I. 9:00 a.m. ~ Call meeting to order, roll call, identify and welcome guests and new staff.

II. 9:05 a.m. ~ Pledge of Allegiance and Invocation

III. 9:10 a.m. ~ Approval of minutes for August 11, 2021, Council Meeting

IV. 9:15 a.m. ~ Public Comment/Guest Issues

V. 9:25 a.m. ~ Break

VI. 9:30 a.m. ~ Richard Smith Hearing

VII. 10:00 a.m. ~ Break

VIII. 10:15 a.m. ~ Committee Reports

A. Committee Assignments

B. Curriculum ~ Conner Smith

C. ARM ~ Leo Dutton

D. Case Status ~ Jim Thomas

E. Coroner ~ Leo Dutton

F. Marijuana ~

G. Business Plan/Policy ~ Kimberly Burdick
   1. Military Deployment Legislation
   2. Extensions for Basic Academies
   3. ARM Rules
      a. Sexual Misconduct
      b. Appeals
      c. Non-Sanction Requests for Hearings
IX. 10:45 a.m. ~ Old Business

A. PSC Basic Course Content Discussion
B. Attorney General Opinion Letter
C. 2022 Calendar
   1. Number of meetings per year

X. 11:00 p.m. ~ New Business

A. Tia Robbin Resignation Letter
B. Ryan Oster Resignation Letter
C. Glen Stinar ~ AA Degree Discussion
D. PSC Syllabus
E. P & P Syllabus
F. Director’s Report
   1. Budget
   2. Certificates Awarded ~ 323
   3. Training Approved ~ Officers-1,730, Courses-2,404, Hours-32,605.50
   4. Equivalency Granted ~ 24
   5. Extensions Granted ~ 11
   6. Contact List ~ Council Members & Staff
   7. MPPA Discussion
   8. Office Updates

XI. 12:00 p.m. ~ Meeting Adjourned

* Executive Sessions are closed to the public in order to protect the privacy rights of individuals. Times are approximate, except for public comment; actual times may vary depending on presentation/discussion time.
WHEREUPON, the following proceedings were had:

CHAIRMAN SLAUGHTER: I'll call this meeting to order. The date is just past 9:00 a.m. on August 11th, 2021. I'm Jesse Slaughter, and we'll get this meeting started.

First of all, I want to thank Sheriff Canan for hosting here the POST Council. Thank you so much for us being here in your community. We really appreciate that. So first things first, we'll do roll call.

MR. LOCKERBY: Lockerby.

MR. JOHNSON: Good morning.

MR. LOCKERBY: Good morning.

MR. JOHNSON: So this is the POST Council meeting scheduled for August 11th, 2021. The time is 9:00 in the morning. The roll call will go as follows. Jesse Slaughter.

CHAIRMAN SLAUGHTER: Here.

MR. JOHNSON: Bill Smith.

MR. DILL SMITH: I'm here, Perry.

MR. JOHNSON: Hi, Bill. Kimberley Burdick.

MS. BURDICK: I am here.
of 13. That's pretty good. It seems like there's
a lot of people anxious to see Perry Johnson
participate in his last meeting. Not going to --
(inaudible) -- about that all.

MR. ALLRED: Perry, this is Timothy
Allred. I'm sitting in for Director Gootkin.

MR. JOHNSON: Oh, okay. Timothy Allred
is with the Department of Corrections. He's very
solved in the F&P Basic Academy. And as you'll
remember, Brian Gootkin showed up for one of our
last Council meetings, and had intended to
participate as a POST Council member, but the last
time I talked to him he'd made a decision not to
be. He doesn't think he's got the time to devote
to the Council.

So it's my understanding that he will
probably ask Timothy Allred to participate as the
DOC representative on the Council, but we don't
have an appointment for Timothy from the Governor.
So today he'll audit the meeting, and he can
participate however he wants to, but he won't be a
data member because he's not one of the Council.
So does that make sense to you, Timothy?

MR. ALLRED: Yes. From my end it's very
hard to hear what you're saying, but yes, that

MR. JOHNSON: Okay. They told me that I
have to talk into this microphone closer. So can
you hear me better now?

MR. ALLRED: Not really.

UNKNOWN SPEAKER: A little better.

MR. JOHNSON: Okay. Well, we're going
to move some speakers around on this table, and
see if maybe that will help a little bit. So hold
on just a minute.

This reminds me of the last time I
tested at the Legislature where I think it was
Senator Regier asked me to speak up a little
louder, and I told him I seldom hear that. It
surprises me, and he said, "Yeah, it surprised me,
too."

CHAIRMAN SLAUGHTER: Can you guys all
hear better with the speaker?

UNKNOWN SPEAKER: A little bit better.

Background noise. Yeah, it is the background
noise.

MR. JOHNSON: Okay. Well, you can
identify the guests.

CHAIRMAN SLAUGHTER: So Sheriff, let's

start with you, and go around the room, and just
identify yourself, and who you are.

MR. CANEN: Sheriff Ross Canen, Dawson
County.

MR. DENNISON: Sheriff John Dynnesson,
Richland County.

MR. TONY BARDAUGH: Tony Barbaugh --
(inaudible) -- unemployed citizen.

MR. LITTLE: Sheriff Jerry Litle --
(inaudible) --

MR. TRENT BARDAUGH: Sheriff Trent
Barbaugh, Fallon County Sheriff's Office.

MR. MARTINDALE: Tim Martindale,
Director, Gallatin County 911.

MR. KRAFT: Mark Kraft, Chief, Sidney
PD.

MR. GORTMAKER: Bryan Gortmaker here
auditing your meeting today. I come from South
Dakota.

CHAIRMAN SLAUGHTER: Do we have any
guests on the phone?

MR. LOCKERBY: Bryan Lockerby, CI.

MR. BARADA: Jeff Barada, City of Wolf
Point.

MR. ROSELL: Gavin Rosell, Powell
discussion about those minutes, corrections or anything?

   (No response)

CHAIRMAN SLAUGHTER: Hearing no discussion, can I have a vote to approve the minutes. All in favor, say aye.

   (Response)

CHAIRMAN SLAUGHTER: Opposed, same sign.

   (No response)

CHAIRMAN SLAUGHTER: Then it's approved. So public comment and guest issues. Do we have anybody on the phone, or anybody in the room? Any public comment?

   (No response)

CHAIRMAN SLAUGHTER: Okay. So I have something. I would like to introduce Bryan Gotmaker. Bryan sat through our interview process the day before yesterday, Monday, in Helena at the DCI office. Bryan Locksby, who's on the phone, kind of headed up that effort for us and did great job, along with his HR personnel did a fantastic job.

It was a long day. We interviewed seven very, very good candidates, several of which could have done this job, could have fulfilled the job as POST Director. We thought we had a really good candidate pool, and Ryan Oster was on the panel, Jim Thomas present also here on the panel. So any of you guys like to speak about -- You know, the quality of candidates or anything were very, very good.

It was one of those fortunate decisions that we got to make, where we got to pick the best of the best, not settle for somebody, so that was exciting.

So yesterday Bureau Chief Locksby had made an offer to Bryan Gotmaker, and he accepted, and so he's now in the background process with a conditional offer to be the new POST Director.

So without any further adieu, I agreed I would give Bryan a chance to address the Council with anything he wanted to say, and if the Council wanted to ask any questions.

MR. GORMAKER: I'm going to step closer to the phone for the benefit of those that are on the phone today.

Hello. I'm from South Dakota. I'm retired from law enforcement there, and very excited to come and get involved with your POST Council.

In my over 30 year career in law enforcement in South Dakota, I started out working for the Sheriff's Office in Minnehaha County, and then became involved with our state DCI, and worked my way through different positions with our DCI, to include working for about three-and-a-half years as the Training Administrator over our law enforcement academy for South Dakota.

And that also at that time allowed me to be the secretary for our law enforcement officer standard training commission, a similar body that you folks have here.

As I progressed in my career, I then ended my career the last ten years as the Director of our state DCI, which allowed me in that position to be the chair of our standards and training commission.

So I have great appreciation for the work that you folks do here, the professionalism that you bring to public safety, and how that corresponds to the public trust that your Montana citizens expect from your public safety officers.

I've done what backgrounding I could in order to prepare for the interview and the position, and have been very well pleased to hear of the staff, and the efforts that have been made, the organization that is here, and the folks that you represent in your different public safety disciplines.

So it's going to be a heavy lift for me, I have a lot to learn. I think a lot of what I know from my career corresponds to this committee, but also I need to learn how specifically I can help serve you here in Montana to carry this forward, and make sure that your citizens, my new citizens from Montana, maintain that trust in our public safety.

So I appreciate the chance just to say hello. I anticipate that after I get through my backgrounding process, I'll be able to spend the last couple weeks of September with Mr. Johnson, and he can pore into me that last couple weeks, and I know that he will only be a phone call away after that. And so thank you for the chance just to just to say hello and introduce myself this morning.

CHAIRMAN SLAUGHTER: Great. Thank you, Bryan. Does anybody on the Council have any questions or anything that they would like to ask Bryan?
UNKNOWN SPEAKER: Who is Mr. Johnson?
CHAIRMAN SLAUGHTER: We all were wondering that.

MR. JOHNSON: I do have one comment. I just want to make sure we've got Bryan Lockerby on the phone, and some of the people that were on that committee. Is it my understanding that only one guy was hired to do what I've been doing all these years? I just need to know if that's the case.

UNKNOWN SPEAKER: So far.
UNKNOWN SPEAKER: We're not sure he needs to be an FTE, though.
MR. GORTMAKER: I like this committee already.
CHAIRMAN SLAUGHTER: There was some discussion about modifying the job description. We took out the joke telling, which is about a quarter of an FTE.
UNKNOWN SPEAKER: You know, there's three types of --
MR. JOHNSON: You know, this is a sad day for the POST Council if the joke telling is gone. That's probably not all I've got to say about that, but the meeting is early, so --

MR. LOCKERBY: No, I've got nothing. I was happy to be able to help support the POST Council with the selection process, and I think it accomplished what we wanted to accomplish collectively. Thank you.

CHAIRMAN SLAUGHTER: Okay. If we don't have any public --
MR. JOHNSON: This is Perry. You know, what I failed to do already this morning was to remind everybody that this will be transcribed, the meeting minutes. Last time we had a Court Reporter in the room, so -- (inaudible) -- she could identify the person that was speaking.

This time we don't have that opportunity. So the microphones in front of you, this is kind of a new phenomenon for us. We're trying to provide a better record, because the official record is the recording of the POST Council meetings.
So the microphone in front of you, if the orange light is on, you're on mute. If you push the button and it turns green, then the recorder can pick you up much better. I would ask also that when you speak that you say, "Hey, this is Conner Smith," or "This is Jim Thomas," if that's your name, of course. And that makes it much better for the transcriptionist. It makes it easier.

In regards to the folks that called in, Jeff Harada is the Chief of Wolf Point; Gavin Rosselle is the Sheriff over in Powell Country. And then Ryan Kamara identified himself as the replacement for Truman Tolson as the training officer for the Missoula Police Department.

MR. KEENE: And Rebecca Potten as well. She is also a training officer.
MR. JOHNSON: Oh, okay. So both of them are training officers for the Missoula Police Department. I think Rebecca Potten is actually going to be the point of the spear for that.
The reason that's important to the Council is we approve a tremendous amount of training for the Missoula Police Department. They're almost like a regional training facility that
1. Is the Western part of the State. So that’s kind of a different relationship over there.

2. The other than that, I think our other administrative body is the Board of Supervisors.

3. Administrative Body in the State of California. We have appointed the Board of Supervisors.

4. And I’m not sure what other administrative body we need to refer to before we go any further. In any event, I just want to outline the Board of Supervisors.

5. And I’m just wondering if you have any comments. I think Mr. Williams is probably the most knowledgeable on the subject of the Board of Supervisors because it’s a separate entity from the Planning Commission.

6. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

7. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

8. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

9. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

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12. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

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14. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

15. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

16. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

17. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

18. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

19. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.

20. Mr. Williams: I don’t have any objection to that. I don’t see that it’s a separate issue. We have never been asked to refer to the Board of Supervisors.
CHAIRMAN SLAUGHTER: So thank you.

We'll conclude that part. Let's take a quick five minute break. Just keep it quick to five minutes.

We'll come back here at about 11:06.

(Recess taken)

CHAIRMAN SLAUGHTER: We're going to get started. If everybody could take their seat again. So we are a little behind, but I think we'll get caught up quick.

But we're on to old business, and the first thing I want to talk about old business is -- really old business -- is Perry Johnson. So as everyone knows, this is Perry Johnson's last POST Council meeting.

For those who don't know, Perry served on the Council for a long time, been in law enforcement since 1965, back when they had real guns, and the pens that you dipped in the ink with a feather. It's been awhile. I know. It's pretty cold.

Perry, you've done a fantastic job.

You've really taken the Council to whole entirely new level in the state of Montana. I was there as a member of the NFPA, and I served on the Council when you were hired. And POST Council was under

your office, this is not a 15 minute meeting. It includes bugs, coffee, and oftentimes lunch, and then back to the office for more conversation. And that's a great thing, and don't ever change that about yourself.

Selfishly I'm super excited that you're going to move up by Fairfield near me, and have horses, so I can come out and harass you. So I'm super happy about that. But you've truly built a relationship with this state, and God bless you.

So as a token of our deep, deep appreciation for you, the members of Council pitched in and we got you a nice little gift here. So stand up, please.

MR. JOHNSON: Would it be possible to put my status in that box. So it would be --

UNKNOWN SPEAKER: You ain't that tall.

MR. JOHNSON: Holy mackerel.

CHAIRMAN SLAUGHTER: So Perry, we all pitched in. The goal was I was going to give you an engraved Penny, but they just don't exist right now. So we got you a politically incorrect -- just like you -- a short barrel AR15 22 with a scope on it. And I know you're going to go out there with your grandkids and hunt gophers.

real tough times, to say the least. I heard in the interview -- I can't remember who said it -- but we came back from the ashes as an organization.

And Perry, you brought us back. You did a phenomenal, phenomenal job. Perry, your integrity has been second to none. Your relationships throughout the state of Montana have been absolutely amazing. You have built relationships, maintained relationships.

But probably one of the things that I love about you the most is you know when it's time to make friends, and you know when it's time to do the right thing. And you've never compromised your integrity for anyone, or any decision that you've ever made. For that you have -- I know you have my deepest appreciation and everyone here.

You have extremely big shoes to fill. I don't envy Bryan whatsoever. You are really a man of honor and a man of integrity, and you've done so many great things for the state of Montana.

And we're just super, super honored by everything that you've done for us. You educate us, you talk to us, you communicate with us.

You know, if Perry Johnson's coming to 23 24

For those that don't know, he's going to raise geldings, and you're going to have to do some gopher eradication in Fairfield, and that's what that's there for, so you can get after it.

And of course, it wouldn't be complete if it didn't have something cool, a cool green laser.

MR. JOHNSON: Oh, man.

CHAIRMAN SLAUGHTER: But it's a short little gun, so it will go in your pickup truck, and bounce around with you in retirement, and kill probably literally thousands of gophers. So just a small token. You deserve a lot more than that, but just a small token of our appreciation for you.

MR. JOHNSON: Well, thank you. This is probably the part where I should just start to cry. Okay. Really. But I'm going to try not to. And you know, the funny thing about this is, boy, you can say all these nice things, but the bottom line is that's what it's been about, and I try to remember that every day.

And I hope that we've also made it about this -- those guys on the phones, those guys that sit next to the walls in our meetings, the guys
that we represent. Man, how lucky are we? Look
at what God trusts us to do.

And you know, how lucky am I that I get
to share a room with you guys. I’ve never been a
spy or even be in law enforcement. In fact, I
tried to aspire to be as -- (inaudible) -- as I
could, and most of the time I was successful, but
my parents met a lot more cops through me than any
of my brothers or my sisters.

You know, that was part of that
difficult growing up thing, you know, but so has
this been. These ashes, you know, maybe it was
tough, you know, because it was. Jesse, you were
there, Tony was there. We all saw that, and who
was one of the biggest complainers? No. And it
came right down to if you are not part of the
solution, you’re part of the problem. But I think
we made a lot of headway.

And I’m really excited about Bryan
because I think if you haven’t identified it,
maybe you should. Those jobs have shelf lives,
and they have a toll, and you guys share it, but
the bottom line is there’s not every Agency
Administrator in the state that can sit with a cup
of coffee, and take you to lunch.

put a lot of side boards, and I got to tell jokes,
and I got to -- (inaudible) -- other people. So
do that. So thank you for the opportunity.

