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**Peace Officer Standards and
Training**

**STATE OF COLORADO
DEPARTMENT OF LAW**

**POST BOARD MEETING
RECORD OF PROCEEDINGS**

*Friday, March 26th, 2021
10:00 AM – 12:00 PM*

The Peace Officer Standards and Training Board held its 413th Board Meeting.

Via Zoom Videoconference

BOARD MEMBERS PRESENT

SENIOR INVESTIGATOR TONYA BARNES, Eighteenth Judicial District
DEPUTY DISTRICT ATTORNEY ASHLEY BECK, Denver DA's Office
CHIEF CORY CHRISTENSEN, Steamboat Springs Police Department
CHIEF GREGORY DALY, Avon Police Department
CHIEF GEORGE DINGFELDER, Monte Vista Police Department
CHIEF DEBRA FUNSTON, Palisade Police Department
EXECUTIVE DIRECTOR STAN HILKEY, Colorado Department of Public Safety
SUSAN "ZEKE" KNOX, United States Attorney's Office
DEPUTY SHANNON LOFLAND, Arapahoe County Sheriff's Office
SHERIFF ANTHONY MAZZOLA, Rio Blanco County Sheriff's Office
SHERIFF SHAWN MOBLEY, Otero County Sheriff's Office
CHIEF CLINTON NICHOLS, Commerce City Police Department
SHERIFF STEVE NOWLIN, Montezuma County Sheriff's Office
SHERIFF JUSTIN SMITH, Larimer County Sheriff's Office
JANE QUIMBY, Public Member
BRADLEY TAYLOR, Public Member
ATTORNEY GENERAL PHIL WEISER, Colorado Department of Law
COUNCILMEMBER WAYNE WILLIAMS, City of Colorado Springs

BOARD MEMBERS EXCUSED

SERGEANT LONNIE CHAVEZ, Grand Junction Police Department
DR. KARA HOOFNAGLE, Public Member
CHIEF JOHN MINOR, Silverthorne Police Department
SPECIAL AGENT IN CHARGE MICHAEL SCHNEIDER, FBI- Denver
SHERIFF ANTHONY SPURLOCK, Douglas County Sheriff's Office

BOARD COUNSEL

COLLEEN MOREY, Sr. Asst. Attorney General

POST STAFF MEMBERS PRESENT

BOB BAKER, Training Manager
ERIK BOURGERIE, Director
SUSAN CARTER, Grant Coordinator
MEGAN DIMPSEY, Program Assistant
STEVEN ECKELBERRY, Compliance Investigator
VICTORIA EDSTEDT, Administrative Coordinator
DAN GRIFFIN, Training Coordinator
KIM HERNANDEZ, Grant Manager
JANELLE MOORE, Compliance Coordinator
DAN OSTRANDER, Training Coordinator
JARED TORSNEY, Marijuana Training Specialist
CATHERINE RODRIGUEZ, Compliance Manager

MEMBERS OF THE PUBLIC IN ATTENDANCE

INVESTIGATOR MEGAN ALSTATT, Garfield County SO & Member Curriculum SME
Committee
UNDERSHERIFF QUINN ARCHIBEQUE, Delta Co. Sheriff's Office & Member, Driving
SME Committee
SERGEANT TROY BADBURG, Larimer Co. Sheriff's Office & Member, Curriculum SME
TUESDAY BLACK, Court Project Monitoring Specialist, MAAD Colorado
SERGEANT COREY CHILDERS, Member GMTR Board
JANET DRAKE, Deputy Attorney General, Criminal Justice Sect., COAG
VINCE FRAKER, Academy Director, Otero Community College
PAUL GREGORY, Chairperson, Firearms SME Committee
JANET LARSON, Chair POST Curriculum SME Committee
CATHERINE LEBRECQUE, Director, Pikes Peak Law Enforcement Academy
KATHLEEN MITCHELL, Director, Front Range Community College Law Enforcement
Academy
COMMANDER CHRIS PETERS, Parker Police Department, Member GMTR Board
LEE REEDY, Training Coordinator / Academy Director, Colorado Rangers
JEFFREY SANCHEZ, Training Coordinator, GMTR
KATHRYN SHEELY, Attorney for Brad Viner
COMMANDER KARL SMALLEY, Adams Co. Sheriff's Office & Chairperson Driving SME
Committee
MATT SMITH, Administrative Commander, Montrose Police Department
OFFICER KEVIN SMYTH, Vice-Chair, Arrest Control SME Committee
BILLY STROUP, Montrose Police Dept., Director, Western Colorado Law Enforcement
Academy
SERGEANT JEFF VANHOOK, Larimer County Sheriff's Office & POST Curriculum SME
Committee
BRAD VINER

