

SECTION NUMBER 11

**FINDING # 4 - IMPROPER AND INCORRECT PREPARATION OF THE DISTRACTION
DEVICE MUNITIONS**

1. This alleged "finding" is so significantly vague and deficient as to factual content, ITR is forced to respond by "best estimate Interpretation" of what the statement represents in providing an informed response.
2. All distraction device preparation procedures demonstrated and used in this course are consistent with contemporary guidelines as recommended by the manufacturer of distraction device reload munitions.
3. All distraction device preparation procedures demonstrated and used in this course are consistent with contemporary guidelines provided by the manufacturer of the Distraction Device Breaching Tools used in this course.
4. All distraction device preparation procedures demonstrated and used in this course are consistent with contemporary guidelines presented in the POST Certified Distraction Device Instructor course presented by ITR.
5. All distraction device preparation procedures demonstrated and used in this course are consistent with POST approved safety protocols for all distraction device user and instructor courses.
6. A review of historical and currently published material/manuals/course outlines by ITR instructors reflects reasonably consistent and compatible procedures with those used in the Distraction Device Breaching course as presented 7/20-21/11.
7. Some of the historical and currently published material/manuals/course outlines reviewed by ITR instructors are as follows:
 - a. Safariland Training Group "Distraction Device Instructor Manual" published 2009
 - b. Safariland Training Group "Distraction Device Breaching Instructor Manual" Published 2010
 - c. National Tactical Officers Association "Diversionary Device Reference Manual" published 2001
 - d. National Tactical Officers Association article in the "Tactical Edge" magazine published in summer 2011
 - e. International Training Resources "Distraction Device Instructor Manual" published 2011.
 - f. Golden West College SWAT Academy "Diversionary Devices Course Outline" presented 2004 by R.K. Miller
 - g. TREXPO WEST Educational " Diversionary Devices Seminar Outline" presented 2003 by R.K. Miller
 - h. TREXPO WEST Educational "Diversionary Device Seminar Outline" presented 1999 by R.K. Miller

8. All distraction device preparation procedures demonstrated and used in this course are reasonably consistent and compatible with standard operating procedures as presented by other trainers involved in distraction device instruction.
9. All distraction device preparation procedures demonstrated and used in this course are compatible and consistent with the collective training and experience of the ITR instructors and guest Product/Technical Specialists on scene for this course.
10. Neither ITR Instructors nor the guest Product/Technical Specialists are aware of any improper and/or incorrect preparation of the distraction device munitions used in the course and would not knowingly present any improper and/or incorrect procedures to course participants.

SECTION NUMBER 12

**FINDING # 5 – EXPERIMENTAL USE OF EXPLOSIVE MATERIALS NOT APPROVED WITHIN
THE CERTIFICATION OF THE COURSE**

1. This alleged “finding” is so significantly vague and deficient as to factual content, ITR is forced to respond by “best estimate Interpretation” of what the statement represents in providing an informed response.
2. The munitions set forth in the POST certification documents are listed as the following:
 - a. Command Detonated Munitions
 - b. Operator Detonated Munitions
 - c. Firing devices/Initiator and Shock tube
3. The munitions set forth in the POST course announcement are as follows:
 - a. Command Initiated Reload Munitions
4. The munitions used in the course are as follows:
 - a. 15 gram Command Initiated Reload Munitions
 - b. 08 gram Command Initiated Reload Munitions
 - c. 04 gram Command Initiated Reload Munitions
 - d. Commercial Shock Tube
 - e. Firing devices/initiators using standard shotgun primers
5. For POST to assert that this issue equates to a contributing cause for the eye Injury sustained by Officer Mike Short defies any rational relevance and is consistent with the factually deficient and fabricated allegations of fault contained within the other “findings”
6. The terms “experimental use of explosive materials”, “experiments with explosives” or “experiments with charges(loads)” are not contained in any of the course certification documents or other instructional material provided by ITR or Safariland Training Group for the Distraction Device Breaching Instructor course.
7. These terms are the completely false and fabricated statements of POST consultant Don Lane, created in a futile attempt to establish justification for this alleged “finding” which is consistent with other investigative misconduct in this incident.
8. The munitions used in the course are not defined by subject matter experts as “experimental” as the denotation results are well documented by the product manufacturers, who provide guidelines as to the denotation effect based upon design standards, engineering and testing results.
9. The munitions used in the course are not defined by subject matter experts as “experimental” as the denotation results are contained in the collective knowledge of the course instructors based upon their extensive training and experience.

