



POST Investigations Bulletin

State of Utah

Department of Public Safety Peace Officer Standards and Training

December 2009

One of the duties of the Utah Council on Peace Officer Standards and Training is to establish and enforce rules of conduct for certified peace officers throughout the state. During each POST Council Meeting, the Council reviews cases investigated by the POST Investigations Bureau and rules on the suspension or revocation of these peace officers. The decisions the council makes help to define acceptable and unacceptable conduct for Utah peace officers.

Please note that the actions taken by the POST Council are not binding precedent. The POST Council makes every effort to be consistent in its decisions, but each case is considered on its own individual facts and circumstances. The *POST Investigations Bulletin* is published to provide insight into the Council's position on various types of officer misconduct.

On December 9, 2009, POST Council convened and considered 7 cases of officer discipline. POST Council accepted the discipline recommended by the POST Investigations Bureau on all 7 cases.

Case #1

Custodial Sexual Misconduct: Deputy A was employed as a correctional officer for a county sheriff's office. Deputy A was an inmate supervisor in a jail industries program. An inmate who worked in the program reported on several occasions he, another male inmate and Deputy A would engaged in sexually explicit conversations. This inmate also said Deputy A told him she had been having a sexual relationship with the other inmate. During an IA investigation, Deputy A admitted she had sexually explicit conversations with both inmates. Deputy A also admitted she had engaged in sexual relations with one of the inmates in a county owned vehicle while she was on-duty and in uniform. Deputy A signed a consent agreement for the revocation of her peace officer certification. The POST council ratified the conditions of the consent agreement.

Case #2

Driving Under the Influence of Prescription Drugs, Falsely Obtaining Prescription Drugs and Insurance Fraud: Officer B was employed as a law enforcement officer. Officer B was stopped by another officer for driving pattern. This officer spoke to Officer B briefly at the roadside and then released him. Officer B was stopped by other officers a short time later who transported him to the hospital after perceiving he may be experiencing a medical problem. Officer B was not charged with DUI, but the incident was reported to the officer's agency and an investigation was opened. Investigators reviewed Officer B's Controlled Substance Prescriptions Report for the last three years and noted some impropriety. As a result of the investigation, Officer B was charged with two counts of Falsely Obtaining Prescription Drugs, 3rd Degree felonies, and one count of Insurance Fraud, a Class B misdemeanor. Officer B entered pleas of guilty to the charges, which are being held in abeyance. Officer B signed a consent agreement for the revocation of his peace officer certification. The POST council ratified the conditions of the consent agreement.

Case #3

Driving Under the Influence (DUI): Officer C was employed as a law enforcement officer by a city police department. Officers from another agency were called by a citizen who reported a female, who had previously identified herself as a city police officer (later identified as officer C), appeared to be under the influence and was about to drive away. Officer C had been observed stumbling, swaying and disoriented. When responding officers arrived, they found officer C sitting in her vehicle, asleep in the driver seat with the keys laid on the seat beside her. Responding officers noticed Officer C exhibiting slurred speech, constricted pupils and droopy eyelids. Responding Officers discovered officer C had taken some prescription medication. Officer C failed sobriety tests and was arrested for DUI. A Drug Recognition Expert (DRE) evaluation was also conducted on Officer C. The DRE evaluation indicated Officer C was under the influence of a narcotic and was not safe to operate a motor vehicle. Subsequent blood test results indicated positive for the prescription drugs Officer C was prescribed. During a Garrity interview, Officer C admitted to taking too much medication. Officer C signed a consent agreement for a two-year suspension of her peace officer certification. The POST Council ratified the conditions of the consent agreement.

