

POST COUNCIL MEETING

September 7, 2010

*Public Safety Education and Training Center
Sandy, UT*

MINUTES

On September 7, 2010, a regularly scheduled POST Council meeting was held at 10:00am at the Public Safety Education and Training Center, in Sandy, Utah. Chairman Bud Cox conducted.

The following POST Council members were in attendance:

Sheriff Bud Cox, Chairman, Davis County Sheriff's Office
Director Mike Larsen, Vice-Chairman, Orem DPS
Sheriff Lamont Smith, Kane County Sheriff's Office
Executive Director Tom Patterson, Department of Corrections
Chief Terry Keefe, Layton City P.D.
Chief Val Shupe, South Ogden City P.D.
Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol
John Crowley, UPOA Representative
Vice-President Donna Dillingham-Evans, Dixie State College
Commissioner LuWayne Walker, Juab County Commissioner
Attorney General Mark Shurtleff, Attorney General's Office
SAC Jim McTighe, FBI
Chief Chris Burbank, Salt Lake City P.D.

The following were excused and/or absent:

Mayor Joe Ritchie, Roy City
Dr. Sterling R. Provost, At Large
Councilman Robert D. Robertson, Murray City Council
Sheriff Lynn Nelson, Cache County Sheriff's Office

POST staff present:

Scott Stephenson, Director
Kelly Sparks, Deputy Director
Shaunna McCleve, Administrative Secretary
Bryant Green, POST Investigations (DOC)
Rich Fordham, POST Investigations
Paul Kotter, 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
Chelsey Mason, Investigation Secretary
Beau Mason, Basic Sergeant
Burk McBride, Basic Sergeant

Others present:

Jack Rickards, Weber State Academy
Dennis Hutchinson, Department of Corrections Training
Chief Ken Wallentine, Attorney General's Office
Sharon Zeller, Attorney General's Office
Amanda Zeller, Self
Mike Turner, Richfield PD
Mike Thomas, Self
John Evans, Richfield PD
Michael Shane Cowdell, Self

WELCOME AND INTRODUCTIONS

The meeting was called to order at 10:00am. Chairman Bud Cox welcomed those in attendance at POST Council. Condolences were offered to Sheriff Lamont Smith for the loss of Deputy Harris.

APPROVAL OF POST COUNCIL MINUTES

The POST Council minutes of June 7, 2010, were reviewed and the following motion was made:

Motion: *Chief Terry Keefe motioned to approve the minutes of June 7, 2010.*
Second: *Commissioner LuWayne Walker seconded the motion.*
Vote: *The motion passed with all in favor.*

FIREARMS CURRICULUM

Lt. Wade Breur introduced Firearms Instructors Sgt. Beau Mason and Sgt. Burke McBride to the Council. Sgt. Mason presented the updated firearms curriculum to the Council.* POST researched case studies conducted by the FBI, San Diego County District Attorney's Office and NYPD. They discovered a greater need to impliment more rounds at a close distance during the firearms qualification course. Chief Burbank asked if the cadets are still required to qualify from 25 yards. Sgt. Mason stated they are still required to qualify from 25 yards.

* See attachment 1

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

Chief Keefe requested the studies be put on the POST portal.

IN-SERVICE AUDIT UPDATE:

Director Scott Stephenson reported 10,515 officers who have met the 40 hour requirment of in-service training hours and 315 who have not. To date, 197 agencies have reported their officers hours with 20 agencies have not responded. Dir. Stephenson believes the number of deficient officers will decrease before the October 1, 2010, deadline. Chief Burbank asked if there was a movement to change the yearly requirement to a monthly requirement. Dir. Stephenson stated he was not aware of this proposal. Chief Burbank asked if there was a problem with officers' military orders. Dir. Stephenson stated POST is not being notified and given copies of the officers' military orders. POST requires military deployment documentation for the officers files to satisfiy any future record audit. Either deployment orders or a letter from the chief administrator of an agency will suffice.

DISCIPLINARY ACTIONS:

Director Stephenson presented the following cases to the POST Council.