10. The ITR Diversionary Device Breaching Instructor course certification documents were submitted to POST consultant Don Lane for review with the certification request and which subsequently were approved and authorized by the POST Commission when the Distraction Device Breaching course was certified for presentation by ITR.
11. Additionally, none of the following documents and other instructional material contain, describe, advocate or require participants, as part of the course curriculum for the Distraction Device Breaching Instructor course, to conduct "experimental use of explosive materials" as part of their training.
- a. Safariland Training Group manual "The Wallbanger Instructor Course"
 - b. Safariland Training Group manual "Distraction Device Instructor Course"
 - c. Safariland Training Group power point DVD for the "Distraction Device Breaching Instructor Course"
 - d. Safariland Training Group written test "Wallbanger System Instructor Final Exam"
 - e. California POST authorized Expanded Course Outline
 - f. California POST authorized Hourly Training Schedule
 - g. California POST authorized Hourly Training Schedule
 - h. California POST authorized Safety Procedures and Equipment requirements
 - i. ITR Course Specific Procedures for the Practical Application Training Phase
 - j. ITR Operational Deployment Procedures for the Distraction Device Tool System
 - k. ITR Procedures for use of Command Initiated Distraction Device Munitions
 - l. ITR Instructor to Student Ratio Safety Guidelines
 - m. ITR Instructor to Student /Close Physical Proximity Guidelines
 - n. ITR Guidelines for Tool Operator Positioning during Deployment of Munitions
 - o. ITR Guidelines for use of Face Shield during Practical Application Training
12. The Distraction Device Breaching Tool system uses commercially available distraction device munitions which contain flash powder combined with a command initiated "remote" firing system.
13. The munitions used for this course consist of standard products available from various commercial vendors Defense Technology Corporation, Ensign Beckford, NICO, Combined Technology Systems, ALS and others.
14. The commercially available munitions are sold "over the counter" to qualified law enforcement agencies by police product vendors.
15. The munitions are shipped by the manufacturer to the vendors to the end user law enforcement agencies via common carriers such as UPS or FedEx.
16. The distraction devices munitions used in the this course were supplied by Defense Technology Corporation assembled in 15, 8 or 4 gram flash powder loads per each separate device.

17. The 15, 8 or 4 gram flash powder loads are packaged in cardboard tubes and shipped via UPS or FedEx in cardboard containers loaded in cardboard shipping boxes to the end user.
18. The munitions are loaded, unloaded and delivered to the various law enforcement agencies by UPS or FedEx vehicle drivers to final destination point/agency.
19. The Command Initiated 15 gram munitions are exactly the same as to operational functioning of the 8 and 4 gram munitions except for the lower gram weight of flash power content which affects the detonation results.
20. The command initiated munition is the same as the standard distraction device munition but without the M201A1 fuze.
21. Instead of the M201A1 fuze, a 12 inch length of shock tube is attached to the main charge to create the firing system.
22. Because the shock tube is attached directly to the main 15 gram/8/gram/4 gram flash powder charge, there is no 1.5 second delay in the detonation of the distraction device which is inherent with the M201A1 fuze.
23. The command Initiated device is detonated by the shock tube ignition firing system from remote locations depending on the length of standoff shock tube attached to the 12 inch lead.
24. The munitions are manufactured, shipped and handled as a ATF 1.4 Division classification which is defined as follows:

Substances and articles which present no significant hazard: substances and articles which present only a small hazard in the event of ignition or projection of fragments of appreciable size and range is to be expected. An external fire shall not cause virtually instantaneous explosion of almost the entire contents of the package.

SECTION NUMBER 13

**FINDING # 6 – EXPERIMENTAL DEPLOYMENT OF EQUIPMENT AND MUNITIONS THAT
EXCEED THE EXPERIENCE AND COMPETENCE OF ALL INSTRUCTIONAL
PERSONAL WHO WERE PRESENT AT THE SCENE.**

1. This alleged “finding” is so significantly vague and deficient as to factual content, ITR is forced to respond by “best estimate Interpretation” of what the statement represents in providing an informed response.
2. The term “experimental deployment of equipment and munitions” is the completely false assertion of POST consultant Don Lane, which is consistent with other investigative misconduct regarding this incident.
 - a. The deployment of equipment and munitions used in this course were consistent with the approved procedures contained within the POST certified instructional material and curriculum presentation guidelines.
 - b. The deployment of equipment and munitions used in this course were consistent with the approved procedures contained within the Safariland Training Group Instructional material and curriculum presentation guidelines.
3. All operational training procedures, tool deployment and safety protocols used in the ITR Distraction Device Breaching course were presented in compliance the following reference manuals, documents and guidelines:
 - a. Safariland Training Group manual “The Wallbanger Instructor Course” designed 2010-012910A-0210 with disclaimer and safety guidelines.
 - b. Safariland Training Group manual “Distraction Device Instructor Course” designated as 2009 Safariland with disclaimer and safety guidelines.
 - c. Safariland Training Group power point DVD for the “Distraction Device Breaching Instructor Course”
 - d. Safariland Training Group written test “Wallbanger System Instructor Final Exam”
 - e. California POST authorized Expanded Course Outline for the Distraction Device Breaching Instructor course.
 - f. California POST authorized Hourly Training Schedule for the Distraction Device Breaching Instructor course.
 - g. California POST authorized Safety Procedures and Equipment requirements for the Distraction Device Breaching Instructor course.

