

# **POST BOARD MEETING**

## *RECORD OF PROCEEDINGS*

*December 6, 2013 10:04 am*

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The Peace Officer Standards and Training Board held its 385th Board meeting at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver Colorado with the following in attendance:

### **BOARD MEMBERS**

MR. RONALD BECKHAM  
CHIEF MARK BECKNER  
CHIEF DAN BRENNAN  
SHERIFF RON BRUCE (via teleconference)  
CHIEF JOHN CAMPER  
OFFICER RAFAEL CHANZA  
EXECUTIVE DIRECTOR JAMES H. DAVIS  
COMMISSIONER DAVID DONALDSON  
SHERIFF SHAYNE HEAP  
SHERIFF CHRIS JOHNSON  
INVESTIGATOR GILBERT PERALES  
SPECIAL AGENT IN CHARGE THOMAS RAVENELLE  
SHERIFF KIRK TAYLOR  
SHERIFF DAVID WEAVER  
CHIEF ROBERT C. WHITE  
CHIEF DAVE WOHLERS

### **BOARD MEMBERS ABSENT**

SHERIFF JAMES FAULL  
CHIEF DANIEL OATES  
ATTORNEY GENERAL JOHN SUTHERS

### **BOARD COUNSEL**

JULIE SELSBERG, First Assistant Attorney General

### **STAFF MEMBERS**

MATTHEW DURKIN, Deputy Attorney General  
PETE DUNBAR, POST Director  
CRISTINE MACK, POST Investigator  
BECKY CALOMINO, POST Grant & Training Manager  
TOM MULLEN, POST Compliance Officer  
STEFANIE MACKEY, POST Grant & Training Coordinator  
LORI JENCKS, POST Administrative Assistant

## MEMBERS OF THE PUBLIC IN ATTENDANCE

SERGEANT WILLIAM BAKER, Grand Junction Police Department  
GREG BARLOW, Colorado Intergovernmental Risk Sharing Agency  
CAPTAIN ERIK J. BOURGERIE, Summit County Sheriff's Office  
SERGEANT JEFF BREDEHOEFT, Douglas County Sheriff's Office  
TECHNICIAN AARON BRILL, Denver Police Department  
INVESTIGATOR CHRIS BROOKS, Mesa County Sheriff's Office  
SERGEANT MICHAEL CUMMINGS, Arapahoe County Sheriff's Office  
LIEUTENANT MICHAEL ESTERS, Larimer County Sheriff's Office  
SERGEANT ERIC GONZALES, Pueblo Police Department  
STAFF SERGEANT BRIAN HILL, Federal Reserve Police Department  
DEPUTY DARYL HOFFMAN, Jefferson County Sheriff's Office  
TRAINING MANAGER JOHN HOOD, Colorado Parks and Wildlife  
CORPORAL AARON HORWITZ, Larimer County Sheriff's Office  
DIRECTOR DOYLE JONES, Weld County Sheriff's Office  
SERGEANT CHRIS JUUL, Aurora Police Department Training Academy  
DEPUTY EDWARD KAFEL, El Paso County Sheriff's Office  
SERGEANT ANITA KOESTER, Lakewood Police Department  
JANELLE KRUEGER, Colorado Department of Education  
OFFICER STEPHEN LARSEN, Aurora Police Department  
JANET LARSON, County Sheriffs of Colorado  
TECHNICIAN DEVIN MCGINTY, Denver Police Department  
TECHNICIAN BRAD MCKIERNAN, Denver Police Department  
SERGEANT DARREN O'DRISCOLL, El Paso County Sheriff's Office  
OFFICER STEPHEN OULLIBER, Aurora Police Department  
CHIEF JOEL SHULTS, Adams State College Police Department  
COMMANDER KARL SMALLEY, Adams County Sheriff's Office  
CHIEF LUIS VELEZ, Pueblo Police Department  
TECHNICIAN MICHAEL WALKER, Denver Police Department  
OFFICER BRAD WANCHISEN, Aurora Police Department  
SERGEANT RICHARD D. WEBB III, Jefferson County Sheriff's Office  
ACADEMIC COORDINATOR JANICE WORTHEM, Colorado State Patrol  
INVESTIGATOR RICHARD WREN, Colorado Department of Corrections

The following Subject Matter Expert Committees met prior to the regular POST Board meeting on December 6, 2013.

