PHIL WEISER Attorney General

NATALIE HANLON LEH Chief Deputy Attorney General

SHANNON STEVENSON Solicitor General

TANJA WHEELER Associate Chief Deputy Attorney General



STATE OF COLORADO DEPARTMENT OF LAW

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Peace Officer Standards and Training

POST BOARD MEETING

RECORD OF PROCEEDINGS

Friday, March 15, 2024 10 A.M. – 12 P.M.

The Peace Officer Standards and Training Board held its $424^{\rm th}$ Board meeting virtually.

Microsoft Teams

BOARD MEMBERS PRESENT

DONALD ADDY, Public Member ASHLEY BECK, Public Member CHIEF GREGORY DALY, Avon Police Department COMMISSIONER LAURA DANIELS, Gunnison County DEPUTY MARSHAL RACHEL DEFRANCESCO, Town of Ridgway Marshal's Office CHIEF GEORGE DINGFELDER, Monte Vista Police Department SHARLETTA EVANS, Public Member STAN HILKEY, Department of Safety, Executive Director SHERIFF KC HUME, Moffat County Sheriff's Office CHIEF DAVE KROUSE, City of Fruita Police Department SCOTT LEVIN, Public Member DEPUTY SHANNON LOFLAND, Arapahoe County Sheriff's Office SHERIFF DAVID LUCERO, Pueblo County Sheriff's Office SHERIFF DAVID MARTIN, Morgan County Sheriff's Office SHERIFF ANTHONY MAZZOLA, Rio Blanco County Sheriff's Office SHERIFF SEAN SMITH, La Plata County Sheriff's Office CHIEF JEFFREY SWOBODA, Fort Collins Police Services

ATTORNEY GENERAL PHIL WEISER, Colorado Department of Law

BOARD MEMBERS EXCUSED

CHIEF TERRENCE GORDON, City of Thornton SAC MARK MICHALEK, FBI

BOARD MEMBERS ABSENT

SHERIFF SHAWN MOBLEY, Otero County Sheriff's Office

BOARD COUNSEL

TARA BUCHALTER, Asst. Attorney General

POST STAFF MEMBERS PRESENT

ERIK BOURGERIE, Director
CHRIS COOPER, Administrative Coordinator
KIMBERLY HERNANDEZ, Grants Manager
KISHAWN LEUTHAUSER, Grants Specialist
MARIO NORIEGA, Administrative Coordinator
DAN OSTRANDER, Training Specialist
JANELLE RASMUSSEN, Compliance Specialist
RON RYAN, Deputy Director
COURTNAY SCHWARTZ, Investigator
MEGAN SERENA, Compliance Coordinator
JARED TORSNEY, Training Specialist
MARY VEKASY, Compliance Specialist

MEMBERS OF THE PUBLIC IN ATTENDANCE

UNDERSHERIFF QUINN ARCHIBEQUE, Delta County Sheriff's Office, Member of SME Driving Committee

JOSE ALCORTA, Appellant

SERGEANT IKE BEERS, City of Lakewood, Chair of SME ACT Committee

DAVID COOPER, Member of the Public

DEPUTY SPENCER DAVIS, Summit County Sheriff's Office, Appellant

BEAU GOCIO, Appellant

UNDERSHERIFF PAUL GREGORY, Adams County Sheriff's Office, Chair of Firearms SME DAVID HENDERSON, Appellant

CHIEF MARIS HEROLD, Boulder Police Department

JASMINE JONES, Member of the Public

OFFICER TYLER MCCUNE, Arvada Police Department

ALLISON SHERRY, CPR News

COMMANDER KARL SMALLEY, Adams County Sheriff's Office, Chair of Driving SME

JAMES WAGNER, Pueblo County Attorney's Office

1. Welcome Attorney General Phil Weiser 2. Pledge of Allegiance Attorney General Phil Weiser 3. Introduction of Board Members, SME Members, Attorney General Phil Weiser **Staff and Guests Departing Board Member** Attorney General Phil Weiser a. Chief Maris Herold, City of Boulder **Departing Staff** Attorney General Phil Weiser 5. a. Compliance Manager, Catherine Rodriguez 6. Introduction of New POST Attorney General Phil Weiser a. Administrative Coordinator, Chris Cooper Roll Call 7. Director Erik Bourgerie Quorum of members present. 8. **Approval of Board Meeting** Attorney General Phil Weiser Minutes From December 1, 2023 Motion to approve – 1st Mazzola, 2nd Martin Approved unanimously.

