



# The UTAH CHIEFS of POLICE ASSOCIATION

2005-2006 UCOPA President  
Chief Ed Rhoades • Heber Police Department

ISSUE NUMBER: 1-2006

P.O. Box 500 Lehi, Utah 84043 • Telephone: (801) 492-7650  
Executive Director: Dr. Frank Budd

## The President's Message

by Chief Ed Rhoades  
Heber City Police Department

The last several months has been very trying and thought provoking. Who are we as Police Officers. What do we stand for and how do we fit into the community around us. I felt the following applies.

### Being a Police Officer

We can't be Police Officers and be like other men! We must be different. Because being an officer means we are a part of a Royal Brotherhood, unlike any other.

This Brotherhood opens door, which, if we are not forthright and have integrity, we will fail and then fall below the standards which have been set for us.

We are examined by the eyes of the whole community, there we must stand taller, be truer, and perform higher than those around us who are watching and judging us because of our actions and position of authority.

As leaders, we will stand by our officers and back them as far as it is legally possible. But to do so, they must be loyal, truthful and willing to honor being a Police Officer everyday of their lives. It should be ingrained into the minds of each officer to use their authority properly and do more than is require of them. It is not difficult to become a Police Officer, living worthy of the trust and respect is! To be a great police officer takes constant effort and work.

As I look back at my career in law enforcement, I have seen officers fall because of integrity, because of values and standards. Have they been taught the values and standards needed to stand above the others, to wear the badge of this brotherhood.

To Close I would like to address a member of the brotherhood that passed from us last November. A prior Chief and President of the Utah Chief's Association, he had a special place in my heart and mind and he will be missed. Marion "Junior" Hammon, was an officer for 38 years for Roy City Police Department and was Chief of Roy City for 10 years.

If you were in leadership during his time in service, you knew Junior. He was outgoing and outspoken, but straightforward. I had the opportunity to work for and learn from Junior. He made an impact as he entered a room with the Hammon strut and that straight forward attitude he always had.

He had a love Law Enforcement and his family. He will truly be missed as one who lived the values and standards needed in Law Enforcement. He stood taller, truer and performed higher than those around.

Thanks Junior Hammon for your forthright stand in Law Enforcement and life!



Chief Ed Rhoades

## IN THIS ISSUE...

President's Message



Executive Director's Message



Conference Agenda and Registration Form



Supervisor Liability



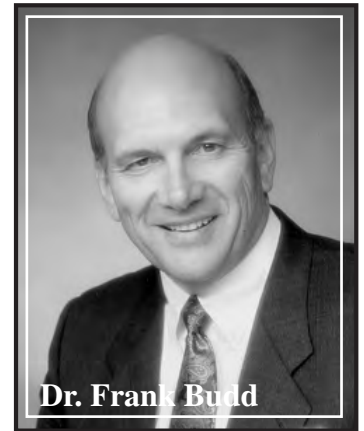
News from the World Wide Web

February 2006



# The Executive Director's Message

by Dr. Frank Budd  
Utah Chiefs of Police Executive Director



## Qualities of Leadership

Last month, the Association hosted its mid-winter conference. It was well attended, and our presenters did a nice job of instructing (and, in some cases reminding) us of the importance of leadership in creating an ethical environment.

Klackamas County Sheriff's Capt. Michael Michado and Lt. Dave O'Shaughnessy, representing the Western Community Policing Institute, highlighted one major research project regarding characteristics of admired leaders. I thought it was a meaningful report, especially since I teach the same material in my policy and leadership presentations!

The project asked thousands of recognized leaders from business, service and other professions, nationally and internationally, what qualities are most important in leaders. The results may not be surprising, but they are meaningful.

