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**Peace Officer Standards
and Training**

POST BOARD MEETING
RECORD OF PROCEEDINGS
Friday, June 1, 2018
10:00 am – 12:00 pm

The Peace Officer Standards and Training Board held its 403rd Board meeting at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver, Colorado, with the following in attendance:

BOARD MEMBERS PRESENT

SENIOR INVESTIGATOR TONYA BARNES, Eighteenth Judicial District
CHIEF DAN BRENNAN, Wheat Ridge Police Department
SHERIFF RON BRUCE, Hinsdale County Sheriff's Office
SERGEANT LONNIE CHAVEZ, Grand Junction Police Department
CHIEF CORY CHRISTENSEN, Steamboat Springs Police Department
ATTORNEY GENERAL CYNTHIA COFFMAN, Colorado Department of Law
DEPUTY AMANDA CRUZ-GIORDANO, Arapahoe County Sheriff's Office
SHERIFF CHAD DAY, Yuma County Sheriff's Office
CHIEF DEBRA FUNSTON, Palisade Police Department
EXECUTIVE DIRECTOR STAN HILKEY, Colorado Department of Public Safety
PROFESSOR KARA HOOFNAGLE, Johnson & Wales University
SUSAN "ZEKE" KNOX, United States Attorney's Office
ROBERT LEES, Robert A. Lees and Associates
CHIEF JOHN MINOR, Silverthorne Police Department
SHERIFF STEVE NOWLIN, Montezuma County Sheriff's Office
CHIEF MICHAEL PHIBBS, Auraria Department of Public Safety
DIRECTOR JANE QUIMBY, Colorado Mesa University DPS
MAYOR RON RAKOWSKY, City of Greenwood Village
SPECIAL AGENT IN CHARGE CALVIN SHIVERS, Federal Bureau of Investigation
SHERIFF ANTHONY SPURLOCK, Douglas County Sheriff's Office
BRADLEY TAYLOR, Goetz Insurors
SHERIFF FRED WEGENER, Park County Sheriff's Office

BOARD MEMBERS ABSENT

CHIEF JOHN COLLINS, Englewood Police Department
SHERIFF MICHAEL MCINTOSH, Adams County Sheriff's Office

BOARD COUNSEL

STACY WORTHINGTON

POST STAFF MEMBERS PRESENT

TAMRA ARP, Compliance Coordinator
ERIK BOURGERIE, Director
BOB BAKER, In-Service Training Manager
SUSAN CARTER, Training Coordinator
DAN GRIFFIN, Training Coordinator
KIM HERNANDEZ, Grant Specialist
LORI JENCKS, Administrative Coordinator
JARED TORSNEY, Marijuana Training Specialist

MEMBERS OF THE PUBLIC IN ATTENDANCE

AGENT IVAN BEERS, Lakewood Police Department
DIRECTOR MINER BLACKFORD, Otero Junior College LETA
CAPTAIN SVEN BONNELYCKE, Park County Sheriff's Office
ERIC BRANDT
SERGEANT DAVID CLARKE, Weld County Sheriff's Office
SERGEANT GRAHAM DUNNE, Aurora Police Department
DEPUTY JERRY GRAY, Mesa County Sheriff's Office
TRAINING MANAGER JOHN HOOD, Colorado Parks and Wildlife
INTERIM DEPUTY ATTORNEY GENERAL CYNTHIA KOWERT, Department of Law
DIRECTOR CATHY LABRECQUE, Pikes Peak Community College Academy
JANET LARSON, County Sheriffs of Colorado
CURTIS MARTINDALE, Pueblo County Sheriff's Office
JOHN MCDONALD
ABDISALAM MUMIN
KATHERINE NOWLIN
CAPTAIN DEAN PAXTON, Colorado State Patrol
COMMANDER KARL SMALLEY, Adams County Sheriff's Office
FRANK STURGELL
ROBERT WELTZER, PhD

1. **Welcome** Attorney General Cynthia Coffman
2. **Pledge of Allegiance**

3. **Recognition of Departing Board Members** Attorney General Cynthia Coffman

Sheriff Ron Bruce – Hinsdale County Sheriff's Office
Mr. Robert A. Lees – Robert A. Lees and Associates
Sheriff Fred Wegener – Park County Sheriff's Office

