

RIVERSIDE COUNTY

STANLEY SNIFF, SHERIFF



# Sheriff

P.O. BOX 512 • RIVERSIDE, CALIFORNIA 92502 • (951) 955-2400 • FAX (951) 955-2428

February 28, 2012

Paul Cappitelli, POST Executive Director  
1601 Alhambra Blvd.  
Sacramento, CA 95816-7083

  
Dear Director Cappitelli:

Thank you for your letter of February 17th, and we appreciate the comments about our training center's response to the banned study materials used within the 186th Class that led to its dismissal. Our department shares the concern for an unambiguous response to ethical issues and views that as a critical responsibility within the criminal justice system and our law enforcement profession. For agency-sponsored trainees we believe this incident creates a Brady issue; it is less clear for the civilian students though it clearly invites legal consultation.

As you know, our department takes a hard line in this arena, and we will certainly deal with our own Sheriff's trainees in an appropriate manner in regards to misconduct. For trainees from other agencies, we defer to their internal personnel investigations for misconduct and the appropriate sanctions. This is an important issue that will involve POST in any decision process of other agencies that re-enroll these members in another regional training academy sometime in the future.

In like manner, as you are aware, our community colleges often offer "non-sponsored students" an opportunity to participate in academy classes. For those college students not compromised in the 186th incident and who desire to re-enroll, we do not see that as an issue. For those students who were compromised in that extant incident, we will not agree to their re-entry into our own POST Basic Academy at any time in the future.

It is our posture that anyone involved in that POST test security violation in the 186th by using the specifically banned study material be permanently banned from attendance at our regional training center (BCTC) Basic Course, intensive or modular; this includes those individuals involved from our own agency and those from outside law enforcement agencies. Further, we intend to direct the Moreno Valley College, Riverside Community College District, to permanently ban any of their students found in violation of that POST testing security incident in the 186th also be banned from future enrollment in our Basic Peace Officer Course, intensive or modular. For the latter, it would be helpful to have a letter from POST indicating that as your same posture insofar as community college "student enrollees".

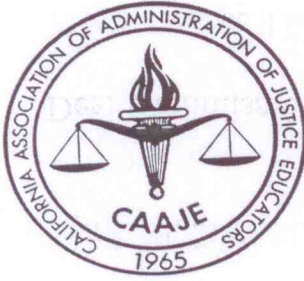
Finally, as we have no control over other regional training academies, we think it important that POST directly notify the other agencies formally on any attendance at other POST Basic Academy sites for those found culpable in this incident by their respective agencies.

Sincerely,

A handwritten signature in dark ink, appearing to be "Stan Sniff", with a large, sweeping initial "S" and a horizontal line extending to the right.

Stan Sniff, Sheriff

cc: Undersheriff Colleen Walker  
Chief Deputy Rick Hall  
Captain James McElvain



*Education · Knowledge · Training · Leadership*

Commissioner Lai Lai Bui  
Commission on POST  
1601 Alhambra Boulevard  
Sacramento, CA 95816

April 30, 2012

Dear Commissioner Lai Lai Bui

Please accept this letter of submission regarding Brad Young to be the California Association of Administration of Justice (CAAJE) appointee to the California Peace Officer Standards and Training (P.O.S.T.) Advisory Committee.

Mr. Young has the experience and demonstrated commitment to continue on in this position as our organization's representative. If you have any further questions please do not hesitate to contact me through my email: [majrld@hotmail.com](mailto:majrld@hotmail.com) or by cell phone: (707) 303-5594.

Sincerely,

Michael J. Grabowski  
President  
CAAJE

May 8, 2012

Paul A. Cappitelli, Executive Director  
Commission on POST  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7083

**Re: Appeal from Decertification Decision by POST Executive Director Paul A. Cappitelli and Request for Hearing Before the Full Commission, International Training Resources**

Dear Mr. Cappitelli:

Internal Training Resources (ITR) has retained this office to assist in an appeal of the decertification of a series of courses previously taught by ITR and its principal instructors, Mr. Ben Tisa and Mr. David Bliss. ITR was initially advised of the decertification of twenty one separate courses previously taught by ITR for over 15 years in a letter dated October 24, 2011 signed by Assistant Executive Director Michael C. DiMiceli. Mr. Tisa filed a timely appeal from the decertification pursuant to Section 1058 of the POST Administrative Manual.