Case #4

Sexual Assault, Lying Under Garrity: Officer D was employed as a correctional officer. While riding in the passenger seat of a department vehicle a female officer was driving, Officer D placed two fingers inside of the female officer's shirt and touched her breast. The female officer indicated to Officer D that the touching was not welcome. The next day the female officer reported the incident to her supervisor. Officer D's agency conducted an IA investigation, terminated him and referred the case to the city attorney's office for filing of criminal charges. POST conducted a Garrity interview with Officer D. Officer D claimed he accidentally touched the female officer's breast when removing his hand from the steering wheel after he had been steering for her. Officer D submitted to a polygraph examination. The results of the polygraph revealed Officer D was being deceptive to questions that were specific to this case. POST held another Garrity interview after the polygraph examination. Officer D could not give an explanation for the deception on the polygraph. Officer D stated that while he was "flicking (the female officer's) buttons" on her shirt, his fingers accidentally entered into her shirt. POST pointed out to Officer D that he had not mentioned the "flicking buttons" incident during his first POST interview. POST informed Officer D that he was in violation of the Garrity warning. Officer D agreed to sign a consent agreement for the revocation of his correctional officer certification. The POST Council ratified the conditions of the consent agreement.

Case #5

Driving Under the Influence (DUI), Open Container, Possession of Marijuana, and Possession of Drug Paraphernalia: Officer E was employed as a correctional officer. A city police officer observed Officer E's personal vehicle parked on the side of the road with its headlights on and motor running. The city officer made contact with Officer E who was in the driver's seat of the vehicle. The city officer noticed Officer E's speech was slurred and there was a strong odor of alcohol coming from the vehicle. The city officer had Officer E perform Standardized Field Sobriety Tests (SFST's), which he failed. Officer E was subsequently arrested for DUI. During a search incident to the arrest, the city officer found open alcohol containers, a small amount of marijuana and drug paraphernalia. During an interview, Officer E admitted he had been drinking alcohol in his vehicle. He also claimed he was holding the marijuana and paraphernalia for a friend. Officer E submitted to a breath test, which indicated he had a breath alcohol content of .196. Officer E was booked into jail for DUI, open container, possession of marijuana, and possession of drug paraphernalia. He pled guilty to DUI while the other charges were dismissed. Officer E agreed to sign a consent agreement for the revocation of his peace officer certification. The POST Council ratified the conditions of the consent agreement.

Case #6

Malfeasance: Officer F worked as a police officer for a city police department. Officer F's ex-wife contacted his department and alleged Officer F was harassing her. She requested the department order Officer F to stop contacting her. She provided the department with abusive texts and voicemails Officer F had sent to her. She also gave the department an audio recording of her and Officer F talking on the phone where Officer F made death threats against a boyfriend she was allegedly dating. Officer F also made threats to the police chief of another city while talking to his ex-wife on the phone. These threats caused the other city to take cautionary steps to ensure the chief's safety. In an IA interview, Officer F recalled making threats against the chief and said he had been drinking the day he made the threats. POST informed Officer F's attorney that Officer F's actions were subject to suspension on the POST disciplinary guidelines because he committed an act of malfeasance. Officer F signed a one year consent agreement for the suspension of his peace officer certification. The POST Council ratified the conditions of the consent agreement.

Case #7

Consensual Sexual Misconduct on duty, Lying under Garrity: Deputy G worked as a police officer for a city police department. A complaint was made against Officer G alleging he had consensual sexual contact with a female while on duty. These contacts allegedly occurred on one or two occasions when the female was on a ride-a-long with Officer G. It was also alleged Officer G engaged in an on-going, off-duty sexual relationship with the female for approximately two years. Officer G was interviewed by IA investigators. After being given a Garrity warning, Officer G acknowledged the female accompanied him during the ride-a-long, but denied ever having any type of sexual relations with her on or off duty. The female submitted to a polygraph examination. She was asked questions regarding the sexual relationship with Officer G. The examiner reported the female was truthful to the relevant questions. Officer G submitted to a polygraph examination. He was asked questions regarding the allegations. The examiner reported Officer G was untruthful to the relevant question and he may have employed "countermeasures" in an attempt to manipulate the results of the examination. Officer G was interviewed by POST. After being issued a Garrity warning, Officer G was questioned regarding the allegations. During the interview, Officer G made several statements that were contrary to the statements he made to the department IA investigators. After being confronted with the discrepancies, Officer G signed a consent agreement for the revocation of his peace officer certification. The POST Council ratified the conditions of the consent agreements.