ROBERT T. BUCK

Offence - DUI

Category – D

Recommended Discipline- 1 year

Status – Resigned 1/15/2010

Motion: *Chief Shupe motioned to accept the recommended 1 year suspension of Robert Buck's peace officer certification (1/15/2010-1/15/2011).*

Second: *Chief Burbank seconded the motion.*

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

SHANE COWDELL

Offence – Domestic Violence

Category – C

Recommended Discipline- 2 year

Status – Terminated 12/7/2009

Discussion: Chief Shupe asked if this was a plea in abeyance with the charge of a Simple Assault. Dir. Stephenson stated yes.

Motion: *Executive Director Patterson motioned to accept the recommended 2 year suspension of Shane Cowdell's peace officer certification (12/7/2009-12/7/2011).*

Second: *Sheriff Smith seconded the motion.*

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

EDWARD GUERRERO

Offence - Theft

Category – B

Recommended Discipline- 3 year

Status – Terminated 12/04/2009

Motion: *Chief Burbank motioned to accept the recommended 3 year suspension of Edward Guerrero's peace officer certification (12/04/2009-12/04-2011).*

Second: *Colonel Fuhr seconded the motion.*

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

STEVE HATZIDAKIS

Offence – Sexual Solicitation

Category – D

Recommended Discipline- 1 year

Status – Resigned 5/30/2010

Motion: *Colonel Fuhr motioned to accept the recommended 1 year suspension of Steve Hatzidakis' peace officer certification (5/30/2010-5/30/2011).*

Second: *Chief Keefe seconded the motion.*

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

MARY JO HOYT

Offence - DUI

Category – D

Recommended Discipline- 1 year

Status – Terminated 1/10/2010

Discussion: Commissioner Walker asked if she was on duty when this occurred. Dir. Stephenson replied she was home and was called out. Executive Director Patterson believes being on-duty is an aggravator. Investigator Kotter stated this was her first DUI and the recommendation of a 1 year for a first offence is consistent with the guidelines.

Motion: *Attorney General Shurtleff motioned to reject the recommended 1 year suspension and seek a consent agreement for a 2 year suspension of Mary Jo Hoyt's peace officer certification to begin on 1/10/2010 due to the aggravating circumstance of being on duty when the DUI occurred.*

Second: *Executive Director Patterson seconded the motion.*

Vote: *The motion passed with 9 in favor and 2 against.*

R. ASHTON JEFFERY

Offence – Illegal Transportation of Alcohol

Category – C

Recommended Discipline- 1 year

Status – Resigned 09/01/2009

Discussion: Commissioner Walker asked if the date of suspension would end on September 1, 2010. Dir. Stephenson stated it would. Dir. Larsen asked if the taking of the alcohol was theft of the evidence. Lt. Acosta stated this was evidence that was being disposed of. During this process he removed a bottle of crown royal from the truck, so it was theft of evidence. This was screened with the Taylorsville City Attorney. Ashton Jeffery's did a plea and abeyance and the Theft charge was dropped and he was charged with Illegal Transportation. Attorney Taylor stated both charges are Class B Misdemeanors and if charged with both, they would run concurrently, meaning the sanction for both would still be a 1 year suspension. Chief Burbank and Chief Keefe both expressed more concern with the theft of evidence than the illegal transportation of alcohol. Dir. Larsen asked if this was obstruction of justice. Atty. Taylor said it may fall under obstruction but would not fall under the guidelines greater than a Class B Misdemeanor. Officer Crowley listed public trust as an aggravating circumstance. Chairman Cox asked about the dating of the suspension being back dated and had the understanding the date of suspension would be the date of the Council meeting. Dir. Stephenson replied there is a paragraph at the bottom of the guidelines which states it would be back dated to the date of separation. Atty. Taylor stated it was in the note section of the guidelines and read the following:

"A disciplinary sanction becomes effective on the date the final order is signed by the POST Council chairperson. Absent any extenuating circumstances to the contrary, the officer will receive credit for time served based upon the last date the officer was able to function as a peace officer, i.e. date terminated from all law enforcement employment or date suspended with restrictions from engaging in any law enforcement activity."

