

POST BOARD MEETING

RECORD OF PROCEEDINGS

December 7, 2012 10:00 am

The Peace Officer Standards and Training Board held its 381st 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
SHERIFF KIRK TAYLOR
SHERIFF DAVID WEAVER
CHIEF DAVID WOHLERS

BOARD MEMBERS ABSENT

CHIEF ROBERT C. WHITE (excused)
SAC JAMES F. YACONE (excused)

BOARD COUNSEL

DIANE DASH, Senior Assistant Attorney General

STAFF MEMBERS

MICHAEL DOUGHERTY, 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
SARA SCHODER, POST Intern

MEMBERS OF THE PUBLIC IN ATTENDANCE

MINER BLACKFORD, Otero Junior College
DIANE BRUCE, Hinsdale County Sheriff's Office
DOUG ERICKSEN, El Paso County Sheriff's Office
MICHAEL ESTERS, Larimer County Sheriff's Office
VINCENT FRAKER, La Junta Police Department
ERIC A. GONZALES, Pueblo Police Department
PAUL GREGORY, Adams County Sheriff's Office
CHRIS HALSOR, Colorado District Attorneys' Council
BRIAN HILL, Federal Reserve Law Enforcement Unit
JOHN HOOD, Colorado Parks and Wildlife
SCOTT JARMIN, Adams County Sheriff's Office
DOYLE JONES, Weld County Sheriff's Office
RHONDA JONES, Denver Police Department
ANITA KOESTER, Lakewood Police Department
CATHY LABRECQUE, Pikes Peak Community College
BOB MAJOR, Lakewood Police Department
PAUL MYNATT, El Paso County Sheriff's Office
DARREN O'DRISCOLL, El Paso County Sheriff's Office
STEVE OULLIBER, Aurora Police Department
BOB PENCE, Former POST Board Member, Littleton
TRACY A. QUINN
JOEL SHULTS, Adams State University Police Department
KARL SMALLEY, Adams County Sheriff's Office
DAVE SNELLING, Arvada Police Department
EDWARD M. TRUJILLO, El Paso County Sheriff's Office
JOHN TUCKER, Weld County Sheriff's Office
RICH WEBB, Jefferson County Sheriff's Office
DR. ROBERT WELTZER
ERIC WITTMAN, Aurora Police Department
JANICE WORTHEM, Red Rocks Community College

The following Subject Matter Expert Committees met prior to the regular POST Board meeting on September 28, 2012.

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

2. Moment of Silence for Officer James Davies of Lakewood Police Department

3. Introduction of POST Board Director

Attorney General John Suthers

General Suthers briefly described the required hiring process for a new POST director. There were 68 applicants for the position, and three were interviewed following testing. Pete Dunbar was Chief of Police for six years at the Pleasant Hill, California Police Department, following 24 years with Oakland, California Police Department, five years as Deputy Chief.

4. Introduction of new POST Board Members

General Suthers introduced new POST Board Members:

Term Expiring 6/30/13

Commissioner Dave Donaldson, Logan County

Term Expiring 6/30/15

Sheriff Shayne Heap, Elbert County Sheriff's Office

Mr. Ron Beckham, Retired, Jefferson County Sheriff's Office

Investigator Gilbert Perales, Southern Ute Indian Tribe

Officer Rafael Chanza, Colorado Springs Police Department

Training Coordinator Scott Black, Glendale Police Department

5. Introduction of Board Members, S.M.E. Members, Staff and Guests

6. Formal Board Recognition of Departing Board Members

Recognition and presentation of plaques to Mr. Bob Pence, 15 year member; Lt. Dave Edmondson of Colorado Springs Police Department, 2 years; and Sgt. Louis Dixon of Adams County Sheriff's Office, 3 years. Ofcr. Nicholas Peck was unable to attend

7. Roll Call

Director Pete Dunbar

Declaration of a Quorum

8. Approval of POST Board Minutes for September 28, 2012

Approved Unanimously

Presentations:

9. Subject Matter Expert (S.M.E.) Committee Reports

a. *Curriculum*

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

The Curriculum Committee met in October and November at the El Paso County Sheriff's Office and began revision of the Reserve Academy curriculum. That project is ongoing. The Committee is also discussing revisions to the Refresher Academy Curriculum. The Committee will meet again in February at Jefferson County to discuss and wrap up Refresher Academy and Reserve Academy Curriculum issues, then get back to Basic Academy Curriculum as an ongoing project. The Curriculum Committee is

hoping to meet more often than the quarterly meetings. An email survey was taken by the Committee and at Cristine Mack's request to determine the number of agencies and academies running wet labs as part of the Standardized Field Sobriety Testing (SFST) Program. The majority are running wet labs. Though the training is available in a video format as well, the wet lab method is preferred. Sgt. David Swavely of the Jefferson County Sheriff's Office was approved as a Curriculum Committee member at this morning's meeting. The Committee discussed a proposed Community Awareness Train-the-Trainer class and gave approval for that to be POST approved.

b. Arrest Control

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

The Committee met October 19, 2012 at Jefferson County. Minutes were submitted to the Director. The Committee reviewed inspection of the Community College of Aurora. There were no problems with that inspection. The Committee did a follow-up records inspection & review of the drill training submitted by Pueblo Community College, which was approved. The Committee looked at new site and safety plan for Durango. That site was not approved, and recommendations for changes will be going out. There was a new site and safety plan submitted for El Paso County, however, the site is still under construction. Plans that were submitted are very detailed, but they must submit a video of the completed site for review by the Committee before they conduct any training at that site. Weld County has a new site and safety plan, however, they were not compliant with Rule 21 and that site was not approved. There was no detailed description of site and video showed classroom, but did not offer any clarification on where Arrest Control would be done. Until they have more info, site will not be approved. New course submitted by Jeff Black, Tactical Knife Options, requesting POST approval, was not approved, and was tabled until they have instructors and resumes, as well as lesson plan. The Committee is reviewing Refresher Academy Training Program, which will be submitted after the first meeting in March, to be reviewed for approval in September. The Arrest Control Training Program will be reviewed and changes will be submitted for approval. Membership forms, nondisclosure guidelines, test-out dates, etc. will be reviewed and submitted at a later date.

c. Firearms

*Deputy Ed Kafel, Chairman
Training Mgr John Hood, Vice-Chairman
S.A.C. James Yacone, Board Member*

Vice-Chair John Hood presented report. Since the Board meeting in September, the Committee has conducted inspections for the El Paso County Sheriff's Office, and Otero Junior College Firearms programs. Both were found to be in compliance with POST rules. Firearms Committee has appointed new member Anita Koester of the Lakewood Police Department, and announced the resignation of member Bob Winckler of Denver Police Department due to reassignment. Brad McKiernan has applied for membership to the Committee. Approval is pending based on his appearance at the January 18th meeting. The Committee would like to recognize the assistance provided by POST staff members Cristine Mack and Tom Mullen.

d. Law Enforcement Driving

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

Committee reviewed Pikes Peak Community College revised lesson plan and safety plan for their proposed backup location and found them to be in compliance. Completed inspections for Pueblo Community College and Jeffco/Lakewood Academy and both were found to be in compliance. The Committee approved three assistant Skills instructors & one full instructor. The Committee discussed the refresher academy program and will be making some revisions. Director Dunbar offered information on the SAFE driving campaign that California POST has in place. The Committee will be looking into that program. The Committee reviewed membership guidelines for 2013, and they will remain the same. They would like to get more involvement from agencies on the Western Slope and outlying areas, utilizing conference calling and video conferencing. Hopefully the new building will provide better opportunity. General Suthers suggests we look for appropriate spaces in the new facility to allow for better remote meeting attendance and training opportunities. Sheriff Kirk Taylor asked about issues regarding law enforcement moving toward use of SUVs. Have changes been made? Electronic stability control (ESC) is a new technology which will be a tremendous asset. Lt. Smalley attended a class in Las Vegas in November regarding ESC. He has had the opportunity to experiment a little, they perform well, and the control and stability are very good. Large SUVs are pretty solid and surefooted. When the SUVs become more generally available the Committee will develop the program to utilize the new technology.

