

POST BOARD MEETING

RECORD OF PROCEEDINGS

March 1, 2013 10:00 am

The Peace Officer Standards and Training Board held its 382nd Board meeting at the Department of Law, Denver, Colorado with the following in attendance:

BOARD MEMBERS

MR. RONALD BECKHAM
CHIEF MARK BECKNER
TRAINING COORDINATOR SCOTT BLACK
SHERIFF RON BRUCE
CHIEF JOHN CAMPER
OFFICER RAFAEL CHANZA
CHIEF HEATHER COOGAN
EXECUTIVE DIRECTOR JAMES H. DAVIS
COMMISSIONER DAVID DONALDSON
SHERIFF JAMES FAULL
SHERIFF SHAYNE HEAP
SHERIFF CHRIS JOHNSON
CHIEF DANIEL OATES
LEAD INVESTIGATOR GILBERT PERALES
ATTORNEY GENERAL JOHN SUTHERS
CHIEF DAVID WOHLERS
SPECIAL AGENT IN CHARGE JAMES YACONE

BOARD MEMBERS ABSENT

SHERIFF KIRK TAYLOR (excused)
SHERIFF DAVID WEAVER (excused)
CHIEF ROBERT C. WHITE (excused)

BOARD COUNSEL

DIANE DASH, Senior Assistant Attorney General

STAFF MEMBERS

MATTHEW DURKIN, Deputy Attorney General
PETE DUNBAR, POST Director
CRISTINE MACK, POST Investigator
BECKY CALOMINO, POST Grant & Training Manager
TOM MULLEN, POST Compliance Officer
STEFANIE MACKEY, POST Grant & Training Coordinator
LORI JENCKS, POST Administrative Assistant

MEMBERS OF THE PUBLIC IN ATTENDANCE

CAPTAIN ERIK J. BOURGERIE, Summit County Sheriff's Office
DEAN CURD, County Sheriffs of Colorado

DIRECTOR PAUL FREY, Delta-Montrose Technical College
UNDERSHERIFF MONTE GORE, Park County Sheriff's Office
CHIEF DAVID GOTTSCHALK, Fairplay Police Department
DIRECTOR BYRON JONES, Arapahoe Community College Law Enforcement Academy
DIRECTOR DOYLE JONES, Weld County Sheriff's Office
SERGEANT CHRIS JUUL, Aurora Police Department
DEPUTY EDWARD KAFEL, El Paso County Sheriff's Office
LIEUTENANT RICK MCNAIR, Adams County Sheriff's Office
SERGEANT DARREN O'DRISCOLL, El Paso County Sheriff's Office
EXECUTIVE DIRECTOR CHRIS OLSEN, County Sheriffs of Colorado
LIEUTENANT KARL SMALLEY, Adams County Sheriff's Office
OFFICER DAVE SNEILING, Arvada Police Department
SERGEANT IAN STEWART, Larimer County Sheriff's Office
INVESTIGATOR JOHN TUCKER, Weld County Sheriff's Office
DR. ROBERT WELTZER
LIEUTENANT ERIC WITTMAN, Aurora Police Department

The following Subject Matter Expert Committees met prior to the regular POST Board meeting on March 1, 2013.

Arrest Control Subject Matter Expert Committee
Curriculum Subject Matter Expert Committee
Firearms Subject Matter Expert Committee
Law Enforcement Driving Subject Matter Expert Committee

Introductions:

1. Welcome

Attorney General John Suthers

General Suthers welcomed all to the new Ralph L. Carr Colorado Judicial Center and encouraged everyone to visit the Supreme Court and Appellate Court sections of the building.

2. Introduction of Board Members, SME Members, Staff and Guests

General Suthers introduced Matt Durkin, the new Deputy Attorney General of the Criminal Justice section.

3. Formal Board Recognition of Departing Board Members

The Board recognized the contributions of departing members Chief Heather Coogan of the Littleton Police Department, a six-year member, and Special Agent in Charge (SAC) James Yacone of the Federal Bureau of Investigation, a member for two years. Attorney General Suthers presented plaques commemorating their service.

