Post Council Meeting Conference Call
12/16/2013 9 a.m.

Members Present:
John Standell
Jim Thomas
Perry Johnson
Sarah Clerget

Members Joining by Phone:
Jim Cashell
Georgette Boggio
Tony Harbaugh
Kimberly Burdick
Tia Robbin Jim Smith

Guests on the phone
Chris Hoffman
Jerry Williams
Ron Price
Truman Tolson

Guests present:
Kurt Stinson
Kevin Olson

Attendance Taken - Quorum Met

Tony Review of minutes from last meeting - 10/18/13
Jim Thomas - Motion to Approve
Jim Smith - Seconds Motion

Tony Harbaugh appointment by Governor - no discussion

Tia Robbin appointment - Introduction - no discussion

POST ARM Red Line Draft Edit -

Sara 23-13-101 - Pg. 2 Packet
No changes from last draft
23-13-102 - Definitions
Comment from Geron Wade
Sara add to comment - "exonerated finding"

Jim Smith  Problem with "exonerated"

Perry  Geron Wade made compelling argument - action taken was lawful

Chris  Substantive Classification
Hear from members about cases involving "exonerated" definition
More suited to what POST does
May be more broad scope than what POST is involved in (statewide vs. narrower scope)
Worried about POST putting "seal of approval" on action using "exonerated".

Sara  Concurs with Sara about concerns with "exonerated"

John  Re - Officer's behavior - internal investigation

Tony  Citizen complaints - reviews

Geron  Agency perspective
Difference between what ARMS say and what policy actually is

Sara  Policies reflect old ARMS. Need to re-address policies when new ARMS are in place

Chris  Sustained or not sustained
Choices for council members
Definition of "not sustained" - facts don't show cause for action.
Add language to "not sustained" - add clause that says "facts disclosed do not show grounds for taking action against POST certificate."

Chris  Overlapping - 5 categories to 3 categories
1.
2. Not Sustained - Unfounded, Exonerated
3. Sustained
More useful and less confusing
Only in substantive section ARM

Sara  In both substantive section and definition section

Chris  Incorporate definition in substantive section ARM - refer back to definition
Leave to council to decide

Council Comments:
Georgette - Collapse to make clearer
Jim S. - Keep simple
Perry - Write ARM as discussed. Will satisfy the concerns
John S. - Should be part of substantive and not part of definition

23-13-703 - Page 43

Sara  ARM for officer misconduct. Put substantive between subsection 8 and 9
New subsection under 9.

Georgette  Collapse unfounded, exonerated and unsustained
Put unsustained definition there after 9.
No finding

Chris Use 3 findings and add iii

Laurel and Lewis Matthews joined conference call at 9:40 a.m.

23-13-102

Sara Underlined language added between original ARM and new ARM
"For purpose of contested cases"
Subsection 8 - Get rid of gender references (per Hal)
Comment from Col. Moore (MCS)- Current wording is confusing and not necessary
Subsection 15
Is definition needed? Section 46 & 61 or get rid of it.

Sara Alan Horsfall addition
Perry 44-401 gives good definition
John S. Keep simple and use definition proposed
Jim T. Delete all after MCA in 1st sentence?
Laurel agrees

Bill Dial joined conference call at 9:50 a.m.

Sara 23-13-102 - Subsection 16
Gender Change

Subsection 17
Comment from Ron Price - Definition belongs someplace else.

Jim T. Why do we need sentence?
Chris Take out last sentence

Subsection 18
Sara No Change

23-13-103 & 104
No Changes and No Comments

23-13-208 - Pg. 8 3-44-401
Comment from Col. Moore - Should be 404

Sara Needs more clarification - Standards are in 404
John S. agrees to change
Georgette agrees