4. For POST to assert that this "finding" equates to a contributing cause for the eye injury sustained by Officer Mike Short, defies any rational justification and is consistent with the factually deficient and fabricated allegations of fault contained within the other "findings".
5. Included in this report is the Instructor Resume of Ben Tisa regarding training, experience and competence as to the equipment and munitions used in the Distraction Device Breaching Instructor course – Section # 21
6. Included in this report is the Instructor Resume of Dave Bliss regarding training, experience and competence as to the equipment and munitions used in the Distraction Device Breaching Instructor course – Section # 22
7. Included in this report is the Instructor Resume of Ben Tisa regarding all POST courses formally certified to ITR for presentation in the state of California – Section # 23
8. Included in this report is the Instructor Resume of Dave Bliss regarding all POST courses formally certified to ITR for presentation in the state of California – Section 24
9. The formal Instructor Resume of Mr. Ron McCarty is available from the POST Investigator or Safariland Training Group or directly from Mr. McCarthy.
10. The formal Instructor Resume of Mr. Frank Harden is available from the POST Investigator or Safariland Training group or directly from Mr. Harden.
11. The training demonstration, supervision, use and deployment of distraction devices for ITR Instructor Ben Tisa, averages approximately 1,750 total detonations per year during specific courses.
12. The training demonstration, supervision, use and deployment of distraction devices for ITR Instructor Dave Bliss, averages approximately 1,750 total detonations per year during specific courses.
13. As evidenced by the individual resumes and the collective training, knowledge and experience of all instructional personal who were present at the scene, neither the ITR Instructors nor the guest Product/Technical Specialist are aware of any:
 - a. Deployment of equipment that exceeded the experience and competence of all instructional personal who were present at the scene.
 - b. Deployment of munitions that exceeded the experience and competence of all instructional personal that were present at the scene.

14. Neither the ITR Instructors nor the Product/Technical Specialist would knowingly present any experimental deployment of equipment and munitions that exceeded the collective experience and competence of all instructors on scene.
15. Based upon the content of Instructor resumes, the POST investigator has not identified what specific "experimental" deployment of equipment and munitions" that exceeded the experience and competence of all instructors who were present at the scene.
16. Based upon the content of instructor resumes, the POST Investigator has not identified any other individuals(s) with creditable technical expertise who:
 - a. Determined that the "experimental deployment of equipment" exceeded the experience and competence of all instructional personal who were present at the scene.
 - b. Determined that the "experimental deployment of munitions" exceeded the experience and competence of all instructional personal who were at the scene.
17. Additionally, ITR Instructors have extensive experience in training procedures, practical application events, equipment and safety protocols for an significant inventory of other special skill breaching courses to include but not limited to the following:
 - a. Explosive Breaching munitions and firing systems
 - b. Distraction Device munitions and firing systems
 - c. Distraction Device breaching munitions and firing systems
 - d. Less Lethal extended range impact munitions
 - e. Hydraulic Jam spreaders
 - f. Hydraulic Door spreaders
 - g. Shotgun breaching
 - h. Ram breaching
 - i. Pry Bay breaching
 - j. Cutting Saw breaching
 - k. Tactical vehicle breaching – push/pull
 - l. Exothermic tool breaching
 - m. Razor/Barbed wire breaching
 - n. Chain link fence breaching
 - o. Glass cutting techniques
 - p. Window Port breaching
 - q. Bolt cutter techniques
 - r. Lock system defeating procedures
 - s. Other similar breaching procedures involving special skills

SECTION NUMBER 14

NEW FINDING # 7 – VIOLATION OF COURSE SAFETY POLICY INVOLVING STUDENT TO INSTRUCTOR RATIO

1. In letter dated 1/23/12, Executive Director Paul Cappitelli made the following statement:

“Those finding include violation of the course safety policy involving student-instructor ratio and the use of instructors who were not approved in the certification”
2. POST to date, has never before asserted this issue as a factor in the justification for decertification of ITR courses and instructors and therefore, must be another new and previously undisclosed “finding” as it was not listed as one of the six original “findings”
3. For POST to assert that this completely false statement equates to a contributing cause for the eye Injury sustained by Officer Short, without substantiation as to its veracity, is consistent with the other factually deficient and fabricated allegations of fault contained within the other “findings”
4. Per the POST approved Diversionary Device Safety Guideline as contained in Section 26 – Paragraph 10 of this report:

Each presenter of diversionary device training shall establish and identify an appropriate instructional staff-to-student ratio
5. Per the POST approved Diversionary Device Safety Guidelines as contained in Section 26 – Paragraph 11 of this report:

The instructional staff-to-student ratio should be lowered when a student is actually igniting a diversionary device or exposed to its effect. ITR will have an instructor on scene in close proximity with 1:1 at each diversionary device deployment.
6. The ITR Diversionary Device Safety Guidelines were submitted to POST consultant Don Lane with the Distraction Device Breaching Instructor course certification request and were approved by POST when the Distraction Device Breaching course was certified for presentation by ITR.
7. There are no other specific written guidelines/recommendations or other criteria as to the required ratio of instructional staff to students contained in any of the following course documents:
 - a. California POST course certification requirements and documentation.
 - b. California POST approved safety requirements and guidelines.
 - c. Safariland Training Group Distraction Device Breaching Instructor course curriculum guidelines.
 - d. Safariland Training Group Distraction Device Breaching Instructor course Manual and Power Point disk.

8. The POST safety guidelines were in effect at the time of the injury accident to Officer Mike Short on 7/21/11.
9. Compliance with the instructional staff to student ratio requirements contained in the Distraction Device Safety Guidelines is also documented in the program of instruction provided the course participants.
 - a. Only one diversionary breaching denotation allowed per training event.
 - b. Minimum of one to one instructor to student ratio during each diversionary device denotation
(instructors Ben Tisa/Dave Bliss/Frank Harden)
 - c. Minimum of one instructor to six student ratio during tool set-up, firing system rigging and loading of munitions.
(instructors Ben Tisa/Dave Bliss/Frank Harden and Ron McCarthy)
10. The instructor to student ration during tool set-up, firing system rigging, loading of munitions and detonation of diversionary devices was further enhanced by the presence of two guest instructor "Product /Technical Specialists" Frank Harden and Ron McCarthy of the Safariland Training Group.
11. Both Frank Harden and Ron McCarty were listed in the POST online Electronic Data Entry system (EDI) for the 7/20-21/11 course as guest instructor Product/Technical Specialists.
12. Additionally, each Team Member was assigned role as Student Instructor/Observer to ensure other team members correctly construct and arm the breaching tool as part of the redundant safety procedures.

SECTION NUMBER 15

**NEW FINDING # 8 – NONE OF THE NAMED AND APPROVED INSTRUCTORS WERE IN
IN CLOSE PHYSICAL PROXIMITY TO OFFICER MIKE SHORT**

1. In letter dated 1/23/12, Executive Director Paul Cappitelli made the following statement: Further, none of the instructors named and approved in the certification were within close physical proximity to Officer Short during the deployment or detonation of the device or at the time of his injury. The materials you submitted do not state otherwise.
2. POST to date, has never before asserted this issue as a factor in the justification for decertification of ITR courses and instructors and therefore, must be a new and previously undisclosed "finding" as it was not listed as one of the six original "findings"
3. For POST to assert that this issue equates to a contributing cause for the eye Injury sustained by Officer Short defies any rational justification as to what the definition of "within close physical proximity" means and is consistent with the other factually deficient and fabricated allegations of fault contained within the original six "findings"
4. There are no written guidelines/procedures as to recommended physical proximity distances or positioning of instructors in relation to a course participant contained in any of the following course documents:
 - a. California POST Course Certification Requirements
 - b. California POST Approved Safety Requirements
 - c. California POST Instructor to Student Ratio Requirements
 - d. Safariland Training Group Procedures and Practices
 - e. Safariland Training Group Participant Manual and Power Point disk.
5. The only written guidelines/procedures as to recommended physical proximity distances and positioning of instructors in relation to a course participant during any specific training event involving Distraction Device Breaching tools are those developed and used by ITR instructors as part of its training protocols.
6. The proximity as to distance and positioning of one or all instructors in relation to Officer Short at the time of the accident would not in any manner be a preventive factor as to the eye injury based upon:
 - a. The type/location of injury as to direct and proximate cause.
 - b. The unpredictable pattern as to the type of potential debris/fragmentation.
 - c. The unpredictable ballistic profile of potential debris/fragmentation.
7. One or all of course instructors could have been standing right next to Officer Short on either side of him at the time of the accident, and in no way would these instructor positions in any manner, have been a preventive factor as to the eye injury based upon:
 - a. The type/location of injury as to direct and proximate cause.
 - b. The unpredictable pattern as to the type of potential debris/fragmentation.
 - c. The unpredictable ballistic profile of potential debris/fragmentation.