JANICE WORTHEM, Colorado Department of Public Safety

1. Welcome Attorney General Phil Weiser

- a. Moment of Silence for Officer Eric Talley, Boulder PD, victims, and families of those affected by events of March 22, 2021

2. Pledge of Allegiance Attorney General Phil Weiser

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

4. Roll Call Director Erik Bourgerie

5. Approval of POST Board Meeting Minutes from December 11th, 2020 Attorney General Phil Weiser

- Councilmember W. Williams moves to approve
 - Seconded, Sheriff S. Mobley

Motion Carries Unanimously, Minutes Approved for 412th POST Board Meeting

6. Election of Vice Chair Attorney General Phil Weiser

- Sheriff A. Mazzola nominates Sheriff Anthony Spurlock
 - Seconded, Investigator T. Barnes

Motion Carries Unanimously, Sheriff Anthony Spurlock elected Vice Chair

7. Subject Matter Expert Reports

a. Arrest Control Vice Chair Kevin Smyth

In meetings held January 3rd and March 26th

- Elected Kevin Smyth as Vice Chair, selected to give report to POST Board due to absence of Chairperson Ivan “Ike” Beers
- Selected Deputy Jeff Black of Boulder Sheriffs Office to SME Committee
- Approved nine Full Skill Instructor Applications
- Began reviewing two new Arrest Control Program Submission from Western Colorado LEA and CMC Summit Academy

b. Curriculum Chair Janet Larson

In monthly meeting (due to volume of reviews) on March 26th

- Approved entirety of Fort Collins Academy, including the Site Safety plans
- In process of reviewing Western LEA
- Reviewed a new a course on instructional methodology, was sent back for additional information

c. Driving

Commander Karl Smalley

In meeting on March 26th

- Reviewed Arapahoe County Sheriff's Office Driving program, revisions provided by Shannon Lofland
- Approved 11 new Full Skill Instructor Applications
- Received new Site Safety Plan for Northern Colorado Law Enforcement Training Center, awaiting video submission
- Preparations for test scheduled in Grand Junction
- Test Out scheduled for previous week cancelled due to inclement weather

In recognition of Alfonso Padilla, retiring Driving SME Committee member, the following was read into the record

"It is with great honor that the Driving SME Committee recognizes retired Sergeant Alfonso Padilla for his many years of service in Colorado Law Enforcement as a distinguished member since 1987. Sgt. Padilla began his career with the Lakewood Police Department on August 8th, 1975. He quickly gained respect from his peers and supervisors and became a driving instructor within a year of joining the department. He remained dedicated to the driving instructions for 35 years, gaining the status of Subject Matter Expert and becoming the Chair of the POST SME Committee. He often to volunteer to assist other departments with their driving programs as well.

He was promoted to Sergeant in 1980 and earned a medal for distinguished service after a pair of brothers, wanted for multiple murders, robbed Freddie's Lounge on West Colfax Avenue. A chase was initiated, and the brothers were captured with no injuries to any officers. As a Sergeant, he rotated through many areas of the department, including Patrol Administrators Services, the Director's Office, and the Juvenile Unit. During that time he was responsible for introducing the Drug Abuse Resistance Education Program to the department and Lakewood Schools. He received a Directors Commendation in 1986 for contributing numerous hours to provide leadership to young adults in the Jefferson County All Star. He instituted the Christmas Crusade for Children from the Lakewood Police Department, and served as a coordinator for Special Olympics Colorado, as well as working with other area schools on various community projects.

All this great work over the past years culminated in his induction into the Lakewood Police Dept. Hall of Fame in 1990. Sergeant Padilla truly represents the values of excellence in service, pride, and professionalism. He made the Driving SME Committee a better organization during his 33 years of service. His loyalty, dedication, and sense of humor will be greatly missed. The Driving SME Committee and the Colorado law enforcement community express their appreciation for his service and wish the very best for his retirement."

D. Firearms

Commander Paul Gregory

In meetings previously held this year to date:

- Approved five Full Skill Instructors applications for the committee
- Completed three skill test-outs

- Completed one Firearm academy approval for Western Colorado Law Enforcement Academy
- Continuing work on January 1st revisions of the Handgun Instructor Program to be made consistent with the Academy Firearms Training program, to be tentatively completed by June 2021
- Member Mark Dix, CO Springs Police Dept. has retired after five years of distinguished service.

8. Request for Revocation Appeal Bradley Viner

Director Erik Bourgerie

(see supplemental handout)

Mr. Bradley Viner [Cert. No. B10461, PID 100390] appears today represented by Counsel Kathryn Sheely, to request a Revocation Appeal in Matter No. F20-04. In hearing questions on this matter, the board allowed for five minutes of questioning before determination to grant the appeal.