4. **Introduction of New Board Member** Director Erik Bourgerie

Senior Investigator Tonya Barnes – Eighteenth Judicial District

5. **Recognition of Departing Firearms Subject Matter Expert Committee Member** Attorney General Cynthia Coffman

Lead Instructor Eric Schuyler – Pikes Peak Community College

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

7. **Roll Call** Director Erik Bourgerie

Declaration of a quorum (13)

8. **Subject Matter Expert Committee Reports**

A. **Arrest Control** Agent Ike Beers, Chair

The committee will be using GoTo Meetings for the first time at their upcoming Mesa County meeting for agenda materials and to facilitate meetings. Recruiting for new members, including possibly civilian positions, is being considered in order to cover inspections. The verbiage on the membership requirements is being edited to allow for civilian applications, and will be presented to the Board for approval at an upcoming meeting.

B. **Curriculum** Sergeant Graham Dunne, Chair

Otero and Front Range CC classroom changes were reviewed and approved. A request was presented by an individual from Red Rocks Academy to waive the Instructor Methodology course as he has a degree in Education. This item was tabled pending submission of further information and documentation. The Avon Reserve Academy program was reviewed and approved with a minor change. The Reserve Academic

Training program is ready for approval, pending name clarification for Biohazard Awareness and Hazardous Materials, and one or two changes to the recommended/required source material. Two reserve academy staff members answered questions as to the effect this would have on the academies. As these programs are often evening/weekend programs, the increase in hours is not as important. The increase fills several gaps in the previous program.

Motion to approve with pending changes by Sheriff Bruce. Approved unanimously.

C. Firearms Trng Mgr John Hood, Vice-Chair

There have been three meetings since the last Board meeting. Twelve full skills instructors have been approved, and 43 assistant skills instructors. Three training sites were approved, and members participated in three test outs, two of which were individual. One instructor program was approved. New member Deputy Sven Bonnelycke of Park County Sheriff's Office was approved, and Instructor Eric Schuyler of Pikes Peak Community College has resigned.

D. Law Enforcement Driving Cmdr. Karl Smalley, Chair

Deputy Jerry Gray of Mesa County Sheriff's Office has been approved as a new member. One full instructor was approved. Future use of GoTo Meetings to facilitate SME meetings and agenda items was discussed. Members are being assigned for the upcoming test outs. The September meeting will not be held at Dept. of Law, but will be hosted by Chief Minor in Silverthorne.

9. **Approval of POST Minutes from March 9, 2018** Attorney General Cynthia Coffman

Motion to approve by Chief Brennan. Approved unanimously.

10. **Curtis Martindale Rule 7 Appeal** Director Erik Bourgerie

Director Bourgerie reviewed the process for appeals by the Board. It was determined that if the Board will hear any appeals, that the same subcommittee could hear all appeals, if the Board wishes to go forward with the appeals for multiple parties.

Mr. Martindale is employed by Pueblo County as a corrections officer. He would like the opportunity to take the written POST exam for the fourth time. If the

appeal is not granted, he must repeat the academic portion of the Basic program in order to become POST certified. Director Bourgerie gave statistics regarding failure rates, etc. The Board discussed test anxiety, and that this may set a precedent if allowed, not only for the written exam, and that there is already an avenue to complete his certification.

Motion to hear appeal by Mr. Lees. Roll call vote was taken, with 12 nays and 10 ayes. Appeal will not be heard.

11. **John McDonald Rule 8 Appeal** Director Erik Bourgerie

Director Bourgerie reviewed Mr. McDonald's felony conviction, and stated that the conviction was deferred/dismissed and the record sealed, at Mr. McDonald's request. When POST received the information regarding the conviction, Mr. McDonald was required to withdraw from Pikes Peak Community College academy after partial completion. As the record is sealed, Mr. McDonald cannot obtain any court records, though he did send some original documents to Mr. Baker. Mr. McDonald presented a support letter from the DA of Fourth Judicial District, Jeff Lindsey. Director of Pikes Peak CC Academy spoke in support of Mr. McDonald, stating he has high potential in law enforcement. Statute 24-31-305 (1.5)(a) CRS was reviewed.

