

PHIL WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

ERIC T. MEYER
Chief Operating Officer



RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Peace Officer Standards and
Training

**STATE OF COLORADO
DEPARTMENT OF LAW**

**POST BOARD MEETING
RECORD OF PROCEEDINGS**

*Friday, September 24, 2021
10:00 AM – 12:00 PM*

The Peace Officer Standards and Training Board held its 415th Board Meeting via
Zoom. Webinar ID: 893 5369 6771

BOARD MEMBERS PRESENT

SENIOR INVESTIGATOR TONYA BARNES, Eighteenth Judicial District
CHIEF GREGORY DALY, Avon Police Department
CHIEF GEORGE DINGFELDER, Monte Vista Police Department
CHIEF DEBRA FUNSTON, Palisade Police Department
CHIEF TERENCE GORDON, City of Thornton
EXECUTIVE DIRECTOR STAN HILKEY, Colorado Department of Public Safety
SHERIFF ROBERT JACKSON, Alamosa County Sheriff's Office
DEPUTY SHANNON LOFLAND, Arapahoe County Sheriff's Office
SHERIFF DAVID MARTIN, Morgan County
SHERIFF ANTHONY MAZZOLA, Rio Blanco County Sheriff's Office
CHIEF JOHN MINOR, Silverthorne Police Department
SHERIFF SHAWN MOBLEY, Otero County Sheriff's Office
CHIEF CLINTON NICHOLS, Commerce City Police Department
SHERIFF STEVE NOWLIN, Montezuma County Sheriff's Office
SPECIAL AGENT IN CHARGE MICHAEL SCHNEIDER, FBI- Denver
ATTORNEY GENERAL PHIL WEISER, Colorado Department of Law
COUNCILMEMBER WAYNE WILLIAMS, City of Colorado Springs

BOARD MEMBERS EXCUSED

OFFICER RACHEL ESTERS, City of Ouray
SHERIFF ANTHONY SPURLOCK, Douglas County Sheriff's Office

BOARD COUNSEL

COLLEEN MOREY, Sr. Asst. Attorney General

POST STAFF MEMBERS PRESENT

BOB BAKER, Training Manager

ERIK BOURGERIE, Director
MEGAN DIMPSEY, Compliance Coordinator
STEVEN ECKELBERRY, Compliance Investigator
VICTORIA EDSTEDT, Administrative Coordinator
DAN GRIFFIN, Training Coordinator
KIM HERNANDEZ, Grant Manager
KISHAWN LEUTHAUSER, Reginal Grant Coordinator
MARIO NORIEGA, Administrative Coordinator
DAN OSTRANDER, Training Coordinator
CATHERINE RODRIGUEZ, Compliance Manager
COURTNAY SHWARTZ, Law Enforcement Accountability Officer
JARED TORSNEY, Marijuana Training Specialist

MEMBERS OF THE PUBLIC IN ATTENDANCE

AMY NICHOLS, Director of County Sheriffs of Colorado
SERGEANT IKE BEERS, City of Lakewood, Chair of SME ACT Committee
JANET LARSON, Chair of SME Curriculum Committee
INVESTIGATOR AARON HORWITZ, Larimer County, Member of SME ACT Committee
JANICE WORTHEM, Colorado State Patrol – Member of SME Curriculum Committee
KEN KOCH
COMMANDER PAUL GREGORY, Adams County, Chair of SME Firearms Committee
DEPUTY DISTRICT ATTORNEY ASHLEY BECK, Denver DA's Office
MATTHEW HOERTER
MEGAN ALSTATT, Member of SME Curriculum Committee
DEPUTY NATE RANDALL, Saguache County Sheriff's Office
UNDERSHERRIF QUINN ARCHIBEQUE, Delta County, Member of SME Driving
Committee
SAM STECKLOW, Journalist at Salt Lake Tribune
TUESDAY BLACK, Court Project Monitoring Specialist, MAAD Colorado
Commander KARL SMALLEY, Adams County Sheriff's Office, Chair of Driving SME
JANET DRAKE, Deputy Attorney General CJS

1. **Welcome** Attorney General Phil Weiser
2. **Pledge of Allegiance** Attorney General Phil Weiser
3. **Introduction of New POST Staff** Director Erik Bourgerie

Administrative Coordinator Mario Noriega
Law Enforcement Accountability Officer Courtnay Schwartz
4. **Roll Call** Director Erik Bourgerie

Quorum of members present.
5. **Introduction of Board Members, SME Members, Staff and Guests**

