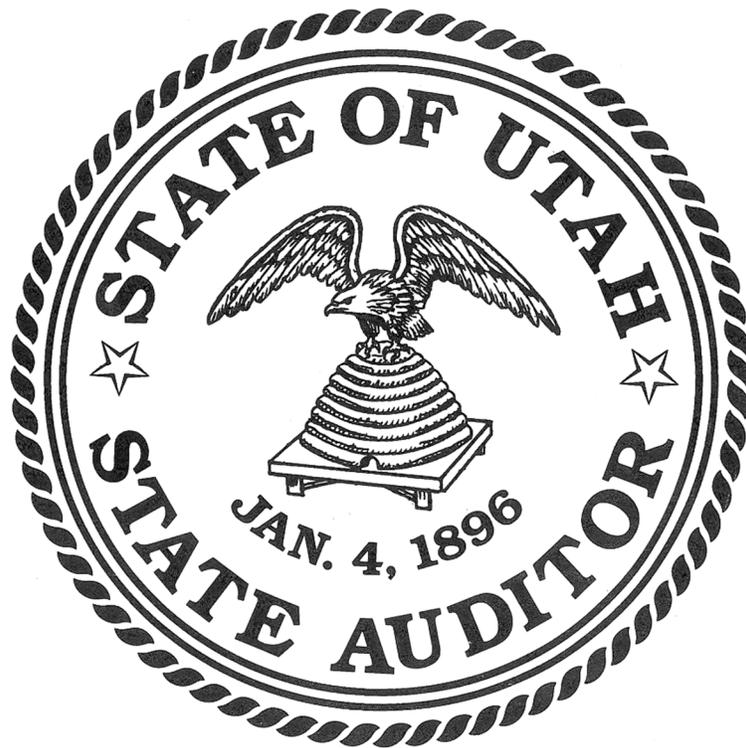


# Performance Audit No. 19-01

## A Performance Audit of Police Officer Standards and Training

January 29, 2019



### OFFICE OF THE STATE AUDITOR

**Leadership:** John Dougall, State Auditor

**Supervisor:** Leif Elder, MPA

**Staff:** Amanda Laws, MPA; Stephanie Dossena, MPA

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# Background

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Peace Officer Standards and Training (POST) is a division of the Department of Public Safety. POST's duty is to "promote and ensure the safety and welfare of the citizens of this state in their respective communities and provide for efficient and professional law enforcement by establishing standards and training for peace officers and dispatchers throughout the state."<sup>1</sup> Additionally, POST's stated mission is to "provide standards and training, leadership and certification for peace officers and dispatchers."<sup>2</sup>

One of POST's primary functions includes investigating complaints of misconduct against certified peace officers. Misconduct is reported to POST by police departments, citizens, anonymous tips, and/or the media<sup>3</sup>. POST reviews the complaints and then opens investigations as necessary.

After conducting investigations, POST provides the details of each case with a disciplinary recommendation to the POST Council. The POST Council considers the facts and recommendations presented by POST to determine an appropriate sanction for the individual under investigation. Regardless of POST's recommendation, the POST Council has the authority to issue any sanction<sup>4</sup> ranging from no sanction to the revocation of POST certification.<sup>5</sup>

The POST Council includes 17 appointments (3 administrative positions and 14 members appointed by the Governor) as follows: three chiefs of police, three sheriffs, three non-sworn (mayor, education, and county commissioner), four at-large (citizens), one Utah Peace Officers Association member (UPOA), and three administrative positions (Attorney General, Utah Department of Corrections, and Utah Highway Patrol).<sup>6</sup> State statute gives the council "authority to suspend or revoke the certification of a peace officer, if the peace officer:

- (a) willfully falsifies any information to obtain certification;
- (b) has any physical or mental disability affecting the peace officer's ability to perform duties;
- (c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;
- (d) engages in conduct which is a state or federal criminal offense, not including a traffic offense that is a Class C misdemeanor or infraction;

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<sup>1</sup> See Utah Code § 53-6-103(3)

<sup>2</sup> POST Mission Statement, <https://post.utah.gov/about-post-2/>, (last accessed 7/23/2018)

<sup>3</sup> See Utah Administrative Rule R278-409-4(1)