Motion to hear appeal by Mr. Taylor. Roll call vote was taken, with 18 ayes and 4 nays. Appeal will be heard.

12. **Abdisalam Mumin Rule 8 Variance** Director Erik Bourgerie

Director Bourgerie went over Mr. Mumin's conviction, which was deferred and dismissed. Mr. Mumin stated that he has changed his life in a positive way and presented his request to be permitted to become POST certified.

Motion to hear appeal by Exec. Dir. Hilkey. Approved unanimously.

13. **Katrina Baltodono Rule 8 Appeal** Director Erik Bourgerie

Ms. Baltodono was not present. Presence is not required for this process.

Motion to hear appeal by Sheriff Nowlin. Roll call vote was taken, with 16 nays and 6 ayes.

The Attorney General requested volunteers to form the Appeals Subcommittee. Brad Taylor, Jane Quimby, Kara Hoofnagle, Tonya Barnes, and Steve Nowlin volunteered for the subcommittee. POST staff will schedule the hearings for Mr. McDonald and Mr. Mumin.

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

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. F18-01, Andrew Espinoza, Certification B9191 (PID 112446). On December 8, 2017, Respondent was convicted of eight counts of Wildlife-illegal Sale/Purchase-big Game §33-6-113(1),(2)(a) CRS, a Class 5 Felony. The Respondent was employed as a peace officer on the date of the offense (Date of Offense: November 14, 2014, Costilla County Sheriff’s Office, Date of Separation January 02, 2017). The Respondent has failed to comply with POST Show Cause Order No. F18-01 by failing to appear at the scheduled Show Cause Hearing on February 23, 2018. Director Bourgerie recommends revocation of Andrew Espinoza’s Colorado Peace Officer Certification B9191 (PID 112446).

Motion to revoke by Sheriff Day. Approved unanimously.

2. No. F18-02, Michael Taylor, Certification B13025 (PID 129744). On December 12, 2017, Respondent was convicted of one count of Insurance Fraud§18-5-211(1),(4) CRS, a Class 5 Felony. The Respondent was employed as a peace officer on the date of the offense (Date of Offense: June 13, 2010, Basalt Police Department, Date of Separation December, 19, 2010 and Silt Police Department, Date of Separation November 21, 2017). The Respondent has failed to comply with POST Show Cause Order No.F18-02 by failing to appear at the scheduled Show Cause Hearing on February 23, 2018. Director Bourgerie recommends revocation of Michael Taylor’s Colorado Peace Officer Certification B13025 (PID 129744).

Motion to revoke by Chief Brennan. Approved unanimously.

3. No. F18-03, Leonard Portugal, Certification B4665 (PID 127139). On February 28, 2018, Respondent was convicted of one count of Attempt to Influence a Public Servant§18-8-306 CRS, a Class 4 Felony and one count

of Embezzlement of Public Property §18-8-407 CRS, a Class 5 Felony. The Respondent was employed as a peace officer on the date of the offense (Date of Offense: January 8, 2015, Mountain View Police Department, Date of Separation April 20, 2017). The Respondent has complied with POST Show Cause Order No. F18-03 by appearing at the scheduled Show Cause Hearing on April 5, 2018. Director Bourgerie recommends revocation of Leonard Portugal's Colorado Peace Officer Certification B4665 (PID 127139).

Motion to revoke by Sheriff Spurlock. Approved unanimously.

4. No. F18-04, Daniel Garrison, Certification B130283 (PID 130283). On January 5, 2018, Respondent was convicted of one count of Motor Vehicle Theft §18-4-400 CRS, a Class 6 Felony. The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: January 10, 2017). The Respondent has failed to comply with POST Show Cause Order No.F18-04 by failing to appear at the scheduled Show Cause Hearing on March 9, 2018. Director Bourgerie recommends revocation of Daniel Garrison's Colorado Peace Officer Certification B130283 (PID 130283).