- Sheriff S. Mobley moved to recuse himself, due to knowledge of the case in question
 - Recusal accepted
- Member B. Taylor posed question regarding previous conviction for Theft as outlined in report.
 - Respondent Viner responded that the issue in question regarded a “bad check”, classified in Texas as “Theft by Check”. Respondent further state he was unaware of the issue until contacted by Texas LEOs, and to his knowledge was not given any prior notice.
- Sheriff J. Smith moves to deny the Revocation Appeal
 - *Point of Order: Only motions to accept the Revocation Appeal are in order. Unless the board is so moved, the appeal will not be heard, and board shall proceed to the revocation action.*
- Councilmember W. Williams inquires into reasoning for not approving the request for an appeal.
 - Atty. Gen. P. Weiser responds that the appeal has come after the Show Cause hearing already given before Director Bourgerie. The Board is at its discretion to accept an appeal to the finding of the Show Cause hearing.
- Councilmember W. Williams further asks as to precedent regarding deferred judgment
 - Director E. Bourgerie responds that per C.R.S. 24-31-305 1.5 (b), deferred judgments count as a revocable charge under the revocation statutes, regardless of pending status or completion of deferment.

Seeing no motions to accept the revocation appeal, the initial finding in Matter No. 20-04 shall stand.

9. Peace Officer Certification Revocation Actions

Director Erik Bourgerie

(see supplemental handout)

POST Rule 9 - Revocation of Peace Officer Certifications: Pursuant to § 24-31-305(2)(a), C.R.S., 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. A Colorado peace officer certification may also be suspended or revoked if pursuant to § 24-31-305(2.5), C.R.S., a law enforcement agency has found, by clear and convincing evidence, that the certificate holder has knowingly made an untruthful statement concerning a material fact while testifying under oath, or during an internal affairs investigation or comparable administrative investigation; or knowingly omitted a material fact on an official criminal justice record, or has otherwise failed to meet the certification requirements established by the Board. For purposes of this Rule 9, a deferred judgment and sentencing agreement, deferred prosecution agreement, or pretrial diversion agreement concerning a felony or any misdemeanor described in (1.5) of § 24-31-305, whether pending or successfully completed, also support the suspension or revocation of a Colorado peace officer certification.

Felony Convictions:

1. No. F20-04, Bradley S. Viner, Certification B10461 (PID 100390). On June 29, 2020, Respondent was granted a deferred judgement after pleading guilty to one count of §18-8-407, Embezzlement of Public Property, a Felony, in Case No. 19CR222 in the County Court of Otero County. The respondent was employed as a peace officer on the date of the offense (Dates of Offense: October 1, 2017 through September 1, 2018, Bent County Sheriff's Office, Separated January 7, 2019). The respondent has complied with POST Show Cause Order No. F20-04 by appearing at the scheduled Show Cause Hearing on September 1, 2020. Director Bourgerie recommends revocation of Bradley S. Viner's Colorado Peace Officer Certification B10461 (PID 100390).

- Sheriff J. Smith Moves to vote on the matter
 - Seconded, Sheriff. S. Nowlin

Board votes unanimously to revoke Certification B10461

*The certificate holders in the following matters did **not** appear at the show cause hearing or indicate any intent to oppose the revocation. Unless any member objects and asks to consider one or all these matters separately, they will be considered by this Board as a group.*

Misdemeanor Convictions:

1. No. M20-05, Billy J. Calder, Certification (PID 138254). On September 2, 2020, Respondent accepted a deferred sentence plea agreement after pleading guilty to one count of §18-3-204 (1)(a) Third Degree Assault-know/reckless cause injury, a misdemeanor, in Case No. 20M163 in the Alamosa County Court. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: June 03, 2020). The respondent has failed to comply with POST Show Cause Order No. M20-05 by failing to appear at the

scheduled Show Cause Hearing on November 9, 2020. POST Director Erik J. Bourgerie recommends revocation of Billy J. Calder's Colorado Peace Officer Certification (PID 138254).

Untruthfulness:

1. No. U19-03, Troy Morgan, Certification (PID 138286). On November 21, 2019, Town of Springfield Police Department notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an administrative investigation or disciplinary process on September 6, 2019 (Date of Separation: September 13, 2019). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Troy Morgan's Peace Officer Certification (PID 138286).

No. U20-12, Juan Garcia, Certification (PID 7415-7911). On October 20, 2020, Louisville Police Department notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact OR knowingly omitted a material fact during an internal affairs investigation and during an administrative investigation or disciplinary process on August 17, 2020 and August 20, 2020 (Date of Separation: August 28, 2020). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Juan Garcia's Peace Officer Certification (PID 7415-7911).

3. No. U20-14, Gary Wyberg, Certification (PID 128501). On November 16, 2020, Pueblo Police Department notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact OR knowingly omitted a material fact on an official criminal justice record, during an internal affairs investigation and during an administrative investigation or disciplinary process on April 19, 2020 and April 24, 2020 (Date of Separation: August 19, 2020). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Gary Wyberg's Peace Officer Certification (PID 128501).

