

POST COUNCIL MEETING

MINUTES

June 2, 2016

The meeting was held at the Idaho State Police, Cafeteria Conference Room, 700 S. Stratford Dr., in Meridian, Idaho. Chairman Fuhr called the meeting to order at 9:05 A.M.

Council Members Present:

Jeff Zmuda, Idaho Department of Correction (for Kevin Kempf)
Jan Bennetts, Prosecuting Attorney, Ada County
Dan Chadwick, Executive Director, Idaho Association of Counties
Chairman Kevin Fuhr, Chief of Police, Rathdrum Police Department
Shaun Gough, Sheriff, Gooding County
Sharon Harrigfeld, Director, Idaho Department of Juvenile Corrections
Jeff Lavey, Chief of Police, Meridian Police Department
Lorin Nielsen, Sheriff, Bannock County
Paul Panther, Chief, Criminal Law Division, Office of the Attorney General
Ralph Powell, Colonel/Director, Idaho State Police
Wayne Rausch, Sheriff, Latah County
Shane Turman, Chief of Police, Rexburg Police Department
Doug Hart, FBI
Greg Wooten, Enforcement Bureau Chief, Idaho Department of Fish & Game

Guests Present:

Victor McCraw, Division Administrator, Idaho Peace Officer Standards & Training
Rory Olsen, Deputy Division Administrator, Idaho Peace Officer Standards & Training
Jolene Santo, Management Assistant, Idaho Peace Officer Standards & Training
Lori Hicks, Financial Specialist, Idaho Peace Officer Standards & Training
Cassandra Thigpen, Technical Records Specialist, Idaho Peace Officer Standards & Training
Adam Jarvis, Division of Financial Management
Jim Dickinson, Deputy Prosecutor, Ada County
Sandee Meyer, Executive Director, Idaho Prosecuting Attorneys Association
Barry McHugh, President, Idaho Prosecuting Attorneys Association
Lee White, Chief, Coeur d'Alene Police Department
Dustin Leverett, Video Director, Idaho Peace Officer Standards & Training

1. **Pledge of Allegiance**
2. **Introductions of Council Members and Guest**
3. POST Council Meeting Minutes Approval – March 10, 2016

Lorin Nielsen made a motion to approve the minutes as submitted. Paul Panther seconded, and the motion carried unanimously.

4. POST Special Council Meeting Minutes Approval – March 10, 2016

Greg Wooten made a motion to approve the minutes as submitted. Sharon Harrigfeld seconded, and the motion carried unanimously.

5. POST Hearing Board Meeting – April 7, 2016

- a. Report of Actions Taken
- b. Approval of Meeting Minutes & Ratification of Actions

Paul Panther clarified that item #1 of the minutes had recorded that the Council voted to approve waiver for character issues and motion carried. Panther clarified that the motion was to waive issues as presented at this time and to allow Newcomb to re-apply with a prospective employer. The employer who would then need to sponsor a waiver for any character issues that occurred between now and time of application.

Motion to accept minutes as corrected made by Lorin Nielsen. Paul Panther seconded, and the motion carried unanimously.

6. Steve Umphenour, Direct Care Staff, Idaho Dept. of Juvenile Corrections/Lewiston , Oral Argument on Filed Exception to Recommended Order for Denial of Waiver for Drug Use & Request for Additional Time Until June 30, 2016 to Complete POST Training and Certification Motion.

Lorin Nielsen made a motion to approve waiver. Paul Panther seconded. Opposed by roll call vote were Bennetts, Fuhr & Powell. Motion carried by majority.

7. Erin Landers, Conservation Officer, Idaho Dept. of Fish & Game, Oral Argument on Filed Exception to Recommended Order for Denial of Waiver for Drug Use.

Wayne Rausch made a motion to approve waiver. Sharon Harrigfeld seconded, Opposed by roll call vote were Bennetts, Fuhr, Lavey, Powell, Turman. Motion carried by majority.

Upon discussion as to whether a voting Council member would need to abstain when the matter at hand was related to their respective agency - Dan Chadwick stated that as long as there is no personal interest or personal financial gain, there is no need for a member to abstain from voting.

