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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** SB 29                      **Hearing Date:** April 7, 2015  
**Author:** Beall  
**Version:** March 23, 2015  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** JRD

*Subject: Peace Officer Training: Mental Health*

## HISTORY

Source: Author

Prior Legislation: None known

Support: The Arc and United Cerebral Palsy California Collaboration; Association of Regional Center Agencies; California Attorneys for Criminal Justice; California Medical Association; Disability Rights California; Steinberg Institute; United Domestic Workers of America

Opposition: California State Sheriffs' Association

## PURPOSE

*The purpose of this legislation is to require (1) law enforcement field training officers to have 40 hours of evidence-based behavioral health training, as specified; and, (2) the field training program to include a 20-hour evidence-based behavioral health training course relating to law enforcement interaction with persons with mental illness or intellectual disability.*

### Peace Officer Standards and Training

*Existing law* creates, in the Department of Justice, a Commission on Peace Officer Standards and Training (POST). The POST commission consists of 15 members appointed by the Governor, after consultation with, and with the advice of, the Attorney General and with the advice and consent of the Senate. Racial, gender, and ethnic diversity shall be considered for all appointments to the commission. (Penal Code § 13500.)

*Existing law* provides POST with the following powers:

- To meet at those times and places as it may deem proper.
- To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.
- To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.

- To cooperate with and to secure the cooperation of county, city, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.
- To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.
- To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.
- To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.
- The commission does not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer.
- Except as specifically provided by law, the commission does not have the authority to cancel a certificate previously issued to a peace officer. (Penal Code § 13503.)

*Current law* requires POST to endeavor to minimize costs of administration so that a maximum of funds will be expended for the purpose of providing training and other services to local law enforcement agencies. (Penal Code § 13505.)

*Existing law* requires POST to adopt rules establishing minimum standards relating to physical, mental, and moral fitness that govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, and other specified peace officers. (Penal Code § 13510.)

### **Peace Officer Field Training**

*Existing regulations* require any department which employs peace officers to have a POST-approved Field Training Program. Requests for approval of a department's Field Training Program must be submitted to POST and signed by the department head attesting to the adherence of the following program requirements:

- The Field Training Program is to be delivered over a minimum of 10 weeks and based upon the structured learning content as specified in the POST manual.
- A trainee must have successfully completed the Regular Basic Course before participating in the Field Training Program.
- The Field Training Program must have a Field Training Supervisor/Administrator/Coordinator (SAC) who:

- Has been awarded or is eligible for the award of a POST Supervisory Certificate, or has been appointed by the department head (or his/her designate).
- Every peace officer promoted, appointed, or transferred to a supervisory or management position overseeing a field training program shall successfully complete a POST-certified Field Training Supervisor/Administrator/Coordinator Course prior to or within 12 months of the initial promotion, appointment, or transfer to such a position.
- The Field Training Program must have Field Training Officers (FTOs) who:
  - Have been awarded a POST Basic Certificate (not Specialized);
  - Have a minimum of one year general law enforcement uniformed patrol experience;
  - Have been selected based upon a department-specific selection process; and,
  - Meet the following training requirements:
    - Successfully complete a POST-certified Field Training Officer Course prior to training new officers; and,
    - Complete 24-hours of update training every three years following completion of the Field Training Officer Course.
- Trainees must be supervised depending upon their assignment:
  - A trainee assigned to general law enforcement uniformed patrol duties must be under the direct and immediate supervision (physical presence) of a qualified Field Training Officer.
  - A trainee temporarily assigned to non-enforcement, specialized function(s) for the purpose of specialized training or orientation is not required to be in the immediate presence of a qualified Field Training Officer while performing the specialized function(s).
- Trainee performance must be:
  - Documented daily through journaling, daily training notes, or Daily Observation Reports (DORs) and shall be reviewed with the trainee by the Field Training Officer; and,
  - Monitored by a Field Training Program SAC, or designee, by review and signing of the DORs or, by completing and/or signing weekly written summaries of performance (e.g., Supervisor's Weekly Report, Coaching and Training Reports) that are reviewed with the trainee.

- The Field Training Officer's attestation of each trainee's competence and successful completion of the Field Training Program and a statement that releases the trainee from the program, along with the signed concurrence of the department head, or his or her designate, must be retained in department records.