4. No. U20-17, Todd Hauck, Certification (PID 138951). On December 4, 2020, El Paso County Sheriff's Office notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact OR knowingly omitted a material fact on an official criminal justice record between February 01, 2020 and October 18, 2020 (Date of Separation: November 5, 2020). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Todd Hauck's Peace Officer Certification (PID 138951).

5. No. U20-18, Mark Smock, Certification (PID 3417-9997). On December 15, 2020, Grand Junction Police Department notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact OR knowingly omitted a material fact during an internal affairs investigation between September 19, 2019 and May 13, 2020 (Date of Separation: August 27, 2020). The respondent did not request a Show Cause Hearing regarding this matter. POST Director

Erik J. Bourgerie recommends revocation of Mark Smock's Peace Officer Certification (PID 3417-9997).

- Sheriff S. Mobley moves to consider these pending revocation matters as a group
 - Seconded, Chief. D. Funston

Board votes unanimously to revoke the following Certifications

- **PID 138254**
- **PID 138286**
- **PID 7415-7911**
- **PID 128501**
- **PID 138951**
- **PID 3417-9997**

10. Rulemaking

POST Counsel Colleen Morey
Director Erik Bourgerie

POST Administrative Coordinator Victoria Edstedt has confirmed audio recording of POST Board Rule Making Hearing for March 26th, 2021, at 10:50 AM, Mountain Daylight Time

POST Board Members, POST Staff, and Attorney General Phil Weiser are in attendance and have previously introduced themselves in the record.

The Proposed rules to be addressed today were filed with the Secretary of State on January 29th, 2021 for review and were published in the January 29th version of the register to comply with statutory requirements. The POST Board has 180 days in which to adopt the proposed rules. After adoption, the proposed rules will be forwarded to the Office of the Attorney General with a request for an opinion on constitutionality and legality of the rule. On or before the 20th day following the adoption of the rule, the rules and the Opinion will be filed with the Secretary of State for publication in the register. On or before the 20th day following the adoption of the rule, the rules will be filed with the Legislative Legal Services as required by law. The adopted rules shall become effective 20 days after publication of the register or on the later date set by the POST Board.

Director Erik Bourgerie summarizes the rules and amendments as follows;

- (1) Proposed Amendment to "Rule 5: Hearings" to
 - (a) rename "non-revocation hearings" to "show cause hearings"
 - (b) addition of an appeal process for fines or other administrative sanctions applied by the Office of the Attorney General, as well as more clearly defining and setting forth in a more organized fashion the different types of POST-involved hearings and their processes
- (2) Proposed Amendment to "Rule 8: Process for Seeking Exemption from Statutory Certification Restrictions" to

- (a) provide the ability to seek exemption from Certificate Denial or Reinstatement of Certification, as well as the process accompanying such a petition, via a written submission
- (3) Proposed Amendment to “Rule 9: Revocation” to
 - (a) correctly identify types of revocations described in Rule 1 for which a type of court conviction or agreement constitutes *prima facie* evidence of conviction
 - (b) replace “disqualifying incident” with more specific language i.e. “denial or revocation for conviction of a misdemeanor offence as described in C.R.S. 24-31-305 1.5”
- (4) Proposed Amendment to “Rule 17: Certification Records” to
 - (a) add “(e) Upon failure to comply with Rule 17, certificate holders and/or agencies may incur fines or other administrative sanctions as described in Rule 31”
- (5) Proposed Amendment to “Rule 21: Basic and Reserve Training Academies” to
 - (a) replace “board” with “POST” for consistency with other rules
 - (b) add a refresher for the types of academies compromising continuing academies
 - (i) designate the start date for the 3-year period specified in the rule
 - (c) clarify the submission requirements that a continuing academy director must meet
 - (d) re-introduce text inadvertently removed from the rule during the August 2020 Rule Making session
 - (e) re-designate “college academies” and “private occupational school academies” as “all academies not based at a law enforcement agency”
 - (f) require existing academies to petition the POST Board to renew their authority to operate an academy every 5 years
 - (g) require entities interested in creating a new POST-approved academy to receive approval from the full POST Board
 - (h) require the academy director of a proposed new academy to contact POST at least 12, rather than 6, months prior to the anticipated start date
 - (i) specify that completion of the approval process requires the approval of the site safety plans, lesson plans, and other associated documents
 - (j) require training sites to be clearly marked as law enforcement training sites
 - (k) require written permission prior to providing online or remote training
 - (l) supplement the list of academic and skills lesson information to include date lesson plan was prepared, date of last revision and the name and lesson of the lessons author
 - (m) provide that daily schedules are to be submitted on the form provided by POST
 - (n) require academies to report injuries less severe than death, or serious injuries caused by training activity and other injuries to other persons unaffiliated with the academy to allow POST to track injuries state-wide
 - (o) require trainee files to have current contact information as well as signed and dated acknowledge of privacy and appeal of rights forms
- (6) Proposed Amendment to “Rule 28: In-Service Training Program” to
 - (a) provide that failure to complete training will result not only in revocation of certification but also other administrative sanctions

