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**STATE OF COLORADO
DEPARTMENT OF LAW**

**POST BOARD MEETING
RECORD OF PROCEEDINGS**

Friday, March 24, 2017

10:00 pm – 12:00 pm

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 9th Floor
Denver, Colorado 80203
Phone (720) 508-6000

**Peace Officer Standards
and Training**

The Peace Officer Standards and Training Board held its 398th Board meeting at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver, Colorado, with the following in attendance:

BOARD MEMBERS PRESENT

SHERIFF RON BRUCE, Hinsdale County Sheriff's Office
SERGEANT RAFAEL CHANZA, Colorado Springs Police Department
ATTORNEY GENERAL CYNTHIA COFFMAN, Colorado Department of Law
CHIEF JOHN COLLINS, Englewood Police Department
DEPUTY AMANDA CRUZ-GIORDANO, Arapahoe County Sheriff's Office
EXECUTIVE DIRECTOR STAN HILKEY, Colorado Department of Public Safety
PROFESSOR KARA HOOFNAGLE, Johnson & Wales University
SUSAN "ZEKE" KNOX, United States Attorney's Office
SHERIFF FRED MCKEE, Delta County Sheriff's Office
CHIEF JOHN MINOR, Silverthorne Police Department
CHIEF MICHAEL PHIBBS, Auraria Department of Public Safety
DIRECTOR JANE QUIMBY, Colorado Mesa University DPS
MAYOR RON RAKOWSKY, City of Greenwood Village
SHERIFF FRED WEGENER, Park County Sheriff's Office

BOARD MEMBERS ABSENT

CHIEF DAN BRENNAN, Wheat Ridge Police Department
SERGEANT LONNIE CHAVEZ, Grand Junction Police Department
SHERIFF CHAD DAY, Yuma County Sheriff's Office
ROBERT LEES, Robert A. Lees and Associates
SHERIFF MICHAEL MCINTOSH, Adams County Sheriff's Office
SPECIAL AGENT IN CHARGE CALVIN SHIVERS, Federal Bureau of
Investigation
SHERIFF ANTHONY SPURLOCK, Douglas County Sheriff's Office
BRADLEY TAYLOR, Goetz Insurors
CHIEF ROBERT WHITE, Denver Police Department

BOARD COUNSEL

STACY WORTHINGTON

POST STAFF MEMBERS

CORY AMEND, Director
BOB BAKER, In-Service Training Manager
CAROLYN BERRY, Compliance Manager
BECKY CALOMINO, Grant Manager
SUSAN CARTER, Training Coordinator
DAN GRIFFIN, Training Coordinator
KIM HERNANDEZ, Grant Specialist
LORI JENCKS, Administrative Assistant
CRISTINE MACK, Investigator
STEFANIE MACKAY, Grant Coordinator
KIM RICHARDSON, Administrative Assistant

MEMBERS OF THE PUBLIC IN ATTENDANCE

SERGEANT WILLIAM BAKER, Grand Junction Police Department
SERGEANT RICK BAUGHMAN, Jefferson County Sheriff's Office
SERGEANT DAVID CLARKE, Weld County Sheriff's Office
LIEUTENANT JOHN COPPEDGE, Denver Police Department
SERGEANT GRAHAM DUNNE, Aurora Police Department
APRIL FOX, Arapahoe Community College
ASSISTANT SAC JAMES JUDD, Federal Bureau of Investigation
JANET LARSON, County Sheriffs of Colorado
JULIE MCKEE
COMMANDER KARL SMALLEY, Adams County Sheriff's Office
SHERIFF KIRK TAYLOR, Pueblo County Sheriff's Office
SHERIFF DAVID WALCHER, Arapahoe County Sheriff's Office
DIRECTOR BUCKEY WALTERS, Arapahoe Community College
RICH WEBB
BOB WELTZER, PhD.

Introductions:

1. **Welcome** Executive Director Stan Hilkey
2. **Pledge of Allegiance**
3. **Introduction of Board Members, SME Members, Staff and Guests**
4. **Formal Board Recognition of
New Board Members** Executive Director Stan Hilkey

Exec Dir Hilkey welcomed Mayor Ron Rakowsky of Greenwood Village.

5. **Roll Call** Director Cory Amend

No quorum. Twelve members present

6. **Subject Matter Expert Committee Reports**

A. Arrest Control Cmdr. Erik Bourgerie, Chair

Seven full skills instructors were approved. The inspection of Colorado Springs PD academy was reviewed and approved. One SBI to an instructor at CSPD was reviewed, and the previous SBI to a Denver PD instructor was referenced. It was determined there was no trend or change to procedures required. There have been 34 injuries in the past 10 years. The committee is requesting the total number of students who attended academies during that time to determine an injury rate. Proposed changes to POST rules were reviewed, including the proposed change to Rule 21 regarding use of operable firearms. The ACT Instructor program was approved, and the test out requirements will be reviewed at the next meeting.