In order of importance, the top characteristics were listed as:

- *honesty* ( Can the leader be trusted? Does the leader keep his/her word? Does he/she do what they say they will do?)
- *forward looking* ( People want a leader who has a vision for the organization and their role in that vision.)
- *inspirational* ( For law enforcement, do our people know how important, how honorable, how vital their role is in keeping society safe and civil?)
- *competent* ( One can only "bluff" for so long. The leader must constantly work toward self-improvement, study and, in the case of law enforcement, be aware of the challenges facing those who do the job, everyday.)
- *fair-minded* ( The effective leader must be willing to listen, and willing to reserve judgment until the facts are gathered. Then, he/she must be fair in the treatment of all employees.)
- *supportive* ( The leader must represent those who look to him/her as an example and as one upon whom they can rely for support with all other constituencies.)

Well, there you have it. Probably no surprises, but certainly something we all can consider. Isn't it interesting that HONESTY almost always comes out on top? It seems that people in all walks of life, both within the United States and without, place honesty as their highest priority. Maybe that is the easiest thing any of us can do.

Until next time.... Frank



# CONFERENCE AGENDA

## Monday, MARCH 20, 2006

- 7-8:00 a.m. GOLF TOURNAMENT AT SUNBROOKE GOLF COURSE  
7:00AM-- CHECK IN  
8:00AM-- TEE OFF  
\*Specific questions? Contact Chief Tom Paul at Pleasant Grove PD, 801-785-3506
- 3:00 p.m. POST Council Meeting at Dixie College



## Tuesday, MARCH 21, 2006

- 8:30-10:00 a.m. BUSINESS MEETING
- 10:00-10:30 a.m. TIME FOR VENDORS AND BOOTHS
- 10:30-11:45 a.m. BUSINESS MEETING CONTINUED
- 12- 1:30 p.m. LUNCHEON (sponsored by Spillman Technologies)
- 1:45-5:00 p.m. "CRISIS LEADERSHIP: THE MURDER OF AN OFFICER" presented by Burbank, California Chief of Police Thomas Hoefel and Captain Tim Stehr
- 6:00 p.m. PRESIDENT'S SOCIAL

## Wednesday, MARCH 22, 2006

- 8:30-9:00 a.m. OPENING PRESENTATION
- 9:00-10:00 a.m. UTAH CRIME ANALYSIS (presented by Taylorsville, Utah, Officer Chris Gebhardt, Utah Law Enforcement Analysts Association)
- 10:00-10:30 a.m. TIME FOR VENDORS AND BOOTHS
- 10:30-11:30 a.m. "WHAT EVERY LAW ENFORCEMENT ADMINSTRATOR SHOULD KNOW: LOUDERMILL PRE-TERMINATION HEARINGS" presented by Ken Bradshaw, South Ogden City Attorney
- 11:30-1:00 p.m. LUNCH ON YOUR OWN
- 1:15-5:00 p.m. "INVESTIGATION OF A SERIAL KILLER: THE BTK KILLER" presented by investigator Otis Kelly, Wichita, Kansas, Police Department
- 7:00-9:00 p.m. BANQUET

## Thursday, MARCH 23, 2006

- 8:30AM-12 noon CHIEFS AND SHERIFFS ROUNDTABLE



# Parameters of supervisor's liability for use of force defined in 2 new cases

(See page 89, *Consequences of improper use of force*)

Following a brief pursuit of a possibly stolen vehicle for traffic violations, an officer used his K9 to apprehend the suspect. The officer claimed that the suspect was holding a wrench as the officer approached. However, an IA investigation and review of the in-car video showed that the suspect was not holding a wrench. The suspect ran, despite a warning that the dog would be released. As the suspect hit a pothole and fell, the officer kicked the suspect in the ribs, stepped on the suspect's head and the dog bit the suspect on the elbow and in the face. As the officer was handcuffing the suspect, the dog bit the suspect on the shoulder and on the ear, tearing the ear tissue.

At the time of the arrest, the officer had two prior excessive force complaints resulting in discipline and one pending excessive force complaint, in which the officer was found to have been untruthful and to have used excessive force, but had not yet been disciplined. The IA investigation in the dog bite incident sustained the allegations of excessive force, as well as untruthfulness. A review by a deputy chief and the city's legal counsel resulted in a termination recommendation. The chief determined that none of the IA allegations were sustainable and took no disciplinary action. A lawsuit followed the chief's decision to not act. The court noted that the chief's inaction was never explained in the record. The court refused the chief's defense of qualified immunity and allowed the claims against the chief for his failure to supervise and failure to train to proceed to a jury trial.