I guess, you know, man, you get hit with
these pats on the back, and there’s all these
wonderful things that get said about you. You
know, let’s make sure we keep it in perspective.

When I come to work every day with -- I
couldn’t have recruited, or I couldn’t have been
blessed with a better staff than what I’ve got. I
bring all the time. People brag to me all the time
about Mary Ann. Let me tell you this, that’s a
going person in any situation. But just today, we
just spent an hour and a half on that material,
and where is -- and we’ve had good attorneys, and
the people that we conflict with have had good
attorneys.

But I’ll tell you what I think we’ve
got in this group. We probably have the best
paralegal in the state when it comes to --
(inaudible) -- when it comes to Administrative
Rules, when it comes to sitting down and marrying
everything in this book, the Administrative Rules,
to the statutes, to the Attorney General opinions,
to whatever, and it is hard. Just even the

In fact, that part about going to lunch,
I spent some time with Rose Cenon yesterday, and
he never did offer lunch. He locked the door
behind me when I left.

But really, you know, we have I think
changed the -- I think we’ve changed the
relationship with our state. And it wasn’t me.
It wasn’t. I piggy backed on every one of you
guys. I did. And I know that you guys know
because it makes a difference.

And I know there’s some qualifications
in. And you know, why should I point at any one
of us, because aren’t we all -- and aren’t we all
ambassadors with what we do every day. Isn’t that
what we do?

This is our flag right here. Look at
us. Because you trust us. And I think in Montana
-- (inaudible) -- some footing. Look at where we
are. Our next Director is so good here he wanted
to come from South Dakota, I made it look so easy.

So boy, I tell you, I sure appreciate
this, and I appreciate what you guys have done for
me, and what you’ve allowed me to do. There’s
probably that maybe the -- for me, and it was a
slow reward, because you let me be, and you didn’t

attorneys -- (inaudible) -- Katrina.

So here I can do all kinds of stuff. I
can fly real fast, and keep flutters in the wind,
but this is the reason why, because you guys
support what we do. And these guys, to be honest
with you, I can’t carry the line. That’s how good
they are, and that’s how lucky I’ve been for the
last few years.

We added an FTE this year, right? So
here’s where we are today, the field is level, but
ages ago when we walked into that office on my
first day there, one other employee, stands on top
of every file cabinet in there of training
applications that were five, six, eight, ten years
old; thousands and thousands of them.

And I don’t know. Tony, how long did --
Leo, how long did it take to get training put into
transcripts? Years. You put that application in
the ditch, and in eight years you might have got
it next year. Today if that application comes in,
you’ll probably get that on your transcript today.

So that’s based on the processes, and
what you’ve allowed us to do, with our data, with
our training applications, and the way that it’s
transmitted. So I got to maybe sometimes be the
point of the spear, and get some bad news --

(inaudible) -- you guys didn't. And Mary Ann did,

and Katrina did.

I guess I'd look at both of these and

say thank you. I look at all of you and say

thanks. Some day I'll introduce you to the real

Perry Johnson. I can drink a beer with you, tell

you some stories, and some of them might be true.

So are you ready to go to work?

CHAIRMAN SLAUGHTER: All right. Now to

the actual old business.

Legislative update. HB28, effective

July 1st of 2021, so it's already passed.

MR. JOHNSON: Are you ready?

CHAIRMAN SLAUGHTER: Yes.

MR. JOHNSON: If you'd allow me, I'm

just going to walk you through these things as

best as we can.

So House Bill 28, we didn't put it in

there, the text of that legislation. That's

something that we've been working on for about the last

eight years, and that was to sever that

relationship in regards to the appeals going from

the POST Council, from you guys. That appeal used

to go to the Board of Crime Control. That was an

artifact from when the POST Council was a

subcommittee of the Board of Crime Control.

And we were successful this time in

getting that passed. So we've looked at that for

years, that legislation, and finally did pass it, as

part of that legislative thing.

The only amendment to it was we asked

for an effective date of July 1st, specifically

for these sort of cases that we covered this

morning, because it costs us more to go to the

Board of Crime Control, and it costs the officer

more to go to the Board of Crime Control.

And now they have the opportunity to

leave this hearing today, or these transactions

with us, and they can appeal to District Court if

they want to, and that's the appropriate place to

be.

House Bill 693, we didn't place that on

there either. That was an extension of the sunset

for the POST Council that passed in 2019, when

they made POST Council an agency under the

Department of Justice, so the Executive Director

became a Bureau Chief, and that's the position

that Bryan will assume when I leave here, and

still be a Bureau Chief, because they extended

that sunset from June 30th of 2021 to June 30th of

2023.

And this is an opportunity for us just

to revisit that, because it is on the agenda, and

at some point you're going to have to identify

whether that's a target.

And a couple years ago we were in a

position where I was your Bureau Chief, and I

testified in front of the Legislature, in front of

the Judiciary Committee, with the Department of

Justice in the room where I told them that it's a

bad idea, and that's still my opinion, and it's

only my opinion.

And the Council I think has got to take

the position at some point where it's something

that they believe strongly or they don't, because

you can't go into it with your gun on half-cooked.

You're going to have lobby to see this return to

an independent agency.

I'll just go on the record to say that

the reason that I believe that it's important to

be an independent agency has nothing with the

Department of Justice. We've been able to conduct

our business the way that we always did with a few

exceptions.

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But in the climate that we're in today,

I think that the liberties that we enjoy as peace

officers in Montana, public safety officers in

Montana, is predicated on that transparency and

that oversight from a board like this, a

commission like this, that's independent of any

outside political oversight. That's what I believe.

So how clear was that to you guys?

Probably as clear as mud. But this is where the

oversight belongs. And if the Governor and the

Attorney General were both in the room, I'd say

the same thing because I believe in it that

strongly.

And I think that the older I get, the

more important this is going to be, because I

think that we've seen the evolution in the life of

my career where, man, law enforcement was very

highly regarded. And I ask this question all over

the state: How is the reputation of law

enforcement in the United States? And I throw it

out there to Basic Academy classes, and

Administrators, and they look at me and say, "It's

not very good."

And I ask them, "Now is the reputation
of law enforcement in Montana," and they look at me and they say, "We think it's pretty good."

It's because of you guys. It's because there's oversight. It's because we beat that drum all the time about what are the grounds for sanctions. What's the Code of Ethics mean, where is the Code of Ethics in regards to the model that you've used for your agency, and what does it mean.

And we just talked about it during the break. You know. Probably the weakest part of our whole system is that consistency from Libby to Alzada, from Darby to Fairview, or wherever you want to put the pin in the map, is there consistency between the agencies, and that's tough.

I asked a sheriff another day about, you know, how does that fit, and I gave him a scenario, and he said, "Well, I think you should -- I think the administrator should make that determination," and it had to do with Code of Ethics and grounds for sanctions.

And my point -- and I'll finish with this point -- is if we allow the agency actions to be the ending spot for the analysis of whether it affects their certificate, we're going to have 175 standards of conduct in Montana, because you're going to have 175 Administrators applying what they believe to be the appropriate sanction to a scenario.

And I believe it belongs to you guys, and I believe it belongs to Jim Thomas, and Tony Harbaugh, and John Strandell, and Matt Saylor.

That's your Case Status Committee.

And I've looked at Administrators all over Montana. I looked at 45 of them, go over them here a couple months ago at an executive leadership institute, and said, "If those guys, when we're sitting in that room with 200 years of experience -- literally. No exaggerations -- can't effectively analyze and apply their years of experience, it's a problem anyhow. We're never going to get our arms around this scenario."

And certainly a Chief, or a Sheriff, or whoever, with twenty years of experience, with Human Resources breathing in one ear, talking to them about a contract, and relationships with their staff in the other ear, can't make those determinations, or we can't if those guys certainly can't.

So I don't know if that opened up any conversation with you, but I did want that on the record before I walked away from you guys, because I think it's something that you've endorsed before, and I hope that you'll continue to endorse, and at least continue to have that conversation. I don't know where it will end up, I don't think it's a topic worthy of conversation. Anything on that?

[No response]

MR. JOHNSON: That will take us to ABM updates. So everybody has a resource guide in front of them, and at this point, I would really appreciate it if we just take a few minutes for everybody to take a look at it. And then you've got a bunch of these. There's three bundles that are paper clipped.

So, if you'll open that book, it says, "Please consider this resource guide as a permanent binder," and then it gives you an index on the very front page.

And so what I'd ask you to do, from now on what we've decided to do, is we're going to take these binders, and we're going to give them to agencies. And when we get to new statutes --
notebook.  
So that notebook that's in your hands  
right now is the most current stuff that we've got  
through -- (inaudible) --  

So Katrina has pointed just out to me --  
as probably the only one in the room that could  
have -- she said, you know, in the last eight  
years we've updated or edited our ANN's five times,  
and she said now because of that statutory change  
for the Board of Crime Control, we have to edit  
23.13.721, because it mentions the Board of Crime  
Control. So now already we have another edit out  
there.  

And we didn't do it because we wanted to  
edit ANN's, we did it because we wanted you guys,  
when you picked them books up, to be able to read  
them and understand them without having your  
County Attorney -- no offense -- or your City  
Attorney or whoever have to interpret them for  
you, and I think we're getting there.  

Okay. So if there's no questions about  
any of that, then I'd go to that safe policing  
executive order. This is that executive order  
that came out late in President Trump's term last  
year, where they put some information out that  

and to have a policy that says you obey the law,"  
right? And still I didn't get a response from  
them, and that's okay. We're not their boss, but  
we can show them the water, we can't make them  
drink it. So I think we were very successful in  
getting compliance in the state of Montana with  
the safe policing act.  

What was really interesting was they  
gave us a deadline of January 31st to get  
everybody to respond to that. The new  
Administration didn't accept those documents that  
indicated that those agencies had done that until  
well into May, so for months that laid in limbo.  

And now they're polling us, and asking  
us -- the feds are -- are asking us about the  
process itself. So I haven't gotten into that. I  
just got that email yesterday from them, and we'll  
discuss with them how it worked, but I think we  
were pretty successful in Montana. Anything on  
that? Anybody on the phone?  

(Mr. Johnson) Well, then, I'd go to  
military deployment discussion. This is something  
that we talked about very briefly during our last  
POST Council meeting, and this has to do with  

said if you don't adopt these policies -- and the  
policies I'm talking about, no chokeholds. You  
can't have them -- and you have to have a policy  
for your agency that said, "We update all local,  
state, and federal laws."  

And then they gave us a template when  
they put that executive order out there, and I  
think that was in November, and they gave us the  
deadline of January 31st to have agencies adopt  
that.  

And the way that Montana did it, the US  
Attorney designated the POST Council as the agency  
that would hold those records, and accept those  
templates back. So we sent the template out.  
Host agencies in Montana, well over 80 percent, I  
think almost 90 percent, responded.  

The ones that didn't respond that  
actually have peace officer status for agencies  
like -- I won't pick out a county -- but there's  
some agencies that have two or three guys, and  
they say, "We don't apply for federal grants, so  
we don't care. We're not going to participate."  

And I said, "Well, it's probably a good  
idea to have it in your wheel house anyhow, not to  
choke people unless it's a deadly force situation,  

National Guard. This has to do with guys that get  
deployed. This has to do with fires, because you  
guys have given up officers -- (inaudible) -- to  
fight fires.  

I had a conversation with Ross yesterday  
about an officer that he supports, that supports  
the National Guard, that's active, that has been  
deployed several times, but the conversation is a  
lot more complicated than what we can anticipate  
to complete in a meeting like this.  

And you'll see there a recommendation  
for the Business Plan and Policy Committee meeting  
to carry this issue. And the reason for that is  
it covers so many things. It covers longevity, it  
covers Basic Academy attendance, and it really  
gets into some statutory discussions, not just  
administrative rule, but it gets into --  

And it does get into a lot of  
Administrative Rule because it affects longevity,  
and in regards to your intermediate certificate,  
your advanced certificate. For you guys  
personally, the Administrators in Montana, it  
affects your rank structure, and how they're  
positioned in regards to time.  

So I would suggest that the more
Chairman.

CHAIRMAN SLAUGHTER: Thank you, Sheriff.

We're running into a little bit of an issue with our HR on this, and the argument is, "Alcohol is legal. Marijuana is now legal. How are you going to deal with it?"

We're kind of holding our ground right now under the fact that it stays in your system a lot longer, from a liability perspective. But I guess, Conner, I'd be kind of interested.

And I think there's going to be some DRE implications that are going to -- we're going to have to figure out some way to wade through those. And I think that one of the biggest issues is how do you carry a gun, drive a car, and have that on board, but you're technically not intoxicated.

And that's been one of the things that we've been trying to say is, you know, it's not like alcohol where we have this formula, or we can calculate per hour how it's out of your system.

So I'm curious what your thought is.

MR. CONNER SMITH: As far as that goes, we haven't broached it too much yet. The main conversations we've been having is we are going to be implementing a drug testing policy, a random drug testing policy, for all uniformed personnel.

And part of that policy is currently planned to be have a zero limit, like Sheriff Dutton was talking about, where you are prohibited from having THC in your system.

So we don't have it yet. I know we're still waiting for approval from the Attorney General's office. Yeah, we pushed forward with that. But my understanding is we still have their support to push forward in that manner with drug testing.

MR. JOHNSON: This is Perry. Maybe I set us up for this a little bit, but I just discussed that that executive, that safe communities executive order -- right -- and everybody, you know, high eighties, 90 percentage of the agencies in Montana adopted a policy that said, "I will obey and enforce all local, state, and federal laws."

So in your blue book there, on Page 6 of Tab 3 at the top where it says Subsection (f), there's a point that -- there's an Administrative Rule under the Code of Ethics that says, "I will not engage in, nor will I condone, any acts of..."
corruption, bribery, or criminal activity." Page 6, Tab 3. Subsection (f) way at the top. "And will disclose to the appropriate authorities all such acts."

And currently under federal laws that we've all got a policy for now, I think everybody in this room does, not only will you not condone it, but the Code of Ethics says, "I will report it to the appropriate authorities." So who would that be? It's against the federal law now, right? The feds still have that.

And my understanding is there's a move afoot for them to legalize marijuana, but currently it's still illegal.

And I've got experience or had experience with federal prosecutors. In fact, I've got a daughter that's a US attorney. And if I walked in, and threw a bag of dope on her desk, she'd say, "Well, you might as well take that out, because we're not going to prosecute it anyhow," but bottom line it's still illegal.

So I think it is a POST issue. And I think at some point -- I don't know how we're going to skin that cat. I don't. But I think that the line is very clear, and there is no acceptable limit. Even if there was a way to discern what it was, and how quickly it came out of your system, I think it still impairs officers.

MR. LEWIS SMITH: This is Lewis. As I still there?

MR. JOHNSON: Yes.

MR. LEWIS: My recommendation, from looking at this, is that probably the more you keep tying it to the same way you treat alcohol the better off you'll be, as far as the no tolerance. I agree with the no tolerance, but you need anything that will impair an officer is going to be treated the same way. If you've got it on board when you come on shift, you're in trouble.

MR. OSHER: This is Ryan. I think we do have that issue about how long it stays in your system and whether you're impaired, or whatever, and that is a separate issue that complicates this. Our personnel policy is we have written in there you can't use it, period. We'll see how long that lasts.

It is federally illegal. I agree with that. I think it is a bright line for POST. You can't violate a federal law, right? So I'm comfortable with POST diving into it.

And nobody is talking about whether or not we ought to let COL truck drivers start smoking dope. Everybody seems to think that's a bad idea. So if you can't drive a truck, why would we ever say that we want cops smoking dope on their days off.

CHAIRMAN SLAUGHTER: Ryan, I think that's a good point. I think, I guess my take on it is as of now, I think we're on solid ground.

And Wyatt, I would defer to you if you thought different. But I think we're on solid ground now. I think where we're going to get really murky is when it becomes federally legal.

I think at that point in time, we're starting to get into basically like what alcohol was during prohibition. And it's going to be tougher -- I'm not saying it can't be done -- but I think it's something that this Council should be proactive in, and use good anticipatory leadership.

But I do think there may become a time when we have to draw a line and say, "Okay. Once all the laws get to this certain point, we're going to have to get creative on how we're going to deal with that."

And I would actually be really, really interested, if the Council would indulge us, in getting some type of scientific information, whether it's someone from the lab or something, to come in and talk to us about stuff. Maybe someone in Colorado or Washington, because we know they're dealing with it from the COL factor and from a driving under the influence factor.

And I guess as a Council, I'd be really interested to see what we're looking at in the future as we move forward.