<sup>4</sup> POST Council created disciplinary guidelines to "provide guidance regarding the administrative sanctions that may be imposed when a peace officer or certified dispatcher is found to have violated Utah Code § 53-6-211 or § 53-6-309. The intent of these guidelines is to facilitate fairness and consistency; however, the guidelines are not binding." (see, POST Council Disciplinary Guidelines, <https://post.utah.gov/post-council-disciplinary-guidelines-2/> (last accessed 7/23/2018))

<sup>5</sup> See Utah Code § 53-6-211

<sup>6</sup> POST Council Members, <https://post.utah.gov/post-council/post-council-members/> (last accessed 7/23/2018) and See Utah Code § 53-6-106(3)

- (e) refuses to respond, or failing to respond truthfully, to questions after having been issued a warning based on *Garrity v. New Jersey*, 385 U.S. 493 (1967);
- (f) engages in sexual conduct while on duty; or
- (g) is certified as a law enforcement officer and is unable to possess a firearm under state or federal law.”<sup>7</sup>

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<sup>7</sup> See Utah Code § 53-6-211(1)

## Finding 1

# Discipline for Peace Officer Misconduct Appears Lenient

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Administrators of a law enforcement agency<sup>8</sup> are required to report certain misconduct committed by peace officers to POST for investigation. Following its investigation, POST provides a notice of agency action<sup>9</sup> to the POST Council and the council makes the final determination of discipline for each case. The POST Council generally bases discipline on a standard baseline and range adopted by POST Council to facilitate consistency in discipline.<sup>10</sup> However, the POST Council may deviate from the standard baseline, adopting any discipline the council sees fit for a particular case of misconduct.<sup>11</sup>

We reviewed all POST Council's final determinations of discipline for peace officer misconduct over the last eight years. We then compared Utah's peace officer discipline with similar cases in six other states: Arizona, Idaho, Kansas, Montana, Oregon, and Washington.<sup>12</sup> We reviewed several categories of misconduct including:

- Driving under the influence (DUI),
- Falsification of government records,
- Illegal drug possession and use,
- Domestic violence, and
- On-duty sexual conduct.

In each of these categories, Utah's discipline appears lenient compared to other states. For example, revocation<sup>13</sup> of certification is a common discipline received for a DUI in other states. Over the same period, Utah has never revoked a peace officer's license for similar cases of

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<sup>8</sup> Law enforcement agency includes any police department, sheriff's office, Utah Highway Patrol, or any other agency employing peace officers certified by the state of Utah.

<sup>9</sup> A Notice of Agency Action is a formal written notice that is sent to concerned parties which alleges conduct of the peace officer and that an adjudicative proceeding will take place.

<sup>10</sup> POST developed the standard baseline and range under the direction of the POST Council. POST created the baseline and range by compiling like cases for the past several years and essentially creating an average set discipline for each category of misconduct.

<sup>11</sup> Aggravating and mitigating factors may influence the final determination by either increasing or decreasing the discipline given.

<sup>12</sup> These states were selected for analysis because they had the most readily available public information on peace officer discipline.

<sup>13</sup> Each state defines revocation differently: Arizona and Montana revoke permanently, Idaho revokes for a period of ten years, Oregon and Washington may revoke from five years to a lifetime, and Kansas revokes for five years. In speaking with the states where revocation is not permanent, one state indicated that it is uncommon for officers to reapply for certification while the other states indicated that only a handful of officers reapply after the decertification period.

In Utah, revocation is permanent, meaning the individual will never be able to regain peace officer certification or serve as a peace officer in the State of Utah.

DUI<sup>14</sup>, instead opting only to suspend officers' licenses for varying amounts of time (see Figure 1).

We also compared discipline in Utah to other states for peace officers' use of illegal drugs. The only discipline received for illegal drug use in other states was revocation and/or denial of certification. Utah had only two revocations, choosing to suspend in the majority of cases (see Figure 1).