(11 C.C.R. 1005 (2015).)

*Existing regulation* allows a department to request an exemption of the Field Training Program requirement if:

- The department does not provide general law enforcement uniformed patrol services; or
- The department hires only lateral entry officers possessing a POST Basic Certificate and who have either:
  - Completed a POST-approved Field Training Program, or
  - One year previous experience performing general law enforcement uniformed patrol duties.

(11 C.C.R. 1005 (2015).)

*Existing procedures* require a POST-Approved Field Training Program to minimally include the following topics: (1) Agency Orientation and Department Policies; (2) Officer Safety; (3) Ethics; (4) Use of Force; (5) Patrol Vehicle Operations; (6) Community Relations/Professional Demeanor (including Cultural Diversity, Community Policing, and Problem Solving; (7) Radio Communications; (8) Leadership; (9) California Codes and Law; (10) Search and Seizure; (11) Report Writing; (12) Control of Persons, Prisoners, and Mentally Ill; (13) Patrol Procedures (including Domestic Violence and Pedestrian and Vehicle Stops); (14) Investigations/Evidence; (15) Tactical Communications/Conflict Resolution; (16) Traffic (including DUI); (17) Self-Initiated Activity; (18) Additional Agency-Specific Topics (may include Community Specific Problems, Special Needs Groups, etc.). (POST Administrative Manual, Procedure D-13-3.)

*Existing procedures* require that the POST-certified Field Training Officer Course be a minimum of 40 hours. In order to meet local needs, flexibility to present additional curriculum may be authorized with prior POST approval. Instructional methodology is at the discretion of individual course presenters unless specified otherwise in a training specification document developed for the course. The Field Training Officer Course curriculum must include the following topics: (1) Field Training Program Goals and Objectives; (2) Keys to Successful Field Training Programs; (3) Field Training Program Management/Roles of Program Personnel; (4) Teaching and Training Skills Development; (5) The Professional Relationship between the FTO and the Trainee; (6) Evaluation/Documentation; (7) Expectations and Roles of the FTO; (8) Driver Safety; (9) Officer Safety; (10) Intervention; (11) Remediation/Testing/Scenarios; (12) Trainee Termination; (13) Legal Issues and Liabilities; (14) Review of the Regular Basic Course Training; and, (15) Competency Expectations. (POST Administrative Manual, Procedure D-13-4.)

*This bill* would require POST to require the field training program to include a 20-hour evidence-based behavioral health training course relating to law enforcement interaction with persons with mental illness or intellectual disability.

*This bill* would require POST to require field training officers to have 40 hours of evidence-based behavioral health training, as specified.

### RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity." (Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

## COMMENTS

### 1. Need for Legislation

According to the author:

Day by day there is a growing recognition throughout law enforcement nationwide of the value of behavioral health training for officers. SB 29 and its companion bill, SB 11, respond to the public's heightened distrust by mandating stronger evidence-based behavioral health training that has proven to reduce volatile confrontations between peace officers and people with mental illnesses or intellectual disabilities. Equally important, the bills recognize California's cultural diversity and require training to be culturally appropriate.

Specifically, SB 29:

- Mandates 40 hours of evidence-based behavioral health training for all Field Officer Trainers;
- Mandates an additional 20 hours of evidence-based behavioral health training for new officers. Training must be completed during the employing department's field training and probationary period but in no case later than 24 months after employee's appointment as an officer; and
- Furthermore, SB 29 increases an officers' ability to communicate effectively and efficiently. The bill calls for training to overcome the stigmatization of mental illness. It also requires the instruction of officers of cultural differences to increase awareness of attitudes and behaviors, and to appreciate the commonalities that exist across diverse cultures.

SB 29 recognizes a basic tenet in law enforcement: officers ultimately rely on their training to cope with emergencies. Therefore the key to an officer's preparation are Field Training officers. Over time, the new training mandated by SB 29 offers a way to phase in behavioral health training in law enforcement agencies. It increases training for newly hired officers while targeting existing officers who are in a supervisory role. SB 29 recognizes that new officers' look-up to Field Training officers; and over time, Field Training Officers typically are promoted creating a steady flow of new officers to replace them who will need to be trained. . .