MR. CONNER SMITH: This is Conner again. With that, for our next meeting I could easily bring in Doug Samelson, the coordinator for the state. He's as well read on this topic as anybody. He could testify, or give us, answer any questions that we have on his ideas on how to enforce that.

I think ultimately -- I agree with you -- if the federal law does change, I think it's going to come onto the agencies to just do more the COL side and be very vigilant, to make sure none of our officers are impaired, just like we do alcohol now. I mean it still happens when people come to work, and they're still a little tipsy.
from the night before, and we recognize those -- or hopefully we do.

I think ultimately we're going to end up going that same route. But he could fill us in at least on any questions we may have on that side. He could also talk about any issues that are going on in Washington, Colorado, the states that have had this, because he's in touch with those guys daily.

Mr. Glade: Mr. Chair. This is Wyatt Glade. I would agree with your approach, Mr. Chair. That I think we've all seen the tide of what is the marijuana movement. We've resisted it for years here in Montana, and like it or not, it's here, and I think it's going to continue to gain momentum.

And I think for POST to effectively serve the law enforcement officers in this state, do exactly what's been discussed here, which would be to try to find some way to protect our departments from liability, by giving them the tools to say when their officers come on shift, they are not under the influence of alcohol or marijuana.

Because as everybody has identified, the detection methods and the detection time frames are different. Alcohol can be in and out of your system very quickly. Marijuana in one form or another is in your system quite a bit longer.

We struggle even with marijuana DUI's.

I mean we have a five nanogram level that's been accepted, and tested, and seems to stick in court, but I don't know that if I were a Sheriff or city Police Chief that I would be able to say, when an officer comes on shift after having used marijuana two days before, that that's going to be out of his system, that I could say this person is safe to operate a police vehicle, or serve as a law enforcement officer.

I think what we need to do to help our departments is to be proactive in that regard, and find some way -- I don't know the way -- but find some way for them to be able to say that, because if we have an officer-involved accident, we draw blood, and we've got THC metabolite -- which those of us in the business know that's not really THC that would cause you be under the influence, but it's still THC in a blood test, and there you are liable. I wouldn't want to be in that position. Those are my thoughts.

CHAIRMAN SLAUGHTER: Thank you, Wyatt.

Great point. The other thing I think that this Council needs to look at --

Mr. Satler: Chairman Slaughter, this is Matt. I just have one other thing I wanted to share. I've mentioned it before, but -- (inaudible) -- a couple years ago, they had an issue where a New York City police officer used marijuana in Vegas on vacation, and they tried to terminate him over it.

Again, I don't know if it was arbitration or District Court, but they ruled he had not violated any law because it was legal in that state, in that jurisdiction, it was not enforced by the federal law at that point in that jurisdiction, so they found him not guilty and reinstated him, and won his back pay.

So that's just something that we're going to have to consider as well, because somebody will test it.

CHAIRMAN SLAUGHTER: Thank you, Matt. That's a really good point. And I think that's the thing that this Council needs to look at, is we need to look at what Washington is dealing with, Vegas, Colorado, California, all these states that have had it, and probably research some case law, particularly those in Oregon, Washington, and California because they fall under the Ninth Circuit, so we're going to be susceptible to them in appellate. And I think we need to look at that, and be proactive in our decisions about where we're going.

The other thing that comes into play is hair samples. That's another thing that we could talk about, too, is if you could detect it in someone's hair. I can't remember. It's something up three months, unless you're follicly challenged like myself, then it's different.

But I think those are some things that we need to establish as the Council to look forward for tools to give recommendations to help people along the way, because you could have nothing in your system, and then maybe somebody makes an allegation, and the person's hair is tested, and therefore they've proven they have, and during that time frame they were employed.

So I think there's a lot more to it. And I'm going to turn it over to Sheriff Dutton.

Mr. Oster.

Mr. Oster: Mr. Chair, is there a
MR. JOHNSON: This is Perry. I don't know about the legislative solution, but just considering what this discussion has been, I think that I would suggest that we would really take a closer look at providing a standard of conduct that Lewis Smith just pointed out to us, that any observable or discernible level of impairment would be a violation of an Administrative Rule and grounds for sanction.

And I guess I'd go there because I've got a subject matter expert sitting next to me here that has a tremendous relationship with the legislative analysts that work on the Administrative Rules, and I think that we're the ones at this point that could probably provide that degree, or that level of something that a Chief or Sheriff could look at and say, "You can't do it."

And then we could look at that, and based on a discernible -- we walking in this morning with a hangover, and I'm working for Conner, and he looks at me and he goes, "When did you quit drinking?" "Never," or whatever the answer is.

But the bottom line is I've seen that in my career. I've had guys give guys a ride home because they came to work -- maybe they weren't a one five, but they were probably still a one. And so they went home.

And the same is true. There are some signs of impairment for marijuana. You know, you walk in, and you eat Cheezitos, or whatever.

(Inaudible)

MR. JOHNSON: So I think I would suggest that maybe we take that to that Business Plan Committee, and again -- but I think it could even -- I think we could look at providing that, rather than two or three years down the road, before it really gets to be an issue. I think we could provide that substantive buffer between now and then. And maybe it would be something that the Legislature would even consider then as they have that conversation.

CHAIRMAN SLAUGHTER: I think there's also something that we should talk about that could create an issue for us.

So HB256, which is the federal gun ban law, which says no local law enforcement officer will enforce a federal gun ban. That's a local legislative decision, based on our laws versus federal laws.

And there isn't a penalty provision in that yet, but I think the other thing that we should really have a conversation about why this is so opening Pandora's box, is are we going to start picking and choosing which federal laws we're going to enforce and which federal laws we're not?

Granted we're covered by the Legislature in 256. They covered us. So we're good there. I think those are also the complexities of the conversation that are going to come up.

And obviously as Matt just said so articulately on the phone, it doesn't sound like the Courts particular -- whatever circuit Vegas is in or New York. I don't know which one that will fall into -- the Courts aren't going to back us up on that, and that's something we really need to --

And maybe it just comes down to, at the end of the day when we can go around this conversation, it comes down to visible impairment.

And then you have to deal the -- as Matt said -- the unknown, what is THC I mean in somebody's system, and that's pretty subjective.

MR. DUTTON: Mr. Chair, this is Leo. I think also I would rather beat the civil litigation, because that's where it would come from, in other words that we will have an officer involved incident, shooting, something where we took the liberty of another, and the shooting will be justified, but there will be questions whether the officer was impaired because either, "A," you took a blood sample, and there was something in there; or you took a blood sample and the hospital lost it; or "C," you didn't take a blood sample at all, which gives rise to the argument you are hiding something. Sense where does that level of impairment from marijuana come from?

And I would like us to be engaged in this conversation from the experts about at what point do you -- much like we made, we went to the scientific data of how it impairs for driving under the influence of alcohol?

I think if you talk to the medical community, they can offer an opinion of how it slows synapses, at what point, what level. Is it decimeters you just said?

UNKNOWN SPEAKER: Nanograms.

MR. DUTTON: And nanograms, something
small enough that I can understand. So at what point nanograms does it show that you've reached the glue loop of seeing, orienting, deciding, can't push on the brake in time and you crash, and some of those are the scientific responses of where we came from .08 or things like that.

It's interesting to look at the federal level, that for aviation, commercial is .04, so if you're over a .04 for flying or for commercial truck driving you're impaired.

We have nothing to do, other than the standard of field sobriety test, to say, "You're impaired. You can't find your nose, and seem to have missed your behind." So they're the things that we have, and that's it.

But we're going to get it handed to us in civil court, I think, because they will assert that, "You allowed those kind of things, and that those decisions created the death of my client."

Back on mute.

CHAIRMAN SLAUGHTER: That's a great point, Sheriff. And the other thing we might want to look at from a legislative fix is maybe something that is a liability shield.

For example, Senator Fitzpatrick had

liability protection based on COVID passed early on, if you guys remember in the session. I think it was like SB61 that said you're not -- businesses who are open are not civilly liable if you get sick. There was a bill to that affect.

And maybe the remedy on this is at a certain nanogram or something like that, there can't be a civil penalty upon a government entity or something to that effect, so that you embrace the individual freedoms of something that's legal, but then you also don't leave the door wide open to litigation all over the place.

I don't even know if that's possible, but I think not only looking at it from "shall do, shall not do" -- and Wyatt, I hope you're going to interject -- we would look at some type of like civil liability protection because of its subjectiveness to staying in your system for so long.

MR. GLADE: This is Wyatt Glade. I think we've already said this maybe in a more general fashion.

But I would suggest that POST either appoint a subcommittee or direct a member -- not me -- to reach out to perhaps the equivalent of DOJ in Colorado and Washington, because they have to have a workable policy for the law enforcement agencies to determine whether their officers are under the influence at the beginning of their shift.

Like the nanogram level we've been talking about comes from a blood test. That's not going to be a real time kind of a decision. That would be something more like a BRI, or somebody --

I don't know. I think that's probably unreasonable to ask somebody to undergo a BRI every time they come on shift. But there has to be a working litmus test or rules that these agencies are using, and I think the sooner we could promulgate some best practices or suggestions to local agencies that they could start using, then I think that would be our role here.

MR. THOMAS: Jim Thomas. I agree with Wyatt, or whoever brought it up. We don't need to reinvent the wheel here. I'm certain Colorado or whoever else has covered this issue. If we can get with them, and someone should do that like Wyatt -- I don't want to be that person.

But on that, but on another thing, you mentioned which federal laws are we going to enforce, which ones are we going to ignore. Well, what the Counselor talked about supremacy clause in the US Constitution. I don't think we really have a choice. It's not a our decision to make. It's already been made. So anyway, that's my two cents.

MR. CONNER SMITH: This is Conner again. So I think the easiest thing to do, we have an expert for the state, that's Doug Samuelson. He works for me. I could have him reach out and do research on what Colorado, Washington, any other states that are having this issue, what are they doing.

Like I said, he's in touch with these guys all the time -- the guy is very smart with this stuff -- and have him come to our next POST meeting, if we can set aside some time, where we could all actually have a discussion with him. If that makes sense to everybody here, we can do that.

CHAIRMAN SLAUGHTER: Yes, Conner. Are you volunteering to --

MR. CONNER SMITH: I'm volunteering to have Doug here.
CHAIRMAN SLAUGHTER: Are you volunteering to chair the marijuana subcommittee for the POST Council?

MR. CONNER SMITH: Yes.

CHAIRMAN SLAUGHTER: Okay. Thank you. And because you volunteered to chair it, I will sit on that committee with you because I threw you right under the bus.

MR. CONNER SMITH: Luckily I can throw him under the bus.

CHAIRMAN SLAUGHTER: Sheriff.

MR. DUTTON: I will volunteer as well. I can just send a text to two sheriffs, one in Washington and one in Colorado, and ask them if they have any policies, if they would get them to me, and we can -- (inaudible) --

CHAIRMAN SLAUGHTER: I think that would be fantastic, and I think you as the Western States Sheriffs President, it could be something you could pass on to everybody, and be a good point of contact.

Does the Council have any questions about that, or is everyone good with that?

MR. JOHNSON: This is Barry. I would suggest, too, that while we're doing all of that, that Katrina just pointed out to me that there's probably a tremendous body of law that she's got the ability to take a look at that stuff, and interact with that committee as well.

And I don't intend to throw anybody under the bus, but as long as we've got the opportunity to discuss this with like a neighboring state, South Dakota, maybe they've already looked at it. Perhaps we could reach out to someone from there during this conversation today to see.

Have you guys skinned that cat at all, Bryan?

MR. GORHAMER: Our law just came into effect in July, so this is an emerging issue, and I'm confident I could go grab some new policy to compare.

MR. JOHNSON: I would suggest that your new Bureau Chief probably join this committee as well. And we've got time, you know, because I don't think our next meeting is until December anyhow, so I think that could probably be well fleshed out, especially with Jim and Wyatt on that committee and stuff.

UNKNOWN SPEAKER: Is there another Jim?

CHAIRMAN SLAUGHTER: Did they pass recreational marijuana in South Dakota?

UNKNOWN SPEAKER: Medical?

CHAIRMAN SLAUGHTER: Recreational.

UNKNOWN SPEAKER: The recreational is under appeal in the Court process right now.

CHAIRMAN SLAUGHTER: Okay. The AG has challenged the law in South Dakota; is that correct?

UNKNOWN SPEAKER: That is correct.

CHAIRMAN SLAUGHTER: I think as this subcommittee branches out, too, I think a really wise thing -- and Katrina could probably help us head this up -- but we should also get the Legislature involved, and/or members of the Legislature involved in the conversation, so we understand what their politics would be.

MR. SAYLER: This is Matt. I don't necessarily need another committee, but I'd like to know what's going on, just because I think, as a non-administrative representative, it's going to affect people I represent more than anybody else.

MR. JOHNSON: So Matt, did you just ask to be on that committee?

MR. SAYLER: I can if I need to. I was just saying I think that probably the people I represent are going to be one of the most affected by this, so I mean I'm willing to. But otherwise I'd like just to at least know what's going on and have input.

MR. JOHNSON: Well, okay. When we fire that up, Conner, why don't you get with me, and I'll try to help you hard some cats together.

MR. CONNER SMITH: Right now I think we'll be in the research phase, so we can get all the research together and have a discussion at the next meeting with that research, and educate everybody on it, and then go from there. That's kind of what I'm thinking right now.

MR. JOHNSON: I think that's a good idea. We always have these intangible, you know, whatever research. I would suggest that we come back together as a committee no later than October 2nd. I'm sorry. I'm sorry. No earlier than October 2nd.

CHAIRMAN SLAUGHTER: Sounds good. Can we move on?

MR. JOHNSON: Yes.

CHAIRMAN SLAUGHTER: All right. Attorney General's opinion latter.
MR. JOHNSON: This is Perry again. This is just included in your meeting materials, and this is the letter that Jesse provided to the Attorney General asking for a clarification on the definition of the felony, and how that affects our certification process. It's an information piece. And if there's discussion, then this is your opportunity.

CHAIRMAN SLAUGHTER: Sheriff.

MR. BOWTER: This was originally before my agency many times. The idea that someone was convicted 20 years ago of a felony, then has it expunged, has 20 years of good service, good behavior, has served in many different ways, showed behavior, all of these kind of things, but the fact remains they had a felony, which made them ineligible.

So that's why I was -- maybe more of a basic human interest need to say is there any recourse for correcting someone's behavior, otherwise I'd say unforgivable sin. And I know a felony is a felony, but that's something that we can address. Thank you.

CHAIRMAN SLAUGHTER: This is Jesse Slaughter. Sheriff, I share the same concern you do. I'll be honest with you. In writing this I'm neutral on it. I really do want the Attorney General to weigh in on an opinion on it. I see it both ways. And the way the law is written it says, "A crime that requires imprisonment," and that's pretty much how it goes. And there's not a lot to that as far as that goes, and that worked.

But I'll be honest with you. When I wrote it, my perspective was very neutral, as in, "What is your opinion?" because -- and Perry was right. When we decided to write it, it leaves us kind of out in the breeze a little bit. I mean technically it doesn't, but it's something that needs to be answered and codified.

MR. JOHNSON: This is Perry. We had this conversation during our last meeting, and Bryan Gootkin eloquently presented as -- "I know a man" that did what you just talked about, Leo.

And I guess I come back to this. I guess I've never signed a certificate for somebody that was a felon, and to be honest with you, I never will, regardless of what the Attorney General says, and here's why.

I worked cases for years and years, and

I arrested burglary, and they get charged and convicted of a burglary, but they did dozens of them. So when somebody says, "I had one conviction for burglary," or "I had one conviction for felony theft," or aggravated assault, "and man, I've done so good since," I struggle with --

It's kind of like those guys that get one DUI. They had 200 of them, and they got caught once. And so they get a pass on 199 of them, 30 burglaries, or ten ag assaults, or whatever, and they get a bunch of misdemeanor DOC's, or disorderly conducts.

And so maybe there is a guy out that did one burglary, and he just wasn't lucky. I don't know. But I think there's a standard of conduct that at some point that guy demonstrated to me that I don't want him in my house on the worst day of my life, regardless of how well he did for the last twenty years.

And so I think -- I'm really glad that we have the opportunity to hear from the Attorney General, but I just don't think it's as easy as, "Oh, it's one felony, and it went away."

UNKNOWN WOMAN SPEAKER: I think if they would lose their certificate for having done the behavior when they were hired as a Police Officer, that if they were to lose the certificate for that, then why wouldn't they have the same consequence of not being allowed to be a Police Officer in the first place.