Arrest Control Subject Matter Expert Committee  
Curriculum Subject Matter Expert Committee  
Firearms Subject Matter Expert Committee  
Law Enforcement Driving Subject Matter Expert Committee

### ***Introductions:***

1. Welcome

*Chief Mark Beckner, Chair pro tem*

Chief Beckner welcomed all to the Board meeting.

2. Pledge of Allegiance
3. Introduction of Board Members, SME Members, Staff and Guests
4. Formal Board Recognition of Departing Subject Matter Expert Committee Members *Chief Mark Beckner, Chair pro tem*

Chief Beckner presented plaques of appreciation to departing SME Law Enforcement Driving Committee members Deputy Edward Trujillo and Lieutenant James Lucas. Sergeant Darren O'Driscoll accepted for Deputy Trujillo.

5. Roll Call *Director Pete Dunbar*

*Declaration of a Quorum*

6. Approval of POST Board Minutes for September 20, 2013

*Approved Unanimously*

#### ***Presentations:***

7. Subject Matter Expert (SME) Committee Reports

- 1) *Curriculum* *Sgt. Darren O'Driscoll, Chairman*  
*Sgt. Graham Dunne, Vice-Chairman*  
*Sheriff Kirk Taylor, Board Member*

Sgt. O'Driscoll presented the report. Sgt. Eric Wittman of Aurora Police Department has been promoted to lieutenant and has resigned from the committee. The progress of the POST certification exam revision was discussed. The subcommittee has built a bank of approximately 400 new questions which will be field tested in the next months. The goal is to get the new exam administered to Basic Academy graduates as soon as possible in 2014. Director Dunbar will advise the Board of further details later in the meeting. The Basic curriculum revision will take place in 2014, with the goal of aligning the test questions on the new exam with the curriculum. Once the Basic curriculum is revised and coordinated with the new exam, the committee will work on aligning the Refresher and Reserve curricula with the new exam as well. Mark Ashby of Thornton Police Department spoke to the committee for the second time to discuss the need for additional and ongoing training in detection of impaired driving, including use of alcohol as well as marijuana and other substances. The committee discussed whether additional training should be mandated as part of the Basic academy curriculum, such as the 16-hour Advanced Roadside Impaired Driving Enforcement (ARIDE) program. Training should possibly be mandated for current officers statewide. The initial proposal was the 16-hour ARIDE program, but that met with some resistance. Officer Ashby has volunteered to develop an alternate, eight-hour program. Implementation would fall on regions and individual agencies. The committee set monthly meeting dates for 2014.

2) *Arrest Control*

*Sgt. Richard "JJ" Webb, Co-Chair  
Capt. Erik Bourgerie, Co-Chair  
Inv. Gilbert Perales, Board Member*

Sgt. Webb reported to the Board. The committee met in November. The committee has conducted an inspection and a test-out. Membership forms were reviewed and updated and meeting dates for 2014 were set. An inspection in Alamosa was conducted and the program was found to be very good, with some recommendations for improvements. Marco Montez of Mesa County Sheriff's Office was approved as a new member. Timothy Grandy of Castle Rock Police Department was approved as a full instructor. A Carotid Restraint Hold Instructor course was reviewed after being tabled in June due to incomplete course outline. Complete information was submitted and the course was approved. The final draft of the Arrest Control Instructor Program should be submitted prior to the March meeting. The committee has recommended some language for the site and safety plan approval, regarding the obligation of the academies to have all items mentioned in the plan on site at the time the inspection occurs. There was one injury reported to the committee and was handled appropriately by the academy. Lieutenant Michael Esters of Larimer County Sheriff's Office has submitted his resignation from the committee. Larimer County will be submitting paperwork for another deputy to take his place.

