies, and a 4 hour Institutional Tour. One name change from "Stewardship" re-titled to "Offender Supervision Strategies" and a couple of numbering changes (see attachment 3).

Motion: *Sheriff Dave Edmunds motioned to accept the proposed changes to the Corrections' Training Curriculum.*

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

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

POST POLICY UPDATE

Deputy Director Sparks updated the Council on the changes to the POST Policy over the last year. They are as follows:

Policy 1220 to 1240 – Records Management

This is a new addition to policy setting out staff procedures for creating employment records, and new person records in the ACADIS records management system.

Policy 1250 – Use of Utah Criminal Justice Information System

This is a new addition to policy setting out procedures and limitation for use of the NCIC, BCI and UCJIS information databases. This policy was required in order to meet the requirements of the BCI annual audit.

Policy 2030 – Admittance to POST Sponsored Basic Training Programs

This policy was revised to clarify the age requirements of an applicant entering basic training in accordance with UCA 53-6-203. The policy now requires that applicants be 21 years of age prior to the beginning of the training program.

Some of the wording in this section was revised to be consistent with language used UCA 53-6-203 and UCA 53-6-211, regarding conduct for which an "applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state" and also for officers who, "engage in conduct which is a state or federal criminal offense."

Policy 2095 – Study Guides, Review Sheets and Notes

This is a new addition to policy prohibiting cadets attending basic training from possessing or using review sheets, cheat sheets or any other material that is purported to be a facsimile of a POST exam or quiz.

Policy 2390 – Physical Training Requirements

This policy was revised to bring the policy into compliance with the decision passed by POST Council in June of 2009. This policy establishes an advisory fitness level for entrance into SFO training and a mandatory fitness level for entrance into LEO training. It also establishes re-testing procedures for cadets who do not pass the entrance fitness assessment on the first attempt.

Policy 2500 to 2530 – Dispatcher Certification

This is a new addition to policy setting forth the procedures and requirements for conducting basic dispatcher training programs and establishing dispatch instructor requirements.

Policy 3010 – In-Service Training

This policy was revised to comply with changes made to UCA 53-6-208 in the 2011 legislative session. This policy now reflects that a peace officer's certification becomes inactive after 18 consecutive months if the officer has not been engaged in performing the duties of a peace officer.

Policy 3210 to 3260 – Waiver and Reactivation

This policy was revised to comply with changes made to UCA 53-6-206 in the 2011 legislative session. Certification waivers and reactivations both now follow the same procedures. Waiver and reactivation both require the applicant successfully pass a written certification examination and physical fitness assessment. This policy revision also establishes a uniform fee for administering the assessments and processing the application. The fee is now \$75 for waiver or reactivation. This revision also complies with the 18 month window for a certification to become inactive.

Policy 8010 to 8060 – Investigations

This policy was revised to comply with changes made to UCA 53-6-211 in the 2010 legislative session and the subsequent changes to Administrative Rule R728-409. This revision adopts the wording used in UCA 53-6-211 to establish the types of peace officer misconduct POST will investigate.

This policy also adds procedures POST will follow in processing a voluntary relinquishment of peace officer certification.

Motion: Chief Terry Keefe motioned to accept the changes to POST policy.
Second: Sheriff Lamont Smith seconded the motion.
Vote: The motion passed with all in favor.

TRAINING COURSE “SURVIVING LAW ENFORCEMENT STRESS”

In December 2010, POST was mandated by the Council to research and develop an early recognition/stress management course. Sergeant Harper informed the Council that POST has sponsored several classes and speakers to address the issue, but it is uncertain if these courses were reaching officers needing the assistance. Salt Lake City Police Department has established a peer support program, which POST is using as a model to create a statewide coalition. Sergeant Harper encouraged all agencies to send a representative to attend the introductory course.

Sergeant Harper presented a short video and introduced Deputy Chief Lee Dobrowolski and Sergeant Shawn Josephson from Salt Lake City Police Department who were instrumental in developing the Salt Lake City Peer Support program.

DISCIPLINARY ACTIONS:

Director Stephenson presented the following cases to the POST Council.

TROY BREWER

Offence - Theft
Category – A
Recommended Discipline- Revocation
Status – Resigned 2/25/2010

Motion: Chief Terry Keefe motioned to accept the recommendation for revocation of Troy Brewer’s peace officer certification.
Second: Executive Director Tom Patterson seconded the motion.
Vote: The motion passed with all in favor.

LEAH CARPENTER

Offence – Custodial Sexual Relations
Category – A
Recommended Discipline- Revocation
Status – Resigned 11/15/2010

Bret Rawson, attorney for Leah Carpenter, addressed the Council and said he feels the law has been misinterpreted and does not fall within the legislators’ intent when they codified the statute. He presented case law to support her case and read letters from a supervisor and co-worker on her behalf. Rawson asked the Council to return her to work and not suspend or revoke Carpenter’s certification.

Attorney General Shurtleff asked if Carpenter knew the parolee was a convicted felon and under supervision when the relationship occurred. Rawson stated she knew he was, but she did not know a parolee statutorily fell within the custodial definition. Attorney General Shurtleff said the statute (76-5-412) is clear and read the following portion of the statute; “a person in custody, means a person who is under correctional supervision, such as a work release facility or as a parolee or probationer.” Rawson read sub-section B; “a reasonable person in the actor’s position should have known under the circumstances that the individual was a person in custody.” Rawson said, in Carpenter’s circumstance, it was a mistake of the law.

Director Stephenson reminded the Council a consent agreement had been signed. Robbie Robertson asked if corrections training instructed in this area. Dir. Stephenson said yes, they teach criminal law from the code book. Attorney General Shurtleff asked if there was a disruption to the department. Dir. Stephenson said Davis County concurs with POST’s recommendation. Leah Carpenter replied to Shurtleff’s question and stated she spoke with the current sheriff about returning to work and he told her he would hire her back. The Council discussed whether they believed Carpenter knew the law and the following motion was made.