4. Roll Call

Director Pete Dunbar

Declaration of a Quorum

5. Approval of POST Board Minutes for December 7, 2012

Approved Unanimously

Presentations:

6. Subject Matter Expert (SME) Committee Reports

a. *Curriculum*

*Sgt. Darren O'Driscoll, Chairman
Sgt. Graham Dunne, Vice-Chairman
Sheriff Kirk Taylor, Board Member*

The Committee met this morning, and several times since October, working on revisions for the Reserve academy curriculum. The project is nearing its end. Sgt. O'Driscoll expressed thanks to Cristine Mack and Stefanie Mackey of POST for their assistance with the project. The next project is possible revisions to the Refresher academy curriculum. The committee received a letter proposing that animal cruelty investigations should be added to the Basic academy curriculum. The committee did not approve the addition to the required curriculum, but stated that if agencies felt it necessary they could provide instruction in that area using in-service training. Sgt. Marc Weber of Larimer County Sheriff's Office resigned from the committee due to reassignment. Sgt. Ian Stewart of Larimer County Sheriff's Office was approved to replace Sgt. Weber. The committee also approved member Dir. Byron Jones of the Arapahoe Community College Law Enforcement Academy.

b. *Arrest Control*

*Sgt. Richard "JJ" Webb, Chairman
Chief Dan Oates, Board Member*

Capt. Erik Bourgerie of Summit County Sheriff's Office was added as co-chair for the Arrest Control Committee. The Committee reviewed a request from Tim Johnson of Fountain Police Department to be added to Committee membership, and to be recognized as an assistant instructor. The Committee tabled the membership request in order to review the needs of the Committee to determine how many members are optimal. Tim Johnson was not approved as an assistant instructor as he is unable to teach at an academy without further training because he is certified in an arrest control discipline that is not recognized by POST. The committee completed an inspection for Weld County, and the review went well. New site and safety plans for El Paso County, Highlands Ranch, and Trinidad College in Alamosa were reviewed and approved. The committee approved Beck Leider of Jefferson County/City of Lakewood joint Academy, Jeff Armentrout of Larimer County, and Aaron Horwitz of Larimer County as full instructors. The Committee reviewed but did not approve the RFLX Tactical Core curriculum instructor program that was submitted for POST approval. The Committee has tabled their discussion of the Refresher academy curriculum in order to coordinate recommendations with other SME Committees. Review of the Arrest Control Instructor Program is continuing and some recommendations have been made. Submission is scheduled for the September Board meeting. Additional meetings were set for 2013.

c. *Firearms*

Deputy Ed Kafel, Chairman

*Training Mgr John Hood, Vice-Chairman
SAC James Yacone, Board Member*

The Committee thanked Jim Yacone for his service as Board Representative for the Firearms Committee. The Committee approved Brad McKiernan of Denver Police Department as a new member. Colorado Springs Police Department's firearms program was reviewed and approved in January and exceeded POST standards. The new firearms training site for El Paso County at the Cheyenne Mountain shooting complex was approved. The site is a joint venture between El Paso County, Fort Carson and Colorado Parks and Wildlife. On March 21st the Committee will conduct a firearms program inspection at Arapahoe Community College. POST Director Dunbar has been invited to attend the Firearms SME Committee meeting scheduled for April 12th. The current firearms training program, both curriculum and the qualification course, will be discussed at this meeting.

d. *Law Enforcement Driving*

*Lt. Karl Smalley, Chairman
Mr. Al Padilla, Vice-Chairman
Chief Heather Coogan, Board Member*

The Committee thanked Chief Coogan for her time as Board Member for the Law Enforcement Driving Committee. The Committee was able to use the new building's conference call and video resources, and the systems worked well and were appreciated. Inv. Chris Brooks of Mesa County Sheriff's Office was approved as a committee member. Robert Fisher from Western Colorado Peace Officers Association (WCPOA) and John Cole from El Paso County were approved as full instructors and two assistant instructors. The Committee approved the safety plan submitted by Arapahoe Community College for the driving track at the Arapahoe County Sheriff's Office. The Flat Rock Regional training facility located in Adams County was approved. The Driving Curriculum for the Refresher academy was reviewed. The item has been tabled as it requires further research prior to making recommendations to the Board. Director Dunbar and Lt. Smalley will be traveling to Sacramento, CA to review the *SAFE Driving* program that California uses, which is similar to the *Law Officer Magazine's Below 100* program. The Committee will be focusing on training and programs in Colorado to reduce officer fatalities and injuries in driving. The *SAFE Driving* program is impressive, and the program will be reviewed to determine how it, or a similar program, might be implemented in Colorado. There is a test-out scheduled at Denver PD in March. Upcoming inspections have been staffed, and Cristine Mack is planning a surprise inspection in June. The Committee is hoping to have a meeting prior to the September meeting in Pueblo. Six members were present at the meeting, one member via teleconference, and Chief Coogan.