- (b) provide that an individual or agency found non-compliant with requirements may face an administrative sanction
- (c) to replace “post” with “POST” for consistency
- (7) Propose a New Rule, “Rule 31: Administrative Sanctions”, to
 - (a) Provide the assess of administrative fines by the POST Board or Attorney General, where applicable, against law enforcement agencies and individuals for violation of Title 24, Article 31, Part 3, where appropriate

In addition to the purposes stated herein, the objective of the above stated rules and amendments is to provide clarification of the hearings process for persons and agencies subject to POST requirements, as well provide updated information for regarding items referenced in these rules.

Upon consideration, these rules will be adopted March 26th, 2021, with an effective date of May 15th, 2021. Persons affected are police officers, including those currently applying for police officer certification, and those currently employed as police officers, academy staff, and agencies will be impacted by this rule making.

It has been declared by the General Assembly that training standards and certification of peace officers are matters of state-wide concern. The absence of creating rules to carry out the statutes are contrary to the public health, safety and welfare of the state. For these reasons, it is imperatively necessary that these proposed amendments and the new Rule 31 be adopted.

In consideration on these proposed changes to the POST Rules and other rule-making matters –

- Sheriff J. Smith motioned softening 15-day deadline in reference to Rule 17 in notifying POST board of appointments/separations, specifically a friendly amendment allowing a 15-day extension to deadline (total of 30 days) may be given with a showing of good cause.
 - Seconded, Sheriff S. Nowlin

Motion carries unanimously, amendment added

- Sheriff J. Smith inquired into the process of “recertification” of academies as mentioned in the proposed changes to Rule 21 (listed in summary above under 5., subsection “f”)
 - Director Bourgerie responds that this decision came from a recently formed working group and involves a short presentation of academy statistics and other information ex. demographics and graduation rates, in order for the POST Board to re-examine academies to determine their effectiveness and service to the state.
- Sheriff J. Smith inquired into the definition of “injuries” in relation to proposed changes in Rule 21 (listed in summary above under 5., subsection “n”)
 - Director Bourgerie responds that the definition of “injury” was meant to be interpreted by the academy to some degree, and that the intent

was for the POST board to encourage injury reporting in order to get a better sense of the safety of academies more broadly.

- Councilmember W. Williams followed up on previous inquiry, asking about costs to local government due to the five-year recertification mentioned previously by Sheriff J. Smith
 - Director Erik Bourgerie responded he did not foresee any direct costs, though there may be an indirect cost in needing to present to board, but this indirect cost should be fairly minimal, as the desired information to be presented is already required by POST for other matters
 - Councilmember W. Williams clarifies as to the time requirement for filling out paperwork and presenting to POST Board
 - Director Erik Bourgerie states that it would be no more than 10 hours total in most circumstances in preparing and presenting
- Councilmember W. Williams inquires as to the lack of statement regarding the standard of evidence used in Rule 9 Hearings, specifically referencing pg. 56 of supplemental handout “petitioner has the burden of proving all facts”, and noting that on pg. 58, POST has the burden of proving there are grounds for decertification to the standard of “preponderance of the evidence”
 - Director Erik Bourgerie clarifies that pg. 56 references revocation hearings regarding criminal conduct, and thus there is substantial due process given in the criminal hearing. In regards to the “Show Cause” hearing, the standard has not been explicitly stated, as the recommendation given by the Director is in regards to whether it is in the “public interest” for officer to remain certified, and whether this process fulfills the basic requirements of the statute. Pg. 58 is referencing the new requirements implicated by SB. 20-217 and regards civil liability or certificate holders action before an internal affairs committee. In essence, pg. 58 provides additional due process to certificate holder (by requiring POST to prove there are grounds for revocation) to give better parity between the two types of hearings. Director concludes by saying that if the POST Board would like to add a standard of evidence to the referenced rule on pg. 56, he would not object.
 - Side note from Atty. Gen. P. Weiser, the “preponderance of the evidence” is the standard burden in civil matters, and as the revocation is a civil matter, the question of stating the standard as “preponderance of the evidence” has merit.
 - Councilmember W. Williams moves to add a friendly amendment stating that the burden of evidence in revocation hearings shall be set at a “preponderance of the evidence”.
 - Seconded, Chief G. Dingfelder

Motion carries unanimously, amendment added

- Sheriff J. Smith, on behalf of Chief J. Miner, inquires as to the fines that could be levied by the Attorney General’s office in relation to SB 20-217

- Director Erik Bourgerie clarified that stated changes to Rule 5 (on page 62) lay out the process for these fines, and as such, any fines can be appealed to a Hearing Officer and then to the POST Board
 - Atty Gen. Weiser states that because the initial fines will be levied through the Office of the Attorney General, he will take seriously the concerns of Chief J. Miner regarding excessive fines.