3) *Law Enforcement Driving*

*Cmdr. Karl Smalley, Chairman  
Mr. Al Padilla, Vice-Chairman  
Chief John Camper, Board Member*

Commander Karl Smalley reported. Lieutenant Jim Lucas of Jefferson County Sheriff's Office submitted his resignation from the committee. Brad Wanchisen of Aurora Police Department attended the meeting today as a prospective new member. The committee will be meeting prior to the Board meetings, including in June in Lake City. An inspection of the El Paso County Sheriff's Office Academy was conducted on October 29<sup>th</sup>. The Academy has an excellent program with no issues.

4) *Firearms*

*Deputy Ed Kafel, Chairman  
Training Mgr. John Hood, Vice-Chair  
Sheriff Chris Johnson, Board Member*

Deputy Ed Kafel presented the report. The committee met 11 times in the past year and conducted six program inspections, six major test-outs and several individual test-outs. New member William Baker of Grand Junction Police Department has been approved.

**Action Items:**

8. **Firearms Remediation**

*Deputy Ed Kafel  
Firearms SME Chairman*

Director Dunbar gave a brief background regarding concerns with the firearms qualification. On September 20, 2013 Chief Luis Velez of Pueblo Police Department gave a presentation to the Board members at the work session in Pueblo, stating concerns that the 100% qualification requirement for the current course of fire was unnecessarily stringent. At present the academy qualification course requires that all 25 rounds be on the target to pass with no size requirements for the target. Remediation can take place after the first and second failed attempts. After the third failed attempt, the individual must re-take the entire 64-hour academy firearms training course. The student/cadet would typically have to complete the program at a different academy causing logistical and financial issues for agencies and individuals. At the September Board meeting, the Board requested that the Firearms SME committee:

- 1) Present a video of the qualification course of fire
- 2) Determine a standard target to be used at all academies
- 3) Recommend alternate remediation options if 100% qualification is kept
- 4) Compare Colorado standards to other states' qualification scores
- 5) Present an alternative to the 100% qualification score.

Director Dunbar presented information for firearm program requirements for other states. The varying levels of difficulty of the courses of fire and qualification score requirements cannot be compared easily to Colorado. There are three other states that have a 100% qualification requirement, but have substantially different courses of fire.

The subcommittee supports the 100% qualification requirement, and stated that if the Board chooses a different qualification score, the subcommittee would have to review and revise the course of fire to increase the difficulty and the number of rounds, possibly similar to the course of fire in place prior to 2010. The Firearms subcommittee presented two remediation options for consideration by the Board. The first option includes minimum standards of four hours remediation between the first and second attempts, and a minimum eight hours remediation between the second and third attempts at qualification. The second option includes the same minimum standards for remediation between attempts as the first option, *plus* additional remediation training after the third attempt, of a minimum of 4 hours and a maximum of 24 hours, prior to a fourth attempt. Failure of the fourth attempt would require completion of the 64-hour academy firearms program. For both options the remediation curriculum would be left to the discretion of the academy director and lead firearms instructor for that academy.

Per the Board request Deputy Ed Kafel showed a video of the course of fire from the shooter's perspective shot by an El Paso County Sheriff's Deputy.

Discussion of the options took place, with particular emphasis on whether an agency could provide remediation, how it could be coordinated with the academy, and whether there should be a minimum and/or maximum time for remediation. The burden would fall on the academy for remediation. There is also concern that the process should be consistent for students not sponsored by an agency. The Firearms committee is amenable to the agency providing remediation. The Board can choose an option, and review the results in one year (two academy classes, roughly). The option chosen would not affect the refresher academy, but would affect the reserve academy.

Chief Luis Velez spoke briefly and reiterated his two points: 100% qualification is not reasonable, and that remediation of 64-hour Firearms academy is unreasonable and too costly. Dep. Kafel responded that officers are responsible for all rounds fired. On a controlled course of fire, 100% should be the expectation.

The TQ15 target without scoring rings was displayed to the Board and is the proposed standard target for all academies. A motion was issued to approve the target.