10. Colorado District Attorney's Council

*Chris Halsor
POST Training Attorney*

The CDAC is developing a training for law enforcement regarding Amendment 64 and its implications. This web-based program will include a tutorial on the language of Amendment 64, legality under state law as opposed to federal law, how it pertains to probable cause, search-and-seizure, canine searches, contraband, etc. The CDAC hopes to have it developed and online within the next couple of weeks, and will direct communication through POST, the Colorado Association of Chiefs of Police (CACP) and County Sheriffs of Colorado (CSOC). The CDAC is requesting input regarding situations that may need to be considered. Governor Hickenlooper did not issue his executive decision on September 27, 2012, but is expected to do so on October 1, 2012. The Governor is creating a task force regarding Amendment 64. It may follow a pattern similar to the Commission of Criminal and Juvenile Justice (CCJJ) in which there is the task force and several subcommittees offering representation to various groups. There has been no federal response as yet, with no formal position.

Action Items:

11. Formal Board Recognition of the Members of the 2013 Subject Matter Expert (S.M.E.) Committees

Director Dunbar stated all 2013 S.M.E. Committee chairs, Board members, and members, and formally recognized their assistance to POST and to the law enforcement community. A letter of appreciation from General Suthers to each member's agency head will be forthcoming.

12. Peace Officer Certification Revocation Actions

Director Pete Dunlap

- a. POST Rule 9 – Revocation of Peace Officer Certifications – Misdemeanor 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. 12-03, Duff W. Knott, Certification No. 13858 (PID 108899). On December 19, 2011, Respondent was found guilty of 1 count of Harassment – telephone – threat/obscene, § 18-9-111(1)(e), C.R.S., a class 3 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: October 31, 2011 – Separated: June 24, 2011)*. The Respondent has failed to comply with POST Show Cause Order 12-03 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Duff W. Knott’s Colorado Peace Officer Certificate No. 13858 (PID 108899).

Approved Unanimously

2. No. 12-04, Ernest Randolph Forsythe III, Certification No. B11687 (PID 122276). Respondent was found guilty of 1 count of Sexual Contact – no Consent, § 18-3-404(1)(a), C.R.S., a class 1 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: April 8, 2011 – Separated: February 25, 2010)*. 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 Ernest Randolph Forsythe III’s Certification No. B11687 (PID 122276).

Approved Unanimously

- 13. Request for Reinstatement of Basic Peace Officer Certification – Tracy A. Quinn, Sr. #B13045**
On November 11, 2012, POST received correspondence from Tracy A. Quinn Sr. requesting reinstatement of his revoked peace officer certificate.

Chronological Order of Events

- a. January 17, 2007: Tracy Allison Quinn, Sr. was certified as a Colorado Peace Officer
- b. July 21, 2011: Mr. Quinn pled guilty to one (1) count of Assault 3 – Know/Reckless Cause Injury in violation of §18-3-204(1)(a), C.R.S., a class 1 misdemeanor and received a deferred judgment and sentence.
- c. December 2, 2011: Board revokes Mr. Quinn’s certification
- d. July 21, 2012: The court dismissed Mr. Quinn’s case after successful completion of terms of his deferred judgment and sentencing.

Mr. Quinn no longer has a disqualifying misdemeanor conviction and is eligible to seek basic peace officer certification. The Board has the discretion to set conditions on Mr. Quinn's request for reinstatement. The Board could require Mr. Quinn to successfully complete all statutory requirements for basic peace officer certification, including completion of a full basic academy. Or, the Board could allow Mr. Quinn to "renew" his basic peace officer certification, pursuant to Rule 13, including completion of a refresher academy or a skills test-out examination.

Mr. Quinn was in attendance at the Board meeting and requested reinstatement. He explained further about his arrest and the actions following, including the deferred sentence, and requested the Board consider overturning his revocation.

Board Counsel Diane Dash reviewed reinstatement and requirements of reinstatement. Board may choose to require him to go through refresher academy, two-day test-out, or the full academy.

Motion to reinstate providing Mr. Quinn completes two-day test-out.

Approved, one dissent (Faull)

14. Appeal to Board of Denial of Rule 7 Variance – Kyle Bacon

On September 23, 2012 POST received correspondence from Kyle Bacon seeking an appeal to the Board of the denial of his Rule 7 request for variance.