Seeing no public comments from the Dept. of Regulatory Agencies or the Secretary of State's office prior to the session, and no public opinions offered during the session...

- Chief G. Daly moves to approve the rules, as amended
 - Seconded, Chief C. Nichols

Motion carries unanimously, rules adopted as amended

11. Legislative Update

Deputy Attorney General
Kurt Morrison

1. SB 20-217 Updates/Pending Legislation

- Because SB20-217 was passed in an abbreviated post-COVID 19 session, there are several adjustments and clarifications to be passed after the bill became law, including
 - A new bill introduced into the Senate, SB 21-183, expanding and adding definitions to SB 20-217, notably
 - Including Colorado State Patrol and Colorado Bureau of Investigations officers as law enforcement agencies losing governmental immunity and having extended civil liability
 - Additionally, CBI will be considered “peace officers”, and therefore placed under the bill’s requirements regarding body worn camera footage.
 - A second new bill, that was not workshopped with law enforcement agencies to the same degree, seeks to regulate the types and amounts of drugs administered to those being apprehended or experiencing “excited delirium”
- In response to the bill colloquially known as the “20-217 clean-up bill”, sponsors of that bill approached the POST Board to take a close look into improvements to language of the original bill. In combination with those sponsors and the sheriffs’ and chiefs’ associations, approximately 12 changes were provided. These related mainly to the new required POST de-certification database, including

- Increased clarity and definitions for the 4 criteria under which an officer is added to the database: Untruthfulness, repeat failures for following training requirements, decertification, and removal for cause
 - Untruthfulness shall mirror the language from 20-217
 - repeat failures for following training requirements is set at 3 instances in a ten-year period
- A new requirement for hiring that a law enforcement agency must check any candidate against the database described above pending a hiring offer, and provide notice to the POST Board if that applicant is selected
- Sponsors were asked to add enforcement language regarding the database, and allow the POST Board to establish a fine schedule for violations
- Allows for officers that provide false information to the POST Board to be penalized by registering on the database as well
- Asking for there to be a pathway for officers to be removed from the database if exonerated over time, either by a court, Administrative Law judge, or internal exoneration
- Sought clarity on when to turn on body-worn cameras, specifically changing language from “when responding to a call” to being turned on “after arriving on scene”
- Changes to language regarding officer liability and “good faith” exceptions
 - Language introduced in SB20-217 that said an officer is personally liable unless found to have acted in “good faith” from their employer is most likely going to be changed, as a movement of municipalities declaring they will “never find an officer did not act in good faith” caused legislature to re-examine that loophole
 - Request from Office of Attorney General for state budget to address body cameras funding issue, with a focus on smaller and/or more rural agencies before 2023 date of implementation

2. Domestic Violence Firearms

- A new bill will provide procedures on addressing domestic abusers in possession of firearms, specifically after a protection order is issued
 - This bill may require an abuser to file an affidavit with the court seven days after a Temporary Protection Order is placed against them
 - This affidavit will require disclosure of firearms, including amount, location, type, amount of ammunition, etc.
 - The bill will also set out safe storage requirements of those firearms by law enforcement, the terms for returning firearms, and additional limits on return if the filer of T.P.O shares a residence with the person the TPO is filed against.

In addressing questions regarding these issues

- Investigator T. Barnes asked about a bill number for the ketamine/chemical suppressant bill referenced above
 - Deputy AG Morrison responded that the bill has not yet been introduced, and as such does not have a bill number

- Sheriff J. Smith inquired about bill number for addressing domestic abuse and firearm disclosure
 - Deputy AG Morrison responded that the bill has not yet been introduced, and as such does not have a bill number
 - Atty. Gen. Weiser further clarified that this bill addresses the shortcoming in current law regarding not adhering to T.P.O. stipulations of handing over firearms, and is currently being worked on by the OAG Domestic Violence Fatality Review Board

- Sheriff J. Smith references that a similar bill was introduced last year, but had issues with mandating that county sheriffs be responsible for storing such firearms, and is thus looking forward to seeing a bill introduction/bill number in order to see if those concerns have been addressed, or still need to be addressed.

