

**MEETING MINUTES**  
**MONTANA POST COUNCIL**  
**September 16, 2015**  
**Montana Law Enforcement Academy**  
**HELENA, MT**

**PRESENT**

Tony Harbaugh ~ Chairman  
Laurel Bulson  
Kimberly Burdick  
Jim Cashell  
Bill Dial  
Lewis Matthews  
Kevin Olson  
Ryan Oster  
Tia Robbin  
Jesse Slaughter  
Jim Thomas

**NOT PRESENT**

Gina Dahl  
John Strandell

**STAFF PRESENT**

Perry Johnson ~ Executive Director  
Mary Ann Keune ~ Administrative Assistant  
Katrina Bolger ~ Paralegal/Investigator

**LEGAL COUNSEL PRESENT**

Sarah Clerget  
Chris Tweeten

**GUESTS**

Andrea Lower ~ Gallatin County Court Services ~ by phone  
Gabe Matosich ~ Havre Police Department ~ by phone  
Rich Friedel ~ Yellowstone County ~ by phone  
Mike Buechler ~ Bridger Police Department  
Steve Ette ~ Gallatin County Court Services  
Rick Johnson ~ Deer Lodge Police Department  
Jim Wells ~ Great Falls Police Department  
Curt Stinson ~ Helena Police Department  
Scott Sterland ~ MLEA Risk Management Program Manager  
Glen Stinar ~ MLEA Administrator  
Truman Tolson ~ Missoula Police Department

**WELCOME**

Meeting called to order by Tony Harbaugh, Chairman, at 8:00.

The Council, POST staff and members of the audience introduced themselves.

Perry Johnson called roll.

Bill Dial made a motion and Laurel Bulson seconded to approve the minutes of the June 17, 2015 meeting. Motion carried, all members voting in favor.

### PUBLIC COMMENT

**Rick Johnson** spoke about an officer temporarily hired in May who was there when Rick Johnson started. He also wanted to know if the May date was the officer's official start date. Perry Johnson told him that the May date is the official start date if his officer had powers of arrest. Rick Johnson said he did.

**Glen Stinar** introduced Scott Sterland who is the Risk Management Program Manager for the MLEA. His first task was to review the MLEA policies with the policy committee. They completed the review and drafted a body worn camera policy at the request of the Attorney General's Law Enforcement Advisory Committee. He also invited the Council to come at the lunch break and view the simulator.

Glen Stinar reported that Program Manager, Rick Layng, met with Miles City Community College. Next July the college will be offering Bill Westfall's First Line Supervisors class and a Basic Instructor class for those officers in Eastern Montana. The MLEA is also working with the University of Montana - College of Technology.

The Attorney General's office has agreed to pay \$35.00 for each of the new officers attending the LEOB basic to receive 18 college credits.

The Academy has decided to offer a Taser elective, four nights, two hours a night for a week. There are seventeen or eighteen students signed up through their agencies. The Academy is charging \$35.00 a student and the student supplies the cartridges.

Glen Stinar explained the course of action that will be taken by the Legislative Interim Committee concerning the Academy. The Academy will be a part of each meeting held by the committee between now and June. In June the Academy will present the committee with a "Course of Action" package they would like to see take place.

Perry Johnson asked about the LEOB that just started. Glen Stinar shared there are fifty-five students in attendance, fifteen of which are from tribal agencies.

**Richard Friedel** explained that he is a private provider of Misdemeanor Probation Officers for Yellowstone County. It was his intent to give Perry Johnson a basic outline of what his industry is proposing but decided to wait until he had a copy of the updated Probation and Parole Syllabus that Kevin Olson is going to present to the Council.

He said that the dilemma faced by their industry is the definition of Public Safety Officer and Misdemeanor Probation Officers. The law seems to be clear that if you are involved in Pretrial Services as a government employee you are a public safety officer and are required under the law to be POST certified. The POST certification is equivalent to a Felony Probation and Parole Officer certification. If a provider has a contract with the government it is considered a government employee therefore the officers must be POST certified. The MLEA isn't able to accommodate such training by

law. He is proposing the Council take a look at a private training. Richard Friedel has been able to assemble a good advisory board that would be part of the training. They are proposing to open up a training facility for that. The question he has, is what to do until the issue can be taken care of with the 2017 Legislature. The Advisory Board would propose to follow the MLEA curriculum even though there's a lot of information they don't need. Richard Friedel doesn't believe that POST can waive any of the requirements. He is willing to move forward with his proposal if it would be acceptable with the Council.

Perry Johnson responded by reviewing what he thought Richard Friedel was asking. He stated that after today Richard Friedel would have the opportunity to review the syllabus that's been created by DOC for Probation and Parole which has been expanded to ten weeks. Four hundred hours. After review of the syllabus Richard Friedel would present to the Council for their consideration and approval at a later date the syllabus, lesson plans, instructors and location for a basic training.

Kevin Olson said one of the priorities he set when he went to DOC was to revamp the basic training for P & P. He shared the history of the basic training for the last eight years. He didn't feel like the basic training in the past was sufficient.

Last fall they put on a P & P basic and bumped it up to seven weeks but felt like there were still many insufficiencies pertaining to survival tactics training. They ended up with ten weeks of instruction, which consists of three hundred ninety-six hours with an additional eleven hours of pre-academy web based instruction.

Kevin Olson explained the unfortunate thing is the new P & P basic truly reflects the essential functions of the position they hold. The basic no longer reflects the day to day roles, responsibilities and duties of misdemeanor probation or pretrial services officers. The law is not reflective of the differences in the needs of the positions. Kevin Olson doesn't think it's fair to these individuals that in order to certify their people they have to go through the time and expense of putting their people through a ten week basic course of instruction of which 60% will do nothing for them pertaining to the functions of their day to day responsibilities.

Kevin Olson added that this subject has been batted around for at least four years and the Council continues to do nothing about it. He stated he intends to make a motion sometime today to waive the training standard for this group of officers. He feels like it's the only logical solution for now until they can handle this with the legislature.

Tony Harbaugh asked if Chris Tweeten would like to speak to the subject but Chris Tweeten said he would wait for the motion.

Jim Cashell asked Richard Friedel if there were any Sheriffs on his advisory board. Richard Friedel replied that he spoke with Yellowstone Co Sheriff, Mike Linder, who said he or Undersheriff Evans would be happy to be an advisor to the board.

Richard Friedel reported that he was going to be meeting with several legislators tonight for dinner to talk about this issue and a proposal for legislation.

## GUEST ISSUES

None

Tony Harbaugh ask the Council to take a moment of silence in remembrance of Sheriff Pat Ulrickson from Sheridan County, Undersheriff Mike Lamey from Toole County, James Cashell, Sr. and Ron Rummley from Rosebud County.

## OLD BUSINESS

### Committees

Perry Johnson commented that at the last meeting the Council decided the Integrity and Professional Standard Committee should be blended in with another committee. They didn't want to do that until they asked Kimberly Burdick, the committee chair, if that would be ok with her. Kimberly Burdick agreed that it should be done. Perry Johnson asked Katrina Bolger to form the language for the motion. Kimberly Burdick made a motion and Bill Dial seconded to dissolve the Integrity & Professional Standards Committee and move those committee members and their duties into the Business & Policy Committee. Motion carried, all members voting in favor.

### Lake County Lawsuit

Chris Tweeten updated the Council reporting that Ann Brodsky filed a motion to dismiss some of the allegations as being unsupported by law. More recently, Ann Brodsky has gathered some affidavits from Wayne Ternes, Clay Coker, and Sarah Clerget and has filed a motion for summary judgment. That means that the moving parties, POST and FWP, believe that there are no material issues of fact that need to be decided by a jury. In other words the facts are undisputed and that based on those undisputed facts we are entitled to judgment as a matter of law. The motion was filed, the officers filed their brief response and a reply brief has been filed by Ann Brodsky on behalf of the defendants. A hearing has been set in Lake County in front of Ray Dayton on Friday, November 13, 2015. Chris Tweeten further explained the possibilities of happenings depending on what the judge rules. Chris Tweeten plans to go to the hearing in Polson and bring a report to the December Council meeting.

### Amicus Brief – Ronan Lawsuit

Sarah Clerget reported that the court dodged the Reserve Officer issue so she believes POST's concern in the lawsuit may have waned a bit. Chris Tweeten added that he read the plaintiffs are planning to refile in State Court. Sarah Clerget thinks the Council should just wait and see what happens.

Kevin Olson, Sarah Clerget and Chris Tweeten made further comments about the State Court possibilities. Tony Harbaugh asked the Council what their pleasure is concerning this matter. The consensus was standby and continue to monitor.

### Forms

Perry Johnson pointed out the Notice of Appointment or Rank Change draft form in the meeting materials. At the June Council meeting there was discussion about the National Decertification Index link being placed on the form. Katrina Bolger created a couple of different options for forms. She created a POST New Hire checklist as

well. Perry Johnson explained that POST used to have a check list available for an agency to use when they hired an officer.

Katrina Bolger explained that the National Decertification Index is not a required field. Truman Tolson commented that he likes the new checklist.

Perry Johnson referred the Council to the Notice of Termination draft form with a “Resigned Under Investigation” line added. He proposed that it be a permanent addition to the form. Perry Johnson shared that this type of resignation is going on out there in the agencies. He thinks for POST’s purposes it would pull the trigger on a phone call to the administrator of the agency.

Jim Thomas asked if this would cover the “quit or be fired” option. Perry Johnson said he thought this would cover that situation. He knows the agencies get legal advice when an officer is terminated but this would give POST the opportunity to look at the conduct and circumstances surrounding the termination.

Bill Dial asked Sarah Clerget and Chris Tweeten if an agency enters into an agreement not to reveal the circumstances of the officer’s discharge what affect does this question on the form have on the agreement. Chris Tweeten replied that it doesn’t give a defense to discovery. If you get subpoenaed and are asked to produce the documentation surrounding the investigation an agency would offer to produce under seal for the court to review to make sure there is nothing confidential in it. He continued that as far as POST is concerned our responsibilities regarding the lawsuit aren’t going to change that much. His opinion is that an agency can’t really keep this stuff secret.

Sarah Clerget added that if there is a noisy resignation POST can do its own investigation of the facts. Even though an employer doesn’t turn information over, POST we can still go find out what the facts are.

Kevin Olson pointed out that an agreement with a municipality or a county with a confidentiality clause can’t be binding on POST because it is a regulatory agency.

Bill Dial stated that there are agencies out there who have an agreement with an officer and part of that agreement is to take all the information about the discharge out of the file. Sarah Clerget remarked that there are still witnesses that POST could go talk to and can deal with the documents. Chris Tweeten pointed out that the state has regulations concerning the destruction of documents which would need to be considered by the agencies.

Ryan Oster talked about a case out of Billings where the media sued. He doesn’t think an agency is going to be able to keep the termination of a police officer a secret, especially if there is an allegation of criminal activity. That is public record.

Chris Tweeten added that the courts have pretty clearly said that the employee’s right of individual privacy does clearly outweigh the public’s right to know.

Tony Harbaugh likes the addition to the form.

### Certification of Reserve Officers

Perry Johnson shared that he was instructed at the last Council meeting to reach out to different agencies and ask for lesson plans for Reserve Officer training. He received them from Dillon, Flathead County, Ravalli County and Fromberg. It is a tremendous amount of information for a Curriculum Committee review. Perry Johnson explained when Jim Thomas and he were trying to come up with a curriculum several months ago they decided to come back to the Council and find out where they want to go with this.

Perry Johnson reported that he had a staff attorney from ALSB take a look at the ARMs which included the Reserve ARMs. He reminded the Council that they approved 7-32-214, 88 hours of training, as the standard for Reserves. He asked Katrina Bolger to expand on the suggestions made by Kirsten Madsen. Katrina Bolger pointed out that the Council has a Reserve training ARM, 23.13.214 which says that Reserves need to be trained in accordance with the statute. She explained that Kristen Madsen suggested to put together some points that need to be discussed and include them in the ARM. POST wouldn't direct how long a subject should be talked about, just have a list of topics to be touched on. The idea is that it allows some freedom to the agencies to train the reserves in the other things that are going to matter specifically to them but also sets a standard.

Katrina Bolger commented that the staff has the what, that is to certify Reserve Officer, now we need help with the how. Perry Johnson shared that he made a call to Glen Stinar and asked if his staff would sit down with the standards and come up with some points they think are important to train. Glen Stinar agreed that his staff would sit down and help develop an outline for Reserves that the agency would need to train too. Perry Johnson further explained that he really doesn't want to get to the point with the agencies that they feel like POST is trying to manage their staff. He wants to make sure we partner with these agencies and make sure this Council develops a product that gives them specific direct guidance but allows them the flexibility to present the way that they would.

Jim Thomas agreed with what Perry said. He feels it is too big of a job for the Curriculum Committee to tackle and if POST can come up with some topics to teach to would be the best solution. Kevin Olson shared that the Reserve statute was created in the early 1970's. It was eighty-eight hours back then and is still eight-eight hours. He feels like it is grossly insufficient and should be fixed legislatively.

Perry Johnson stated that he reached out to Chris Tweeten after the June 17, 2015 Council meeting and asked him if POST would assume any additional risk or liability by expanding this list. Chris Tweeten's answer was no, there would be no additional liability for expanding the list.

Kevin Olson pointed out that there is disparity on how reserve officers are used across the state. Some agencies train their officers for hundreds of hours and others use their reserves for county fairs and that plays a role in the training.

Chief Buechler stated that he has five reserve officers in Bridger and he couldn't manage without them. He has them do certain duties. There are a couple who are allowed to run traffic or things like that and the rest of them work special events in

the community only. They all have training from Laurel and are way over the eight-eight hours required.

Bill Dial commented that perhaps we should have a minimum standard but create an ARM that states they have to have continuing education. He is afraid if the hours required are increased the number of volunteers will decrease as people just don't have the time to give. Kevin Olson remarked when you strap a gun on someone there shouldn't be any difference in their training. The same competencies are in play whether you are a Peace Officer or a Reserve Officer.

Jim Cashell compared this situation to the Detention Officers. He feels like Detention Officers were put in place with a lower pay scale and less training to save the counties money. The same is true with the Reserve Officers. They were set in place to save the counties money by hiring less officers for a county and using reserves.

Ryan Oster added he feels like some of these agencies want a standard from POST that is going to be their liability coverage because they can say they trained to the standards.

Tony Harbaugh explained that the statutory language has always been there as a minimum for reserves. He assumes the intent of the legislature was the recognition that we are dealing with volunteers and all those people have day jobs that work as Reserve Officers. He said the decision the Council has to make is if POST is going to take the responsibility of adding over and above that statute or does the Council leave that in the hands of the administrators based on what their need is.

Jim Thomas stated he would like to hear it in a motion to have the MLEA staff outline what our requirements are would be for those eighty-eight hours. In addition to that, ask the Legislative Interim Committee if they would be interested in tackling this thing in whether we need to expand that eighty-eight hours.

Rick Johnson commented that he understands POST has different levels for Public Safety Officers. He asked if it was a possibility to do the same thing with Reserve Officers by them completing additional training hours. Perry Johnson replied that the way the statute is now if you complete the eighty-eight hours of training the person is a Reserve Officer. The record keeping for all the education falls on the head of the agency and is subject to audit by the POST Council.

Perry Johnson reiterated the point Katrina Bolger made earlier which is, we have the mandate to certify these Reserve Officers, we don't have the "how" do we certify these officers. He explained that if the Council establishes the minimum standard, we can be specific about the ongoing training standard for the Reserve Officers. Tony Harbaugh wonders how this would be received by the individuals themselves. Does it shrink that pool? Can they meet x number of hours when they're volunteering x number of shifts per month in order to remain part of the Reserves.

Sarah Clerget suggested that a gradation could be put in place in the ARMs according to what the duties are of the officer. Chris Tweeten added that there are Auxiliary Officers addressed in 7-32-231 ~ 234 as well. Auxiliary Officers aren't authorized to carry weapons with only citizen arrest powers. He suggests that might

be the first step of gradation in the statute. Chris Tweeten reiterated that the Council has the authority to create additional standards of achievement for Reserve Officers under the statute. His concerns stems from the news these days about excessive force by Law Enforcement Officers. The general perception that exists is that officers aren't trained well enough to deal with use of force especially use of force matters involving minorities. Montana hasn't had a well-publicized case but he thinks that it is bound to happen one of these days.

Bill Dial made a motion and Jim Thomas seconded to send this back to the Business/Policy Committee for review and make a recommendation to the Council at the next meeting pertaining to the minimum training standards.

Jesse Slaughter thinks that POST should stay away from the certificate levels for Reserve Officers. He think that should be dealt with in statute. He added that it would open up POST to undo headaches, stress and liability.

Bill Dial asked if all our certificate are from the statutory level. Sarah Clerget advised that the basic is statutory but the other levels are from ARMs.

Ryan Oster mentioned that he didn't understand why the staff has the "what" but not the "how" with certifying the Reserve Officers. Katrina Bolger explained that a couple of people have sent in the draft form requesting a Reserve Officer certificate but we don't have the standards in place for that. She added the Council has mentioned several options to expand on the training standards. The staff needs to know what qualifies a Reserve Officer to receive a basic certificate.

Ryan Oster reminded the Council that the discussion at the June 17, 2015 Council meeting directed the staff to add a notary line attesting to the requirement of eighty-eight hours of training completed. Ryan Oster said he left the last meeting with the understanding that POST would start issuing basic certificates based on a signature and a notary. Katrina Bolger commented that there was a lot of discussion as to what the standards could be from POST but there wasn't a determination that this is how we want to establish that standard such as, we are going to do a test, or an ARM or whatever. The staff is still unsure if it can start issuing the basic certificates.

Chris Tweeten didn't agree that POST has to go above and beyond the statute. Katrina Bolger stated that Kirsten Madsen felt that POST needs to expand on those standards but Chris Tweeten said he doesn't think there is any requirement in the statute to adopt anything extra. Katrina Bolger and Chris Tweeten continued the discussion and Katrina Bolger asked what the Council would like to have in place so that the staff can start issuing certificates. Tony Harbaugh commented that the last paragraph on page eleven of the June 17, 2015 meeting minutes states the form would be amended to include the ethic oath and notary line.

Bill Dial suggested the Policy committee take a look at some additional training and in 2017 present some statutory amendments or ARMs.

Bill Dial clarified his motion to continue on with the current way we're certifying Reserve Officers currently and refer to the Policy committee for further examination or possible statutory or ARMs changes. Perry Johnson asked if the Curriculum

Committee should be the group looking at the additional training. Bill Dial and Jim Thomas thought the Policy Committee is the right place for it.

Sarah Clerget asked if the Curriculum Committee is still going to be looking at the Reserve curriculum to create a possible test. Jim Thomas thinks that there is a new direction with the Council and if the task is going to move to the MLEA staff there is no further reason for the Curriculum Committee to review curriculum. Tony Harbaugh agreed that it is the intent on the motion.

Motion carried, all members voting in favor.

Tony Harbaugh asked if that includes the notary portion. Perry Johnson commented that the Council had the discussion about the notary at the last meeting. He reported in regards to the office procedures this is the only document that needs to be notarized. The only people who would be affected by the notary are the agency administrators. Perry Johnson struggles with asking an administrator to also get a notary signature for this one form. Kevin Olson commented that with all other forms we have the records to verify the submission but with this form there are no records of submission. With the Reserves the agencies themselves are the record holders and POST has nothing. Perry Johnson replied that he feels that the administrators in place in the agencies of Montana are honorable and he respects them and trusts them. It feels personal to Perry Johnson.

Tony Harbaugh asked if the notary is an issue of identity of the agency administrator or something else. Jesse Slaughter said he brought this up last time. He understands where Perry Johnson is coming from and partly agrees. However, he said that police swear to documents all the time because it's part of the job. He doesn't believe anyone would take offense to this especially when we are telling them they are keeping the records and documents but we need them to swear that they do have the documents. Bill Dial remarked that he wouldn't be offended to have to have a notary for this form.

Sarah Clerget commented that POST does have a new ARM that may help with the worry behind this form. The new ARM puts whomever signs the form on the hook.

Kevin Olson asked the attorneys what is the ramification of falsifying this document. Sarah Clerget explained that from a contested case point of view she would go after the person for perjury. Even if it weren't notarized she would add the charge of falsification of documents under the ARM.

Kevin Olson stated that through his years at the Academy on the basic application form he had a block where the agency administrator attested that the candidate met the qualification outlined in 7-32-303. The administrators would sign the forms but only a few of the candidates met the qualifications. Many of the officers hadn't been given an interview or had a background check run on them. Sarah Clerget replied that having a notary line would be an extra safeguard but thinks the ARM POST put in place has stopped that gap a little bit.

Jim Thomas believes the administrators who signed the MLEA basic application didn't really know what they were signing off on. They didn't bother reading it but didn't think they did it with malice.

Kevin Olson agreed that if it is advantageous for legal counsel to have a notary block then leave it but if not, then he agrees with Perry. Tony Harbaugh said it would take a motion to change the requirement of a notary. Jim Thomas made a motion that it be removed from the form. There was no second so the current status remains in place.

The Council took a 15 minute break.

### **NEW BUSINESS:**

#### **Copyrighted Lesson Plans and Training Credit**

Jesse Slaughter brought up a POST Certification question that has come up to him often. He stated that there are lots of good companies that provide training but they have proprietary lesson plans. They don't want to release their lesson plans for POST credit. He would rather get the training and isn't really worried about getting POST credit for the training however, it's important to the agencies to receive POST credit for the trainings they attend.

He explained that in years gone by if an application, bio and agenda were submitted to POST, even if there were no lesson plans, credit was given. Many people in his agency remember when that would happen and wonder why there has to be a lesson plan included now. Jesse Slaughter asked what the flexibility was with that when it comes to those proprietary schools and is there a way we can maybe get around it? He wondered if the student could write the lesson plan.

Tony Harbaugh asked how the law is worded. He wondered if the lesson plan had to come from the instructor. Perry Johnson shared that there are options but often he gets an outline with very little information on it. He sends it back and asks for the lesson plan that goes with it. He further explained, if he can't understand from the outline what training the student actually would have received he can't see the value of POST collecting and maintaining a record that has no value to him. He said many of the outlines are broken down and explained what is going to be taught hour by hour. Perry Johnson said POST has had the discussion before concerning the proprietary lesson plans. He thinks that there is a recourse for the companies who release the lesson plan to POST and someone else uses it from then on. He likes the idea that the student could break down the training if requested by the Director.

Chris Tweeten stated that POST could enter into a confidentiality agreement with the company. Jesse Slaughter commented that they have instructors that will not release the lesson plans under any circumstances. He agrees with Chris Tweeten that signing a confidentiality agreement may work. He asked again if the student were to break down the training and write a syllabus would the Council accept that. Perry Johnson referred to 23.13.301(3)(c) material showing course content, including a syllabus and/or lesson plan and student handouts. He explained that he represents the Council. He never wants to be in the position where a training is challenged by someone wondering why it was given POST credit without sufficient documentation and he can't defend it. He also doesn't want the Council to end up in court with someone saying there's no value in a training with the training documentation. Perry

Johnson also commented that he doesn't see much push back from the private companies. They end up giving POST notebooks and three ring binders with their curriculum.