POST has a certified Field Training Program guide that includes 18 competencies that must be completed during a new officer's Field Training. Mental illness and intellectual and physical disabilities competencies are under Section 12.6 and 12.7. POST does not mandate hours for any of the 18 competencies. Recently, the California Highway Patrol mandated FTO trainers to spend at least 10 hours to educate new officers on Section 12.6 and 12.7 competencies. (Instructor led training). . .

## 2. Effect of Legislation: Field Training Requirements

All field training requirements are regulatory. As discussed above, POST requires an officer be provided a minimum of 10 weeks of field training. This training must cover 18 different competency requirements, including a component relating to “Control of Persons, Prisoners, and Mentally Ill.” Under POST’s Field Training model, trainees are required, for example, to demonstrate competency in the following:<sup>1</sup>

12.6.02. Behavior Due to Disabilities. The trainee shall acknowledge that some disabilities (including intellectual disabilities, cerebral palsy, epilepsy, autism and other neurological conditions) are not readily apparent and that sometimes people with developmental or cognitive disabilities may have little or no conscious ability to control their behavior.

12.6.03. Dealing with Cognitive Impairment. The trainee shall recognize and demonstrate effective communications for person with cognitive impairments to minimally include:

- A. Give one direction or ask one question at a time
- B. Allow the person to process what you have said and respond (10-15 seconds, then repeat)
- C. Avoid questions that tell the person the answer you expect (avoid questions with yes/no answers)
- D. Repeat questions from a slightly different perspective, if necessary
- E. Avoid questions about time, complex sequences, or reasons for behavior
- F. Use concrete terms and ideas; avoid jargon or figures or speech

12.7.01. State Law and Agency. The trainee shall review and explain state law and agency policy regarding mental health cases.

12.7.02. Considerations When Handling or Dealing with Mentally Ill/Emotionally Disturbed Persons. The training shall identify considerations to be made when handling and dealing with mentally ill or emotionally disturbed persons, to minimally include:

- A. Ignoring verbal abuse
- B. Avoiding excitement
- C. Avoiding unnecessary deception

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<sup>1</sup> The POST Field Training model can be found in its entirety at <https://www.post.ca.gov/field-training-program.aspx>.

- D. Requesting backup to minimize resistance
- E. Requesting an ambulance prior to confronting subject, if necessary
- F. Keeping the disturbed person in sight constantly
- G. Continual alertness
- H. Seizing firearms for safekeeping

12.7.03. Mental Health Facility or Regional Center. The trainee shall identify the appropriate mental health facility or regional center within the agency's jurisdiction to be used for evaluation, treatment, counseling, or referral.

12.7.08. Demonstrating Knowledge of Proper Procedure. Given a scenario or an actual incident involving a mentally ill or emotionally disturbed person, the trainee shall take all necessary precautions in dealing with the person, safely that the person into custody (if necessary), assure safe transportation of the person, and properly complete all necessary forms and reports.

A trainee can demonstrate competency by performing these functions in the field, through role playing, or by taking a verbal or written test. Both the Field Training Officer and the trainee have to sign a form stating that training was received and competency was demonstrated for each of the training components.

While behavioral health training is included in field training, there is currently no hour requirement.<sup>2</sup> This legislation would specify how many hours of behavioral health training an officer must have by requiring the field training program include a 20-hour evidence-based behavioral health training course relating to law enforcement interaction with persons with mental illness or intellectual disability.

According to the author:

The Memphis Crisis Intervention Team (CIT) is a nationally recognized training for police officers and first responders to effectively interact with those in a mental illness crisis. The Memphis model calls for 40 hours of intense training to learn interventions such as de-escalation, shown to be effective when responding to individuals with mental illnesses.

SB 29 builds on the 20 hours of training provided in the Academy under SB 11. Taken together, SB 11 and SB 29 provide the full 40 hours of training strongly recommended under the Memphis Model.

This legislation, as drafted, would preclude an officer from getting hourly credit for time spent in the field. Members may wish to consider recommending an amendment that would allow an officer to receive hourly credit for the time he or she spends on behavioral health issues in the field.

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<sup>2</sup> Aside from the requirement that Field Training be over a ten week period, POST's Field Training Model is component and skill based rather than hourly based. The author, however, does note that California Highway Patrol is requiring 10 hours of behavioral-health training during field training.



