

# **POST BOARD MEETING**

## *RECORD OF PROCEEDINGS*

*November 21, 2014 10:00 am*

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The Peace Officer Standards and Training Board held its 389th Board meeting at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver, Colorado, with the following in attendance:

### **BOARD MEMBERS PRESENT**

MR. RONALD BECKHAM  
CHIEF DAN BRENNAN  
SHERIFF RON BRUCE  
CHIEF JOHN CAMPER  
SERGEANT RAFAEL CHANZA  
CHIEF JOHN COLLINS  
DEPUTY AMANDA CRUZ-GIORDANO  
SHERIFF CHAD DAY  
COMMISSIONER DAVID DONALDSON  
CHIEF JOHN DYER  
SHERIFF JIM FAULL  
SHERIFF SHAYNE HEAP  
EXECUTIVE DIRECTOR STAN HILKEY  
SHERIFF FRED MCKEE  
CHIEF MICHAEL PHIBBS  
SPECIAL AGENT IN CHARGE THOMAS RAVENELLE  
ATTORNEY GENERAL JOHN SUTHERS  
SHERIFF KIRK TAYLOR  
CHIEF ROBERT C. WHITE

### **BOARD MEMBERS ABSENT**

INVESTIGATOR GILBERT PERALES

### **BOARD COUNSEL**

JULIE SELSBERG, FIRST ASSISTANT ATTORNEY GENERAL

### **POST STAFF MEMBERS**

ROBERT A. BAKER, In-Service Training Manager  
CAROLYN BERRY, Marijuana Curriculum Coordinator  
BECKY CALOMINO, Grant and Training Manager  
PETE DUNBAR, Director  
LORI JENCKS, Administrative Assistant  
ARIEL KISKIRAS, Temporary Administrative Assistant  
CRISTINE MACK, Investigator  
STEFANIE MACKEY, Grant & Training Coordinator  
LAURA-JANE WEIMER, Program Assistant

## MEMBERS OF THE PUBLIC IN ATTENDANCE

SERGEANT DARRELL AULSTON, Colorado State Patrol  
CAPTAIN ERIK J. BOURGERIE, Summit County Sheriff's Office  
DIANE BRUCE, Hinsdale County Sheriff's Office  
TROOPER NATHAN BUSINGER, Colorado State Patrol  
DIRECTOR CLIFF DAWSON, Red Rocks Community College  
SERGEANT ROBERT DONELS, El Paso County Sheriff's Office  
SERGEANT GRAHAM DUNNE, Aurora Police Department  
DEPUTY ATTORNEY GENERAL MATT DURKIN, Colorado Department of Law  
DIRECTOR DOYLE JONES, Weld County Sheriff's Office  
DEPUTY EDWARD KAFEL, El Paso County Sheriff's Office  
DIRECTOR CATHY LABRECQUE, Pikes Peak Community College  
JANET LARSON, County Sheriffs of Colorado  
COMMANDER IB MEYER, Weld County Sheriff's Office  
LIEUTENANT ERNIE ORTIZ, Aurora Police Department  
BREN D. ROGERS  
COMMANDER KARL SMALLEY, Adams County Sheriff's Office  
JANICE WORTHEM, Colorado State Patrol  
INVESTIGATOR RICHARD WREN, Department of Corrections

The following Subject Matter Expert Committees met prior to the regular POST Board meeting on November 21, 2014.

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** Attorney General John Suthers
2. **Pledge of Allegiance** Attorney General John Suthers
3. **Introduction of Board Members, SME Members, Staff and Guests**
4. **Formal Board Recognition of Departing Subject Matter Expert Committee Members** Attorney General John Suthers

General Suthers recognized departing Law Enforcement Driving SME Committee member Sergeant Darrell Aulston.

5. **Roll Call** Director Pete Dunbar

Declaration of a Quorum (11)

**6. Approval of POST Minutes from September 12, 2014**

*Approved unanimously*

**Presentations:**

**7. Subject Matter Expert (SME) Committee Reports:**

**A. Curriculum**

Sgt. Graham Dunne gave the report. The new POST exam is completely finished and in use. The committee is continuing to revise the Basic curriculum, including the addition of new classes, such as marijuana. The committee has reviewed and is recommending the addition of the Tactical Casualty Care (TCC) class to the Basic curriculum. The class has an eight-hour requirement: four hours of classroom and four hours of scenario-based training. If the scenario-based training is completed more quickly, the additional time may be utilized for CPR, first-aid, or other medical training. Some academies are already providing TCC, and none have expressed objections. This training and the eight required hours would be in addition to the existing curriculum. As the review of the Basic curriculum continues, hours will likely be reduced in other areas, and the entire program requirement may not change substantially with the addition of TCC. TCC instructors are required to be Colorado-certified EMTs or above who have attended a TCC class. Instructors are to follow the goals and objectives set forth by POST. Denver General Health (DGH) most commonly provides instructors in the metro area and is willing to send trainers to rural areas. Outlying agencies may utilize instructors who are willing to travel, or send a local EMT already teaching first aid/CPR to a 2-day TCC class. A motion was proposed to add the eight-hour TCC training to the Basic curriculum.