There are few legal theories which will allow a chief or supervisor to be held liable for an officer's conduct. A chief may be held liable for the chief's deliberate indifference to training needs, or for actually sanctioning excessive force. Courts have found that a chief who denies an apparently sustainable claim of excessive force has sanctioned the excessive force and may be liable. *Larez v. City of Los Angeles*, 946 F.2d 630 (9<sup>th</sup> Cir.1991). There are two types of situations in which a court can find deliberate indifference in the failure to train police officers. First, a city can be liable for failing to react to repeated complaints of constitutional violations by its officers. *Cherrington v. Skeeter*, 344 F.3d 631 (6<sup>th</sup> Cir.2003). Second, a city may be liable for not providing adequate training in light of foreseeable serious consequences that could result from lack of proper training. *Brown v. Shaner*, 172 F.3d 927 (6<sup>th</sup> Cir.), cert. denied, 528 U.S. 966 (1999). In this case, the court found that the chief was in a double bind; either he knew about the prior history of excessive force, as well as the facts of the present case, or he was deliberately ignorant of what was happening in his own department. *Stone v. Watkins*, 2005 WL 3088352 (E.D. Tenn. 2005).

In the second case, the court ruled in favor of the police executive. Nearly a dozen officers were in foot pursuit of a burglary suspect. The pursuit went through alleys, over fences, and on to a 20 foot high rooftop. As officers struggled with the suspect at the edge of the roof, the suspect tried to pull an officer off the roof. Another officer struck the suspect several times with a metal baton in an effort to keep the first officer from falling to the alley below. Officers were able to secure the suspect and pull him and the falling officer to safety. At the police station, the suspect suffered cardiac arrest (later diagnosed as related to excited delirium and cocaine overdose). His

widow alleged excessive force, claiming that the suspect had done nothing to justify a forceful arrest.

The plaintiff widow relied on a Department of Justice report generally finding a pattern of excessive force in the department. While a well-managed department might reasonably expect a rate of 1 to 2% of arrests to involve excessive force, according to Department of Justice research, this particular department experienced a 12% rate of excessive force in its arrests. Notwithstanding, the court found that the executives of the department had used the Department of Justice report to institute procedural, investigative, and training changes, defeating the claim of deliberate indifference against the chief.

"The overwhelming majority of courts faced with claims of supervisory liability have determined that where responsibility is predicated on inattentiveness rather than affirmative misconduct, the plaintiff must establish a high degree of fault in order to implicate the supervisor in the constitutional infractions of his subordinates." *Haynesworth v. Miller*, 820 F.2d 1245 (D.C. Cir. 1987). To get past summary judgment and qualified immunity for the chief, the widow had to show evidence that the chief had an obligation to supervise or discipline the wrongdoers, that this duty was breached through "gross negligence" or "deliberate indifference" to the precautions necessary, and that this breach was the proximate cause of the constitutional violations that occurred. Importantly, the existence of the duty is "triggered by proof that, absent effective supervision, harm was not merely foreseeable, but was highly likely, given the circumstances of the case." Because the chief had taken the Department of Justice criticisms, considered them, and acted, he was entitled to qualified immunity against the lawsuit and dismissal of all the federal civil rights claims. *Robinson v. District of Columbia*, --- F.Supp.2d ---, 2005 WL 3272067 (D.D.C. December 2, 2005).

