

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff

FREDERICK R. YARGER
Solicitor General



**STATE OF COLORADO
DEPARTMENT OF LAW**

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 9th Floor
Denver, Colorado 80203
Phone (720) 508-6000

**Peace Officer Standards
and Training**

**POST BOARD MEETING
RECORD OF PROCEEDINGS**
Friday March 9, 2018
10:00 am – 12:00 pm

The Peace Officer Standards and Training Board held its 402nd Board meeting at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver, Colorado, with the following in attendance:

BOARD MEMBERS PRESENT

CHIEF DAN BRENNAN, Wheat Ridge Police Department
ATTORNEY GENERAL CYNTHIA COFFMAN, Colorado Department of Law
CHIEF JOHN COLLINS, Englewood Police Department
DEPUTY AMANDA CRUZ-GIORDANO, Arapahoe County Sheriff's Office
SHERIFF CHAD DAY, Yuma County Sheriff's Office
CHIEF DEBRA FUNSTON, Palisade Police Department
SUSAN "ZEKE" KNOX, United States Attorney's Office
ROBERT LEES, Robert A. Lees and Associates
CHIEF JOHN MINOR, Silverthorne Police Department
CHIEF MICHAEL PHIBBS, Auraria Department of Public Safety
DIRECTOR JANE QUIMBY, Colorado Mesa University DPS
MAYOR RON RAKOWSKY, City of Greenwood Village
SHERIFF ANTHONY SPURLOCK, Douglas County Sheriff's Office
SHERIFF FRED WEGENER, Park County Sheriff's Office

BOARD MEMBERS ABSENT

SHERIFF RON BRUCE, Hinsdale County Sheriff's Office
SERGEANT LONNIE CHAVEZ, Grand Junction Police Department
CHIEF CORY CHRISTENSEN, Steamboat Springs Police Department
EXECUTIVE DIRECTOR STAN HILKEY, Colorado Department of Public Safety
PROFESSOR KARA HOOFNAGLE, Johnson & Wales University
SHERIFF MICHAEL MCINTOSH, Adams County Sheriff's Office
SHERIFF STEVE NOWLIN, Montezuma County Sheriff's Office
SPECIAL AGENT IN CHARGE CALVIN SHIVERS, Federal Bureau of Investigation
BRADLEY TAYLOR, Goetz Insurors

BOARD COUNSEL

STACY WORTHINGTON

POST STAFF MEMBERS PRESENT

TAMRA ARP, Compliance Coordinator
ERIK BOURGERIE, Director
BOB BAKER, In-Service Training Manager
CAROLYN BERRY, Compliance Manager
SUSAN CARTER, Training Coordinator
DAN GRIFFIN, Training Coordinator
KIM HERNANDEZ, Grant Specialist
LORI JENCKS, Administrative Coordinator
CRISTINE MACK, Investigator
JOE PICCINETTI, Administrative Assistant
JARED TORSNEY, Marijuana Training Specialist

MEMBERS OF THE PUBLIC IN ATTENDANCE

AGENT IVAN BEERS, Lakewood Police Department
DIRECTOR MINER BLACKFORD, Otero Junior College LETA
DIRECTOR MIKE CARTER, Community College of Aurora LETA
DEPUTY MARK DAHLSTEN, Park County Sheriff's Office
KEVIN FARRINGTON, Federal Bureau of Investigations
SERGEANT TIMOTHY JUNGCLAUS, Adams County Sheriff's Office
DEPUTY ED KAFEL, El Paso County Sheriff's Office
GREG LAPOINT, GBI Titles
CAPTAIN DEAN PAXTON, Colorado State Patrol
MASTER SERGEANT ROBERT RABSON, Loveland Police Department
COMMANDER KARL SMALLEY, Adams County Sheriff's Office
JANICE WORTHEM, Colorado State Patrol

1. **Welcome** Attorney General Cynthia Coffman
2. **Pledge of Allegiance**
3. **Introduction of Marijuana Training Specialist Jared Torsney** Director Erik Bourgerie
4. **Introduction of Board Members, SME Members, Staff and Guests**
5. **Roll Call** Director Erik Bourgerie

Declaration of a quorum (13)

6. Subject Matter Expert Committee Reports

A. Arrest Control Agent Ike Beers, Chair

The revised Arrest Control section of the Skills Proficiency Manual was presented, with acknowledgement that the grade sheets formatting will be revised shortly.