MR. JOHNSON: This is Perry again. I think that is the way that we've applied it so far. But I think it was the position of the Council that you did want to go and have the Attorney General define it, and to give us more of a standard answer.

CHAIRMAN SLAUGHTER: Jim.

MR. THOMAS: Before we go on on this, thanks for sending this because I don't know how many people know it. I know Lee does. I serve as the POST representative for the Department of Labor board on private security.

This is an issue we deal with all the time on people applying to be a private security guards and stuff. "I've had this expunged, and was taken off and stuff." So I'm glad we have that.

I mean we have some other language on rehabilitation, and what we can and can't do if the person has been rehabilitated, but this will
help us a lot on that point.

CHAIRMAN SLAUGHTER: Absolutely. Okay.

Are we good on that issue? Can we move on? Okay.

Let's go to new business, and the first order of business is PEC Basic course content discussion. It's on Page 145, and Tim is here, but I'll turn it over to Perry to kind of start this conversation.

MR. JOHNSON: This is Perry again. I want to thank Tim Martindale for coming to the meeting and listening to everything. I know that you're busy, but we appreciate you being here.

I think that the conversation that Tim -- Well, I would defer to Tim to bring this to the Council, and then there's some comments that I would follow up with.

MR. MARTINDALE: Absolutely.

CHAIRMAN SLAUGHTER: Good afternoon.

MR. MARTINDALE: So I sent an email. I don't remember the exact date, but it was awhile ago.

CHAIRMAN SLAUGHTER: Tim, you could state your full name for the record, please.

MR. MARTINDALE: Tim Martindale, Gallatin County 911 Director.

I came across an issue early on when I started with Gallatin County 911, and we did some asking around at that point, and kind of went to bed with COVID, and the lack of -- (inaudible) -- training due to things being shut down, and then it cropped back up again about a month or so ago.

The issue is currently we purchase and use Priority Dispatch's protocols for emergency medical dispatch, as well as emergency fire dispatch, and we send our staff through a week of training for both, in-house or we send them out to a certified class.

We also send our staff to the Academy to be certified through the State of Montana. And my understanding is that first week -- I believe it's about a week -- is training and certification with King County's criteria based dispatch.

And so one of the issues that we run into is, number one, we're certifying our staff in protocols that we use, and then telling them to forget that first week of training when they go to the Academy because it's not protocols that we use.

The second is the amount of classes that are offered versus the amount of staff that we're hiring. We're running into the issue that by the time we're able to send our staff to the Academy to be certified, they have been already signed off in training, and they are working on the floor as a dispatcher, which means when I send them to two weeks of training that I have to find two weeks of coverage for those staff.

We also looked at the financial aspect of it. I just did some quick numbers, and making some assumptions on who's going to cover their overtime. But for that extra week of training for us, for the seven trainees that we currently have in training in Gallatin County, we'd be spending, just for that extra week, between $10,000 and $22,000.

We do have nine vacant positions, so if we included that in our numbers, we're looking at about $50,000 extra that we're spending for that extra week of class.

As I said in my email to Sheriff Slaughter, I'm an advocate of mandatory certification. I did come from Washington state where we didn't have mandatory certification. I worked for quite a few years on a committee trying to get that to happen in the state of Washington.

That work is still being done.

So I want to remain a partner with the state of Montana. I believe in certification, but I do believe this is a little bit of a road block and an issue for us.

I did reach out to other 911 centers as well. I do know there are several in the state that use Priority Dispatch, and they're under the same opinion as I am, that it's rough to send people away for two weeks when one of those weeks for them they're telling their staff to forget when they come back.

And there are others that use King County CED, that's customized to their center, and they're saying the same thing.

So I don't feel like I'm alone in this. I don't want to move away from certification in Gallatin County. My suggestion would be that if a 911 center doesn't have training that they need their staff through for emergency medical dispatch that, yes, that would be a requirement; but if they do have a certified protocol vendor that they send their staff through, that a certificate from that vendor would meet the needs of that week of training.
MR. JOHNSON: Thanks, Tim. I didn’t realize what a trouble maker you were.

MR. MARTINDALE: I try to be.

MR. JOHNSON: Hey, I want to make sure that I set the record straight. It’s an 80 hour curriculum for public safety communications, and 24 hours of one of those weeks -- three days -- is emergency medical dispatch. So I wanted to get that in the record.

But I also want to reach out to Kimberly Burdick -- I hope that she’s still on the telephone -- because she and I had a conversation about this as well. Kimberly is the 911 manager for Chouteau County up in Fort Benton. So Kimberly, are you there?

MS. BURDICK: Yes, I am.

MR. JOHNSON: Okay. Go ahead.

MS. BURDICK: Did you want me to talk pretty much in response to what Tim talked about, or what we spoke about, or both?

MR. JOHNSON: Yes. I think they’re both part and parcel. I think that you had some creative ideas, and I think that the Council would probably like to hear them.

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one agency, and so we decided to move ahead in that regard.

So fast forward, after talking with Tim and everything, and three or four years later, I do believe that there is definitely some attempt to go in and revisit how it is configured right now for the Academy.

So some of the things, when I’m speaking with Perry in particular, what we had talked about was perhaps eliminating the 24 hour EMD training from the Basic Academy, and shorten the Basic class to 56 hours. So that’s just an option. I’m not necessarily in favor of that, but I mean it’s something that I believe that could be open for discussion.

Another discussion point was eliminating the 24 hour EMD training from the Basic Academy curriculum, and add other hours. So if let’s say for instance Gallatin County did want to send their people for that 24 hours, maybe it would be substituted with something that pertains more to fire dispatch.

So that is something that Tim and I discussed is maybe more of an emphasis, but do as well that fire and everything in the state. I don’t think that’s a bad idea.

So another item was to provide for 24 hour EMD be offered in an online component. I think that’s a very positive direction to go.

And when I’m talking with Perry I said what was very exciting to me in the last Council meeting was the presentation that we sat through for the Detention Officer office and the online training that they were going through, and I said I really do think that it’s time to move in that direction.

I mean if we have those kinds of options available to us, if we could do something like that online, why wouldn’t we move in that direction. And of course, I know that sounds pretty simplistic. Obviously somebody is going to have to develop that, and somebody is going to have to deliver that, but again, it’s another option.

And so anyways, as far as EMD is concerned, yeah, I do think that there are some options that we could address. I think that we could sit down. I know we’ve already got a work group out there for the Academy curriculum for the PSC Basic, and I don’t think it would be a bad
thing to sit down and maybe have some more discussions about that.

So one of the options, too, when we were talking, when I was talking with Tim and with Perry, was that, let's say that Gallatin County, they have their Priority Dispatch and 24 hours of END.

So one of the ways that they could, I guess, be recognized, and they would not have to attend those 24 hours, is they could just deliver their certificates, so their certificates that they have completed the class, and then that would take the place of the 24 hours that is in the Academy that second week or first week right now.

So anyway, that's a lot of what we talked about as far as the END portion. I guess overall I guess what I'm trying to say is the conversations have started, like I said three or four years later. I don't think it's a bad idea to perhaps revisit and maybe fine tune what we're doing right now with END.

I think that we've really met a lot of the goal of putting END in the curriculum. Last I heard I think there's maybe 40, 44 percent of agencies I think had END in their agencies now.

delivering CPR. So I do believe that we would still be meeting the expectations from the citizens as far as a medical component for END or PCPR.

So anyways, I think that was a real big part of it. The other thing that Tim had mentioned was having perhaps an equivalency course, a lateral transfer I guess from other agencies. So we already have that with Detention Officer Basic, we have that with Law Enforcement Basic, so why couldn't we have something like that with Telecommunicator Basic as well, a PFC Basic class.

So that is something else that me and Perry had talked about, and that's something that could be delivered online as well.

So anyways, so I think, overall I think it really does — there could be an awful lot of really good positive changes for the Basic program.

That would definitely meet the needs of the agencies across the state, because as we all know, everybody is facing staffing challenges, and dispatch certainly — as Tim was explaining — he's already down nine people, and you'll see that pretty much pervasive across Montana.

And don't quote me on that at all, but it seems like that's what I heard from -- or I was told by Perry -- (inaudible) -- for the END bureau.

But anyways, I think that is very positive, and I really do think that perhaps at this point in time that we're kind of saturated to a point to where we would not have -- we're probably not going to have a whole lot more agencies are going to hop on the END bandwagon.

In other words, if they are not on END, if they have not adopted a program yet, they more than likely are not going to do that.

And then another part of that — sorry. I hope this isn't really, really confusing. So we just got done passing the TCPR training requirement in the ARM's, so that is a training requirement, of course, that is telecommunicator CPR. That is a requirement.

So I do believe that if agencies are not going to be adopting END, and if it happens that we're not going to be offering that to all the students in the PFC Basic, there is still that training requirement for CPR, which of course when anybody hears CPR, that's the first thing they think about is, you know, heart attacks, and

Chairman Slaughter: Thank you, Jim, did you have a comment?

Mr. Thomas: Just briefly. I want to make sure we don't set a precedent here of replacing training because they already do a different type of training. As an example, use Highway Patrol at the Academy. I think they still do it. They teach PTCT for defensive tactics, which Highway Patrol is come in and says, "No, we don't do that, we do arm." I think the -- (inaudible) --

Unknown Speaker: Yep.

Mr. Thomas: Same out on the range. The number of times that I heard on the first day from a recruit, "That's not the way we do firearms back at my agency." I mean there are dead bodies out there on the firearms range that are buried out there because we got tired of hearing that. So that was supposed to be funny.

Anyway, I just want to make sure there's
not a precedent that because, "We already teach
that," or "We teach it a different way. This is a
waste of our time," quite unquote, that we don't
set a precedent that Conner doesn't show up the
next year and say, "Hey, we're not going to send
our people to firearms week, and we're not going
to send our people to defensive tactics week," and
whatever other things, "because we do it
differently." I'll just throw that out.

CHAIRMAN SLAUGHTER: Thanks, Jim, and I
agree with that. Kimberly, can I ask you a
question on that?

MS. BURDICE: I'm sorry. I don't know
that was, who was just speaking. This is
Kimberly. I don't know who was just speaking.

CHAIRMAN SLAUGHTER: Kimberly, it's
Jesse. I had a question right back to you on
that, because Jim makes a good point.

MS. BURDICE: Sure.

CHAIRMAN SLAUGHTER: I don't understand
this. I want to make sure I understand this. You
kind of alluded to this, but is EMD on its way
out?

MS. BURDICE: No. That's the question,
is how do we want to address it. Should it be

Question, because I'd like to really talk to the
individual that was talking to begin with after I
got done talking as well.

MS. KENDE: That was Jim.

CHAIRMAN SLAUGHTER: Sheriff Dutton.

MR. DUTTON: Mr. Chair. A question for
you, sir. Is this going to affect affordability?
Meaning that if someone gets certified with your
agency, if they for some reason can't afford a
house there any more, and decide to move to my
agency. So this something with this -- now it's a
non standard certification. Will this affect the
employment? Thank you, Mr. Chair.

MR. MARTINHALD: I wouldn't know
legally. I think it would depend on if your
agency provides EMD instructions from your 911
center.

The way I look at this, and the way I
keep hearing -- and Kimberly and I have talked,
and Perry and I have talked a little bit about it
-- it seems like the intention why was initially
attached to certification was to get those
agencies that don't have an EMD program, to at
least give them something.

And so I think Kimberly alluded to that

out? Should it stay where it is?

So this is just based on Jim's concerns
for his agency, and I can talk more about all of
that as well. But it is not on its way out at
all. I myself anyways, I am still very much
concerned that we still have EMD in our 911
agencies. I think that's very important.

But there is no requirement in Montana.
It is all voluntary. And even though they do go
through it in the Academy, it's all voluntary. So
even they do go through the Academy 24 hours
class, this doesn't mean that they have to adopt
an EMD program when they go back to their
agencies.

So it's not gone by any means, and I
never want to see EMD gone. In fact I've been
pretty vocal about the fact that I would like to
see it mandated in Montana, but that's a whole
another conversation, and I usually don't get good
reviews whenever I say that either.

But no, it's not. It's not on its way
out. At least I don't want to see it on its way
out. I'd love to keep it in the Academy in some
capacity.

I don't know if that answers your

Earlier. And for us, like I said -- for us, for
Missoula, for Billings. I believe Helena just
came on board with a new EMD program -- we have
nationally, in our case internationally recognized
protocols that I don't think would fall into that
category.

I wasn't here when that was installed
three years ago, four years ago, but I don't want
to get caught in the trap of a technicality,
without realizing the initial intention.

But to answer your question, I'm not 100
percent for sure. I think a simple solution to
this is to break it out into a separate class, so
that then if that person were to transfer from my
agency to your agency, their certification would
have a little asterisk next to that certified
they take that class as opposed to a two week
course.

MR. JOHNSON: This is Perry. Just a
couple of things. Just in regards to EMD, what
Tim has told us is that it's the King County model
of Emergency Medical Dispatch that they're getting
24 hours at the Academy now as part of that 90
hour curriculum.

But he also told us through his
correspondence that they use Priority Dispatch. That's kind of a vendor, the same as King County. Priority Dispatch are the same thing. It just looks different, but the delivery is similar. So they'll give you CPR over the phone. So will King County. So will Power Phone.

And so when Tim said that he has talked to other agencies about this, so have I, and the feeling is when they walk away from this training, and they go back to Gallatin County, Gallatin County has to look at those staff members and say, "Forget that. Don't do it," and that endangers the people that they're providing service for, because they just received instruction on something that is counter to what they actually deliver.

And we've looked at a lot of things here. The one thing that we want to make sure that we've already made a role about is that each agency must provide telephone CPR, and there's specific categories that they must provide, and we've also identified vendors that will provide that training online to no cost to any agency in Montana.

So we have covered that with every PSAP and we do it with Detention Officer Basic, and I think there's a potential for that.
application, then I think that in addition to those 56 hours that they put on their transcript, those additional 24 hours can be placed on there as additional training. So there's a benefit to the agency.

Then the other one I think that Kimberly pointed out would be to eliminate those 24 hours, and backfill that with fire dispatch or other topics.

I think today, though, we want to try to resolve this EMD issue. I think the other thing that I really want to make sure that we acknowledge this. Tim points out in his letter that, "Billings doesn't go, and I'm thinking about doing the same thing." I'm not your risk management, and I want to make --

UNKNOWN SPEAKER: There's a lot of noise.

UNKNOWN SPEAKER: Somebody has got paper rattling.

MR. JOHNSON: Thanks for telling us that. We're too close to the microphones then.

Okay.

So I think that we need to acknowledge Billings does not attend NLEA, and I started to

and allow the agencies to do what they did before we had EMD, and that's to have Priority Dispatch, that's to have Power Phrase, that's to have the King County model, that's to have whatever model they want.

But keep in mind. You heard Kimberly already say to this Council today. There's some agencies even, after this period of time, even after training their officers in EMD, they go home, and they don't have EMD, and that's after three or four years of having the opportunity to taste the water and still not buy it. So they're getting training that they're not using anyhow.

Kimberly has kind of alluded to, and I believe this, they're probably not going to. So what's the benefit? And I guess I'm kind of of the opinion that at this point today, I'd like to see a decision come out of this Council, either take this back to Curriculum Committee to discuss it further -- and Kimberly already talked to you that there is a group that came up with this curriculum -- or to take an action today that relieves the responsibility, and eliminates that conversation about EMD, and puts it back on the agency.

say to you, Tim, I'm not your dad, I don't manage your risk, but that's a statutory requirement.

And Billings, I want to add with Billings, and the bottom line was I really would like to see some relationship between their officers and the POST Council, because it's very specific. In order to be a Public Safety Communicator in Montana, you have to be POST certified, and they are not.

So I want to see if there's some way to remedy that. Billings has I think 31 chairs for their dispatchers, and they are usually at -- they fill about 21 of them. They usually have ten openings all the time, and their attrition rate from date of hire through year one is 60 percent. So if they hired ten today, a year from now they'd have two. At the end of three years, they wouldn't have two. They are constantly rotating those seats.

So that training hit, what Tim just talked about, is incredible to everyone in Montana.

So I think what you have to do is consider what your options are, and I think -- I'll just break them out again -- eliminate EMD
on state wide certification, so I've always felt
like I've made those arguments like you're making,
and now I'm making it from an agency perspective.

But if you look at the EMD protocol --
so this is just how I make that equivalent -- the
training we do with Dallatin County and Priority
Dispatch, and the training that the Academy does
with King County Criteria Based Dispatch, is
really training on the protocols. So if they
don't have those protocols when they get back to
their agencies, it's really worthless at this
point.

