

POST BOARD MEETING

RECORD OF PROCEEDINGS

March 7, 2014 10:00 am

The Peace Officer Standards and Training Board held its 386th Board meeting at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver Colorado with the following in attendance:

BOARD MEMBERS

MR. RONALD BECKHAM
CHIEF MARK BECKNER
CHIEF DAN BRENNAN
SHERIFF RON BRUCE
CHIEF JOHN CAMPER
OFFICER RAFAEL CHANZA
COMMISSIONER DAVID DONALDSON
SHERIFF JAMES FAULL
SHERIFF SHAYNE HEAP
SHERIFF CHRIS JOHNSON
CHIEF DANIEL OATES
INVESTIGATOR GILBERT PERALES
SPECIAL AGENT IN CHARGE THOMAS RAVENELLE
ATTORNEY GENERAL JOHN SUTHERS
SHERIFF KIRK TAYLOR
SHERIFF DAVID WEAVER
CHIEF DAVE WOHLERS

BOARD MEMBERS ABSENT

EXECUTIVE DIRECTOR JAMES H. DAVIS
CHIEF ROBERT C. WHITE

BOARD COUNSEL

MATT DURKIN, Deputy Attorney General, Criminal Justice

STAFF MEMBERS

PETE DUNBAR, POST Director
CRISTINE MACK, POST Investigator
TOM MULLEN, POST Compliance Officer
STEFANIE MACKEY, POST Grant & Training Coordinator
LORI JENCKS, POST Administrative Assistant

MEMBERS OF THE PUBLIC IN ATTENDANCE

JASON ARMSTRONG, Professional Bail Agents of Colorado (PBAC)
WILLIAM BAKER, Grand Junction Police Department

JOSH BELLENDIR, Larimer County Sheriff's Office
 CAPTAIN ERIK J. BOURGERIE, Summit County Sheriff's Office
 DIANE BRUCE
 JEFF CLAYTON, Clayton Advocacy
 SERGEANT MICHAEL CUMMINGS, Arapahoe County Sheriff's Office
 LIEUTENANT MICHAEL ESTERS, Larimer County Sheriff's Office
 JOSH FAST, Larimer County Sheriff's Office
 EMILY GALLAGHER, POST Intern
 SERGEANT ERIC GONZALES, Pueblo Police Department
 TRAINING MANAGER JOHN HOOD, Colorado Parks and Wildlife
 CORPORAL AARON HORWITZ, Larimer County Sheriff's Office
 DEPUTY GLOVER JARMIN, Adams County Sheriff's Office
 DIRECTOR DOYLE JONES, Weld County Sheriff's Office
 SERGEANT CHRIS JUUL, Aurora Police Department Training Academy
 DEPUTY EDWARD KAFEL, El Paso County Sheriff's Office
 ROGER KELLEY, Adams County Sheriff's Office
 JANET LARSON, County Sheriffs of Colorado
 DIRECTOR CATHY LABREQUE, Pikes Peak Community College
 OFFICER STEPHEN LARSEN, Aurora Police Department
 COMMANDER RICK MCNAIR, Adams County Sheriff's Office
 COMMANDER IB V. MEYER, Weld County Sheriff's Office
 SERGEANT DARREN O'DRISCOLL, El Paso County Sheriff's Office
 OFFICER STEPHEN OULLIBER, Aurora Police Department
 COMMANDER KARL SMALLEY, Adams County Sheriff's Office
 KEVIN SMYTH, Aurora Police Department
 TECHNICIAN MICHAEL WALKER, Denver Police Department
 MARK E. WALTERS, Aurora Police Department
 OFFICER BRAD WANCHISEN, Aurora Police Department
 RICHARD WEBB
 JAN WORTHEM, Colorado State Patrol Academy

The following Subject Matter Expert Committees met prior to the regular POST Board meeting on March 7, 2014.

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 Board meeting.

2. **Pledge of Allegiance** Attorney General John Suthers

General Suthers requested all remain standing for a moment of silence to commemorate

Sgt. David Baldwin of the Jefferson County Sheriff's Office, who died in the line of duty on January 26, 2014.