*Approved unanimously*

A motion was issued to approve Option #2 with additional language: “Those students employed or sponsored by an agency may have remediation conducted by agency staff in coordination with the academy director.”

An amendment to the motion was suggested to provide success rate and remediation data after one year to assess the status of the changes.

An amendment to the motion was proposed to set maximum remediation of 24 hours for each remediation period. After discussion the amendment was withdrawn.

*Approved - Exec. Dir. James Davis, Sheriff Kirk Taylor and Comm. Dave Donaldson opposed.*

## 9. 2014 Proposed Statutory Changes

*Director Pete Dunbar*

Board Counsel Julie Selsberg presented proposed statutory changes to clarify rule making authority. The statutory changes would provide broad authority for the POST Board to promulgate rules and regulations. POST must obtain a sponsor to present to the legislature at this legislative session. Changes would be made to §24-31-303 and §24-31-305 and §42-3-304 to would include an increase in test fees by \$25 per certification exam and an increase from \$.60 to \$1.00 in the fee POST receives from vehicle registrations.

Grant and Training Manager Becky Calomino had comments regarding the proposed change to §24-31-303(3), which would allow grant funding to “any non-profit... or to any other organization that develops and provides training programs.” The proposed change corrects the statute to allow for funding non-profits as was approved last year by the grant subcommittee and the Board. Ms. Calomino states that the proposed additional language regarding “any other organization” is too broad and may diminish training dollars going to regions because the existing funds would be shared by additional organizations. The application process would change if the number of applications increases dramatically and will require a considerable amount more time, money and changes to the grant database. The word “compensation” indicates that POST grant funds could be used to pay salary, vacation, retirement and other fringe benefits to any organization that receives POST grant funds instead of paying to peace officer training.

There was general discussion regarding the repercussions of the proposed language, which had been reviewed and approved by Attorney General Suthers. Several

possibilities for alternate language were put forth for discussion, as well as the possibility of including specific requirements in the grant guidelines.

The POST Board moves to approve statutory changes with the exception of §24-31-303(3) in which the original language that had been approved previously by vote will replace the more recent language.

*Approved unanimously*

10. Update on Below 100

*Director Pete Dunbar  
Michael Papi, Knowledge Factor*

At the September POST Board work session Karl Smalley presented the Below 100 program information. At that time the Board requested a training proposal. POST is proposing train-the-trainer sessions, followed by classroom and online training.

Director Dunbar stated that it will cost \$20,000 to develop the online course. Colorado Intergovernmental Risk Sharing Agency (CIRSA) is offering to fund \$10,000 of the total cost.

Knowledge Factor is currently developing the online course. Michael Papi presented Knowledge Factor's proposal with a demonstration of the application. Knowledge Factor worked closely with Below 100 to develop an online program with similar emotional impact that can be utilized statewide, especially by small, rural agencies.

It is recommended that POST move forward with online and classroom training and work with CIRSA on development and will expect a progress report in March. Sheriff Taylor proposes Pueblo County as a test site if needed.

*Approved unanimously*

11. Peace Officer Certification Revocation Actions

*Director Pete Dunbar*

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 or judge.

1. No. 13-12, **Matthew Russell Keefe**, Certification No. B00337, (PID 106492). On September 14, 1995, Respondent pled guilty to one count of Assault 3 know/reckless/cause injury, § 18-3-204, C.R.S., a class 1 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: July 15, 1997 –Never Employed)*. The Respondent has failed to comply with

POST Show Cause Order 12-06 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Matthew Russell Keefe's Colorado Peace Officer Certification No. B00337, (PID 106492).

*Approved unanimously*

2. No 13-13, **Michael Eugene Pyle**, Certification No. B15567 (PID 134648). On July 22, 2013, Respondent pled guilty to two counts of Assault 3 know/reckless/cause injury, § 18-3-204(1)(a), C.R.S., a class 1 misdemeanor. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: February 27, 2013 – Separated: May 23, 2013).* The Respondent has failed to comply with POST Show Cause Order 13-13 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Michael Eugene Pyle's Colorado Peace Officer Certification Number B15567 (PID 134648).