So to equilibrate that to what you're
saying, that's like MSP having a different style
of shooting a gun or weapons instruction, and us
having a different instruction, and we force that
in the Academy setting, but we send them home and
then they're not allowed to use a gun. They can't
have a gun in their possession.

And that gun is like our protocols.
Without protocols, whatever training we do at the
Academy, whatever training we do within Dallatin
County, or anywhere else, it's really worthless at
that point, because that's really what the
training is, is on the protocols themselves. So I
would say that would be the equivalent marrying it
across the board.

MS. BURDICK: This is Kimberly.

MR. MARTINDALE: I disagree on the
analogy. Again, I go back to the first thing, or
physical or the defensive tactics. I mean it's
two different vendors, Gracie and FFCT, and the
Academy teaches FFCT. So they have to come to
courts for a week, and then when they go to the
Highway Patrol they have to learn -- they're told
to, "Forget all that you learned, now you've got
to use our protocols," which is crazy. So I guess
that -- anyway.

CHAIRMAN SLAGGERT: Thanks, Tim.

This is Jesse Slaughter. I guess I'm
kind of with Perry on this. I'm not sure how much
involvement POST can have in this. I think that's
the issue.

I think there's a couple things. I mean
obviously statutorily, this is currently what has
to happen right now. If the Curriculum Committee
wants to get together and come together on a
better curriculum that's more broad for the state,
I think --

But I guess what I'm warning you is that
you're not going to come to a consensus, and Jim's
assessment I think is very, very correct. I'll be
honest with you. In our organization, we may
change things pretty quickly. We may get ahead of
power curves on different training techniques and
different things. The Academy cannot be that
nimble. They can't be because they're serving too
many customers. 175, Perry? Is that right?

MR. JOHNSON: That's right.

CHAIRMAN SLAGGERT: So I think there
has to be compromise made here. The compromise
that you probably shouldn't make is not following
MCA, but I think there is compromise.

I think that if you get with Kimberly,
and that committee wants to get together and tweak
some stuff to make things work differently. And
then the online, maybe going to some type of
online EMD accredited thing might be the way to
go, but I think the options truly are kind of
limited.

MR. JOHNSON: And I agree with you, and
I --

MS. BURDICK: (Inaudible)

MR. MARTINDALE: Tim Martindale again.
And I agree with you, and I don't want that email
to seem as a threat that we were going to move
away from being certified.

It is a little frustrating when you look
across the state, and see others who might not be
participating, and we're feeling the heat of it.
And also I've had discussion with our county
administrators on what liability are we willing to
take on, you know, sending more people away to
training, to where we have people quitting because
they're filling that overtime gap, and we're down
to two people on the floor, and we should have
four, or do we take the liability with the state.

So that's a tough decision for us. And
I'm not saying we're heading that way, but we do
-- we're all in the business of looking at
liability, and what's going to hurt us less in the
end.

I'm completely in favor, and I didn't
really expect a decision today -- and I'm
unfamiliar with the process here -- of a
curriculum rehash per se, or refresh, or new eyes
on it. I know I haven't been part of it.

I know when I initially looked at the
laws on this, the law enforcement laws are this,
and dispatchers are like this. So that's where
some of the reciprocity came up, and some different things.

So I'm fine with whatever the Council has. I'm volunteering myself if there's further work to be done.

MS. BURDICK: This is Kimberly. I guess I would just like to say first thank you for the discussion from everybody, and everybody's input, but I definitely think that this really is an opportunity to see what we can do. It might not be a one-size-fits-all, but if I think maybe to come back.

I think it's good for any curriculum to come back every year, every three years anyway, to kind of get a new set of eyes, or more eyes I guess, to see what kind of revisions can be made, if any, that could benefit.

Because let's face it. The professions are changing and everything, moving full steam ahead. So I think that that has to be kind of like a living document, the curriculum is. So I look forward to these discussions.

CHAIRMAN SLAUGHTER: Kimberly, this is Jesse Slaughter. As kind of an action plan moving forward. You're the Chair of the Business regarding emails, multiple emails. I think you may even have additional meeting material in front of you that relates to other correspondence that we've received from community members that are concerned about the approval of a training that was applied for and approved by me. The application came out of Yelmshead County, and it was Richard Wark -- I guess that's not right. It was Constitutional Sheriffs Training.

And I put this on here because I wanted to present this to you guys, or to open the conversation with you, because my feeling about this is I never failed to approve a training request from an agency administration. And I feel like our process, just so I'll define it, is --

I'll use Sheriff Dutton as an example. He applies every year for Officer Involved Shooting. He submits an application, and it says, "I've got the bio of the instructor, and I've got the lesson plan, and I've got the material, the student material." And at the end of all of -- "I've advertised it, and it's open to all agencies." And at the bottom he signs it that he's going to retain those records for us.

And if I get that single document with Lee's name on it, I approve it. I don't call him up and say, "Hey, I want to see the lesson plan." I don't do that.

We used to do that. We used to look at every lesson plan. A lot of them were power points. They didn't have anticipatory state, they didn't have goals and objectives. They had a power point that was all inclusive of everything that they were going to see.

So that's our process. So we got that application, and we approved it. And people that -- You can see here that they want to know why -- for lack of a better word -- why POST didn't censor an application for training.

And my explanation to you is that I have never censored an application. I've never called a Sheriff and said, "I don't like that you guys are training to that Oracle ground fighting, or to PCT defensive tactics." I've never done that because I defer to the expertise and the experience and the agencies' needs.

So I want you guys to talk to me about where you think we fit in in regards to censoring training applications.

MR. CONNER SMITH: So this is Conner. I
fully agree with your take on that, Perry. I
don't think we should. At the same time --
So I've been reading some of these
comments that are in here from Sheriff Mack, that
training. They talk about these people fail as
the anti-government whatever.
What they're talking about, what Sheriff
Mack talks about -- I'm sure a lot of you are
aware -- is upholding the Constitution, which we
all swear an oath to. And Sheriff Slaughter, you
talked about our bill was passed regarding the
firearms, right? Not enforcing any basically
unconstitutional firearms mandates to the federal
government.

This is something where I continue to
see more and more of. But the fact is we all
swear an oath first and foremost to the US
Constitution. That's above any federal mandates,
that's above anything, any state mandates. And
that's what I push into our guys as well. That's
our ultimate goal, our ultimate job, is to enforce
that Constitution.

And as POST, unless something's
unconstitutional, and if it is and we're aware of
it, obviously we should not teach it, but as long
as it follows the Constitution, I think we're
fine, we should encourage that training.

CHAIRMAN SLAUGHTER: Thank you, Conner.
I'm going to make it simpler for you, Perry,
really simple just from a historic perspective.
And Jim, you were around, and Tony, you
were around when this happened. Leo, I think you
might have been right at the beginning of the
Council when you came on, too.

This came up before. This came up
before with CARR, Center Axis something training.
It was a firearm training. What's that?
-- (inaudible conversation) --
CHAIRMAN SLAUGHTER: It's a guy that was
named Paul Castle.

Can you guys on the phone mute, please.
If you're on the phone, please mute. Please mute
if you're on the phone.

So anyway this came up. And there was a
person who wrote an email or letter like this,
"This is not the good current practice. This is
not what should be taught." And quite frankly, we
reviewed it, and we had this exact same
conversation. It's now six or seven years later,
and it's being revisited.

I think you can argue that there's a lot
of training we get that have a flavor of a
different political take on them, maybe opposite
of Sheriff Mack's, but everyone's fine and dandy
with us sitting through all of those.

So I agree with you, Perry. I think as
far as I'm concerned, you're on the right track
here. That's not your job. The Sheriff of that
organization wanted that training, it checked all
the boxes, and it met the criteria. That's what
our job is to do.

MR. DUTTON: Mr. Chairman, this is Leo.
Well, whether people agree with Richard Mack's
ideology or they don't, I think it's truly that
Sheriff's responsibility to look and report to his
bosses, the citizens, and saying, "Here's a
constitutional training I'm doing."

Here's the reason that it came in as far
as a POST issue. I think we look at it. We just
went through some decertifications for ethical
issues, and I think that's where we should focus.
I don't think that our arena needs to be what's
popular, what's not.

And if you're training to a document
that we all raise our right-hand and said, "We
will uphold that and the Montana Constitution,"
whether it's done in a -- maybe not the flavor
that they want. And as I've read those letters of
anti-government, we're the POST Council.

But we look at violations of Code of
Ethics or egregious acts, and I don't see that.
Thank you.

CHAIRMAN SLAUGHTER: Thank you, Sheriff.
Very well said. Anybody got anything else on
this?

MR. JOHNSON: I do. This is Perry
again. Katrina just pointed out to me that part
of the heartburn that Angelio Young points out to
us is in regards to the application for POST
course credit, there's some specific things that I
just listed, and that when she reached out to the
gency for that information, they didn't have it.

So that is a concern, and the way that
we skinned that cat, or the discussion that we've
had historically in regards to those issues is
say, for instance, this was a -- I'll just use a
-- this was an interview school, and they gave us
an application, and they said they had all of
that; and then we audited it, and they don't have
any of it.
And the way that we determined that we would respond to those things is we're not going to sanction somebody's certificate, but we're going to remove that training from anybody's transcript that attended that, and the agency that hosted it, that had 50 people sit there for three days, let them explain to those 50 people why those three days aren't POST training, because this application that they submitted was actually a false application. "We didn't have that stuff. We just said we did so we've got POST training credit." So there is an issue there in regards to this. And I've had a conversation with the agency about it, and I don't know if I would characterize their response to me as contrite, or sorry that they didn't have that stuff, but the bottom line is they're on notice. And this is a people business. People are going to make mistakes, and people are going to get their tail in the crack once in awhile, and they're just going to do things, and so do I. And so I come to you, and I have done this before and said, "Hey, I out ran my headlights. Sorry about that. So let's have a start over here."

And I think that that's part of our job is to make sure that people understand that the rules aren't Perry Johnson's rules, they're not going to be Brian's rules, they're POST Council rules, and they're there for a reason, and the reason of course is public safety. So I think we've just got to be consistent, keep beating that drum, and keeping what we're doing. But I wanted to make sure that I was on the same page with you guys. That's important, that the message that we're putting out there is consistent with the message that comes across in these meetings, and that's why this is important.

CHAIRMAN SLAUGHTER: I agree, Perry. This is Jesse slaughter. I think also the important thing is this training didn't occur, correct?

MR. JOHNSON: The training was cancelled. And it's my understanding that while it was cancelled for the agency or public safety officers, I think 3,000 people attended it, 3,000 community members from northwest Montana.

But further I think that while there was a message from the guy that -- you know, Richard Meek, I think that the Sheriff also had an opportunity to address members of his community about where he stands in regards to constitutional issues. And I don't think that we could ever deny a Sheriff, or a Chief, or a Warden, or Colonel the opportunity to speak to their own community. I think that if we think that we're going to do that, I think that we're really, really mistaken. I just don't think that we even have a chair at that table. So I think that we've covered this, but I want to make sure that we covered it with a conversation collectively as well.

CHAIRMAN SLAUGHTER: Thank you, Perry. Any further discussion from the Council?

MR. DUTTON: Leo again. I think that procedurally wise, we've asked for certain things. That's a different matter. Content, unless it was, "We want to teach copes how to effectively enter a home without a warrant, and leave no trace" -- (inaudible) -- that we probably wouldn't sanction that. Anyway, thank you.

CHAIRMAN SLAUGHTER: Thanks, Sheriff. Anybody on the phone?

UNKNOWN SPEAKER: Agree with you.

CHAIRMAN SLAUGHTER: Okay. Moving on.

MR. JOHNSON: We are.

CHAIRMAN SLAUGHTER: Curriculum Committee. Conner?

MR. CORNER SMITH: Nothing.

CHAIRMAN SLAUGHTER: No report. Okay.

ARM Committee, Sheriff Dutton.

MR. DUTTON: As I bring this wonderful book in front of you, that's my report. Thank you, Mr. Chair.

CHAIRMAN SLAUGHTER: Thank you, Sheriff. Case Status.

MR. JOHNSON: This is Perry. Can we tap the brakes just for a minute. And the reason that I do that is because we have edited ARM's a lot, and you already know because we've already had this conversation that there's an ARM in here that will need to be edited. So at some point -- (inaudible)

MR. JOHNSON: I would -- not really, but probably. Thanks for asking.

UNKNOWN SPEAKER: I've been drinking coffee.
MR. JOHNSON: So at some point I would suggest that, Leo, if you would allow, while we create some discretionary time for Katrina to kind of scroll through those, and make some suggestions for me.

MR. DUTTON: Yes.

CHAIRMAN SLAUGHTER: Case Status Committee. Jim.

MR. THOMAS: Pages 130 to 132 kind of explains what we’ve been doing. We’ve been busy. We have meetings scheduled for later this month, and already got one scheduled for next month. I think our last one we had, if I remember correctly, we had just under 500 pages of documents to go through. And I’m not letting any cats out of the bag, but I think we’re going to get a lot busier here soon.

MR. BOLGER: Mr. Chair, this is Katrina. We actually set a record in one of our meetings and heard the most number of cases in a single meeting at 76.

CHAIRMAN SLAUGHTER: Thank you guys. I really appreciate all the hard work that you do. I think Jim’s on here, Matt’s on here. For those of you who were on that committee -- Tony is on there -- thank you guys so much. I know your work is tireless, and we really, really appreciate you. And quite frankly, without you guys we couldn’t do what we do. Perry.

MR. JOHNSON: This is Perry again. So this book that Leo just pointed to in regards to Case Status and cases, I’d ask you to open up your book to Page 24 under Tab 3, and to look at 23.13.716.

And this is not directed at anyone, but it’s a conversation that we used to have often, and it’s important that you recognize there are some cases that are coming up that are going to just have some heat. We’re bringing some big cases forward, and I won’t speak to them because that would be an ex parte communication.

But at the top of Page 25 in 23.13.716 Subsection (2) “An unauthorized ex parte communication may be treated as a default, and may constitute a waiver of the party’s rights to proceed.”

And that means we’ve got the -- we’re going to bring some allegations against some officers that may reach -- those officers may reach out to you as members of the POST Council.

And if that happens, it’s important that we’re advised of the fact, because that’s going to create a situation where we’re going to have to analyze what our legal position or what our next move is. And I’d really anticipate that it may happen in these cases that we’re talking about.

So that’s just out there. I want everybody just to be aware of what that is. These cases that are coming forward are headliners, you know, there’s no other way to put it, I think. I may be wrong. But I sure want to caution you that if somebody’s reaching out to you, that’s information that needs to get to that Case Status Committee, and it needs to get to Mike Fanning, who advises that, takes us through that contested case process.

CHAIRMAN SLAUGHTER: Thanks, Perry. And it’s a point, and it does happen. It’s happened to me already. They go through that, so just be aware.

Okay. Business Policy. Kimberly, are you on the phone? Do you have anything?

MS. BURDICK: I do not have anything, no.

CHAIRMAN SLAUGHTER: Coroner, Leo.
And I think that there's some current concern about how that Coronex Basic will be continued. And I'm hoping -- I don't know if you've talked to Sheriff McGuillan about this, whether he'll allow Andy to continue to carry that ball or not.

But Josh McGuillan was one of those guys that participated as an instructor during the last one. I guess Lee just shook his head at me and said yes, he intends to do that.

MR. BUTTON: I just read that, that he will remain as vice president and remain involved.

MR. JOHNSON: Good.

MR. BUTTON: I had a mouthful of cake, but glad you're giving the report. Back on mute.

MR. JOHNSON: Thanks, Leo.

CHAIRMAN SLAUGHTER: Can we move on to Director's report?

MR. JOHNSON: Sure. I'm going to defer to Leo. So ahead.

CHAIRMAN SLAUGHTER: Perry, I think this is the time for ten subsections. He gets to talk all he wants.

MR. JOHNSON: Holy mackerel. We'll see if we can cover it in a Montana minute.

So your budget. I'm not going to read it to you. But Mary Ann help me out with this, because I don't think they finalized the budget.

MS. KEUNE: You can see on Page 138 what was remaining from our last budget year.

MR. JOHNSON: Okay. So Mary Ann just pointed us to Page 136. We've reverted $28,000 from our last budget.

MS. KEUNE: This year's budget they have not entered yet, and it will be the same as last year's budget of $471,658. So far we've spent -- Page 141 -- $19,150.26.

CHAIRMAN SLAUGHTER: Thanks, Mary Ann.

MS. KEUNE: You're very welcome.

MR. JOHNSON: Any questions about the budget?