6. **Approval of POST Board Meeting
Minutes from June 4th, 2021**

Attorney General Phil Weiser

*Motion to approve – 1st Mobley, 2nd Dingfelder
Approved unanimously*

7. **Subject Matter Expert Reports**

a. Arrest Control

Sergeant Ike Beers
Chair

The Arrest Control Tactics (ACT) SME committee approved three full skills instructors. A few members have recently separated from the committee, and they are currently recruiting for more. The committee reviewed an injury report from the Denver Police Academy with nothing suspicious or problematic found. The committee continues to receive program submissions from across the state. Arapahoe County was one the submitters and the committee hopes to get the applications approved in a timely manner, as well as be able to streamline the process for the rest of the state. Ryan Hill and Aaron Horowitz have separated from the committee and were recognized for their service.

b. Curriculum

Janet Larson
Chair

The Curriculum SME committee has completed more than half of the reviews for the Western Colorado Law Enforcement academy. The committee recently voted on a revision of the instructor methodology program with assistance from the other SMEs. They hope to incorporate more reality-based training in the academies to better prepare students. The committee also finished up a rule change that clarifies the expectations of the academies when submitting new curriculum, which will be voted on by the Board later. This will lower the amount of reviews the committee will have to approve. The committee also discussed a refinement to their member selection process and have been given permission to expand the committee by five members. One of the biggest projects right now is to revise and update the curriculum, where the committee will be rewording some of the performance outcomes, as well as lengthening and shortening courses depending on the importance and ease of instruction.

c. Driving

Commander Karl Smalley
Chair

After a few members left The Driving SME Committee, four new ones have joined: Sheriff Jake Six of Bent County Sherriff's Office, Sergeant David R Newbold of Broomfield Police Department, Officer Walter Arvisais of Longmont Police Department and Officer Michael Snook of Thornton Police

Department. The committee has approved 10 new full skill instructors and is currently preparing for the upcoming test outs in Grand Junction and Flat Rock.

- d. Firearms Commander Paul Gregory
Chair

The Firearms SME Committee approved six full skill instructors and has conducted two test outs. It also approved one site plan in Northern Colorado's Law Enforcement Training Center. The committee finalized a handgun instructor program which will be voted on by the Board later. The changes that were included in the packet are in line with what the regular academy program currently has in place, which the Board approved in 2020. These changes have considered SB 20-217 and some additions include case law, de-escalation, etc.

*Motion to adopt changes to firearms instructor program – 1st Mobley, 2nd Nowlin
Approved unanimously*

8. **Request for Variance Denial Appeal:** Director Erik Bourgerie
Matthew Hoerter

Mr. Hoerter requested a Rule 11 variance (Provisional Certification) and was denied by Director Bourgerie. Mr. Hoerter comes now before the Board to request an appeal hearing regarding the Director's decision.

*Motion to allow the appellant to an appeal hearing to provide a variance to attend refresher academy and test out to become POST certified - 1st Daly, 2nd Nichols
Not approved by majority vote*

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

POST Rule 9 - Revocation of Peace Officer Certifications: Pursuant to § 24-31-305(2)(a), C.R.S., a Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of this section or 24-31-308 shall be suspended or revoked by the POST Board if the certificate holder has been convicted of a felony at any time, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305, C.R.S. A Colorado peace officer certification may also be suspended or revoked if pursuant to § 24-31-305(2.5), C.R.S., a law enforcement agency has found, by clear and convincing evidence, that the certificate holder has knowingly made an untruthful statement concerning a material fact while testifying under oath, or during an internal affairs investigation or comparable administrative investigation; or knowingly omitted a material fact on an official criminal justice record, or has otherwise failed to meet the certification requirements established by the Board. For purposes of this Rule 9, a deferred judgment and sentencing agreement, deferred prosecution agreement, or pretrial diversion agreement concerning a felony or any misdemeanor described in (1.5) of § 24-31-305, whether

pending or successfully completed, also support the suspension or revocation of a Colorado peace officer certification.