Subsection H
Comment from Ron Price - Change from 30 hrs. to 20 hrs.
Georgette: Committee talked about this
Perry to Ron: Price - Issue with submitting ethics course annually so POST can approve?
Ron: Not much control over instructors.
Instructors from Ethics Program at MSU
Easier to build program without POST approval
Jim S.: Chief Ralph Dodson - Fromberg PD
Who will pay for this for departments to teach ethics who have smaller agencies and no instructor available?
Kimberly: Put on CD and distribute to agencies with POST approved curriculum?
Perry: Where do we want to be with that standard? Re-cost and delivery
Investigations tied to Code of Ethics
Truman: Ethics Instructor - No problem teaching it. He agrees with Chief Price
Same Code of Ethics for all of state of Montana?
Jim T.: We have state Code of Ethics. Minimum standard needs to be met.
Ethics training at minimum guidelines - training must include minimum requirements
Perry: State Code of Ethics in ARM
Every officer must take oath as stated in ARM
Sara: Take officers' licenses away based on this code of ethics language.
License attached to following that code.
Tony: POST approved removed?
Jim T.: Minimum requirement for training of Code of Ethics
Part should be POST approved - CD or web based (maybe only 20 minutes)?
Sara: POST at a position to provide it?
Georgette: POST at a position to provide it?
Perry: Recognize it will take time to put it together
Put together something that can be delivered annually. How long?
20 minutes or 2 hrs.?
Probably 30 minutes or less.
John S.: Concerns about development. Remove section until training developed?
Sara: Problem with including later.
Will have to go through ARM process again.
Perry: Add - "When available"
Bill Dial: Agree with Ron - Should be Ethics proving some type of training; paid by county of agency.
Let agencies set training to meet minimum standards.
John S.: Minimum standards not developed yet.
Bill Dial: Set by code and ARM
Change ARM to POST approved, POST provided or includes minimums set by
Sara: POST, POST deliverable
Georgette: Meets minimums. POST should have something for agencies having trouble gathering curriculum
Bill Dial Put onus on agency
Perry to Georgette - Language - Professional ethics curriculum that includes minimum standards
Perry Stay mindful of this discussion when defining the minimum standard
Bill Dial Ethics training developed on city wide basis
Include as part of minimum standard discussion of town's mission
Sara statement
Bill Dial POST's job to do that

TJ Johnson - U of M, Gladwin and Taylor joined conference at 10:15 a.m.

Jim T Develop standards today or later?
Perry Work on as a subcommittee meeting and conference call later to work on standards.
Chris Develop language for ARM - hold up process?
Sara Yes and might have happened anyway. Another round of discussion.
Perry to Chris - Language that committee could discuss today? No
tony Going down right path
Major issue - Make sure it is done right
Sara to Georgette - Add roll call training? Include in minimum language?

23-13-301

Truman A lot of training for officers in a year
John S. Roll Call and In Service the same thing?
Georgette 23-13-201 - Include other agency provided training
Perry Marries 2 ARMS together
Truman Doesn't mention field training or roll call training
Perry Addition of words okay. Will be included.
Georgette 301 - To marry it to 301 add to 23-13-301 for purposes of ARM
Kurt Section E - Statutory issue
GED test issues
State of Montana going to different equivalency test
ARM may reference test that is not recognized in Montana
Sara "or state approved equivalent" Change Section E
Kurt Take out GED reference?
Would it still include out of state GED's? Yes - as long as it is a state approved equivalency test
Sara 23-13-201 done?

5 Minute Break
Chris  GED reference - "the" vs. "a"
      May need to be approved by Legislature
Perry  How to keep it compliant if state changes
Sara   Tie to 7-32-303?
Chris  Other agencies administering GED?
Tony   Back on record

2nd Roll Call after Break
Jim Cashell
Tia Robbin
Georgette Boggio
Laurel
Kimberly
John Strandell
Jim Thomas
Bill Dial
Perry Johnson
Sara Clerget
Kurt Stinson

Tony   Needs more discussion
Chris & Sara  GED issue
          Question - Agency stopped administering the GED test?
Kurt  State of Montana does not accept or recognize GED
Chris  OPI won't certify
Geron  OPI website - Last GED administered Dec. 21
      Different test - The High Step Program next year
Sara   Change language of GED - May be getting out ahead of Legislature.
      Change interpretation?
Chris  Drafting problem - statutory language
Sara   Take out test part - High School graduate or High School equivalency test

7-32-303
Chris  Delete - after graduate "or"
      Delete everything after "or"?
      Take GED language out - just require equivalency test
      Out ahead of Legislature
Sara   72-32-303 would have to be changed before they could get certificate for
      44-4-401 - Public Safety Officers
Chris  Okay with language - not sure it can be done
      Legislature uses contingency clauses - If/then language - Contingent
Effectiveness Clause
Subsection (e) amended as follows
Chris will examine and talk to Secretary of State's office about language and clause

Sara 23-13-203
One change - 2C- Gender Change
Ron Price - Comment on Subsection 4

Sara Counsel applied to all officers. Don't have to have signed oath to make applicable

Perry Oath applied to every officer in state

Tony Life away from work reference
Counsel add to Code of Ethics

Chris Additional Code of Ethics up to department to administer. Dept. can add locally to official Code of Ethics

Kimberly Dispatchers take oath/code of ethics that is different from state's

Sara IECP - No comments by council

Kurt Typo - 2C?