(No response)

MR. JOHNSON: Okay. Well, certificates awarded, 277. Trainings approved since our last meetings, officers that had trainings approved, you can see there were 365 courses, 620 hours, 46,371.75. We granted 21 equivalency, and that's an analysis that's usually done by Katrina -- not usually. Always. But she takes a look at it, and she reaches out to the agencies, and she does a great job of that. So we did 21.

If we did 21 at every case status Committee -- I'm sorry -- at every POST Council meeting three times a year, we just replaced a Basic Academy class with equivalency, and that's a big deal.

But what's a big deal about it is normally, you know, six, seven years ago, we were seeing eight or ten every Council meeting. You know, we were doing three or four Council meetings back then. So we were doing 30 or 40, so just about double the number of out of state officers that are coming in and asking for equivalency.

And I think that's an artifact of that conversation we had before about what's the reputation of law enforcement in Montana. The reputation of law enforcement in Montana is they want to be here, and they want to be working with you guys.

There's still a standard of conduct that people expect, and we've got the support of our community. People identify that. That's my opinion.

Extensions granted. That came out a little bit in that conversation with Tim.
but there's people out there that are doing something and getting paid a lot of money. I didn't get a single dollar in my paycheck as a bonus for working every day. So I don't know what happened, but everywhere it's going to be like that. We're going to see that. So I think we can continue to identify that.

Part of the Director's report was just to make sure that you guys were able to communicate with each other is a big deal, so you've got the most current contact number for Council members and the staff. That's on pages 122, 162, and 164.

Then I also included an editorial on national standards, and it was kind of - it was interesting to me enough that I just thought, "Oh, put that in here," because I think that we see it in our state where we have legislators that come to the Capitol every couple of years, and they have an agenda where, "I want a specific training item legislated."

And boy, we've been very successful in saying, "Hey, we've already identified deescalation as a big deal, and we don't think that you need to say that there needs to be 40 hours of deescalation because we're already doing this at the Academy."

But I think this national stuff filters down to what we see locally and at the state level, and I think it's something that we just can't take our eyes off of. We always need to be watching that, and to be proactive.

This conversation that we had today. You know, if we take 24 hours of EMD out, are there some other critical issues that those dispatchers need to be trained to? Is the curriculum, these 504 hours or 510 hours for law enforcement officers, is it sufficient?

And the bottom line is -- You know, Connor, you can tell me what you think, but my opinion, in today's world, is it's not. We're not getting enough training. And that's nobody's fault. It's certainly not the POST Council's fault because this is real life.

But I don't know how to skin that cat. Maybe there is no skinning that cat. But we need to continue to identify that there needs to be these regional training opportunities.

And here's a classic example. Where are we sitting today? We are sitting 600 miles from

Helena, Montana. Are we that far? 400 miles. But in December, you're going to be a couple hundred from Helena when you're up in Kalispell.

And Rick SyWassink has got his head up, so go ahead, Rick.

MR. SYWASSINK: Okay, Perry. Rick SyWassink, Dawson Community College. Welcome aboard, you guys. Glad to see everybody could make it today.

What Perry is talking about is exactly what we're trying to do over here. We're working -- we've already got our Pretrial Services Academy. We've run that twice now. We're looking at Corrections. We're looking at a lot of different things to kind of ease things up for Helena, to be honest with you.

And the other thing that we're looking at, and I wanted to address this when we were talking about the EMD. These things are all going to change as time goes on. We're now putting in deescalation training in our training here where we hold classes. Regional training, that's exactly what we're doing good on. We'll be out taking training to the agencies, as I can start to get some sleep, so I can drive down the road, but

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on that, on those training -- (inaudible) --

MR. JOHNSON: Absolutely.

MR. CONNER SMITH: So this is Conner again. Obviously the Basic is what it is, it’s Basic, and a lot of agencies train additionally to that. After the Basic we put our guys through another ten or eleven weeks of training. And then of course we have our annual refresher training we do.

A lot of agencies don’t have the capability, the manpower, the funding to able to do that refresher training year after year.

So what the Highway Patrol has just started to do, we started it this year, is that we’re offering some simple training that we can curtail through the agencies. We taught it in Miles City a couple months ago. We’re doing Glendive; they’re actually coming up in a couple months. U of M PD has asked us to do two. And basically we’re doing legal update stuff. We’re doing officer survival, basically traffic stop safety, officer rescue, basic tactics we can do for that for some enforcement areas.

And like I said, it’s based on the training we do every year, which is basically a week long training for our troops, but we shorten it to a day of training, whatever the agency wants, free of charge. We foot the bill. Our Colonels bought off on the idea. So that’s something that we’re trying to do to help out other departments out there.

So I just wanted to throw that out there. It makes it a little easier for departments that can’t send their people to expensive training in Helena or other states.

MR. JOHNSON: You know, Conner, I would respond to you by saying this: if you could create that single day, six or eight hour curriculum, I would ask you to interact with this POST Council staff, and allow us to push that out in a really well-defined -- everywhere.

I would suggest to you that I’m going to make a commitment to Bryan. I’m going to already give him a task, and I would say to you that if you could do that, if you could put a six hour training together, POST would have the ability to add two hours to that in regards to what we do, and updates in regards what we do, and we could do that. It’s at six or eight venues through the year, and it wouldn’t be -- nobody would have to ask for it. We would help you find the venue that’s big enough to hold 50 people or whatever, and have opportunity to do that.

And that would be a tremendous service, and that would be a tremendous outreach for POST and the Department of Justice to be able to carry that ball.

MR. CONNER SMITH: We’re still developing the curriculum a little bit because each agency is a little different. U of M actually asked for active shooter training, we’re providing that for them. So it’s been a little different so far, what they want.

The class size has to be a little smaller for us in the manner in which we teach it, because it’s force on force, and so we have to supply our own, our gear usually, because they don’t have, a lot of agencies don’t have -- (inaudible) -- guns and protective gear. But it’s definitely a conversation that we’ll have, and we can keep building it going forward.

MR. JOHNSON: I think there would be a really -- that would really give this Council a nice footprint and a consistent one.

Coroner training. I already jumped time 123

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on Leo, so I think we’ve covered that.

In regards to Item No. 9, this isn’t anything that Leo asked me to put on here, but I’m extremely proud of what you as a Council have done over the years. And I don’t know if, Leo, you intend to bring that training into Montana again.

MR. DUTTON: Mr. Chair, Perry, yes, and it’s scheduled for this week starting Thursday and Friday. So we’re going to make an effort.

Because of COVID we didn’t have it last year, but we’ll do it again next year.

MR. JOHNSON: So just for the discussion then, the officer involved training is two days.

One day is for the Administrators to attend to find out what the skill set that’s necessary to support any officer that’s involved in an officer involved shooting. And the second day then is for those officers that were involved in an officer involved shooting.

And historically they brought in an instructor out of Orange County, California that’s been very well received by the agencies in Montana. We’ve gotten very positive reviews from this training.

And because it’s on the agenda, and even
though Leo didn't ask, I would ask him if that request, that historical request -- I know that it wasn't requested last year -- but is there a historical -- is there a request at this point for $2,500 of support training from the Council?

MR. DUTTON: I would certainly welcome it. It is one of those things that is core to mental health, and we've taken it on that if we can get help, we'll take it. We realize how important it is, and you guys have done the same. So I'd love you to give you a check tomorrow morning that you voted to support that, and the men and women that are there, because they're hanging on by a thread at times. So it's that important, and we would certainly appreciate it.

MR. JOHNSON: Thanks, Leo. I think it's that important, too, and so I guess at this point I would open that conversation to you guys, and see what your appetite for funding that $2,500 endowment on that training might be.

MR. OTTER: Mr. Chair. This is Ryan. I would move that we provide $2,500 that we have -- if we have that in the budget, the POST budget to cover that.

MR. JOHNSON: The question is do we have it in the budget, and I would just refer you back. They haven't set the budget, but they've told us that it's going to be similar to last year, and I'll point out to you that we just reverted $28,000 from last year.

I feel that -- I just think it's important. And it doesn't matter if it's a bilings officer, or if it's a guy from Powder River, you know, where they've got three or four guys. This is a demographic that doesn't ignore the small agencies or the big agencies, so I think it's fair.

MR. OTTER: I move that we approve the funding for that training.

MR. CONNER SMITH: I second that.

CHAIRMAN SLAUGHTER: We have a motion by Ryan on the floor to approve $2,500 for officer involved shooting training. This is going to be for year 2021, correct? Is that my understanding?

MR. DUTTON: No, we're not able to have one in 2021. We have one right now.

CHAIRMAN SLAUGHTER: Right. Is it for this one or for next year?

MR. DUTTON: For this one. The annual to office updates. Actually I tried to the recognize staff during my comments earlier. It's significant, I think, the amount of ground that we've covered.

And I don't know. Did everybody get one of these POST statistics since August 19, 2013? That was the first day that I came to work for POST. And so some things on here aren't significant to 2013. I don't know how many officers we had in 2013, but today we've got 5,231. Current active agencies, 215. Certificates issued since that time 7,653.

Approved trainings, you can read that yourself. Affected students, almost 50,000. Pretty cool. Hours 693,000. I divided that by 28 because that's a year of employment. That's 304 years of training that we've approved in the last eight years.

We've processed 512 allegations. We've investigated 328 of them. 249 officers were sanctioned, either with probation, suspension, or revocation. Nine unappellable or agreed to never return. We closed 184 allegations based on complaint. We've got 76 open. So we actually have investigated or are investigating 588 cases.
So that's kind of my report card for the last eight years. That isn't me, that's Katrina. She is your investigator. And we travel a lot together.

But it's kind of cool. I get to be in the room, because I think it's fair that if I'm going to sanction an officer's certificate, that he gets to talk to the guy that's going to do it. We've tried to do that in every case, and every once in a while some of them will just say, "I ain't talking to you. I'm not interested. I don't want to." -- (incoherent) --

And every once in a while we'll sit in a room -- and this has happened. I just showed Katrina this email that I got last night from a guy that we sat in the room with, a Police Officer that we sat in a room with, talked about the allegation, got his input on it.

He exercised his right to voluntarily surrender his certificate, and it says on the voluntary surrender of his certificate that, "I agree to surrender this, knowing that it fully and permanently revokes my certificate."

And I got an email from him during the dark hours last night where he accused me of being so unfair. It was just interesting to me that as hard as we try to be fair and to be transparent, the guys that even sign voluntary surrenders don't even understand what they're doing, I guess, but they're permanently revoked, and there's no recovery from some of those allegations that we deal with. And that's all there is to it. He seemed to think that there was, but there's just not.

So that's that second part of the business -- not the certification side, not the legal side -- but the investigation and the sanction side, and that's a big component, because when you look at it right now, 76 cases currently under review. On August 19th, 2013 there was 26, and that didn't begin to address how many we've had at different times, when we had 110 or 115. We've got it down to 76. I think we're doing pretty good. So that's your Director's report.

CHAIRMAN SLAUGHTER: Thank you as always. So moving on in the agenda to the 2022 calendar. I'm guessing we need to set out some dates for next year in advance, and probably places as well.

MR. JOHNSON: So here's what I would suggest then. I only put this on here because we always have done this at about this time of year.

But I would suggest that maybe considering that there's going to be a change of administration, maybe it would be better to let Bryan get his feet underneath him, and come back to this in December, and have this conversation with him, and see as he works into this, what might be most appropriate.

In December he might say, "Hey, you know, we can cover this body of activity right now," but he may want something completely different. He might have a little different vision, and I think it would be fair to your new Director or your new Bureau Chief to give him an opportunity to look at what we've looked at for the last so many years, and get some input. That would be my suggestion.

CHAIRMAN SLAUGHTER: I agree.

MR. JOHNSON: So I guess just to kind of put the point on the pencil, and adjourn the meeting at 12:00 p.m., I just want to say if I haven't conveyed it already how much I appreciated the opportunity to serve here.

MR. DUTTON: Mr. Chair. Perry, at the risk of offending you, we love you back.

CHAIRMAN SLAUGHTER: We do. Perry. We love you.

UNKNOWN SPEAKER: Love you, Perry.

MR. JOHNSON: I'm still not tired.

CHAIRMAN SLAUGHTER: All right. Perry shot his mike off. So do I have a motion to adjourn?

MR. DUTTON: Motion to adjourn.

CHAIRMAN SLAUGHTER: Do I have a second?

UNKNOWN SPEAKER: Second.

CHAIRMAN SLAUGHTER: All right. Motion carries.

(The proceedings were concluded)
STATE OF MONTANA
BEFORE THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

IN THE MATTER OF
RICHARD SMITH'S CERTIFICATE SANCTION

CASE NO. 19-44
ORDER ON MOTION FOR SUMMARY JUDGMENT

This matter is before the undersigned Hearing Examiner on a motion for summary judgment filed by POST which is fully briefed. Discovery in the matter ended on September 30, 2020 and the hearing is set for May 21, 2021.

FACTUAL BACKGROUND

The factual background in this matter is derived solely from the Statement of Undisputed Facts, supported by evidence, which POST set forth in its Brief in Support of Summary Judgment.

Mr. Smith resigned from DCI on July 13, 2018. (SUF 1)

Subsequently, on July 30, 2019, Montana POST Bureau received email addressed to Bureau Chief Perry Johnson, with several attachments which contained allegations of misconduct by Mr. Smith. Bureau Chief Johnson forwarded the to POST Paralegal/Investigator Katrina Bolger. (SUF 2)

The email letter and attached documents (SUF 3) set out the following information:
On January 18, 2018, Mr. Smith was on duty and working with Montana Highway Patrol Trooper Barry Kilpela. Prior to January 18, 2018, a gentleman named Stevan Williams confronted Mr. Smith’s wife at a basketball game.

Mr. Smith and Trooper Kilpela were riding together in Trooper Kilpela’s marked patrol vehicle. Mr. Smith forgot his jacket, and he made arrangements with his wife to meet her at the school to get it. Trooper Kilpela drove to the school for Mr. Smith to meet his wife.

While at the school, Mr. Smith saw Mr. Williams in his vehicle, pointed him out to Trooper Kilpela, and informed Trooper Kilpela that Mr. Smith wanted to speak to that person if he stops somewhere. *Id.*

Mr. Williams did stop at a taco stand, and Mr. Smith and Trooper Kilpela saw him. Trooper Kilpela pulled over next to Mr. Williams’ vehicle and Mr. Smith got out to speak to Mr. Williams. *Id.*

Mr. Smith was wearing his duty belt and had his firearm in a leg holster when he exited Trooper Kilpela’s marked patrol vehicle and approached Mr. Williams. Mr. Smith proceeded to tell Mr. Williams not to threaten his wife. Mr. Smith was seen in Trooper Kilpela’s in-car video, pointing at Mr. Williams. Subsequent to this interaction, Mr. Williams filed a complaint with MHP and DCI, indicating his belief that Mr. Smith used his position and authority to intimidate Mr. Williams. (SUF3)

Bureau Chief Johnson sent a letter to Mr. Smith dated August 27, 2019. The purpose of the letter was to outline DCI’s allegations against Mr. Smith and to provide him
an opportunity to respond to the allegations (SUF 4). POST received a written response from Mr. Smith which was dated September 24, 2019. In his response, Mr. Smith stated:

I believe the date was January 17, 2018, my wife was attending a basketball game when a former family friend got in my wife’s face and threatened her with bodily injury. Witness testified to this fact in a later court hearing. The individual was mad at my wife because she testified for this individual [sic] spouse during their divorce on the physical abuse this individual did to the spouse and children in front of my spouse. My wife has a permanent no contact order issued by Judge Spalding in this matter against the individual. The threats to my wife were the catalyst for the events that occurred on January 18, 2018 (the day after he had threatened my wife). I was in a marked Highway Patrol vehicle as a passenger preparing to conduct interdiction operations in Stillwater County with MHP when I had observed the individual. I ask the Trooper to see if the individual stopped in town, that I would like to have a conversation with him. I have been in Law Enforcement long enough to know we are held to a much higher standard that everyone else is when it comes to how we handle ourselves professionally. The individual did stop at a public place and I had a what I believe to be a consensual conversation with the individual, I am sure my stress level was up and I was elevate, but still believe I handled the situation without threats or violence. The individual is deaf, I even tried to use sign language to converse at some point. This individual knows that I am a police officer, carry a gun from dinners and conversations at my house where he and his family attended on numerous occasions. He was intimidated not because I was a police officer but the fact that I am a man and that he had threatened my wife. My leadership at DCI did not feel my actions were professional and I can see their point of view. I stand by my action and how I handled the situation believing I had deescalated further violence towards my family. (SUF 5-6)

On December 16, 2019, Bureau Chief Johnson and Ms. Bolger interviewed Mr. Smith. During his interview with POST, Mr. Smith provided a statement similar to his written statement. Mr. Smith stated he spoke to Columbus Chief of Police Jacob Ward about the conversation with Stevan Williams, and Mr. Smith also stated that he told his
supervisor about the exchange as well. Mr. Smith also acknowledged that it was "wrong"
to have his interaction with Mr. Williams "on duty time." (SUF 8-9)

LEGAL STANDARD

Summary Judgment

Summary judgment is available in this administrative proceeding. ARM 23.13.705(3), 713(2)(g); Matter of Peila, 249 Mont. 272, 815 P.2d 139 (1991). The purpose of summary judgment is to encourage judicial economy through the prompt elimination of questions not deserving of resolution by trial. Harland v. Anderson, 169 Mont. 447, 450, 548 P.2d 613, 615 (1976). "Summary judgment is proper under M. R. Civ. P. 56(c) if 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.'" Runstrom v. Allen, 2008 MT 281, ¶ 11, 345 Mont. 314, 191 P.3d 410 (citing Fabich v. PPL Montana, LLC, 2007 MT 258, ¶ 9, 339 Mont. 289, 170 P.3d 943).