B. Curriculum Sgt. Graham Dunne, Chair

Marijuana questions were reviewed, and several were removed as they were ambiguous. The Curriculum Bibliography materials will be reviewed and updated over the next six months. Test question review options are being discussed, whether it is a conflict of interest, whether outside resources should be utilized, etc. Two prospective members are awaiting approval, however, there was no quorum today. The Reserve Academic program is due for review, and a subcommittee will be taking on that task. Instruction Methodology is complete. After discussion it was determined that TCCC training may be used in lieu of first aid training to fulfill the first aid requirement for certification.

C. Firearms Sgt. William Baker

Sgt. Dennis Jackson, Lakewood PD, was approved as a full instructor. Quorum was via phone for approval. Some items were tabled until the next meeting for further discussion. There is an upcoming inspection at the Alamosa LEA. There was discussion of Rule 21 involving the use of operable firearms during training which will continue at next month's meeting.

D. Law Enforcement Driving Cmdr. Karl Smalley

Resignations were accepted from Sgt. Shannon Snuggs, Colorado Springs PD, and Sgt. Bob Major, Lakewood PD. Site/Safety plan for Pikes Peak International Raceway was approved for use by CSPD and EPSO. Five full instructors and one assistant instructor were approved. The operable firearm issue was discussed. There was discussion of the testing standards following an incident at Colorado Spring PD academy. CSPD requirements exceed POST requirements and the committee will leave resolution of the issue to

CSPD. Vehicle documentation was discussed, and it was determined that it should be left to the academies to track number of vehicles, miles driven, etc. Reviewed the terminology “POST Reviewed” instead of “POST Approved” for instructor classes. Revision is complete on the Driving Instructor Program.

Declaration of a quorum upon arrival of AG Coffman and Sgt. Chanza.

7. **Approval of POST Minutes from December 16, 2016** Attorney General Cynthia Coffman

Motion to approve by Chief Phibbs. Approved unanimously.

8. **Appeal for Denial of Certification for Recruit Ken Cordova** Chief Luis Velez
Pueblo Police Department

In attendance:

Ken Cordova

Dep. Chief Troy Davenport, Pueblo Police Department

Sergeant James Olonia, Pueblo Police Department

Sheriff Kirk Taylor, Pueblo County Sheriff's Office

Director Amend reviewed history of Cordova's convictions and denial of certification. Upon denial, Mr. Cordova requested an appeal to the POST Board. The AG reviewed the process for hearing the appeal. Mr. Cordova and Dep. Chief Davenport wished to address the Board prior to the Board making a decision whether to hear the appeal. Exec. Dir. Hilkey requested they address the Board. The AG clarified that this is not an appeal, only an explanation and Mr. Cordova and Dep. Chief Davenport were not to argue the merits of Director Amend's decision. Dep. Chief Davenport addressed the Board, stated that Ken Cordova has been an exemplary candidate, and stated that there are mitigating circumstances which should be considered. Ken Cordova has attended the academy, and if appeal is granted, will be offered a position with Pueblo Police Department. Sgt. Olonia, Director of Pueblo Police Department Academy, states that he is aware of witness credibility issues regarding the original charges, and would like to present mitigating factors at a hearing by the Board panel.

Motion to grant request for appeal hearing by Sheriff Bruce. Approved unanimously by roll call vote.

Exec. Dir. Hilkey, Ms. Knox, and Mayor Rakowsky volunteered for the appeal panel. POST staff will coordinate with all members, and will report the decision to the Board. The decision of the panel will be final.

9. **Peace Officer Certification Revocation Actions** Director Cory Amend

A. **POST Rule 9 - Revocation of Peace Officer Certifications – Felony Convictions:** § 24-31-305, CRS(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 § 24-31-305 CRS, 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.

1. No. F17-01, **Ryan A. Wagner**, Certification B17474 (PID 138352). On February 4, 2016, respondent was convicted of three counts of Stalking-Emotional Distress, §18-3-602(1)(c) CRS, a Class 5 felony. The respondent was employed as a peace officer on the date of the offense (Date of Offense: May 15, 2014 – Separated: October 6, 2014). The respondent has failed to comply with POST Show Cause Order No. F17-01 by failing to appear at the scheduled Show Cause Hearing on January 9, 2017. Director Amend recommends revocation of **Ryan A. Wagner’s** Colorado Peace Officer Certification B17474 (PID 138352).