On August 2, 2012, Mr. Bacon requested a Rule 7 variance to attend the Arapahoe Community College fall 2012 police academy. On June 17, 2009, Mr. Bacon was adjudicated a delinquent when he plead guilty to Theft- \$1000-20,000, § 18-4-401 (1) (2) (c), a class 4 felony, and to Trespass 1 – auto w/intent to Commit Crime, § 18-4-502, a class 5 felony.

POST Rule 14 (f) (I) states that a training academy **shall not** enroll any person who has been convicted of a felony or a disqualifying misdemeanor.

Deputy Attorney General Michael Dougherty, as acting POST Director, denied the variance and advised Mr. Bacon that POST could reconsider his request in the event his record is expunged.

POST Rule 7 states that if at least six (6) Board members **do not** agree to hear the appeal, the determination of the Director shall be deemed to be summarily affirmed. If at least six (6) members **do** agree to hear the appeal, the Board shall proceed to the merits of the matter. Any summary affirmance or decision on the merits by the Board shall be deemed final agency action.

Mr. Bacon has not provided evidence that this record has been expunged.

Appeal Denied

15. Formal Rule Making Hearing

*Attorney General John Suthers
Senior Assistant Attorney General
Diane Dash
Director Pete Dunbar*

Rule changes

- a. Summary of proposed POST Rule Changes
Colorado Department of Regulatory Affairs Review/Response
 - i. Rule 10 – Basic Peace Officer Certification
Clarify wording of rule regarding expiration of certification to agree with statute.
- b. Public Comment - None

Approved Unanimously

16. POST Peace Officer Training Project

Grant Manager Becky Calomino

- a. Recipient Eligibility of POST Grant Funds

Ms. Calomino observed that 46% of Grant funds have been granted to not-for-profit agencies, and that statutory language should be changed to include non-profit/not-for-profit. At present, C.R.S. 24-31-303 (3) states that the POST Board may make grants to local governments or to any college or university for the purpose of funding the training programs required by this section. Board should consider changing statute if we wish to continue to disburse funds to not-for-profit agencies. General Suthers will ask Deputy Attorney General David Blake to seek sponsors for statutory change.

- b. Change in Subcommittee

Request increase in number of members on subcommittee from four to five, including at least one rural member. Chief John Camper, Grand Junction Police Department was approached and has agreed to join the subcommittee. Chief Heather Coogan, Sheriff Kirk Taylor, Chief Dave Wohlers and Executive Director James Davis are presently on the committee and will remain as members. There will be a Grant Subcommittee meeting set up within the next month.

- c. Fiscal year 2014 application process

At the beginning of the 2014 grant cycle, POST will conduct an application workshop for grantees and will include requirements such as curriculum and instructor approval as a part of the application review. We will now be looking more closely at curriculum and the instructor expertise. All applications will be due to our office by March 31, 2013. We are requesting a meeting of the Grant Subcommittee in the first two weeks of May. This will be a full-day meeting to review applications, look at course curriculum and instructor expertise. Ms. Calomino will be contacting members to schedule. The goal is to have all Grant funds awarded and contracted by July 1, 2013, at the beginning of the next fiscal year.

- d. Fiscal year 2013 Report

POST has awarded over two million dollars in funds this fiscal year, with the total reimbursed to date of \$365,000 (18%). The slow expenditure rate may be due to contracts going out late and that the grant database was not working properly. We have reached out to grant recipients to determine whether they will be turning back funds. We will know more by January 31, 2013 when their midyear reports are due. Some recipients are delaying drawdowns so they don't have to interact with the software any

more than necessary. We are planning to strengthen contract language and require quarterly drawdowns. Receipts and documentation will be required for reimbursement. There are no advances on funds any longer, with the exception of 5% for administration. We would entertain the idea of a “hardship” waiver for advances, especially for some of the small, non-profit regions.

17. Proposed Supplemental Grant Funding Requests

As mentioned at the last POST Board meeting, POST has approximately \$811,000 for which we do not have spending authority. We will attempt to obtain spending authority from the legislature, by seeking a budget modification request for the fiscal year starting 2013-2014. We will seek funding authority for several items, such as a database system to eliminate redundant data entry and make the system more user-friendly. A new system may also allow agencies to see what courses are POST certified.

