

Decertification of Law Enforcement Officers

The Idaho Legislature formally established the Peace Officer Standards and Training (POST) Council at Idaho Code Title 19, Chapter 51. This statute provides that the Chairman of the POST Council is appointed by the Governor and the 13 voting members of the Council are to reflect reasonable geographic balance throughout the state and are to be selected from among the following: Chiefs of Police (3), County Sheriffs (3), the Director of the Idaho State Police, one County Prosecuting Attorney, the Attorney General, the Special Agent in Charge of the Idaho Division of the FBI, the Director of the Idaho Department of Correction, the Director of the Idaho Department of Fish and Game, and the Director of the Idaho Department of Juvenile Corrections, or their designees.

Under the Statute, the POST Council has, among others, the duty and power to

"...establish requirements for employment, retention and promotion of peace officers, including moral standards...and other matters as relate to the competence and reliability of peace officers."

POST Council may decertify any officer who pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment of the following:

(1) Any felony or offense which would be a felony if committed in this state;

(2) Any misdemeanor;

(3) Any unlawful use, possession, sale or delivery of any controlled substance;

or who

(4) Willfully or otherwise falsifies or omits any information to obtain any certified status;

or who

(5) Violates any of the standards of conduct as established by the Council's code of ethics, as adopted and amended by the Council.

Under Idaho Code 19-5113, the Director of the Idaho State Police (within whose jurisdiction the POST Council functions), or his authorized representative, has broad investigative authority and subpoena power, including the authority to administer oaths, take depositions, issue subpoenas to compel the attendance of witnesses, and issue subpoenas to compel the production of documents and other information.

The POST Council's Law Enforcement Code of Conduct is found at IDAPA 11.11.01.091.04 and addresses a law enforcement officer's fundamental duties and expectations, which among others, includes recognition that his position is based upon public faith, his personal and professional conduct, obedience to standards of alcohol consumption, avoidance of illegal drugs, control of personal prejudices and biases, truthfulness, insubordination, and obedience to laws.

Idaho Code requires that when a peace officer resigns his employment or is terminated as a result of any disciplinary action, this action must be reported to the POST Council within 30 days.

There currently are two investigators who work under the direction of POST Training Academy Executive Director Michael N. Becar in investigating matters pertaining to possible decertification of POST certified law enforcement officers. These are retired Garden City Police Chief Ed Parker, and Retired FBI Agent Michael Wright.

The decertification investigations by these two investigators are generally initiated based upon notification from the head of an agency of disciplinary action taken against an officer. A standard procedure has been developed whereby Director Becar and the investigators advise the agency and the individual officer of the initiation of the investigation.

During the course of the investigation any appropriate witnesses both within and outside of the law enforcement agency are interviewed. Any documents needed in furtherance of the investigation are obtained either by subpoena issued by the office of the Deputy Attorney General who works with the Idaho State Police, or based upon a waiver signed by the officer being investigated. These investigations are conducted in a fair and unbiased manner by the investigators. The investigations may take as long as a year to complete depending upon the complexity of the case.

The officer whose conduct is being investigated is always given the opportunity to meet with the investigator in order to present his side of the matter. These interviews are recorded and maintained with the case file.

At the conclusion of the investigation a comprehensive report of the investigation is prepared and presented to Director Becar. After his review, the matter is presented before a hearing board comprised of three members of the POST Council. The officer and any pertinent witnesses are invited to testify before this board. At the conclusion of the hearing the board makes its recommendation for action to the full POST Council.

At any point during the investigation the officer may elect to stipulate to his voluntary decertification. Occasionally the officer is also being charged criminally for the behavior that led to the investigation. In these instances, and if appropriate, it is helpful if the stipulation can be made part of any plea agreement entered into between the State and the officer.

It is not uncommon for an officer being investigated to believe that it is a foregone conclusion that he will be decertified. While it is correct that the majority of the cases result in decertification, not all of them do. Occasionally the discipline administered by the officer's own department is sufficient and the decertification investigation is closed.

It is unfortunate that there has to be a program such as this, but the criminal justice system is founded upon the bedrock of integrity and honesty. When those who work within the system violate the public trust and go against the codes of integrity and conduct, which they have agreed to abide by, there must be a method to restore the proper balance. The decertification process is that method.