By letter dated January 23, 2012, POST Executive Director Paul A. Cappitelli, concurred with the initial decision to certify all courses taught by ITR. Since November 4, 2011 Mr. Tisa has repeatedly requested to be allowed to receive and review an investigatory report prepared by Senior Consultant Don Lane, upon which the decision to decertify these courses was based. Mr. Tisa had hoped to receive a copy of Mr. Lane's report and incorporate a brief response concerning that report in this appeal and request for hearing. However, he was advised by letter dated February 3, 2012 signed by Assistant Executive Director Alan B. Deal that the requested investigative report "...is not yet available for release." As of this date, the report of Mr. Lane has still not been provided to ITR.

For a number of years, I have had the honor and pleasure of teaching legal issues relating to the formation and deployment of SWAT teams and SWAT team operations, one of the courses ordered decertified by POST. I am certainly aware of the tragic event which occurred on July 21, 2011, which resulted in injury to Visalia Police Officer Michael Short, who was and is by all accounts an exceptionally fine law enforcement officer, and whose Basic SWAT training was also done by ITR. Although ITR has accumulated approximately 20,250 hours of training with over 8,500 participants for a total of over 171 million hours of combined training without an incident or injury to any personnel, Mssrs. Tisa and Bliss fully understand that this singular injury was devastating to Officer Short, despite the extraordinary measures employed by ITR to ensure that such an incident and injury would not occur.

Paul A. Cappitelli, Executive Director

**Re: Appeal from Decertification Decision by POST Executive Director Paul A. Cappitelli and Request for Hearing Before the Full Commission, International Training Resources**

May 8, 2012

Page 2

The totality of the information contained in the documents and material provided POST to date, substantiate the factual conclusion that the cause of the accident was such an unpredictable event that was so unusual and extreme in the manner of its occurrence, that no objectively reasonable examination of the facts and circumstance involved in this accident, can or will support:

- a. Allegations of improper training procedures
- b. Allegations of wrongful acts
- c. Allegations of willful cause
- d. Allegations of negligence on the part of instructor staff

This appeal respectfully requests the Commission to reconsider the decertification of ITR relating to other separate courses which have nothing whatsoever to do with the use of distraction devices, even though we readily acknowledge the importance of educating SWAT team members on this most important subject, and the paucity of POST certified courses which provide this important instruction.

At this juncture the Commission is effectively revoking the license and certification of ITR and Instructors Tisa and Bliss to participate in the profession they have been a part of for almost 70 years combined. As such, we believe that the Commission on POST bears the burden of establishing proof and justification for the decertification of all of the courses previously taught by ITR and the right of Msrs. Tisa and Bliss to teach *any* POST certified courses. Further, the burden of proof, pursuant to the Administrative Procedure Act (California Govt. Code section 11500 et seq.) requires the Commission to have sufficient reliable and credible evidence to decertify all of the courses previously taught by ITR which are unrelated to the Distraction Device Breaching Instructor course which involved the July 21, 2011 injury to Officer Short. In other words, we do not believe that the unsubstantiated "findings" asserted by POST thus far sufficiently meets the Commission's requirement to establish justification for ordering all of the ITR courses decertified.

Naturally, we would be happy to discuss this or other issues with legal counsel for the Commission prior to the full Commission hearing on this matter. Also, in closing, let me indicate that within the next two or three days, we intend to supply the Commission with a packet of appeal materials for each individual member of the Commission. Since we have yet to receive Mr. Lane's investigative report, we are at a disadvantage to respond to this decertification. Nevertheless, please advise me how many copies of appeal packets to send, and to whom they should be addressed.

Paul A. Cappitelli, Executive Director

**Re: Appeal from Decertification Decision by POST Executive Director Paul A. Cappitelli  
and Request for Hearing Before the Full Commission, International Training Resources**

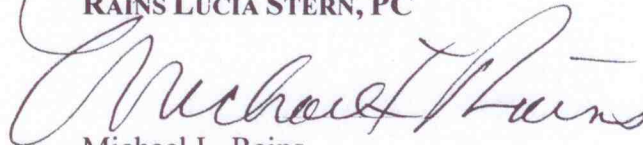
May 8, 2012

Page 3

We thank you and the honorable commissioners for your continuing courtesy and cooperation in this matter and look forward to an opportunity to present this appeal at the next Commission hearing on June 28, 2012.

Very truly yours,

**RAINS LUCIA STERN, PC**

A handwritten signature in cursive script, appearing to read "Michael L. Rains".

Michael L. Rains

MLR:jl

Cc: Ben Tisa  
Dave Bliss



June 8, 2012

Paul Cappitelli  
Commission on Peace Officers Standards and Training  
1601 Alhambra Blvd  
Sacramento, CA 95816

SUBJECT: Fiscal Year 2011 Homeland Security Grant Program (HSGP)  
Application for Funds

Dear Mr. Cappitelli:

Thank you for submitting an application to the California Emergency Management Agency (Cal EMA) Office of Grants Management for a Fiscal Year 2011 HSGP award.