SHOULD OFFICERS BE REQUIRED TO HAVE A SPECIFIC NUMBER OF TRAINING HOURS RELATING TO MENTAL HEALTH DURING FIELD TRAINING?

### 3. Effect of Legislation: Field Training Officer Requirements

Field Training Officers must have a POST Basic Training Certificate and one year general law enforcement uniformed patrol experience.<sup>3</sup> Field Training Officers are additionally required to have a minimum of 40 hours of training on a variety of topics, including: (1) Field Training Program Goals and Objectives; (2) Keys to Successful Field Training Programs; (3) Field Training Program Management/Roles of Program Personnel; (4) Teaching and Training Skills Development; (5) The Professional Relationship between the FTO and the Trainee; (6) Evaluation/Documentation; (7) Expectations and Roles of the FTO; (8) Driver Safety; (9) Officer Safety; (10) Intervention; (11) Remediation/Testing/Scenarios; (12) Trainee Termination; (13) Legal Issues and Liabilities; (14) Review of the Regular Basic Course Training; and, (15) Competency Expectations. There is currently no requirement behavioral health training requirement. This legislation would require an additional 40 hours of evidence-based behavioral health training.

Requiring evidence-based training could limit the use of high-quality, promising behavioral health training.<sup>4</sup> Members may wish to recommend an amendment that would allow POST to provide “promising evidence-based or evidence-based training.”

SHOULD FIELD TRAINING OFFICERS BE REQUIRED TO HAVE 40 HOURS OF MENTAL HEALTH TRAINING?

### 4. Argument in Support

According to County Behavioral Health Directors Association:

The existing California Peace Officer Standards and Training (POST) curriculum for officers does not mandate a prescribed number of hours of behavioral health training in the Field Training program. According to POST representatives, although training resources exists, there is no standardized behavioral health training curriculum statewide, and this lack of uniformity creates a patchwork of training programs offered by California law enforcement agencies.

SB 29 mandates 40 hours of evidence-based behavioral health training for all Field Officer Trainers, and 20 additional hours of evidence-based behavioral health training for trainees in Field Training programs. The bill also calls for the training to address issues related to stigma, and instruct officers on culturally appropriate procedures when responding to individuals experiencing a behavioral health crisis.

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<sup>3</sup> Officers receive mental health training during their coursework to obtain a Basic Training Certificate and during field training.

<sup>4</sup> U.S. Department of Health and Human Services (HHS) has defined a promising practice as one with at least preliminary evidence of effectiveness in small-scale interventions or for which there is potential for generating data that will be useful for making decisions about taking the intervention to scale and generalizing the results to diverse populations and settings.

## 5. Argument in Opposition

According to the California State Sheriffs' Association:

On behalf of the California State Sheriffs' Association (CSSA), we must respectfully oppose Senate Bill 29, which would mandate increased training for law enforcement officers on mental health issues.

To be clear, CSSA recognizes the importance of appropriate training of law enforcement officers. We also acknowledge that mental health issues have grown in significance in recent years. California peace officers are among the best trained in the nation because of the rigorous and comprehensive education and training regimen overseen by the Commission on Peace Officer Standards and Training (POST). Proper training prepares officers for the daily dangers of their jobs, builds trust with the community members protected by law enforcement, and provides appropriate standards for peace officer behavior.

Currently, significant training on mental health issues is required of prospective and employed peace officers. The basic POST academy includes mandatory training on mental health issues and includes a scenario-based test that must be passed in order to graduate from an academy. Additionally, law enforcement agencies around the state offer ongoing POST-certified crisis intervention training on mental health and require their officers to complete additional mental health training in addition to the state-mandated minimums.

SB 29 would require 40 hours of training on mental health issues for field training officers and 20 additional hours of training on mental health issues for new officers during their field training period. While CSSA does not necessarily oppose alterations to training requirements, this bill simply adds a time-based requirement without the benefit of knowing where gaps and deficiencies in existing training mandates may exist. More training for the sake of more training may not be beneficial and may come at the expense of other, more necessary training.

POST, in conjunction with law enforcement, is in the process of examining mental health training courses and requirements to ascertain if there are issues that need to be addressed. Although we appreciate the desire to improve interactions between law enforcement and persons with mental health issues, SB 29 represents a premature, unfunded mandate that offers no guarantee of providing the appropriate training to the right officers.

-- END --