*Approved unanimously*

**B. Arrest Control**

Capt. Erik Bourgerie gave the report. The committee completed three inspections: Otero Junior College, Pueblo Community College and Arapahoe Community College. There were minor concerns which were addressed. The committee approved three full skills instructors, and approved two new sites and two site safety plans for Colorado Springs Police Department. A grant-funded course application submitted to the committee was not approved and a video with further explanation was requested. The committee is continuing revision of the Arrest Control Training program. Test-out requirements and sample site safety plans were tabled. Meeting dates for 2015 were scheduled. The committee requests approval for changes in the Arrest Control Instructor program. The last revision was in 1997. There are no major changes, but the verbiage has been updated. The requirements to teach the instructor course were changed to specify a POST-approved full skills instructor with 80 hours of relevant experience teaching arrest control in a lab setting and completion of a POST-approved instructor methodology course (or the equivalent), and authorization from the organization head (chief, sheriff or academy director) to

teach the instructor course. A motion was proposed to approve the revisions to the Arrest Control Instructor course.

*Approved Unanimously*

### **C. Firearms**

Dep. Ed Kafel gave the report. Last December the POST Board made changes to the firearms qualification course. The target was standardized, the number of qualification attempts was increased to four attempts, and remediation was mandated. Since the requirements were set, 400 shooters have attempted to qualify. 79% passed on the first attempt, 92% passed on the second, 96% on the 3<sup>rd</sup>, and 99% passed on the 4<sup>th</sup> attempt. At the academy directors' meeting in October it was suggested that the remediation should be determined at the discretion of the academy director and firearms instructor. The committee will review and revise the remediation requirements and present their suggestions at the next Board meeting. There was general discussion regarding the 100% requirement, that there is improvement due to the changes, the history of the request for the change and that the course is fair, and the target generous. The liability associated with firearms is very high, and the standards for qualification should be high as well. General Suthers requested the Firearms committee present their recommendations in writing to the Board members prior to the next POST Board meeting.

### **D. Law Enforcement Driving**

Cmdr. Karl Smalley presented the report. The committee accepted the resignation of member Sgt. Darrell Aulston, and reviewed the application for prospective member Sgt. Bob Daniels. Two assistant and four full instructors were approved. Inspections were completed at Southwest Community College in Durango and Adams County Sheriff's Office academy with satisfactory results. The committee is making progress on the revision of the Law Enforcement Driving Instructor program and will present the revisions at the next Board meeting. The next project will be revision of the Law Enforcement Driving program, to include instructional information regarding stability control and 4-wheel drive vehicles. The membership requirement for the Driving SME committee has been changed from five years to three years. Meeting dates were set for 2015.

### **Action Items:**

#### **8. Formal Rule Making Hearing**

Attorney General John Suthers  
Board Counsel Julie Selsberg  
Director Pete Dunbar

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

*Opened at 10:50 a.m.*

A. Summary of Proposed POST Rule Change      Director Pete Dunbar



10. **School Safety Officer/Coroner Certifications** Director Pete Dunbar

This issue was tabled from the previous meeting. The request was that school safety officers (not school resource officers) be allowed to retain their POST certification while employed by a school. In addition, it was requested that coroner's officer investigators be allowed to retain POST certification while employed by a coroner's office.

Chief Camper gave a brief history of the request. Various options were discussed, such as a minimum training requirement, requiring the 24-hours in-service training as for other employed officers, or a time limit on certification expiration, such as a 5-year expiration. Changing the pertinent rules or using the Sunrise Review process for school safety officers would be possibilities.

Board members expressed concern regarding the liability for school safety officers, and whether it would fall on the schools or on POST, and that monitoring quality control for those officers may be difficult. Would the schools be responsible for arranging training of their officers, and would they also fund training? The schools would have to be listed as a quasi-law enforcement agency. Would the schools track the employees and their training, and how would the schools be accountable to POST? There may be officers who sign on as school safety officers only in order to keep their certification. While the Board understands and supports the need for the schools to hire quality school safety officers, those officers could potentially maintain their certification by working as reserves for local existing law enforcement agencies.