The State Agency application process for Homeland Security grants was very competitive. Cal EMA received over \$32 million in requests for funding which far exceeded our available funding. Cal EMA carefully evaluated each grant proposal, and funded projects based both on need and the federal grant rules, with a focus on building capabilities. Unfortunately, your agency was not selected for funding for the Fiscal Year 2011 HSGP.

Thank you for your interest in this solicitation, and the time and effort you expended in this process. We appreciate your desire to join us in our mission to develop and coordinate a comprehensive state strategy that includes prevention, preparedness, response and recovery. We encourage you to continue to participate in the grant process in the future.

Sincerely,

**BRENDAN A. MURPHY**  
Assistant Secretary



COMMISSION ON POST  
12 JUN 25 AM 9:56

## GRAND JURY

June 19, 2012

Commission on Peace Officer Standards and Training  
1601 Alhambra Blvd.  
Sacramento, CA 95816-7083

Dear Commissioners:

The 2011-2012 San Luis Obispo County Grand Jury recently published a report entitled, "*A Vital Function of the Judicial System: Law Enforcement Property and Evidence Rooms.*" The Grand Jury examined the property and evidence room management practices of local police agencies, as well as the San Luis Obispo County Sheriff's Department.

Each agency was provided a copy of the POST Property & Evidence System Audit Guide and asked to submit it as part of the Grand Jury's investigation. The Grand Jury then reviewed each completed audit guide, as well as each agency's property and evidence room policy and management practices, as the basis for its report.

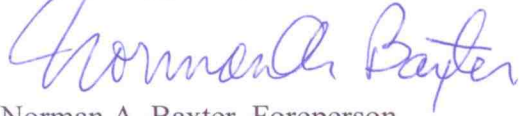
The Grand Jury was impressed with the information contained in both the POST audit guide and management guide. The Grand Jury found it surprising, however, that POST does not offer a certificate program for property and evidence room technicians. The Grand Jury is familiar with POST certificate programs for police officers, supervisory and management, as well as records supervision and dispatcher certificates.

As indicated in the title of our report, property and evidence room management practices are a vital function of our judicial system. While we recognize we have no jurisdiction in state agencies or commissions, we encourage POST to consider a certificate program for property and evidence room technicians that establishes uniform standards for such an important function in our law enforcement agencies.

A copy of our report, "*A Vital Function of the Judicial System: Law Enforcement Property and Evidence Rooms*" is enclosed for your information.

Thank you for your consideration.

Respectfully yours,



Norman A. Baxter, Foreperson  
2011-2012 San Luis Obispo County Grand Jury

encl.

NB:sm

COMMISSION ON  
PEACE OFFICER STANDARDS AND TRAINING



EDMUND G. BROWN JR.  
GOVERNOR

KAMALA D. HARRIS  
ATTORNEY GENERAL

April 16, 2012

Sheriff Adam Christianson  
Stanislaus County Sheriff's Department  
250 E. Hackett Road  
Modesto, CA 95358-9415

  
Dear Sheriff Christianson,

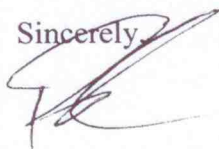
On behalf of the California Commission on Peace Officer Standards and Training (POST), and POST staff, I want to express my deepest sympathy over the tragic, on-duty death of Deputy Robert Paris of your department.

Whenever a California peace officer is killed in the line of duty, the entire profession grieves. This valiant officer will be sorely missed for his contribution to public safety and will live on in the memories of his colleagues.

Deputy Paris will be formally remembered at the beginning of the June 28, 2012, POST Commission Meeting to be held in Sacramento.

If there is anything POST can do during this difficult time, please do not hesitate to contact me personally at (916) 227-2803.

Sincerely,



PAUL A. CAPPITELLI  
Executive Director

PAC:cap

KAMALA D. HARRIS  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR  
P.O. BOX 70550  
OAKLAND, CA 94612-0550

Public: (510) 622-2100  
Telephone: (510) 622-2196  
Facsimile: (510) 622-2121  
E-Mail: William.Darden@doj.ca.gov

May 25, 2012

**VIA FACSIMILE AND FIRST CLASS MAIL**

**Fax No. (925) 609-1690**

Michael L. Rains  
Rains Lucia Stern, PC  
2300 Contra Costa Boulevard, Suite 500  
Pleasant Hill, CA. 95816-7083

RE: Appeal of International Training Resources to the Commission on Peace Officer Standards and Training (POST)

Dear Mr. Rains:

I represent the Commission on Peace Officer Standards and Training ("POST" or the "Commission") and am responding to your letter of May 22, 2012 regarding the appeal filed by International Training Resources (ITR) of the decision to remove POST certification from those courses previously taught by ITR as POST-certified classes. So that you are aware of my role and responsibility, I will act as the Commission's legal advisor on the issues involved in the appeal; I will not be involved in prosecuting the defense of the appeal to the Commission at the hearing. That will be handled by members of POST's Executive Staff.