This is an excerpt of my monthly legal update found at:  
[www.kenwallentine.com/legal\\_update.htm](http://www.kenwallentine.com/legal_update.htm) I

These two cases happen to deal directly with liability of a chief of police for subordinates' acts. Ken Wallentine

**COMPLETE THIS FORM, PRINT THIS PAGE, & MAIL IN**



**UTAH CHIEF'S OF POLICE  
ANNUAL CONFERENCE**

March 20 - 23, 2006  
St. George, Utah

**REGISTRATION FORM**

Name:			
Rank:			
Agency:			
Address:			
City:	State:	Zip:	
Phone:	Fax:		
E-mail:			

**Conference Registration: \$100.00**

I will be bringing a guest to the Luncheon on Tuesday . . .  Yes  No  
I will be bringing a guest to the Banquet on Wednesday . . .  Yes  No

**Golf Tourney Registration: \$ 65.00 per person.**

Playing:  Yes  No

If yes, how many will be playing golf:

**Total Payment:** \$

**Utah Chiefs of Police Association**

**Send to:**

Chief Kim Hawkes  
North Park Police Department  
2005 North 1200 East  
North Logan, UT 84341

# NEWS *from the world-wide-web*



## False alarms frustrate police

By: Cara Wieser

Issue date: 4/22/04 Section: News

"The Daily Utah Chronical"

It's a case of the boy who cried wolf, according to Chief of Police Lynn Mitchell, and it resulted in the theft of more than four computers from HPER last November.

False alarms, which can take police half an hour or longer to investigate and "clear," often unnecessarily monopolize officers' time.

Mitchell said that with more than 400 alarms on campus, that time can add up quickly, especially because more than one officer is dispatched for each alarm due to safety precautions.

False alarms were especially frequent in the month of November-more than 650 were recorded by dispatchers.

He is, however, assuming responsibility for not responding to any of the 27 alarms that went off at HPER on Nov. 22-several coming from the room being burglarized-which may have prevented the theft of the computers.

Because the alarms went off so often, dispatchers did not notify police.

"It's like the boy calling wolf. Dispatchers got into the habit of ignoring the alarms," Mitchell said.

If police had responded, they might have found the burglar in the act of stealing laptops from a storage area and a desktop from a faculty office.

All of the 27 alarms that day were inaudible, like many of the alarms on campus, making the police department the only agency immediately aware of the alert.

College of Health Dean James Graves questioned Mitchell about the thefts after the incident, and the two are working together with other officials to resolve the problem.

"[The police department] has been very cooperative. The area is challenging for them," Graves said.

The challenges arise from the fact that HPER is a high traffic area.

The building is frequented by athletes, trainers, injury prevention professionals, students using the recreational facilities as well as faculty conducting research or teaching class.

The alarms can be set off by a door left unclosed-often propped open to carry in equipment-or even a door held open one second too long.

continued on next page



# NEWS *from the world-wide-web*



For officers, responding to this type of false alarm is frustrating, and, according to Mitchell, unsafe.

After responding to hundreds of false alarms, Mitchell said, officers get into a mindset about a certain building, believing a false alarm to always be the case.

Because of this, officers may be caught unprepared to deal with a real intruder or may choose not to respond to the alarm at all.

Much of the stolen property has been recovered, and student Chris Norman was arrested and held on \$25,000 bail in February for the alleged thefts of property from HPER, the LNCO and a student housing complex.

Norman has since posted bail and is awaiting further legal proceedings. Mitchell said much of the HPER alarm system has been "reconfigured" to allow for fewer false alarms. However, Graves said the problem still hasn't been resolved completely. "There are still more false alarms than we'd like." He said that a better solution would be to create an entirely new alarm system.

That solution may soon come to fruition. Focus groups such as the Campus Alarm and Access Committee have been working on developing a new system for more than a year and a half, according to Mitchell.

cwieser@chronicle.utah.edu

## **Utah Chiefs of Police Association CHIEFS ANNUAL CONFERENCE in St. George, Utah**

### **Looking Forward to Seeing You in March!**

Dates for next year are: March 20-23, 2006

(Monday - Thursday)

Host hotels are the St George Holiday Inn (<http://www.histgeorgeutah.com/>) and the St George Best Western Abby Inn (<http://www.bestwestern.com/>)



Utah Chief's of Police Association  
P.O. Box 500  
Lehi, Utah 84043



The Utah Chiefs of  
Police Association is  
active on the “Hill”  
in your behalf. Ask  
what you can do  
to help!