Jesse Slaughter said Perry Johnson answered the question. He needs to make a recommendation to his agency. He agrees with Perry Johnson that there has to be value and the way the trainings are being approved is good. He is going to recommend that the students take notes and write up an agenda hour by hour explaining what was taught.

Lewis Matthews asked if the Council thought the agenda should be notarized since an officer is submitting their own syllabus. Jesse Slaughter agrees with that. Kevin Olson stated that he couldn't comprehend a private organization not having a syllabus. He said in almost every state POST requires a syllabus in order for credit to be given. The private organizations must be training across the nation so Montana really isn't asking for anything different than any other state would ask for. Jesse Slaughter said they get a minimal syllabus and he has run into it from more than one company. He said the firearm niche market is very cutthroat right now and the companies are protecting their investment as best they can.

Perry Johnson commented that the Council has given the staff the ability to create forms in the past. In regards to notary on that form, if he decides to reach out and ask for more information on a training does he have the ability to do that and put a notary on it? Tony Harbaugh said the Council could look at the form if Perry Johnson would like them to. Ryan Oster asked if several officers attend a training can one person create the syllabus and it will work for all of them. Perry Johnson doesn't think that it is fair for one person to do the work for everyone, especially if this signature has to be notarized on the application. He asked what the Council would like. Jim Cashell isn't comfortable with deviating from how things have been going. He would like to see a confidentiality agreement signed with a company who doesn't want to release their lesson plan.

Tony Harbaugh asked Perry Johnson what his standpoint is on the matter. Perry Johnson explained that the staff discussed putting an outline of what POST does every day on the agenda. He would like to show the Council what happens in the office everyday so they can understand the processes better. He knows that some people think that what they submit should be good enough and maybe it is for some people. He knows some people will share their information and others don't want to. It's a very litigious situation in his mind. Perry Johnson continued that he is very conservative and wants all the information so that the Council is never embarrassed by him not doing a complete job. He believes it's the Council's job to define what their pleasure is concerning the matter.

Bill Dial disagreed. He said the Council has empowered Perry Johnson to make those decisions and it is his job. He is the expert and if he doesn't think something is good enough then it should be sent back. He thinks things are going fine and to just keep doing what he is doing.

### **Probation and Parole Syllabus Approval**

Kevin Olson reiterated the history as stated earlier in the Council meeting. Kevin Olson, his staff in conjunction with the Professional Development Bureau at the Department of Corrections worked diligently to create a longer basic for Probation and Parole. He explained that in the past they have let people from a county level attend basic but now they would sit through ten weeks of instruction in which six weeks mean nothing to them.

What Kevin Olson is asking for is to be credited for 407. The course itself is 10 weeks in length, 396 hours of instruction and 11 hours of additional web based pre-academy training.

Bill Dial made a motion and Jim Thomas and Jim Cashell seconded to approve the syllabus. Bill Dial commented that when Perry Johnson is looking at a syllabus, this is the kind of document that should be submitted. He commended Kevin Olson on a great job in creating it. Motion carried, all members voting in favor.

Kevin Olson asked the Council to refer to page 38 in their meeting materials. He explained that MCA code, 46.23.1003, states the training must be held at the MLEA unless the Council finds that the training in some other place is more appropriate. He explained that expanding to ten weeks has created a situation where the MLEA doesn't have the capacity to entertain the P & P Basic. Kevin Olson asked the Council to allow them to use Fort Harrison as the training venue for the basic course of instruction that will start in September.

Jim Cashell made a motion and Jesse Slaughter seconded to approve. Tony Harbaugh asked if Kevin Olson is asking for approval for just this basic or additional basics as well. Kevin Olson stated that he will come back to the Council on a course by course basis. They plan to have two courses a year, one that will start in September and one that will start in April.

Motion carried, all members voting in favor.

### **Request for Attorney General's Opinion**

Perry Johnson directed the Council to page 40 in the meeting materials. He explained that POST has asked Chris Tweeten to author a letter to the Attorney General concerning an MOU that has been used by the Department of Justice, DCI, to appoint agents working in the Investigative Bureau of the Department of Corrections at the Montana State Prison. There has been discussion over the last year with DOJ and DOC by Perry Johnson and Chris Tweeten. They decided the best solution is to ask the Attorney General if one state agency can appoint a Peace Officer in another state agency. Perry Johnson stated that the issue for him is, can an agency make a Peace Officer out of somebody else. He continued that Peace Officers and Public Safety Officers are defined.

Tony Harbaugh added that the two main questions are listed in the first part of the letter. He isn't sure how often the Attorney General is asked for an opinion in regards to whether or not he has the authority to do something.

Kevin Olson added some historical comments concerning this issue.

Jesse Slaughter asked if there were any peace officers at DOC and it was stated that Mike Batista is. That was corrected. Mike Batista is not a Peace Officer in his current position. Perry Johnson commented that there are only Public Safety Officers at DOC. He stated the investigators aren't Peace Officers or Public Safety Officers. He explained that legislatively DOC appeared in front of the Judiciary Committee and asked for that during the last session and it didn't get out of committee. This was the historical remedy to the investigator positions.

Chris Tweeten added that it all turns on the statutes authorizing DCI the description of the word agent. Included in the phrase is, "within the Department of Justice". It describes the individual who is an agent as somebody who performs these duties within the Department of Justice. It seems to Chris Tweeten that the only meaning that language can have is that they have to be in the org chart for the Department of Justice and be subordinate to, supervised by and receive a paycheck from someone in that department. Chris Tweeten thinks it's a pretty straight forward question for the Attorney General to answer.

Bill Dial made a motion and Jim Cashell seconded the approval and sending of the letter. Motion carried, all members voting in favor.

#### **Director's Report**

Perry Johnson directed the Council to page 44 in their meeting materials. Leo Dutton sent a letter to the POST Council thanking them for their monetary donation for the Officer Involved Shooting training sponsored by Lewis & Clark Sheriff's Office. Perry Johnson confirmed the response and explained how important and appreciated the training is for officers who have been involved in a shooting during their career.

#### **Coroner's Training**

Perry Johnson shared that POST is once again hosting a sixteen hour Death Investigations class in Great Falls in December. Richard Sine will present for four hours, Craig Overyby and Bob Burnison will present eight hours on the Sheri Arnold case and Jaime Oeberst from the Crime Lab in Missoula will instruct for four hours.

#### **POST Performance Survey**

Perry Johnson explained that he was looking at the old business plan for POST and one of the suggestions was to reach out to the stakeholders every year or two with a performance survey. Katrina Bolger reached out by email to two hundred fifty people with the survey. She commented that the feedback was very helpful. There were a few suggestions about what we could do better that were great ideas. One suggestion was a newsletter which had previously been discussed by the Council. So far, lack of man power has held that up. She thinks there is still room for improvement with communication, even though the survey indicated it has been greatly improved over the last two years. About 25% of the stakeholders returned the survey with overall positive comments. Tony Harbaugh asked if this should be pushed out every year or two. Perry Johnson thought annually would be a good idea.

### **CDOB Equivalency for Charles Leonard**

Perry Johnson directed the Council to pages 56-59 in the meeting materials. This is an issue about an officer named Charles Leonard. His transcript doesn't show a basic academy was attended. POST reached out to Charles Leonard and asked him if and when he attended a basic. He stated he took EQ, knew he took the class with Armondo Oropeza and passed the final test. Armondo Oropeza remembers the situation but POST can't find any kind of document to support it. Perry Johnson said Steve Metzger, a training officer from Yellowstone County remembers it as well.

Kevin Olson commended the staff for going the extra yard in trying to figure out these situations as they arise. He also explained the process for the EQ in years gone by. The test for EQ would be shipped to the agency, proctored and sent back to the MLEA. Currently the student comes to the Academy and takes the final test with a basic class. Kevin Olson suggested confirming an academy attendance for Charles Leonard and if Steve Metzger is willing to provide affirmation that he administered the test and Charles Leonard passed it, then issue a certificate. The Council agreed with Kevin Olson.

### **Training Issues**

Perry Johnson referred the Council members to page 61 of the meeting materials. He shared that part of the POST requirements for POST credit is an instructor bio be supplied with the application. Perry Johnson stated that he received a packet asking for credit for a covert training that took place in Indiana. The officer is asking for 100 hours of POST approved training and the instructors don't want to be identified. On page 64 there are two instructors named but the other four instructors are referred to by number. Perry Johnson has concerns when he can't point to the person and say they were the subject matter expert and that's why there is some value to the training.

Jesse Slaughter pointed out that in this sort of training there is no one to come take the stand and testify that the officer was trained properly. Jim Cashell stated that this kind of training bothers him. With other trainings it's clear who gave the instruction and with this there is no idea. He thinks the answer is no, we aren't playing this game. Chris Tweeten remarked that if a court were to compel they would have to identify the instructors. Tony Harbaugh agrees that it stands that POST should remain consistent as to how a training is vetted.

Perry Johnson views it as an incomplete training application and would normally deny the training for POST credit. He brought it to the Council because it was 100 hours, which was a big investment for the officer and agency. He thinks there is some value there but it doesn't meet all the requirements of the law for POST.

Perry Johnson talked about another training issue. It has to do with an Emergency Vehicle Training-MRAP Specific Training found on page 70 of the meeting materials. Only 2 agencies in Montana have this program, Great Falls Police Department and Flathead County Sheriff's Office. Perry Johnson explained he received an application for this training.

Rob Beall put the training together but didn't advertise it to all agencies. Perry Johnson asked the Council to consider using 44-4-403, which says the Council has

the ability to waive a training standard. He would like the “open and advertised” standard which is an ARM to be waived in this case.

Jim Cashell made a motion and Kevin Olson seconded to approve the open and advertised waiver. Motion carried, all members voting in favor with Jesse Slaughter recusing himself.

### Committee Discussion

Perry Johnson reported that Kirsten Madsen suggested the Council form an Operations Committee like the Case Status Committee. The Operations Committee would look at any denials of Equivalency, Extension, Training or Certificates. At this point if there is a denial, Perry Johnson would bring it before the Council. If the officer who was denied made an appeal, the appeal would go before the same Council who made the denial. Perry Johnson really liked the idea of having a subcommittee to look at potential problems. It provides another layer of interaction between the Director and the Council.

Tony Harbaugh asked for a motion to form a three member committee. Kevin Olson asked how many times this is an issue for Perry Johnson. Perry Johnson’s response was, quite a bit. He doesn’t get much push back from the denials because he takes the time to explain why the application doesn’t meet the standard Tony Harbaugh asked if the committee would only be involved if a denial had a question or was contested. Perry Johnson agreed. He explained to the Council how the Case Status Committee works and how important it is in the event of a contested case.

Bill Dial asked Perry Johnson to repeat what the purpose of the committee would be. There was discussion regarding the purpose with Katrina Bolger and Chris Tweeten and Sarah Clerget commenting.

Chris Tweeten stated that the Council has the authority to delegate its responsibility to makes these two kinds of decisions to the Executive Director. The Executive Director’s initial decision which would be in the nature of an informal agency action could be the subject of a request for a contested case hearing in front of the whole Council. He added that those are fundamental principles of Administrative Law. Bill Dial stated that he didn’t see why POST would add another layer of bureaucracy when Perry has the authority.

Sarah Clerget commented that in the case of the Status Subcommittee the statute says the Council shall provide for revocation, etc. In the case of equivalency and extensions the statute says the Council would make the decision. Chris Tweeten says the wording doesn’t make a difference. He said any administrative function that’s given to the POST Council by statute can be sub-delegated to the Executive Director or anybody else on the staff. He said it becomes problematic if the delegating is made to someone outside of the POST agency.

He further explained that if the Council decides to pass a motion that in these 2 categories of issues the Council delegates its initial decision making responsibility to the Executive Director and if the Executive Director’s opinion is not appealed to the POST Council or a contested case hearing then the Executive Director’s decision becomes final and becomes the decision of the Council.

Bill Dial made a motion for the language Chris Tweeten used. Tony Harbaugh clarified that rather than form a committee to review Bill Dial's motion would be the Council grant authority to Perry Johnson. Perry Johnson reiterated that the reason for the Case Status Committee was to be aware of what the Director was doing. Bill Dial said this is totally different.

Tony Harbaugh asked for a second. Kevin Olson seconded. Kevin Olson asked Perry Johnson what his desire is. Perry Johnson said it would make it easier for him not to have a committee. He makes the decisions anyway and present them to the Council and they either affirm or have a different idea. The other part to Perry Johnson is he doesn't want anyone on the Council to think he is hiding the ball. Bill Dial said he knows Perry Johnson doesn't hide the balls.

Tony Harbaugh stated there is a motion and a second and a question had been called for by Kevin Olson. Ryan Oster made the point that he has no problem trusting Perry Johnson but has concerns with other Executive Directors coming along and no one knowing what's going on and no one is contesting the decision. All of a sudden the Council has a big problem again. Kevin Olson said the Council can rescind it by the same motion.

Katrina Bolger commented that the four items that are in front of them are what the staff does on a daily basis. The contested cases are a small part of the work that goes on and there is a committee for those. She explained having a committee that is involved in the day to day business would be nice. Bill Dial remarked that the Council is advisory and policy setters to the staff and doesn't think the Council needs to be involved in the day to day operations. Tony Harbaugh said he thinks the request can still be made for the equivalency and extensions. It may be that there doesn't have to be a motion to approve them anymore. Perry Johnson added that the Council will still see the extensions and equivalency requests to approve but they won't see the denials unless they are appealed to the Council.

Chris Tweeten restated the motion for the Council. The POST Council delegates to the Executive Director authority to determine requests for equivalency and request for extension, both under MCA 7-32-303. Anyone adversely affected by the Executive Directors' decision may request a contested case hearing before the Council by submitting a written request in substantial compliance with the requirements of ARM 23.13.704(3)(4), pursuant to Title 2, Ch. 4, Pt. 6, MCA. If no appeal to the full Council is taken, the Executive Director's decision becomes the final decision of the Council for purposes of MAPA, Title 2, Ch 4 Pt. 7, MCA.

Perry Johnson asked if there needs to be a time line added to the motion. Chris Tweeten and Sarah Clerget conversed about the MAPA and ARM timelines. It was determined to add a 30 day time limit.

The new motion reads; The POST Council delegates to the Executive Director authority to determine requests for equivalency and request for extension, both under MCA 7-32-303. Anyone adversely affected by the Executive Directors decision may request a contested case hearing before the Council by submitting a written request within 30 days of the Executive Directors' decision in substantial compliance

with the requirements of ARM 23.13.704(3)(4), pursuant to Title 2, Ch. 4, Pt. 6, MCA. If no appeal to the full Council is taken, the Executive Director's decision becomes the final decision of the Council for purposes of MAPA, Title 2, Ch 4 Pt. 7, MCA.

Motion carried, all members voting in favor.

Perry Johnson directed the Council to page 82 in the meeting materials. He wanted to address the fact that some of the committees in place have a large number of people on them. The goal is to reconfigure the committees to even out the numbers to maintain a quorum and make sure everyone is on a committee who would like to be. Tony Harbaugh will be eliminated from the Business Plan Committee, John Strandell and Laurel Bulson will be removed from all other committees since they are on the Case Status Committee which meets often.

**The Business Plan/Policy Committee** members are Jesse Slaughter, Tia Robin, Ryan Oster, and Kimberly Burdick. **The Curriculum Review Committee** members are Jim Thomas, Kimberly Burdick, Kevin Olson and Lewis Matthews. **The Case Status Committee** members are Tony Harbaugh, John Strandell, Laurel Bulson and Jesse Slaughter as a standby member. **The Coroner Committee** members are Jim Cashell-Chairman, Bill Dial, and Lewis Matthews. **The ARM Committee** members are Jim Cashell, Bill Dial, Gina Dahl, and Jesse Slaughter.

#### **Budget Report:**

Perry Johnson referred the group to pages 85- 86 for the budget reports. Page 85 showed the end numbers of fiscal year 2015 with the exception of the restricted \$50,000.00 legal fund of which POST spent \$19,000.00. Thirty-two thousand dollars were reverted back to the state. Perry Johnson did ask to have 15% of the remaining budget dollars carried forward. The Attorney General's opinion confirmed that even though it was a restricted fund, 15% could be carried forward.

Page 86 shows the budget for fiscal year 2016. The Legislature added \$100,000.00 unrestricted to POST's budget for fiscal year 2016. The total budget for 2016 is \$450,262.00

#### **Legislative Updates:**

Katrina Bolger explained the four bullet points on the agenda asking for discussion as to what are the goals of the Council for the next legislature.

1. What is POST's role going to be for the Pretrial/Misdemeanor Legislation?
2. Fixing references in the statues concerning the Attorney General and the Board of Crime Control.
3. Add to the 44 code so an officer who is revoked can no longer be an officer of any discipline. Right now certain types of officers can be revoked and become another type of officer. POST is looking for consistency in the statutes.
4. There is a provision that any of POST's decisions go before the Board of Crime Control for appeal which is an additional level of appeal that other agencies don't have. Should that be removed?

Perry Johnson asked Steve Ette, from the audience, if he had anything to discuss with the Council at this time. Steve Ette pointed out that a Pretrial Officer is not a

Misdemeanor Probation Officer and vice versa and should be treated as such legislatively. Kevin Olson pointed out that once again it would be drawing a distinction between a government employed officer versus a private. For Pretrial services there is no difference under current statute. Kevin Olson shared that personally he has a huge philosophical problem with advocating the power of arrest to private enterprise. He believes that is a government function. He said that it doesn't pertain to those employed by Gallatin County because they are a government entity. Steve Ette agreed with Kevin Olson.

Chris Tweeten suggested the Council ask the Attorney General for an opinion concerning a waiver for the basic requirements for Pretrial Probation Officers. It could be added to the letter POST will be sending to the Attorney General as discussed earlier in the meeting. He also asked about a letter sent to POST from Kirsten Pabst.

Perry Johnson stated the letter arrived too late to include on the agenda but explained to the Council the letter raises some issues by Kirsten Pabst, County Attorney for Missoula County, in regards to the interpretation POST is using of what a Public Safety Officer is and how that is applied to a Misdemeanor Probation Officer. Chris Tweeten doesn't think her arguments are well taken. Perry Johnson explained that it will be an agenda item next meeting but since there wasn't time to add it to this agenda he didn't think it could be discussed.

Chris Tweeten said Kevin Olson and him were speaking and thought an Attorney General's opinion would indicate if the Council has the power to waive a statutory standard to fix the issue created by the prior POST Director and Council.

Bill Dial made the motion and Laurel Bulson seconded to authorize the amendment of the letter sent to the Attorney General. Tony Harbaugh asked if it would be appropriate to push the letter out to the Council for review before it is sent out. Kevin Olson said he is perfectly comfortable with whatever verbiage Chris Tweeten uses in the letter and Perry Johnson and Tony Harbaugh approves.

Motion carried, all members voting in favor.

Perry Johnson continued that the staff is looking for some direction in regards to what the Council's role is in regards to the question about legislation. Does POST want to draft legislation or do we want to support whatever legislation is brought forward? Sarah Clerget shared that in the past a committee would work on the legislation and bring it before the Council to consider. Kevin Olson stated that there will be legislation coming out of Billings on this issue. He recommends the Council be very familiar with that legislation. He suggests when the Council is looking at private enterprise, the Department of Labor is the appropriate venue for regulating those industries, much like they regulate private security. The POST Council regulates public and the Department of Labor regulates private. He stated that the Council should work hard to separate the two entities and their functions with any legislation that comes down. Perry Johnson asked the Council if they would like Chris Tweeten and himself to stay involved with the group out of Billings, headed by Rich Friedel, and offer whatever input they can on behalf of the Council or carry it back to the Council so they are aware of what's going on. Kevin Olson and Tony

Harbaugh both agreed that the input would be critical to the situation and would like the feedback.

Perry Johnson talked to Deb Mateucci at the Interim Law and Justice Committee meeting about some of the issues that were discussed at the last Council meeting. It seems to Perry Johnson that the Business Plan Committee could clear up the language in regards to the appeal of the Board of Crime Control in a legislative package and bring it back to the whole Council. Kevin Olson and Tony Harbaugh agreed and think it would be good to hear the thoughts of the Board of Crime Control concerning the appeal. Bill Dial and Jim Cashell are both members of the Board of Crime Control and Bill Dial would like to see POST go before the whole Board of Crime Control and discuss the matter. Jim Cashell stated that he thinks some of the members would like to maintain that association since the statute requires two members be placed on the POST Council. Tony Harbaugh thought the BOCC's input is important.

The Council adjourned until one o'clock to look at the MLEA simulator and eat lunch.

**Approval/Denial Of Certificate Requests:**

Perry Johnson directed the Council to pages 93~102 in the meeting materials. He reported around 370 certificates were processed and issued. He also explained that the Council has empowered the Director to process and approve the certificates so there no longer needs to be a motion for approval.

**Case Files:**

Perry Johnson referred the Council to page 104 in the meeting materials to the Case File Report. He commented that while Katrina Bolger was on maternity leave POST accepted and processed some additional allegations. There are several that haven't been in front of the Case Status Committee yet so he couldn't tell how many will be added to the 2015 case load. The Case Status Committee is hoping to meet September 29, 2015.

Bill Dial acknowledged the work that Perry Johnson and Katrina Bolger and the whole staff have done at POST. He said things are going so much smoother and cases are being closed. Sarah Clerget shared that the work Perry Johnson and Katrina Bolger do up front shows with the lack of appeals by the officers with allegations.

**Office Updates:**

Perry Johnson shared that Sugar CRM, the database POST purchased a year ago has never been turned on. Justin Stolp is a new point of contact with IT and we hear from him weekly. At this point POST is waiting on DOJ IT to install some software.

Perry Johnson also reported that Katrina Bolger is back in the office. Shan Johnson's last day was September 2. She worked for POST for six months.

The staff continues to collect and prepare fixes for some of the operational things that are dealt with on a daily basis with the ARMs. He will call a meeting with the ARM Committee down the road to look at the issues the staff has developed.

Perry Johnson asked Chris Tweeten several months ago to take a look at some of the policies that are necessary for the operation of the office. He has edited a few policies that Katrina Bolger drafted and will continue to work on some others. When the drafts are ready they will be brought before the Business/Policy Committee for review and a recommendation brought to the whole Council.

**Extension Requests:**

Perry Johnson directed the members to pages 106-107 in the meeting materials. Kevin Olson made a motion and Ryan Oster seconded to approve the extension requests for officers 1-8 on the list. Motion carried, all members voting in favor.