**Figure 1. Utah and Other States' Disciplinary Action for the Past Five Years**

	Utah	Other States
<b>Domestic Violence Assault</b>		
Letter of Caution	0%	0%
<1 year suspension	0%	0%
1 - 3 year suspension	100%	11%
Revocation	0%	89%
<b>DUI</b>		
Letter of Caution	7%	0%
<1 year suspension	13%	7%
1 - 3 year suspension	80%	64%
Revocation	0%	29%
<b>Falsification of Government Records</b>		
Letter of Caution	11%	0%
<1 year suspension	11%	0%
1 - 3 year suspension	78%	5%
Revocation	0%	95%
<b>Sex on Duty</b>		
Letter of Caution	8%	0%
<1 year suspension	8%	0%
1 - 3 year suspension	69%	67%
4 year suspension	15%	0%
Revocation	0%	33%
<b>Use/Possession of Controlled Substance</b>		
Letter of Caution	9%	0%
<1 year suspension	18%	0%
1 - 3 year suspension	55%	0%
Revocation	18%	100%

<sup>14</sup> One peace officer's certification was revoked for a combination of receiving a DUI and lying under *Garrity*. In our sample, we excluded cases that combined multiple offenses in order to create a better comparison across jurisdictions. We also excluded all cases in which an officer voluntarily relinquished their certification as there is no way to know what type of discipline action the POST Council would have taken against that officer. Instead, we were only concerned with cases in which the POST Council actually did make disciplinary decisions, and to what extent the officer was disciplined.

We also looked at cases where peace officers committed acts of domestic violence. The vast majority of domestic violence<sup>15</sup> cases in other states reviewed resulted in a revocation. Utah has not revoked a license for domestic violence in the last five years; instead, it has only suspended officers' licenses for periods ranging from one year to three years (see Figure 1).

POST Council's standard baselines and ranges for discipline are broad and vary widely. Rather than list specific actions, misconduct is categorized in terms of felonies and classes of misdemeanors. Each level of misconduct has a broad range of potential discipline. For example, the range for Category B misconduct, which includes Class A misdemeanors and on-duty sexual conduct, could result in discipline anywhere from a 1.5-year suspension to a revocation.

The result of giving more lenient discipline than other states is that unfit or untrustworthy officers could remain on duty. As such, officers who have DUIs, used illegal drugs, or committed acts of domestic violence<sup>16</sup> are still able to police the community after being given a suspension or letter of caution. In such cases, not only has the officer's credibility been impaired, but lax discipline can undermine the officer's respective agency as well.

## **Recommendations**

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1. We recommend that the POST Council realign the standard baseline and range for discipline and increase the recommended degree of discipline where necessary, consistent with this finding.
2. We recommend that the POST Council increase the degree of the final determination of discipline for peace officers, where necessary, consistent with comparable states.

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<sup>15</sup> We only included cases in our sample where the domestic violence did not happen in the presence of a child. We also excluded cases with additional aggravating or mitigating circumstances in order to have a more accurate comparison across states.

<sup>16</sup> If the peace officer is convicted of domestic violence and the conviction results in the officer no longer being able to legally carry a firearm, the officer could no longer be certified. However, regardless of criminal conviction, POST could still investigate and discipline a peace officer for committing acts of domestic violence.

## Finding 2

# Peace Officer Dishonesty Undermines Credibility and Effectiveness

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Under certain circumstances, the POST Council has statutory authority to suspend or revoke the certification of a peace officer if the peace officer is dishonest. Examples of dishonesty that trigger the council's authority include lying after having been issued a *Garrity*<sup>17</sup> warning or willfully falsifying information to obtain peace officer certification.<sup>18</sup> State statute currently does not allow the POST Council to discipline peace officers for other acts of dishonesty. However, other acts of dishonesty committed by a peace officer may constitute impeachable acts<sup>19</sup>.

The case of *Brady v. Maryland*<sup>20</sup> requires prosecutors to disclose all exculpatory information to the defense. Furthermore, the case of *Giglio v. United States*<sup>21</sup> held that “[w]hen the reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting credibility falls within this general rule.” This rule articulated in *Giglio* requires that, pursuant to *Brady*, information regarding an officer's dishonesty in the course of the officer's employment must be disclosed to defense counsel in a criminal case. Defense counsel may, in certain cases, be able to use this information to impeach the testimony of the officer. In other words, certain acts of dishonesty committed by a peace officer can undermine the effectiveness of an officer's testimony in a criminal case.