Action Items:

7. Appointment of Driving and Firearms SME Committee Board Member Representatives

General Suthers requested Board member volunteers to replace Chief Coogan on the Law Enforcement Driving SME Committee and SAC Yacone on the Firearms SME Committee. Sheriff Chris Johnson volunteered as Firearms Board representative and was approved unanimously. Chief John Camper volunteered as Law Enforcement Driving Board representative and was approved unanimously.

8. Grant-Funded Training for Civilian Personnel

Director Pete Dunbar

Agencies have requested that POST provide grant-funded training for civilian staff. There was discussion at the work session prior to the Board meeting in September 2012 that ended with general approval for the training of civilian staff, however, there is no official record of the work session. If POST is to provide training, the statute must be changed, as it currently states that we provide grant-funded training for peace officers only, and includes those who are classified as peace officers in the performance of their duties. Originally the grant was designed to train only peace officers, recognizing that funding may not be available to provide training to civilian personnel. It was hoped that POST would be able to expand training to civilian staff in the future. Guidelines state that if there is space available and a peace officer is not displaced, that civilian personnel may take part, referring to existing, applicable classes, not to courses designed specifically for civilian personnel. The statute probably cannot be changed this year, and the Board may need to discuss the issue more fully at the work session in September. General Suthers suggests, with general agreement by the Board, that we operate under the existing guidelines, allowing civilian staff to take part if there is room in a class, and look at changing the statute next year.

9. Grant Policy Approval

Grant Manager Becky Calomino

The grant guidelines from 2009-2010 have been reviewed by Director Dunbar and Grant Manager Becky Calomino. POST will incorporate the policies that have been in place, as well as implement new policies to promote sound grant management, with a focus on compliance with statute, and giving special attention to small and rural agencies. The grant policy revision is nearing completion. At this time Grant Manager Calomino requests that the Board wait to approve the guidelines to allow POST to communicate further with grantees to determine their concerns and possibly make further revisions. There have been concerns about accountability in all areas. The guidelines have been developed to follow the intent of the Act, and to maintain consistent rules and regulations which have not been consistently enforced. This will assist the grantees in complying with award terms of their contracts, and ensure fair treatment for all grantees. Most grant programs require written policies and procedures be established for a good foundation and understanding by the stakeholders. While there does not appear to be any mismanagement of funds, there is some waste which must be addressed. Written guidelines will address those issues directly, with an eye toward expanding the grant program and its funding. Mr. Tom Raynes, the director of the Colorado District Attorneys Council (CDAC), requested that the Board consider changing the statute to allow for administrative costs to be funded. The CDAC has been using grant funds for this type of expense for several years. (Copies of communications by the CDAC and the Central Mountain Training Foundation (CMTF) have been provided to Board members.) POST agrees that there should be a provision for reasonable administrative costs for actual time spent managing the grant as long as there is documentation of time spent. This provision has been included in the new guidelines, to include the cost of developing, delivering and evaluating curriculum. Some grantees have expressed that it is not cost-effective to track time. There is a Grant Training Workshop scheduled on March 6th to review the guidelines and get feedback from the grantees on these issues. It was reiterated that grant funding must be transparent and abide by the statute. CRS §24-31-310 states that the POST Board determines how training dollars are spent. The grant subcommittee (POST Board members Chief Camper, Chief Coogan, Executive Director Davis, Sheriff Taylor, and Chief Wohlers) reviews and evaluates each

proposal and make their recommendations to the Board as a whole. There are approximately two million dollars in grant funds, and as this is a large amount, POST will be audited periodically by the state auditors. These rules must be put in place and greater discipline in compliance is needed by grantees. POST and grantees must come to an appropriate accommodation that errs on the side of accountability to satisfy any scrutiny. Director Dunbar requested an email vote of the Board after receiving the draft of the grant guidelines, in order for new policies to be in effect for the grantees to develop their proposals by the grant proposal due date April 19th. There will be disagreement with the new policy, however the goal is to improve training for Peace Officers in Colorado.