Perry Johnson brought the Council's attention to number 9 on the list, John Moore. He shared that he was hired as the Chief of Police in Ennis, December 29, 2014. His initial appointment as a Reserve Officer was November, 2011. The reason there is a question about granting an extension is the Attorney General's opinion states that the initial hire date is the significant date. The question raised by the staff and therefore brought before the Council is, does that mean the initial hire date as a reserve officer as well. The Attorney General doesn't distinguish in his opinion.

Kevin Olson commented that lawfully you can't be a paid Reserve Officer. If he was being paid on a payroll he can't be called a Reserve but he is actually a part-time officer.

Sarah Clerget said that Chris Tweeten and she were talking about the issue and they think because the way the statutes are and because of the things that they exempt out of each other, if John Moore had truly been operating as a volunteer then the first day of an appointment as an Chief of Police would be his date of hire per the Attorney General's opinion and 7-32-303(5)(a). However, if he had been paid at all it doesn't matter what the agency is calling a person, they are not a Reserve Officer. She thinks there is a factual question as to whether or not he was paid. If he was paid, then the date of hire was the first day he was paid as a Reserve Officer. If he wasn't paid then his initial hire date under 7-32-303(5)(a) would be as the Chief of Police.

Perry Johnson asked if he was paid a stipend would that be paid. Sarah Clerget commented that if he was paid in relation to the hours that he worked, then he was paid. If he was paid an hourly wage then he is not a Reserve Officer. She wondered if it would be a good idea to look at the pay record to ensure how he was paid.

Chris Tweeten asked Kevin Olson to explain what he means by stipend. Kevin Olson explained under the Reserve statute it permits a person to receive a stipend to offset associated expenses, not for the work that is actually being done. He thinks there are agencies out there who say they aren't really paying them, they are giving them a stipend but they are taking payroll taxes off the pay.

Chris Tweeten remarked that according to the statute there are three things that have to be satisfied in order to be a Reserve Officer. A person has to be sworn, be part time and be a volunteer. Sarah Clerget added if John Moore satisfies these three requirements then his first initial date would be the date he became Police Chief.

Bill Dial asked what happens if he was paid?. Kevin Olson stated that he has to cease and desist all law enforcement activities until he graduates the Academy.

Kevin Olson shared that this kind of situation has gone on in the past. An agency would put the officer on desk duty until he was done with the Academy then they would return to regular work.

Perry Johnson asked the Council if this is the time to put every administrator on notice that if they paid their Reserve Officers they have forfeited their office. Sarah Clerget shared that it has been done with the Ronan situation concerning Reserve Officers. Perry Johnson said Ronan knows that and it's been talked about but this Council has not drawn a bright line for everybody in Montana who has a Reserve program. Jim Cashell doesn't think we have a choice. Ryan Oster is concerned about the administrators hiring someone that they find out was a paid Reserve Officer and now they are making invalid arrests. He thinks the Council needs to put everyone on notice. Tony Harbaugh thought we have to be careful with the definitions because he has a County Attorney who says that the county can't pay them but they may work a basketball game and the school district pays them. Katina Bolger shared that there is an old Attorney General's opinion that says a Reserve officer can do that.

Jesse Slaughter wondered if a Reserve Officer loses their power the moment they get paid. It was determined that the clock starts for the one year to get to a Basic Academy. He agrees that a notice needs to go out to the administrators but POST needs to be very careful in the wording. Bill Dial thinks a notice should go out stating that POST has had this issue and the administrators should be aware that if they have a Reserve program if at any time a Reserve has been paid where they have been taxed as a police officer then that is the start date.

Perry Johnson said he would be most comfortable working with Chris Tweeten to draft a memo to send to the agencies. Sarah Clerget brought up if a Reserve Officer has been certified and we find out they were paid she doesn't think the certificate is valid. Chris Tweeten suggested there be a line added to the Reserve Basic Certificate asking if the person has been paid for services by the agency. Jim Cashell thought we might need to ask for payroll records but Perry Johnson thought we could just start out with asking then take it from there if they had been paid.

Tia Robin asked if those three criteria are listed on the basic certificate application and Perry Johnson said no. She said it seems like an educational item that people don't know they can't be paid. Perry Johnson remarked that he and Chris Tweeten would work on a document that would site the Attorney General's opinion and define stipend and productivity so that the interpretation would belong to the POST Council but refer right back to the statutes and the Attorney General's opinion.

Perry Johnson stated that the problem is span of control when a supervisor is home with a phone next to his bed. Do you have span of control? Tony Harbaugh stated that it is an agency administrator's argument as far as he is concerned.

Kevin Olson made a motion and Jim Thomas seconded to direct Perry Johnson to find out more about the status for John Moore and either grant or not grant the extension accordingly. Motion carried, all members voting in favor.

Sarah Clerget explained the employment history of David Weidner. He is a Public Safety Communicator Officer but was a Correction Officer. What is his initial hire date since he switched disciplines? She states that 7-32-303(5)(a) says an officer has one year from the date of initial appointment to attend a basic academy. The Attorney General's opinion from 2012 states the initial appointment means the first date by any agency. The point being you can't work for 11 months for one agency and then work for 11 months for another agency and so on. An officer only gets one year at any agency. In 23.13.216, POST applied these standards to all Public Safety Officers, not just Peace Officers.

Chris Tweeten pointed out that 7-32-303(5)(a) reads the officer is to attend an appropriate basic. David Weidner was hired as a Corrections Officer first so the Public Safety Communicator basic academy wouldn't have been an appropriate basic during his employment as a Corrections Officer. He questioned how the clock for taking the Public Safety Communicator's basic could start running during a period of time when it wasn't appropriate for the officer to attend that course anyway. The officer wouldn't be allowed to attend a basic in a discipline he wasn't employed in.

Jim Thomas asked what POST is going to do to anyone who doesn't apply for an extension and keeps on working. There really isn't any sort of sanction that can be applied to them. Sarah Clerget stated that with the Public Safety Communicator (PSC) specifically, their section says date of hire as opposed to date of initial hire. The Attorney General's interpretation is based on 7-32-303(5)(a), the date of initial appointment. In terms of date of hire for PSC, 44-4-404 specifically gives the Council the authority to provide for Public Safety Officer certificates within one year of their date of hire. The PSC date of hire is the 44-4-404 date of hire language where the Council gets authority in the ARM that says all Public Safety Officers must have a Public Safety certificate. Chris Tweeten stated the answer is in 7-31-203(5) which says failure by any person appointed as a Public Safety Communicator Officer after July 1, 2001 to meet the minimum requirements in 7-31-202 or satisfy to certification requirements provided in (2), is cause to terminate that person's employment as a Public Safety Communications Officer. Jim Thomas shared that the agency is who would be terminating the officer, but they are the ones not sending the officer to basic.

Kevin Olson shared that there has never been a Public Safety Communicator from Billings come to a basic in twelve years. Sarah Clerget said in the statutes the qualifications for Public Safety Communicators 7-32-203(7) are; must meet any additional qualifications established by the Council. The Council, through ARMs said all Public Safety Officers have to have certificates or the language in 7-32-303(5)(a) says you forfeit your authority. The question was raised, is POST going to go out and fire the dispatchers in Billings Police Department. Sarah Clerget said the Council can't fire them but the officers could have to forfeit their office.

Kevin Olson shared the training for PSC in Billings is four times as robust as the training received at the MLEA. Chris Tweeten said there is a liability at stake because failure to train is a federal constitutional violation. Katrina Bolger commented that POST can take the certification from the person who hired them and continues to let them work without a basic academy.

Jim Thomas asked what the difference is between forfeiting a person's office or being fired. Chris Tweeten responded that forfeiting an office happens as a matter of law at a specific time when a condition occurs. A forfeit means a person has lost something whether any action is taken or not. Kevin Olson points out the Dispatch in Billings works for the Fire Department so there are no certificates to take from the people who hired them and didn't send them to a basic academy.

Sarah Clerget shared that the precedent POST is setting is a person can go from a Public Safety Officer to a Public Safety Officer position and the council is interpreting the date of initial employment under 7-32-303(5)(a) for a Public Safety Officer to be the most recent date of hire in the agency for the current position and the appropriate basic being applied for.

Kevin Olson made a motion and Jim Thomas seconded to approve the 180 day extension request for David Weidner. Motion carried, all members voting in favor.

**Basic Equivalency Requests:**

Perry Johnson directed the members to pages 109-110 in the meeting materials. All the officers had been vetted through the National Decertification Index. The POST staff reaches out to the POST agency in the state the officer came from. If they attended a basic such as FLETC then the staff reaches out to those types of agencies as well. The agencies are asked to fill out a questionnaire concerning the officer asking for the equivalency.

Jim Cashell made a motion and Jesse Slaughter seconded to grant a basic equivalency request for the officer on the list. Motion carried, all members voting in favor.

**COMMITTEE REPORTS:**

**ARM Committee:** Nothing new

**Coroner Committee:** Nothing new

**Integrity and Professional Standard Committee:** Nothing new

**Curriculum Committee:** Nothing new

**Business Plan Committee:** Combined with Policy Committee

**Policy Committee:**

**Individual Council Member Reports and Comments:**

**Kimberly Burdick:** No comment.

**Bill Dial:** Referred to Jesse Slaughter

**Ryan Oster:** No comment.

**Laurel Bulson:** No comment

**John Strandell:** Not present.

**Tony Harbaugh:** No comment.

**Lewis Matthews:** No comment.

**Jesse Slaughter:**

Jesse Slaughter asked why a training has to be open and advertised to be granted POST credit. Perry Johnson didn't know the history of it but it is defined as in-service in the ARMs. He added that tracking every agencies trainings would require additional staff at POST. Kevin Olson talked about the history of the larger agencies hosting trainings and opening it up to all agencies so the smaller agencies could partake in it. Perry Johnson said the Council can make the POST agency as large as they would like it. Bill Dial thought the Business Plan Committee should take a look at it.

**Kevin Olson:** No comment.

**Jim Thomas:** No comment.

**Jim Cashell:** No comment.

**Tia Robin:** No comment.

**Gina Dahl:** Not present.

Perry Johnson made the comment that Katrina Bolger and Scott Sterland are going to be joining forces to push out a curriculum on ethics for the agencies to participate in if they so wish to satisfy the POST ARM.

Next meeting will be December 2, 2015.

2016 Council schedule is:

March 2 ~ Phone Conference

June 1 ~ Face to Face

September 7 ~ Face to Face

December 7 ~ Phone Conference

Session adjourned and the Council went into Executive Session.

Perry Johnson asked personnel questions from 0:00:00 to 0:31:43.

Submitted by  
Mary Ann Keune  
MAK  
11/17/15



# Montana Public Safety Officer Standards & Training Council

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dojmt.gov/post

## APPLICATION FOR AWARD OF RESERVE CERTIFICATE

§§ 7-32-214, 44-4-403, MCA

**Instructions:** The applicant must complete this form and forward it to his or her agency head for the agency head's endorsement. The agency should then forward the completed form and attachments to the POST Council at the address above. The Council will notify the agency head of action taken. **Please note the requirements for the Reserve Certificate are:**

1) you must successfully complete the training outlined in [§ 7-32-214, MCA](#).

Did you complete the training outlined in [§ 7-32-214, MCA](#)?  Yes  No

Training completion date: \_\_\_\_\_

2) you must be a reserve with your current agency for one full year.

Have you been a reserve with your current agency for one year or more?  Yes  No

3) you must meet the definition of a reserve officer in [§ 7-32-201\(6\), MCA](#), meaning you must be a sworn, part-time, volunteer member of a law enforcement agency.

Have you been sworn?  Yes  No

Are you part-time?  Yes  No

Are you a volunteer? (Note volunteers cannot be paid a wage)  Yes  No

4) you must meet the residency requirement of [§ 7-32-213, MCA](#), meaning you must have lived in Montana for at least one year, and you must have lived in the county in which you are a reserve officer for at least six months.

Have you been a resident of Montana for at least one year?  Yes  No

Have you been a resident of the county in which you are a reserve for at least six months?  Yes  No

5) you must meet the requirements of [ARM 23.13.205](#), including subscribing to the code of ethics contained in [ARM 23.13.203](#).

Have you taken an oath regarding the code of ethics pursuant to [ARM 23.13.203](#)?  Yes  No

**If you do not meet these requirements, you will not be issued a Reserve Certificate.**

Full Name: \_\_\_\_\_

Agency Name: \_\_\_\_\_

POST ID Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Applicant Certification:** I attest that the information contained on this application is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**Agency Recommendation:** *I recommend that the certificate be awarded. I certify that the applicant has complied with the minimum training set forth in [§ 7-32-214, MCA](#), has been a sworn, part time volunteer with this agency for at least one year, has sworn an oath regarding the code of ethics, is of good moral character and is worthy of this award. My opinion is based on personal knowledge of the inquiry, and the personnel records of this jurisdiction substantiate the recommendation.*

\_\_\_\_\_  
Printed Name of Agency Head

\_\_\_\_\_  
Signature of Agency Head

\_\_\_\_\_  
Date

E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_

State of Montana

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

**POST Council Use Only**

Approved for \_\_\_\_\_

Approved by \_\_\_\_\_

Date Mailed \_\_\_\_\_

Date: \_\_\_\_\_

Cert. # \_\_\_\_\_



## **Montana Public Safety Officer Standards & Training Council**

2260 Sierra Road East  
Helena, MT 59602

Phone: (406) 444-9975

Fax: (406) 444-9978

[dojmt.gov/post](http://dojmt.gov/post)

November 18, 2015

To Public Safety Agency Administrators

Re: Reserve officers in Montana

Dear Agency Administrators:

This office has received numerous questions regarding reserve officers throughout the state. The Montana Public Safety Officer Standards and Training Council (POST) has requested that I reach out to you and clarify POST's stance regarding reserves. The laws governing reserve officers are contained in §§ 7-32-201 through -240, MCA. Additionally, POST's Administrative Rules are applicable to reserve officers because they are "public safety officers," under § 44-4-401(2)(e), MCA. This means that reserve officers must meet all of the minimum standards for appointment and continued employment of public safety officers, and that once they have met their basic requirements (outlined in § 7-32-214, MCA), POST will issue them a basic certificate. POST has been working on an application form for reserve officers which you may send in to POST for a reserve basic. However, administrators need to be aware of the law and restrictions on using reserve officers before they certify that their reserves meet the requirements of the law, which the application requires you to do. This letter will clarify the law regarding these officers so that we can all move forward with confidence.

### **What make a reserve a reserve?**

According to § 7-32-201(6), MCA, a reserve officer means "a sworn, part-time, volunteer member of a law enforcement agency...." This means that *a reserve officer cannot be unsworn or full-time*. This also means that *a reserve cannot be paid a salary or wage*. "By definition, reserve officers are volunteers, not employees." Attorney General informal letter of advice, November 27, 2007 (2007 Mont. AG Lexis 8). The best explanation of the nuances of "compensation" is found in 42 Op. Att'y Gen. No. 68 (1988), which explained that "county public funds may be used to reimburse a reserve deputy sheriff's expenses, provide reasonable benefits," such as workers compensation, "and pay nominal compensation, but the total amount of these provisions may not be given as a form of compensation tied to productivity." The opinion was careful to note that *"these payments must not be a substitute for salaried compensation."* *Id.* Additionally, reserve officers must be covered under worker's compensation insurance under § 7-32-203, MCA. Finally, Reserve officers also cannot receive a pension or participate in retirement systems like full time officers. § 7-32-202, MCA.

### **What do reserves do?**

A reserve officer is “a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210, only when authorized to perform these functions as a representative of the law enforcement agency.” § 7-32-201(6), MCA. “(1) A reserve officer may serve as a peace officer only on the orders and at the direction of the chief law enforcement administrator of the local government. (2) A reserve officer may act only in a supplementary capacity to the law enforcement agency. (3) Reserve officers: (a) are subordinate to full-time law enforcement officers; and (b) may not serve unless supervised by a full-time law enforcement officer whose span of control would be considered within reasonable limits.” § 7-32-216, MCA. Reserve officers must qualify with firearms and be authorized to carry them by the administrator of the local agency in which they serve . § 7-32-217, MCA. Reserve officers cannot replace regular officers. § 7-32-212, MCA.

### **What training do reserves need?**

Reserves must complete an 88-hour basic training program within 2 years of their initial appointment. The requirements for this basic training are discussed in § 7-32-214, MCA. Although appointed as reserve officers and not as peace officers, § 7-32-211, MCA states that, “A person who meets minimum standards for appointment as a peace officer may be appointed as a reserve officer.” The minimum standards for appointment as a peace officer are listed in § 7-32-303(2), MCA. There are some residency requirements for reserves. § 7-32-213, MCA; *See also* Informal letter of advice, November 27, 2007 (2007 Mont. AG Lexis 8). Reserve officers may not attend the MLEA peace officer basic course. § 44-10-301, MCA.

### **What do agencies need to do?**

Apart from ensuring that reserves meet the appointment and training standards, agencies must have a reserve coordinator and a reserve manual. The agency must have a “full-time law enforcement officer of the agency as a reserve force coordinator. § 7-32-219. Under § 7-32-215, the manual must set “forth the minimum qualifications, minimum training standards, and standard operating procedures for reserve officers.”

### **What if a reserve wants to become a full- or part-time officer?**

Reserve officers can only be appointed to full- or part-time officer positions if proper hiring procedures are followed, as required by law. § 7-32-220, MCA. The officer will have one year from initial appointment as a full- or part-time officer to attend the basic academy, and be subject to all the same requirements as any other individual who is appointed as a full- or part-time officer.

### **Can becoming a reserve officer keep me from having to attend basic again?**

Yes. Under § 7-32-240, officers who leave full- or part-time employment and become reserves for longer than 36 months must go through an equivalency proceeding with POST before they become full- or part-time officers again, provided that the officer becomes a reserve within 60 months of leaving employment.

POST hopes that this letter will be helpful to you and help you maneuver the laws governing reserve officers in the future. Please feel free to contact POST staff with additional questions regarding these issues as they arise.

Sincerely,

Perry Johnson, Executive Director  
Montana POST Council

DRAFT

# Montana Code Annotated 2015

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**44-4-401. Definitions.** For the purposes of this part, the following definitions apply:

- (1) "Council" means the Montana public safety officer standards and training council established in [2-15-2029](#).
- (2) "Public safety officer" means:
  - (a) a corrections officer who is employed by the department of corrections, established in [2-15-2301](#), and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state correctional facility for adults or juveniles;
  - (b) a detention officer who is employed by a county and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a detention center, as defined in [7-32-2241](#), or a youth detention facility, as defined in [41-5-103](#);
  - (c) a peace officer, as defined in [46-1-202](#);
  - (d) a department of transportation employee appointed as a peace officer pursuant to [61-12-201](#);
  - (e) a law enforcement officer or reserve officer, as the terms are defined in [7-32-201](#);
  - (f) a public safety communications officer, as defined in [7-31-201](#);
  - (g) a probation or parole officer who is employed by the department of corrections pursuant to [46-23-1002](#);
  - (h) a person subject to training requirements pursuant to [44-2-113](#) or [44-4-902](#); and
  - (i) any other person required by law to meet the qualification or training standards established by the council.

**History:** En. Sec. 2, Ch. 506, L. 2007.

*Provided by Montana Legislative Services*

# Montana Code Annotated 2015

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**7-32-214. Basic training program required.** (1) A reserve officer may not be authorized to function as a representative of a law enforcement agency performing general law enforcement duties after 2 years from the original appointment unless the reserve officer has satisfactorily completed a minimum 88-hour basic training program that must include but need not be limited to the following course content:

- (a) introduction and orientation--1 hour;
- (b) police ethics and professionalism--1 hour;
- (c) criminal law--4 hours;
- (d) laws of arrest--4 hours;
- (e) criminal evidence--4 hours;
- (f) administration of criminal law--2 hours;
- (g) communications, reports, and records--2 hours;
- (h) crime investigations--3 hours;
- (i) interviews and interrogations--2 hours;
- (j) patrol procedures--6 hours;
- (k) crisis intervention--4 hours;
- (l) police human and community relations--3 hours;
- (m) juvenile procedures--2 hours;
- (n) defensive tactics--4 hours;
- (o) crowd control tactics--4 hours;
- (p) firearms training--30 hours;
- (q) first aid--10 hours; and
- (r) examination--2 hours.

(2) The law enforcement agency is responsible for training its reserve officers in accordance with minimum training standards established by the council.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(2),(3); amd. Sec. 11, Ch. 506, L. 2007.

*Provided by Montana Legislative Services*

# Montana Code Annotated 2015

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**7-32-201. Definitions.** As used in this part, the following definitions apply:

(1) "Auxiliary officer" means an unsworn, part-time, volunteer member of a law enforcement agency who may perform but is not limited to the performance of such functions as civil defense, search and rescue, office duties, crowd and traffic control, and crime prevention activities.

(2) "Council" means the Montana public safety officer standards and training council established in [2-15-2029](#).

(3) "General law enforcement duties" means patrol operations performed for detection, prevention, and suppression of crime and the enforcement of criminal and traffic codes of this state and its local governments.

(4) "Law enforcement agency" means a law enforcement service provided directly by a local government.

(5) "Law enforcement officer" means a sworn, full-time, employed member of a law enforcement agency who is a peace officer, as defined in [46-1-202](#), and has arrest authority, as described in [46-6-210](#).

(6) "Reserve officer" means a sworn, part-time, volunteer member of a law enforcement agency who is a peace officer, as defined in [46-1-202](#), and has arrest authority, as described in [46-6-210](#), only when authorized to perform these functions as a representative of the law enforcement agency.

(7) "Special services officer" means an unsworn, part-time, volunteer member of a law enforcement agency who may perform functions, other than general law enforcement duties, that require specialized skills, training, and qualifications, who may be required to train with a firearm, and who may carry a firearm while on assigned duty as provided in [7-32-239](#).

**History:** En. 11-1851 by Sec. 1, Ch. 85, L. 1977; R.C.M. 1947, 11-1855(part); amd. Sec. 251, Ch. 800, L. 1991; amd. Sec. 3, Ch. 82, L. 1999; amd. Sec. 10, Ch. 506, L. 2007.

*Provided by Montana Legislative Services*

## 2007 Mont. AG LEXIS 8

Office of the Attorney General of the State of Montana

### Reporter

2007 Mont. AG LEXIS 8

[NO NUMBER IN ORIGINAL]

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November 27, 2007

### Core Terms

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reserve officer, appoint, residency requirement, qualification, law enforcement officer, law enforcement, date of appointment, special deputy, set forth, fingerprint, full-time, volunteer, license, arrest, hire

### Syllabus

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[\*1]

Request for Attorney General's Opinion

**Request By:** Mr. Jerry Brooke

Deputy City Attorney

City of Fort Benton

1204 Front Street

P.O. Box 8

Fort Benton, MT 59442-0008

**Opinion By:** JENNIFER ANDERS, Assistant Attorney General

### Opinion

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This letter is in response to your request for an Attorney General's opinion on reserve officer residency requirements. According to your letter, the City of Fort Benton has "hired" reserve officers who reside outside of Choteau County.<sup>1</sup> The Choteau County Sheriff challenges this practice and has threatened to divest these officers of their authority by seizing all law enforcement identification and returning it to the police chief. You question whether the sheriff has supervisory powers over the management and hiring of a city police department. You also question the meaning of Mont. Code

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<sup>1</sup> By definition, reserve officers are volunteers, not employees. Mont. Code Ann. § 7-32-201.