Leadership/Planning

- 8. POST Division Administrator's Update.** Victor McCraw updated the Council on several staff changes. Management Assistant, Trish Christy has retired effective May 31, 2016 after serving in this position for 31 years. Jolene Santo has been selected as Trish's replacement. Technical Records Specialist, Rhonda Brasher has resigned. A replacement has not been selected, as interviews are forthcoming. However, the two candidates for this position are POST internal applicants, which would cause another vacancy to be filled if one of them is selected. Joe Whilden is working with Human Resources to fill one of 3 coordinator vacancies. In the most recent management meeting, Whilden expressed his concern and the need for more manpower to staff the academies. He has requested that at least one additional coordinator vacancy be filled. Mr. McCraw stated that with the balance of the academy schedule, the need for more manpower and additional funding source opportunities, filling a spot would be justified. Due to overlap of duties between the POST Business Operations Manager and the POST Deputy Division Administrator, a desk audit was performed and determination was made to request that this position be reclassified to a lower level, to a Business Operations Specialist. McCraw hopes to have the announcement published within the next week. POST was informed by the Idaho Bureau of Identification that, effect immediately, we no longer have access to fingerprint results or ILETS reporting. POST is now unable to certify officers. This matter will be discussed today's meeting and very specific direction from the Council is critical. Academy and certification applications are currently being held until a decision on how to proceed with conducting the necessary criminal history screens is made. The POST Staff Meeting was hosted May 13th at the Meridian Police Department, with Chief Jeff Lavey as the keynote speaker. The highlight of Chief Lavey's speech focused on leadership and trust in relationships. He offered his view of POST as Chief and as a member of the POST Council. Victor McCraw expressed the concerns of the POST staff that the members of the POST Council may not understand or appreciate the work they all have to carry out by the decisions that are made at the Council level. Sharon Harrigfeld asked for specific examples of why the staff would feel this way. McCraw explained that because of the recent halt of our ability to perform criminal background checks, application processing has come to a standstill. Without a method of doing business so that, regardless of what is determined by the POST Council, staff will have the ability of accomplishing the processes and applying the rules as they are directed by statute. POST staff work with great pride and effort daily to maintain the standards for peace officers in the state of Idaho. Examples such as enforcement of the two-year agreement to serve, complacency with certain types of waivers that are being approved by the Hearing Board and Council and the numbers of agency requests for exception to POST rule. Members of the Council have requested that specific examples be presented at the next Council meeting. Suggestion was made by Chief Lavey to begin working on a better relationship

between POST staff and the POST Council. Members Harrigfeld and Grigg suggested that orientation information for newly appointed Council members be made available.

- 9. Assessment & Prioritization of Services.** Victor McCraw distributed a handout highlighting duties that POST staff is mandated to do, along with duties that are discretionary customer service functions. We are at a point, financially, that we must prioritize functions and identify the value of discretionary functions. For example, POST retirement cards. Recently, we were unable to send a POST representative to make a personal presentation at an agency head retirement event. This caused hurt feelings but also gave us an opportunity to look at our current customer service provisions. We may need to address and prioritize discretionary POST customer service functions such as the retirement card presentation at some point.
- 10. Funding and Budgeting of POST.** Chairman Fuhr informed the Council that he plans to work with our legislators to help find money sources for future POST funding. With the involvement of Council members Seth Grigg and Jan Bennetts, Fuhr is reaching out to legislators and key stakeholders to form a small committee to bring a plan forward.
- 11. Extraterritorial Authority of Peace Officers.** Lee White, Chief of Police for the City of Coeur d Alene, approached the Council seeking support for proposed change to Idaho Code 67-2337~Authority of Peace Officers. White feels that this change could help improve the fight against crime within communities of Idaho. Currently the code has provisions where Idaho agencies cannot go outside their jurisdictional boundaries. Recently, his department located a fugitive who had a warrant for a violent crime. The fugitive suspect had traveled outside of the local jurisdiction. They were denied permission to cross the boundary to make the arrest. Chadwick recommended that the Council remain neutral and that Chief White take this matter directly to the Chief and Sheriff Associations. No action was taken.
- 12. Idaho Code 19-5108 Procedural Rules for POST Council Meetings.** Victor McCraw stated that after review of Idaho Statute, no change to current rules is needed. POST Council has no necessary rule that dictates the conduct of order for conducting open meetings. No action taken.
- 13. Idaho Code 19-5116 Peace Officer Standards & Training Fund – proposal to include Emergency Communication Specialists.** Kevin Haight provided an update to his December 2015 request for Council support change to Idaho Code 19-5116 Peace Officer Standards & Training Fund. This change would add the inclusion of emergency communications specialists to the POST training funding allocation. Haight stated that the Idaho Public Utility Commission members are committed to this endeavor and have earmarked money that would go directly to

the Idaho Emergency Communication Commission. The PUC is unanimously in support of this proposed change to rule. Michelle Herrera, Treasurer for the Public Utility Commission confirmed that the support is there and the mechanics of the funding are in place. Paul Panther stated that, at this time, POST is not able to provide funding to facilitate the training and certification requirements if this change was enacted. POST funds would have to be divided proportionately if this proposal to mandate certification for communication specialists. Dan Chadwick voiced his concern that POST does not have the resources presently to manage the disciplines already established in rule. No action was taken.