Motion to approve by Chief Brennan. Approved unanimously.

The committee is considering issues regarding Krav Maga, which is not recognized as an academy discipline. By the end of the year the committee would like to establish a process by which hybrid or other disciplines, such as Krav Maga, can be vetted and approved to be utilized in an academy setting and recognized by the state. The committee stresses that it approves programs, not specific disciplines, and that the standards of the academy programs will not change. Krav Maga is the discipline being discussed at this time, but establishing a procedure that could be used for other disciplines or hybrid disciplines in the future is the goal.

An application was submitted and was not approved for a civilian committee member. The applicant did not meet the preferred qualification for five years law enforcement experience, and is a full skills instructors in Krav Maga, which is not an approved discipline. The committee will be discussing options for civilian applicants and the preferred qualifications.

B. Curriculum Sergeant Timothy Jungclaus, Member

The committee reviewed the Reserve Academic Training Program final draft. No final votes were possible as a quorum was not present. The Curriculum Bibliography is being revised and Vehicle Contacts and Major Case Considerations were reviewed.

The committee discussed issues with the incoming academy recruits, as many have difficulty with decision making and setting goals. The committee is working on possible solutions to teach these skills in regard to the situations they will face as law enforcement officers. They will present possible solutions and further information at subsequent meetings.

C. Firearms Deputy Ed Kafel, Chair

A report was received yesterday afternoon that a cadet at AIMS Community College Academy, prior to firearms training at Adams County Flatrock facility, shot himself in the ankle. He violated the four safety rules. The investigation into the incident is ongoing, and the cadet will be fine. POST was advised of the incident at the time.

New member Sven Bonnelycke of Park County SO received tentative approval, pending his appearance before the Board.

The revisions to the Firearms Training Program and the Handgun Instructor Program are completed, adding 8 hours to the Firearms program, and reallocating hours to increase Decisional Shooting and Tactical Situations to 16 hours. Academy Directors have been kept advised and the program was presented to them at the October 2017 Academy Directors' meeting. There have been no reservations expressed. The programs' proposed effective date is January 1, 2019.

Motion to approve the Firearms Training Program by Sheriff Day. Approved unanimously.

Motion to approve the Handgun Instructor Program by Sheriff Day. Approved unanimously.

D. Law Enforcement Driving Cmdr. Karl Smalley, Chair

All members were present. New member Officer Max Bowen of Rifle Police Department was approved. Vice Chair Al Padilla has stepped down and will remain on the committee as a member. Captain Dean Paxton of Colorado State Patrol was approved as the new Vice Chair. Three new site safety plans were reviewed and approved for Adams County, CSPD and Trinidad State Junior College. Four new full instructors were approved. There are no inspections presently scheduled.

7. **Approval of POST Minutes** Attorney General Cynthia Coffman
from December 1, 2017

Motion to approve by Sheriff Day. Approved unanimously.

8. **Formal Rulemaking Hearing** Attorney General Cynthia Coffman
Board Counsel Stefanie Worthington
Director Erik Bourgerie

The formal Rulemaking hearing was called to order at 10:39 am. Director Bourgerie summarized the rule changes. There was no written comment, and no individuals signed up to speak regarding rules. There were no comments or questions from the Board on any proposed rules.

Motion to approve Rule 1 by Chief Brennan. Approved unanimously.

Motion to approve Rule 8 by Sheriff Spurlock. Approved unanimously.

Motion to approve Rule 9 by Chief Collins. Approved unanimously.

Motion to approve Rule 11 by Chief Minor. Approved unanimously.

Motion to approve Rule 15 by Chief Collins. Approved unanimously.

Motion to approve Rule 16 by Sheriff Day. Approved unanimously.

Motion to approve Rule 21 by Sheriff Spurlock. Approved unanimously.

Motion to approve Rule 24 by Sheriff Spurlock. Approved unanimously.

Motion to approve Rule 28 by Chief Brennan. Approved unanimously.

The Rulemaking hearing was concluded at 10:51 am.

9. **Peace Officer Certification Revocation Actions** Director Erik Bourgerie

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, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-30 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.