Ann. § 7-32-216(3)(b), requiring that reserve officers be supervised by a full-time law enforcement officer "whose span of control would be considered within reasonable limits."

[\*2]

Because your question regarding residency of these officers is resolved by statute, an informal letter of advice is the appropriate disposition as opposed to a formal Attorney General opinion. The other questions are necessarily resolved by the answer to your first question and will not be addressed.

The qualifications of reserve officers, including residency requirements, are addressed in Mont. Code Ann. § 7-32-213:

**Qualifications for appointment as reserve officer.** To be appointed a reserve officer, a person:

- (1) must have resided in the state continuously for at least 1 year prior to the appointment and in the county where the appointment is made for a period of at least 6 months prior to the date of the appointment;
- (2) must be a citizen of the United States;
- (3) must be at least 18 years of age;
- (4) must be fingerprinted, and a search must be made of local, state, and national fingerprint files to disclose any criminal record;
- (5) may not have been convicted of a crime for which the person could have been imprisoned in a federal penitentiary or state prison;
- (6) must be of good moral character as determined by a thorough background [\*3] investigation;
- (7) must be a graduate of an accredited high school or the equivalent;
- (8) must be examined by a licensed physician within 30 days immediately preceding the date of appointment and pronounced in good physical condition; and
- (9) must possess a valid Montana driver's license.

As this statute makes clear, reserve officers must have been residents of Montana for one year and residents of the county for at least six months prior to the date of their appointments. While reserve officers may change permanent residency to another county and remain a member of the reserve officer unit to which the reserve officer was appointed (Mont. Code Ann. § 7-32-222), a reserve officer who does not meet the residency requirements of Mont. Code Ann. § 7-32-213 or § 7-32-222 may not be

appointed to serve in that capacity.

There are similar residency requirements for law enforcement officers in Title 7, chapter 21, part 3. Mont. Code Ann. § 7-32-301. Unlike reserve officers, however, the residency requirement for law enforcement [\*4] officers may be waived at the discretion of the person or body authorized by law to appoint special deputies, marshals, or policemen. Mont. Code Ann. § 7-32-302. You suggest that reserve officers may qualify as "special deputies, marshals or police men," so that the waiver provisions apply. The statutes, however, do not support this conclusion.

Reserve officers are part-time volunteers whose arrest authority is dependent on the law enforcement agency's authorization. Mont. Code Ann. § 7-32-201(4). Their qualifications are set forth in Title 7, chapter 32, part 2. A "law enforcement officer" is a full-time employee with full statutory arrest authority as described in § 46-6-210. Mont. Code Ann. § 7-32-201(5). The qualifications of a law enforcement officer are set forth in Title 7, chapter 32, part 3. The waiver of residency provision appears in part 3, applicable to law enforcement officers, and there is nothing comparable under the provisions relating to reserve officers. In other words, reserve officers are a distinct category of officers with their own set [\*5] of qualifications, none of which allow waiver of the residency requirement.

In light of the clear requirements of § 7-32-213, I conclude that the City of Fort Benton may not appoint reserve officers who live outside Choteau County unless those officers otherwise qualify for residency under Mont. Code Ann. § 7-32-222. Because your second question is dependent on these officers being properly qualified as residents, it will not be addressed. Likewise, it is unnecessary to resolve the question of the sheriff's authority because, absent proper residency, these officers fail to meet statutory qualifications and have no authority to serve in the first instance, irrespective of the Sheriff's actions.

Please be advised that this letter may not be cited as a formal opinion of the Attorney General.

**Load Date:** 2014-10-29

## 1988 Mont. AG LEXIS 18

Office of the Attorney General of the State of Montana

42 Op. Atty Gen. Mont. No. 68

### Reporter

1988 Mont. AG LEXIS 18; 42 Op. Atty Gen. Mont. No. 68

### OPINION No. 68

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February 19, 1988

### Core Terms

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volunteer, nominal fee, nominal, public agency, reimburse, federal regulation, tied, compensation for services, law enforcement agency, hours of service, sheriff's deputy, reserve officer, public funds, total amount, time spent, full-time

### Syllabus

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[\*1]

COUNTIES - Use of public funds to compensate reserve deputy sheriffs for time spent and expenses incurred;

PEACE OFFICERS - Use of public funds to compensate reserve deputy sheriffs for time spent and expenses incurred;

POLICE - Use of public funds to compensate reserve deputy sheriffs for time spent and expenses incurred;

POLICE DEPARTMENTS - Use of public funds to compensate reserve deputy sheriffs for time spent and expenses incurred;

PUBLIC FUNDS - Use of public funds to compensate reserve deputy sheriffs for time spent and expenses incurred;

SHERIFFS - Use of public funds to compensate reserve deputy sheriffs for time spent and expenses incurred;

CODE OF FEDERAL REGULATIONS - 29 C.F.R. §§ 553.100 to 553.106;

MONTANA CODE ANNOTATED - Sections 7-32-201(5), 7-32-212, 46-1-201(8), 46-6-401.

HELD: County public funds may be used to reimburse a reserve deputy sheriff's expenses, provide reasonable benefits, and pay nominal compensation, but the total amount of these provisions may not be given as a form of compensation tied to productivity.

**Request By:** James Yellowtail  
Big Horn County Attorney  
Drawer L  
Hardin MT 59034

**Opinion By:** MIKE GREELY, Attorney General

## **Opinion**

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You have requested [\*2] my opinion on the following question:

May county public funds be used to compensate time spent and expenses incurred by reserve deputy sheriffs, in view of their status as volunteers under section 7-32-201(5), MCA?

A response to your question hinges on the definition of the term "volunteer" in section 7-32-201(5), MCA, which states:

"Reserve officer" means a sworn, part-time, volunteer member of a law enforcement agency who is a peace officer as defined in 46-1-201(8) and has arrest authority as described in 46-6-401 only when authorized to perform these functions as a representative of the law enforcement agency.

While Montana has no statutory or case law defining "volunteer," a rather extensive definition is set out in the federal regulations accompanying the Fair Labor Standards Act, 29 C.F.R. §§ 553.100 to .106 (1987). The definition and explanations contained in these regulations are directly applicable to Montana's state and local governments under the 1985 United States Supreme Court decision, *Garcia v. San Antonio Metropolitan Transit Authority*, 105 U.S. 1005 (1985).

The federal regulations define a volunteer as:

(a) An individual who performs hours of service [\*3] for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered . . . .

. . . .

(c) Individuals shall be considered volunteers only where their services are offered freely and without pressure or coercion, direct or implied, from an employer.

29 C.F.R. § 553.101(a), (c).

The federal regulations further explain that individuals, such as reserve police officers, who volunteer services to public agencies are considered volunteers and not employees of the public agencies "if their hours of service are provided with no promise[,] expectation, or receipt of compensation for the services rendered, except for reimbursement for expenses, reasonable benefits, and nominal fees, or a combination thereof . . . ." 29 C.F.R. § 553.104(a).

It is noteworthy that these regulations provide that volunteers may be paid expenses, reasonable benefits, a "nominal fee," or a combination of these, without losing their status as volunteers:

Individuals do not lose their status as volunteers because they are reimbursed for tuition, transportation and meal costs involved in their attending classes intended to teach [\*4] them to perform efficiently the services they provide or will provide as volunteers.

29 C.F.R. § 553.106(c). The regulations further explain that volunteer status is not lost if reasonable benefits are provided. The examples given of reasonable benefits include coverage of volunteers by group insurance plans, such as the workers' compensation provisions. 29 C.F.R. § 553.106(d).

The regulations clearly distinguish payment of a nominal fee from payment of compensation for services, and the effect of these on a volunteer's status:

Individuals do not lose their volunteer status if they receive a nominal fee from a public agency. A nominal fee is not a substitute for compensation and must not be tied to productivity. However, this does not preclude the payment of a nominal amount on a "per call" or similar basis to volunteer firefighters. The following factors will be among those examined in determining whether a given amount is nominal: The distance traveled and the time and effort expended by the volunteer; whether the volunteer has agreed to be available around-the-clock or only during certain specified time periods; and whether the volunteer provides services as needed [\*5] or throughout the year. An individual who volunteers to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

29 C.F.R. § 553.106(e).

As noted earlier, a combination of expenses, benefits and fees does not, by itself, preclude volunteer status. However, volunteer status can be jeopardized if the total

amount of payments made (expenses, benefits, fees) is excessive in the context of the economic realities of the particular situation. 29 C.F.R. § 553.106(f).

It is apparent from these regulations that a reserve deputy sheriff may receive some nominal compensation for time spent and may be reimbursed for expenses without losing volunteer status, but these payments must not be a substitute for salaried compensation, nor may they be tied to productivity. These regulations, taken in conjunction with Montana's statute prohibiting a reduction in the number of full-time officers, § 7-32-212, MCA, also suggest that the above-listed forms of "encouragement" to volunteers cannot be abused to the extent that volunteer reserve officers are used in place of authorized full-time law enforcement officers. [\*6]

THEREFORE, IT IS MY OPINION:

County public funds may be used to reimburse a reserve deputy sheriff's expenses, provide reasonable benefits, and pay nominal compensation, but the total amount of these provisions may not be given as a form of compensation tied to productivity.

**Load Date:** 2014-10-29

# Montana Code Annotated 2015

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**7-32-203. Provision of workers' compensation coverage.** (1) Each law enforcement agency that utilizes reserve officers or special services officers shall provide full workers' compensation coverage for the officers while they are providing actual service for a law enforcement agency. The law enforcement agencies shall pay to the insurer an appropriate premium, as established by the insurer, to cover the insurance risk of providing coverage to the officers.

(2) Each law enforcement agency that utilizes auxiliary officers shall provide full workers' compensation coverage for the officers while they are providing actual service for a law enforcement agency.

**History:** (1)En. 11-1852 by Sec. 2, Ch. 85, L. 1977; Sec. 11-1856, R.C.M. 1947; (2)En. 11-1854 by Sec. 4, Ch. 85, L. 1977; Sec. 11-1858, R.C.M. 1947; R.C.M. 1947, 11-1856(10), 11-1858(4); amd. Sec. 1, Ch. 92, L. 1987; amd. Sec. 4, Ch. 82, L. 1999.

*Provided by Montana Legislative Services*

# Montana Code Annotated 2015

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**7-32-202. Prohibition on participation in certain pension and retirement systems.** (1) A reserve officer may not participate in any pension or retirement system established for full-time law enforcement officers.

(2) An auxiliary officer may not participate in any pension or retirement system established for full-time law enforcement officers.

**History:** (1)En. 11-1852 by Sec. 2, Ch. 85, L. 1977; Sec. 11-1856, R.C.M. 1947; (2)En. 11-1854 by Sec. 4, Ch. 85, L. 1977; Sec. 11-1858, R.C.M. 1947; R.C.M. 1947, 11-1856(9), 11-1858(3).

*Provided by Montana Legislative Services*

# Montana Code Annotated 2015

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**46-1-202. Definitions.** As used in this title, unless the context requires otherwise, the following definitions apply:

- (1) "Advanced practice registered nurse" means an individual certified as an advanced practice registered nurse provided for in [37-8-202](#), with a clinical specialty in psychiatric mental health nursing.
- (2) "Arraignment" means the formal act of calling the defendant into open court to enter a plea answering a charge.
- (3) "Arrest" means taking a person into custody in the manner authorized by law.
- (4) "Arrest warrant" means a written order from a court directed to a peace officer or to some other person specifically named commanding that officer or person to arrest another. The term includes the original warrant of arrest and a copy certified by the issuing court.
- (5) "Bail" means the security given for the primary purpose of ensuring the presence of the defendant in a pending criminal proceeding.
- (6) "Charge" means a written statement that accuses a person of the commission of an offense, that is presented to a court, and that is contained in a complaint, information, or indictment.
- (7) "Conviction" means a judgment or sentence entered upon a guilty or nolo contendere plea or upon a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.
- (8) "Court" means a place where justice is judicially administered and includes the judge of the court.
- (9) "Included offense" means an offense that:
  - (a) is established by proof of the same or less than all the facts required to establish the commission of the offense charged;
  - (b) consists of an attempt to commit the offense charged or to commit an offense otherwise included in the offense charged; or
  - (c) differs from the offense charged only in the respect that a less serious injury or risk to the same person, property, or public interest or a lesser kind of culpability suffices to establish its commission.
- (10) "Judge" means a person who is vested by law with the power to perform judicial functions.
- (11) "Judgment" means an adjudication by a court that the defendant is guilty or not guilty, and if the adjudication is that the defendant is guilty, it includes the sentence pronounced by the court.
- (12) "Make available for examination and reproduction" means to make material and information that is subject to disclosure available upon request at a designated place during specified reasonable times and to provide suitable facilities or arrangements for reproducing it. The term does not mean that the disclosing party is required to make copies at its expense, to deliver the materials or information to the other party, or to supply the facilities or materials required to carry out tests on disclosed items. The parties may by mutual consent make other or additional arrangements.
- (13) "New trial" means a reexamination of the issue in the same court before another jury after a verdict or finding has been rendered.
- (14) "Notice to appear" means a written direction that is issued by a peace officer and that requests a person to appear before a court at a stated time and place to answer a charge for the alleged commission of an offense.
- (15) "Offense" means a violation of any penal statute of this state or any ordinance of its political subdivisions.
- (16) "Parole" means the release to the community of a prisoner by a decision of the board of pardons

and parole prior to the expiration of the prisoner's term subject to conditions imposed by the board of pardons and parole and the supervision of the department of corrections.

(17) "Peace officer" means any person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order and make arrests for offenses while acting within the scope of the person's authority.

(18) "Persistent felony offender" means an offender who has previously been convicted of a felony and who is presently being sentenced for a second felony committed on a different occasion than the first. An offender is considered to have been previously convicted of a felony if:

(a) the previous felony conviction was for an offense committed in this state or any other jurisdiction for which a sentence of imprisonment in excess of 1 year could have been imposed;

(b) less than 5 years have elapsed between the commission of the present offense and either:

(i) the previous felony conviction; or

(ii) the offender's release on parole or otherwise from prison or other commitment imposed as a result of a previous felony conviction; and

(c) the offender has not been pardoned on the ground of innocence and the conviction has not been set aside at the postconviction hearing.

(19) "Place of trial" means the geographical location and political subdivision in which the court that will hear the cause is situated.

(20) "Preliminary examination" means a hearing before a judge for the purpose of determining if there is probable cause to believe a felony has been committed by the defendant.

(21) "Probation" means release by the court without imprisonment of a defendant found guilty of a crime. The release is subject to the supervision of the department of corrections upon direction of the court.

(22) "Prosecutor" means an elected or appointed attorney who is vested by law with the power to initiate and carry out criminal proceedings on behalf of the state or a political subdivision.

(23) "Same transaction" means conduct consisting of a series of acts or omissions that are motivated by:

(a) a purpose to accomplish a criminal objective and that are necessary or incidental to the accomplishment of that objective; or

(b) a common purpose or plan that results in the repeated commission of the same offense or effect upon the same person or the property of the same person.

(24) "Search warrant" means an order that is:

(a) in writing;

(b) in the name of the state;

(c) signed by a judge;

(d) a particular description of the place, object, or person to be searched and the evidence, contraband, or person to be seized; and

(e) directed to a peace officer and commands the peace officer to search for evidence, contraband, or persons.

(25) "Sentence" means the judicial disposition of a criminal proceeding upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty.

(26) "Statement" means:

(a) a writing signed or otherwise adopted or approved by a person;

(b) a video or audio recording of a person's communications or a transcript of the communications; and

(c) a writing containing a summary of a person's oral communications or admissions.

(27) "Summons" means a written order issued by the court that commands a person to appear before a court at a stated time and place to answer a charge for the offense set forth in the order.

(28) "Superseded notes" means handwritten notes, including field notes, that have been substantially incorporated into a statement. The notes may not be considered a statement and are not subject to disclosure except as provided in [46-15-324](#).

(29) "Temporary road block" means any structure, device, or means used by a peace officer for the purpose of controlling all traffic through a point on the highway where all vehicles may be slowed or stopped.

(30) "Witness" means a person whose testimony is desired in a proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding.

(31) "Work product" means legal research, records, correspondence, reports, and memoranda, both written and oral, to the extent that they contain the opinions, theories, and conclusions of the prosecutor, defense counsel, or their staff or investigators.

**History:** En. Sec. 2, Ch. 800, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 1, Ch. 262, L. 1993; amd. Sec. 203, Ch. 546, L. 1995; amd. Sec. 6, Ch. 395, L. 1999; amd. Sec. 1, Ch. 303, L. 2001.

*Provided by Montana Legislative Services*

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**46-6-210. Arrest by peace officer.** A peace officer may arrest a person when the officer has a warrant commanding that the person be arrested or when the officer believes on reasonable grounds:

(1) that a warrant for the person's arrest has been issued in this state, except that unless otherwise provided by law, a warrant for violation of a city ordinance may not be acted upon unless the person is located within the limits of the city in which the violation is alleged to have occurred; or

(2) that a felony warrant for the person's arrest has been issued in another jurisdiction.

**History:** En. 95-608 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-[2-3-4](#), Oct. 10, 1968, eff. Dec. 1, 1968; R.C.M. 1947, 95-608; amd. Sec. 5, Ch. 700, L. 1985; amd. Sec. 28, Ch. 800, L. 1991; Sec. [46-6-401](#), MCA 1989; redes. [46-6-210](#) by Code Commissioner, 1991; amd. Sec. 5, Ch. 262, L. 1993.

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**7-32-216. Limitations on activities of reserve officers.** (1) A reserve officer may serve as a peace officer only on the orders and at the direction of the chief law enforcement administrator of the local government.

(2) A reserve officer may act only in a supplementary capacity to the law enforcement agency.

(3) Reserve officers:

(a) are subordinate to full-time law enforcement officers; and

(b) may not serve unless supervised by a full-time law enforcement officer whose span of control would be considered within reasonable limits.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(part).

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**7-32-217. Restrictions on carrying weapons.** No reserve officer may carry a weapon:

- (1) while on assigned duty until the reserve officer has qualified on the firing range with a weapon in compliance with the firearms qualifying course conducted by the Montana law enforcement academy; and
- (2) until authorized by the chief law enforcement administrator to carry a weapon.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(7).

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**7-32-212. Prohibition on reduction of full-time officers.** A local government may not reduce the authorized number of full-time law enforcement officers through the appointment or utilization of reserve officers.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(11).

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**7-32-211. Reserve officers authorized.** A local government may authorize reserve officers. A person who meets minimum standards for appointment as a peace officer may be appointed as a reserve officer.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(part).

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**7-32-303. Peace officer employment, education, and certification standards -- suspension or revocation -- penalty.** (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in [2-15-2029](#):

(a) be a citizen of the United States;

(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 the person could have been imprisoned in a federal or state penitentiary;

(e) be of good moral character, as determined by a thorough background investigation;

(f) be a high school graduate or have been issued a high school equivalency diploma by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(g) (i) be examined by a licensed physician or, for the purposes of a mental health evaluation, a person who is licensed by the state under Title 37 and acting within the scope of the person's licensure, who is not the applicant's personal physician or licensed mental health professional, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect performance by the applicant of the duties of a peace officer; or

(ii) (A) satisfactorily complete the physical examination required by subsection (2)(g)(i); and

(B) complete a standardized mental health evaluation instrument determined by the employing authority to be sufficient to examine for any mental health conditions that might adversely affect the performance by the applicant of the duties of a peace officer if the instrument is scored by a mental health professional acting within the scope of licensure by any state and the mental health professional finds that the applicant is free of any such mental health condition;

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

(i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment, a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice of the event must be given to the Montana public safety officer standards and training council by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a) forfeits the position, authority, and arrest powers

accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the Montana public safety officer standards and training council and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace officer's course that is taught by a federal, state, or United States military law enforcement agency and that is reviewed and approved by the Montana public safety officer standards and training council as equivalent with current training in Montana and whose last date of employment as a peace officer or member of the military law enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully completing a basic equivalency course administered by the Montana law enforcement academy. The prior employment of a member of the military law enforcement must be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer fails the basic equivalency course, the peace officer shall complete the next available appropriate basic course.

(6) The Montana public safety officer standards and training council may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the council may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic equivalency course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must be issued a basic certificate by the council certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the Montana public safety officer standards and training council to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

**History:** En. Sec. 4598, Pol. C. 1895; re-en. Sec. 3124, Rev. C. 1907; re-en. Sec. 4879, R.C.M. 1921; re-en. Sec. 4879, R.C.M. 1935; amd. Sec. 1, Ch. 257, L. 1967; amd. Sec. 2, Ch. 66, L. 1971; amd. Sec. 1, Ch. 81, L. 1971; amd. Sec. 1, Ch. 62, L. 1973; amd. Sec. 2, Ch. 188, L. 1975; R.C.M. 1947, 16-3705(part); amd. Sec. 1, Ch. 191, L. 1983; amd. Sec. 1, Ch. 714, L. 1985; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 9, Ch. 662, L. 1991; amd. Sec. 2, Ch. 437, L. 1993; amd. Sec. 12, Ch. 506, L. 2007; amd. Sec. 13, Ch. 2, L. 2009; amd. Sec. 1, Ch. 75, L. 2009; amd. Sec. 4, Ch. 55, L. 2015; amd. Sec. 1, Ch. 196, L. 2015.

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**7-32-213. Qualifications for appointment as reserve officer.** To be appointed a reserve officer, a person:

- (1) must have resided in the state continuously for at least 1 year prior to the appointment and in the county where the appointment is made for a period of at least 6 months prior to the date of the appointment;
- (2) must be a citizen of the United States;
- (3) must be at least 18 years of age;
- (4) must be fingerprinted, and a search must be made of local, state, and national fingerprint files to disclose any criminal record;
- (5) may not have been convicted of a crime for which the person could have been imprisoned in a federal penitentiary or state prison;
- (6) must be of good moral character as determined by a thorough background investigation;
- (7) must be a graduate of an accredited high school or the equivalent;
- (8) must be examined by a licensed physician within 30 days immediately preceding the date of appointment and pronounced in good physical condition; and
- (9) must possess a valid Montana driver's license.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(part); amd. Sec. 686, Ch. 61, L. 2007.