Motion: *Chief Keefe motioned to reject the recommended 1 year suspension and seek a consent agreement for a 2 year suspension of R. Ashton Jeffery's peace officer certification to begin on 09/01/2009.*

Second: *Vice President Dillingham-Evans seconded the motion.*

Vote: *The motion passed with 10 in favor and 1 against.*

Chairman Cox asked if Shane Cowdell has come to address the Council. He apologized for skipping over him and turned the floor to him.

Michael Shane Cowdell addressed the Council and stated he and his wife are doing well. He is remorseful for what has happened. Mr. Cowdell did not ask for a reduction in his sentence, but he would like to let the Council know he would like to return to Law Enforcement.

Council members asked Atty. Taylor if Shane Cowdell would be eligible to carry a weapon. Atty. Taylor stated there are certain federal guidelines that would need to be met to take that right away and stated he does not fall under them.

TIMOTHY JONES

Offence – Lied on POST Application

Category – C

Recommended Discipline- 2 year

Status – Dismissed 4/8/2010

Motion: *Executive Director Patterson motioned to accept the recommended 2 year suspension of Timothy Jones' peace officer certification.*

Second: *Colonel Fuhr seconded the motion.*

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

MICHAEL THOMAS

Offence - Assault

Category – C

Recommended Discipline- 2 year

Status – Still Employed

Dir. Stephenson stated Officer Thomas' daughter was missing and he found her at a park with her male friend. When Officer Thomas found them, he grabbed the male juvenile, threw him to the ground and threatened to kill him. Officer Thomas is a 13 year veteran and POST did not find any mitigating or aggravating circumstances.

Michael Thomas addressed the Council and gave details of what happened the night of the incident. His department gave him a "letter of caution" and imposed a one year probation. This was an isolated case and will not happen again.

Chairman Cox asked if he signed the consent agreement. Atty. Taylor stated the consent agreement was signed, stipulating he agrees with the facts. He is here today to discuss the matter of the sanction. Chairman Cox asked if the County Attorney denied prosecution. Officer Thomas stated they did. Chief Shupe feels this one is different than the first case, there was never a charge. Dir. Stephenson said per the new statute POST does not need a charge to be filed to move forward with proceedings. John Crowley asked if the letter from the Chief is a mitigating factor. Atty. General Shurtleff asked when he threatened to kill him, did he mean it. Officer Thomas stated he said it out of anger, he wanted him to stay away from his daughter. Executive Director Patterson asked if he was acting as an officer. Officer Thomas said he was acting as a concerned father only, not an officer.

Chief Shupe asked if Officer Thomas was armed at the time of the incident. Investigator Kotter stated he was. Chief Burbank asked for the parent's perspective. Investigator Kotter said the parents were split; the mother felt Officer Thomas should lose his job. The father does not feel he should lose his job.

Motion: *Attorney General Shurtleff motioned to reject the recommended 2 year suspension and recommended a 9 month suspension of Michael Thomas' peace officer certification suspension (9/7/2010-6/7/2011).*

Second: *Vice President Dillingham-Evans seconded the motion.*

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

TOD TRINNAMAN

Offence – Lying Under Garrity
Category – B
Recommended Discipline- 3 year
Status – Resigned 7/16/2009

Motion: *Sheriff Smith motioned to accept the recommended 3 year suspension of Tod Trinnanman's peace officer certification (7/16/2009-7/16/2012).*

Second: *Chief Keefe seconded the motion.*

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

JOSEPH YEATES

Offence – Lied on POST Application
Category – C
Recommended Discipline- 2 year
Status – Not employed

Motion: *Executive Director Patterson motioned to accept the recommended 2 year suspension of Joseph Yeates' peace officer certification (09/07/2010-09/07/2012).*

Second: *Colonel Fuhr seconded the motion.*

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

AMANDA ZELLER

Offence – False Information of POST Application
Category – C
Recommended Discipline- 2 year
Status – Dismissed from Academy 3/24/2010

Dir. Stephenson informed the Council Amanda Zeller did not completely divulge all her criminal history on the POST application. It was verified by Layton PD and she was dismissed. The crime was Identity Fraud in 2001.