1. No. F17-12, Herbert Stephen Few, Certification B2269-9454 (PID 2269-9454). On October 18, 2017, Respondent was convicted of one count of Public Servant-Attempt to Influence §18-8-306 CRS, a Class 4 Felony. The Respondent was employed as a peace officer on the date of the offense (Date of Offense: November 16, 2016, Elbert county Sheriff’s Office, Date of Separation November 21, 2016). The Respondent has failed to comply with POST Show Cause Order No. F17-12 by failing to appear at the scheduled Show Cause Hearing on December 15, 2017. Director Bourgerie recommends revocation of Herbert Stephen Few’s Colorado Peace Officer Certification B2269-9454 (PID 2269-9454).

Motion to revoke by Sheriff Day. Approved unanimously.

2. No. F17-13, Samuel Owensby, Certification R2654 & B18155 (PID 135871). On October 30, 2017, Respondent was convicted of one count of Sexual Exploitation/child possession with intent §18-6-403(3)(c) CRS, a Class 3 Felony. The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: December 12, 2016). The Respondent has failed to comply with POST Show Cause Order No.F17-13 by failing to appear at the scheduled Show Cause Hearing on December 15, 2017. Director Bourgerie recommends revocation of Samuel Owensby’s Colorado Peace Officer Certification R264 & B18155 (PID 135871).

Motion to revoke by Sheriff Wegener. Approved unanimously.

3. No. F17-14, Matthew David Clark, Certification B2295 (PID 126388). On October 12, 2017, Respondent was convicted of one count of Felony Menacing-real/simulated weapon §18-3-206(1)(a)(b) CRS, a Class 5 Felony. The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: June 26, 2016). The Respondent has failed to comply with POST Show Cause Order No.F17-14 by failing to appear at the scheduled Show Cause Hearing on January 3, 2018. Director Bourgerie recommends revocation of Matthew David Clark’s Colorado Peace Officer Certification B2295 (PID 126388).

Motion to revoke by Mr. Lees. Approved unanimously.

4. No. F17-15, Michael Robert Leake, Certification B4941 (PID 118909). On December 1, 2017, Respondent was convicted of one count of Theft/series - \$1,000-\$20,000 §18-4-401(1)(4) CRS, a Class 4 Felony and one count of Pawnbroker-false info by seller §12-56-103(1) and 12-56-104(5) CRS, a Class 6 Felony. The Respondent was employed as a peace officer on the date of the offense (Date of Offense: December 17, 2012, Leadville Police Department, Date of Separation December 22, 2015). The Respondent has failed to comply with POST Show Cause Order No.F17-15 by failing to appear at the scheduled Show Cause Hearing on January 17, 2018. Director Bourgerie recommends revocation of Michael Robert Leake's Colorado Peace Officer Certification B4941 (PID 118909).

Motion to revoke by Sheriff Wegener. Approved unanimously.

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. Revocation of peace officer certificates based upon conviction(s) of misdemeanor crimes are recognized in § 24-31-305(1.5) (b) thru (h), C.R.S.

1. No. M17-07, Megan Feebeck, Certification B17746 (PID 138564). On October 6, 2017, Respondent was convicted of one count of abuse of Public records-false entry §18-8-114(1)(a) CRS, a Class 1 Misdemeanor. The respondent was employed as a peace officer on the date of the offense (Date of Offense: January 17, 2016, Englewood Police Department, separated July 28, 2016). The Respondent has failed to comply with POST Show Cause Order No. M17-07 by failing to appear at the scheduled Show Cause Hearing on December 22, 2017. Director Bourgerie recommends revocation of Megan Feebeck's Colorado Peace Officer Certification B17746 (PID 138564).

Chief John Collins recused himself. Motion to revoke by Chief Brennan. Approved unanimously.

2. No. M17-08, Deandrea Lynn Vargas, Certification B2045 (PID 105877). On October 30, 2017, Respondent was convicted of one count of Assault 3-Know/reckless cause injury §18-3-204(1)(a) CRS, a Class 1 Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: November 13, 2016). The Respondent has failed to comply with POST Show Cause Order No. M17-08 by failing to appear at the scheduled Show Cause Hearing on December 22, 2017. Director Bourgerie recommends revocation of Deandrea Lynn Vargas' Colorado Peace Officer Certification B2045 (PID 105877).

Motion to revoke by Sheriff Wegener. Approved.