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**44-10-301. Eligibility.** All bona fide Montana law enforcement officers and other individuals who meet the qualifications established by the department of justice shall be eligible to apply for admission to the Montana law enforcement academy.

**History:** En. Sec. 4, Ch. 7, L. 1959; R.C.M. 1947, 75-5204; amd. Sec. 3, Ch. 40, L. 1989.

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**7-32-219. Reserve force coordinator.** The chief law enforcement administrator of a law enforcement agency with reserve officers shall appoint a full-time law enforcement officer of the agency as a reserve force coordinator. The reserve force coordinator shall coordinate the activities of the reserve force with those of the law enforcement agency.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(part).

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**7-32-215. Reserve manual required.** The authorizing law enforcement agency establishing a law enforcement reserve force shall adopt and publish a manual setting forth the minimum qualifications, minimum training standards, and standard operating procedures for reserve officers.

**History:** En. 11-1853 by Sec. 3, Ch. 85, L. 1977; R.C.M. 1947, 11-1857.

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**7-32-220. Appointment of reserve officer to full-time position.** A reserve officer may be appointed as a full-time law enforcement officer through the procedures provided in Montana law for such appointments.

**History:** En. 11-1852 by Sec. 2, Ch. 85, L. 1977; R.C.M. 1947, 11-1856(part).

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**7-32-240. Certification of peace officer who leaves full-time or part-time employment.** A peace officer who leaves full-time or part-time employment and enters an active reserve status within 36 to 60 months retains basic certification status after entering reserve status for as long as the peace officer remains an active reserve officer. If 36 or more months have passed since the peace officer's last full-time or part-time employment and the peace officer returns to full-time or part-time employment, the peace officer shall, upon return to full-time or part-time employment, comply with [7-32-303\(5\)\(c\)](#).

**History:** En. Sec. 1, Ch. 68, L. 1997.

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State	Does the State have Minimum Training Standards for Reserves?	What are the Minimum Training Standards for Reserves?	Are there any Continuing Education/Training Requirements for Reserves?
Alabama			
Alaska	Any employee doing police work must meet the minimum standards to be a sworn police officer.	Minimum training standards are only addressed for full time officers	AK does not have CEUs, even for full time officers, other than Domestic Violence training
Arizona	same as other officers doing the same work	same as other officers doing the same work	same as other officers doing the same work
Arkansas	Yes.	110 hour approved course prior to appointment	16 hours per year
California	Yes.	Depends on the level, 144 for Level III, 333 for Level II, 664 for Level I (same as full time officers)	Level I and II require 24 hours every 2 years.
Colorado	Yes.	209 hour reserve academy, must be under direct supervision of certified officer, cannot be paid	same as full-time officers
Connecticut	No reserves	No reserves	No reserves
Delaware	No reserves	No reserves	No reserves
Florida			
Georgia			
Hawaii			
Idaho	Yes.	216 hours of training	40 hours every 2 years.
Illinois			
Indiana			
Iowa			
Kansas	Does not regulate volunteer officers. If volunteers become paid, they become part-time officers.	Part time officers must pass a part-time training academy and qualify with firearms.	Not required to obtain annual in-service training but they must qualify annually with firearms.
Kentucky			
Louisiana			
Maine			
Maryland			
Massachusetts	Yes.	313 hours, 333 if they will carry a firearm	To date, the committee has never set a continuing ed/in-service training standard for reserve officers.
Michigan			
Minnesota	No Standards for Reserves in our state	No Standards for Reserves in our state	No Standards for Reserves in our state
Mississippi			
Missouri	Provision for a Class R license	297 Hours of training, and there are restrictions on work they can do.	
Montana	Yes.	88 Hours of training within first 2 years of appointment, the content of which is set by statute.	20 Hours of training every 2 years to include an ethics training.
Nebraska	the standard is the same if they have the power of arrest	the full 641 hour basic academy	20 hour of continuing education as well as shoot an annual handgun qualification
Nevada	Yes.	120 hour basic	
New Hampshire			
New Jersey			
New Mexico			
New York	the same minimum training standard for police officers	The basic course for police officers minimum standard is 649 hours, the average basic course conducted is 968 hours	No
North Carolina			
North Dakota			
Ohio	Yes.	same as any other Ohio peace officer, 605 hour basic.	4 hours this year
Oklahoma			
Oregon	No Standards for Reserves in our state	No Standards for Reserves in our state	No Standards for Reserves in our state
Pennsylvania	No Standards for Reserves in our state	No Standards for Reserves in our state	No Standards for Reserves in our state
Rhode Island			
South Carolina	Yes.	166.5 training hours plus a 2 hour test	Annual training for reserve officers must include Legal Update, CDV Update, Firearms Qualification, and Agency Policy Updates.
South Dakota			
Tennessee			
Texas	must be certified, trained and have the same con't ed requirements as full time officers	must be certified, trained and have the same con't ed requirements as full time officers	must be certified, trained and have the same con't ed requirements as full time officers
Utah			
Vermont			
Virginia			
Washington			
Washington D.C.	Yes.	Same as full time officers	40 hours bi-annually including firearms requalification
West Virginia	No reserves	No reserves	No reserves
Wisconsin	No Standards for Reserves in our state	No Standards for Reserves in our state	No Standards for Reserves in our state
Wyoming			

## **Performance Objectives for Reserve Officer Training Program**

(a) introduction and orientation--1 hour

(b) police ethics and professionalism--1 hour **Recommendation – 2 hours**

(c) criminal law--4 hours

(d) laws of arrest--4 hours **Recommendation – 2 hours**

Note that the Council may not reduce the number of hours required in a subject.

(e) criminal evidence--4 hours

(f) administration of criminal law--2 hours **Recommendation – 4 hours**

(g) communications, reports, and records--2 hours

(h) crime investigations--3 hours

(i) interviews and interrogations--2 hours **Recommendation – 4 hours**

(j) patrol procedures--6 hours **Recommendation – 12 hours**

(k) crisis intervention--4 hours

(l) police human and community relations--3 hours **Recommendation – 6 hours**

(m) juvenile procedures--2 hours

(n) defensive tactics--4 hours **Recommendation – 8 hours**

(o) crowd control tactics--4 hours

(p) firearms training--30 hours **Recommendation – 40 hours**

(q) first aid--10 hours

(r) examination--2 hours

### **Police Ethics and Professionalism (1 hour) Recommendation – 2 hours**

- Examine the scope of ethical conduct within U.S. culture and Law Enforcement
- Identify behaviors associated with ethical misconduct
- Understand the link between organizational values, mission statements and ethical conduct
- Develop personal strategies to deal with ethical dilemmas in the workplace

### **Criminal Law (4 hours)**

- Understand the basic terminology used in criminal statutes.
- Understand definitions, mental states, and elements found in commonly used Montana Offenses Against Persons.
- Understand definitions, mental states, and elements found in commonly used Montana Offenses Against Property.
- Understand definitions, mental states, and elements found in commonly used Montana Offenses Against Public Administration.
- Understand definitions, mental states, and elements found in commonly used Montana Offenses Against Order.
- Understand legal defenses to Montana Offenses.

- Be able to correctly apply those definitions, mental states, elements and defenses to hypothetical fact situations.

### **Laws of Arrest (4 hours) Recommendation – 2 hours**

- Understand the constitutional provisions and statutes that govern and arrests, with particular attention to Montana’s explicit constitutional right of privacy.
- Understand how those provisions and statutes have been interpreted in important cases.
- Practice applying those provisions and statutes and holdings to novel fact scenarios
- Know the legal definition of arrest.
- Understand the arrest procedure for a law enforcement officer to arrest with a warrant.
- Understand the authority of a law enforcement officer to arrest without a warrant.
- Understand the Montana’s prohibition on making an arrest in a person’s home for a misdemeanor offense committed elsewhere without a warrant specifically allowing it. (see MCA. 46-6-105.
- Understand what level of force may be used to effect an arrest (necessary and reasonable force and no greater) see: MCA 46-6-104 (2)
- Understand that the prohibition in nighttime arrests in MCA. 46-6-105 does not apply to a PFMA.
- Understand and be able to apply Montana’s “Predominant Aggressor”, and “Preferred Arrest” Statute. MCA 46-6-311
- Understand that a written report is required when no arrest is made after being called to the scene of a reported incident of domestic violence. MCA 46-6-601
- Understand Law Enforcements affirmative legal duties regarding: notice to defendants of no contact order, notice to victims of victims’ rights, and seizure of weapon, in PFMA’s. MCA 46-6-311, MCA 46-6-602, MCA 46-6-603.
- Understand that an arrest warrant for a person, does not allow entry into the home of a third party to apprehend that person, absent a search warrant, consent, or some other legally recognized exception.
- Know the legal requirements for lawfully arresting a suspect outside of one’s jurisdiction

### **Criminal Evidence (3 hours)**

- Search and seizure considerations.
- Chain of custody.
- Evidence storage area considerations.

## Administration of Criminal Law (2 hours) Recommendation – 4 hours

- Identify the various courts in Montana.
- Understand the difference between District Courts and Courts of Limited Jurisdiction.
- Understand that Courts of Limited Jurisdiction can grant warrants to search within their geographical jurisdictions, and District Courts can grant warrants to search anywhere in the state.
- Understand the procedural aspects of a criminal trial.
- Understand the role of an officer in the courtroom, and what is required to testify effectively.
- Understand the importance of Montana’s explicit right to privacy granted by Article II sec. 8.
- Understand the definition of “Probable Cause” and “Particularized Suspicion”
- Understand Montana’s “Stop and Frisk” statute and the limitations it places on officers. MCA 46-5-401.
- Understand that the “Stop and Frisk” statute allows officers to demand a driver’s license, proof of insurance, and registration from a driver, but only request “name and present address and an explanation of the person's actions” of pedestrians and passengers (when the officer has particularized suspicion that those passengers and pedestrians: are, have been, or are about to be engaged in crime).
- Understand when a peace officer can frisk a person he or she has stopped under MCA 46-5-401. (If the officer has reasonable cause to suspect that the person is armed and presently dangerous to the officer or another person.
- Understand how long a stop can last according to MCA 46-5-403.
- Know and understand the 5 legally recognized exceptions to the search warrant requirement: Stop and Frisk, Plain View, Consent, Exigent Circumstances, and Search Incident to Arrest.
- Understand that the Montana Supreme Court has held that a citizen can have a right to privacy in open fields outside the curtilage.
- Understand that an officer must have particularized suspicion of wrongdoing to use a drug –detecting canine to sniff a place where a person has a legitimate expectation of privacy.
- Know the four requirements of any application for a search warrant in Montana. MCA 46-5-221
- Know when advisement of Miranda rights is needed.
- Know to cease questioning if a person refuses to talk and or requests an attorney.
- Understand a Juvenile’s special rights to parental notification and know at what age a Juvenile is legally capable of making a legal and effective waiver.

- Know when a law enforcement officer must make an electronic recording of a suspect's custodial interrogation. Know the definition of a "Place of Detention". Know the requirements for such a recording.

### **Communications, reports, and records (2 hours)**

- Understand how critical report writing is to their role as a law enforcement officer.
- Understand the essential components of a police report.
- Understand what a basic report should look like.
- Be aware of common errors in report writing and the dangers those errors pose them and their work.
- Know to provide facts that show the reader what was happening. This is different than telling the reader what they thought was happening.
- Understand that reports must contain facts that meet the elements of any crime charged or recommended to be charged.
- Understand the meaning of the terms "verb" and "subject".
- Understand the difference between active and passive voice.
- Understand that passive sentences fail to identify the subject of the sentence and leave out "who did what" in the event.
- Know to aim for shorter sentences that say exactly what they want to say, not for longer sentences that sound the way they would like to sound.
- Know to use simple commonly understood words.
- Understand that pronouns are non-specific and make reading and understanding a complex report nearly impossible. Know to use names instead of pronouns.
- Understand that the pronoun "I" is ok, as long as the report writer has identified him or herself in the first sentence of the report.
- Understand how to use quotations correctly. Quotation marks show that the writer is using the speaker's exact words. Quotation marks are not needed when paraphrasing or summarizing what a speaker said.
- Understand the difference between Confidential Criminal Justice Information and Public Criminal Justice Information as described in MCA 44-5-103.
- Understand the definition of an initial offense report and what should and should not be in one.

### **Crime Investigations (3 hours)**

- Ability to arrive safely and be prepared to control a crime scene.
- Ability to determine the size or area of a crime scene.
- Ability to identify and the proper techniques for handling Victims, Witnesses, Complainants and

- Suspects at the scene.
- Proper techniques for the searching, handling, documenting and packaging of evidence.
- Knowledge of equipment available for the use at a crime scene.
- Photographing at a crime scene.
- Ability to properly fill out forms for submission of evidence to the crime lab and related documentation.
- Know the resources available to agencies for assistance in regards to crime scene processing and case management.

### **Interviews and Interrogations (2 hours) Recommendation – 4 hours**

- Identify the difference between an interview and interrogation.
- Know the stages of the PEACE Model of Interviewing.
- Identify the elements of planning and preparing for an interview.
- Identify when they are required to electronically record and Mirandize a suspect.
- Know the Major Interview Techniques in the Account stage of the PEACE Model.
- Understand the Basic Rules of Questioning and the differences between productive and non-productive questions.
- Know the structure of a Free Recall Interview.

### **Patrol Procedures (6 hours) Recommendation – 12 hours**

- Identify the methods and techniques for deterring criminal activity through officer presence
- Identify the methods used to respond to the predominate types of calls for service
- Identify the information an officer should know about their patrol area
- Identify the types of “Suspicious Actions” that suspects exhibit when they are committing or are about to commit crimes
- Identify the method for conducting a field interview of a suspect
- Demonstrate ability to correctly conduct building searches
- Understand applicable laws and policies; demonstrate ability to conduct police vehicle operations
- Identify correct response to active shooter calls for service
- Understand laws related to and demonstrate ability to conduct traffic stops
- Demonstrate understanding of RADAR operations
- Identify signs of drug and human trafficking

### **Crisis Intervention (4 hours)**

- Understand the purpose of Crisis Intervention.
- Identify four key goals for a law enforcement officer in managing crisis situations.
- Know what can cause someone to go into crisis.
- Identify the three basic categories of emotionally disturbed persons (EDP's).
- Understand the recommended steps that a law enforcement officer should follow as part of pre-intervention preparation.
- Know the five Crisis Intervention Guidelines
- Know the importance of effective communication in helping to resolve a crisis.

### **Police Human and Community Relations (3 hours) Recommendation – 6 hours**

- Identify how to properly determine the mental status of a suspected mentally ill person.
- Identify resources available to assist mentally ill persons.
- Identify various methods for assisting in the evaluation for the potential of self-harm by a mentally ill person.
- Identify various methods for assisting in the evaluation for the potential of harm to others by a mentally ill person.
- Identify the differences between developmentally disabled and mental illness.
- Identify some of the characteristics of mental illness.
- Identify some of the medications used to treat mental illness.
- Be able to understand that victims, suspects, and witnesses of criminal activity will respond differently, physically and emotionally, both by verbal and non-verbal means, based upon the physiological and psychological differences between males and females.
- Identify the legal definition of “sexual harassment.”
- Identify behavioral examples of sexual harassment.
- Identify examples of inappropriate behavior or comments as they relate to discrimination and sexual harassment.
- Identify the proper course of action to take if experiencing discrimination or sexual harassment in the workplace.
- Become familiar with the history of modern policing and recognize the link between community policing and crime prevention.
- Differentiate between desire, ability and opportunity as they relate to crime.
- Identify obstacles to effective community policing.
- Demonstrate an understanding of the components of the problem solving model S.A.R.A.; scan, analyze, respond, assess.

### **Juvenile Procedures (2 hours)**

- Understand when Juveniles can be taken into custody by an officer. (See MCA 41-5-321)
- Understand when a Juvenile can be released to a responsible party. (See MCA 41-5-322)
- Understand the restrictions on fingerprints and photographs of Juveniles in custody.
- Understand the criteria for placement in a Secure Detention facility (See. MCA 41-5-341)
- Understand the criteria for placement in Shelter Care.(See MCA 41-5-342)
- Understand the restrictions placed on placement in an Adult Facility (Jail). (See MCA 41-5-349), and Law Enforcement Facility (law enforcement office area). (See MCA 41-5-350)
- Understand the role of The Interstate Compact on Juveniles.
- Understand the rights of a youth taken into custody regarding questioning, waiver of rights and parental notification. (See. MCA 41-5-331)

### **Defensive Tactics (4 hours) Recommendation – 8 hours**

- Understand laws, department policies and court cases related to the use of force
- Demonstrate correct handcuffing techniques
- Understand use of force options
- Understand when deadly force is authorized
- Demonstrate ability to correctly apply compliance or defense techniques (PPCT or other program)
- Understand report writing requirements associated with the use of force
- Demonstrate correct communication skills associated with use of force
- Identify de-escalation techniques when communicating with persons in crisis

### **Crowd Control Tactics (4 hours)**

- Understand use of force options in crowd control
- Identify de-escalation techniques
- Identify and public information requirements associated with crowd control

### **Firearms (30 hours) Recommendation – 40 hours**

- Identify the purpose of firearms training and the common terminology and expectations of students on the firing range.
- Comprehend the rules of firearms safety and how they apply on the firearms range and in training and also comprehend firearms safety in the home.

- Identify the various nomenclature and types of firearms most commonly utilized by law enforcement officers.
- Demonstrate the ability to disassemble, reassemble and clean the student specific duty handgun
- Identify the fundamentals of good marksmanship.
- Demonstrate the ability to correctly draw a duty handgun from a holster and fire with a strong hand and support hand at multiple targets from multiple positions in both day light and low light conditions.
- Demonstrate the skill to accurately shoot and reload a handgun.
- Demonstrate the ability to correctly verbalize when firing a weapon.
- Demonstrate the ability to correctly use cover while firing a duty handgun.
- Identify the various components, types, specifications, and hazards of ammunition.

### **First Aid (10 hours)**

- Complete a nationally recognized and certified CPR/AED course.
- Complete a nationally recognized and certified First Aid course.
- Perform first aid skills in a patrol setting, to include self-aid (tourniquet; trauma dressing).



**Montana Public Safety Officer Standards & Training Council**  
2260 Sierra Road East  
Helena, MT 59602

Phone: (406) 444-9975  
Fax: (406) 444-9978

[dojmt.gov/post](http://dojmt.gov/post)

October 21, 2015

The Hon. Tim Fox  
Attorney General  
P.O. Box 201401  
Helena, MT 59620-1401

Re: Request for opinion

Dear General Fox:

In my capacity as chair of the Public Safety Officer Standards and Training Council ("POST"), I respectfully request your opinion pursuant to Mont. Code Ann. § 2-15-501(7), on the following question:

Does the authority granted POST in Mont. Code Ann. § 44-4-403(2) to "waive or modify a qualification or training standard for good cause" give POST the power to waive a qualification or training standard imposed by statute?

POST is an agency of the State of Montana created in Mont. Code Ann. § 2-15-2029. POST's duties include the establishment of "basic and advanced qualification and training standards for employment" of, "conduct[ing] and approv[ing] training" of, and "provid[ing] for the certification or recertification of public safety officers ...." Mont. Code Ann. § 44-4-403(1). This question arises from a set of facts involving training and certification of misdemeanor probation and pretrial services officers employed by Montana local governments.<sup>1</sup>

### **BACKGROUND**

As noted above, POST is responsible for adopting training standards for "public safety officers," a term that includes, *inter alia*, "a peace officer, as defined in 46-1-202," "a law enforcement officer or reserve officer, as those terms are defined in 7-32-201," "a probation or parole officer . . . employed by [DOC] pursuant to 46-23-1001," and "any other person required by law to meet the qualifications or training standards established by [POST]." Mont. Code Ann. § 44-4-401(2)(c), (e), (i). Felony adult probation and parole officers employed by DOC are trained at

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<sup>1</sup> Memos prepared by POST's attorneys related to this issue are enclosed for your assistance.

the Montana Law Enforcement Academy (“MLEA”) according to standards adopted by POST. *See* Mont. Code Ann. § 46-23-1003(1).

In addition to the felony adult probation and parole officers employed by DOC, Montana local governments are authorized to appoint misdemeanor probation officers, Mont. Code Ann. § 46-23-1005, and misdemeanor pretrial services officers, Mont. Code Ann. § 46-9-505(5). Misdemeanor probation officers monitor persons convicted of misdemeanors in justice, municipal, and city courts for compliance with the conditions of probation and payment of required restitution. Mont. Code Ann. § 46-23-1005(1).<sup>2</sup> Pretrial services officers supervise persons released on conditions, including bail, prior to trial. Mont. Code Ann. § 46-9-505(3), (5).

A local government may “establish a misdemeanor probation office” pursuant to Mont. Code Ann. § 46-23-1005(1). The local government “appoint[s] misdemeanor probation officers *and other employees* necessary to administer” the misdemeanor probation office (emphasis added). In contrast, a pretrial services agency is a “government agency *or a private entity under contract with a local government.*” Mont. Code Ann. § 46-9-505(5) (emphasis added). The Legislature has required both misdemeanor probation officers and pretrial services officers to receive the same training as felony adult parole and probation officers. *Id.* (pretrial services officers); Mont. Code Ann. § 46-23-1005(2)(a) (misdemeanor probation officers). POST, in turn, has required felony adult parole and probation officers to attend the probation and parole basic training, which currently consists of 400 hours of training administered by DOC. ARM 23.13.205(2).

Since the Legislature has required misdemeanor probation officers and pretrial services officers to meet the same training standards as felony probation and parole officers, POST has not devised a separate basic training curriculum for these locally employed officers. POST has been contacted by officials of two Montana counties who contend that this statutory requirement works a hardship in their counties. Missoula County has contracted with Missoula Correctional Services, Inc., (“MCS”) for the provision of misdemeanor probation services and pretrial services. POST has declined to certify MCS misdemeanor probation officers because the county has not “established” a misdemeanor probation office or “appointed” the probation officers as county employees, as Mont. Code Ann. § 46-23-1005 requires. POST has declined to certify the MCS pretrial services officers because they have not completed the training requirements imposed by statute for felony probation and parole officers, as Mont. Code Ann. § 46-9-505 requires.<sup>3</sup> Gallatin County has established a misdemeanor probation and pretrial services office,

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<sup>2</sup> Probation and parole officers employed by DOC deal exclusively with felony offenders. Mont. Code Ann. § 46-23-1004.