Sara Will look at

Sara 22-13-204 - No Comments/ No Changes
22-13-205 - One comment from Col. Moore - Subsection 5C - 22-13-202H reference - there isn't one

Sara Reference to 201H? - 201 Sub 2 Sub H

Jim T. Change to 201 H correct

23-13-206 - Gender Change

Truman Question about basic certificate
Certificate that would enable to apply for federal benefits

Sara Might have been addressed in Subsection 2 of 206

Tony Federal insurance requirements - you must have Basic POST Certificate

Perry Completion diploma for LEOB

Sara Tickler for 1 yr. reminder to contact POST re- Certificate
Agency responsible to request paperwork
Repair loophole

Perry Not an ARM yet - it's new
If officer makes 1 year anniversary at end of LEOB POST will reach out to agency

Tony/Perry Subsection 1 B iii

Sara 23-13-207 - Gender neutralization change
208 - Same
209 - Same
210 - Same
211 - Same

Truman
Supervisory 209-1
40 hrs. POST approved management
Some of Bill Westfall's classes haven't made 40 hrs.
Change supervisory certificate to 36-40 hrs.

Perry
Bill Westfall's class change from 40 to 32 hrs.
POST should consider 32 hours of POST approved course

Truman
Recommend 32 - 40 hrs.

John S & Jim T. - Approve Motion

Truman - 1 C - Supervisor 1 yr.
Perry
Supervisory Certificate
Date of promotion is needed only.
Signed by Chief, officer, etc.
Signature should be enough.
Approved.

210 & 211 - No Comments

23-13-212 - Gender Change in 9
Delete former Subsection 10

Truman
3 - Master Instructor
Subsection 3
Requirement 40 hrs.
Winnie Orr does class - will POST or Academy take on? Requirement of POST
Supervisory Instructors

Perry
Work with Academy to develop course/curriculum

Truman
Willing to help develop course/curriculum
Curriculum Design Course

Sara
Subsection 10
23-13-213 - Gender Change - No Comments
23-13-214 - No Changes & No Comments

Perry
Got to changes from last meeting.

Tony
Okay

215-Sub 1A - Firearms Prof. Standards for officers addition
Bill - Remove Serial #

23-13-216 - Fix Numbers

23-13-301 -

Georgette
Addition - Add 201 to list in Subsection 1
Take out Subsection 2
New Subsection 2 - Ron Price comment
Course requirements
T ook out Subsection 2 and didn't fix

P erry  Attendance Records
S ara/Chris  Clarify Change
G eorgette  Take out
S ara  Remove Subsection A
G eorgette  Requirements for training attendance - is it really covered?
J ohn S  Leave attendance and performance in (a)
C hris  Curriculum specific information
P erry  Relates to requirements in 302
S ara  Added Subsection E and F from last meeting

23-13-303 - Typo

23-13-702 -
No changes from last meeting
Subsection 2A - comment
Ron Price - Pattern "or" of lying
2C - Ron Price - addiction to
S ara  Likes language of addiction
G eorgette  MACO has concerns about drug testing laws
Some departments have safe harbor if they are addicted and come forward
for treatment
S ara  Leave option open
J ohn S agrees
J im Cashell  Deal with addiction at local level before sanctions taken
"unlawful use of drugs"
G eorgette  Recovering alcoholic
S ara  Situation wouldn't get past head or supervisor
G eorgette  If keep "addict" in - look at Subsection b
P erry  Agrees with Jim Cashell - will need expert witnesses
S ara  Problem with using "unlawful use"
Preponderance
Maybe pick a different work
Instead of "addiction" use "unlawful use"
P erry  Don’t focus on addiction
B ill D agrees with Jim Cashell - Agency needs to take action against officer
J im T.  Take "addiction" out and use "unlawful or unsafe use"

Q uestion to S ara - Leave bulk of control with department or agency?
Add language from (b) to (c).
Leave "cannot be eliminated or overcome by reasonable accommodation"
Yes

Subsection J - Daniel Moore
401 vs. 404
Change to 404? Okay
(m) - Colonel Moore - defined by but also talks about standard
Okay

703 - Change from last draft
Subs 5A
Typo (b)
7 & 9a - Gender Fix
9c - New addition from earlier discussion
Ron Price comment
10 & 11 - Gender Fix

704 - Change Subsection 2 - Only initiated by request of officer
709 - (1) - Add chair
   (2e) - Not clear what time frame to respond and reply - fix
   (2k) - Gender Change

Perry  Chris Tweeten - 23-13-709
       (2e) - Add in District Court rules?
Georgette MAPA - Doesn't think it's helpful to add
Perry  Subsection 2 - "may"
       Provides as an option without briefing