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

4. **Formal Board Recognition of** Attorney General John Suthers
Departing Board Members
Chief Mark Beckner and Executive Director James Davis

General Suthers presented a plaque of appreciation to retiring Chief Mark Beckner. Executive Director James Davis was unable to attend and Director Dunbar will present his plaque at a later date.

5. **Formal Board Recognition of** Attorney General John Suthers
Departing Subject Matter
Expert Committee Members

General Suthers presented plaques of appreciation to departing SME Committee members Deputy Glover Jarmin and Lieutenant Michael Esters.

6. **Roll Call** Director Pete Dunbar

Declaration of a Quorum (11)

7. **Approval of POST Minutes from December 6, 2013**
(See supplemental handout)

Approved Unanimously

Presentations:

8. **Subject Matter Expert (SME) Committee Reports:**

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

Sgt. O'Driscoll presented the report. The Curriculum committee has had many meetings, primarily for the purpose of writing test questions for the new POST certification exam. Sgt. O'Driscoll thanked Sgt. Chris Juul and members of the subcommittee for their work. The next project is the revision of the Basic Academy curriculum. Two members of California POST will be meeting with the Curriculum committee on March 19th to discuss how their curriculum is set up and determine aspects we may adapt. The Curriculum committee would like to bring in other SME committee members for their assistance with their disciplines in the revision. One goal is to produce standardized lesson plans which every academy in the state can utilize. As the curriculum is revised, additional test questions must be written. The Committee will not meet in Lake City in June, but there will be a representative present to submit a report.

B. Arrest Control

Capt. Erik Bourgerie, Chair
Vice-Chair - Vacant
Inv. Gilbert Perales, Board Member

Capt. Bourgerie presented the report. The Committee accepted the resignation of Joaquin Baca due to other obligations. Corp. Aaron Horwitz of Larimer County Sheriff's Office was approved as a member, replacing Lt. Michael Esters. The Committee reviewed the inspection completed at Red Rocks Community College February 27. The inspection went very well with minor suggestions. The Committee continued discussion on revisions to the Arrest Control training program. Several revisions were accepted and wording changes will be reviewed. A new site and safety plan were approved for the El Paso County Sheriff's Office. The 80-hour training requirement for full skills instructors was discussed, and while the Committee supports the intent of Rule 23-Academy Skills Instructors, an update is needed to reflect the combined disciplines now used. The Committee will not meet in Lake City in June, but will meet June 20th in Larimer County. There was one Rule 21 incident in which an academy instructor was injured. The full report is pending. The selection of vice-chair for the committee was tabled until the next meeting. Two inspections are coming up: Jeffco/Lakewood Academy, and Adams County Sheriff's Office Academy. Both are staffed.

C. Firearms

Dep. Ed Kafel, Chairperson
Training Mgr. John Hood, Vice-Chair
Sheriff Chris Johnson, Board Member

Dep. Kafel presented the report. The Committee met today for the third time this year. Paperwork on prospective new member Terry Bridge of Mesa County Sheriff's Office was approved. Dep. Bridge will attend the next Board meeting and the Committee will make final approval. There will be an inspection of Larimer County Sheriff's Office Reserve program on April 13, and Pueblo PD has an inspection scheduled for May 2. Both inspections are staffed.

D. Law Enforcement Driving

Cmdr. Karl Smalley, Chair
Al Padilla, Vice-Chair
Chief John Camper, Board Member

Cmdr. Smalley presented the report. The Committee approved new member Brad Wanchisen of Aurora Police Department. Mark Abbotts of Colorado Springs Police Department was approved as a full instructor. Three driving programs were approved today: Two submitted by Arapahoe County (Vehicle Counter Ambush Techniques and Advanced Law Enforcement Driving Instructor), and one by Western Slope Driving Academy (Law Enforcement Driving for the 21st Century). The Committee made one revision to the LE Driver Instructor training program. A prerequisite was added that state instructors must be POST-certified or retired POST-certified with at least 18 months continuous active service in order to apply to become a driving instructor. The Committee considered the issue of assistant instructors becoming full instructors and the 80-hour requirement. It was decided that completing two full academy classes as an assistant instructor would qualify one to become a full instructor. The Driving

Committee will meet in June in Lake City. Western Colorado Peace Officers Academy has an inspection coming up. There have been several Below 100 classes as well as two train-the-trainer courses in Grand Junction and Highlands Ranch, and we now have approximately 60 new instructors for Below 100. Director Dunbar will give a more complete report.