9. Subject Matter Expert Reports

a. Arrest Control

Sergeant Ike Beers Chair

Sergeant Beers reported that the committee conducted one inspection at Pueblo Community College. The committee is trying to get more inspections done this year. Committee is actively recruiting new members. Working with Thornton to get their ACT program up and going. The committee had three full skills applications that were approved and two that they will follow up on to make sure that they are able to get them approved soon. One injury review was conducted that was deemed to not have any major issues; it was just an

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unfortunate accident. There was also a discussion about the prone restraint house bill, so all are aware of the bill.

b. Curriculum

Janet Larson Chair

The Curriculum SME chair Janet Larson reported that the committee met last week. They are still reviewing Thornton and are more than halfway through with the approvals for their courses. Chair Janet Larson sat in on the traffic code class, and she feels this will be a fun and pragmatic class which will be very applicable to the job. She feels they are doing a great job. Curriculum revisions were approved by the Board at the December meeting, which were then sent out to the academy directors, raising some questions. These questions have resulted in a submission for proposed changes to Stress Management and Tactical Medicine. The full Ethical Decision Making Under Stress (EDMUS) course would be an acceptable substitution for the four-hour Stress Management requirement. The qualifications to teach Tactical Casualty Care for Law Enforcement were clarified to remove confusion. Learning goals and outcomes were also clarified.

Motion to approve recommended changes - 1st Martin, 2nd Lucero Approved unanimously.

c. Driving

Commander Karl Smalley Chair

Commander Smalley reported that ten full skill instructors were reviewed and approved. One applicant was tabled pending submission of additional documentation. The Thornton Police Department academy driver program was reviewed and approved. The committee is also discussing the development of a driving instructor program for the SME members to teach across the state to assist training regions and individual agencies. 14 members attended the last committee meeting, making a full quorum, and two members were excused due to other commitments.

d. Firearms

Undersheriff Paul Gregory Chair

Undersheriff Gregory reported that the committee conducted two test outs, one inspection, and two more upcoming in April. The committee approved three programs, one of which, was Thornton Police Department Firearms program. They have conducted one RDS instructor course. These are new courses, and

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the committee is working on some minor verbiage changes for the qualification course, and they've also established a subcommittee to work on some changes for the handgun instructor program for relevancy and redundancy.

10. Request for Appeal: David Henderson Revocation

Director Erik Bourgerie

No motion suggested. No hearing granted.

11. Request for Appeal: David Alcorta Rule 8 Variance

Director Erik Bourgerie

No motion suggested. Initial ruling stands

12. Request for Appeal: Beau Gocio Rule 8 Variance

Director Erik Bourgerie

Chief Dingfelder recused Motion to approve – 1st Rachel DeFrancesco 2nd No second, motion failed.

13. Request for Appeal: Spencer Davis Peace Officer Database

Director Erik Bourgerie

Director Hilkey recused. Motion to allow the hearing - 1st Martin 2nd Levin Approved unanimously.

The subcommittee for the appeal hearing: Martin, Beck, DeFrancesco, Lucero, Hume.

14. Peace Officer Certification Revocation & Disciplinary Actions

Director Erik Bourgerie

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. 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. 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. A Colorado peace officer certification may also be surrendered pursuant to § 24-31-305.

<u>Misdemeanor Convictions:</u>

M23-12, Jordan Steinke, Certification PID CO-6919-8517. On September 15, 2023, Respondent was sentenced after being found guilty in a trial by court of one count of §18-3-204(1)(a) C.R.S. – Assault in the Third Degree – Knowingly or Recklessly Causes Injury, a misdemeanor, in Weld County District Court case number 2022CR1845. The Respondent was employed as a Peace Officer at the time of the offense (Date of Offense: September 16, 2022, Ft. Lupton Police Department, Separation Date July 28, 2023). The Responded complied with POST Order to Show Cause No. M23-12 by appearing at a rescheduled Show Cause Hearing on November 29, 2023. POST Director Erik J. Bourgerie recommends revocation of Jordan Steinke's Colorado Peace Officer Certification, PID CO-6919-8517.

Motion to revoke – 1st Hume, 2nd Mazzola Approved unanimously.

2. M23-13, Craig Burgess, Certification PID CO-120449. On or about June 14, 2023, Respondent entered into a deferred prosecution agreement for one count of §18-3-204(1)(a), C.R.S., Assault in the Third Degree—Knowingly or Recklessly Causes Injury, a misdemeanor, in Broomfield County Court case number 2023M345. The Respondent was employed as a Peace Officer at the time of offense (Date of Offense: June 3, 2023, Westminster Police Department, Separation Date August 28, 2023). The Responded complied with POST Order to Show Cause No. M23-13 by appearing at a Show Cause Hearing on December 5, 2023. POST Director Erik J. Bourgerie recommends revocation of Craig Burgess' Colorado Peace Officer Certification, PID CO-120449.