The initial burden of proof is on the moving party, here POST, to establish that no genuine issues of material fact exist. Westmont Tractor Co. v. Continental I, Inc., 224 Mont. 516, 521, 731 P.2d 327, 330 (1986). After the moving party has met its burden, the burden then shifts to the party opposing the motion, here Mr. Smith, to establish the existence of a genuine issue of material fact. Sprunk v. First Bank System, 252 Mont. 463, 466, 830 P.2d 103, 104 (1992). Mr. Smith must present facts of a "substantial nature"

To meet this burden, Mr. Smith must present “substantial evidence, not mere denial, speculation, or conclusory statements.” *Klock v. Town of Cascade*, 284 Mont. 167, 174, 943 P.2d 1262, 1266 (1997). The “facts must be material and of a substantial nature, not fanciful, frivolous, gauzy, nor merely suspicions.” Mr. Smith “has an affirmative duty to respond by affidavits or other sworn testimony containing material facts that raise genuine issues; conclusory or speculative statements will not suffice.” *Id.* A “mere disagreement about the interpretation of a fact or facts does not amount to genuine issues of material fact.” *Sprunk*, 252 Mont. at 466, 830 P.2d at 104.


**POST's Laws and Rules**

POST Council has also enacted administrative rules to effectuate its legislative mandates, including specific rules regarding contested cases. ARM 23.13.101 through 23.13.721.

Administrative Rule of Montana 23.13.702 (2018)\(^1\) states the “Grounds for Sanction, Suspension, or Revocation” of POST Certification applied to Mr. Smith’s conduct in relation to the revocation of his POST certificates. Subsection (2)(g) states that “neglect of duty or willful violation of orders or policies, procedures, rules, or regulations” is an additional ground for revocation of POST certification. Subsection (2)(h) of ARM 23.13.702 also provides that “willful violation of the code of ethics set forth in ARM 23.13.203” is a ground for revocation of POST certification. ARM 23.13.702(2)(i) provides that “other conduct or a pattern of conduct which tends to significantly undermine public confidence in the profession;” is grounds for revocation of POST certification. Subsection (2)(l) of ARM 23.13.702 states that “acts that are reasonably identified or regarded as so improper or inappropriate that by their nature and in their context are harmful to the employing authority’s or officer’s reputations, or to the public’s confidence in the profession;” is grounds for revocation of POST certification.

The Code of Ethics to which ARM 23.13.702(2)(h) refers is found in ARM 23.13.203(3) (2018). Subsection (a) of the Code of Ethics states “My fundamental responsibility as a public safety officer is to serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure the constitutional rights of all are

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\(^1\) POST has twice amended ARM 23.13.702, which took effect December 22, 2018 and on March 28, 2020. We use the current procedural ARMs to govern this proceeding, but the substantive ARMs that were in effect at the time of Mr. Smith’s violations to analyze whether his certification should be sanctioned based upon misconduct. *Saint Vincent Hosp. & Health Ctr. v. Blue Cross & Blue Shield*, 261 Mont. 56, 60-61 (1993) (use substantive law in effect at the time and current procedural law).
not abridged.” ARM 23.13.203(3)(i) provides “I will at all times ensure that my character and conduct is admirable and will not bring discredit to my community, my agency, or my chosen profession.”

Violation of any one of the subsections of ARM 23.13.702(2) or engaging in conduct which violates any portion of the Code of Ethics in ARM 23.13.203 constitutes “Grounds for Sanction, Suspension, or Revocation” of Mr. Smith’s POST certificates.

DISCUSSION

POST has presented undisputed facts, supported by evidence, that Mr. Smith engaged in an intimidating behavior towards a personal acquaintance while he was on duty. Mr. Smith did not present any sworn evidence to establish a genuine issue of material fact. In response to the undisputed facts established by POST, Mr. Smith offered that he would present testimony, at hearing, that will demonstrate his actions did not violate POST rules and provide context for the personal conversation in which he engaged with the citizen. (Mr. Smith email response to the Request for Summary Judgment dated 2/24/2021.)

Mr. Smith’s response, that he could establish issues of material fact at hearing, is not sufficient to defeat POST’s properly supported Motion for Summary Judgement. “[I]n order to defeat a motion for summary judgment properly made and supported, the opposing party must set out specific facts showing a genuine issue for trial by affidavits or as otherwise provided by Rule 56. M. R. Civ. P. 56(e)(2).” Victory Ins. Co. v. Mont. State Fund, 2015 MT 82, ¶ 27, 378 Mont. 388, 344 P.3d 977, quoting Malpeli v. State, 2012 MT 181, ¶ 12, 366 Mont. 69, 285 P.3d 509.
The undersigned hearing examiner is cognizant of the difficulties a pro se litigant may have navigating litigation. Latitude is therefore extended wherever possible, as it was in this case, relevant to scheduling, pleadings, and briefing. However, while a certain amount of latitude can be expected, it cannot be so wide as to prejudice the other party; and it is reasonable to expect all litigants, including those acting pro se, to adhere to procedural rules.” *Greenup v. Russell*, 2000 MT 154, ¶ 15, 300 Mont. 136, 3 P.3d 124.

POST has properly made and supported its motion for summary judgment. Mr. Smith has failed to meet his affirmative burden to demonstrate there are genuine issues of material fact that prohibit summary judgment.

**CONCLUSION**

POST has provided uncontroverted evidence that Mr. Smith engaged in an intimidating manner towards a personal acquaintance while he was on duty.

Based on that event, POST sanctioned Mr. Smith’s POST certification. The Notice of POST Action was based on violations of ARM 23.13.702(2)(g) [“neglect of duty or willful violation of orders or policies, procedures, rules, or regulations” is an additional ground for revocation of POST certification.]; ARM 23.13.702(2)(h), [willful violation of the Code of Ethics set forth in ARM 23.13.203.]; ARM 23.13.702(2)(h), [a willful violation of the Code of Ethics set forth in ARM 23.13.203(3) which included a violation of (a) [My fundamental responsibility as a public safety officer is to serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure the constitutional rights of all are not abridged]; and a violation of ARM 23.13.203 (3)(i) [I will at all times ensure
that my character and conduct is admirable and will not bring discredit to my community, my agency or my chosen profession]; ARM 23.13.702(2)(i) [conduct which tends to significantly undermine public confidence in the profession]; and ARM 23.13.702(2)(l) [acts that are identified or regarded as so improper or inappropriate that by their nature and in their context are harmful to the employing authority or officer’s reputation.]

The undisputed facts on the record support the action taken by POST in sanctioning Mr. Smith’s POST certification. Mr. Smith has not established any genuine issues of material fact which require resolution at a hearing; and there is no basis on which to deny POST’s Motion for Summary Judgment.

Based on the discussion set out above, the Hearing Examiner rules that summary judgment should be granted to POST. The hearing scheduled in this matter is therefore cancelled.

DATED this 3 day May 2021.

DeeAnn Cooney, Hearing Examiner

pcs: Mike Fanning, 2260 Sierra Road East, Helena, MT 59602
Richard Smith 564A Countryman Creek Rd, Columbus, MT 59019-7356
POST Council Committees 2021

**BUSINESS PLAN/POLICY**
Kimberly Burdick – Chairman
Jess Edwards
Ryan Oster
EJ Clark

**MARIJUANA**
Leo Dutton
Jesse Slaughter
Conner Smith
Matt Sayler
Eric Gilbertson

**CURRICULUM REVIEW**
Conner Smith – Chairman
Jim Thomas
Bill Smith
Glen Stinar

**CASE STATUS**
Jim Thomas – Chairman
Conner Smith
Matt Sayler

**CORONER**
Leo Dutton – Chairman
Bill Smith
Kristine White
Wyatt Glade

**ARM**
Leo Dutton – Chairman
Jess Edwards
Bill Smith
Jesse Slaughter
December 1, 2021

To: POST Council

From: Jim Thomas, Case Status Committee Chair

Subject: Closure of Cases

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

2016: Two Cases from 2016 were closed

16-04 and 16-05 were closed. The officers engaged in sexual activity in the gym while attending MLEA. When asked about their conduct, they initially lied and denied the conduct occurred. Both officers agreed to a 30-day suspension followed by 5 year of probation on conditions.

There are no open cases from 2016.

2017: No Cases from 2017 were closed

There is one open case from 2017. That case is in district court.

2018: No cases from 2018 were closed

There are 3 open cases from 2018. In two cases, the officer is serving a sanction, and one case is an active investigation.

2019: Five cases from 2019 were closed

19-02 was closed. An officer failed to document information as instructed and accepted an inappropriate gift. The officer reached a stipulated sanction with POST and agreed to a three-year probationary period, which was to begin on the date the officer left public safety. The officer has successfully completed his probationary period and this case is closed.

19-40 was closed. An officer engaged in repeated arguments and inappropriate comments with supervisors. Allegedly some of these incidents occurred in front of inmates. The officer voluntarily surrendered his certification.
19-58 was closed. An officer was involved in a motor vehicle accident in his patrol car. The officer did not report the accident immediately, and when he did report it, he was misleading with dispatch.

19-34 was closed. A police chief failed to perform performance evaluations of his officers after being directed to do so. The chief then lied and indicated that the evaluations had been done. The officer’s certification was revoked when he failed to respond to POST’s allegations.

19-51 was closed. An officer inappropriately and repeatedly viewed a video of an inmate having a seizure while partially nude. During POST’s investigation, the office was discovered to have falsified time sheets. The officer’s certification was revoked.

There are 7 open cases from 2019. Five officers are serving a sanction, one case is an active investigation, and one case is in the contested case hearing process.

**2020: Six cases from 2020 were closed**

20-01 was closed. An officer engaged in sexual communications and contact with a woman whom he had pulled over and arrested. The officer’s certification was revoked.

20-41 was closed. An officer engaged in a sexual relationship with another officer while attending the basic academy at the Montana Law Enforcement Academy. The officer repeatedly lied to MLEA staff about the relationship. The officer’s certification application was denied.

20-44 was closed. The officer told a fellow officer that he had assaulted an inmate. Upon investigation, no assault had occurred. The officer’s certification application was denied.

20-26 was closed. An officer provided information to her spouse regarding his warrant status. In one instance, the officer was alleged to have assisted her spouse in avoiding law enforcement. The officer’s certification was revoked.

20-34 was closed. An officer inappropriately disposed of evidence (drugs and paraphernalia) by throwing it in a garbage can. The officer later lied about his reasons for throwing away the evidence, claiming a testing kit was unavailable. This was untrue and another officer had offered a testing kit to the officer. The officer voluntarily surrendered.

20-28 was closed. The officer engaged in an inappropriate “cat and mouse” chase in her patrol car. The chase was intended as a “training exercise.” The officer allegedly shared confidential information with a close friend. POST closed the case without taking action on the officer’s certification due to insufficient evidence.

There are 12 open cases from 2020. Two cases are on hold pending other matters, in eight cases the officers are serving a sanction, and two cases are active investigations.
2021: Eighteen cases from 2021 were closed

21-22 was closed. An officer was convicted of a felony sexual offense. The officer’s certification was revoked when he did not respond to POST’s allegations.

21-28 was closed. The officer was alleged to have warned an individual that law enforcement were looking for him. The officer then lied to her supervisors about the warning. The officer’s certification was revoked when she failed to respond to POST’s allegations.

21-40 was closed. The officer engaged in inappropriate sexual communications with an individual whom he had previously stopped. The officer utilized department resources to locate the individual on social media and make contact. The officer voluntarily surrendered his certification.

21-29 was closed. The officer was alleged to have engaged in an inappropriate relationship with a victim of a partner/family member assault. The officer’s relationship with the victim was over prior to the assault and the officer did not investigate the criminal matter. POST’s investigation was closed with no action on the officer’s certification.

21-19 was closed. While the officer was working on a call for service to locate a suicidal person, the officer requested a CJIN inquiry for personal reasons. The officer’s certification was revoked when he failed to respond to POST’s allegations.

21-23 was closed. The officer was alleged to have made threatening and suicidal remarks to another person. The officer was previously convicted of disorderly conduct for his behavior at a hospital following a suicide attempt. The allegations regarding the threatening remarks were unfounded. While the officer had attempted suicide, he had received appropriate treatment and POST closed its case without taking action on his certification.

21-35 was closed. The officer was alleged to have engaged in sexual harassment in the workplace. The officer’s certificates were revoked when the officer failed to respond to POST’s allegations.

21-24 was closed. The officer was convicted of a felony in connection with his misuse of grant funds. The officer’s certification was revoked when he failed to respond to POST’s allegations.

21-46 was closed. The officer was alleged to have lied under oath. There was no evidence that the officer intentionally lied as opposed to making a mistake without the benefit of reviewing his reports and other information. POST’s investigation was closed without action against the officer’s certification.

21-41 was closed. The officer was terminated for failure to attend mandatory training, for referring to a deputy in a derogatory manner and for allegedly lying about the circumstances surrounding his failure to attend training. POST closed the case without taking action on the officer’s certification for insufficient evidence of wilful falsification.
21-21 was closed. An officer was alleged to have intentionally withheld evidence, engaged in excessive force, and lied about the use of force incident. POST closed its investigation without taking action on the officer’s certification due to insufficient evidence.

21-26 was closed. An officer was repeatedly seen driving while intoxicated and arrested on two occasions for DUI. The officer’s certification was revoked.

21-27 was closed. An officer used excessive force on a female arrestee when he drug her by her handcuffs through the snow at the detention facility. The officer’s certification was revoked when he failed to respond to POST’s allegations.

21-47 was closed. An officer was alleged to have engaged in sexual harassment of a fellow officer. The officer’s certification was revoked when he failed to respond to POST’s allegations.

21-51 was closed. On her last days on the job, the officer emailed numerous documents to her personal email account. The emails contained confidential criminal justice information and personnel records regarding other employees. The officer’s certification was revoked when she failed to respond to POST’s allegations.

21-55 was closed. An officer’s ex-spouse became involved in an altercation involving a weapon. The officer responded and refused backup. Later, the victims indicated that the officer had provided his ex-spouse with their personal information prior to the altercation. The officer’s report was inaccurate and omitted important information regarding the incident. The officer’s certification was revoked when the officer failed to respond to POST’s allegations.

21-36 was closed. The officer allegedly allowed inmates to have inappropriate contact with other inmates, allowed inmates to pass contraband, and the officer was found sleeping on duty. The officer’s certification was revoked when he failed to respond to POST’s allegations.

21-45 was closed. The officer allegedly had engaged in a pattern of inappropriately escalating issues with inmates, leading to use of force incidents. The officer also allegedly made inappropriate comments on social media, where he had clearly identified himself as an officer. The officer’s certification was revoked when he failed to respond to POST’s allegations.

There are 31 open cases from 2021. Of those, 23 cases are active investigations, three are in the contested case process and five officers are serving a sanction.

Since the last Council meeting, POST has closed a total of 53 cases.

POST currently has 28 active investigations.
POST currently has 3 cases which are in the MAPA process.
POST currently has 1 case on judicial review.
POST currently has 32 new allegations to present to case status.
POST currently has 18 cases awaiting information from agencies.
POST currently has 4 investigations on hold pending other matters.

POST has a total of 86 cases which it is currently working on.

POST currently also has 20 cases in which officers are serving sanctions.
Military Service, Extensions, and Basic Requirements

Mont. Code Ann. § 44-4-404:

(1) 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.

