

**MONTANA Public Safety Officer Standards and Training Council
Committee Meeting Agenda ~ February 12, 2020
ARM Committee Meeting 3:30 p.m. ~ 4:30 p.m.
Montana Law Enforcement Academy, Administration Building
Helena, Montana**

Dial-in Participant Information

Dial-in number: (866) 576-7975

Access code: 612394

- I. 3:30 p.m.** ~ Call meeting to order, roll call, identify and welcome guests.
- II. 3:35 p.m.** ~ Public Comment
- III. 3:40 p.m.** ~ Current ARMs (pg. 1-2)
- IV. 4:05 p.m.** ~ 2020 ARMs (pg. 3-8)
- V. 3:30 p.m.** ~ Adjourn

* Executive Sessions are closed to the public in order to protect the privacy rights of individuals.

Times are approximate; actual times may vary depending on presentation/discussion time.

23.13.702 GROUNDS FOR SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION (1) The executive director or the council will consider any legitimate allegation made against any public safety officer that may result in the denial, sanction, revocation, or suspension of that officer's certification.

(2) The public safety officer's employing authority must report to the executive director any ~~potential ground~~ sustained violation of the grounds for denial, sanction, suspension, or revocation of POST certification as enumerated in (3). If review of the conduct of an officer is pending before any court, council, tribunal, or agency, the employing authority may await final adjudication of the pending review prior to reporting the officer's conduct to the executive director. If the officer's conduct resulted in termination of the officer's employment, the notice requirements of 7-32-303, MCA, and ARM 23.13.216 still apply.

~~(2)~~ (3) The grounds for denial, sanction, suspension, or revocation of the certification of public safety officers are as follows:

(a) willful falsification of any information in conjunction with official duties, or any single occurrence or pattern of lying, perpetuating falsehoods, or dishonesty which may tend to undermine public confidence in the officer, the officer's employing authority, or the profession;

(b) a physical or mental condition that substantially limits the officer's ability to perform the essential duties of a public safety officer, or poses a direct threat to the health and safety of the public or fellow officers, and that cannot be eliminated or overcome by reasonable accommodation;

(c) engaging in substance abuse as defined in these rules;

(d) unauthorized use of or being under the influence of alcoholic beverages while on duty, or the use of alcoholic beverages in a manner which tends to discredit the officer, the officer's employing authority, or the profession;

(e) conviction or commission of a misdemeanor or felony criminal offense enumerated in Tit. 45, ch. 5-10 or Tit. 61, ch. 8, pt. 4, MCA, or an offense which would be a misdemeanor or felony criminal offense enumerated in Tit. 45, ch. 5-10 or Tit. 61, ch. 8, pt. 4, MCA, if committed in this state;

~~(f) conviction of any offense involving unlawful sexual conduct or unlawful physical violence;~~

(g) neglect of duty or willful violation of orders or policies, procedures, rules, or regulations, or criminal law when such action or inaction, committed in the officer's capacity as an officer or otherwise, reflects adversely on the officer's honesty, integrity or fitness as an officer or is prejudicial to the administration of justice;

(h) willful violation of the code of ethics set forth in ARM 23.13.203;

~~(i) other conduct or a pattern of conduct which tends to significantly undermine public confidence in the profession, whether committed in the officer's capacity as an officer or otherwise, is prejudicial to the administration of justice or reflects adversely on the employing authority's integrity or the officer's honesty, integrity or fitness as an officer ;~~

(j) failure to meet the minimum standards for appointment or continued employment as a public safety or peace officer set forth in these rules or Montana law;

(k) failure to meet the minimum training requirements or continuing education and training requirements for a public safety or peace officer required by Montana law and these rules;

~~(l) acts that are reasonably identified or regarded as so improper or inappropriate that by their nature and in their context are harmful to the employing authority's or officer's reputations;~~

~~or to the public's confidence in the profession;~~

~~(m)~~ (l) operating outside or ordering, permitting, or causing another officer to operate outside of the scope of authority for a public safety or peace officer as defined by 44-4-401, 44-4-404, or 7-32-303, MCA, or any other provision of Montana law regulating the conduct of public safety officers;

~~(n)~~ (m) the use of excessive or unjustified force in conjunction with official duties; or

~~(o)~~ (n) the denial, sanction, suspension, or revocation of any license or certification equivalent to a POST certification imposed by a board or committee equivalent to POST in any other state.