Executive Director Stan Hilkey recused. Motion to approve – 1st Dingfelder 2nd Hume Approved unanimously. The certificate holders in the following matters did <u>not</u> 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 all be presented to this Board as a group.

Felony Convictions:

- F23-13, Eduardo Landeros, Certification PID CO-202-581. On October 23, 2023, Respondent pleaded guilty to one count of §18-3-105 C.R.S. Criminally Negligent Homicide, a felony, in Arapahoe County District Court case number 2023CR1133. The Respondent was employed as a Peace Officer at the time of offense (Date of Offense: March 4, 2023, Aurora Police Department, Separation Date April 25, 2023). The Responded did not comply with POST Order to Show Cause No. F23-13 by failing to appear at a Show Cause Hearing on January 9, 2024. POST Director Erik J. Bourgerie recommends revocation of Eduardo Landeros' Colorado Peace Officer Certification, PID CO-202-581.
- 2. F23-15, Daniel Garcia, Certification PID CO-133863. On November 15, 2023, Respondent entered into a deferred sentence agreement for one count of §18-3-206 C.R.S. Menacing with a Real/Simulated Weapon, a felony, in El Paso County District Court case number 2023CR2416. The Respondent was employed as a Peace Officer at the time of offense (Date of Offense: February 28, 2023, El Paso County Sheriff's Office, Date of Separation December 4, 2023). The Responded did not comply with POST Order to Show Cause No. F23-15 by failing to appear at a Show Cause Hearing on January 31, 2024. POST Director Erik J. Bourgerie recommends revocation of Daniel Garcia's Colorado Peace Officer Certification, PID CO-133863.
- 3. F23-16, David Henderson, Certification PID CO-1346-7187. On November 20, 2023, Respondent entered into a deferred sentence agreement for one count of §18-3-203(1)(i) C.R.S. Attempted 2nd Degree Assault -Strangulation, a felony, and one count of §18-3-204(1)(a) C.R.S., Assault in the Third Degree—Knowingly or Recklessly Causes Injury, a misdemeanor, in Archuleta County District Court case number 2022CR100. The Respondent was not employed as a Peace Officer at the time of offense (Date of Offense: December 27, 2022). The Responded did not comply with POST Order to Show Cause No. F23-16 by failing to appear at a Show Cause Hearing on January 31, 2024. POST Director Erik J. Bourgerie recommends revocation of David Henderson's Colorado Peace Officer Certification, PID CO-1346-7187.

Misdemeanor Convictions:

- 1. M23-11, Phillip Barker, Certification PID CO-7402-2729. On September 21, 2023, Respondent entered into a deferred sentence agreement for one count of §18-8-404 C.R.S. 1st Degree Official Misconduct, a misdemeanor, in El Paso County Court case number 2023M2016. The Respondent was employed as a Peace Officer at the time of offense (Date of Offense: September 29, 2022, El Paso County Sheriff's Office, Separation Date December 16, 2022). The Responded did not comply with POST Order to Show Cause No. M23-11 by failing to appear at a Show Cause Hearing on December 4, 2023. POST Director Erik J. Bourgerie recommends revocation of Phillip Barker's Colorado Peace Officer Certification, PID CO-7402-2729.
- 2. M23-15, Jeremy Olive, Certification PID CO-112640. On or about May 2, 2023, Respondent entered into a deferred prosecution agreement for one count of § 18-3-204(1)(a), C.R.S., Assault in the Third Degree Knowingly or Recklessly Causes Injury, a misdemeanor, in Douglas County Court case number 2023M2. The Respondent was employed as a Peace Officer at the time of offense (Date of Offense: December 31, 2022, Denver Police Department, Separation Date December 2, 2023). The Responded did not comply with POST Order to Show Cause No. M23-15 by failing to appear at a rescheduled Show Cause Hearing on February 14, 2024. POST Director Erik J. Bourgerie recommends revocation of Jeremy Olive's Colorado Peace Officer Certification, PID CO-112640.
- 3. M23-16, Robert Williamson, Certification PID CO-254-365. On August 31, 2023, Respondent pleaded guilty to one count of §18-9-111(1)(a) C.R.S. Harassment strike/shove/kick, a misdemeanor, in El Paso County District Court case number 2023CR1223. The Respondent was not employed as a Peace Officer at the time of offense (Date of Offense: March 5, 2023). The Responded did not comply with POST Order to Show Cause No. M23-16 by failing to appear at a Show Cause Hearing on January 10, 2024. POST Director Erik J. Bourgerie recommends revocation of Robert Williamson's Colorado Peace Officer Certification, PID CO-254-365.