It was determined that the definition of a school safety officer must be clarified. General Suthers states that the Board does have authority to specify a 5-year certification limit if we choose.

There was no motion. It was determined that there should be further discussion with the Board, and with the school boards in the state. Chief Camper withdrew his request pending further consideration.

The Board determined that further discussion was also required before determining whether coroner investigators should maintain certification.

11. **Request for Waiver: Reserve Sergeant Greg Maxwell** Director Pete Dunbar

Sgt. Maxwell submitted a request on November 17, 2014 that his reserve certification and subsequent training and work experience serve to allow him to go through the Provisional certification process and complete a test-out to obtain a Basic certification, instead of completing a full Basic academy. A Reserve certification is, at this time, not transferrable to a Basic certification in any way. He has worked for El Paso County Sheriff's Office for 11 years and has completed significant in-service training. The Board states this would be a dangerous precedent and that an officer with a Reserve certification should not be permitted to complete the test-out to obtain Basic certification.

*Approved unanimously*

12. **Peace Officer Certification Revocation Actions**

Director Pete Dunbar

**A. 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. 14-16, **Keith Ray Barnhart**, Certification Number B7952 (PID 114891). On June 19, 2014, Respondent pled guilty to one count of Sexual Assault/Child. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: January 1, 2012, Separated: November 16, 2005)*. The Respondent has failed to comply with POST Show Cause Order 14-16 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Keith Ray Barnhart’s Colorado Peace Officer Certification Number B7952 (PID 114891).

*Approved unanimously*

2. No. 14-15, **Travis David Nowland**, Certification Number B17436 (PID 138287). On August 5, 2014, Respondent was convicted of one count of Stalking – Emotional Distress protection order, in violation of §18-3-602 (1)(c)(5), a class 4 felony *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: April 15, 2014, Never employed)*. The Respondent has failed to comply with POST Show Cause Order 14-15 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Travis David Nowland’s Colorado Peace Officer Certification Number B17436 (PID 138287).

*Approved unanimously*

**B. 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, 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. 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. M14-07, **Michael Scott Wiedmaier**, Certification Number B00726, (PID 107404). On April 4, 2014, Respondent pled guilty of 1 count of Harassment-Telephone –Threat/Obscene, § 18-9-111 (1)(e), C.R.S., a class 3 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: February 11, 2014, Separated: March 29, 1995).* The Respondent has failed to comply with POST Show Cause Order M14-03 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Michael Scott Wiedmaier Colorado Peace Officer Certification Number B00726, (PID 107404).

*Approved unanimously*

2. No. M14-08, **Allan Reed Holybee**, Certification Number B14368, (PID 133162). On May 28, 2014, Respondent was convicted of 1 count of Assault 3-know/reckless Cause Injury; § 18-3-204(1)(a), 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: April 12, 2014 – Separated: May 22, 2012).* The Respondent has failed to comply with POST Show Cause Order M14-08 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Allan Reed Holybee's Colorado Peace Officer Certification Number B14368, (PID 133162).

*Approved unanimously*

3. No. M14-09, **Kevin Lee Johnson**, Certification Number B14899, (PID 133750). On April 15, 2014, Respondent pled guilty to 1 count of Harassment/Strike, Shove, Kick, § 18-9-111(1)(a), C.R.S., a class 3 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: April 6, 2014, Separated: February 24, 2014).* The Respondent has failed to comply with POST Show Cause Order M14-09 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Kevin Lee Johnson's Colorado Peace Officer Certification Number B14899, (PID 133750).

*Approved unanimously*

4. No M14-10, **Charles Penn Lindsey**, Certificate No. 10193, (PID 119957). On July 15, 2014, Respondent pled guilty to 1 count of Obstructing a Police Officer; § 18-8-104(1)(a), C.R.S., a class 2 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: November 19, 2013, Separated: June 1, 1993).* The Respondent has failed to comply with POST Show Cause Order M14-10 by failing to appear at the scheduled Show Cause Hearing. Director Dunbar recommends revocation of Charles Penn Lindsey's Colorado Peace Officer Certification, Number 10193, (PID 119957).