Chief Oates asked about role of the Driving committee regarding recommendations of new vehicles such as the new Ford Interceptor, which many agencies are considering as an alternative vehicle. Cmdr. Smalley recommends the Interceptor and states the handling and the electronic stability control are very good. The Committee is considering how best to train officers on use of vehicles with electronic stability control. Chief Camper, the Board representative for the Committee, stated that the Committee should consider a more formalized process for reviewing and disseminating reviews of new vehicle to agencies, the process to be discussed at the next meeting. General Suthers suggests that the Committee research data from other sources, including law enforcement agencies, throughout the U.S. and make that data available to agencies along with recommendations. Cmdr. Smalley stated that the committee could take on the project. He is also looking into working with the manufacturers, such as Chrysler, to set up subjective testing specifically for law enforcement driving, possibly designing an off-road testing ground at the Adams County facility to allow a more thorough evaluation of new vehicles.

Action Items:

9. Bail Recovery Agents

Jeff Clayton
Clayton Advocacy LLC

Jeff Clayton represents Professional Bail Agents of Colorado (PBAC). Jason Armstrong, vice president of PBAC, was also in attendance. The PBAC board is concerned that bail recovery is unregulated, with no training or background checks required. §12-7-105.5 C.R.S., a 1998 statute which required background checks and completion of a training course for bail recovery agents, was repealed in 2012. Mr. Clayton has been working with the PBAC board to move toward regulation. The Department of Regulatory Agencies (DORA) does not want to be involved. It was hoped that the POST Board may consider regulating bail recovery, however it is understood that the Board may not wish to do so. PBAC would like to define the powers of bail recovery agents, require background checks, and require training. The POST Board provides standards for bail recovery training, and has fulfilled that obligation by providing them to DORA. DORA certifies that any training courses meet that standard. Licensed bail agents are required to take the bail recovery training as a module of their training course, however their contracted recovery agents are not. The power to arrest comes from the licensed bail agent, but the agent may contract out actual recovery. PBAC has called for Sunrise review by DORA to consider the issue. PBAC is requesting support for regulation and asks for POST's participation in the Sunrise process, even if POST is not the regulating agency. There are no records for numbers of bail recovery agents in Colorado. General Suthers stated that he is somewhat supportive of PBAC in seeking regulation, though he does not believe that the POST Board should be the regulating agency. If the POST Board were provided with proposed legislation it may consider taking a position supporting regulation. It was suggested that PBAC also seek

support for proposed legislation from the County Sheriffs of Colorado (CSOC) and the Colorado Association of Chiefs of Police (CACP).

10. **School Safety Officers**

Director Pete Dunbar

Chief Camper stated that there are schools in his district who wish to hire POST-certified officers to enhance security. Sheriff Hilkey (Mesa County SO) and Chief Camper would like POST-certified school security officers to maintain their certification while still employed with the school district to avoid losing certified personnel due to the risk of expiration. They would like the Board to consider a rule change to allow those officers to maintain their certification. Some concerns expressed during discussion were potential required training elements, a limit on length of certification, and consideration of other similar positions, such as hospital safety officers, court officers and Coroner's office investigators. It was suggested that school districts be treated similarly to existing higher education law enforcement, giving the school district responsibility for legislative changes. Higher education police officers are POST-certified. It is not the intent to require POST-certification or to regulate the profession, but only to allow continuation of certification for those who are already certified. General Suthers would like POST to research other positions that may benefit from extended certification and report back to the Board.

11. **Appointment to Grant Subcommittee**

Director Pete Dunbar

Sheriff Weaver of Douglas County and Interim Director Kathy Sasak of Dept. of Public Safety were approved as members replacing retiring member Chief Mark Beckner of Boulder PD and Exec. Director James Davis of DPS.

12. **Antonio E. Martinez Jr. – Appeal**

Director Pete Dunbar

Mr. Martinez was not present. Mr. Martinez requested a Rule 7 variance May 7, 2013 and was granted a 6-month extension as he was undergoing the hiring process with Firestone PD. He requested a second extension, stating he was in the hiring process with several agencies and could not afford to complete the renewal process if expired. He then requested a third extension as he was in the hiring process with Aurora PD. Director Dunbar denied the 3rd extension request and Mr. Martinez requested an appeal to the Board.