8. The proximity as to distance/positioning of an ITR or Guest instructor in relation to a course participant is influenced by a number of interrelated factors which the qualified instructor evaluates and makes an informed judgment based upon the totality of these factors.
9. Ben Tisa, as one of the named and approved instructors in the course certification, was in close proximity to Officer Mike Short during the deployment and detonation of the munitions, and chose the position based upon an informed evaluation of the following interrelated factors:
 - a. The training and experience of the instructor
 - b. Training event procedures as to skills being employed
 - c. Ability to provide final instructions
 - d. Ability to provide corrective actions
 - e. Ability to provide equipment support
 - f. Ability to control supporting events
 - g. Ability to observe other participants
 - h. Ability to control access to the immediate training site
 - i. Sequence of the training event in relation to sequence of course material
 - j. Target configuration – door/window/wall/etc.
 - k. Target location
 - l. Approach route
 - m. Tools/equipment being employed
 - n. Tactical positioning of cover officers
 - o. Tactical positioning of entry officers
 - p. Positioning and distances of other course participants as to observing and recording of the specific training event from safe location.
 - q. Instructor Development course verses Core Skills Development course.
 - r. Other circumstances specific to each training event.
10. Dave Bliss, as one of the named and approved instructors in the course certification, also chose the position taken at the time of the accident, based upon an informed evaluation of the following interrelated factors as to being within close proximity to Officer Mike Short during the deployment and detonation of the munitions.
 - a. The training and experience of the instructor
 - b. Training event procedures as to skills being employed
 - c. Ability to provide final instructions
 - d. Ability to provide corrective actions
 - e. Ability to provide equipment support
 - f. Ability to control supporting events
 - g. Ability to observe other participants
 - h. Ability to control access to training site
 - i. Sequence of the training event in relation to sequence of course material
 - j. Target configuration – door/window/wall/etc.
 - k. Target location

- l. Approach route
- m. Tools/equipment being employed
- n. Tactical positioning of cover officers
- o. Tactical positioning of entry officers
- p. Positioning and distances of other course participants as to observing and recording of the specific training event from safe location.
- q. Instructor Development course verses Core Skills Development course.
- r. Other circumstances specific to each training event.

11. The positions of instructors Ben Tisa and Dave Bliss are documented by videos, photographs and other information available to POST investigator Don Lane.

SECTION NUMBER 16

NEW FINDING # 9 – STUDENTS DEPLOYING DEVICE IN UNUSUAL POSITION OR MANNER

1. Per the letter of Executive Director Paul Cappitelli dated 1/23/12, the following statements were made regarding comments and a report attributed to Ben Tisa by POST consultant by Don Lane.
 - a. The written report of the incident you prepared and submitted to Senior Consultant Don Lane describes the decision of students to deploy the device in a “unusual position or manner”
 - b. Mr. Lane has reported his interview with you during which you described various “experiments” with charges (loads) and deployed to observe the results.
 - c. Explosive experiments are not a described or approved element of the course within the conditions of certification.
2. POST to date, has never before asserted the issue of “students deploying the device in an unusual position or manner” as a factor in the justification for decertification of ITR courses and instructors and therefore, must be another new and previously undisclosed “finding” as it was not listed as one of the six original “findings”
3. For POST to assert that this completely false statement equates to a contributing cause for the eye Injury sustained by Officer Short, without substantiation as to its veracity, is consistent with the other factually deficient and fabricated allegations of fault contained within the other “findings”
4. There is no written report in existence that was prepared and submitted by ITR to consultant Don Lane describing the decision of students to deploy the device in a “unusual position or manner”
 - a. The statement regarding the report is false and a deliberate self serving fabrication
In order to create another “new finding”
 - b. The only “report” that describes the specific incident training events regarding this statement is the document captioned “July 21, 2011 Accident Circumstances” contained in Section Three of this report to the full POST Commission.
5. The relevant paragraphs of this document/report are as follows:
 - a. All Team members participated in the scouting assessment of the target door and came to an agreement as to the tool rigging configuration and munitions gram weight which was to be two 15 gram command initiated devices.
 - b. As opposed to placing tool on door knob to defeat the locking mechanism, Team One decided to place tool in center of door to test forcing the center of the door to release the locking mechanism and/or create port opening for interior access.