Motion to revoke by Sheriff Spurlock. Approved unanimously.

5. No. F18-05, Anthony Joiner, Certification B13505 (PID 130255). On December 18, 2017, Respondent was convicted of one count of Attempt to Influence a Public Servant §18-8-306 CRS, a Class 4 Felony, one count of Embezzlement of Public Property § 18-8-407, a Class 5 Felony, one count of Forgery-check/commercial Instrument § 18-5-102(1)(c), a Class Felony, and one count of Theft \$1,000-\$20,000 § 18-4-401(1),(2)(c), a class 4 Felony. The Respondent was employed as a peace officer on the date of the offense (Date of Offense: January 1, 2016, Morrison Police Department, Date of Separation December 30, 2016). The Respondent has failed to comply with POST Show Cause Order No.F18-05 by failing to appear at the scheduled Show Cause Hearing on April 5, 2018. Director Bourgerie recommends revocation of Anthony Joiner's Colorado Peace Officer Certification B13505 (PID 130255).

Motion to revoke by Chief Brennan. Approved unanimously.

6. No. F18-06, Terrie Ann Chevarria (Findley), Certification B01596 (PID 107269). On March 2, 2018, Respondent was convicted of one count of Controlled Substance-dist-sch 3/4 §18-18-405(1)(2)(d)(I), a class 4 Felony. The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: April 28, 2017). The Respondent has failed to

comply with POST Show Cause Order NO. F18-06 by failing to appear at the scheduled Show Cause Hearing on April 27, 2018. Director Bourgerie recommends revocation of Terrie Ann Chevarria's Colorado Peace Officer Certification B01596 (PID 107269).

Motion to revoke by Sheriff Bruce. 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. M18-01, Ewall Strickland, Certification B134779 (PID 134779). On December 4, 2017, Respondent was convicted of one count of False Reporting-False Identification §18-8-111(1)(d) CRS, a Class 3 Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: August 16, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-01 by failing to appear at the scheduled Show Cause Hearing on February 23, 2018. Director Bourgerie recommends revocation of Ewall Strickland's Colorado Peace Officer Certification B134779 (PID 134779).

Motion to revoke by Exec. Direc. Hilkey. Approved unanimously.

2. No. M18-02, Mark Thornton, Certification B6106 (PID 121935). On November 15, 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: April 5, 2016). The Respondent has failed to comply with POST Show Cause Order No. M18-02 by failing to appear at the scheduled Show Cause Hearing on February 26, 2018. Director Bourgerie recommends revocation of Mark Thornton's Colorado Peace Officer Certification B6106 (PID 121935).

Motion to revoke by Sgt. Chavez. Approved unanimously.

3. No. M18-04, Reuben Liska, Certification B2249-4778 (PID 2249-4778). On November 27, 2017, 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: January 20, 2017, Cortez Police Department, Separated February 4, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-04 by failing to appear at the scheduled Show Cause Hearing on April 5, 2018. Director Bourgerie recommends revocation of Reuben Liska's Colorado Peace Officer Certification B2249-4778 (PID 2249-4778).

Motion to revoke by Mr. Taylor. Approved unanimously.

4. No. M18-05, Adam Alcon, Certification B13530 (PID 130126). On July 5, 2017, 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: January 1, 2017, Montezuma County Sheriff's Office, Separated April 24, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-05 by failing to appear at the scheduled Show Cause Hearing on April 5, 2018. Director Bourgerie recommends revocation of Adam Alcon's Colorado Peace Officer Certification B13530 (PID 130126).

Motion to revoke by Chief Minor. Approved unanimously.

5. No. M18-06, Michael Thomas Martinez, Certification R2699 (PID 139067). On February 15, 2018, Respondent was convicted of one count of one count of Controlled Substance-unlawful use §18-18-404(1) CRS, a Class 2 Drug Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: November 1, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-06 by failing to appear at the scheduled Show Cause Hearing on April 5, 2018. Director Bourgerie recommends revocation of Michael Thomas Martinez's Colorado Peace Officer Certification R2699 (PID 139067).