3. No. M17-09, John Michael Reinhart Certification B7328-4106 (PID 7328-4106). On October 16, 2017, Respondent was convicted of two count of Sexual Contact-victim in custody §18-3-404(1)(F) CRS, a Class 1 Misdemeanor. The respondent was employed as a peace officer on the date of the offense (Date of Offense: September 21, 2015, Commerce City Police Department, separated March 11, 2016). The Respondent has failed to comply with POST Show Cause Order No. M17-09 by failing to appear at the scheduled Show Cause Hearing on January 3, 2018. Director Bourgerie recommends revocation of Michael Reinhart's Colorado Peace Officer Certification B7328-4106 (PID 7328-4106).

Motion to revoke by Sheriff Spurlock. Approved unanimously.

4. No. M17-10, Frederick Clerk, Certification B14412 (PID 122195). On August 31, 2005, Respondent was convicted of one count of Official misconduct §18-8-404 CRS, a Class 2 Misdemeanor. The respondent was employed as a peace officer on the date of the offense (Date of Offense: February 1, 2005, Broomfield Police Department, separated August 9, 2005). The Respondent has failed to comply with POST Show Cause Order No. M17-10 by failing to appear at the scheduled Show Cause Hearing on January 15, 2018. Director Bourgerie recommends revocation of Frederick Clerk's Colorado Peace Officer Certification B14412 (PID 122195).

Motion to revoke by Chief Brennan. Approved unanimously.

10. **Rule 28 Final Report 2017** Bob Baker
Training Services Manager

At the end of the reporting period there were 44 officers (.5%) out of compliance, 35 of which were from one agency. There were seven agencies out of compliance. Late entries of training by agencies continues to be an issue. Many agencies wait until December to enter training. Some agencies are still having difficulty getting adequate training for their reserve officers. PoliceOne helped a great deal in making training available to more officers. Over 39,000 entries were approved in the POST portal, approximately 10,000 more than last year. Mr. Baker will email the number of hours/officers who utilized PoliceOne training last year to the Board.

The Board discussed whether the number of reserve officers has decreased due to the training requirements, and whether those requirements are too onerous for reserve officers. Most reserves have other employment.

11. **Colorado Rangers Appeal** Director Erik Bourgerie

The appeal was withdrawn by Board member Robert Lees, on behalf of the Colorado Rangers. Mr. Lees is the general counsel for the Colorado Rangers. He expressed the difficulty for potential reserve officers to attend the reserve academy, and believes that if an individual already has the training for a skill, and may even be an instructor, that they should not need to repeat that training in order to complete the reserve academy. At this time, regardless of prior training, if an individual goes through an academy,

they must complete the entire program, and no credit is given for any prior training in any area. The academy skills programs are generally longer and cover material that is not included in the instructor programs. Most professions that provide certification require that individuals complete the entire training program required for certification, and do not give credit for prior training. In addition, tracking would require additional POST staff and would be extremely time consuming to ascertain whether the training received was equivalent to the required training, and which parts of the academy training were not covered in prior training. Overlap in training is not necessarily detrimental and keeps the standards high and consistent. Mr. Lees would like the Board and POST to consider ways in which the training for reserve officers could be made less burdensome.

12. **Rule 21 Discussion** Director Erik Bourgerie

The Board discussed whether there should be an exemption in Rule 21 for individuals who have completed instructor programs. It was suggested that the Board consider options for changes to Rule 21 regarding exemptions for those who have completed instructor programs, and to discuss ways in which the training program for reserves can be adjusted to increase the number of reserve officers in the state while maintaining standards. The Board recommends we form a subcommittee to discuss options prior to the next Board meeting June 1st, and how POST staff would manage any changes.

13. **Comments from Others on POST Issues**

Greg Lapointe of GBI Titles wished to address the Board regarding VIN inspection errors and documentation and the cost to taxpayers. POST provides the curriculum for the VIN Inspector program, and certifies VIN inspectors who have attended the class. While POST can address the issues in the training by stressing correct VIN inspection documentation, it was suggested that the best forum to address the issues with existing VIN inspectors might be through the Secretary of State's office.

14. **Moment of Silence for Fallen Officers** Attorney General Cynthia Coffman

The AG requested a moment of silence in honor of Deputy Heath Gumm, of the Adams County Sheriff's Office, Deputy Micah Flick, of the El Paso County Sheriff's Office, and Deputy Zackari Parrish, of the Douglas County Sheriff's Office, killed in the line of duty since the last Board meeting.

15. **Adjournment** Attorney General Cynthia Coffman

Meeting adjourned 11:55 am