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Peace Officer Standards and Training

**STATE OF COLORADO
DEPARTMENT OF LAW**

**POST BOARD MEETING
RECORD OF PROCEEDINGS
*Friday, December 6, 2019
10:00 am- 12:00 pm***

The Peace Officer Standards and Training Board held its 407th Board meeting at the Auraria Campus, Student Success Building Rm. 400, 890 Auraria Pkwy, Denver, CO 80204

BOARD MEMBERS PRESENT

SENIOR INVESTIGATOR TONYA BARNES, Eighteenth Judicial District
DEPUTY DISTRICT ATTORNEY ASHLEY BECK, Denver DA's Office
SERGEANT LONNIE CHAVEZ, Grand Junction Police Department
CHIEF CORY CHRISTENSEN, Steamboat Springs Police Department
CHIEF JOHN COLLINS, Englewood Police Department
DEPUTY AMANDA CRUZ-GIORDANO, Arapahoe County Sheriff's Office
EXECUTIVE DIRECTOR STAN HILKEY, Colorado Department of Public Safety
KARA HOOFNAGLE, Public Member
SHERIFF ROBERT JACKSON, Alamosa County Sheriff's Office
SUSAN "ZEKE" KNOX, United States Attorney's Office
SHERIFF ANTHONY MAZZOLA, Rio Blanco County Sheriff's Office
CHIEF JOHN MINOR, Silverthorne Police Department
SHERIFF SHAWN MOBLEY, Otero County Sheriff's Office
CHIEF MICHAEL PHIBBS, Auraria Department of Public Safety
SPECIAL AGENT IN CHARGE DEAN PHILLIPS, FBI- Denver
MAYOR RON RAKOWSKY, City of Greenwood Village
SHERIFF JUSTIN SMITH, Larimer County Sheriff's Office
SHERIFF ANTHONY SPURLOCK, Douglas County Sheriff's Office
BRADLEY TAYLOR, Goetz Insurers
ATTORNEY GENERAL PHIL WEISER, Colorado Department of Law

BOARD MEMBERS ABSENT

CHIEF DEBRA FUNSTON, Palisade Police Department
CHIEF DARIC HARVEY, Canon City Police Department
SHERIFF STEVE NOWLIN, Montezuma County Sheriff's Office
JANE QUIMBY, Public Member

BOARD COUNSEL

STACY WORTHINGTON

POST STAFF MEMBERS PRESENT

BOB BAKER, In-Service Training Manager
TIFFINY BLACK-MAJEKODUNMI, Compliance Specialist
ERIK BOURGERIE, Director
SUSAN CARTER, Grant Coordinator
DAN GRIFFIN, Training Coordinator
KIM HERNANDEZ, Grant Manager
ALEX MARTINEZ, Administrative Coordinator
DAN OSTRANDER, Training Coordinator
JOE PICCINETTI, Compliance Coordinator
CATHY RODRIGUEZ, Compliance Manager
DAVID SCHUETZ, Training Coordinator
JARED TORSNEY, Marijuana Training Specialist

MEMBERS OF THE PUBLIC IN ATTENDANCE

CLIFF AIMS, Aims Community College
QUINN ARCHIBEQUE, Weld County Sheriff's Office
IKE BEERS, Lakewood Police Department
MARK BELUSAK, Red Rocks Community College
DAVID W. CLARKE, Weld County Sheriff's Office
JANET DRAKE, Chief Deputy Attorney General, Criminal Justice, Colorado
VINCE FRAKER, Otero County Junior College
JON GEIGER, Public Member
DIRECTOR CATHY LABRECQUE, Pikes Peak Community College LEA
KURT MORRISON, Colorado Attorney General's Office
LAWRENCE PACHECO, Colorado Attorney General's Office
KAREN PENDERGRAFT, County Sheriffs of Colorado
COMMANDER KARL SMALLEY, Adams County Sheriff's Office
JANICE WORTHEM, Colorado State Patrol

1. **Welcome** Attorney General Phil Weiser
2. **Pledge of Allegiance** Attorney General Phil Weiser

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

4. **Roll Call** Director Erik Bourgerie

Declaration of a quorum (20)

5. **Approval of POST Board Work Session Minutes from September 19, 2019** Attorney General Phil Weiser

Motion to approve minutes as presented by Sheriff Mobley, Second by Sgt. Lonnie Chavez

Approved Unanimously.

6. **Approval of POST Board Minutes from September 20, 2019** Attorney General Phil Weiser

Motion to approve minutes as presented by Sheriff Jackson, Second by Sgt. Lonnie Chavez

Approved Unanimously.