*Approved unanimously*

## **Informational Items:**

### **13. Fort Carson Certification Update**

Director Pete Dunbar

At the previous Board meeting Lt. Brandon Graber requested that his training with the Department of Army academy training for his employment as a Fort Carson police officer be considered adequate to allow him to go through the Provisional certification process. Fort Carson officers were previously granted peace officer status in the performance of their duties through the Sunrise review process. It has been difficult to obtain information from the Dept. of Army in regard to the curriculum. Lt. Graber has been very cooperative. Further comparison is necessary before a decision can be made.

### **14. Marijuana Curriculum Update**

Director Dunbar introduced Carolyn Berry, POST Marijuana Curriculum Specialist, previously in law enforcement with Newport News, Virginia Police Department, and more recently a teacher with Boulder Valley School District. Her position was provided by the Marijuana Cash Fund, which gives POST \$1.168 to fund marijuana training for peace officers.

Ms. Berry stated that Attorney Michael Song and Program Assistant Alejandra Careveo are Department of Law employees working with her on the marijuana curriculum, and contract instructor Chris Halsor has joined the team. The team has put together a 4-hour Introduction to Marijuana Law for Law Enforcement training, and the first five classes have been scheduled with over 100 students enrolled so far. Some non-certified staff are wait-listed on the classes. The training curriculum the team has developed involves a great deal of hands-on, scenario-based training, samples of consumables packaging, child-resistant packaging, etc. Possession amounts and open-container information are also covered. There will be at least 22 trainings, at least one in each training district from January 2015 through June 2015. Webinars and online training will follow. The training courses should be marketed to Probation and Parole if at all possible, and School Resource Officers (SRO) are a priority. A Train-the-Trainer course is being developed. Determining what offenses district attorneys will prosecute for will be researched and covered. The goal is to train all 15,000 certified officers, but that will likely take longer than one year.

Ms. Berry related the numbers of licensed recreational and medical marijuana stores, cultivation sites, infusion facilities, and testing sites in Colorado. In 2012 & 2013 there were 1,451 DUID arrests, though the breakdown for marijuana DUID arrests was not available.

Director Dunbar stated that Drug Recognition Expert (DRE) courses are going forward, as are Advanced Roadside Impaired Driving Enforcement (ARIDE) courses, which require Standardized Field Sobriety Testing (SFST) training as a prerequisite. Enrollment has been sparse, and we are attempting to promote these classes to the agencies. There may be money available for backfill to allow smaller agencies to send officers to these courses.

Oral Fluid Devices are being researched for accuracy and ease of use. They are not allowable in a prosecution at this point, but POST would like to seek legislative support for their eventual use if the results can be relied upon.

## 15. **Mandated Training Update**

Director Pete Dunbar

Beginning January 1, 2015 mandated training in Elder Abuse, School Resource Officer, and Dog Protection is to be completed by agencies/officers.

SRO training has been developed and much has been completed, including an 8-hour short course for those agencies that do not have a designated SRO position. There are still 86 agencies that are not compliant with SRO training. Some agencies have not reported that they have officers who have completed the training, and once reported, they will be in compliance. We are scheduling further 40-hour and 8-hour courses in 2015.

Elder Abuse trainings have been presented and the webinar made available to those agencies that have not completed the training. There are 30 non-compliant agencies.

Dog Protection Act training came out in late September, developed and issued by the Dog Protection Task Force. We are disseminating and tracking the training for the agencies, and fielding questions regarding how the training is to be completed.

Director Dunbar stated that the POST certification test is going well with approximately a 95% pass rate. Laura-Jane Weimer has joined POST and is assisting Tom Mullen in administer and proctor the exam and assist with certification.

## 16. **Comments from others on POST Issues**

General Suthers presented the Attorney General's Award for Exceptional Performance to Director Pete Dunbar for his excellent work with Colorado POST over the past two years. Director Dunbar is retiring.

Deputy Attorney General Matt Durkin stated that the POST director position was posted and is now closed and applications are being reviewed. Interviews are tentatively scheduled for December 5<sup>th</sup> and it is hoped a new director will be in place by January 1, 2015.

Vice-Chair John Camper presented Attorney General John Suthers with a plaque in recognition of his 10 years of outstanding service to the POST board. General Suthers is termed out and will be replaced in January with Attorney General Elect Cynthia Coffman.

## 17. **Adjournment**

Meeting end: 12:10 p.m.  
(2 hours, 10 minutes)

**Next POST Board Meeting**

March 6, 2015

Ralph L. Carr Colorado Judicial Center  
1300 Broadway  
Denver CO

SME Meetings – 8:00 am  
POST Board Meeting – 10:00 am