- c. Tool placement was positioned midpoint of door with door knob and centered in middle of long axis as opposed to being placed over door knob.
 - d. Tool rigging was a straight on placement of chamber on door center with Officer Short positioned alongside the left side of pole handle and behind the chamber with his head above the chamber placement point.
 - e. The straight on placement of the chamber was chosen by Team One as the best position to establish a positive seal of the chamber and minimize the risk of pressure leakage and potential debris/fragment from being projected to the immediate left and right sides of the tool placement position.
6. The Distraction Device Breaching tool system is designed and engineered to provide operational flexibility as to tool operator positioning for execution of specific forced breaching procedures.
- a. The tool system extension pole attachments allows for distance variations in the tool operator positioning.
 - b. The tool system angle attachment for 45 degree, 90 degree and 180 degree straight placement of the denotation chamber allows for variations in tool operator positioning.
 - c. The straight on placement of the chamber to the target surface, generally provides the most effective seal of the chamber edges while minimizing detonation pressure leakage.
 - d. Detonation pressure leakage which is projected outward from the sides of the chamber may cause debris/fragments being projected outward toward the cover and entry officers who could be positioned parallel to the breach point.
7. A significant number of other forced breaching tools used by law enforcement officers as listed below, also require the tool operator to be positioned in exactly the same general location as was Officer Mike Short at the time of the accident:
- a. Hydraulic Jam spreaders
 - b. Hydraulic Door spreaders
 - c. Shotgun breaching
 - d. Ram breaching
 - e. Pry Bay breaching
 - f. Cutting Saw breaching
 - g. Exothermic tool breaching
 - h. Razor/Barbed wire breaching
 - i. Chain link fence breaching
 - j. Window Port breaching
 - k. Bolt cutter techniques
 - l. Lock system defeating procedures

8. All Distraction Device Breaching tool procedures demonstrated and used in this course are consistent and compatible with the standard operating procedures as contained within the approved POST curriculum presented by the instructors.
9. All Distraction Device Breaching tool procedures demonstrated and used in this course are compatible and consistent with the collective training, instructor certifications and experience of the ITR instructors and guest Product/Technical Specialists on scene for this course.
10. Neither ITR Instructors nor the guest Product/Technical Specialists are aware of any unusual position or manner of tool deployment and would not knowingly allow any improper and/or incorrect procedures to be used by course participants.
11. All of the certification documents/outlines/safety procedures/ expanded course outline, hourly schedule, curriculum presentation sequence and the extensive documentation submitted by ITR, substantiate the fact that the device was used as designed by the manufacturer and consistent with proper deployment guidelines of the Safariland Training Group training manual and video training aids.

SECTION NUMBER 17

NEW FINDING # 10 – STUDENTS DEPLOYING DEVICES IN EXPLOSIVE EXPERIMENTS

1. Per the letter of Executive Director Paul Cappitelli dated 1/23/12, the following statements were made regarding comments and a report attributed to Ben Tisa by POST consultant by Don Lane.
 - a. The written report of the incident you prepared and submitted to Senior Consultant Don Lane describes the decision of “students’ to deploy the device in a unusual position or manner.
 - b. Mr. Lane has reported his interview with you during which you described various “experiments” with charges (loads) and deployed to observe the results.
 - c. Explosive experiments are not a described or approved element of the course within the conditions of certification.
2. POST to date, has never before asserted the issue of “various experiments with charges (loads) and deployed to observe the results” as a factor in the justification for decertification of ITR courses and instructors and therefore, must be another new and previously undisclosed “finding” as it was not listed as one of the six original “findings”
3. The statement of Don Lane is a false and complete fabrication on his part which is consistent with other investigative misconduct of Don Lane, and evidenced by his negligent ability to factually document quotes he claims are attributed to other individuals.
 - a. The statement “various experiments with charged (loads) and deployed to observe the results” is another example of unsubstantiated assertions by Don Lane in an futile attempt to provide creditable to this “new finding”
 - b. This self serving statement created by consultant Don Lane, and presented to support the factually deficient allegation contained in this “new finding” is categorically denied by Instructor Ben Tisa as an untruthful assertion.
4. The training protocol as to working knowledge acquisition by the students through the program of Instruction actually described by Instructor Ben Tisa to consultant Don Lane, consisted of the following explanatory statements:
 - a. Empirical accumulation of information based upon known data
 - b. Pragmatic sequence of test targets
 - c. Observation and documenting the results of test targets
 - d. Practical application of accumulated data to new targets

5. The practical application testing procedures used in the Distraction Device Breaching course as it relates to the learning sequence of the participants, was also described to consultant Don Lane by Instructor Ben Tisa, as follows:
 - a. Tactical analysis of door barriers as simulated breach points for forced entry operations such as Hostage Rescue/High Risk Warrant service/active shooter/counter-terrorist/other missions.
 - b. Progressive sequence of tool setup and use of different combinations of munitions gram weigh contained in Command Initiated distraction devices
 - c. Testing and documentation of detonation results based upon target analysis done by each team on assigned target.
 - d. Use of "shot sheets" to record type of breach and test results for accumulative knowledge base to enhance the design of subsequent breaches.
6. Participants acquire operational knowledge and experience based upon specifically designed training events which are structured to allow the participants to learn from controlled application of the tools, procedures and munitions used in each specific course.
7. The entire program of instruction used in the practical application phase of all contemporary breaching courses, involves extensive testing and gaining of cumulative experience in the application of course subject matter through a progressive learning sequence as it relates to the tools, procedures and munitions used in each specific course.
8. It is critical to understand that participants are "students" going through a learning process, not subject matter experts or master instructors and their training and experience is developed through individual testing as to the application of tools, procedures and munitions on a cumulative basis under the guidance of the course instructors.
9. Munitions used for all training consist of commercially available, standard Command Initiated distraction devices containing 15 grams/8 grams/4 grams flash powder loads in various combinations with shock tube or thermal tube firing systems.
10. Additionally, none of the following documents and other instructional material contain the words "experiments with munitions" or "experiments with charges (loads)" nor are any of these procedures described or used as part of the course curriculum for The Distraction Device Breaching Instructor course:

- a. Safariland Training Group manual "The Wallbanger Instructor Course"
- b. Safariland Training Group manual "Distraction Device Instructor Course"
- c. Safariland Training Group power point DVD for the "Distraction Device Breaching Instructor Course"
- d. Safariland Training Group written test "Wallbanger System Instructor Final Exam"
- e. California POST authorized Expanded Course Outline
- f. California POST authorized Hourly Training Schedule
- g. California POST authorized Hourly Training Schedule
- h. California POST authorized Safety Procedures and Equipment requirements
- i. ITR Course Specific Procedures for the Practical Application Training Phase
- j. ITR Operational Deployment Procedures for the Distraction Device Tool System
- k. ITR Procedures for use of Command Initiated Distraction Device Munitions
- l. ITR Instructor to Student Ratio Safety Guidelines
- m. ITR Instructor to Student /Close Physical Proximity Guidelines
- n. ITR Guidelines for Tool Operator Positioning during Deployment of Munitions
- o. ITR Guidelines for use of Face Shield during Practical Application Training

SECTION NUMBER 18

NEW FINDING # 11 – ITR INSTRUCTOR DAVE BLISS INJURY IN NON-POST CERTIFIED COURSE

1. In the POST Executive Director Paul Cappitelli letter dated January 23, 2012, the Director made the following statement:

We know that Mr. Bliss was injured, however slightly during the deployment of munitions in a manner similar to the deployment that resulted in the injury to Officer Short”

1. POST to date, has never before asserted this issue as a factor in the justification for decertification of ITR courses and Instructors and therefore, must be another new and previously undisclosed “finding” as it was not listed as one of the six original “findings”
2. For POST to assert that this issue equates to a contributing cause for the eye Injury sustained by Officer Short is consistent with the other factually deficient and fabricated allegations of fault contained within the original six “findings”
2. ITR understands this statement to be in reference to a Distraction Device Breaching Instructor Course presented by Safariland Training Group November 4-5, 2009 in Monterey, California.
3. As to why this statement was proffered by the Executive Director as representing additional justification for the decertification of ITR course and Instructors, defies any rational relevance to the July 21, 2011 incident.
4. The minor injury sustained by Dave Bliss was during an application of the Distraction Device Tool system with the target being a standard wall, with the tool placement and munitions selection, being under the direct supervision of Mr. Sandy Wall, subject matter expert, master instructor and the creator of the entire system.
5. The aforementioned course was presented for instructor certification by the Safariland Training Group, who are the primary subject matter experts for the Distraction Device Breaching Tool system and official representatives of the tool manufacturer.
6. The lead instructor for this course, Mr. Sandy Wall, is the individual who created the entire Distraction Device Breaching Tool system to include deployment procedures and proper use of munitions for the various applications of defeating breaching targets, distraction device deployment and chemical agent insertion procedures.
7. Sandy Wall co-instructors were Mr. Frank Harden and Ron McCarthy, also of the Safariland Training Group, who are Product/Technical Specialists for the company.

8. Ben Tisa and Dave Bliss were participants in this course for the specific purpose of becoming certified instructors of the Distraction Device Breaching Tool system for future qualification as instructors in the POST certified course presentations.
9. At the time of the course, there was no POST certified Distraction Device Breaching Tool system course in existence in the state of California other than the vendor demonstrations presented at various trade shows and agencies specific demonstrations.
10. All deployment procedures, safety protocols, curriculum content, equipment, videos and instructional manuals/training aids were provided by the Safariland Training Group Instruction staff and were utilized by the course participations as part of the instructor certification process.