Sharon Harrigfeld suggests recognizing certification rather than making it mandatory. This would take the obligation for funding out of the Peace Officer Funding section. Kevin Haight explained that proposal would include a web based solution for agencies that are not able to send their dispatchers to training. Details would need to be ironed out and proposal in accordance of legislative decision.

- 14. POST Budget Review** Lori Hicks presented the current POST budget review. She stated that POST received from legislature, a total spending authority appropriation of \$4,501,000. Approximately \$4,100,000 of that spending fund is for dedicated funds. The dedicated fund piece is the primary funding for POST operations through fine and fee revenues. In addition to the \$4,100,000 of dedicated funds, we also received \$257,000 spending authority targeted in federal grants and a small amount of spending authority from miscellaneous categories. Hicks provided an expenditure report for the first 10 months of this fiscal year, from July 1, 2015 through April 30, 2016. At the end of April, POST had spent approximately 3, 045, 000 or about 74% of the dedicated fund appropriation. As of the end of April 2016, POST had encumbered \$123,600,000 and about \$13, 300.00 of that is for SIMS guns and radios which are being acquired through trade in of other surplus inventory. There should not be any capital outlay used on this purchased. POST is projected to spend about \$561,000 between now and the fiscal year end on June 30th. If POST proceeds as projected, it is estimated that we will end the fiscal year with excess spending authority of about \$419,000 in the dedicated fund. POST projection for revenue to go towards the dedicated fund for FY16, is on a month to month basis. We started the fiscal year with a combined cash balance of approximately \$728, 000, including both our main dedicated fund and the misdemeanor probation officer fund. Of that \$728,000 nearly \$337,000 was misdemeanor probation funds and \$391,000 was from the main POST dedicated fund. We are projecting to receive approximately \$3, 065,000 in total revenue from all sources throughout this fiscal year. \$72,000 of that is Misdemeanor Probation Officer money, so about \$3.5 million in the main fund. About \$3,776,000 from the main dedicated fund and the MPO fund combined. \$22,000 will be from the MPO fund and most of it, about \$3,754,000 will be from the main fund. That will put the POST fiscal year end cash balance of about \$214,500, not including MPO funds.

Our acquired cash balance from the main dedicated fund is about \$300,000, so if spending and revenues occur as projected, we'll be about \$85,000 short of our target. Chairman Fuhr stated that \$85,000 short is better than what was being projected a few months ago.

Hicks presented an update on funds received from the \$15 fine revenue; this money comes from a court fee designated for POST training purposes, paid by each person found guilty of any felony or misdemeanor or found to have committed an infraction or any minor traffic, conservation or ordinance violation. Hicks reported as received by county each month through the fiscal year. POST received about \$2,267,500 in the first 10 months of this fiscal year. We received about \$2,317,600 during FY15 within the same time period. So as of April 30, 2016, we are about \$50,000 down or about 2.2%. Civil fees and court fee on traffic infractions collected by the court on behalf of the state. Revenues are reported as received by each county for each month of the fiscal year. We received about \$537,400 through April 2016 compared to about \$551,200 in the same period of FY15. We're down about \$14,000 or 2.5%. Revenues for Misdemeanor Probation fees as of April 30, 2016: The 1st one dollar of each monthly payment paid by any person under supervised probation program for a misdemeanor offense. The fees POST received for the first 10 months of FY16 were approximately \$59,300 as opposed to \$61,000 July through April of FY15. Revenues from this source are down about \$1700 compared to FY 15 or 2.7%. Overall, combined, POST has received about \$66,000 or 2.2% less revenue for FY16 compared to FY15. Jan Bennetts inquired as to whether not paying the ILETS criminal background processing fee could save POST money. Hicks explained that comparison would probably be better compared by man hours rather than won't be sum much a dollar savings as a man hour savings. Bennetts would like to have information brought back to the Council to reference. Chairman Fuhr suggests that the POST Council meet to review the projected FY2017-18 budget. Lori Hicks reported that POST was in dire need of new mats only had enough money to purchase mats to cover only half of the gym. Idaho State Police was able to contribute extra year end appropriation money towards purchase of enough mats to cover the entire gym.

- 15. Enforcement & Collection Procedure for Agreement to Serve Contracts.** Lori Hicks presented a written proposal to contract for the purpose of enforcement & collection of 2 year agreement contract. POST currently carries a large amount of debt in settling 2 year agreement owed balance March 2016, POST had 315 open 2 year agreement accounts, totaling over \$700,000 owed.
- 16. Pending accounts to open, totaling over \$173,000.** At the end of this fiscal year, POST will be carrying a little of \$800,000 in two year agreement debt. Lori Hicks

presented proposal to contract with a collection agency to pursue delinquent amounts owed for the POST 2-Year agreement accounts. Hicks referenced a proposal from Collection Bureau Incorporated. CBI has a successful collection rate of 31% on average.