7. **Subject Matter Expert Committee Reports**

- A. **Arrest Control Tactics** Agent Ike Beers
Chair

There were 11 full skills instructor approvals today, with 10 site inspections and 4 new committee members since the September meeting. ACT program has had 3 SBI (Serious Bodily Injury) reports, which were reviewed and discussed today, 1 each from Front Range, Denver and JeffCo police academies. ACT Committee is working on a best practice guidance document to improve the program and reduce future SBIs. ACT Committee member Rich Webb has resigned, a member since 2001. Mr. Webb was presented a plaque for his professional service to the ACT Committee.

B. Curriculum

Director Cathy LaBrecque
Chair

Curriculum SME viewed a presentation on Mental Health by Jared Torsney of POST today. Approved Academy Director Vince Fraker, Otero Junior College. In final voting stage for a “waiver request” sheet for full skills, tabled until the January meeting due to the need for further review by Curriculum members. Discussing best practices, Tiffany Black-Majekodunmi will be presenting a review sheet to assist academy directors for the academy review process. Reviewing Colorado Mountain College Summit Academy lesson plans, expected to be completed within 2 months. Cathy Rodriguez spoke to the committee in regards to committee workload, as requests for new academies increases. Goal is to limit new academy requests to 2/year to help stagger workload. Lt. Dave Swavely has resigned from the committee, a seven year member.

C. Driving

Commander Karl Smalley
Chair

At today’s meeting there were 13 committee members present, and Driving SME approved 4 new Full Skills Instructors, and discussed the inspection of Front Range Community College Academy, and found no problems, academy exceeds standards. Discussed revising lane change maneuver on test outs, and are still tweaking measurements to achieve consistent results. Currently, applicants are challenging the driving portion by making 4 quick lane change maneuvers but the electronic stability control is cutting the power and reducing the speed, this should be finalized by the next meeting. Driving SME inspection schedule is set for next year/ 1st quarter, and also the test out schedule assignments.

D. Firearms

Sergeant Paul Gregory
Chair

Within the last quarter Firearms SME approved 1 handgun instructor program in La Junta. Performed 2 test out and 2 firearms inspections, in La Junta and Comm. College of Aurora. For 2019, Firearms SME approved 31 Full Skills Instructors, 9 test outs complete, 8 site plan approvals, 8

inspections, 3 new SME members, 2 instructor program approvals and 2 academy programs approvals.

8. **Request for Appeal Hearing** Director Erik Bourgerie
Richard Ruybal
(See supplemental handout – White Tab)

Mr. Ruybal has entered into a deferred judgment, and voluntarily withdrew acceptance into a diversion program. Currently, Mr. Roybal is appealing the case with an attorney, while being employed by Manassa Police Department and Conejos County Detention Facility. The Court has accepted a motion to reopen the case, appearance set for December 21, 2019.

Motion to Table: 1st – Christiansen 2nd – Beck

9. **Peace Officer Certification** Director Erik Bourgerie
Revocation Actions
(See supplemental handout – Blue Tab)

POST Rule 9 - Revocation of Peace Officer Certifications:

§ 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. M19-12, Richard David Ruybal, Certification (PID 140005 On August 8, 2019, Respondent was granted diversion for one count of Harassment, §18-9-111(1)(a), a Misdemeanor, in Case No. 19M883 in the County Court of Conejos County. The respondent was employed as a peace officer on the date of the offense (Date of Offense: July 28, 2019) with Manassa Police Department. The respondent has complied with POST Show Cause Order No. M19-12 by appearing at the scheduled Show Cause Hearing on October 1, 2019. Director Bourgerie recommends revocation of Richard David Ruybal’s Colorado Peace Officer Certification (PID 140005).

Revocation Action: Tabled

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.

Misdemeanor Convictions:

1. No. M19-09, Ronnie Harold Chavez, Certification B13436 (PID 120718). On July 15, 2019, Respondent pled guilty and was sentenced for one count of Harassment – Domestic Violence, §18-18-404, a Misdemeanor, in Case No. 18CR633 in the District Court of Douglas County. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: June 20, 2018). The respondent has failed to comply with POST Show Cause Order No. M19-09 by failing to appear at the scheduled Show Cause Hearing on September 13, 2019. Director Bourgerie recommends revocation of Ronnie Harold Chavez’ Colorado Peace Officer Certification B13436 (PID 120718).

2. No. M19-10, Donnie Wesley Lambert, Certification B11481 (PID 121077). On June 19, 2019, Respondent pled guilty and was sentenced for one count of Third Degree Assault, §18-3-204(1)(a), a Misdemeanor, in Case No. 19CR1512 in the District Court of Pueblo County. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: September 29, 2019). The respondent has failed to comply with POST Show Cause Order No. M19-10 by failing to appear at the scheduled Show Cause Hearing on September 26, 2019. Director Bourgerie recommends revocation of Donnie Wesley Lambert’s Colorado Peace Officer Certification B11481 (PID 121077).