710 - Sub (3)
Sara   Chief Muir concerns
       Preponderance of evidence vs. clear and convincing evidence
       D of L uses preponderance
       Only board that doesn't - Lawyer Bar Association disciplinary council
       One factor - cost factor

Perry  Burden on respondent?
Chris  Burden on Sara
Georgette Agrees with Chris
John S  Comparison - Challenge firing
Sara   Original ARM left burden on Sara
John S  Burden should be on respondent - Sub (3)
       John S. - makes motion
       Jim T. - seconds motion
Sara   23-13-716
Limit time to 30 days - hearing examiner
717 - Gender Change
1(a) - Typo
2(a) - Typo

Option for another ARM -
Not clear but implied.
Public Safety Officers need POST Certificates
Make it more clearly stated that certificate is required.

Jim T
Substantial PSC officers don’t have Basic certificates and have never attended course

Sara
Change ARM to apply to PSC officers also

23-13-216 ARM

Jim T
After requirement made do you grandfather others in?

Sara
From now on they need one.

Perry
Have Sara draft something so it can be discussed.

Lewis Matthews - Grandfather ones in - Challenge MLEA?

Perry
Put on paper and discuss later.

Sara
Easier for council to deal with

Try to clarify it for everyone.

Georgette
Good to have it on paper

Sara
Address to deal with Legislative actions

Georgette
Addition to ARM
201 - New training requirement - 20 hrs.
POST responsible to maintain records
201-(3) - 20 hr. requirement - who tracks it - make specific
It’s not council’s responsibility to maintain records.
Employing agency must maintain records.

Jim T /
Perry
Sounds good

All agree to add

Perry
Section 5 & 6
Administrative Assistant to start 1/6/13.
Advertise for Investigator next year.
Budget
Certificate List - John S. - Makes Motion
Bill D. - Seconds Motion

Truman
Pontrelli and Baker on list
All in favor - Motion Passes

Extensions - Katie Cribari
John S - Makes Motion to approve
Jim T - Seconds Motion  
All in Favor

Basic Equivalency Requests -  
Jim T - Makes Motion  
John S - Seconds Motion  
All in Favor

Brad Baisch - Sidney  
Hired Justin Harms - Transcripts  
Minnesota - Approve?  
AA from Alexandria over 2 yrs. of training  
Approve?

Jim  
Send to Basic

Perry  
Go back and look at past practice

Tony  
AA degree - Still need to attend Basic  
Served as an officer in Minnesota?

Bill D  
Contact Minnesota POST to see if college is accepted as an academy

Perry  
Okay

Jim Cashell  
Just a graduate and no work experience  
May affect Montana schools and requirement

Police Committee Agenda

Georgette  
23-13-703  
Dismissal of employee  
"appropriate" authority

Sara  
Georgette - create a policy of who to contact in each instance?  
Put in flow chart? Where?  
Perry to discuss with Sara

Georgette  
POST became a law enforcement agency?  
Set aside a section of time to discuss among council at an  
"in person" meeting

Bill  
Agrees with "in person" meeting idea

Tony  
Put on agenda for next "in person" meeting

Bill  
Memo format

Perry  
State of office  
2014 Meeting Dates and Times

Tony  
Committee Reports  
Integrity and Commercial Standards  
Kim Burdick

Perry  
Perry, Kim and Sara to meet and put together committee  
Put together agenda for phone meeting
Curriculum - Jim Smith gone

Business Plan
Chair for committee
Contact Tony or Perry

John S    Case Status

ARM Committee -

Georgette    Fold ARM Committee into Policy Committee

Hiring Committee -
Paralegal Investigator position only?
Tony and Perry put together committee
for Paralegal Investigator position.

Truman    Access to "read only" items instead of bothering Perry to do it.

Perry    Technical obstacles

Bill    Password to access POST records

Perry    Truman wants to look at all officers' records to develop training for officers

Truman    Wants to be able to read and print records for his officers for court, etc.

Misdemeanor Probation and Parole Project-
Perry, Jim Thomas and Randy Robinson

Perry    Meeting Dates for 2014 - Meet 4 times
Feb. 26, 2014 - Phone Conference
May 27 & 28 - 30, 2014 - Meet in Bozeman during MACOP and MSPOA Conference
September 2 & 3, 2014 - In-Person Meeting
December 3, 2014 - Phone Conference

Sara    Legislative Schedule

In-Person meeting before deadlines?

Georgette    Make sure a uniform statement can be made.

Chris    Identify Legislative goals at next meeting