Because an act of dishonesty can compromise an officer's ability to fulfill the officer's duties, it is likely important for the governing body of peace officer certification to investigate and discipline officers for this type of misconduct. Several other states require POST investigation and discipline of peace officers for this broader category of dishonesty. For example:

- New Mexico requires reporting of an officer “[c]ommitting acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affects an officer's ability to exercise his or her duties as a certified law enforcement officer.”<sup>22</sup>
- Montana requires POST to consider allegations made against an officer for “willful falsification of any information in conjunction with official duties, or any single occurrence or pattern of lying, perpetuating falsehoods, or dishonesty which may tend

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<sup>17</sup> *Garrity v. New Jersey*, 385 U.S. 493 (1967). An employer may give a *Garrity* Warning to an employee when investigating the employee to determine if misconduct has occurred and whether discipline should be taken against the employee. A *Garrity* Warning assists an employer in discussing information with an employee necessary to investigate the employee, while protecting the employee's constitutional rights against self-incrimination.

<sup>18</sup> See Utah Code 53-6-211.1

<sup>19</sup> In this case, “impeachable acts” refers to acts that may result in rendering an officer's testimony impeachable. An impeachable testimony refers to discrediting a witness's testimony by introducing to the jury actions of the witness that tend to demonstrate the witness's lack of trustworthiness or demonstrate the lack of reliability of the witness's testimony based on the witness's prior dishonest acts.

<sup>20</sup> *Brady v. Maryland*, 373 U.S. 83 (1963)

<sup>21</sup> *Giglio v. United States*, 405 U.S. 150 (1972)

<sup>22</sup> New Mexico Law Enforcement Academy Board Rule 10 NMAC 29.1.11.2

to undermine public confidence in the officer, the officer's employing authority, or the profession.”<sup>23</sup>

Given the broader definition from other states and the fact that dishonesty is an impeachable act, the Legislature should consider amending state statute to grant the POST Council broader authority to suspend or revoke peace officer certification due to dishonesty.

## **Recommendation**

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1. We recommend that POST work with the Legislature and other interested stakeholders to amend state statute to grant the POST Council broader authority to suspend or revoke peace officer certification due to a peace officer’s dishonesty or lack of candor that undermines public confidence or prevents the peace officer from performing the peace officer’s duty.

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<sup>23</sup> Montana Administrative Rule 23.13.702.2(a)

## **Finding 3**

# **Law Enforcement Agencies Failed to Report Some Cases of Misconduct to POST as Required by Law**

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Generally, individual law enforcement agencies have an internal affairs (IA) department that investigates and disciplines officers for misconduct within their agency. Utah Code outlines select categories of misconduct that an agency must report to POST for investigation and, when necessary, POST Council discipline. In a limited review of IA cases from a small sample of law enforcement agencies, we discovered some instances in which law enforcement agencies did not report misconduct to POST, as required by state statute.<sup>24</sup>

We reviewed IA cases from July 2013 to November 2018 at three law enforcement agencies, and gathered and examined documentation regarding misconduct and discipline that occurred. We discovered six IA cases from two agencies that likely should have been reported to POST for investigation but were investigated only by the respective law enforcement agency. The following are examples of misconduct that likely should have been reported:

- Unauthorized, improper use/access of BCI, class B misdemeanor
- Unfit for duty, including lack of decision-making and investigatory skills
- Lying under *Garrity*
- Charged with interference with the visitation of a child, class B misdemeanor

Because these cases were not reported, POST's ability to manage and control officer certification is diminished, and some officers have likely avoided POST Council-imposed discipline against their peace officer certification.

## **Recommendations**

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1. We recommend that POST investigate the previously unreported cases of police misconduct.
2. We recommend that POST periodically audit law enforcement agencies to encourage proper compliance with requirements to report certain misconduct to POST.
3. We recommend that the Legislature determine appropriate penalties and discipline for law enforcement agencies and personnel who do not adequately comply with reporting requirements.

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<sup>24</sup> Utah Code § 53-6-211(6) states that “[a] chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of [Subsection 53-6-211(1)] shall investigate the allegation and report to [POST] if the allegation is found to be true.”

## Information Regarding Past Officer Discipline is Not Readily Accessible to Law Enforcement Agencies

### Finding 4

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When hiring a peace officer, law enforcement agencies often conduct background checks. As part of the background check, the agency may want to find out if POST has previously investigated the peace officer and, if so, the details and outcome of the investigation. Information regarding misconduct can be critical in ensuring that law enforcement agencies hire the best peace officers available. Some law enforcement agencies expressed concern that misconduct information pertaining to previously investigated peace officers is not readily available to law enforcement agencies for hiring purposes.