Lori Hicks presented proposed changes to IDAPA 11-1101

081. AGREEMENT TO SERVE.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any ~~peace~~ officer attending such schools or programs or directly or indirectly receiving the aid authorized by Section 19-5109, Idaho Code, shall a POST-funded Basic Training Academy must execute an agreement whereby said officer promises promising to remain within the law enforcement profession, as defined in Subsection 010.276, on a full time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation from the POST Basic Training Academy. Violation of the terms of the agreement will give rise to a civil action which may be commenced by the council for and on behalf of the state of Idaho for restitution of any and all sums paid by the council plus costs and reasonable attorney's fees.(3-30-07)()

02. Fulfillment of Agreement. The agreement will be considered fulfilled if the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho as follows: ()

a. The officer serves on a full-time basis for two (2) years following graduation from the POST Basic Training Academy, or()

b. The officer serves on a part-time basis and provides the Council with documentation substantiating service of 4,160 (four thousand one hundred sixty) hours following graduation from the POST Basic Training Academy.()

03. Disqualifications.()

a. An officer terminated by the appointing agency due to agency budget cutbacks or loss of funding for the position will not owe the Council the amount set forth in the agreement. The appointing agency must provide the Council with a letter stating the officer was terminated due to the agency's inability to fund the position.()

b. An officer forced to resign due to his own or an immediate family member's terminal illness or prolonged debilitating condition will not owe the Council the amount set forth in the agreement. The officer must provide the Council with documentation from the attending physician substantiating the medical condition.()

024. Pay Back Reimbursement. ~~Except as provided below, a~~Any ~~peace~~ officer who fails to remain within the law enforcement profession, as defined in

~~Subsection 010.27, on a full time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation graduates from the POST Basic Training Academy, shall whose employment is terminated prior to their fulfillment of the agreement pursuant to Subsection 081.02 or does not qualify for disqualification pursuant to Subsection 081.03 must be required to pay back to reimburse the Council, the full amount of money set forth in the agreement for their training expenses. For the purposes of this rule, an officer who leaves full time employment in the law enforcement profession and has not worked four thousand one hundred sixty (4,160) or more hours during the two (2) years following graduation from the POST Basic Training Academy shall be deemed to have failed to remain within the law enforcement profession, on a full time basis, for two (2) years following graduation from the POST Basic Training Academy This includes, but is not limited to, any officer who resigns, does not pass his probationary period, resigns in lieu of termination, or is terminated for cause by the appointing agency.(3-30-07)(~~

05. Proration. ()

a. If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho on a full-time basis for less than twelve (12) complete months following graduation from the POST Basic Training Academy, he must reimburse the Council the full amount of money set forth in the agreement.()

ab. If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho excess of on a full-time basis for a minimum of twelve (12) complete months following graduation from the POST Basic Training Academy but less than twenty-four (24) complete months and the officer's work within the law enforcement profession during that period averaged at least one hundred sixty (160) hours per month, the amount owed to the Council under Subsection 081.02 shall be prorated monthly and shall will be reduced proportionately for each complete month worked from the date of graduation in which the officer was employed within the law enforcement profession for at least one hundred sixty (160) hours per month to the date of termination.(4-2-03)()

b. If the officer resigns or is terminated for cause by the appointing agency, he shall owe the Council the amount set forth in the agreement.(3-15-02)

c. If the officer is terminated through no fault of his own by the appointing agency, he shall not owe the Council the amount set forth in the agreement. The agency shall provide the Council a letter stating that the officer was terminated through no fault of his own remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho on a part-time basis, and provides the Council with documentation substantiating a minimum of 2,080 (two thousand eighty) hours service following graduation from the POST Basic Training Academy, but less than 4,160 (four thousand one hundred sixty) hours, the amount owed to the Council will be reduced proportionately for each one

hundred seventy-three (173) hours worked from the date of graduation to the date of termination.(3-15-02)()

~~**03. Pay Back, Part-Time Basic Certificate.** Any peace officer who is awarded a part-time basic certificate who fails to remain employed within the law enforcement profession in a position approved by the Council for the same amount of hours required in Subsection 081.02, shall be required to pay back to the Council the full amount of money set forth in the agreement.(4-2-03)~~

~~**04. Position.** The Council shall approve or disapprove positions on a case by case basis, after affording officers the opportunity to present information as to the duties, nature, and scope of the position.(3-15-02)~~

06. Multiple POST Basic Training Academies. An officer who graduates from more than one POST Basic Training Academy must fulfill a two-year agreement for each academy attended.()

Hicks explained that this change to rule simplifies and clarifies the POST 2 Year Agreement to Serve requirements of, exemptions from and proration for reimbursement of training costs to POST for officers who do not remain in the Idaho law enforcement profession for a minimum of 2 years. Hicks also proposes that POST implement the use of a debtors examination form for any waiver request for 2 year agreements that are based on financial hardship or inability to pay. The completion of this form would be a requirement of the waiver process. The form includes the debtor's income and expense information to determine if they have the means to repay this debt.