The Commission's appeal process is not governed by the administrative adjudication procedures of the Administrative Procedure Act (APA). As an agency created before July 1, 1997, those provisions do not apply to it unless the statutes relating to that agency apply the APA to its proceedings. Cal. Gov't Code § 11501. The statutes creating the Commission do not do so, and accordingly, the Commission has not adopted and does not use the formal hearing provisions found in the APA.

The Commission has instead adopted an informal appeal process, and I write to inform you of the protocol that is used in these hearings. As you know, these appeals take place during the public meetings of the Commission. The Commission will have a certified court reporter present to transcribe all proceedings.

At this point in the process, as an appeal, the burden of proof is on the appellant to demonstrate to the full Commission that error was committed by POST staff in its decision. Accordingly, ITR will present its appeal first, followed by the presentation of POST staff.

Each side's presentation should be no more than 30 minutes in length. You would be permitted to reserve time to use in rebuttal, if you wish, and staff would be permitted to reserve time as well. Additional time may be requested and granted at the sole discretion of the Commission Chair, if the Commission Chair believes the request to be appropriate and warranted.

The formal rules of evidence do not apply. Testimony in the sense of a formal examination of witnesses, with the right to cross-examination, does not occur at the appeal hearing itself. The parties' submissions are primarily in the form of written documents, which may include witness statements.

Any witness statements or other submissions may be, but are not required to be, under oath and are not governed by the formal rules of evidence. While the documentary items should be exchanged by the parties in advance, the Commission will not refuse to consider any evidence offered by ITR at the hearing and ITR may produce evidence at that time. However, it is of course helpful to the Commissioners to have the opportunity to consider documentary evidence in advance, considering the time restrictions inherent in public meetings. Along those lines, while the Commissioners' meeting binders are usually not sent to them until shortly before the hearing, the Commission has considered your request to have the ITR materials delivered to the individual Commissioners sooner than is the norm in order to allow them more time to review and digest the materials, and believes that your request is appropriate and warranted. It is my understanding that POST staff will mail the materials relating to the ITR appeal to the individual Commissioners today.

Each item of evidence presented in the parties' submissions is given whatever weight the Commission believes it should be accorded. Each side is always free to argue, of course, that little or no weight should be given any particular item of evidence offered by the other side. There is no need to formally stipulate to the introduction of any documents and no need to formally move items into evidence; any items offered, including the pre-hearing submissions, will be considered and given the weight believed by the Commission to be appropriate.

The formal presentation before the Commission during the appeal is normally more in the nature of a presentation or summary of the parties' evidence and an argument as to the application of that evidence to the applicable standard. If however, during ITR's submission, it wishes to use some of that time to have an individual address the Commission as part of ITR's appeal, it is welcome to do so; the Commission will not dictate to ITR how it should use its time, although it expects that all presentations will be organized and will not be unduly cumulative.

As a public meeting, there is also a public comment period in which members of the public are permitted to address any item on the agenda. However, public comments on agenda items are limited to 5 minutes in length and may not be unduly cumulative.

As to your question regarding when you will receive the report of consultant Lane, those questions should be directed to Alan Deal, Assistant Executive Director, who I understand will

May 25, 2012

Page 3

be making the presentation on behalf of POST staff, or POST's counsel for purposes of the presentation, Kevin Reager. Mr. Deal may be reached at (916) 227-2807. Mr. Reager may be reached at (916) 324-5331.

Finally, in case you were unfamiliar with Commission practice regarding the agenda items to be covered at each meeting, POST staff prepares a binder for the Commissioners which contains materials relating to each agenda item, and which routinely discussed the issue, background information, and staff's analysis and recommendation as to the item. I have asked staff to immediately forward that material to you as soon as it has been finalized into the form in which it will be presented to the Commission.

If you have any questions, or wish to discuss any aspect of the Commission's procedure, please feel free to contact me directly.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wu T Darden", with a stylized, cursive script.

WILLIAM T. DARDEN  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

WTD:

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90247483.doc

cc: Alan Deal, POST  
Paul Cappitelli, POST  
Kevin Reager, DOJ, Sacramento, Torts Section