~~(3)~~ (4) It is a defense to an allegation of substance abuse, as defined in these rules, if the officer shows by a preponderance of the evidence that the officer's substance abuse has been eliminated or overcome by reasonable treatment.

DRAFT

23.13.201 MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS (1) All public safety officers must be certified by POST and meet the applicable employment, education, and certification standards as prescribed by the Montana Code Annotated.

(2) In addition to standards set forth in the Montana Code Annotated, including but not limited to 44-4-404, MCA, all public safety officers must:

- (a) be a citizen of the United States or may be a registered alien if unsworn;
- (b) be at least 18 years of age;
- (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;
- (d) not have been convicted of a crime for which they could have been imprisoned in a federal or state penitentiary or a crime involving unlawful sexual conduct;
- (e) be of good moral character as determined by a thorough background check;
- (f) be a high school graduate or have been issued an equivalency certificate by the Superintendent of Public Instruction, or by an appropriate issuing agency of another state or of the federal government;
- (g) successfully complete an oral interview and pass a thorough background check conducted by the appointing authority or its designated representative;
- (h) be in good standing with POST and any other licensing or certification boards or committees equivalent to POST in any other state such that no license or certification similar to a POST certification has been revoked or is currently suspended in any other state;
- (i) possess a valid driver's license if driving a vehicle will be part of the officer's duties;
- (j) abide by the code of ethics contained in ARM 23.13.203; and
- (k) complete, within every two calendar years, 20 hours of documented agency in-service, roll call, field training, or POST-approved continuing education training credits, which include but are not limited to a professional ethics curriculum covering the following topics and any additional topics required by the council:
 - (i) a review of the Code of Ethics ARM 23.13.203 and Grounds for Denial, Sanction, Suspension, and Revocation ARM 23.13.702;
 - (ii) review of the annual POST integrity report;
 - (iii) discussion involving core values of each employing agency which may include integrity, honesty, empathy, sympathy, bravery, justice, hard work, kindness, compassion, and critical thinking skills;
 - (iv) review of agency policy and procedure regarding ethical and moral codes of conduct;
 - (v) discussion of the similarities and differences between agency and POST consequences for actions that violate policy or rule.

(3) Every public safety communications officer, as a part of the training required in (2)(k), must complete every two calendar years, a telephone cardio-pulmonary resuscitation (TCPR) course. The required TCPR training shall follow evidence-based, nationally recognized guidelines for high quality TCPR which incorporates recognition protocols for out-of-hospital cardiac arrest (OHCA) and continuous education. The training must cover a minimum of the following topics:

- (i) Anatomy & physiology of the circulatory and cardiovascular system;
- (ii) Relationship between circulatory, respiratory, and nervous system;
- (iii) Signs and symptoms of acute coronary syndrome (ACS);

- (iv) Signs of life recognition;
 - (v) Early recognition of the need for CPR;
 - (vi) Agonal respirations;
 - (vii) Hypoxic seizures and sudden cardiac arrest;
 - (viii) Pathophysiology of sudden cardiac death/cardiac arrest;
 - (ix) The role of T-CPR in cardiac arrest survival;
 - (x) The importance of minimizing disruptions when T-CPR is in progress;
 - (xi) Physiology behind the performance of the instructions;
 - (xii) AEDs and the role they play in resuscitation;
 - (xiii) Explanation, with practical training exercises, for different T-CPR instructions, including: adult, child, infant, neonate, pregnant patients, obese patients, and stoma patients;
 - (xiv) Critical Incident Stress Management; and
 - (xv) Unusual circumstances posing challenges to the delivery of T-CPR instructions, such as: patients with DNR orders, patient's on ventilators, post-op patients, obvious DOA, electrocution, drowning, strangulation, two rescuers- ventilations, cardiac arrest from trauma, and DNR/POLST orders
- ~~(4)(3)~~ The POST Council is not responsible for maintaining records of continuing education hours acquired to satisfy the requirements of (2)(j), ~~and (2)(k), and (3)~~. The employing agency must maintain records of the administration of the oath and the continuing education hours acquired to satisfy (2)(j) and (2)(k). Agency records maintained under this rule are subject to audit by the executive director during normal business hours upon reasonable notice to the agency.