Motion to revoke by Sheriff McKee. Approved unanimously.

2. No. F17-02, **Jeffrey Scott Hartman**, Certification B3885 (PID 113554). On January 21, 2016, respondent was convicted of one count of Embezzlement of Public Property, §18-8-407 CRS, a Class 5 Felony, and one count of Official Misconduct, §18-8-404 CRS, a Class 2 misdemeanor. The respondent was employed as a peace officer on the date of the offense (Date of Offense: January 17, 2014 – Separated: April 16, 2014). The respondent has failed to comply with POST Show Cause Order No. F17-02 by failing to appear at the scheduled Show Cause Hearing on January 9, 2017. Director Amend recommends revocation of **Jeffrey Scott Hartman’s** Colorado Peace Officer Certification B3885 (PID 113554).

Motion to revoke by Sheriff Wegener. Approved unanimously.

- B. **POST Rule 9 - Revocation of Peace Officer Certifications – Misdemeanor Convictions:** § 24-31-305, CRS(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 CRS, 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), CRS

1. No. M16-03, **Scott Walter William House**, Certification B5544-1632 (PID 5544-1632). On October 14, 2016, respondent was convicted of one count of Harassment, §18-9-111(1)(a) CRS, a Class 3

Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: June 27, 2016 - Never employed). The respondent has failed to comply with POST Show Cause Order No. M16-03 by failing to appear at the scheduled Show Cause Hearing on November 22, 2016. Director Amend recommends revocation of **Scott Walter William House's** Colorado Peace Officer Certification B5544-1632 (PID 5544-1632).

Motion to revoke by Sheriff Bruce. Approved unanimously.

2. No. M16-04, **Donald A Kelly**, Certification B17251 (PID 134808). On September 21, 2016, respondent was convicted of one count of Assault, §18-3-204(1)(a) CRS, a Class 1 Misdemeanor. The respondent was employed as a peace officer on the date of the offense (Date of Offense: September 7, 2016 – Separated: September 21, 2016). The respondent has failed to comply with POST Show Cause Order No. M16-04 by failing to appear at the scheduled Show Cause Hearing on November 28, 2016, Director Amend recommends revocation of **Donald A Kelly's** Colorado Peace Officer Certification B17251 (PID 134808).

Motion to revoke by Sgt. Chanza. Approved unanimously.

3. No. M17-01, **Marc A. Ziolkowski**, Certification B12224 (PID 124517). On September 11, 2016, respondent was convicted of one count of Official Misconduct, §18-8-404 CRS, a Class 2 Misdemeanor, and one count of Harassment-strike/shove/kick §18-9-111(1)(a) CRS, a Class 3 Misdemeanor. The respondent was not employed as a peace officer on the date of the offense (Date of Offense: April 6, 2015 – Separated: April 2, 2014). The respondent has failed to comply with POST Show Cause Order No. M17-01 by failing to appear at the scheduled Show Cause Hearing on January 9, 2017. Director Amend recommends revocation of **Marc A. Ziolkowski's** Colorado Peace Officer Certification B12224 (PID 124517).

Motion to revoke by Exec. Dir. Hilkey. Sheriff Wegener recused himself. Revocation approved by 13 members.

4. No. M17-02, **Gage A. Wright**, Certification B8519 (PID 114820). On February 29, 2016, respondent was convicted of one count of Official Misconduct, §18-8-404 CRS, a Class 2 Misdemeanor. The respondent was employed as a peace officer on the date of the offense (Date of Offense: August 13, 2014 – Separated October 14, 2014). The respondent has failed to comply with POST Show Cause Order No. M17-02 by failing to appear at the scheduled Show Cause Hearing on January 9, 2017. Director Amend recommends revocation of **Gage A. Wright's** Colorado Peace Officer Certification B8519 (PID 114820).

Motion to revoke by Ms. Quimby. Approved unanimously.

10. **Formal Rulemaking Hearing**

Attorney General Cynthia Coffman
Board Counsel Stacy Worthington
Director Cory Amend

The rulemaking hearing began at 10:53 am. Board members' presence was recorded. Director Amend reviewed the changes to each rule.

There was concern regarding the requirement suggested in Rules 7(e), 8(f) and 9(e) that appeal hearings must be held within 30 days. After discussion of possible options, it was decided to change "must be held" to "must commence" within 30 days in all three rules.

The Board determined to change the language of Rule 18 to allow the POST director, the ability to reinstate an officer's suspended certification, if suspended due to training requirement non-compliance, rather than requiring a POST Board vote to reinstate.