<sup>3</sup> POST recognizes that Mont. Code Ann. § 46-9-505, unlike § 46-23-1003, specifically provides that a county may secure pretrial services through a county contract with a private vendor, and that such privately employed pretrial services officers are “public safety officers” within POST’s jurisdiction because they are required by law to meet training standards established by POST. Mont. Code Ann. § 44-4-401(2)(i). This is one of the few instances in which POST certifies a privately employed officers, and only because of the statutory requirement. *Cf.* Mont. Code Ann. § 44-4-902 (privately employed railroad special officers required to meet training requirements approved by POST).

and the probation and pretrial services officers are county employees. Very few of the probation and pretrial services officers have completed the training requirements for felony probation officers by attending the felony probation and parole basic course.<sup>4</sup> Gallatin County states that funding the full training required for all of its misdemeanor probation and pretrial services officers would cause financial hardship and that it has insufficient staff to cover all of the office's responsibilities if staff members must be absent for training for the length of time required for the felony parole and probation course. In addition, some elements of the felony probation and parole basic course may be inapplicable to the duties of some locally employed officers in this field. For example, the basic course requires extensive firearms training and demonstrated proficiency in the use of various firearms. Gallatin County does not issue firearms to its pretrial services officers, and it is felt that some officers will have difficulty demonstrating sufficient proficiency to pass the firearm requirements.

### DISCUSSION

Misdemeanor probation and pretrial services officers are required by law to receive the same training required for felony adult probation and parole officers, which currently consists of a 400-hour basic course, plus specified continuing education. Mont. Code Ann. § 46-23-1003(2); ARM 23.13.205(2). Based on their assertions of hardship, the counties have asked POST to consider exercising its power under Mont. Code Ann. § 44-4-403(2) to waive the requirement that misdemeanor probation and pretrial services officers meet the statutorily required training for felony adult probation and parole officers, pursuant to § 46-23-1003(2).<sup>5</sup> POST believes that as an administrative agency it must comply with statutory law and that serious questions exist as to whether its authority to "waive or modify a qualification or training standard" authorizes it to disregard statutory requirements, in contrast to qualification and training standards imposed by POST through adoption of administrative rules.

Administrative agencies such as POST have no inherent powers. To the contrary, they possess only those powers granted by the legislature, and cannot depart from statutory requirements. *Bell v. Department of Licensing*, 182 Mont. 21, 22, 594 P.2d 331, 332 (1979) (administrative agency may not adopt rule with requirements beyond legislature's contemplation); *Bick v. Department of Justice*, 224 Mont. 455, 457, 730 P.2d 418, 420 (1986) (same). While the statute in question does not specifically address the issue of whether the waiver power applies to statutory requirements, its structure can be viewed to indicate it may not. Subsection (1)(a) of § 44-4-403 empowers POST to "establish basic and advanced **qualifications and training standards** for employment." (Emphasis added.) Subsection (2), dealing with waiver, uses precisely the same language, allowing POST to waive a "qualification or training standard."

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<sup>4</sup> Gallatin County has stated that it was advised by a prior Executive Director that its probation and pretrial services officers could attend different training from the DOC felony probation and parole basic at a location other than MLEA and receive a certificate based on such training. Some Gallatin County pretrial services officers have done so.

<sup>5</sup> Mont. Code Ann. § 44-4-403 lists POST's powers and duties. After empowering POST to adopt "basic and advanced qualifications and training standards for public safety officers" in subsection (1)(a), subsection (2) provides: "The council may waive or modify a qualification or training standard for good cause."

POST believes that if that the Legislature had wished to modify the fundamental rule that statutes bind administrative agencies, it likely would have said so explicitly. Instead, the Legislature used precisely the same language to describe the waiver power that it used in describing POST's administrative authority. The re-use of that language suggests that both uses of the terminology refer to the same thing, *i.e.*, to the qualifications and standards that POST establishes administratively. *Kottel v. State*, 2002 MT 278, ¶ 43, 312 Mont. 387, 402, 60 P.3d 403, 414 (re-use of statutory language indicates that the Legislature intended the same meaning wherever the language is used.)

Accordingly, POST questions whether it may certify any misdemeanor probation or pretrial services officers until they have complied with statute by completing the training requirements applicable to felony adult probation and pretrial services officers pursuant to § 46-26-1003(2). Since the question is not entirely free from doubt, POST respectfully requests that you issue your opinion addressing the question.

If you require anything further of the POST Council regarding these questions, please contact POST general counsel Chris D. Tweeten, 101 W. Artemos Dr., Missoula, MT 59803, tel.: 406-459-0255, email [christiantweeten@gmail.com](mailto:christiantweeten@gmail.com). Thank you for your assistance with these important questions.

Sincerely,

Sheriff Tony Harbaugh  
Chair, Montana POST Council

c: Kirsten Pabst, Missoula County Attorney  
Dan Cederberg, Attorney at Law  
Gallatin County Pretrial Services



**Montana Public Safety Officer Standards & Training Council**  
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October 23, 2015

The Hon. Tim Fox  
Attorney General  
P.O. Box 201401  
Helena, MT 59620-1401

Re: Request for opinion

Dear General Fox:

In my capacity as chair of the Public Safety Officers Standards and Training Council (“POST”), I respectfully request your opinion pursuant to Mont. Code Ann. § 2-15-501(7) on the following questions:

1. Does the Attorney General have authority under Mont. Code Ann. §§ 44-2-111, 44-2-115, to “appoint” an investigative officer hired and supervised by officials in the Department of Corrections (“DOC”) as an “agent” and a “public safety officer”?
2. May the Attorney General enter an MOU with the DOC under which an investigative officer hired and supervised by officials in the DOC becomes a “peace officer” as defined in Mont. Code Ann. § 46-1-202(17)?

POST is an agency of the State of Montana created in Mont. Code Ann. § 2-15-2029. POST’s duties include the establishment of “basic and advanced qualification and training standards for employment” of, “conduct[ing] and approv[ing] training” of, and “provid[ing] for the certification or recertification of public safety officers .....” Mont. Code Ann. §44-4-403(1). These questions arise from a request that POST certify certain investigators working within the DOC.

### **BACKGROUND**

The Department of Justice and the Department of Corrections are considering a draft Memorandum of Understanding (“MOU”) governing designation of DOC’s investigative officers. The Draft MOU provided to POST’s general counsel states that DOC administers secure facilities and community programs throughout the State and hires investigative officers to

investigate allegations of criminal wrongdoing against incarcerated offenders and staff employed in such facilities and programs.

According to the draft MOU, a copy of which is enclosed, investigative officers employed by DOC are to be designated as “agents” and “public safety officers” pursuant to the Attorney General’s authority to appoint investigative “agents” in the Division of Criminal Investigations of the Department of Justice (“DOJ”). Mont. Code Ann. §§ 44-2-111, -115. Such agents appointed by the Attorney General are required to meet the training requirements of Mont. Code Ann. § 7-32-303. Mont. Code Ann. § 44-2-113. These requirements include, among other things, completing the basic course prescribed by POST, Mont. Code Ann. § 7-32-303(5); ARM 23.13.205(2). By virtue of this requirement, agents appointed by the Attorney General are “public safety officers” under Mont. Code Ann. § 44-4-401(1)(i) (“public safety officer” includes “any ... person required by law to meet the qualification or training standards established by the council.”) The MOU provides in at least two places that the officers in question are to be employed within DOC and subject to the sole supervision of administrators employed by DOC. MOU at 1, section 1.c, d; id. at 2, section 6.

### **DISCUSSION**

There are substantial questions whether officers appointed and supervised by DOC whose investigative authority is limited to offenses committed within the corrections system may be “appointed” as criminal investigative agents by the Attorney General and therefore attain “public safety officer” status under Mont. Code Ann. § 44-4-401(1)(i) and “peace officer” status for purposes of Mont. Code Ann. § 7-32-303. Montana Code Annotated § 44-4-211 describes an “agent” appointed by the Attorney General as “a person appointed by the attorney general to conduct criminal investigations and perform related duties *within the department of justice.*” (Emphasis added.) The term “appointed” is not necessarily equivalent to the term “designated.” The code uses the term “appoint” synonymously with the term “hire.” See, e.g., Mont. Code Ann. § 2-15-218(2)(a) (Head of the Office of Economic Development “must be appointed by the governor.”). Although not crystal clear, the statute can certainly be read to state that such an agent must work “within the department of justice,” and under this reading the Attorney General would lack the authority to designate an officer hired, employed, and supervised within DOC as an “agent.”

This reading of the statute appears to be the correct one when considered in light of the description of an “agent’s” duties under Mont. Code Ann. § 44-2-211. The first duty listed in the statute is the provision of assistance to other law enforcement agencies, including other state agencies. The MOU would limit the jurisdiction of DOC’s officers to matters arising within DOC, which seems to contradict the statute. Moreover, Mont. Code Ann. § 44-4-401 designates “corrections officers” within the DOC as “public safety officers” and not as “peace officers” pursuant to 7-32-303 or 46-1-202. If the legislature had intended to include investigative officers within DOC as well, it certainly could have said so. Similarly, if it intended to make some DOC employees peace officers, and not public safety officers, it presumably would have done so.

The contrary reading, which would not apply the restriction “within the department of justice” to the investigative activities of an “agent” employed within DOC, makes little sense. Recall that

the statute defines “agent” as “a person appointed by the attorney general to conduct criminal investigations and perform related duties within the department of justice.” The legislature could not rationally have intended to allow an officer designated by the Attorney General but employed within any agency of state government to perform an investigation, but limit performance of “related duties” only to persons employed within the DOJ. Statutes should be interpreted to avoid absurdities. MC, Inc. v. Cascade City-County Bd. of Health, 2015 MT 52, ¶ 14, 378 Mont. 267, 271, 343 P.3d 1208, 1212. Indeed, under this reading, the words “within the department of justice” would be meaningless, a result that is disfavored in the interpretation of statutes. Westmoreland Resources, Inc. v. Dept. of Revenue, 2014 MT 212, ¶ 11, 376 Mont. 180, 183, 330 P.3d 1188, 1191.

An “agent” appointed by the Attorney General is a “peace officer” because the statute says so. Mont. Code Ann. § 44-2-115 (“An agent appointed by the attorney general pursuant to this part is a peace officer ...”). Assuming an investigative officer employed by DOC is not an “agent” under the definition in Mont. Code Ann. § 44-4-401, the officer also would not meet the definition of “peace officer” in Mont. Code Ann. § 46-1-202(17). Under that statute, a “peace officer” is a person who by virtue of the office has the duty to “maintain public order” and make arrests. The MOU does not contemplate that DOC officers will maintain public order. Rather, the officers will be responsible for investigating allegations of criminal activity within the limited environment of facilities and programs operated by DOC. MOU at 1, section 1. The officers do not have intrinsic authority to make arrests. Such authority would only arise if the officers were properly clothed with “agent” status under Mont. Code Ann. § 44-2-111, which does not appear to be lawful under the analysis above.

POST’s jurisdiction is limited to matters related to “public safety officers.” For the reasons described above, serious questions exist as to whether POST should issue a basic certificate to an investigative officer employed by DOC under the terms of the draft MOU, and POST is persuaded that it should not do so. Please issue your opinion under Mont. Code Ann. § 2-15-501(7) on questions 1 and 2 set forth at the opening of this letter to resolve any uncertainty as to POST’s duties in this regard.

Sincerely,

Sheriff Tony Harbaugh  
Chair, Montana POST Council

c: Mike Batista, Director, Department of Corrections  
Bryan Lockerby, Administrator, Division of Criminal Investigation

**ATTORNEY GENERAL**  
**STATE OF MONTANA**

**Tim Fox**  
**Attorney General**



Department of Justice  
215 North Sanders  
PO Box 201401  
Helena, MT 59620-1401

November 5, 2015

**RECEIVED**

**NOV 06 2015**

**MT POST Council**

Sheriff Tony Harbaugh, Chair  
Montana POST Council  
2260 Sierra Road East  
Helena, Montana 59602

Re: Attorney General Opinion Request: Waiver of qualification or training standard

Dear Sheriff Harbaugh:

Please be advised that, while this office has undertaken review and analysis of the above-referenced request for an Attorney General Opinion, additional time is needed to fully address the issues presented. Please call me with any questions.

Very truly yours,

  
PATRICK M. RISKEN  
Assistant Attorney General

**ATTORNEY GENERAL**  
**STATE OF MONTANA**

Tim Fox  
Attorney General



Department of Justice  
215 North Sanders  
PO Box 201401  
Helena, MT 59620-1401

November 5, 2015

**RECEIVED**

**NOV 06 2015**

**MT POST Council**

Sheriff Tony Harbaugh, Chair  
Montana POST Council  
2260 Sierra Road East  
Helena, Montana 59602

Re: Attorney General Opinion Request: Appointed Investigative Officers/DOC

Dear Sheriff Harbaugh:

Please be advised that, while this office has undertaken review and analysis of the above-referenced request for an Attorney General Opinion, additional time is needed to fully address the issues presented. Please call me with any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Patrick M. Risken", written over a circular stamp.

PATRICK M. RISKEN  
Assistant Attorney General

MISSOULA  
COUNTY



RECEIVED

SEP 14 2015

MT POST Council

KIRSTEN H. PABST  
MISSOULA COUNTY ATTORNEY  
200 W. BROADWAY  
MISSOULA, MONTANA 59802-4292  
(406) 523-4737  
FAX # (406) 523-4915

Montana Public Safety Officer Standards and Training Council  
Attn: Executive Director Perry Johnson  
2260 Sierra Road East  
Helena, MT 59602

**Subject: Third Party Probation Officer Hiring by Missoula County and City**

Date: September 9, 2015

Dear Perry Johnson and members of the POST Council,

This letter constitutes a formal request of the POST Council to establish and adopt statutory training standards for training misdemeanor probation officers as provided in MCA 46-23-1003(2).

**INTRODUCTION:**

Missoula County contracts with Missoula Correctional Services, Inc. herein "MCS", to provide community service, misdemeanor supervision and pretrial supervision programs. MCS is a Montana non-profit entity. In the process of providing these services to Missoula County, MCS employs probation officers who must meet the qualifications of §46-23-1003, MCA. The code section has training requirements that the statute indicates must be obtained at the Montana Law Enforcement Academy, herein "MLEA", unless the Montana Public Safety Officer Standards and Training Council, herein "POST Council", finds that the training at some other place is more appropriate. In addition, §44-4-401(2)(i) includes in the definition of a public safety officer any other person required by law to meet the qualifications or training standards established by the POST Council. Under the above statutory framework, Missoula County and MCS have always considered MCS probation officers as public safety officers who are statutorily required to obtain their training at the MLEA. For a number of years MCS sent its probation officers to the MLEA for training. Several years ago MLEA began limiting individuals who were allowed to attend the MLEA for probation officer training to individuals who receive a paycheck from a public entity, namely a city, a county or the state, greatly impacting jurisdictions who contract with non-profit companies to provide correctional services.

Missoula County and MCS addressed this issue by approaching the POST Council to establish appropriate probation officer training at a place *other* than MLEA, as allowed by the statute. Representatives of Missoula County and MCS attended a POST Council meeting on April 23, 2013. MCS Director Sue Wilkins submitted written training material for the MCS officers. It was determined that MCS Director Sue Wilkins should work with the POST curriculum committee to review the information she had provided and finalize appropriate training material. A specific request was made for Sue Wilkins to provide correlating lesson plans.

Executive Director Wilkins resubmitted training material including lesson plans for review to Executive Director Perry Johnson on April 1, 2014, the majority of which was material that had been previously certified by POST for the training of state probation and parole officers. It is not clear if the POST council committee ever reviewed the material that was submitted.

The POST Council requested a memorandum from Sarah M. Clerget on the statutory status of misdemeanor probation officers and pretrial service officers. Ms. Clerget prepared a memorandum dated November 21, 2014. The memorandum called into question the authority of cities and counties to provide misdemeanor probation officers through the vehicle of contracting with a non-profit corporation to provide the services rather than employing the misdemeanor probation officers as employees of the county or city. She cited §46-23-1005(2) MCA. She referred to the portion of the statute which states, “a local government may appoint misdemeanor probation officers and other employees...” and voiced her opinion that the statute implies that the probation officers appointed by the local government must be *employees* of that local government. From that analysis Ms. Clerget concluded that misdemeanor probation officers that are employed by anyone other than a local government are excepted from the statutory scheme entirely and that privately employed misdemeanor probation officers are not public safety officers, have no training requirement and are not overseen by the POST at all. This distinction would profoundly impact the officers’ ability to perform their basic duties and would negatively impact our ability to keep our community safe.

The conclusion reached by Ms. Clerget has been reviewed in light of the contract between Missoula County and MCS. MCS provides cost effective and highly efficient misdemeanor probation services to Missoula County. Acceptance of the analysis provided by Ms. Clerget would have significant operational and financial implications for Missoula County. A review of the analysis shows that a different conclusion should be reached. A discussion of the analysis is set forth below.

## **DISCUSSION:**

The question presented by Ms. Clerget’s analysis is whether Missoula County has the right to contract with third parties to provide probation officer services under the statutory framework set out above. The short answer is yes. The Montana Constitution, Montana statutes and Montana case law provide strong support for counties and municipalities having broad powers to carry out their functions by entering into any contract necessary for the exercise of local government power.

The authority for local entities being able to enter into any contract necessary to exercise local government power begins with the Montana Constitution. Article XI, Section 7 entitled "Self Governing Powers" states that a local government unit which has adopted a self-governing charter may exercise any power not prohibited by the Montana Constitution, Montana law or the local government charter. The County of Missoula has adopted a self-government charter. That allows Missoula County to exercise any power, such as entering into a contract for the provision of misdemeanor probation officer services, which is not prohibited. The statutory framework described above does not prohibit entering into such contracts. Therefore Missoula County is specifically permitted to enter into a contract to provide probation officer services by the Montana Constitution.

Montana statutes also provide strong support for local government entities having broad powers to carry out their functions and services as they see fit. A local government with self-government powers may exercise any power not prohibited by the Montana constitution, Montana law or its charter, pursuant to §7-1-101, MCA. In conjunction with that statute, §7-1-106, MCA specifies that, "The powers and authority of a local government with self-government powers will be liberally construed and that every reasonable doubt as to the existence of the local government power or authority shall be resolved in favor of the existence of that power or authority." The Montana legislature further clarified powers of counties with regard to making contracts in §7-1-2105, MCA, which states in pertinent part, "The legislature finds that it is within a counties contract authority to enter any contract necessary for the exercise of its power."

The above statutory authority clearly indicates that the County of Missoula is statutorily authorized to enter into contracts to provide for the misdemeanor probation officers authorized by §46-23-1005. The statute does not prohibit the local government entities from providing misdemeanor probation officers in that fashion. The clear language in the statutes referred to above indicates the local entities can therefore enter into contracts to provide for misdemeanor probation officers.

Montana case law also indicates that Missoula County has the right to contract with third parties to provide misdemeanor probation services. The issue was presented to the Montana Supreme Court in the case of *J.L. Hamner v. Butte/Silver Bow County*, 233 Mont. 271, 760 P.2d 76 (1988). The case involved the practice of Butte-Silver Bow County contracting with private individuals to provide legal services for juvenile offenders and the representation of Butte-Silver Bow for the welfare department in legal proceedings, *Id.* at 273. Plaintiff Hamner responded to a Butte-Silver Bow County request for written proposals from qualified individuals or firms to provide the legal services. Hamner argued that the statute regarding the contracting authority of Butte-Silver Bow required the County to hire the person to provide the services as an employee of the county rather than an independent contractor. Hamner argued that because that was the case, he should have been given a veteran's preference in the hiring process. Butte-Silver Bow contended that it had the authority to provide the services through an independent contractor. The specific language of the statute regarding the providing of the services stated in part, ..."employ any other attorney licensed in Montana to perform any legal service in connection with the civil business of the County." *Id.* at 274. Hamner argued that since the statute used the word "employ" the County could only provide the services through an employee, not through an

independent contractor relationship. That is the same analysis that was used by Ms. Clerget in analyzing §46-23-1005, MCA.

The Montana Supreme Court rejected the analysis put forward by Mr. Hamner. The Court determined that despite the language in the statute referred to by Hamner, the county was free to contract with third parties for public defenders services. In reaching its conclusion, the Court specifically relied on the language found in §7-1-101, MCA and §7-1-106, MCA. The Court stated the Butte-Silver Bow may provide any services or perform any functions not expressly prohibited by state law. The Court further stated that the Butte-Silver Bow County's power and authority must be liberally construed. The Court went on to conclude that, "There is no express prohibition under Montana law preventing Butte-Silver Bow County from entering into an independent contract relationship for provision of the legal services at issue herein." Id at 275.

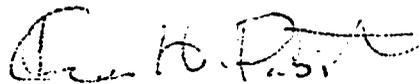
The Hamner case is directly on point with regard to the situation here. The county elected to provide services through an independent contract rather than through an employee. The language in the statute authorizing the provision of the services indicated referred to an employee in providing the services. The Court said that using an independent contractor was allowable under those circumstances.

#### **CONCLUSION:**

The Montana Constitution, Montana statutes and Montana case law all state that local governments with self-governing powers have broad authority to enter into any contract necessary for the exercise of the local government entity powers. That would include contracting with Missoula Correctional Services, Inc. to provide misdemeanor probation officers. Those officers are therefore Public Safety Officers within the statutory framework set out above and are appropriate for POST Council training. Missoula County requests the POST Council to move forward with the establishment of training rules as previously determined should occur.

Please let me know if you have questions. I look forward to discussing this matter with you.

Sincerely,



---

Kirsten H. Pabst  
Missoula County Attorney

Cc: Attorney General Tim Fox  
Sarah Clerget  
Sue Wilkins

**CHRIS D. TWEETEN**  
Attorney at Law  
TweetenLaw, PLLC  
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**RECEIVED**  
OCT 22 2015  
MT POST Council

October 20, 2015

The Hon. Kirsten Pabst  
Missoula County Attorney  
200 W. Broadway  
Missoula, MT 59802-4292

Re: Training Standards for Misdemeanor Probation Officers

Dear Kirsten:

I serve as outside counsel for the Public Safety Officers Standards and Training Council (“POST”), and in that capacity POST has referred your letter of September 9, 2015 to me for response. In your letter, you formally request that POST adopt training standards for misdemeanor probation and pretrial services officers employed by Missoula Correctional Services, Inc. (“MCS”), a private corporation that contracts with Missoula County to provide misdemeanor probation and pretrial supervision services. You argue that the MCS employees are “public safety officers” under the definition found in Mont. Code Ann. § 44-4-401(2)(i), which includes within the definition any person who is “required by law to meet qualifications or training standards established by [POST].”

As you know, Sarah Clerget, POST’s contested case counsel, has prepared memos dated November 21, 2014 and May 8, 2015, addressing these questions. In these memos she concluded that under Montana statutory law privately employed misdemeanor probation officers, such as those employed by MCS, are not public safety officers and therefore POST is not required to approve their training or issue them certificates. She further concluded, however, that both

privately and publicly employed misdemeanor services officers *are* public safety officers, and that POST is required to approve, but not necessarily to provide, their training and, where appropriate, to issue them certificates. Rather than revisit the discussion here, I refer you to the memos themselves, which I have reviewed and in which I concur.