Executive Director Chris Olson of County Sheriffs of Colorado (CSOC), and Training Specialist Dean Curd of CSOC spoke to the Board regarding Grant funding. CSOC has requested in previous meetings with POST staff that the rules be consistent, fair and equitable. Historically CSOC has provided 35-40 POST-funded classes per year. Their goal is to be in compliance with what the Sheriffs and the CSOC Board would like, and to make sure that classes are provided with reimbursement for actual costs. General Suthers states that if there is disagreement after next week's meeting, CSOC should provide information to the Board detailing their issues and concerns.

Monte Gore, Undersheriff of Park County Sheriff's Office, and first vice-chair of the Central Mountain Training Foundation (CMTF) spoke to the Board regarding grant funding. CMTF has met with Director Dunbar and agrees that transparency is crucial. The policy plans sound reasonable. CMTF believes that training of civilian personnel is vital, as many of those civilian employees are hired in order to put a certified officer back on the street. CMTF will have representatives at the training next week.

10. Appointment of Board Member to Grant Subcommittee

Chief Beckner was nominated and approved unanimously.

11. Peace Officer Certification Revocation Actions *Director Pete Dunbar*

POST Rule 9 – Revocation of Peace Officer Certifications – Felony Convictions:

§ 24-31-305, C.R.S.(2)(a) A Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of this section or 24-31-308 shall be suspended or revoked by the POST Board if the certificate holder *has been convicted of a felony at any time*, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305 C.R.S., or, has otherwise failed to meet the certification requirements established by the Board.

For purposes of this rule, the term 'conviction' includes any deferred judgments or deferred sentences imposed by a court or judge.

- 1) No. 12-06, Charles M. Martinez, Certification No. B3968 (PID 113813). On June 5, 2012, Respondent pled guilty to and was convicted of 1 count of ID Theft - Uses Info To Obtain, § 18-5-902(1)(a), C.R.S., a class 4 felony. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: October 5, 2010 –Separated: January 18, 2008)*. The Respondent has failed to comply with POST Show Cause Order 12-06 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar

recommends revocation of Charles M. Martinez's Colorado Peace Officer Certificate No. B3968 (PID 113813).

Approved Unanimously

- 2) No. 12-07, Michael Anthony Mangino, Certification No.10470 (PID 125277). On April 24, 2012, Respondent pled guilty to and was convicted of 1 count of Sexual Exploitation/child-poss Material, § 18-6-403(3)(b.5), C.R.S., a class 6 felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: March 09, 2011 –Separated: September 12, 2011).* The Respondent has failed to comply with POST Show Cause Order 12-07 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Michael Anthony Mangino's Certification No. 10470 (PID 125277).

Approved Unanimously

- 3) No. 12-08, Morgan Michael Sellman, Certificate Number B01617 (PID 124155). On March 27, 2012, Respondent pled guilty to and was convicted of 1 count of Sexual Exploitation Child-video/20+ Items, § 18-6-403(3)(b.5),(5), C.R.S., a class 4 felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: November 11, 2010 –Separated: January 10, 2011).* The Respondent has failed to comply with POST Show Cause Order 12-08 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Morgan Michael Sellman's Colorado Peace Officer Certificate Number B01617 (PID 124155).

Approved Unanimously

- 4) No. 12-09 Matthew Paul Young, Certificate Number B12759 (PID 128470). On July 5, 2012, Respondent pled guilty to and was convicted of 1 count of Felony Menacing-real/simulated Weapon, § 18-3-206(1)(a)/(b), C.R.S., a class 5 felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: October 28, 2011 –Separated: April 9, 2012).* The Respondent has failed to comply with POST Show Cause Order 12-09 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Matthew Paul Young's Colorado Peace Officer Certificate Number B12759 (PID 128470).

