

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

**Chrris 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

John Concurs with Sara about concerns with "exonerated"

Tony Re - Officer's behavior - internal investigation

John 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.

Chris No finding
 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 ARMs
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

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 statement
Sara
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
Perry 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 IECF - 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

Truman 211 - Same
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

Truman 23-13-212 - Gender Change in 9
Delete former Subsection 10
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
Biii - Remove Serial #

23-13-216 - Fix Numbers

Georgette 23-13-301 -
Addition - Add 201 to list in Subsection 1
Take out Subsection 2

New Subsection 2 - Ron Price comment
Course requirements
Took out Subsection 2 and didn't fix

Perry Attendance Records
Sara/Chris Clarify Change
Georgette Take out
Sara Remove Subsection A
Georgette Requirements for training attendance - is it really covered?
John S Leave attendance and performance in (a)
Chris Curriculum specific information
Perry Relates to requirements in 302
Sara 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

Sara Likes language of addiction
Georgette MACO has concerns about drug testing laws
Some departments have safe harbor if they are addicted and come forward
for treatment

Sara Leave option open
John S agrees

Jim Cashell Deal with addiction at local level before sanctions taken
"unlawful use of drugs"

Georgette Recovering alcoholic

Sara Situation wouldn't get past head or supervisor

Georgette If keep "addict" in - look at Subsection b

Perry Agrees with Jim Cashell - will need expert witnesses

Sara Problem with using "unlawful use"

Preponderance

Maybe pick a different work

Instead of "addiction" use "unlawful use"

Perry Don't focus on addiction

Bill D agrees with Jim Cashell - Agency needs to take action against officer

Jim T. Take "addiction" out and use "unlawful or unsafe use"

Question to Sara - 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

Sara 710 - Sub (3)
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.

Easier for council to deal with

Sara 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

Georgette Police Committee Agenda
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

Georgette ARM Committee -
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