In the introductory paragraph Discussion section found on page 2 of your letter, you state that Ms. Clerget addressed the issue of whether Missoula County can provide these services through a third party such as MCS. Respectfully, that is not the question she reviewed. Her memo was directed at *POST*'s responsibilities, not the authority of Missoula County. To be clear, POST has no authority to interfere with or otherwise supervise the County's contract with MCS. POST has confined its analysis to its own powers and responsibilities.

You argue in your letter that it is relevant to this inquiry that Missoula County is governed pursuant to a self-government charter under Mont. Code Ann. Tit. 7, ch. 1, pt. 1. Again with all respect, I have found no evidence that this is the case. Missoula County's website makes no mention of a self-government charter. A self-government charter can be adopted only upon an affirmative vote of the local government's electors. Mont. Code Ann. §§ 7-3-125 to 149. As best I can tell from an internet search, the voters last considered a county charter in 2006 and voted overwhelmingly against it. If I am wrong about this, please send me a copy of the County's charter so that I can verify the powers reserved to the County under it apply to this question.

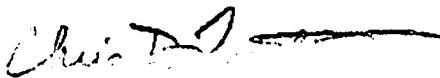
Assuming there is no Missoula County self-government charter, the rest of the discussion in your letter is not in point. The Hammer case arose in Butte-Silver Bow County, one of the small handful of Montana counties that has a charter, and it is distinguishable on that basis. Since Missoula County has only general government powers, it possesses only the powers granted to it by statute and those necessary to carry out explicitly granted powers. For the

reasons stated in Ms. Clerget's memos, to become POST-certified, misdemeanor probation officers must be employed by the County, not by a third party contractor.

POST is willing to consider and approve proposed training for misdemeanor probation and pretrial service officers. However, by statute, these officers must receive the same training as adult probation officers employed by the Department of Corrections. Mont. Code Ann. §§ 46-9-505(5) (misdemeanor pretrial service officers); 46-23-1005(2)(a) (misdemeanor probation officers). Though POST has authority to "waive or modify a qualification or training standard for good cause," Mont. Code Ann. § 44-4-403(2), serious questions exist as to whether POST has the power to waive a requirement found in statute. Cf. Bick v. Department of Justice, 730 P.2d 418, 420 (1986) (agency may not change a statutory requirement by administrative rule.) Accordingly, POST will not certify misdemeanor probation officers employed by a private entity that contracts to provide services for a county, and although POST may certify either publicly or privately employed misdemeanor service officers, it may not certify them until they have completed the training requirements applicable to felony probation and pretrial services officers.

POST is not insensitive to the difficulties these statutes cause for Montana counties. The Council has voted to seek an opinion from the Attorney General on the issue of the application of the waiver power granted in Mont. Code Ann. § 44-4-403(2) to statutory requirements, and POST will play a constructive role in any efforts to amend these statutes to make them more responsive to the current needs of Montana counties. Feel free to contact me if you have further questions or would like an update on these matters.

Sincerely,



CHRIS D. TWEETEN  
Attorney for POST Council

c: Dan Cederberg  
Tony Harbaugh  
Perry Johnson  
Gallatin County Misdemeanor Pretrial Services



**Montana Public Safety Officer Standards & Training Council**

2260 Sierra Road East  
Helena, MT 59602

Phone: (406) 444-9975

Fax: (406) 444-9978

[dojmt.gov/post](http://dojmt.gov/post)

October 27, 2015

Steve Ette  
Director of Court Services  
1709 West College  
Bozeman, MT 59715

Dear Mr. Ette:

I have enclosed the original Application for POST Credit for Out of State and Other Courses from [redacted]. The Case Status Committee of the Montana POST Council met on September 29, 2015, and voted unanimously that this training request and other requests like it will be denied.

According to POST's records, [redacted] was initially appointed as a pretrial service officer by Gallatin County Court Services on September 1, 2013. Per the Administrative Rules of the State of Montana (ARMs) and Montana Code Annotated, [redacted] had until September 1, 2014, to attend the Probation and Parole (P & P) Basic Academy. Had [redacted] been granted an extension, the Council only would have been able to give her until March 1, 2015, to attend the P & P Basic Academy. I understand the situation that pretrial officers encounter with training as it relates to meeting their basic academy course requirements. However, ARM 23.13.216(1) states that "the 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."

In turn, § 7-32-303(5)(a), MCA states:

Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer standards and training council. *Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.*

Emphasis added. [redacted] was appointed after September 30, 1983, and she has not completed the appropriate basic course.

As the Executive Director of the Montana POST Council, I have the authority to approve POST training credit under ARM 23.13.301. Under MCA 7-32-303 (5)(a) \_\_\_\_\_ has forfeited her office and I can not grant POST training credit to her. If she would like to continue to track her training, she may apply for POST training credit after she has met the basic academy attendance requirements.

The Case Status Committee also requested that I communicate to you that POST will not begin proceedings to attempt to take anyone's certification pursuant to ARM 23.13.702(2)(m) (stating that "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"). The Case Status Committee endorses this position provided that you continue to work towards getting your officers through P & P Basic while you work on drafting legislation you wish to bring forward during the next session.

POST supports working together for legislative change, but also respectfully reminds you to send your officers to the P & P Basic Academy until such time as legislative change may be affected. Under § 44-4-404, MCA:

It is the responsibility of a public safety officer's appointing authority to apply the employment standards and training criteria established by the council pursuant to this part, including but not limited to requiring the successful completion of minimum training standards within 1 year of the public safety officer's hire date and terminating the employment of a public safety officer for failure to meet the minimum standards established by the council pursuant to this part.

While POST embraces the opportunity to work with you to resolve these issues, it remains your responsibility to ensure that your officers, including \_\_\_\_\_, meet the requirements of the law as it stands now. I understand that you have been working on these issues, and I appreciate the efforts you have made to that end. Please provide POST with an outline of the plan and timeline your agency intends to pursue to get the required basic academy training for your staff.

Thank you for your time and consideration in this matter.

Sincerely,



Perry Johnson, Executive Director  
Montana POST Council

c:

CDOB Equivalency Study Materials

- PPCT Defensive Tactics Student Manual
- Mental Health First Aid® USA
- MLEA Mental Illness Intervention Field Manual
- CPI Nonviolent Crisis Intervention
- CDOB Course Binder

Final Exam is 120 questions and 2 hours in length

## 41100 Department of Justice ORG Budget Summary by OBPP Prog, Fund, Subclass

Data Selected for Month/FY: 01 (Jul)/2016 through 05 (Nov)/2016

This report compares ORG Budgets (ORG\_BD) to Actuals expended amounts

Business Unit	(All)
Program Year	(All)
Acct Lvl 2	(All)
FY_BudPer	(All)
Acct Lvl 1	(All)
Project	(All)
Month	(All)
Source of Auth	(All)
Fund Type	(All)
Account	(All)
Account Type	E
Ledger	(All)

[Refresh](#)

[Return to Menu](#)

OBPP Program	Fund	Subclass	Org	ORG Budget	Actuals Amt	A Accrual Amt	ORG Bud Balance
<b>19 POST COUNCIL</b>				<b>450,262.00</b>	<b>97,740.28</b>	<b>(6,624.00)</b>	<b>359,145.72</b>
	<b>01100 General Fund</b>			<b>450,262.00</b>	<b>97,740.28</b>	<b>(6,624.00)</b>	<b>359,145.72</b>
		<b>200H1 POST COUNCIL</b>		<b>350,262.00</b>	<b>97,740.28</b>	<b>(6,624.00)</b>	<b>259,145.72</b>
			19HB2 POST BUDGET ESTAB ORG HB2	350,262.00	0.00	0.00	350,262.00
			2517 POST Program	0.00	97,740.28	(6,624.00)	(91,116.28)
		<b>200H2 POST LEGAL (BIEN)</b>		<b>100,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>100,000.00</b>
			19HB2 POST BUDGET ESTAB ORG HB2	100,000.00	0.00	0.00	100,000.00
		<b>200Z1 WORKERS COMP. REDUCTION</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
			19HB2 POST BUDGET ESTAB ORG HB2	0.00	0.00	0.00	0.00
<b>Grand Total</b>				<b>450,262.00</b>	<b>97,740.28</b>	<b>(6,624.00)</b>	<b>359,145.72</b>

# POST 2015 Accruals

	A	B	C	D	E	F	G
1	MTGL_IU_JRNL_ID	6					
2	<b>Unit</b>	<b>Journal ID</b>	<b>Date</b>	<b>Posted</b>	<b>Program</b>	<b>Amount</b>	<b>Line Descr</b>
3	41100	0003058750	6/30/2015	7/21/2015	2015	5,760.00	A ACCRUAL - WESTAFF
4	41100	0003058750	6/30/2015	7/21/2015		(5,760.00)	A ACCRUAL - WESTAFF
5	41100	0003058750	6/30/2015	7/21/2015	2015	2,500.00	A ACCRUAL - L&C COUNTY
6	41100	0003058750	6/30/2015	7/21/2015		(2,500.00)	A ACCRUAL - L&C COUNTY
7	41100	0003058750	6/30/2015	7/21/2015	2015	2,520.00	A ACCRUAL - DATASYNC
8	41100	0003058750	6/30/2015	7/21/2015		(2,520.00)	A ACCRUAL - DATASYNC
9							
10							
11							
12	<b>POST</b>	<b>PO #</b>			<b>Paid</b>	<b>Remaining Money</b>	
13	WESTAFF	15POST002		\$ 5,760.00	5,760.00		TEMP SERVICES
14	LEWIS AND CLARK COUNTY SHERIFFS	15POST003		\$ 2,500.00	0		TRAINING
15	DATASYNC	15POST004		\$ 2,520.00	864		ANNUAL MAINTENECE
16				\$ 10,780.00	\$6,624.00	\$4,156.00	



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name	Instructor Type	Issue Date
<b>ROB    Reserv Officer Basic</b>		
16    Ornelas, Ernesto E	MINERAL COUNTY SHERIFF'S OFFICE	09/22/2015
Total ROB Certificates 1		

<b>BAS    Basic</b>		
5255	Webber, Isaiah H	BLACKFEET LAW ENFORCEMENT
5256	Rauser, Nicholas A	JEFFERSON COUNTY SHERIFF'S OFFICE
5257	Turner, Jesse L	BIG HORN COUNTY SHERIFF'S OFFICE
5258	Tappan, Caleb R	FLATHEAD COUNTY SHERIFF'S OFFICE
5259	Terrill, Tyler J	MISSOULA COUNTY SHERIFF'S OFFICE
5260	Rourke, Travis	MISSOULA COUNTY SHERIFF'S OFFICE
5261	Potter, Jesse L	MISSOULA POLICE DEPARTMENT
5262	Nienhuis, David A	DEPT OF HIGHWAYS/MOTOR CARRIER SERV
5263	Buckner, Ron J	LIBBY POLICE DEPARTMENT
5264	Engle, Kevin P	LIVINGSTON POLICE DEPARTMENT
5265	Lahr, Neil S	GLACIER COUNTY SHERIFF'S OFFICE
5267	Armstrong (Biggers), Barbara	MONTANA HIGHWAY PATROL
5268	Fredenberg, Jason D	MONTANA HIGHWAY PATROL
5269	McCarthy, Donald P	LEWIS AND CLARK COUNTY SHERIFF'S OFFI
5270	Tanzosh, Edward R	MONTANA HIGHWAY PATROL
5271	Payne, Joseph M	CASCADE COUNTY SHERIFF'S OFFICE
5272	Araujo, Christopher R	CASCADE COUNTY SHERIFF'S OFFICE
5273	Cruickshank, Ty B	BIG HORN COUNTY SHERIFF'S OFFICE
5274	Leonard, Joshua	FISH, WILDLIFE AND PARKS
5275	Hill, Jon R	ROSEBUD COUNTY SHERIFF'S OFFICE
5276	Weaver, Kenneth J	RONAN POLICE DEPARTMENT
5277	Finn, Laura	SIDNEY POLICE DEPARTMENT
5279	Womelsdorf, Benjamin R	FISH, WILDLIFE AND PARKS
5280	Franke, Eric T	GALLATIN COUNTY SHERIFF'S OFFICE
5281	Allard, Andrew J	MINERAL COUNTY SHERIFF'S OFFICE
5282	Peterson, Kristepher E	DEPT OF HIGHWAYS/MOTOR CARRIER SERV
5283	Wyse, Spencer E	MUSSELSHELL COUNTY SHERIFF'S OFFICE
5284	Minnis, William A	BLAINE COUNTY SHERIFF'S OFFICE
5285	Smith, Ken B	HELENA POLICE DEPARTMENT
5286	Howell, Jason	DEPT OF HIGHWAYS/MOTOR CARRIER SERV
5287	McMurray, Eric W	DEPT OF HIGHWAYS/MOTOR CARRIER SERV
5288	Shafer, Corey E	DEPT OF HIGHWAYS/MOTOR CARRIER SERV
5289	Fife, Shaun L	MISSOULA COUNTY SHERIFF'S OFFICE
5290	Burke, Gary	YELLOWSTONE COUNTY SHERIFF'S OFFICE
5291	Greydanus, Andrew	YELLOWSTONE COUNTY SHERIFF'S OFFICE
5292	Bauers, Scott	MADISON COUNTY SHERIFF'S OFFICE
5293	Crane, Melissa L	MINERAL COUNTY SHERIFF'S OFFICE
5294	Schmitt, Christopher J	GLENDIVE POLICE DEPARTMENT
5295	Bankert, Gregory A	GALLATIN AIRPORT AUTHORITY
5296	Shirey, Gregory R	GALLATIN AIRPORT AUTHORITY
5297	Dusatko, Joseph J	GREAT FALLS POLICE DEPARTMENT



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name	Instructor Type	Issue Date
5298 Fisher, Scott W	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5299 Garner, Joshua A	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5300 Halloran, Thomas P	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5302 Mack, John E	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5303 Hunt, Adam J	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5304 McAdam, Aaron S	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5305 Munkres, Eric K	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5306 Olson, Adam D	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5307 Price, Adam D	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5308 Supalla, Kevin M	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5309 Torres, Frank A	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5310 Tovson, Brian J	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5311 Walker, Kristi L	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5312 Walker, Michael P	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5313 Mack, Spiro A	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	09/23/2015
5315 Parce, Jason J	KALISPELL POLICE DEPARTMENT	09/23/2015
5316 Bartholomew, Joel E	KALISPELL POLICE DEPARTMENT	09/23/2015
5317 Lange, Brandon J	BILLINGS POLICE DEPARTMENT	09/23/2015
5318 Lam, Nicholas J	BILLINGS POLICE DEPARTMENT	09/23/2015
5319 Velasquez, Alexander G	MONTANA HIGHWAY PATROL	09/23/2015
5320 Zellers, Matthew C	MONTANA HIGHWAY PATROL	09/23/2015
5321 Draper, Michael R	GREAT FALLS POLICE DEPARTMENT	09/23/2015
5322 Schuler, Daniel C	MONTANA HIGHWAY PATROL	09/23/2015
5323 Templeton, Jr, Timothy R	MONTANA HIGHWAY PATROL	09/23/2015
5324 Boespflug, Nathaniel J	MONTANA HIGHWAY PATROL	09/23/2015
5325 Weber, John E	MISSOULA POLICE DEPARTMENT	09/23/2015
5326 Lauwers, Adam D	YELLOWSTONE COUNTY SHERIFF'S OFFICE	09/23/2015
5327 Webber, Kathlene L	BLACKFEET LAW ENFORCEMENT	09/23/2015
5328 Wolf Tail, Sarah M	BLACKFEET LAW ENFORCEMENT	10/05/2015

**Total BAS Certificates 70**

**INT Intermediate**

4721 Hillier, Mitchell R	BILLINGS POLICE DEPARTMENT	09/24/2015
4722 Buechler, Michael	BRIDGER POLICE DEPARTMENT	09/24/2015
4723 Parce, Jason J	KALISPELL POLICE DEPARTMENT	09/24/2015
4724 Corbett, Eric S	MISSOULA POLICE DEPARTMENT	09/24/2015
4725 Mattix, Nathan J	MISSOULA POLICE DEPARTMENT	09/24/2015
4726 Isbell, Anthony C	MONTANA HIGHWAY PATROL	09/24/2015
4727 Moles, Jonathan R	RAVALLI COUNTY SHERIFF'S OFFICE	09/24/2015
4728 Weaver, Kenneth J	RONAN POLICE DEPARTMENT	09/28/2015

**Total INT Certificates 8**

**ADV Advanced**

3055 Buechler, Tanner L	BILLINGS POLICE DEPARTMENT	09/24/2015
3056 Ihde, Brandon C	BILLINGS POLICE DEPARTMENT	09/24/2015
3057 West, Nathan E	BILLINGS POLICE DEPARTMENT	09/24/2015



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name	Instructor Type	Issue Date
3058 Wooley, Brandon W	BILLINGS POLICE DEPARTMENT	09/24/2015
3059 Grealish, Travis J	DOJ/DIVISION OF CRIMINAL INVESTIGATION	09/24/2015
3060 Mahlum, Derek R	GREAT FALLS POLICE DEPARTMENT	09/24/2015
3061 Baker, Mark A	HELENA POLICE DEPARTMENT	09/24/2015
3062 LaChere, Gerald A	HELENA POLICE DEPARTMENT	09/24/2015
3063 Brew, William F	LAUREL POLICE DEPARTMENT	09/24/2015
3064 Gilbertson, Eric S	LEWIS AND CLARK COUNTY SHERIFF'S OFFI	09/24/2015
3065 Scofield, Nate	LINCOLN COUNTY SHERIFF'S OFFICE	07/28/2015
3066 Kedie, John G	MISSOULA COUNTY SHERIFF'S OFFICE	09/24/2015
3067 Lee, Jeremy E	MONTANA HIGHWAY PATROL	09/24/2015
3068 Nilan, Matthew L	MONTANA HIGHWAY PATROL	09/24/2015
3069 Williams, Garrett T	MSU POLICE DEPARTMENT/BOZEMAN	09/29/2015
3070 Weaver, Kenneth J	RONAN POLICE DEPARTMENT	09/28/2015

Total **ADV** Certificates 16

**SUP Supervisory**

2789 Colgan, Chris D	RAVALLI COUNTY SHERIFF'S OFFICE	09/24/2015
2790 Guisinger, Jered A	RAVALLI COUNTY SHERIFF'S OFFICE	09/24/2015
2791 Weaver, Kenneth J	RONAN POLICE DEPARTMENT	09/28/2015

Total **SUP** Certificates 3

**COM Command**

2602 Douglas Jr., John D	FISH, WILDLIFE AND PARKS	09/24/2015
2603 Weaver, Kenneth J	RONAN POLICE DEPARTMENT	09/28/2015

Total **COM** Certificates 2

**ADM Administrative**

2593 Gootkin, Brian M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015
2594 Weaver, Kenneth J	RONAN POLICE DEPARTMENT	09/28/2015

Total **ADM** Certificates 2

**DTB Detention/Corrections Basic**

1907 Jefferson, Raymond	BIG HORN COUNTY SHERIFF'S OFFICE	09/22/2015
1908 Rogers, Kenny L	BIG HORN COUNTY SHERIFF'S OFFICE	09/22/2015
1909 Singer, Darren L	BIG HORN COUNTY SHERIFF'S OFFICE	09/22/2015
1910 Lugo, Alec	CASCADE COUNTY SHERIFF'S OFFICE	09/30/2015
1911 Shelton, Fredrick A	CASCADE COUNTY SHERIFF'S OFFICE	09/30/2015
1912 Steiner, Spencer L	CASCADE COUNTY SHERIFF'S OFFICE	09/30/2015
1913 VanZuyt, Jacob R	CASCADE COUNTY SHERIFF'S OFFICE	09/22/2015
1914 Waugh, Janet D	GALLATIN COUNTY SHERIFF'S OFFICE	09/22/2015
1915 Gomke, Tanner R	HILL COUNTY SHERIFF'S OFFICE	09/22/2015
1916 Schroeder, Joseph A	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1917 Stevenson, Nicholas T	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1918 Wood, Melissa M	MADISON COUNTY SHERIFF'S OFFICE	09/23/2015



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name	Instructor Type	Issue Date
1919 Kirwan, Kelly J	MISSOULA ADULT DETENTION FACILITY	09/23/2015
1920 Bewley, Marty D	MONTANA STATE PRISON	09/28/2015
1921 Bewley, Taylor	MONTANA STATE PRISON	09/28/2015
1922 Cirolia, Robert A	MONTANA STATE PRISON	09/22/2015
1923 Dyer, Nicole C	MONTANA STATE PRISON	09/28/2015
1924 Franks, Michael J	MONTANA STATE PRISON	09/28/2015
1925 Goodman, Glenn H	MONTANA STATE PRISON	09/28/2015
1926 Jess, Mary M	MONTANA STATE PRISON	09/28/2015
1927 Killian, John C	MONTANA STATE PRISON	09/28/2015
1928 Klein, Scott	MONTANA STATE PRISON	09/22/2015
1929 Kling, Danyelle T	MONTANA STATE PRISON	09/28/2015
1930 Milbrandt, Chad (Shad) W	MONTANA STATE PRISON	09/22/2015
1931 Myers, Larry R	MONTANA STATE PRISON	09/28/2015
1932 Phillipott, Michael H	MONTANA STATE PRISON	09/28/2015
1933 Prescott, John R	MONTANA STATE PRISON	09/28/2015
1934 Reistad, Dakotah	MONTANA STATE PRISON	09/28/2015
1935 Rodrigues, Sarah M	MONTANA STATE PRISON	09/22/2015
1936 Schmidt, Susan R	MONTANA STATE PRISON	09/28/2015
1937 Schubargo, Ian J	MONTANA STATE PRISON	09/28/2015
1938 Teruel, David J	MONTANA STATE PRISON	09/28/2015
1939 Worm, Tyler	MONTANA STATE PRISON	09/22/2015
1940 Zachary, Sheila A	MONTANA STATE PRISON	09/28/2015
1941 Hart, Derek	MONTANA STATE WOMEN'S PRISON	09/23/2015
1942 Keller, Jennifer	MONTANA STATE WOMEN'S PRISON	09/23/2015
1943 Sheldon, William	PINE HILLS YOUTH CORRECTIONAL FACILITY	09/22/2015
1944 Baxter, Jessy K	RICHLAND COUNTY SHERIFF'S OFFICE	09/23/2015
1945 Mize, Taylor E	RICHLAND COUNTY SHERIFF'S OFFICE	09/22/2015
1946 Spencer, Cecil R	TED LECHNER REGIONAL YOUTH SERVICES	09/23/2015
1947 Langford, Christopher A	YELLOWSTONE COUNTY DETENTION	09/22/2015
1948 Leonard, Charles L	YELLOWSTONE COUNTY DETENTION	09/22/2015
1949 Severeid, Courtney L	YELLOWSTONE COUNTY DETENTION	09/22/2015