Last year POST partnered with LETN with the 30 smallest agencies in Colorado given the opportunity to subscribe with Law Enforcement Training Network. There are other online training providers that may be as good or better, and may offer more contemporary content to allow rural agencies more opportunity.

It is recommended that academy directors and grantees meet on a regular basis in order to better determine status and needs.

Human-Trafficking, Elder Abuse training, Critical Incident Debriefing and Line of Duty Death training are areas in which POST might utilize funds if we can gain spending authority. School Resource Officer Training has been mandated, however, unless we get spending authority there is no funding for that training. There may be additional training opportunities for which funding could be provided.

18. Selection of the 2013 POST Vice-Chairperson

Chief Dan Oates was nominated as 2013 POST Board Vice-Chair.

Approved unanimously

19. Appointment of the 2013 POST Sunrise Review Sub-committee

General Suthers explained what Sunrise Review means for the benefit of the new Board members. He requested volunteers for the Sunrise Committee. The following Board members volunteered and were appointed:

Chief Mark Beckner
Training Coordinator Scott Black
Sheriff Chris Johnson
Sheriff David Weaver
Chief Dave Wohlers

20. 2013 POST Board Meeting – Proposed Schedule

The next POST Board meeting will be the first in the new Ralph L. Carr Judicial Center. We will notify members of the address and contact information.

The September meeting is typically held off-site, hosted by one of the Board member's agencies. Sheriff Kirk Taylor volunteered to host the September Board meeting.

March 1, 2013

June 14, 2013

September 27, 2013- off site- Pueblo CSO

December 6, 2013

Informational Items:

21. POST Online Test Update

Director Pete Dunbar

The progress of the online testing has slowed. The field test results were not satisfactory, with a pass rate of about 50%. POST and Julie Selsberg of CJS are working with the vendor to make sure the questions provided will work with the online format. S.M.E. committee members have assisted on question-writing sessions, and we appreciate their commitment and work. The statistical analysis from the vendor was delayed. Dr. Thomas Haladyna in Arizona, an expert in the testing field, has reviewed the statistical analysis and the test questions, and is assisting with producing a better product. We are not being charged anything further by our vendor at this time. We were hoping to have the online testing in place by early December. We are now hoping for early 2013, however, Director Dunbar is not comfortable predicting a date.

22. 2013 POST Manual Update

Typically, copies of the new POST Manual would be distributed today, however, due to the vote on Rule 10 earlier in this meeting, we will plan to send CDs by the end of the year. There are fairly minimal changes, so we recommend referring to the 2012 Manual.

23. Recognition of Intern Sara Schoder

Presentation of plaque of appreciation to intern Sara Schoder.

24. Comments from others on POST Issues

Director Joel Shults, Chief of Adams State University Police Department, commented on the Grant funding from the perspective of the Southern Colorado community. There is a six county area with an approximate population of 40,000 with about 200 police officers. There is no full-time training staff and the grant funding received has not met the long-term needs of the region. Funding is perceived to be limited to classroom training, and it is difficult for the region to provide the number of students needed to make the classes cost-effective. Director Shults would like to see the Board be open to Grant funding for research and development of materials that could be used in a library over a long period of time and would have a longer-term effect, rather than providing seminars which are poorly attended, and less useful due to employee turnover. Becky Calomino will consider the issue and look into options.

General Suthers recognized Michael Dougherty, Deputy Attorney General of the Criminal Justice Section, who is leaving the Attorney General's office on January 7, 2013 to become the Assistant District Attorney for Jefferson County.

General Suthers requested members of agencies take and distribute boxes of Identity Theft kits as they are able.

25. Adjournment

General Suthers called for a motion to adjourn.

Approved unanimously

Meeting end: 12:06 pm (2 Hours 6 Minutes)

Next POST Board Meetings:

Friday, March 1, 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

Effective *January 22, 2013*, Colorado POST will operate from the Ralph L. Carr Colorado Judicial Center. The *new address and phone number* will be:

Colorado Department of Law
Criminal Justice Section, Colorado POST
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 9th Floor
Denver, Colorado 80203
720-508-6721
720-508-6000 Department of Law - Main