23.13.215 FIREARMS PROFICIENCY STANDARDS

- (1) Each agency that employs a public safety officer who is authorized to carry firearms during the work assignment must:
- (a) require the officer to complete successfully the firearms proficiency requirements provided in this rule at least once a year, for any manufacture and model of firearm customarily carried by that officer;
 - (b) designate a POST-certified instructor as defined in these rules to conduct or oversee and document annual firearms proficiency. The instructor must have attended a minimum 40-hour firearms instructor course or its equivalent, which includes the following topics:
 - (i) firearms safety;
 - (ii) role of the instructor;
 - (iii) civil and criminal liability exposure;
 - (iv) instructional techniques for firearms instructors;
 - (v) operation of the firing line;
 - (vi) range preparation;
 - (vii) handgun;
 - (viii) disabled officer techniques; and
 - (ix) low light shooting techniques.
 - (c) keep on file in a format readily accessible to the council a copy of all firearms proficiency records, which must include:
 - (i) date of qualification;
 - (ii) identification of the officer;
 - (iii) firearm manufacture and model;

- (iv) results of qualifying; and
- (v) course of fire used.
- (2) The minimum standards for annual firearms proficiency are:
 - (a) Handgun – a minimum of 30 rounds, fired at ranges from point-blank to 15 yards with a minimum of 15 rounds at or beyond seven yards;
 - (b) Shotgun – minimum of five rounds fired at a distance ranging from point-blank to 25 yards;
 - (c) Precision rifle – a minimum of ten rounds fired at a minimum range of 100 yards;
 - (d) Patrol rifle – a minimum of 20 rounds fired at a distance ranging from point-blank to 50 yards;
 - (e) Fully automatic weapon – a minimum of 30 rounds fired at a distance ranging from point-blank to ten yards, with a minimum of 25 rounds fired in full automatic (short bursts of two or three rounds), and a minimum of five rounds fired semi-automatic;:
 - (f) Secondary or Backup Handgun – a minimum of 12 rounds fired at a distance ranging from point blank to 15 yards, and a minimum of six rounds fired at or beyond seven yards.
- (3) The minimum passing score for annual firearms proficiency is 80% for each firearm on an IPSC Official Target or dimensional equivalent.
- (4) The MLEA sets the passing score for the Montana Law Enforcement Basic Firearms Qualification.
- (5) Before carrying a firearm or making an arrest, a misdemeanor probation/pretrial services officer must successfully complete the firearms proficiency requirements provided in this rule. The officer must successfully complete the firearms proficiency requirements provided in this rule at least once a year.

23.13.216 PUBLIC SAFETY OFFICER EMPLOYMENT, EDUCATION, AND CERTIFICATION STANDARDS

- (1) Except as provided in (2), the standards for employment, education, and certification set forth in 7-32-303(5)(a), (b), and (c) through 10, MCA, are applicable to all public safety officers, where an appropriate basic course or basic equivalency course exists in the public safety officer's field.
- (2) The standards set forth in (1) do not apply to reserve officers.
- (3) The notification requirements set forth in 7-32-303(4), MCA apply to all public safety officers.

OR

- (1) Except as provided in (2)-(4), all public safety officers must complete the appropriate basic course as approved by the council:
 - (a) within one year of the public safety officer's initial appointment in any discipline;
 - (b) within one year of reappointment if the officer has had a break in service which is greater than three years in a discipline for which there is no appropriate equivalency course which has been approved by the council; or
 - (c) within one year of reappointment if the officer has had a break in service which is greater than five years in any discipline.
- (2) If the public safety officer previously successfully completed the appropriate basic course as approved by the council, is certified or eligible for certification, and has had a break in

service of less than three years in a particular discipline, then the public safety officer is not required to attend the basic or basic equivalency course upon the public safety officer's reappointment into the same discipline.