Law enforcement agencies may check peace officer misconduct via the following methods:

- **Request information directly from POST.** Under this method, the law enforcement agency would first make a GRAMA (Government Records Access and Management Act) record sharing request for any records related to the peace officer in question. POST's initial response would indicate whether POST has ever investigated the peace officer. If so, a representative of the law enforcement agency could contact POST to discuss the matter with a POST investigator.
- **Use online POST resources.** The POST Council meets quarterly and publishes meeting materials (i.e., agendas, minutes, and recordings) to the council's website. This method requires the law enforcement agency to track peace officers who have received discipline from the POST Council by finding and reviewing the meeting materials. Using this method, the law enforcement agency likely will not obtain all of the relevant information that POST would provide through the first method.
- **Access the National Decertification Index (NDI).<sup>25</sup>** The NDI is available to those with memberships on the IADLEST (International Association of Directors of Law Enforcement Standards and Training). The NDI currently contains 25,220 actions reported by 43 states.<sup>26</sup> A law enforcement agency may check the NDI before hiring an officer who had previously worked as a peace officer in Utah or another state; however, the agency must have a membership to check the NDI. Moreover, the information received from the site is very basic, listing the officer's name, POST agency, and a brief reason for suspension or decertification. Further follow-up would likely be needed to find out more information regarding the misconduct.

The process of looking up past discipline is lengthy and cumbersome. This lengthy process could delay the hiring process or discourage law enforcement agencies from taking the time to access

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<sup>25</sup> The purpose of the NDI is to serve as a national registry of certificate or license revocation actions relating to officer misconduct. The records contained in the NDI are provided by participating state government agencies and should be verified with the contributing authority.

<sup>26</sup> See <https://www.iadlest.org/> (last accessed 12/6/2018)

this information at all. Making data more readily accessible for appropriate law enforcement personnel could be helpful for agencies to easily check for prior discipline of peace officer applicants during the hiring process.

## **Recommendation**

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1. We recommend that POST make data more readily accessible to allow law enforcement agencies to check for details related to prior discipline of peace officers for hiring agencies.

## POST Expanded Training to Accommodate Peace Officer Hiring Demands

### Finding 5

Through the course of the audit, several individuals expressed the belief that the waitlist<sup>27</sup> for POST training creates a bottleneck and is one factor that results in a shortage of peace officers in Utah. We looked at POST’s ability to keep up with the increased demand to train additional peace officers, and determined that POST made adjustments to its training schedule to accommodate the increased demand.

There are a few different paths that an individual may take to become a peace officer in Utah. One of the more common paths used by law enforcement agencies is hiring individuals before the individual is a certified peace officer. Once the individual is hired, the agency coordinates with POST to send the new hire through the POST Academy. Peace officer training takes about 15 weeks and includes both Special Functions Officer (SFO) training (5 weeks) and Law Enforcement Officer (LEO) training (10 weeks). Once training is complete, POST certifies the individual, who then begins working for the sponsoring agency as a peace officer.

We reviewed POST’s ability to accommodate the demand for training and certifying new peace officers. POST data regarding the number of certifications issued demonstrates an increased capacity to certify peace officers. Over the last five years, POST has nearly doubled the number of officer certifications (see Figure 3).

**Figure 3 POST Certifications Issued**

Fiscal Year (FY)	Special Functions Officer (SFO)	Law Enforcement Office (LEO)	Total by FY
2014	95	153	248
2015	123	164	287
2016	152	183	335
2017	151	224	375
2018	201	251	452
<b>Totals</b>	<b>722</b>	<b>975</b>	<b>1697</b>

According to POST management, POST is able to accommodate new cadets for training in a timely manner. Cadets are always scheduled in the next available session, with POST recently accommodating agencies submitting a cadet for training just one week before training started. Additionally, POST indicated that its budget allows for only six training classes per year. Despite

<sup>27</sup> The waitlist is like a reservation list that law enforcement agencies use to schedule cadets to go through the POST academy. Often law enforcement agencies reserve slots on the wait list before they actually hire individuals. To ensure effective use of limited capacity, POST encourages agencies to provide names of cadets for the slots the agency has reserved within four weeks of the beginning of a training session. If the agency doesn’t provide a name, the agency risks losing the slot to another law enforcement agency that can provide a name.

these budget constraints, in 2018, POST held eight training sessions and helped coordinate two additional sessions run by local law enforcement agencies.