Paul Panther stated that we would need to make sure that this proposal goes through the proper purchasing channels and that legalities be clarified in regards to status of limitations be defined in order. Sharon Harrigfeld suggest that Lori Hicks speak with the Department of Juvenile Correction about entering into an collection agreement rather than a collection contract.

Ralph Powell made motion that POST enter into a contract or sales agreement, whichever is appropriate, with a collection agency, and that the contract be directly with CBI, Paul Panther seconded, carried unanimously.

Lori Hicks then presented proposal of change to IDAPA Rule 11-1101 010 26 Definition of Law Enforcement Profession for Agreements to Serve. She stated that this change clarifies the definition of "Law Enforcement Profession" for the purpose of establishing and administering agreements to serve agreements with peace officers attending POST training programs.

010. DEFINITIONS.

02. Adult Probation and Parole Officer. Any employee of the Idaho

Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)

13. **Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility.(3-30-07)

16. **County Detention Officer.** An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)

23. **Juvenile Detention Officer.** Any employee of a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center.(4-2-08)

24. **Juvenile Probation Officer.** Any employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (4-2-08)

26. **Law Enforcement Profession.** As used in agreements authorized pursuant to Section 19-5112, Idaho Code, ~~means an employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole~~ the positions that fulfill the agreement are Peace Officer, County Detention Officer, Communications Specialist, Juvenile Detention Officer, Juvenile Probation Officer, Correction Officer, Adult Probation and Parole Officer, Idaho Department of Juvenile Corrections Direct Care Staff, and Misdemeanor Probation Officer. (4-2-08)(

30. **Peace Officer.** Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho.(4-5-00)

Lorin Nielsen made motion to approve changes as proposed to IDAPA Rule 11-1101 010 26 Definition of Law Enforcement Profession for Agreements to Serve. Shaun Gough seconded, carried unanimously.

Chairman Fuhr present the following dates for approval

17. Future POST Council Meetings.

Chairman Fuhr presented dates for future POST Council Meetings:
September 1, 2016 – Meridian and December 1, 2016 – Meridian
Dates were approved by all.

18. Future POST Council Meetings.

Chairman Fuhr presented dates for future POST Hearing Board Meetings
August 4, 2016 – Meridian and November 3, 2016 – Meridian
Dates were approved by all.

Standards

19. Change to IDAPA 11.11.01.055: Drug Use. Chairman Fuhr presented Proposed change to IDAPA 11-1101 055 Drug Use

This proposed change establishes the minimum absolute prohibition of any marijuana use as one year, and the regular and confirmed use of marijuana as three years, prior to application for POST for training or certification. This a reduction from 3 years absolute and 5 years regular and confirmed use.

055. DRUG USE. 01.Marijuana. An applicant must be rejected who has used marijuana:(4-11-15)

- a. Within the past ~~three (3) years;(3-20-14)~~(____)
- b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the use occurred; or(3-20-14)
- c. On a regular, confirmed basis within the past ~~five (5)~~ three (3) years.(3-20-14)(____)
- d. This prohibition includes use of cannabis, hashish, hash oil, and THC in

both synthetic and natural forms.

Chairman Fuhr stated that overwhelmingly, the Chiefs were opposed to this change. The Sheriffs were unanimously in favor for the proposed changes. By changing this rule, the agency heads will have more discretion when dealing with this matter with their pre-employment screening. Victor McGraw stated that by changing this rule, the agency heads will have more discretion when dealing with this matter with their pre-employment screening.

Motion to accept the change to IDAPA 11-1101 055 Drug Use made by Shaun Gough, seconded by Lorin Nielsen. Opposed by roll call vote by Ralph Powell, Jan Bennetts, Kevin Fuhr and Shane Turman. Motion carried by majority. For the record: Both Fuhr and Turman voted as requested by the Chief's Association.

20. Standards Subcommittee Report

Dan Chadwick presented the following items that were recommended for approval by the POST Standards Subcommittee at their May 16, 2016 meeting:

a. Case Law Summary/Annotation of IDAPA Rules: Definition of “Peace Officer” Paul Panther strongly suggests that the Council look at clarifying the definition of Peace Officer as it is applied in Rule. He will submit a draft of the Case Law study at the next Council meeting. No action taken.

b. Proposed IDAPA Rule: One Certification Standard for All Disciplines to bring all disciplines of Idaho Law Enforcement under one set of established minimum standards for employment.

Dan Chadwick stated the issue of a single certification standard for all disciplines was approved two years ago, but was not implemented at the request of the Idaho Department of Correction.