Untruthfulness:

1. U23-29, Egide Ndagije, Certification PID CO-894-592. On November 2, 2023, Aurora Police Department notified Colorado Peace Officer Standards & Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an internal affairs investigation and during an administrative investigation and/or

disciplinary process on October 16, 2023 (Date of Separation: October 26, 2023). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Egide Ndagije's Colorado Peace Officer Certification, PID CO-894-592.

- 2. U23-30, Oscar Morales, Certification PID CO-8517-1844. On November 2, 2023, Commerce City Police Department notified Colorado Peace Officer Standards & Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record on February 25, 2022 (Date of Separation: October 25, 2023). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Oscar Morales' Colorado Peace Officer Certification, PID CO-8517-1844.
- 3. U23-31, Alyssa Cordova, Certification PID CO-815-118. On November 7, 2023, Golden Police Department notified Colorado Peace Officer Standards & Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an internal affairs investigation and during an administrative investigation and/or disciplinary process on October 7, 2023 (Date of Separation: November 6, 2023). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Alyssa Cordova's Colorado Peace Officer Certification, PID CO-815-118.

Motion by 1st Martin 2nd DeFrancesco Approved unanimously.

Felony Conviction:

F23-14, Ryan Roybal, Certification PID CO-131071. On November 9, 2023,
Respondent entered into a deferred sentence agreement for one count of §184-401(1), (2)(g) C.R.S. – Theft - \$5,000-\$20,000, a felony, in Denver District
Court case number 2023CR1496. The Respondent was employed as a Peace
Officer at the time of offense (Dates of Offense: November 5, 2021- August 17,
2022, Denver Police Department, Separation Date November 9, 2023). The
Responded did not comply with POST Order to Show Cause No. F23-14 by
failing to appear at a Show Cause Hearing on January 10, 2024. POST
Director Erik J. Bourgerie recommends revocation of Ryan Roybal's Colorado
Peace Officer Certification, PID CO-131071.

Ms. Ashley Beck recused. Motion to revoke - 1st Dingfelder 2nd Mazzola Approved unanimously.

POST Suspension of Peace Officer Certification: Pursuant to §24-31-904(2)(a)(I) C.R.S. a Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of §24-31-305 C.R.S. or §24-31-308 C.R.S. shall be suspended by the POST Board if the certificate holder has been convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use or threatened use of physical force or a crime involving the failure to intervene in the use of unlawful force and the incident did not result in serious bodily injury or death to another person. For purposes of this Rule 5, pursuant to §24-31-904(4) a deferred judgement, deferred prosecution agreement, or pretrial diversion agreement for a crime involving the use of physical force or a crime involving the failure to intervene in the unlawful use of force also support the suspension of a Colorado peace officer certification.

1. M23-05, Zachary Jones, Unlawful Use of Physical Force: Certification PID CO-0571-7156. On April 4, 2023, Respondent entered into a deferred sentence agreement for one count of §18-3-204(1)(a) C.R.S., Assault in the Third Degree – Negligent with a Deadly Weapon, a misdemeanor, in Jefferson County Court case number 2021M6021. The Respondent was employed as a peace officer at the time of offense (Date of Offense: August 26, 2021, Arvada Police Department, Separation Date February 14, 2023). The Respondent complied with the POST Order to Show Cause No. M23-05 by appearing at a rescheduled Show Cause Hearing on August 23, 2023. The POST Director Erik J. Bourgerie recommends a five (5) year suspension of Zachary Jones' Colorado Peace Officer Certification, PID CO-0571-7156.

Arvada Police Officer Tyler McCune, the victim in this case, addressed the Board, requesting a longer term of suspension than what was recommended. The Board motioned to hold a hearing to determine if an increased suspension term beyond the recommendation was appropriate.

Motion to grant hearing – 1st Evans 2nd Dingfelder. Approved by majority.

The subcommittee for the appeal hearing: Martin, Beck, DeFrancesco, Lucero, Hume

Voluntary Relinquishments:

 VR23-02, Kyle Gould, Certification PID CO-1314-1325. On November 16, 2023, the Respondent plead guilty to a disqualifying misdemeanor in Clear Creek County Court case number 2022CR129. The Respondent's plea agreement included a stipulation he would voluntarily relinquish his peace officer certificate. Colorado Peace Officer Standards and Training received a voluntary relinquishment of Kyle Gould's Colorado Peace Officer Certificate on November 30, 2023.