## **Recommendation**

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1. We recommend POST evaluate whether additional steps could be taken to accelerate the training and on-boarding of peace officers.

# Appendix A      **Audit Scope, Objectives, Methodology, and Limitations**

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We conducted *A Performance Audit of Peace Officer Standards and Training* with the objective to assess POST investigations of peace officer misconduct, as well as to evaluate law enforcement agency compliance with Utah Code requiring agency reporting of peace officer misconduct<sup>28</sup>. Survey work for this audit, which occurred from May 2018 through June 2018, included a review of the following materials:

- Applicable POST administrative rule, policies, and procedures
- Utah Code Sections 53-6-210 and 53-6-211

From June 2018 through November 2018, we assessed the discipline of peace officer misconduct resulting from POST investigations, along with assessing other POST practices and procedures. This assessment included an analysis of the following:

- POST complaint log for 2010-2017 and full investigative reports
- Interviews with POST captain, director, and investigators
- Surrounding states' Ethics Bulletins, disciplinary rules, and best practices
- POST Council disciplinary guidelines
- POST Council quarterly meeting agendas and minutes posted on the POST Utah website

Additionally, in order to evaluate law enforcement agency compliance with Utah Code regarding reporting peace officer misconduct, we selected a judgmental sample of three law enforcement agencies. For each law enforcement agency, we requested and reviewed IA cases for the last five years. For each IA case, we determined whether the law enforcement agency should have reported the case to POST. Finally, we checked to see if the cases that should have been reported to POST were actually reported.

## **Data Limitations**

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In conducting our review of law enforcement agency compliance with reporting peace officer misconduct to POST, individual law enforcement agencies' tracking of IA cases included some vague language and recitation of facts which somewhat limited our ability to evaluate IA cases to determine whether the case should or should not have been reported to POST for investigation.

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<sup>28</sup> See, Utah Code § 53-6-211(6).

## **Appendix B**

### **Response from Police Officer Standards and Training**



## State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

## Department of Public Safety

JESS L. ANDERSON

*Commissioner*

### Peace Officer Standards & Training

J. SCOTT STEPHENSON

*Director*

January 29, 2019

Mr. Elder,

Below, you will find POST/DPS response to the State Auditor's audit findings and recommendations. Please let me know if there is anything you require.

Respectfully,

Scott

### **Recommendation #1**

1. **We recommend that the POST Council realign the standard baseline and range for discipline and increase the recommended degree of discipline where necessary, consistent with this finding.**

The POST staff and POST Council attempt to balance discipline and justice, and be fair and consistent with respect to sanctions imposed. As the audit noted, the Disciplinary Guidelines are approved by the Council. POST's staff strictly adheres to these approved guidelines, while the Council has the discretion to deviate from them. Any initiative to have Utah's disciplinary guidelines conform with those of other states is exclusively within the purview of the Council, rather than POST staff.

It should also be noted that while Utah's Disciplinary Guidelines may be more lenient than those of other states in some categories, they are more severe in others. Each state's disciplinary process varies based on community standards, rules, and laws. For example, as noted in this audit, the term "revocation" is inconsistently used among states. In Utah, "revocation" means the permanent deprivation of a peace officer's certification, which precludes an officer's certification from being reinstated or restored. In other states, however, "revocation" has the same effect as Utah's "suspension."

2. **We recommend that the POST Council increase the degree of the final determination of discipline for peach officers, where necessary, consistent with comparable states.**

The POST staff will present the audit findings concerning the sanctioning practices of surrounding states to POST Council. However, the POST staff has no influence on the Council's final determination of discipline.