(3) A public safety officer's employing authority may request POST's approval for the officer to attend an appropriate basic equivalency course within one year of the officer's appointment by that employing authority where a basic equivalency course exists in the public safety officer's discipline under the following circumstances:

(a) If a public safety officer previously successfully completed the appropriate basic course as approved by the council and is certified or eligible for certification and has had a break in service of greater than three years but less than five years in a discipline for which the council has approved an equivalency course, the public safety officer must attend the appropriate basic equivalency course within one year of the public safety officer's reappointment into the same discipline and upon approval by POST. If the officer fails the appropriate equivalency course, the public safety officer must attend the next available appropriate basic course.

(b) If a public safety officer has successfully completed an appropriate basic course that is taught or approved by a federal, state, local, or United States military law enforcement agency and if the officer's combined training and experience have been reviewed and approved by POST as commensurate with the current appropriate basic course which has been approved by the council.

(4) The standards set forth in (1)-(3) do not apply to reserve officers.

(5) The council may extend the one-year time requirements of subsections (1) and (3) upon the written request of the employing authority of the public safety officer. The request must explain the circumstances that make the extension necessary. The council may not grant an extension to exceed 180 days. The council may delegate to the director the authority to grant and deny extensions.

(6) A public safety officer's employing authority must provide written notice to POST within 10 days of the appointment, termination, resignation, or death of a public safety officer.

OR

(1) Except as provided in (2), the basic and basic equivalency training standards for employment, education, and certification set forth in 7-32-303(5)(a), (b), and (c), MCA, are applicable to all public safety officers, where an appropriate basic course or basic equivalency course exists in the public safety officer's field.

(2) The standards set forth in (1) do not apply to reserve officers.

(3) The notification requirements set forth in 7-32-303(4), MCA apply to all public safety officers.

Johnson, Perry

From: Robert A. Smith <rsmith@rc.mt.gov>
Sent: Sunday, February 2, 2020 11:20 AM
To: Johnson, Perry
Subject: [EXTERNAL] LEOSA

Perry,

I have to add that I did catch the typo in the draft outline I sent you "car" is actually "carry." Also, the question has been proposed to LEOSA with its original draft having a specific section for backup/off duty/retired qualification course that is different from the "uniformed officer" standard which is from the perspective of a duty belt, three handgun magazines and full size standard duty type handgun, full duty gear etc. Just thought I would mention that too.

Rob Smith

PROPOSED ARM ADJUSTMENT FOR BACKUP / OFF DUTY HANDGUNS

(a) Primary Duty Handgun- simple change to clarify the “handgun” as primary side arm

(f) Back Up / Off Duty Handgun – a minimum of 12 rounds, fired at ranges from point blank to 15 yards with a minimum of 6 rounds at or beyond seven yards.

12 rounds were selected due to being able to carry a traditional small revolver (5 to 6 rounds in the cylinder) and the majority of compact “back up/hidden out” style semi auto handguns are 6 to 7 round minimum capacity per magazine.

The 6 round at or beyond 7 yards was proposed based on need to reload at that round count and as the new terminology allows this for off duty handguns, the increased range is applicable to many scenarios in the off duty setting (restaurant, convenience store, parking lots etc). The other focus is the backup handgun being in an “up close, down and dirty” ground fight scenario which historically occur body to body (point blank) to within 5 yards.

Knowing the large availability of higher capacity subcompact semi auto handguns, this lower than normal round count still applies and will allow for Law Enforcement across the state to not be limited in having to carry a smaller, but much thicker than a single stack type of semi auto handgun. Should any agency require their Officers/Deputies to carry a matching handgun as a backup for magazine compatibility (Glock 26 can use Glock 17 magazines etc), then the same traditional qualification standards still apply. Again, this just clarifies the use of the more concealable sized, thinner, easier to hide backup or off duty handgun without having to carry 5 to 6 magazines on your person, or excessive amounts of time for reloads and loose rounds on your person.

Through my research, I have discovered the separated qualification course of primary duty handgun versus backup / off duty handguns carried by Law Enforcement Officers in other states. I have found that many agencies outside of Montana have now separated the two giving them the lesser round count courses for the backup / off duty weapons. Most incorporate some firing from the ground (on your back shooting up at target) and more practically applied firing positions based on the general and documented/historically based scenarios of the incidents when the backup gun and off duty handguns were needed.