- Motion:** *Sheriff Dave Edmunds motioned to accept the recommended revocation of Leah Carpenter’s peace officer certification.*
- Second:** *Sterling Provost seconded the motion.*
- Vote:** *The motion passed with all in favor.*

TRENTON J. HINTZE

Offence – Lying under Garrity, Falsification or alteration of Government Record
Category – B & C
Recommended Discipline- 4 year suspension
Status – Terminated 11/27/2010

- Motion:** *Robby Robertson motioned to accept the recommended 4 year suspension of Trenton Hintze’s peace officer certification (11/27/2010-11/27/2014).*
- Second:** *Attorney General Mark Shurtleff seconded the motion.*
- Vote:** *The motion passed with all in favor.*

CHRISTIE A. TRUJILLO

Offence – Lying under Garrity
Category – B
Recommended Discipline- 3 year suspension
Status – Terminated 9/21/2010

- Motion:** *Chief Terry Keefe motioned to accept the recommended 3 year suspension of Christie*

Trujillo's peace officer certification (9/21/2010-9/21/2013).

Second: *Sheriff Lamont Smith seconded the motion.*

Vote: *The motion passed with all in favor. Executive Director Patterson recused himself.*

WESLEY B. MCNEILL

Offence - Assault

Category – C

Recommended Discipline- 2 year suspension

Status – Still Employed

Wesley McNeill addressed the Council and apologized for putting them in this position. He took responsibility for his actions and explained his situation. He is currently attending court ordered anger management classes. McNeill asked for leniency from the Council. The Council asked McNeill a few questions. Executive Director Patterson asked if we could have McNeill come back after his probation and treatment are finished, for reconsideration. Atty. Taylor stated the Director no longer has the ability to allow reconsideration with the new statute. Atty. Taylor said if McNeill would like, he could give permission to hold the case over until next Council meeting, but POST does not have that authority. Chief Keefe does not want to hold the case over and feels this could lead to all plea and abeyances requesting such consideration.

Motion: *Sheriff Dave Edmunds motioned to accept the recommended 2 year suspension of Wesley McNeill's peace officer certification (6/14/2011-6/14/2013).*

Second: *Chief Terry Keefe seconded the motion.*

Vote: *The motion passed with 8 in favor and 4 against.*

PAULA I. LAZANO

Offence – DUI

Category – D

Recommended Discipline- 2 year suspension

Status – Resigned 3/19/2011

Paula Lazano addressed the Council and took responsibility for her actions. She has remained working for West Valley Police Department in a non-sworn position. Lazano explained her situation to the Council and stated she is very lucky to be alive. Sheriff Edmunds told Lazano he had a deputy that was in her same situation that he valued as an employee; this deputy is now back working for the sheriff's office. He encouraged her to return when her suspension is completed.

Motion: *Executive Director Tom Patterson motioned to accept the recommended 2 year suspension of Paula Lazano's peace officer certification (3/19/2011-3/19/2013).*

Second: *Attorney General Mark Shurtleff seconded the motion.*

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

STUART HARMAN

Offence – Falsifying POST Application

Category – C

Recommended Discipline- 2 year suspension

Status – Released 2/15/2011

Motion: *Sheriff James O. Tracy motioned to accept the recommended 2 year suspension of Stuart Harman's peace officer certification (6/14/2011-6/14/2013).*

Second: *Sheriff Dave Edmunds seconded the motion.*
Vote: *The motion passed with all in favor.*

JARED T. INGALSBE

Offence – Reckless Driving
Category – D
Recommended Discipline- 1 year suspension
Status – Still Employed

Motion: *Sheriff Lamont Smith motioned to accept the recommended 1 year suspension of Jared Ingalsbe's peace officer certification (6/13/2011 – 6/13/212).*
Second: *Vice President Donna Dillingham-Evans seconded the motion.*
Vote: *The motion passed with all in favor.*

NIKKOLE MALAN

Offence – DUI
Category – D
Recommended Discipline- 1 year suspension
Status – Sill Employed

Nikkole Malan addressed the Council and stated she takes full responsibility for her actions. She gave the Council detailed information on her situation and stated she asked her agency for help. She completed treatment in January of this year and will continue after care once a week for the next two years. Malan asked if her suspension could begin on the day of the incident rather than today's date. Chairman Larsen stated the disciplinary guidelines require the suspension to begin on the date of separation with her agency and since she was currently being paid by her agency they could not back date the suspension. Executive Dir. Patterson asked if she refused to do SFST's [standardized field sobriety tests]. Malan said she was injured and couldn't perform SFST's. Council members inquired details from the night of the incident and the following motion was made.

Motion: *Sheriff Lamont Smith motioned to accept the recommended 1 year suspension of Nikkole Malan's peace officer certification (6/13/2011-6/13/2012).*
Second: *Commissioner Kerry Gibson seconded the motion.*
Vote: *The motion passed with 6 in favor 6 against, Chairman Larsen broke the tie by voting in favor.*

CORY STARK

Offence – Use or attempt to use a license, certificate of registration, permit, or tag of another person
Category – D
Recommended Discipline- 1 year suspension
Status – Terminated 4/28/2011

Motion: *Executive Director Patterson motioned to accept the recommended 1 year suspension of Cory Stark's peace officer certification (4/28/2011-4/28/2012).*
Second: *Robby Robertson seconded the motion.*
Vote: *The motion passed with all in favor.*

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at Public Safety Education and Training Building in Sandy, September 12, 2011, at 10:00 a.m.

ADJOURNMENT

The POST Council meeting adjourned at 11:58 a.m.