13. Proposed POST Board Mtg. Dates 2022

Director Erik Bourgerie

The following dates have been provided for potential 2022 meetings of the POST Board:

March 10 10 am – 4 pm	Work Session
March 11 10 am – 12 pm	Board Meeting
June 3 10 am – 12 pm	Board Meeting
September 22 10 am – 4 pm	Work Session
September 23 10 am – 12 pm	Board Meeting
December 2 10 am – 12 pm	Board Meeting

- Sheriff S. Mobley moves to accept these dates for the year of 2022
 - Seconded, Deputy District Atty. Beck

Motion carries unanimously, dates adopted as specified

14. Standing subcommittees (Appeals, sanctions, etc.)

Director Erik Bourgerie

This discussion item comes before the Board to discuss creating a standing subcommittee to serve as a permanent fixture (as opposed to creating a new ad-hoc committee for every issue) in the event of an appeal, levying of sanctions under Rule 31, or other roles commonly filled by ad-hoc committees.

- Sheriff Anthony Mazzola inquires about how filling ad-hoc committees has worked out in the past, and whether there have been issues fillings seat on those committees
 - Director Bourgerie responds that this discussion item does not arise out of need, or to fix an existing problem with the Ad-hoc committees, but simply to introduce an alternative method for consideration by the Board.
- Member Brad Taylor states that his current experiences on Appeals boards has led him to join committees he has had an interest in, and that the current system does allow for flexibility to serve only on those committees that are of interest to the serving member.
- Councilmember W. Williams approves of current ad-hoc method, as it does not require one agency to over-burden itself (specifically smaller agencies) by selecting to serve on a standing committee, as opposed to rotations or serving when a member has availability.

Further discussion on this item is tabled.

15. Handling of Complaints / Concerns

Attorney General Phil Weiser

This item comes before the Board to discuss the handling of complaints against officers, especially as it relates to increased scrutiny on the actions of law enforcement agencies and their handling of complaints or events of public interest. The Attorney General to direct inquiries or requests for support to himself or Director Bourgerie, especially in the case of harassment. Director Bourgerie concurred and offered to discuss any such cases as they arise.

Further discussion on this item is tabled.

16. Academy Innovations Project (IADLEST/COPS Office)

Director Erik Bourgerie

The International Association for Directors of Law Enforcement Standards and Training (IADLEST), in conjunction with the Community Oriented Policing Services (COPS) Office, is currently working on the Academy Innovations Project. They are currently doing research on de-escalation training, and whether the effectiveness of that training is impacted by in-person vs. remote training, as it relates to certain types of communication or instances. They are currently looking for academies to participate in the study, and that there is a genuine need for data in this area.

**Director Bourgerie disclaims that he serves on the Executive Board of IADLEST and the advisory board for this study.*

Director Bourgerie is petitioning the board to allow interested academies to participate, and as such, to be granted a curriculum variance so that they may teach the required material to participate in the study. They must use the IADLEST curriculum to participate.

- Sheriff S. Mobley asks if there would need to be a motion to grant the variances as a point of order, and further states that he supports the initiative.
- Councilmember W. Williams moves to grant the proposal to issue curriculum variances to select Colorado law enforcement academies to facilitate participation in the IADLEST Academy Innovations Project.
 - Seconded, Sheriff S. Mobley

****Point of order, the motion to grant the proposal was seconded, but a vote on the matter was not carried out. Discussion considered tabled until voted on.***

17. Updates

The updates are consistent with addressing the language and goals as it relates to the term “de-escalation”. Atty Gen. Weiser proposes that the term “de-escalation” should be considered jointly with the term “undue escalation”. De-escalation is the act of lowering the “temperature” of an encounter, while *undue escalation* relates to ensuring the situation is not elevated unnecessarily. Both terms relate to ethical decision making and emotional intelligence in tense, stressful situations, as well as cultivating tools and methodologies to use in those situations.

****Before moving ahead with the Annual Report, a point of order was raised, and the tabled discussion of the IADLEST Academy Innovations Project was re-raised and put to vote.***

Motion carries unanimously, proposal accepted

Annual report

POST Staff

(See supplemental handout)

As the first annual POST report for calendar year 2020 Board members are invited to note any areas that may need additional information to be gathered, to be shared in the 2021 report. The summary states as follows...

- Created five new trainings.
- Created a two-hour, online SFST refresher course to supplement the 24 hour certification course.
- Created a new training regarding SB 20-217.
- Created a VIN inspector renewal training, pursuant to a change in statute.
- Created two new Peace Officer Wellness Courses.
 - Support for Peace Officers and agencies.
 - Preparing for the Traumatic Experience, for individual officers.