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

Felony Convictions:

1. No. F21-04, Seth H. Roosevelt, Certification PID 130598. On March 26, 2021, Respondent was sentenced after pleading guilty to one count of §18-5-102(1)(c), Forgery – Check/commercial instrument, a Felony, in Case No. 20CR1615 in the District Court of Weld County. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: March 3, 2020). The respondent has not complied with POST Show Cause Order No. F21-04 by failing to appear at the scheduled Show Cause Hearing on June 7, 2021. POST Director Erik J. Bourgerie recommends revocation of Seth H. Roosevelt's Colorado Peace Officer Certification, PID 130598.
2. No. F21-05, Jamie L. Oliva, Certification PID 134099. On April 9, 2021, Respondent was granted a deferred sentence after pleading guilty to one count of §18-18-405(1), Controlled Substances – Conspiracy schedule 1/2, a Felony, in Case No. 20CR108 in the District Court of Lincoln County. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: September 12, 2018). The respondent has not complied with POST Show Cause Order No. F21-05 by failing to appear at the scheduled Show Cause Hearing on June 28, 2021. POST Director Erik J. Bourgerie recommends revocation of Jamie L. Oliva's Colorado Peace Officer Certification, PID 134099.

Misdemeanor Convictions:

1. No. M21-03, Robert L. Easter, Certification PID 2014-8621. On March 10, 2021, Respondent was granted a deferred sentence after pleading guilty to one count of §18-3-204(1)(a), Third Degree Assault - Knowingly/Recklessly Causing Injury, a Misdemeanor, in Case No. 20M2318 in the County Court of El Paso County. The respondent was employed as a peace officer on the date of the offense (Date of Offense: April 23, 2020, El Paso County Sheriff's Office, Separated March 16, 2021). The respondent has not complied with POST Show Cause Order No. M21-03 by failing to appear at the scheduled Show Cause Hearing on May 24, 2021. POST Director Erik J. Bourgerie recommends revocation of Robert L. Easter's Colorado Peace Officer Certification, PID 2014-8621.
2. No. M21-06, Dean M. Boyle, Certification PID 138782. On May 7, 2021, Respondent was sentenced after pleading guilty to one count of §18-9-111(1)(h), Harassment, a Misdemeanor, in Case No. 19CR114 in the County Court of Lincoln County. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: October 1, 2019). The respondent has not

complied with POST Show Cause Order No. M21-06 by failing to appear at the scheduled Show Cause Hearing on July 8, 2021. POST Director Erik J. Bourgerie recommends revocation of Dean M. Boyle's Colorado Peace Officer Certification, PID 138782.

Untruthfulness:

1. No. U19-02, Jacob A. Fischer, Certification (PID 135101). On October 21, 2019, Grand County Sheriff's Office notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record and during an internal affairs investigation on August 9, 2019 (Date of Separation: August 26, 2019). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Jacob A. Fischer's Colorado Peace Officer Certification (PID 135101).
2. No. U21-06, Andrew J. Luczak, Certification (PID 6140-7607). On April 28, 2021, Lone Tree Police Department notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record on January 16, 2021 (Date of Separation: March 28, 2021). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Andrew J. Luczak's Colorado Peace Officer Certification (PID 6140-7607).
3. No. U21-08, Jordan T. Kissler, Certification (PID 4298-6140). On May 24, 2021, Colorado State Patrol notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact during an internal affairs investigation and during an administrative investigation and/or disciplinary process on October 2, 2020 (Date of Separation: March 18, 2021). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Jordan T. Kissler's Colorado Peace Officer Certification (PID 4298-6140).
4. No. U21-10, Burr E. Tolles, Certification (PID 139921). On June 3, 2021, El Paso County Sheriff's Office notified Colorado Peace Officer Standards & Training that the Respondent knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record between March 7, 2021 and March 29, 2021 (Date of Separation: June 3, 2021). The respondent did not request a Show Cause Hearing regarding this matter. POST Director Erik J. Bourgerie recommends revocation of Burr E. Tolles' Colorado Peace Officer Certification (PID 139921).

*Deputy Lofland recused on Case No. M21-06, Dean M. Boyle, Certification PID 138782 and did not participate in first set of voting.
Motion to revoke – 1st Mazzola, 2nd Dingfelder*

Approved unanimously

Due to board member conflicts, the following three matters will be addressed separately to allow for necessary recusals.

Felony:

1. No. F21-03, James Lopez Jr., Certification PID 118989. On February 2, 2021, Respondent was sentenced after pleading guilty to one count of §18-8-502, Perjury, a Felony, in Case No. 20CR120 in the District Court of Otero County. The respondent was employed as a peace officer on the date of the offense (Date of Offense: February 12, 2020, Rocky Ford Police Department, Separated April 10, 2020). The respondent has not complied with POST Show Cause Order No. F21-03 by failing to appear at the scheduled Show Cause Hearing on April 29, 2021. POST Director Erik J. Bourgerie recommends revocation of James Lopez Jr.'s Colorado Peace Officer Certification, PID 118989.