Total DTB Certificates 43

**DTI Detention/Corrections Intermediate**

2666 Kynett, Donald E	BROADWATER COUNTY SHERIFF'S OFFICE	09/24/2015
2667 Gaede, Larry M	DAWSON COUNTY ADULT DET COR FACILITY	09/24/2015
2668 Gootkin, Brian M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015
2669 Waliser, Nicholas M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015

Total DTI Certificates 4

**DTA Detention/Corrections Advanced**

248 Gootkin, Brian M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015
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Total DTA Certificates 1

**DTS Detention/Corrections Supervisory**



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name	Instructor Type	Issue Date
160 Kynett, Donald E	BROADWATER COUNTY SHERIFF'S OFFICE	09/24/2015
161 Saksa, Charles F	CASCADE COUNTY SHERIFF'S OFFICE	09/12/2015
162 Gootkin, Brian M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015
163 Waliser, Nicholas M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015

**Total DTS Certificates 4**

**DTC Detention/Corrections Command**

35 Gootkin, Brian M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015
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**Total DTC Certificates 1**

**DTM Detention/Corrections Administrative**

21 Gootkin, Brian M	GALLATIN COUNTY SHERIFF'S OFFICE	09/24/2015
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**Total DTM Certificates 1**

**DIS Public Safety Communicators Basic**

537 Donges, Andrew	BIG HORN COUNTY SHERIFF'S OFFICE	09/22/2015
538 Satko, Kimberly M	BIG HORN COUNTY SHERIFF'S OFFICE	09/22/2015
539 Sayler (Bushard), Jessika L	BUTTE/SILVER BOW LAW ENFORCEMENT	09/23/2015
540 Conrad, Julie A	GLENDIVE POLICE DEPARTMENT	09/23/2015
541 Frank, Susan J	GLENDIVE POLICE DEPARTMENT	09/23/2015
542 Johnson, Dianna L	GRANITE COUNTY SHERIFF'S OFFICE	09/22/2015
543 Haynes, Megan R	GREAT FALLS POLICE DEPARTMENT	09/23/2015
544 Heser (Rayl), Rachel I	GREAT FALLS POLICE DEPARTMENT	09/23/2015
545 Holland, Kristan J	GREAT FALLS POLICE DEPARTMENT	09/23/2015
546 Hunter, William R	GREAT FALLS POLICE DEPARTMENT	09/23/2015
547 Ingold, Peter D	GREAT FALLS POLICE DEPARTMENT	09/23/2015
548 Jimenez, Leslie M	GREAT FALLS POLICE DEPARTMENT	09/23/2015
549 Lassila, Dustie L	GREAT FALLS POLICE DEPARTMENT	09/23/2015
550 Lewis, Logan M	GREAT FALLS POLICE DEPARTMENT	09/23/2015
551 Pocock, Kelly M	GREAT FALLS POLICE DEPARTMENT	09/23/2015
552 Ratliff, Angella	GREAT FALLS POLICE DEPARTMENT	09/23/2015
553 Skogen, Brandon M	GREAT FALLS POLICE DEPARTMENT	09/23/2015
554 Sunderland, Douglas A	GREAT FALLS POLICE DEPARTMENT	09/23/2015
555 Thornton, Jessica K	GREAT FALLS POLICE DEPARTMENT	09/22/2015
556 Upton, Karl P	GREAT FALLS POLICE DEPARTMENT	09/23/2015
557 Hamilton (Hanson), Amanda M	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
558 Schuschke, Paul L	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
559 Verploegen, Amanda J	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
561 Hamrock, Linda S	MADISON COUNTY SHERIFF'S OFFICE	09/23/2015
562 Holt, Lynda M	MADISON COUNTY SHERIFF'S OFFICE	09/23/2015
563 Edinger, Diane J	RICHLAND COUNTY SHERIFF'S OFFICE	09/23/2015
564 Dey, Tamara L	GLENDIVE POLICE DEPARTMENT	09/23/2015

**Total DIS Certificates 27**



## PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

### Pending Certification Report

Name	Instructor Type	Issue Date
<b>DIN Public Safety Communicators Intermediate</b>		
77 Hopkin, Heather A	LIVINGSTON PARK COUNTY 911	09/24/2015

Total DIN Certificates 1
--------------------------

COR Coroner Basic		
1375 Jensen, James P	FERGUS COUNTY CORONER	09/23/2015
1376 Hultman, Ty R	GRANITE COUNTY SHERIFF'S OFFICE	08/04/2015
1377 Dahl, James A	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1378 Donovan, James T	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1379 Jeffrey, Craig A	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1380 Martin, Stephen A	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1381 Ross, Jamieson T	HILL COUNTY SHERIFF'S OFFICE	09/23/2015
1382 Fortner, Phillip H	MADISON COUNTY SHERIFF'S OFFICE	09/23/2015
1383 Higgs, William M	PARK COUNTY CORONER	09/23/2015
1384 Whittle, Jacqueline K	PARK COUNTY CORONER	09/23/2015
1385 Gainan, Shawn P	WIBAUX COUNTY CORONER	09/23/2015
1386 Nichols, Brandon M	YELLOWSTONE COUNTY SHERIFF'S OFFICE	09/23/2015

Total COR Certificates 12
---------------------------

APP Adult Probation and Parole Basic		
1005 Halford, Deborah	DEPARTMENT OF CORRECTIONS	09/22/2015
1006 Newman, Trevor	DEPARTMENT OF CORRECTIONS	09/22/2015
1007 Ette, Stephen J	Gallatin County Office of Court Services	09/23/2015

Total APP Certificates 3
--------------------------

INS Instructors			
4766 Robinson, Randy L	HELENA POLICE DEPARTMENT	MENTAL HEALTH FIRST AID	09/28/2015
4767 Hight, Marion S	DOJ/DIVISION OF CRIMINAL INVESTIGATION	FIREARMS: PISTOL	09/24/2015
4768 Martin, Nathan B	DEPARTMENT OF CORRECTIONS	BASIC SHOOTING INSTRUCTIO	09/28/2015
4769 Sulages, James N	MONTANA HIGHWAY PATROL	FIREARMS: PISTOL-SHOTGUN-	09/28/2015
4770 Sullivan, David M	DILLON POLICE DEPARTMENT	FIREARMS: PISTOL	09/28/2015
4771 Freudenberg, Benjamin J	MISSOULA POLICE DEPARTMENT	PVOC 2 HOUR	09/28/2015
4772 Thompson, Paul R	MONTANA STATE PRISON	FIRST AID, CRP AND BLOOD B	09/28/2015
4773 Thompson, Paul R	MONTANA STATE PRISON	PRISON RAPE ELIMINATION AC	09/28/2015
4774 Thompson, Paul R	MONTANA STATE PRISON	PROFESSIONAL BOUNDARIES	09/28/2015
4775 Thompson, Paul R	MONTANA STATE PRISON	CROSS GENDER SUPERVISION	09/28/2015
4776 Thompson, Paul R	MONTANA STATE PRISON	FIREARMS: PISTOL-SHOTGUN-	09/28/2015
4777 Secor, Scott A	GALLATIN COUNTY SHERIFF'S OFFICE	DUTY PISTOL F.A.S.T. DRILL	09/28/2015
4778 Lamb, Landon D	DEPARTMENT OF CORRECTIONS	BASIC FIREARMS: PISTOL	09/28/2015
4778 Walsh, Creighton (Bud) J	DEPARTMENT OF CORRECTIONS	FIREARMS: PISTOL	09/28/2015
4779 Dopp, Lloyd D	DEPARTMENT OF CORRECTIONS	BASIC FIREARMS: PISTOL 40 H	08/28/2015
4780 Estes, Randall	DEPARTMENT OF CORRECTIONS	BASIC FIREARMS: PISTOL 40 H	09/28/2015
4781 Childress, Jay W	DEPARTMENT OF CORRECTIONS	FIREARMS: PISTOL	09/28/2015
4782 Goeddel, Sean H	DEPARTMENT OF CORRECTIONS	BASIC FIREARMS: PISTOL 40 H	09/28/2015



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name			Instructor Type	Issue Date
4783	Lizotte, Jeremy J	DEPARTMENT OF CORRECTIONS	BASIC FIREARMS: PISTOL 40 H	09/28/2015
4784	Gianfrancisco, Michael J	MADISON COUNTY SHERIFF'S OFFICE	TACTICAL OPERATIONS INSTR	09/28/2015
Total		INS	Certificates	20

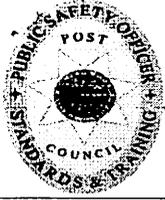


**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report**

Name	Instructor Type	Issue Date
<b>BAS Basic</b> 5177 Finley, Matthew W	MONTANA HIGHWAY PATROL	07/09/2015

Total **BAS** Certificates 1



**PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL**

**Pending Certification Report.**

<b>Name</b>	<b>Instructor Type</b>	<b>Issue Date</b>
<b>BAS Basic</b>		
5329 Kaiser, Jonathan J	FISH, WILDLIFE AND PARKS	10/26/2015
5330 Spudic, Kevin L	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	10/27/2015
Total <b>BAS</b> Certificates <b>2</b>		

# POST CERTICATES ISSUED IN 2015

Meeting Date	Number of Certificates
March 11, 2015	265
June 17, 2015	300
September 16, 2015	375
December 2, 2015	222
<b>Total</b>	<b>1162</b>



# Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East  
Helena, MT 59602

Phone: (406) 444-9975

Fax: (406) 444-9978

dojmt.gov/post

## BASIC EQUIVALENCY REQUEST FORM

**Instructions:** The agency head should complete and sign this form. The agency should then forward the completed form and attachments to the POST Council at the address above. The Council will notify the agency head of action taken.

Did the officer complete a Basic course?  Yes  No

Basic course completion date: \_\_\_\_\_ Basic course location: \_\_\_\_\_

If No; what training has the officer had in lieu of a Basic course? \_\_\_\_\_

\*Please attach documentation to indicate the officer's successful completion of the training, such as a certificate of completion.

Does the officer hold Basic certification from POST or an agency equivalent to POST?  Yes  No

Name of the agency: \_\_\_\_\_

Date certificate was issued: \_\_\_\_\_

Is the officer in good standing with this agency?  Yes  No

\*Please attach a copy of the officer's basic certificate and training transcript.

\*Please attach documentation of the officer's employment history.

**\*Attach a release of information so that POST may verify the above information. The release the officer signed for his/her employment background check is sufficient.**

### Officer's Information

Full Name: \_\_\_\_\_

Agency Name: \_\_\_\_\_

POST ID Number: \_\_\_\_\_

Rank/Title: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Date Hired by Current Agency: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

### Field of Employment (check one):

Peace Officer

Corrections/Detention Officer

Note, there is only equivalency for Law Enforcement Officer Basic and Correction/Detention Officer Basic.

**Agency Recommendation:** I recommend that equivalency be awarded. I certify that my agency has complied with the minimum standards set forth in the Administrative Rules of Montana, the officer is of good moral character and is worthy of this award. My opinion is based on personal knowledge of the inquiry, and the personnel records of this jurisdiction substantiate the recommendation.

\_\_\_\_\_  
Printed Name of Agency Head

\_\_\_\_\_  
Signature of Agency Head

\_\_\_\_\_  
Date

E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_

### POST Council Use Only

Approved for \_\_\_\_\_

Approved by \_\_\_\_\_



***Montana Public Safety Officer Standards and Training Council***  
***Perry Johnson – Executive Director***

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**Basic Equivalency Requests**

- 1. Tyler Adams – Detention Officer, Missoula County Sheriff’s Office**  
Training Supervisor Jeff Rodrick sent a request for reciprocity and requested that DO Adams be allowed to take the equivalency exam. CO Adams complete a 176-hour detention officer basic in California in November of 2006. DO Adams was employed by the San Luis Obispo County Sheriff’s Office as a detention officer for approximately nine years before he was hired by the Missoula County Sheriff’s Office on April 9, 2015. DO Adams received approval to take the equivalency exam.

Perry Johnson, Executive Director  
Montana POST Council



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**Extension Requests**

Montana POST Council Meeting  
December 2, 2015

- 1. Justin Bickford – Police Officer, Laurel Police Department**  
Chief Rick Musson sent an extension request for Officer Bickford to attend LEOB. Officer Bickford was initially hired as a full time officer on November 5, 2014. Due to staffing issues, Officer Bickford was not able to attend LEOB until September of 2015, which meant that he would not be able to finish until after his one year time period expired. Officer Bickford's extension was approved. Officer Bickford is currently attending LEOB #157 and is scheduled to graduate on December 11, 2015.
- 2. Jarred Anglin – Police Officer, Laurel Police Department**  
Chief Rick Musson sent an extension request for Officer Anglin to attend LEOB. Officer Anglin was initially hired as a full time officer on February 18, 2015. Chief Musson attempted to get Officer Anglin into LEOB #157, but it was full. Officer Anglin will attend LEOB #158, which will not end until after his one year time period expires. Officer Anglin's extension was approved. He must attend LEOB by August 18, 2016.
- 3. Rebecca Jones – Detention Officer, Broadwater County Sheriff's Office**  
Undersheriff Wynn Meehan sent an extension request for DO Jones to attend CDOB. DO Jones was initially hired on October 6, 2014 as both a public safety communicator and a detention officer. Due to staffing issues, DO Jones has not yet attended CDOB. DO Jones's extension was approved. With a 180-day extension, DO Jones would need to attend CDOB by April 6, 2016.
- 4. Amy Tatro – Detention Officer, Yellowstone County Sheriff's Office**  
Lt. Steve Metzger sent an extension request for DO Tatro to attend CDOB. DO Tatro was initially hired on December 8, 2014. She left employment with the detention facility, then returned on November 2, 2015, just over a month before her one year time period would run out. Due to this, DO Tatro has not yet attended CDOB. DO Tatro's extension was approved. With a 180-day extension, DO Tatro would need to attend CDOB by June 8, 2016.
- 5. Levi Anderson – Detention Officer, Yellowstone County Sheriff's Office**  
Lt. Steve Metzger sent an extension request for DO Anderson to attend CDOB. DO Anderson was initially hired on December 15, 2014. Due to severe staffing shortages, DO Anderson has not yet attended CDOB, but is set to attend starting in January of 2016. DO Anderson's extension was approved. With a 180-day extension, DO Anderson would need to attend CDOB by June 15, 2016.

- 6. Jordan Clark – Detention Officer, Yellowstone County Sheriff’s Office**  
Lt. Steve Metzger sent an extension request for DO Clark to attend CDOB. DO Clark was initially hired on December 15, 2014. Due to severe staffing shortages, DO Clark has not yet attended CDOB, but is set to attend starting in January of 2016. DO Clark’s extension was approved. With a 180-day extension, DO Clark would need to attend CDOB by June 15, 2016.
- 7. Sonja Hillson – Public Safety Communicator, Hill County Sheriff’s Office**  
Undersheriff Jamieson Ross sent an extension request for Ms. Hillson to attend PSC Basic. Ms. Hillson was initially hired on October 27, 2014. Due to a large turnover in dispatch, Ms. Hillson has not been able to attend PSC Basic. Ms. Hillson’s extension was approved. A 180-day extension would give her until April 27, 2016, to attend PSC Basic.
- 8. Hailey Dehaven – Public Safety Communicator, Hill County Sheriff’s Office**  
Undersheriff Jamieson Ross sent an extension request for Ms. Dehaven to attend PSC Basic. Ms. Dehaven was initially hired on December 18, 2014. Due to a large turnover in dispatch, Ms. Dehaven has not been able to attend PSC Basic. Ms. Dehaven’s extension was approved. A 180-day extension would give her until June 18, 2016, to attend PSC Basic.
- 9. Leah Widdekind – Public Safety Communicator, Hill County Sheriff’s Office**  
Undersheriff Jamieson Ross sent an extension request for Ms. Widdekind to attend PSC Basic. Ms. Widdekind was initially hired on December 29, 2014. Due to a large turnover in dispatch, Ms. Widdekind has not been able to attend PSC Basic. Ms. Widdekind’s extension was approved. A 180-day extension would give her until June 29, 2016, to attend PSC Basic.
- 9. Ashley Albright – Public Safety Communicator, Ravalli County Sheriff’s Office**  
Sheriff Chris Hoffman sent an extension request for Ms. Albright to attend PSC Basic. Ms. Albright was initially hired on August 19, 2014. In April of 2015, Ms. Albright indicated that she would be leaving her position in June of 2015. However, her plans changed, and she rescinded her resignation in June of 2015. Ms. Albright is scheduled to attend the PSC Basic beginning November 29, 2015. Ms. Albright’s extension was approved. A 180-day extension would give her until February 19, 2016 to attend PSC Basic.

Perry Johnson, Executive Director  
Montana POST Council



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September 18, 2015

Re: Extension Request for John Moore, Ennis Police Department

This date I made contact with Ennis PD Chief of Police John Moore. I explained to him that the POST Council had met and considered his request for an extension to attend Peace Officer Basic at MLEA. I told him that the extension approval was contingent on his service as a reserve officer and any payment for his services as a reserve that he may have received while acting in that capacity. I asked him if he had ever been paid as a reserve officer and he told me that he had received no payment for any duties related to his reserve officer status.

I asked Chief Moore who the city clerk or treasurer was so that I could contact that person and confirm that no payment had been made for reserve officer duties. He told me that Ginger Guinn was the city clerk and that I could contact her at the City of Ennis phone number 682-4287. I then called and spoke with Ginger Guinn. She told me that she is the City Clerk/Treasurer for the City of Ennis. I asked her if John Moore had ever received any payment for his service as a reserve officer for the City of Ennis. Ginger told me that John had never received any payment for those duties. She told me that John had been paid for services he provided as an IT specialist, working on the city computers, but the duties were specific to those tasks and not to the duties of a reserve police officer.

Chief Moore's extension can be granted for 180 days based on his status as a part-time volunteer reserve officer.

End of Notes.

A handwritten signature in blue ink that reads "Perry Johnson".

Perry Johnson, Executive Director  
Montana POST Council



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September 22, 2015

Becky Vujovich, Mayor  
328 West Main Street  
P.O. Box 147  
Ennis, MT 59729-0147

Re: Extension request for John Moore

Dear Mayor Vujovich:

On Wednesday, September 16, 2015 the Montana POST council approved your request for a one-time 180 day extension for John Moore to attend the Law Enforcement Officer Basic Academy (LEOB).

Our records show that Chief Moore was hired on December 29, 2014. The extension that was granted is good through June 29, 2016. You must make arrangements to have Chief Moore attend LEOB prior to June 29, 2016. Your point of contact at the Montana Law Enforcement for gaining acceptance and getting your officer registered for LEOB is Debbie Murray.

If you have any questions regarding this matter please feel free to contact me at your convenience.

Sincerely,

Perry Johnson, Executive Director  
Montana POST Council

c. **John Moore, Chief of Police**



*Montana Public Safety Officer Standards and Training Council*  
*Perry Johnson – Executive Director*

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November 19, 2015

To: POST Council

From: Perry Johnson  
Executive Director

Subject: Cases opened and closed in 2015

This is my written report setting forth the circumstances and resolution of cases for 2015. After consultation with legal counsel and meeting with the Case Status Committee of the POST Council, the following cases have been opened and closed in 2015:

**2010: One case from 2010 was closed.**

10-53 Closed due to the officer's failure to respond. The officer was suspended for 90 days and is now revoked.

No cases from 2010 remain open.

**2011: One case from 2011 was closed.**

11-12 Closed by officer's stipulated voluntary surrender.

No cases from 2011 remain open.

**2012: No cases from 2012 were closed.**

12-18 Is the only remaining open case from 2012. Pending Federal court complaint resolution.

**2013: Six cases from 2013 were closed**

13-06 Closed by recommendation of the Case Status Committee. Complaint did not rise to a level of POST involvement.

13-21 Officer's certificate was permanently revoked. Officer did not request a hearing.

13-26 Officer voluntarily surrendered his certificates. Officer's certificates are permanently revoked.

13-24 Officer completed stipulated probation

13-25 Officer completed stipulated probation

13-32 Officer was suspended for 90 days, then revoked for non-response

There are 2 open cases for 2013.

**2014: Five cases from 2014 were closed**

14-04 Closed due to the officer's failure to respond. The officer was suspended for 90 days and is now revoked.

14-10 Closed by recommendation of the Case Status Committee. Complaint did not rise to a level of POST involvement.

14-11 Officer voluntarily surrendered his certificates. Officer's certificates are permanently revoked.

14-13 Officer's certification was revoked

14-07 Officer completed stipulated probation

No cases from 2014 remain open.

**2015: Five cases from 2015 were closed**

15-01 Closed by officer's stipulated voluntary surrender. Officer's certificates are permanently revoked.

15-02 Officer was suspended for 90 days, then revoked for non-response. Officer's certificates are permanently revoked.

15-07 Closed by officer's stipulated voluntary surrender. Officer's certificates are permanently revoked.

15-04 Officer was suspended for 90 days, then revoked for non-response. Officer's certificates are permanently revoked.

15-06 Closed by officer's stipulated voluntary surrender. Officer's certificates are permanently revoked.

There are 15 open cases from 2015.

Perry Johnson, Executive Director  
Montana POST Council



## Death Investigation Training – Great Falls, MT

December 8 – 9 – 10, 2015

16 Hours POST Credit

**WHAT:** This training will fulfill the 16 hour/every two years, Montana POST Council training requirement for continuing Coroner certification.

**WHO:** Open to all coroners/deputy coroners and law enforcement investigators.

**WHERE:** Cascade County Sheriff's Office, 3800 Ulm North Frontage Road, Great Falls, MT.

**WHEN:** Tuesday, Wednesday, Thursday, December 8 - 9 - 10, 2015

**December 8:** 1 – 5:00 p.m. Death scene /case study review; Coroner duties and jurisdiction.  
**Presenter:** Richard Sine, Detective Commander/Deputy Coroner (Ret.), Flathead County Sheriff's Office, Kalispell, MT.

**December 9:** 8 a.m. – 12:00 p.m. Sherry Arnold: kidnap/homicide case study/death investigation case review – Montana FBI case reports.  
12:00 – 1:00 p.m. **Lunch on your own**  
1:00 -5:00 p.m. Continued training re: Sherry Arnold/death investigation cases.  
**Presenters:** Craig Overby, FBI Special Agent  
Bob Burnison, Undersheriff, Richland Co. SO., Sidney, MT.

**December 10:** 8 a.m. – 12:00 p.m. Crime Lab / legal update – death investigation case studies  
**Presenter:** Dr. Jaime Oeberst, Montana State Medical Examiner, DOJ, Crime Lab, Missoula, MT

**COST: No Cost** – student pays own lodging, meals, transportation. Enrollment is limited to 60 students.

**Local Hotels Link:** [http://www.tripadvisor.com/Hotels-g45198-Great\\_Falls\\_Montana-Hotels.html](http://www.tripadvisor.com/Hotels-g45198-Great_Falls_Montana-Hotels.html)