- Created a Court Testimony course.
- Created one course on How to Investigate Hate Crimes.
 - This course was split into two courses: Origin of Hate Crimes, and Investigation of hate crimes, respectively.
- Currently working with Benchmark to create an online portal to allow the previous courses to be offered to all peace officers in Colorado.
- 8, 246 students successfully completed the POST online training courses in 2020
- The Capital Improvement Grant awarded \$503,350 over two grant cycles.
 - One of these cycles acted as a \$400,000+ investment in Grand Junction, Mesa County to create an ill inclusive (Firearms, Driving, and Arrest Control) facility, that is now registered as a “test-out” facility.
- Partnered with the Public Safety Leadership Development Program at Denver University.
 - Awarded \$55,300 to small and rural law enforcement agencies to attend that program.
- Created and implemented a Small and Rural Academy Scholarship program.
 - Awarded \$100,000 in 2020, with plans to raise that to \$150,000.
- Trained 1,251 officers trained through the POST Grant program, 65% were from rural agencies.
- Provided 531 scholarships to attend trainings, 65% again from rural agencies.
- 53, 936 hours of total training hours provided through grants.
- Through Police One Online training, 212,654 courses were completed, resulting in 183,964 credit hours.
- Awarded 1040 certifications, 959 were Basic certification, with 67 Provisional, and 14 renewal certifications.
- Received 149 variance requests, mostly for extensions of deadline to complete certification.
 - 75 granted, 21 denied.
- Revoked 19 certifications.
 - Seven due to felonies.
 - Nine due to misdemeanors.
 - Six for untruthfulness.
 - One appeal granted, three were denied.
- 71 volunteered SME assisted in training this year.
- 25 SME Committee meetings.
 - Five members resigned.
 - Four new members joined.
- Only four academy inspections completed due to COVID-19.
 - One for Firearms, two for Driving, one for Arrest Control.
- Three Lesson plan audits.
- Two Records audits
- 64 new Full Skill Instructors approved.

a) Mental Health Curriculum

Training Specialist Jared Torsney

- The IADLEST has convened bi-weekly over the past 6 months and conducting a curriculum build up and creating an instructor guide for officer safety and wellness

- Colorado and 10 other states are currently working on drafts and doing sectional review.
- Colorado POST Sub-Committee, headed by Chairperson Kathleen Mitchell, held a townhall meeting with the Mental Health Curriculum sub-committee to gain feedback and comments on the curriculum for the national working group.
- The current training curriculum is module based, and will contain a minimum of 4 hours, with 4 additional hours of training as requested
 - This training additionally counts as in-service training
 - Examples of modules include the eight Dimensions of Wellbeing (physical fitness, nutrition, sleep health, financial wellness, mindfulness, family wellness, substance abuse, and suicide prevention)
- The IADLEST working group and IACP is working to build the training, and the training is on track for completion in the fall.

b) Database Creation,
per SB20-217

- Database is still being created, but currently approx. 500 de-certified officers are awaiting being added to the current database.

c) Benchmark Transition

- Currently experiencing some difficulties, but primary functionality should still be released on May 15th
 - Any further questions on progress can be directed to Director Bourgerie.

d) “My Why” Project

- Director Erik Bourgerie will be sending out an update soon, but this project is still moving forward, and communications will be sent out after project has received additional definition.

e) Job Task Analysis Update

- The next update to be released should be regarding purchasing
 - This is slated to be released on May 15th, but may need to be released in June.

f) RFP for De-escalation/implicit bias

- De-escalation/implicit bias has changed to be more accurately reflected by “ethical decision making under stress”
 - RFP is scheduled to be released by April 15th.

g) ICAT

- POST has been working to bring out the Integrated Communication Assessment and Tactics training force to Colorado, but due to COVID-19, there has not yet been any scheduled meeting. Meetings are expected to resume in the coming months.

h) Independent Credentialing
Body Program

- The Independent Body Credentialing program now has 99 agencies that have registered and received their certification.

In discussion of the above referenced updates...

- Sheriff J. Smith inquires as to the burden of filling such requests, and wishes to know if staffing or other factors can help to mitigate the negative impact of the sudden spike in requests and other duties
 - Atty. Gen. Weiser responds that current efforts to contract out certain tasks are underway, as well as looking into other resources at the Dept. of Law. Atty Gen. Weiser acknowledges the importance of continuing to appropriately fund and staff these efforts.
- Member J. Quimby comments that the Western Colorado Law Enforcement Academy is very similar to the Western Colorado Peace Officers Academy, which could cause confusion for out-of-state students. The new academy may need to be more differentiated by name.
 - Catherine Rodriguez responds that the reason for the similarity is that the to schools are affiliated, and on the same college campus. The newer campus is a “branch” academy of the original, though they are technically separate academies.
 - Member J. Quimby proffers that using the name of the city they are based in.
 - Atty. Gen Weiser agrees that feedback should be provided to the academies on the matter.

Further discussion on these matters is tabled

- Director E. Hilkey moves to adjourn the meeting
 - Seconded, Deputy D.A. Ashley Beck

Motion Passes Unanimously, Meeting Adjourned