Motion to accept the change to IDAPA 11-1104 031 as proposed made by Sharon Harrigfeld, seconded by Wayne Rausch and the motion carried unanimously.

c. POST Procedures Review ISP Procedures Opening Decertification Investigations 12.25

B. Definitions

“Credible source information” means ~~any written or verbal source of information~~ that the OPR manager deems ~~reasonable and believable, for further inquiry,~~

verifiable by an independent source, that creates a reasonable suspicion of a violation subject to investigation.

D. Opening a Decertification Investigation from Other Information Sources

1. The OPR manager may initiate a decertification investigation from credible information received from a credible source of substantiated allegations contributing to reasonable suspicion of a violation.

Wayne Rausch made a motion accept and approve changes to Decertification procedures as presented . Shane Turman seconded, and the motion carried unanimously.

d. Peace Officer Status for FBI Officers in Idaho. Paul Panther stated that he had been contacted by a representative from the FBI with an inquiry on how they would go about getting their officer POST certified. Panther recommended that this person contact POST. Victor McCraw confirmed that no one from the FBI has been in contact with anyone from his staff about this matter. Doug Hart clarified that this request comes from a small group of FBI police officers who will be permanently stationed in federally owned facilities in Pocatello are seeking to gain Idaho Peace Officer status. This group of approximately 35, are not FBI agents, they are FBI officers who have the capacity of protecting federal facilities. The FBI information technology center in Pocatello is expanding and because of potential risk factors in that area, this group of Enforcement capabilities when has been brought up before and the Council had frowned upon this request. Paul Panther stated that the Department of Justice has been opposed because of liability issues. Doug Hart will contact the FBI representative who is requesting this consideration to clarify exactly what this group is asking for. No action taken.

- 21. POST's Ability to Conduct Criminal Background Screening.** Dawn Peck of the Idaho Bureau of Criminal Identification stated that she was not aware that POST staff had access and were performing ILETS criminal background checks of POST applicants and law enforcement officers applying for POST certification. She stated that because POST is not the employing criminal justice agency they do not have the authority to run criminal background reporting and that many POST academies across the country are in the same situation. By law, the criminal background report that is run through NICI cannot be shared with another law enforcement agency. That is how the rule stands today. ISP Legal, the Bureau of Criminal Identification and the FBI are presently collaborating to try and find some sort of solution.

Powell pointed out that Idaho Code states that POST will certify that the applicant meets the requirements of employment, which includes that the applicant's criminal background has been screened and meets requirements. It does not

specify who conducts the criminal background check, however, regulations are being reviewed.

Victor McCraw stated that applications for attendance to training academies are stacking up at this time because of the inability to run background checks by POST staff. POST has the responsibility by statute to ensure that this process is carried out.

Paul Panther said that if the applying agency certifies that they have completed the criminal background check on their officer, this could fulfill the requirements set by POST Council.

Chairman Fuhr suggests to building a mechanism that would make the agencies bear the responsibility of verifying, in writing, that they have completed the criminal background check and their applicant has met the minimum requirements set forth by POST.

Victor McCraw stated that POST staff has discovered that agencies did not perform proper criminal background check before they hired someone or that the applicant gets into trouble after the initial pre- employment background check and doesn't disclose this information to the agency.

Dawn Peck suggested that POST direct the agency sponsoring the application to attest that they have performed an updated criminal background check through ILETS.

Dan Chadwick stated that unless a decision is made today, there are officers who are unable to become certified as governed by state rule.

Victor McCraw proposed that the Council consider a temporary rule establishing the requirement for a POST compliance review of each applicant to include a provision for inspection of the hiring agency's background investigation file for the purpose of fulfilling the requirements of Idaho Code. He also informed the Council that working background investigation manual is being put together to serve as a guidance tool for the agency investigators.

Wayne Rausch made a motion to approve going forward with submittal for emergency rule change to IDAPA 11.11.01 Background Investigation. Lorin Nielsen seconded, and the motion carried unanimously.

Training

22. **Patrol Academy: Current Curriculum, Overtime Hours & Proper Compensation.** Jeff Lavey stated that he been approached by several different law enforcement agencies inquire about the rising costs of having to send their officers to POST and some of the other money issues they were having with the accrual of overtime because of the academy. It has been suggested that POST

take a close look at duration of both the Basic Detention and Basic Patrol academies to help alleviate the agency overtime burden. Rory Olsen informed the Council that Bobby Gantt, POST Curriculum Coordinator, is conducting a Job Task Analysis at this time and should be able to project necessary changes, if any to the academy curriculums. Olsen requested that agencies who have not yet responded to the JTA survey, have their input back to POST as soon as possible. The JTA completion target date is July 1, 2017. No action taken at this time.