Motion to Approve Revocation: 1st - Phillips 2nd – Jackson

Unanimously approved by the Board

10. Legislative Update

Deputy Attorney General
For Intergovernmental Affairs,
Kurtis Morrison

POST submitted 7 legislative priorities to be reviewed by the General Assembly for possible adoption. After discussion with house and senate judiciary committees, there were 2 that had promise were, 1 authorizing funding for a rural law enforcement grant, and one that provided more enforcement authority over individuals rather than entire agencies for being out of POST compliance. Direct language and sponsors for these items await. The other 5 are still under review.

11. ERPO Guidance Sheriff Anthony Spurlock

A concern and the expectation in the public is that the POST board would create the Extreme Risk Protection Order (ERPO) policy, and that is not in the legislative language. The POST Board is to create a training module and standard policy for law enforcement agencies (LEAs) to attach themselves to. County Sheriffs of Colorado (CSOC) and LEAs are coming together to create a standardized policy, and are still in draft mode. The law does not require LEAs to have a policy, but POST did create a “model policy” and LEAs can manipulate that policy to fit their location.

12. Formal Rulemaking Session: Attorney General Phil Weiser
Rules 5, 9, 19 Director Erik Bourgerie
(See supplemental handout – Yellow Tab) Counsel Stacy Worthington

Attorney General Phil Weiser opens the record for the POST Rulemaking Hearing. POST Administrative Assistant Alex Martinez, confirms that he is recording for this purpose.

No members have chosen to comment on the proposed rule changes.

Motions to Adopt:

Rule 5: 1st – Jackson, 2nd – Chavez, All in favor

Rule 9: 1st – Rakowsky, 2nd – Mobley, All in favor

Rule 19: 1st – Phillips, 2nd – Christiansen, All in favor

Rules are to be published on January 30, 2020.

13. Skills Contracting for Academies Director Erik Bourgerie
Cathy Rodriguez

Two community college academies are contracting with other academies to provide their skills training. Their students are being taught by another entity by farming out a portion of their academy, but the students are not commingled.

The Board did not propose a motion on this issue.

14. Number of Academies Director Erik Bourgerie
Cathy Rodriguez

Currently there are no limits as to how many academies POST can approve in Colorado. There are 23 Basic Academies, 7 reserve, and 1 refresher. In total, 31 running academies with 1 pending approval, and 3 inquiries. A team of 4 POST Compliance employees are responsible for 31 academies, as well as tracking certifications/Decertification processes, criminal cases, variances, Serious Bodily Injury reports, out-of-state transfer curriculum reviews, academy inspections, SME committees, approving sites and new academies, administering the skills test-outs and written POST exam. If there are more requests for academies, the SME committees and POST staff will be unable to sustain the workload.

The POST Board has tabled this issue and has asked for data to be produced at the next POST Board Work Session on March 27, 2020.

15. Wellness Curriculum Director Erik Bourgerie

Nationwide over 200+ police officers have committed suicide and about 50 shot in line of duty. Wellness Curriculum focuses on nutrition, exercise, etc., but we need to educate on how and where to reach out for mental help. Teaching mental health before they get traumatized in the field. Current curriculum needs to be expanded. Director Bourgerie asks the Board to consider requesting the Curriculum SME committee to expand on mental health wellness.

POST Board approves unanimously

16. TEMS Subcommittee Director Erik Bourgerie

Possibility of developing a Reserve curriculum for Tactical Emergency Medical Service POST certification.

Board members who would like to be a part of a TEMS Subcommittee:

Sheriff Mobley

17. Certification Levels Subcommittee Director Erik Bourgerie

Explore the idea of creating an intermediate, advanced, and command levels of POST certification.

Board members who like to be a part of a Certification Levels Subcommittee:

Sheriff Smith
Investigator Barnes
Chief Phibbs
Sheriff Spurlock

19. Appeals Results: Brandy Camp Chief Michael Phibbs

Ms. Camp had requested a Rule 7 Variance

The subcommittee has denied the request.

20. Appeals Results: Michael Amory Chief Michael Phibbs

Mr. Amory requested a Rule 11 Variance

The subcommittee has granted the Rule 11 Variance, and Mr. Amory will be attending a mini-academy.

18. Inspection Reports Director Erik Bourgerie
(See separate packet)

POST Staff and SME Committees have provided a report with information for transparency.

19. Comments from Others on POST Issues

John Geiger, Public Member:

POST Certification was revoked after moving out of Colorado. Mr. Geiger accepted a plea deal after a charge of harassment, 1 year probation. Mr. Geiger missed the Rule 5 Variance Show-Cause Hearing, as he did not receive notification due to a mailing/email address issue, and is asking for a show-cause hearing.

Motion to grant Show Cause Hearing: 1st – Rakowsky, 2nd – Jackson

Roll Call Vote: 14 (Yes) – 6 (No)

Show Cause Hearing granted by the POST Board. Director Bourgerie has recused himself from the Hearing.

20. Adjournment at 12 p.m.

Attorney General Phil Weiser