*Approved unanimously*

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 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 or judge.

1. No. F13-13, **Kevin David Osborne**, Certification No. B7151 (PID 114092). On August 6, 2013, Respondent pled guilty to and was convicted of one count of Theft, 1000-20,000, § 18-4-401 (1)(2)(C), C.R.S., a class 4 felony. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: March 20, 2013 – Separated June 24, 2009).* The Respondent has failed to comply with POST Show Cause Order 13-13 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Kevin David Osborne's Colorado Peace Officer Certification No. B7151 (PID 114092).

*Approved unanimously*

## **12. Formal Rule Making Hearing**

*Chief Mark Beckner, Chair pro tem  
Board Counsel Julie Selsberg  
Director Pete Dunbar*

### **Public Announcement of Formal Rule Making Hearing**

*Opened at 12:46 p.m.*

- A. Summary of Proposed POST Rule Change      *Director Pete Dunbar*  
Colorado Department of Regulatory Affairs Review/Response
  - a. Rule 1 – Definitions
  - b. Rule 11 – Provisional Certification



- c. Rule 13 – Renewal of Basic Certification  
Changes in Rules 1, 11 & 13 correct style and grammatical errors, change the number of hours for the refresher academy, and add arrest control instruction to the renewal of basic certification and provisional certification requirements.
- d. Rule 27 – Retired Law Enforcement Officer Authority to Carry Concealed Firearms  
Removes reference to repealed statute. Strikethrough version will remain in place for reference through 2014.

B. Public Comment on Rule Making

No comments from Board or public.

C. Board Vote

*Unanimously adopted*

*Session closed at 12:50 p.m.*

13. 2014 POST Board Meeting Dates and Offsite Meeting

*Director Pete Dunbar*

Proposed Board Meeting dates for 2014

Friday, March 7, 2014

Thursday, June 12, 2014 - POST Board work session, Hinsdale County, Lake City

Friday, June 13, 2014 – Hinsdale County, Lake City

Friday, September 12, 2014

Friday, December 5, 2014

A date change for the offsite meeting from September to June is proposed. Sheriff Bruce of Hinsdale County expressed the need for preparation and head counts, and suggests we make reservations as quickly as possible. He will provide a list of available lodgings.

*Approved unanimously*

***Informational Items:***

14. POST Online Test Update

*Director Pete Dunbar*

POST is dissatisfied with progress with I/O solutions and has discontinued working with them. POST formed a test question subcommittee that wrote new questions and reviewed existing test questions. The current test bank will be field tested throughout December for analysis in early January by Dr. Haladyna, the third-party expert. POST would like the test to be online as soon as possible, and will have a report in March.

15. Strategic Plan Update

*Director Pete Dunbar*

The Basic curriculum update will take place next year. POST will also determine the levels for reserve officers next year as well. Working with small, rural agencies on training opportunities is an ongoing project, but more comprehensive update will be presented in March.

**16. School Resource Officer and Elder Abuse Curricula** *Director Pete Dunbar*

Elder Abuse: Director Dunbar has been working with Jefferson County and Boulder County to take an eight-hour curriculum and reduce it to four hours. We have scheduled some trainings beginning in January. At least one person from each municipal and county agency in Colorado is to be trained with this curriculum. The goal is to complete the training before the mandatory reporting requirement on July 1, 2014. At present there is no cost to attend.

The School Resource Officer curriculum is nearing completion. It is a 48-hour course including 2 days of single officer response to a shooter. One officer per agency must attend the training, but those who have attended the basic 40 hour course will be grandfathered.

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

Scott Black of the Glendale Police Department has tendered his resignation and POST will be replacing him as a Board member within the next couple of months.

**18. Adjournment**

*Chief Mark Beckner, Chair pro tem*

Chief Beckner called for a motion to adjourn.

*Approved unanimously*

Meeting end: 12:58 p.m. (2 Hours 54 Minutes)

**Next POST Board Meeting:**

**Friday, March 7, 2014  
POST Board Meeting – Colorado Dept. of Law  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 1<sup>st</sup> Floor  
Denver CO 80203**