- 2. VR23-03, Mikhail Noel, Certification PID CO-980-155. On August 29, 2023, Las Animas County Sheriff's Office notified Colorado Peace Officer Standards and Training the Respondent used unlawful physical force on November 29, 2022, and had knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record on November 29, 2022. Prior to a hearing in this matter, Colorado Peace Officer Standards and Training received a voluntary relinquishment of Mikhail Noel's Colorado Peace Officer Certificate on December 4, 2023.
- 3. VR23-04, Michael Minhas, Certification PID CO-7664-9828. On October 2, 2019, Kremling Police Department notified Colorado Peace Officer Standards and Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an internal affairs investigation on September 21, 2019. Prior to a hearing in this matter, Colorado Peace Officer Standards and Training received a voluntary relinquishment of Michael Minhas' Colorado Peace Officer Certificate on December 15, 2023.
- 4. VR24-01, Chad Benoit, Certification PID CO-5164-0409. On March 14, 2022, Weld County Sheriff's Office notified Colorado Peace Officer Standards and Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record on January 14, 2022. Prior to a hearing in this matter, Colorado Peace Officer Standards and Training received a voluntary relinquishment of Chad Benoit's Colorado Peace Officer Certificate on January 11, 2024.
- 5. VR24-02, Thomas McLallen, Certification PID CO-123630. On January 26, 2024, Respondent plead guilty to a disqualifying misdemeanor in Denver County District Court case number 2023CR5655. The Respondent's plea agreement included a stipulation he would voluntarily relinquish his peace officer certificate. Colorado Peace Officer Standards and Training received a voluntary relinquishment of Thomas McLallen's Colorado Peace Officer Certificate on February 21, 2024.

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Administrative Hearing Officer Decisions:

- 1. U20-16, Mauricio Gonzalez, Certification PID CO-138202. On December 3. 2020, Erie Police Department notified Colorado Peace Officer Standards & Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an internal affairs investigation on November 30, 2020 (Date of Separation: December 3, 2020). The respondent requested a Show Cause Hearing, however, the Respondent failed to answer the Notice of Charges and an Entry of Default was entered. An initial decision imposing revocation was issued on November 14, 2023, by an Administrative Hearing Officer. Neither party objected to the disciplinary action, resulting in a final order of revocation being issued on January 23, 2024.
- 2. U21-07, Michael Chon, Certification PID CO-3878-1996. On May 6. 2021, Vail Police Department notified Colorado Peace Officer Standards & Training the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an internal affairs investigation on April 8, 2021 (Date of Separation: May 6, 2021). The respondent requested a Show Cause Hearing, however, the Respondent failed to answer the Notice of Charges and an Entry of Default was entered. An initial decision imposing revocation was issued on November 14, 2023, by an Administrative Hearing Officer. Neither party objected to the disciplinary action, resulting in a final order of revocation being issued on January 23, 2024.

15. Rulemaking

Director Erik Bourgerie POST Counsel Tara Buchalter

Motion to approve rules – 1st Mazzola, 2nd Hume. Approved unanimously.

16. Grants Subcommittee Opening

Grants Mgr. Kim Hernandez

Grants Manager Kimberly Hernandez, asked for a volunteer to serve on the grant subcommittee. Board member Sharletta Evans offered to serve.

17. Academy Subcommittee

Sheriff Anthony Mazzola

Sheriff Mazzola, requests one to two volunteers to serve on the Academy Application Subcommittee. Board members Sheriff Smith and public member Don Addy volunteered

Commented [EB1]: This is from the December 1 meeting

18. Appeal Hearing Findings

Sheriff David Martin

Sheriff Martin took a moment to discuss the appeal hearing findings for Trevon Perry. The committee met to determine if he should be granted the appeal. Voted 3-2 in favor of overturning Director Bourgerie's recommendation to revoke POST certification.

19. Comments From Others on POST Issues

Don Addy, HB 24-1372 asked for review. This Bill has to do with prone restraint.

Ashley Beck first reported that DPD officers were sued based off a search warrant executed. They were found liable. Second is a Denver Detective died by suicide on March 7, 2024.

Sheriff Martin noted Ms. Beck's term is ending on the Board. Would like to approach Governor for permission to extend to three terms.

No further comments from the public or POST Board members.

20. Adjournment

Attorney General Phil Weiser

Motion to adjourn - 1st Dingfelder 2nd Lucero. Approved unanimously.