All rule changes were approved unanimously, with the mentioned amendments to Rules 7, 8, 9 and 18.

The rulemaking session was concluded at 11:51 am.

11. **SRO Curriculum**

Director Cory Amend

Director Amend outlined the statutory requirements regarding school resource officer training, in effect from January 1, 2014. The 40-hour CASRO and NASRO curricula were originally considered. An additional 16-hour active shooter component was added to the curriculum, for a total of 56 hours. The course was reduced to 40 hours, but retained the 16-hour active shooter component. Components that were eliminated are not presently being taught to Colorado SROs. The 16-hour active shooter component is taught as a stand-alone class. Director Amend recommends that Colorado establish and adapt the existing NASRO curriculum which is reviewed and updated annually. CASRO, NASRO, CACP and Colorado Department of Education support this change. CSOC wishes to leave support to individual sheriffs. There was general discussion regarding impact of extended training on small agencies, recognition of existing training, and existence of the 8-hour course which was allowed for agencies without designated SROs. It may require a legislative change to define SRO training. There have been requests for legislative analysis, regarding whether there may be more than one curriculum. Director Amend would like to have NASRO curriculum approved for use by Colorado, and also request a motion for legislative action to allow more than one curriculum. The Board would like to see analysis prior to moving forward.

After further discussion the Board and Director Amend opted to research further options and present it for a vote at a later date.

12. **Code of Ethics** Board Counsel Stacy Worthington

The Code of Ethics was originally proposed at the September Board meeting, and the Board requested wording changes for clarification. The revised version was presented at the December Board meeting, but at the time of the vote, there was no longer a quorum. The Board discussed whether the revision addressed concerns.

Exec. Dir. Hilkey moved to accept the Code of Ethics as written. Approved unanimously.

13. **2017-2020 Strategic Plan** Director Cory Amend

The strategic plan was discussed at the September Board meeting, and reviewed at the December Board meeting. There are six categories with specific topics as previously discussed.

Motion by Sheriff McKee to accept strategic plan as written. Approved unanimously.

14. **2016 Compliance Report** Bob Baker
In-Service Training Manager

Mr. Baker presented the results of the Rule 28 compliance report and reviewed some details. Agencies are 96.8% compliant, with eight agencies and 24 officers out of compliance, from a total of 253 agencies and 13,220 officers. There was a 70% decrease in number of non-compliant agencies, and an 80% decrease in number of non-compliant officers from last year. Agencies not only realized the consequence of non-compliance, but began entering training earlier.

15. **Police One** Director Cory Amend

DOL and Police One will be completing a contract within a few days to provide Police One subscriptions to all agencies requesting one. Two one-year contracts would commence on July 1, 2017, with any necessary changes made after the first year. The contract is contingent on receiving funding from the legislature. Any agency currently using Police One can utilize the POST-funded two years, and their remaining paid subscription will be added to the end of that two years. The contract covers up to 13,500 peace officers, which includes all of the “shall be certified” peace officers and many of the “may be certified” peace officers. It excludes coroners, firefighters, arson investigators, railroad investigators, or Colorado DOC officers. Jenn Anderson, DOL Legislative Liaison stated that the decision item was approved by JBC and is included in the budget bill which will be introduced on March 27, 2017.

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

Jenn Anderson presented a legislative update.

SB 17-66 – Municipal Authority to Employ Police: Clarifies that existing municipalities are not required to go through Sunrise review and can create police agencies and hire officers without further statutory authority.

HB 17-1050 – Annual In-service Training for County Sheriffs: Removes the duplication for in-service training hours for sheriffs. Bill has been signed.

HB 17-1209 – Peace Officer Status Head of Office Prevention & Security: Approved peace officer status for the manager of the Office of Prevention and Security within the Division of Homeland Security and Emergency Management in the Department of Public Safety.

SB 17-96 – Reserve Peace Officer Academy Grant Program: This was a result of the Colorado Mounted Rangers request for peace officer status. This would create a statewide reserve officer group which would require a one-time appropriation of \$800,000 to put together an academy for the reserve officers.

SB 17-120 – Require US Citizenship for Colorado Peace Officers: Postponed indefinitely.

The request for continuous appropriation of the POST cash funds proposal went to JBC, but no bill was approved, stating they would not relinquish oversight of appropriations. The budget director felt that within a couple of years, with the upcoming expenditures for Police One, etc., the spending authority will not be needed as the actual spending will match the spending authority and the fund balance will be insignificant. This proposal was requested at the Board meeting on September 16, 2016.

17. **Adjournment**

Attorney General Cynthia Coffman

Meeting adjourned at 12:58 pm