## **Recommendation #2**

- 1. We recommend that POST work with the Legislature and other interested stakeholders to amend state statute to grant the POST Council broader authority to suspend or revoke peace officer certification due to a peace officer's dishonesty or lack of candor that undermines public confidence or prevents the peace officer from performing the peace officer's duty.**

POST does investigate officers for lying on government documents, including investigative reports, and under a Garrity warning, as well as certain other forms of dishonesty that rise to the level of criminal activity. POST does not investigate officers for lack of candor or dishonesty that does not rise to the level of a crime.

Nonetheless, a finding that an officer is not credible or has been found to lack candor creates a potential Brady/Giglio issue for officers (as determined by a prosecutor and/or judge). Such a finding will affect officers' ability to perform their duties if prosecutors are not willing to have them testify.

POST agrees it would be useful to create a system for documenting credibility, lack of candor etc. findings, as well as any subsequent exculpatory findings, in a central location, available to prosecutors and future law enforcement employers. Such a system may have the added benefit of insuring complete reporting by departments so POST can review all such cases for potential charges. POST intends to work with stakeholders and potentially legislators toward creating some system to address this issue.

## **Recommendation #3**

- 1. We recommend that POST investigate the previously unreported cases of police misconduct.**

All cases of police misconduct that are brought to POST's attention and meet the standards of a POST investigation are investigated.

- 2. We recommend that POST periodically audit law enforcement agencies to encourage proper compliance with requirements to report certain Misconduct to POST.**

It is unclear whether POST has the administrative and/or statutory authority to conduct audits of law enforcement agencies, especially those outside the Department of Public Safety. Such investigations, without very clear statutory authority, would be met with great resistance from law enforcement administrators and officers.

Further, conducting on-site audits or inspections requires significant resources - well beyond POST's resources at the present time. An off-site, electronic audit would require slightly fewer resources but may increase the likelihood that departments would provide only select files in response to an audit request.

However, should such audit authority and additional resources be provided to POST, POST would conduct the audits and agrees such audits would likely be useful in encouraging compliance with reporting requirements.

**3. We recommend that the Legislature determine appropriate penalties and discipline for law enforcement agencies and personnel who do not adequately comply with reporting requirements.**

POST agrees it would be appropriate for the Legislature to create penalties and discipline for law enforcement agencies and personnel who do not adequately comply with reporting requirements.

POST attempted to add a sanction to the reporting requirement in Utah Code § 53-6-211 several years ago through Representative Greenwood. Law enforcement administrators expressed concern that this legislation might result in them being charged with a class B misdemeanor even when cases were not referred to POST as a result of mere inadvertence, perhaps as a result of a matter being delegated to a subordinate.

As a result of the heavy resistance from the chief's and sheriff's associations to the proposed sanction, POST created an administrative rule designed to hold accountable those who are found to have purposely withheld a violation of Utah Code § 53-6-211. The following administrative rule was implemented:

[R728-409-18. Reporting Violations of 53-6-211\(1\) or 53-6-309\(1\).](#)

(1) A chief, sheriff or administrative officer of an agency employing a certified peace officer or dispatcher who is made aware of an allegation against a certified peace officer or dispatcher employed by that agency as provided in Subsection 53-6-211(6) or 53-6-309(6) shall report the allegation to the division within 90 days if the allegation is found to be true.

(2) A chief, sheriff or administrative officer of an agency employing a certified peace officer or dispatcher who fails to report to the division within 90 days an allegation that is found to be true shall appear before the council at the next regularly scheduled council meeting to explain why the allegation was not reported.

Legislation imposing greater penalties than provided in the above rule would be helpful and welcome. POST will work with law enforcement partners to propose appropriate legislation.

**Recommendation #4**

**1. We recommend that POST make data more readily accessible to allow law enforcement agencies to check for details related to prior discipline of peace officers for hiring agencies.**

POST agrees with this recommendation, but additional software will be required to merge all record systems POST uses for storing officer information, which include Evoka, Acadis, hardcopy, etc. POST believes education and the addition of a "Background Investigator" section on its website will provide hiring agencies the necessary tools for acquiring all relevant candidate background information.

## **Recommendation #5**

- 1. We recommend POST evaluate whether additional steps could be taken to accelerate the training and on-boarding of peace officers.**

POST will continue to identify effective and efficient methods to meet the basic training demand in Utah's law enforcement community. Moreover, POST will continue to solicit feedback and suggestions from the various law enforcement associations and work with the satellite academies to provide law enforcement administrators a viable applicant pool.