23. Firearms Training: Ammunition

Chairman Fuhr stated that this discussion had come up at the last POST Council meeting. Victor McCraw estimate of \$100,000 per year was budget for training ammunition. McCraw stated that POST has never purchased a full year supply of ammunition before, so it is hard to estimate. Through the ISP contract, POST is able to purchase at a discounted cost. Individual law enforcement agencies within our state can also purchase their ammunition off of the same contract. Chairman Fuhr asked for discussion regarding having the agencies purchase and supply the ammunition their officers will need for the academy. At a recent Chief's meeting in southeast Idaho, Shane Turman stated that the Chiefs he had spoken to were receptive of this idea. Discussion was had about the reasoning behind duplication of firearms training and cost of ammunition in both the Detention and Basic Patrol academies. Scott Dye, with the Idaho State Police informed the Council that POST training follows the NRA Basic Law Enforcement standards. If the officers are meeting the firearms training standard once, he is not sure why they would need to meet it again. He suggested having the officer who had already certified in firearms in one academy, to possibly be able to challenge another academy.

Lorin Nielsen made a motion to have the agency pay for and supply ammunition to their officer attending an academy, effective immediately, Wayne Rausch seconded, and the motion carried unanimously.

24. POST Basic Probation & Parole Academy – Minimum Attendance

Requirement & Number of Academies Per Year. Victor McCraw informed the Council that IDOC Probation and Parole Academy had not yet established a minimum number of cleared student packets 4 weeks prior to the start of a scheduled academy. McCraw is proposing to hold 2 P&P academies in 2017. Zmuda stated that the P&P caseloads are up, and he anticipates that training academies would be justified, although, turnover rate is always a factor. Mr. McCraw suggested that, instead of making a hard and fast rule, to review this matter on a case by case rule.

Jeff Zmuda made a motion to set minimum attendees to 10 per class with a 4 week application processing/approval deadline. Paul Panther seconded, and the motion carried unanimously.

24. Training Subcommittee Report

Lorin Nielsen presented the following items that were recommended for approval by the POST Training Subcommittee at their May 31, 2016 meeting:

- a. **Request for POST Certified Training Credit:** Lexipol's Web-Based Idaho Law Enforcement Policy Manual & Idaho Custody Manual Daily Training Bulletins. This matter was tabled until the next Training Subcommittee meeting to allow POST staff time to gather additional information on how it works in other states. No action was taken.
- b. **Ada CSO Detention Academy Proposal** was presented by Lt. Scott Johnson of the Ada County Sheriff's Office. Lorin Nielsen reported that the POST Training Subcommittee recommended approval of the concept for Ada CSO to run a standalone detention academy, but did not set a specific time for implementation

Changes to the following POST curriculum performance objectives:

- c. POST Basic Juvenile Detention Academy: Overview of Juvenile Justice
PERFORMANCE OBJECTIVES: Upon completion of this unit of instruction, the student will be able to:
 01. Accurately explain the history of juvenile justice in the United States & Idaho
 02. Define the Four Core Requirements of the Juvenile Justice and Delinquency Prevention Act of 1974
 03. Explain the evolution of juvenile justice in the state of Idaho
 04. Describe the Idaho Juvenile Corrections Act of 1995 and the issues leading up to the passage of the Act

POST Basic Juvenile Detention Academy: PREA PERFORMANCE OBJECTIVES:

Upon completion of this unit of instruction, the student will be able to:

01. Briefly describe the history of PREA and the nine (9) purposes of the Act
02. Explain the purpose of prohibition of sexual abuse in secure facilities
03. Demonstrate the purpose of a Zero Tolerance Policy
04. Demonstrate a detention officer's responsibility to assist in preventing, detecting, and responding to sexual abuse in a secure facility
05. Explain a resident's right to be free from sexual abuse, harassment, and the right to be free from retaliation for reporting sexual abuse/harassment
06. Demonstrate knowledge of the dynamics of sexual abuse in a secure setting
07. Demonstrate steps in detecting and responding to signs of sexual abuse
08. Explain common reactions of victims of sexual abuse
09. Explain the consequences of inappropriate relationships with residents
10. Demonstrate effective communication with residents, including LGBTI youth
11. Identify relevant laws regarding the age of consent
12. Explain and discuss the ramifications of Idaho Code 18-6110

e. POST Basic Patrol Academy: CURRICULUM TITLE:8.3DUI INVESTIGATIONS

UNIT OBJECTIVES: Upon completion of this unit of instruction, the student will be able to:

- 08.03.01 Describe the scope of the problem that a drinking driver presents to the police and the public
- 08.03.02 Identify what physiological conditions a person loses when his/her blood alcohol content exceeds 0.08%
- 08.03.03 Identify how alcohol is classified, and how it effects the human body
- 08.03.04 Identify the type of alcohol found in intoxicating beverages
- 08.03.05 Identify the psychophysical faculty that is first affected by alcohol for most people
- 08.03.06 Explain the purpose for questioning D.U.I. defendants about injuries, illnesses, medications, etc.
- 08.03.07 Identify the three phases of D.U.I. detection
- 08.03.08 List at least five driving characteristics that would indicate a possible DUI driver
- 08.03.09 Explain the purpose of a field sobriety test and how it effects the suspect's attention
- 08.03.10 Identify at least five personal observations that would characterize an intoxicated person
- 08.03.11 Demonstrate each of the standardized field sobriety tests
- 08.03.12 Explain the meaning of "nystagmus"
- 08.03.13 Demonstrate the ability to analyze and interpret information gained by nystagmus testing of an intoxicated person
- 08.03.14 Explain how to score the field sobriety tests and how the score relates to the estimated blood alcohol content (BAC)
- 08.03.15 Explain when an arrested D.U.I. suspect should be searched
- 08.03.16 Explain the necessary evidence, including proper report writing, to successfully prosecute for various D.U.I. offences
- 08.03.17 Explain the legal definition of "physical control of a motor vehicle" in a D.U.I. investigation
- 08.03.18 Explain the "Illegal Per Se" law as it applies to driving under the influence
- 08.03.19 Explain the Implied Consent Law and the options it grants the DUI suspect
- 08.03.20 Identify and explain the elements of I.C. 18-8002 (A)
- 08.03.21 Explain why a person arrested for DUI must be advised of or have read to him the implied consent law, 18-8002, if he refused to submit to a test
- 08.03.22 Explain when the Miranda warning must be given to a person stopped for investigation of D.U.I.
- 08.03.23 Explain what a D.U.I. suspect's rights to consult with an attorney are before submitting to a chemical test
- 08.03.24 Explain Idaho's Implied Consent Law and the various tests for determining intoxication, including the Intoxilyzer and Breathalyzer

- 08.03.25 Explain how long a person's driving privileges may be suspended for refusing to submit to a chemical test
- ~~08.03.26 Explain the procedure for seizing a person's driver's license for failure to submit to a chemical test~~
- 08.03.26 Explain the sections of I.C. 18-8004 and identify which particular groups they are directed towards
- 08.03.27 List the elements of D.U.I., driving under the influence of narcotic drugs, and impaired driving as defined by law
- 08.03.28 Explain the penalties for the offenses of D.U.I., driving under the influence of narcotic drugs, and impaired driving as defined by law
- 08.03.29 Explain the circumstances under which a person may be charged with Aggravated D.U.I.

h. POST Basic Correction Academy: Shotgun

Nielsen reported that the POST Training Subcommittee had voted to recommend removal of the shotgun curriculum from the Corrections academy

i. Proposed Academy Schedule for 2017

PATROL #188	January 08 - March 17, 2017 (G)
CORRECTION #62	January 9 - February 3, 2017 (F)
JUVENILE DETENTION #35	February 12 - March 03, 2017 (H)
PROBATION/PAROLE #23	February 27 - March 31, 2017 (B)
DETENTION # 12	March 13 - April 21, 2017 (F)
PATROL #189	April 09 - June 16, 2017 (G)
CORRECTION #63	April 17 - May 12, 2017 (A)
CORRECTION #64	June 05 - June 30, 2017 (F)
DISPATCH #63	June 18 - June 30, 2017 (B)
DETENTION #73	July 10 - August 18, 2017 (G)
CORRECTION #65	August 07 - September 01, 2017 (F)
JUVENILE PROBATION # 17	July 16 - August 04, 2017 (H)
PATROL #190	August 27 - November 03, 2017 (G)
MPO PROBATION #10	August 30 - September 22, 2017 (D)
JUVENILE DETENTION #36	September 10 - September 29, 2017 (H)
PROBATION/PAROLE #24	September 25 – October 28, 2017 (B)
DETENTION #74	September 25 - November 03, 20 7 (F)
CORRECTION #66	October 23 - November 17, 2017 (A)

Lorin Nielson made motion to accept all items of the Training Subcommittee Report as presented. Jeff Zmuda seconded, and the motion carried unanimously.

25. Pilot Program Update: ISP & Boise PD Academies.

Rory Olsen reported that the Idaho State Police pilot standalone basic patrol academy is progressing very well. The Boise PD program has really picked up in the couple of months and they already have their schedule and upfront paperwork turned in to Jil Nichols. He projects that if approved, he projects that they will be able to begin their academy in July 2017.

Shaun Gough made a motion to adjourn. Wayne Rausch seconded, and the motion carried unanimously.

The meeting adjourned at 2:20 P.M.

Respectfully submitted,

Victor R. McCraw
Division Administrator
Idaho Peace Officer Standards & Training

Vrc/js