Approved Unanimously

- 5) No. 12-10, Jason A. Ulrich, Certificate Number B5645 (PID 115885). On May 18, 2012, Respondent pled guilty to and was convicted of 2 counts of Vehicle Assault - DUI, § 18-3-205(1)(b), C.R.S., a class 4 felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: August 18, 2011 –Separated August 26, 2011).* The Respondent has failed to comply with POST Show Cause Order 12-04 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Jason A. Ulrich's Colorado Peace Officer Certificate Number B5645 (PID 115885).

Approved Unanimously

- 6) No. 12-11, John Diaz, Certificate Number 8015 (PID 126877). On April 3, 2012, Respondent pled guilty to and was convicted of 1 count of Controlled Substance – Possess Meth – 2g/less, § 18-18-403.5(1),(2)/(b)(I), C.R.S., a class 6 felony and 1 count of Prostitution – Soliciting, § 18-7-202, a class 3 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: October 02, 2011 – Separated: August 31, 2010).* The Respondent has failed to comply with POST Show Cause Order 12-11 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of John Diaz’s Colorado Peace Officer’s Certificate Number 8015 (PID 126877).

Approved Unanimously

Informational Items:

12. Supplemental Grant Funding Requests Update *Director Pete Dunbar*

POST has approximately \$800,000 in unspent funds and has submitted a budget modification request for approval for spending authority of approximately \$300,000. POST will have an answer to our request by the end of the legislative session this year. The request has passed the budget analyst’s recommendation, and the first committee meeting. POST is considering various opportunities to use this as training funds, as well as having an amount set aside for unexpected training needs. Currently School Resource Officer training is an unfunded mandate, as is potential Elder Abuse training. If approved POST would like to use the additional funds for these types of training rather than using already allocated grant funds, or agencies using their training budgets. By the next meeting we should have a final answer and will provide a plan and possibly a timeline for use of funds.

13. POST Online Test Update *Director Pete Dunbar*

POST is working with vendor and 3rd party expert to revise the questions. The pass rate of the field test on the questions provided was 50%. POST is scheduling an SME meeting in March to review the existing questions. Field testing of the new questions will take place in April with test-out applicants, and in May and June with basic academy graduates. The current goal is for Fall 2013 implementation of the online test. POST is considering back-up options if the present process falls through. Historically pass rates have been in the mid to high 80% range. Though POST expects the test to be more difficult, it must be an accurate reflection of their learning in the academy and should be commensurate with other public safety examination.

14. Assessment Survey *Director Pete Dunbar*

A survey was issued to academy directors, POST Board members, SME Committee members, and grant training region staff. Improvement in communication was one of the main points brought up throughout the survey, and steps have been taken by POST to that end. POST will continue to work to improve customer service. There was mention by many of the need for a state-wide continuing training requirement. POST may present a recommendation for a training standard at the September Board meeting. POST has identified a need for an interactive database for POST staff and agencies throughout the state to utilize to eliminate duplication of data entry and to improve record maintenance and retention. Texas and California use such systems, which will be reviewed. Development of a system POST can utilize for grant management, training programs, and

appointment and separation notifications is a goal. The survey found that many in the law enforcement community are not aware of the grant funding available for training, or who they can contact in their grant region to apply for funding and to determine what training is available. Better communication and marketing could assist. POST should assist in determining what the regions can develop for training, looking in- and out-of-state to bring best programs, practices and training to the regions. POST staff was complimented for their continued assistance with the survey recipients.

15. Comments from others on POST Issues

Director Dunbar stated that program and rule changes have typically been presented at the September meeting or work session. It has been decided, after discussion with Board counsel Diane Dash, that POST will begin implementing program and rule changes more frequently. Deadlines to submit changes have been given to the SME committees. This will allow for program and rule changes to be implemented on a timelier basis, making the manual a “living” document. Committees will be given approximately four months, which is about the length of time rulemaking takes to complete.

Chief Coogan thanked the Board, and she has appreciated serving on the Board.

16. Adjournment

General Suthers called for a motion to adjourn.

Approved unanimously

Meeting end: 11:25 am (1 Hour 25 Minutes)

Next POST Board Meetings:

Friday, June 14, 2013 – POST Board Meeting – Colorado Dept. of Law

NEW LOCATION: Ralph L. Carr Colorado Judicial Center

1300 Broadway, 1st Floor, Denver CO 80203

Friday, June 14, 2013 – Colorado Department of Law

Friday, September 27, 2013

Pueblo CO

Specific location to be determined