Misdemeanor:

1. No. M21-05, Brian J. Valencia, Certification PID 137703. On March 22, 2021, Respondent was sentenced after pleading guilty to one count of §18-8-404, First Degree Official Misconduct, a Misdemeanor, in Case No. 20CR147 in the County Court of Otero County. The respondent was employed as a peace officer on the date of the offense (Date of Offense: March 12, 2019, Rocky Ford Police Department, Separated December 26, 2019). The respondent has not complied with POST Show Cause Order No. M21-05 by failing to appear at the scheduled Show Cause Hearing on June 7, 2021. POST Director Erik J. Bourgerie recommends revocation of Brian J. Valencia's Colorado Peace Officer Certification, PID 137703.

*Sheriff Mobley recused on Case No. F21-03, James Lopez Jr., Certification PID 118989 and Case No. M21-05, Brian J. Valencia, Certification PID 137703
Motion to revoke – 1st Nowlin, 2nd Minor
Approved unanimously*

2. No. M21-04, Edward F. Oxley, Certification PID 7493-2073. On March 22, 2021, Respondent was granted a deferred sentence after pleading guilty to one count of §18-8-404, First Degree Official Misconduct, a Misdemeanor, in Case No. 20CR286 in the County Court of Montezuma County. The respondent was employed as a peace officer on the date of the offense (Date of Offense: February 15, 2018, Montezuma County Sheriff's Office, Separated September 17, 2018). The respondent has not complied with POST Show Cause Order No. M21-04 by failing to appear at the scheduled Show Cause Hearing on May 24, 2021. POST Director Erik J. Bourgerie recommends revocation of Edward F. Oxley's Colorado Peace Officer Certification, PID 7493-2073.

Sheriff Nowlin recused on Case No. M21-04, Edward F. Oxley, Certification PID 7493-2073

Motion to revoke – 1st Barnes, 2nd Martin

Approved unanimously

10. **Work Session Recap**

Director Erik Bourgerie

During the Work Session the Board discussed an array of topics, including:

- a. POST's activity while implementing the new legislation.
- b. POST's new officer database that will be ready by January 1, 2022.
- c. Bringing Integrative Communication Assessment Tactics (ICAT) and Active Bystandership for Law Enforcement (ABLE) throughout the state of Colorado.
- d. Ethical Decision Making Under Stress (EDMUS) project.
- e. Ways to support POST's new Law Enforcement Accountability Officer (LEAO) who will be assisting agencies to meet the requirements of the Presidential Executive Order on Safe Policing.
- f. Work on the new commission created by HB 21-1122 which involves improving first responders' interactions with persons with disabilities
- g. The Job Task Analysis and Academy Revamp Project.
- h. POST's "My Why" Project.
- i. The success thus far of rural and smaller academy scholarships and the data of scholarships awarded/programs completed.
- j. The process of implementing the new requirements for existing academies by creating a standing academy review subcommittee.
- k. POST possibly implementing fees in academies to assist compliance after seeking statutory authority of legislator.

11. **Rulemaking**

Director Erik Bourgerie
Board Counsel Colleen Morey

POST Administrative Coordinator, Victoria Edstedt, has confirmed audio recording of the POST Board Rule Making Hearing at 11:23 a.m. on Friday, September 24th, 2021.

No comments from the Board or the Public

Director Bourgerie stated that State Representative Bob Ranken submitted one comment about rulemaking. He was concerned about the impact on recruitment in hiring of peace officers by the rule changes. He requested a cost benefit analysis which was completed by the POST Board in accordance with the Secretary of State's requirements.

*Motion to approve changes to rules as proposed – 1st Dingfelder, 2nd Mobley
Approved unanimously*

12. **Standing Academy Review Subcommittee**

Director Erik Bourgerie
Attorney General Phil Weiser

It was announced that the Board has decided to create a Standing Academy Review Subcommittee that would review current and prospective academies and decide if they meet Colorado POST standards. The following members volunteered: Chief George Dingfelder, Sheriff Shawn Mobley, Deputy Shannon Lofland, Sheriff Anthony Mazzola, Sheriff Steve Nowlin

13. **Executive Session** Attorney General Phil Weiser
(21CV31519)
(Legal Advice on Patterns and Practice Inquiries)

*Motion to disperse into Executive Session – 1st Nichols, 2nd Mobley
Approved unanimously*

14. **Adjournment** Attorney General Phil Weiser

*Motion to adjourn – 1st Nowlin, 2nd Mobley
Approved unanimously*