SECTION NUMBER 19

NEW FINDING # 12 – POST STAFF IS AWARE OF 2005 SUSPENSION INVESTIGATION

1. In POST letter dated 1/24/12, Executive Director Paul Cappitelli made the following statement:
 - a. As stated in the October 24, 2011 letter signed by Assistant Executive Director Mike DiMiceli, POST staff is aware of the incident that occurred in 2005 that resulted in the suspension on your certification to present a SWAT course for that year.
 - b. That incident also involved unsafe practices in a “high risk, dangerous course”.
2. For POST to assert that this issue equates to a contributing cause for the eye injury sustained by Officer Mike Short defies any rational relevance and is consistent with the other factually deficient and fabricated allegations of fault contained within the original six “findings”
3. The POST Report dated 9/19/2005 which sustained the allegation of “unsafe practices” involved one 45 minute firearms drill conducted on the last day of a ten day/80 Hour Basic SWAT course.
 - a. This SWAT course was presented February 7-18, 2005 at the Santa Clara County Sheriffs range facility.
 - c. The allegation under investigation was in reference to a complaint filed by an individual who was not present at the course in question nor a SWAT Team member for his agency.
 - d. The individual who filed the complaint was upset that officers from the Regional SWAT Team who attended the course which included his agency, recommended that this firearms instructor update his standard “range robot” courses to the level of tactical quality presented by ITR.
 - e. The reason the suspension took so long was that the investigation was not completed until 9/19/2005 and not received by ITR until 10/11/2005.
 - f. The “factual” documentation as to sustaining the allegations of “unsafe practices” contained in the ten pages POST Report consisted of unverified opinions of ten individuals of whom 50 % were not participant witnesses to the events.
 - g. Other “factual” documentation as to sustaining the allegations of “unsafe practices” consisted of the collective opinions of POST administrative staff investigators Ed Pecinovsky and John Dineen, Senior Consultants based upon the results of their investigative report.

- h. Other evidence consisted of DVD video and photographs received from one participant witness to the training even.
 - i. Additional "evidence" consisting of email comments of individuals who saw Internet DVD video/photographs of the course posted by Sgt. Dean Caputo of Arcadia, who negligently and irresponsible compromised law enforcement training procedures.
- 4. The totality of substantive facts sustaining the alleged "unsafe practices" consisted of subjective and unqualified opinions of the POST investigators, five participant witnesses, five non-participant witnesses, DVD/photographs and email comments of blatantly misinformed and irresponsible "experts"
- 5. ITR has in its possession, statements of individuals contacted by the POST investigators, who denied the comments attributed to them as being false and/or misquoted, which reflects a lack of due diligence effort by the investigators to produce an unbiased and truthful report documented with written and signed statements.
- 6. Additionally, the POST Executive Director in his letter dated 1/24/12, failed to mention the hundreds of letters received by POST in support of the drill and its significant officer safety value for participants involved in a "high risk, dangerous course."
- 7. Subsequent to the receipt of the investigative report by ITR, a meeting was held at POST headquarter at which time, the entire ITR firearms training procedures, practices, diagrams and presentation protocols were reviewed and approved by POST.
- 8. POST ordered that the drill not be use again and that ITR could resume presenting Basis SWAT courses upon a successful audit/review of the entire 80 hour course.
- 9. The field compliance audit/safety review of the curriculum presentation procedures by ITR instructors, was done by Senior Consultant Mario Rodriguez whose final report dated 3/31/2006, recommended recertification of the ITR Basis SWAT course.

SECTION NUMBER 20

INSTRUCTOR TRAINING, EXPERIENCE AND COMPETENCE

1. Attached is the Instructor Resume of Ben Tisa regarding training, experience and competence as to the equipment and munitions used in the Distraction Device Breaching course.
2. Attached is the Instructor Resume of Dave Bliss regarding training, experience and competence as to the equipment and munitions used in the Distraction Device Breaching course.
3. Attached is the Instructor Resume of Ben Tisa regarding all POST courses formally certified to ITR for presentation in the state of California
4. Attached is the Instructor Resume of Dave Bliss regarding all POST courses formally certified to ITR for presentation in the state of California.
5. The formal Instructor Resume of Mr. Ron McCarty is available from the POST Investigator or Safariland Training Group or directly from Mr. McCarthy.
6. The formal Instructor Resume of Mr. Frank Harden is available from the POST Investigator or Safariland Training Group or directly from Mr. Harden.
7. The training demonstration, supervision, use and deployment of distraction devices for ITR Instructor Ben Tisa, averages approximately 1,750 total detonations per year during specific courses.
8. The training demonstration, supervision, use and deployment of distraction devices for ITR Instructor Dave Bliss, averages approximately 1,750 total detonations per year during specific courses.
9. As evidenced by the individual resumes and the collective training, knowledge and experience of all instructional personal who were present at the scene, neither the ITR Instructors nor the guest Product/Technical Specialist are aware of any:
 - a. Deployment of equipment that exceeded the experience and competence of all instructional personal that was present at the scene.
 - b. Deployment of munitions that exceeded the experience and competence of all instructional personal that were present at the scene.
10. Neither the ITR Instructors nor the Product/Technical Specialist would knowingly present any deployment of equipment and munitions that exceeded the collective experience and competence of all instructors on scene.