Motion to revoke by Sheriff Bruce. Approved unanimously.

6. No. M18-07, Branden Michael Burbank, Certification B17713 (PID 138681). On March 6, 2018, Respondent was convicted of one count of one count of Harassment-strike/shove/kick §18-9-111(1)(a) CRS, a Class 3 Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: September 10, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-

07 by failing to appear at the scheduled Show Cause Hearing on April 17, 2018. Director Bourgerie recommends revocation of Branden Michael Burbank's Colorado Peace Officer Certification B17713 (PID 138681).

Motion to revoke by Sheriff Bruce. Approved unanimously.

7. No. M18-08, Arthur Ortega, Certification B14540 (PID 133292). On July 12, 2017, Respondent was convicted of one count of one count of Harassment-strike/shove/kick §18-9-111(1)(a) CRS, a Class 3 Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: April 6, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-08 by failing to appear at the scheduled Show Cause Hearing on April 27, 2018. Director Bourgerie recommends revocation of Arthur Ortega's Colorado Peace Officer Certification B14540 (PID 133292).

Motion to revoke by Sheriff Day. Approved unanimously.

8. No. M18-09, Orlando Chavez Rubio, Certification B0105-8251 (PID 0105-8251). On March 12, 2018, Respondent was convicted of one count 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: August 20, 2017). The Respondent has failed to comply with POST Show Cause Order No. M18-09 by failing to appear at the scheduled Show Cause Hearing on April 27, 2018. Director Bourgerie recommends revocation of Orland Chavez Rubio's Colorado Peace Officer Certification B0105-8251 (PID 0105-8251).

Motion to revoke by Sheriff Bruce. Approved unanimously.

15. **Grant Awards**

Kim Hernandez
POST Grant Coordinator

The Grant subcommittee met on April 25, 2018. POST grant allocation for fiscal year 2019 is \$3.8 million. From that amount POST is requesting \$50,000 for a new grant database, \$40,000 for a backfill program, and \$140,000 for a leadership program. Small, rural agencies would benefit most from the backfill program, and if an amount is not utilized it will roll over into a disbursement account. POST is hoping to utilize an Intergovernmental Agreement (IGA) which can be modified by agencies to facilitate cooperation between the involved organizations. The leadership program we are considering is based on a law enforcement leadership program partnership between DU Daniels School of

Business and Arapahoe County. It would involve five days attendance over three months, with a goal to get it out to small, rural agencies throughout the state. If the three requested items are approved by the Board, the remainder is \$3.6 million, with 20% going to the In-Service program (\$723,400). Just under 10% of the remainder would go to the providers (\$272,574), and \$2.6 million would go to the grant regions. The formula used for distribution is the same as last year.

Motion to approve budget as presented by Sheriff Day. Approved unanimously.

16. **HB 18-1198 – Establishment of** Director Erik Bourgerie
Best Practices for State Boards and Commissions

This legislation lays out the responsibilities as a Board. Ms. Worthington and Director Bourgerie will be going over the legislation and will present further information to the Board at the September work session the day before the POST Board meeting.

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

Chief Phibbs asked if it would be possible for the Board to approve revocations as a whole, rather than reviewing each one individually. Ms. Worthington will review and report back.

Sgt. Chavez was appointed to the State Domestic Violence Fatality Review Board. He would like to discuss making more DV training available to officers across the state, as the only training many receive is eight hours in the Basic academy. This may be a good subject to review at the September work session. We would like to avoid a legislative mandate, but provide a solution to the DV Board, and possibly pull the data we do have available on DV.

Chief Brennan mentioned that hiring an officer who has been granted an appeal can taint the officer's employment and any cases the officer works on. It's a difficult decision when hiring. Chief Minor and Mr. Lees stated that an appeal is a fundamental right, and it's important that they be heard. Appealing to the Board regarding a rule is very different than an appeal in court.

Eric Brandt, citizen, believes that law enforcement officers need better training in the law. He appealed to the Board to provide well-rounded training for the certified officers in Colorado.

18. **Adjournment** Attorney General Cynthia Coffman

Meeting adjourned 12:15 pm