Denied unanimously

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

A. **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. 13-14, **David R. Morrow**, Certificate Number B11340 (PID 120488). On August 19, 2013, Respondent was convicted of one count of Child Abuse-Knowingly/Reckless Causing Serious Bodily Injury, § 18-6-401(1)(a),(7)(a)(III), a class 3 Felony, one count of Assault 2 causing Serious Bodily Injury, § 18-3-203 (1)(g), C.R.S., a class 4 felony, and one count of Assault 2 causing Serious Bodily Injury with deadly weapon, § 18-3-203 (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: June 12, 2011 –Separated July 28, 2011).* The Respondent has failed to comply with POST Show Cause Order 13-14 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of David R. Morrow's Colorado Peace Officer Certificate No. B11340 (PID 120488).

Approved unanimously

2. No 13-15, **Rodney Olin Bretches**, Certificate Number 12721 (PID 109973). On June 17, 2013, Respondent was convicted of one count of Sexual Exploitation/child §18-6-403(3)(b.5),(5), C.R.S., a class 5 Felony, and one count of Peeping Tom, §18-3-404(1.7) C.R.S., a class 1 Misdemeanor. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: June 1, 2011 –Separated June 15, 2012).* The Respondent has failed to comply with POST Show Cause Order 13-15 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Rodney Olin Bretches' Colorado Peace Officer Certificate No. 12721 (PID) 109973).

Approved unanimously

3. No. 13-16, **Brent R. Curnow**, Certificate Number B5080 (PID 110231). On September 3, 2013, Respondent was convicted of one count of Tampering With Physical Evidence/Destroying § 18-8-610(1)(a), C.R.S., a class 6 Felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: January 1, 2013 –Separated January 22, 2013).* The Respondent has failed to comply with POST Show Cause Order 13-16 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Brent R. Curnow's Colorado Peace Officer Certificate Number B5080 (PID 110231).

Approved unanimously

4. No. 13-17, **Allan Lewis McEwen**, Certificate Number 1284 (PID 110274). On July 11, 2013, Respondent pled guilty to and was convicted of one count of Assault 1-Threatening a Police Officer with a weapon, § 18-3-202 (1)(e), C.R.S., a class 3 felony. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: October 18, 2012 –Separated October 31, 1986).* The Respondent has failed to comply with POST Show Cause Order 13-16 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Allan Lewis McEwen's Colorado Peace Officer Certificate Number 1284 (PID 110274).

Approved unanimously

5. No. 13-17, **Lorenzo A. Hernandez**, Certificate Number B7402 (PID 115292). On April 18, 2013, Respondent was convicted of one count of Trespassing 1- Dwelling, § 18-4-502 C.R.S., a class 5 felony, and Trespassing - Emotional Duress § 18-3-602 (1)(c) C.R.S., a class 6 felony. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: February 08, 2013 – Separated December 30, 2002).* The Respondent has failed to comply with POST Show Cause Order 13-17 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Lorenzo A. Hernandez’s Colorado Peace Officer Certificate Number B7402 (PID 115292).

Approved unanimously

Informational Items:

14. POST Online Test Update

Director Pete Dunbar

POST is going through the formal process to separate from I/O Solutions as the results were unsatisfactory. The test questions were too difficult and were not reflective of the actual curriculum, among other issues.

Sgt. Chris Juul and a subcommittee of the Curriculum SME committee have written 350 questions so far which have been field-tested and reviewed by Dr. Tom Haladyna. POST has purchased a records management system (Acadis Readiness Suite) from ENVISAGE Technologies Corporation which has an online testing module. We are checking the security measures and Mr. Mullen is entering test questions into the Acadis system. It is expected that the success rate for the new test will be similar to the old, above 80%. The test is fair and more usable, and we will be able to easily review and edit questions. General Suthers expressed concern regarding the security of the test. The online test will avoid the issue of POST staff potentially giving copies of the test to students, as happened several years ago. There will be no printed version, and the test questions are randomized for each test. The other issue was that previously members of the Curriculum committee put together “study guides” which had included verbatim questions from the exam. Director Dunbar stated that we have written confidentiality agreements from all committee members and from others with contact with the test with consequences for releasing information regarding test questions.