Amanda Zeller addressed the Council and told them it was not something she had thought about in 10 years. She went to court and entered a plea in abeyance, since that day she has not thought about it. Chief Burbank asked Zeller if she made the following statement to the investigator, "I did not indicate that on there because the charge had been dismissed, so I did not think it was necessary. Zeller stated she believed it to be true, but she does not specifically recall. Atty. General Shurtleff asked if this was to get into a club with age restrictions by using another's identification. Zeller stated that was correct, she used her friend's identification.

Chief Keefe stated Zeller did submit to a polygraph during the hiring process and there was no deception.

Motion: *Attorney General Shurtleff motioned to reject the 2 year suspension and recommended 1 year suspension of Amanda Zeller's peace officer certification (3/24/2010-3/24/2011).*

Second: *Commissioner Walker seconded the motion.*

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

Director Stephenson informed the Council there were 4 voluntary relinquishments.

Discussion: Chief Burbank has concerns with the amount of alcohol related offences the Council is seeing. Atty. Taylor stated POST has been working on this. The new statute states if the officer reports the addiction it to the employer and to the director as an early intervention process, POST will not seek a sanction under the guidelines established in state statute 53-6-211. This needs to be done before a crime is committed and the responsibility lies with the agency. Director Stephenson will research POST curriculum and establish a committee to see if the current curriculum is adequate in addressing alcohol usage in law enforcement. Dir. Stephenson will report his findings at the next meeting in December.

NEXT POST COUNCIL MEETING

The next POST Council meeting will be at Public Safety Education and Training Building in Sandy, December 6, 2010, at 10:00am.

ADJOURNMENT

Chief Val Shupe motioned to adjourn.
Sheriff Smith seconded the motion.
The POST Council meeting adjourned at 11:28pm.

ATTACHMENT

Stress Course:

1st course of fire: Goal of this stage is to emphasize speed and accuracy.

No changes

2nd course of fire: Goal of this stage is to engage multiple targets, complete a speed reload and fire with the strong hand only.

- Eliminated firing from support hand and changed to firing from strong hand to place emphasis on stress rather than an injury situation.
- Decreased the time limit:
 - Due to a shorter transition time required to firing strong hand only rather than support hand only
 - As firing with strong hand only is more proficient and less difficult.

3rd course of fire: Goal of this stage is to engage multiple targets while firing a head shot into the Hostage Taker in a hostage situation.

- Moved to the 7 yard line to create consistency (stage 2 is all from the 7 yard line and all failure drills in qualifications are from the 7 yard line).

4th course of fire: Goal of this stage is to engage multiple targets at different distances.

- The following changes were done to accommodate training in an indoor range.
- Kept the same idea of multiple targets at multiple distances, just changed those distances.
- Moved the shooter from 25 yards to 15 yards.
- Moved the targets from 3, 5, & 25 yards to 8, 10, & 15 yards.
- By changing the distance between targets and moving all targets to moderate distances, we were able to keep the same time limit, and what we feel is the same difficulty level, while still accomplishing our main objective.

Day Qualification:

Moved failure drills to the beginning of the qualification to eliminate the possibility of cheating.

Eliminated the “simulated barricade” as a qualification requirement. Use of barricade continues to be emphasized during training.

Through POST research and studies based on agencies such as the FBI, San Diego County District Attorney’s Office and NYPD, the following changes are recommended:

Removed 2 rounds each from:

- 15 yard kneeling
- 15 yard standing
- 25 yard kneeling
- 25 yard standing

Added those rounds as follows:

- 2 rounds – 3 yards
- 2 rounds – 5 yards - strong hand only
- 2 rounds – 5 yards - support hand only
- 2 rounds – 7 yards

Due to the research from these studies, it was determined that approximately 88% of most shootings occurred from a distance of 7 yards and closer, and 82% of officers killed by firearms were within 7 yards of the shooter.

Night Qualification:

Moved failure drills to the beginning of the qualification to eliminate the possibility of cheating.

Placed increased emphasis on required time limits during each stage of qualification.