15. Strategic Plan Update

Director Pete Dunbar

The top two items on the Strategic plan were to obtain additional funding for POST, and to develop a mandatory in-service training program. We have begun the process to pass SB 14-123 (POST Bill). The bill was created, approved by the Board and is sponsored by Senator Lucia Guzman and Representative Daniel Kagan. It has gone through the Senate Judiciary and Finance committees and is scheduled to be heard by the Senate Appropriations committee on Friday, March 14, 2014. We have support of CSOC and CACP with members testifying before the Senate on POST’s behalf. If the bill passes Senate Appropriations, it will go before the whole Senate, then will move to the House

Committees. The original draft of the bill included language regarding suspensions for not completing in-service training, but all reference to suspensions has been eliminated. Consequences for not completing in-service training will be discussed later by the Board. The Bill would increase funding from \$.60 to \$1.00 per vehicle registration, giving POST an additional 1.7 million for training, focusing on small, rural agencies. POST has expressed to CSOC and CACP that it is not the intent to tell the agencies what training they must have. The Legislature will determine what would be required, but the chiefs and sheriffs should have discretion in the training topics and methods. If the bill passes the Board would need to determine the requirements for in-service training.

16. Mandated Training Update

Director Pete Dunbar

The Dog Protection Task Force is developing training in response to the Dog Protection Act. POST is not involved with development. It is to be completed and implemented by the end of the calendar year.

The Elder Abuse training is a four-hour class. We have completed three classes and have set up 12 classes throughout the state. All will be completed by June and POST will assess which agencies have not participated at that time. One person from each municipal agency and Sheriff's office must attend training. We are providing packets for those attending the course to take back to their agencies to act as trainers for their agency's officers. All officers are mandatory reporters. Colorado was one of three states that did not previously have a mandatory reporting requirement.

17. POST Board Meeting – Lake City

Director Pete Dunbar

The POST Board off-site meeting has traditionally been held in September, with a planning session on Thursday afternoon, and the Board meeting on Friday morning. The Board is asked to determine whether we should retain the planning session in September, prior to the Board meeting, or have the planning meeting in June in Lake City in Hinsdale County. If the POST Bill passes, Director Dunbar suggests that we have an all-day work session on the Thursday prior to the September Board meeting on September 12. There is some concern that September 11 may be difficult due to 9/11 activities/services. Sheriff Bruce and Hinsdale County Sheriff's Office are hosting a dinner on Thursday evening for those who wish to attend. Sheriff Bruce mentioned attractions in the area and the need to make reservations quickly.

18. Comments from others on POST Issues

Director Dunbar mentioned vacancies to be filled on the POST Board. Applications have been submitted for the Sergeant or below opening and POST will be reviewing and interviewing those applicants shortly. POST will be requesting applications to replace Chief Beckner, and there are several positions coming open after June 30, most of which are eligible for reappointment. Applications should be directed to the Governor's Office of Boards and Commissions.

Chief Camper mentioned an issue that has come up in his jurisdiction and he is requesting POST provide clarification. Should a certified individual who is not currently employed as a peace officer be conveyed the same right to carry a concealed weapon and retain the same

expectation to respond as a working peace officer? Statute implies that an officer would be employed by an agency by stating that it is subject to the written firearms policy created by the employing agency, but is not clear whether an officer must be employed to have those rights and responsibilities. There is provision for a retired peace officer to obtain a permit to carry a concealed firearm [Law Enforcement Officers Safety Act (LEOSA) HR218]. The Attorney General's Office would support a reading that permission to carry a concealed weapon is limited to individuals employed as law enforcement officers. General Suthers recommends looking into possible legislative clarification.

19. **Adjournment**

Attorney General John Suthers

Meeting end: 11:33 a.m.

(1 Hour 33 Minutes)

Next POST Board Meeting

Friday, June 13, 2014

10:00 am

Hosted by Hinsdale County Sheriff's Office

Moseley Health Care Complex

700 N Henson St

Lake City CO 81235