(2)(a) The appointing authority may apply to the Montana public safety officer standards and training council to extend the 1-year time period for a public safety officer to complete the minimum training standards. 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 or basic equivalency course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(b) If a public safety officer is ordered to state or federal military duty during the public safety officer’s 1-year period to attend the appropriate minimum training, the employing agency must notify the Montana public safety officer standards and training council within 10 days of the officer’s departure for military duty. The public safety officer’s 1-year period to attend the appropriate minimum training will be stayed. Within 10 days of the public safety officer’s return to the employing agency from military duty, the employing agency must notify the Montana public safety officer standards and training council, and the public safety officer’s 1-year period to attend the appropriate basic training will resume.
ARM 23.13.102 – New Subsection

- “sexual misconduct” is defined as:
  - any sexual activity, contact, or communication which occurs while the officer is on duty;
  - any sexual contact without consent as defined in 45-5-501(1)(b), MCA, without regard to whether such violation results in criminal charges or a conviction;
  - any sexual activity, contact, or communication, on or off duty, which the officer facilitates with public safety agency property or resources;
  - procuring, observing, or disseminating pornographic or sexually offensive material either on duty or using department property or resources, when such procurement, observation, or dissemination is not related to the officer’s official duties;
  - engaging in sexual harassment as defined in orders or policies, procedures, rules, regulations, or applicable laws; and
  - any other sexual conduct which, whether committed in the officer’s capacity as an officer or otherwise, is prejudicial to the administration of justice or reflects adversely on the employing authority’s integrity or the officer’s honesty, integrity, or fitness as an officer.

AND

ARM 23.13.702(3) – New Subsection

- engaging in sexual misconduct as defined in these rules
23.13.721 Appeals (1) A party, other than the council, adversely affected by a final POST Council decision rendered after a contested case proceeding, may appeal to the Montana Board of Crime Control pursuant to ARM 23.14.1004 and 44-4-403(3), MCA. The decision of the Montana Board of Crime Control is the final agency decision subject to judicial review pursuant to 2-4-702, MCA.

(2) The council may appeal to the Board of Crime Control under the conditions provided in Title 2, chapter 4, part 6, MCA.

Option 1

23.13.721 Appeals (1) A party, other than the council, adversely affected by a final POST Council decision rendered after a contested case proceeding, may appeal to the Montana Board of Crime Control pursuant to ARM 23.14.1004 and 44-4-403(3), MCA. The decision of the Montana Board of Crime Control is the final agency decision subject to judicial review pursuant to 2-4-702, MCA.

(2) The council may appeal to the Board of Crime Control under the conditions provided in Title 2, chapter 4, part 6, MCA.

OR

Option 2

23.13.721 Appeals - REPEALED
Current Rule

23.13.704 Requests for a Formal Contested Case Hearing Under MAPA  
(1) Any person aggrieved by a decision of the director or a decision of the council, other than a decision by the director to deny, sanction, suspend, or revoke a certificate, that is not a final decision following a contested case hearing, as provided in 2-4-623, MCA, may request a contested case hearing before the council by following the procedures set forth in Title 2, chapter 4, part 6, MCA.

(2) If the director denies, sanctions, suspends, or revokes an officer’s POST certification pursuant to ARM 23.13.703(9) and the officer receives a notice of agency action, then the officer has the right to request a formal contested case proceeding under MAPA, to include a hearing, pursuant to 44-4-403(3), MCA.

(a) The proceedings and hearing can only be initiated by a request from the officer whose certificate was denied, sanctioned, suspended, or revoked, or the officer’s attorney, and not by any other person or entity.

(b) To request a hearing, the officer must follow the instructions contained in the “notice of agency action” and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the date of the notice of agency action.

(c) Failure to notify and request a hearing within 30 days of the date of the notice of agency action will constitute a waiver of the right to a hearing.

Option 1

23.13.704 Requests for a Formal Contested Case Hearing Under MAPA  
(1) Any person aggrieved by a decision of the director or a decision of the council, other than a decision by the director to deny, sanction, suspend, or revoke a certificate, that is not a final decision following a contested case hearing, as provided in 2-4-623, MCA, may request a contested case hearing before the council by following the procedures set forth in Title 2, chapter 4, part 6, MCA.

(2) Any public safety officer aggrieved by a decision of the council, that is not a final decision following a contested case hearing, as provided in 2-4-623, MCA, may request a contested case hearing before the council by following the procedures set forth in Title 2, chapter 4, part 6, MCA.

(3)(a) The proceedings and hearing requested as outlined in (1) and (2) can only be initiated by a request from the aggrieved party, or the aggrieved party’s attorney, and not by any other person or entity.

(b) To request a hearing, the aggrieved party must notify the director that the aggrieved party requests a hearing within 30 days of the date of the decision by the director or the council.

(c) Failure to notify and request a hearing within 30 days of the date of the decision of the director or the council will constitute a waiver of the right to a hearing.

(4) If the director denies, sanctions, suspends, or revokes an officer’s POST certification pursuant to ARM 23.13.703(9) and the officer receives a notice of agency action, then the officer has the right to request a formal contested case proceeding under MAPA, to include a hearing, pursuant to 44-4-403(3), MCA.

(a) The proceedings and hearing can only be initiated by a request from the officer whose certificate was denied, sanctioned, suspended, or revoked, or the officer’s attorney, and not by any other person or entity.

(b) To request a hearing, the officer must follow the instructions contained in the “notice of agency action” and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the date of the notice of agency action.

(c) Failure to notify and request a hearing within 30 days of the date of the notice of agency action will constitute a waiver of the right to a hearing.
Option 2

23.13.704 Requests for a Formal Contested Case Hearing Under MAPA  
(1) Any person aggrieved by a decision of the director or a decision of the council, other than a decision by the director to deny, sanction, suspend, or revoke a certificate, that is not a final decision following a contested case hearing, as provided in 2-4-623, MCA, may request a contested case hearing before the council by following the procedures set forth in Title 2, chapter 4, part 6, MCA.

(2) If the director denies, sanctions, suspends, or revokes an officer’s POST certification pursuant to ARM 23.13.703(9) and the officer receives a notice of agency action, then the officer has the right to request a formal contested case proceeding under MAPA, to include a hearing, pursuant to 44-4-403(3), MCA.

(a) The proceedings and hearing can only be initiated by a request from the officer whose certificate was denied, sanctioned, suspended, or revoked, or the officer’s attorney, and not by any other person or entity.

(b) To request a hearing, the officer must follow the instructions contained in the “notice of agency action” and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the date of the notice of agency action.

(c) Failure to notify and request a hearing within 30 days of the date of the notice of agency action will constitute a waiver of the right to a hearing.

Option 3

23.13.704 Requests for a Formal Contested Case Hearing Under MAPA  
(1) Any person public safety officer aggrieved by a decision of the director or a decision of the council, other than a decision by the director to deny, sanction, suspend, or revoke a certificate, that is not a final decision following a contested case hearing, as provided in 2-4-623, MCA, may request a contested case hearing before the council by following the procedures set forth in Title 2, chapter 4, part 6, MCA.

(2) If the director denies, sanctions, suspends, or revokes an officer’s POST certification pursuant to ARM 23.13.703(9) and the officer receives a notice of agency action, then the officer has the right to request a formal contested case proceeding under MAPA, to include a hearing, pursuant to 44-4-403(3), MCA.

(a) The proceedings and hearing can only be initiated by a request from the aggrieved party officer whose certificate was denied, sanctioned, suspended, or revoked, or the aggrieved party’s officer’s attorney, and not by any other person or entity.

(b) To request a hearing, the officer must follow the instructions contained in the “notice of agency action” and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the date of the notice of agency action.

(c) Failure to notify and request a hearing within 30 days of the date of the notice of agency action will constitute a waiver of the right to a hearing.
November 10, 2021

Attorney General Austin Knudsen
Office of the Attorney General
215 N. Sanders Street
Helena, MT 59601

Re: Attorney General Opinion Request

Dear Attorney General Knudsen:

I am contacting you today to report a development that may change the circumstances surrounding POST’s June 8, 2021, request for your Opinion on POST’s interpretation of a “conviction” under POST’s eligibility rules. I am asking you to defer action on that Opinion pending reconsideration by POST Council.

POST’s definition of a conviction includes a guilty plea or verdict “without regard to the sentence imposed or whether the charge is later dismissed.” Mont. Admin. R. 23.13.102(4). For some time, POST has considered whether that rule, written with public safety and agency integrity foremost, would survive a challenge. In POST’s April 7, 2021, meeting, the Council discussed the issue and voted to present the issue to you for a formal Attorney General’s Opinion.

By a letter dated June 8, 2021, I forward to you POST’s request for an Opinion and POST’s legal analysis of the questions. Specifically, POST asked:

*Does the POST Council’s definition of “conviction,” in Administrative Rule of Montana 23.13.102(4) comport with the provisions of Mont. Const., Art. II, § 28?*

*Does the POST Council’s definition of “conviction,” in Administrative Rule of Montana 23.13.102(4) exceed the Council’s statutory authority to adopt rules for the purpose of establishing basic and advanced qualification and training standards for employment of public safety officers?*
Since I submitted that request in June, very similar issues have been brought up in a MAPA contested case filed September 7, 2021. That case is assigned to a Hearing Examiner and is continuing through the contested case process. Because a Hearing Examiner and potentially a Court may rule on similar issues, I respectfully request any decision on POST’s June 8, 2021, Attorney General Opinion Request be deferred until the full POST Council can discuss the issue at their next regularly scheduled meeting on December 8, 2021.

Sincerely,

[Signature]

Jesse Slaughter
POST Council Chair
3 Meetings

2022 Calendar

January
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November 4, 2021

The Honorable Greg Gianforte
Governor of Montana
ATTN: Hannah Slusser
Governor’s Office
P.O. Box 200801
Helena, MT 59620

RE:  Resignation from POST Council

Dear Governor Gianforte:

It has been my honor to serve as a public representative on the Public Safety Officer Standards and Training Council for the past six years. My current appointment is set to expire in January 2023. Recently I was promoted to an Assistant General Manager position at Flathead Electric Cooperative, which requires my dedicated attention, and I will not be able to commit the time and focus the POST Council deserves. Please accept this letter as my resignation, effective immediately.

My tenure on the POST Council taught me many things and opened my eyes to an area of public service few get to see or appreciate. I learned that Montana provides excellent training to our public safety officers, that Montana’s law enforcement community is not only dedicated to public safety but hold their own to the highest of ethical standards, and that my fellow POST Council members and the excellent POST staff serve with passion and commitment.

It truly has been an honor and I thank the POST Council and staff for teaching and welcoming me.

Sincerely

Tia Robbin
Public Representative on Montana POST Council

cc:  Eric Gilbertson, POST Executive Director
     Sheriff Jesse Slaughter, Chair of POST Council
Governor Greg Gianforte  
C/O Hannah Slusser  
PO Box 200801  
Helena, MT 59620  

November 4, 2021  

Governor Gianforte,  

In December of 2014 I was appointed to represent the Montana Chief's of Police on the Montana Public Safety Officers Standards and Training Council (P.O.S.T.) It has been my honor to have continued to serve on this Council until the present time.  

I will be retiring from the Hamilton Police Department on December 31, 2021. Due to my retirement, it will be necessary for me to resign from the P.O.S.T. Council.  

I have notified P.O.S.T. Council Chairman Jesse Slaughter of my pending retirement, as well as Chief of Police Wade Nash, who is the current President of the Montana Association of Chief's of Police. Chief Nash has inquired about any interest in serving on this Council from our membership and I believe he will be sending a letter of support for one of our members.  

Thank you for all you do, it has been a pleasure to serve.  

[Signature]  
Ryan L. Oster  
Chief of Police  

Cc: Sheriff Slaughter  
Chief Nash  
P.O.S.T. Director Eric Gilbertson
Course Classifications

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<td>Substance Abuse/Addiction/Treatment Basics</td>
<td>Isaac Coy, DPHHS Treatment Program Manager</td>
<td>14-Jul</td>
<td>1-5 p.m.</td>
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<td>Fatigue to Fulfillment</td>
<td>Kim Lahiff, PPD Bureau Chief</td>
<td>15-Jul</td>
<td>8-5 p.m.</td>
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<td>Ethics Refresher</td>
<td>Rich Collins, DOC Criminal Investigator</td>
<td>18-Jul</td>
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<td>Verbal Defense and Influence</td>
<td>Tom Bolton/Nancy Sharkey, DOC Training</td>
<td>18-Jul</td>
<td>9-5 p.m.</td>
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<td>28</td>
<td>Professional Boundaries</td>
<td>Tom Bolton/Nancy Sharkey, DOC Training</td>
<td>19-Jul</td>
<td>8-noon</td>
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<td>Domestic Violence</td>
<td>Monica Huffman/Allison Smaaladen -- Victim Services</td>
<td>19-Jul</td>
<td>1-4 p.m.</td>
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<td>Human Trafficking</td>
<td>Monica Huffman/Allison Smaaladen -- Victim Services</td>
<td>July 19-20</td>
<td>4-5 p.m. and 8-10 a.m.</td>
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<td>DOC Victim Services/Impact Panel</td>
<td>Monica Huffman/Allison Smaaladen -- Victim Services</td>
<td>20-Jul</td>
<td>10-5 p.m.</td>
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<td>Sexual/Violent Offender Registration</td>
<td>Jamie Lavinder, DOJ SVOR Analyst/Roger Johnson</td>
<td>21-Jul</td>
<td>8-10 a.m.</td>
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<td>33</td>
<td>Supervising Sex Offenders in the Community</td>
<td>Tara Kattell, Region I P&amp;P Officer</td>
<td>21-Jul</td>
<td>10-noon</td>
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<td>34</td>
<td>Supervising Mental Health Caseloads</td>
<td>Bre Lewis/Terry Boyd Region IV P&amp;P Officer</td>
<td>21-Jul</td>
<td>1-3 p.m.</td>
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<td>35</td>
<td>Child Protective Services</td>
<td>Rachel Rolston &amp; Jaime Blair, Central Intake Specialist Supervisor</td>
<td>21-Jul</td>
<td>3-5 p.m.</td>
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<td>36</td>
<td>Mental Health First Aid</td>
<td>Karl Rosston -- Suicide Prevention Coordinator DIR DPHHS</td>
<td>22-Jul</td>
<td>8-5 p.m.</td>
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<td>37</td>
<td>Dangerous Drug Identification</td>
<td>Steve Crawford, DOJ NIB Bureau Chief</td>
<td>25-Jul</td>
<td>8-10 a.m.</td>
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<td>38</td>
<td>Personal Protection/Situational Awareness</td>
<td>Wayne Bye, Deputy Chief Region 3/Andrea Bethel, PO Missoula</td>
<td>25-Jul</td>
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<td>UA Drug Testing</td>
<td>Wayne Bye, Deputy Chief Region 3</td>
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<td>Mike Barthel, Deputy Chief Region 6</td>
<td>25-Jul</td>
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<td>Mike Barthel, Deputy Chief Region 6</td>
<td>26-Jul</td>
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<td>42</td>
<td>First Aid/Naloxone</td>
<td>Kristina Besseneyey, R1 POII/Russ Ostwalt, R6 POII</td>
<td>27-Jul</td>
<td>8-5 p.m.</td>
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<td>43</td>
<td>Down Officer Kit Familiarization</td>
<td>Justin Bradley R1 PO/John Madigan R1 PO</td>
<td>28-Jul</td>
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<td>American Indian Cultural Awareness</td>
<td>Harlan Trombley, DOC Native American Cultural Liaison</td>
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<td>Exam 2</td>
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<td>Critical Incident Stress Management (CISM)</td>
<td>Mike McCarthy, MLEA</td>
<td>29-Jul</td>
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<td>47</td>
<td>Defensive Tactics: HFRG Control Principles</td>
<td>Andrew Garmer, Region 2 POII</td>
<td>29-Jul</td>
<td>1-5 p.m.</td>
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<td>Defensive Tactics: HFRG</td>
<td>Andrew Garmer, Region 2 POII</td>
<td>Aug 1-4</td>
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<td>Firearms: Basic Shooting Instruction</td>
<td>Russ Ostwalt, Region 6 POII</td>
<td>5-Aug</td>
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<td>Firearms: Live Fire</td>
<td>Russ Ostwalt, Region 6 POII</td>
<td>9-12 Aug</td>
<td>8-5 p.m. (night shoot)</td>
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<td>51</td>
<td>Mechanics of Arrest</td>
<td>In-Service Training Group</td>
<td>Aug 15</td>
<td>8-noon</td>
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<td>Chemical Agents</td>
<td>Wayne Bye, Deputy Chief Region 3/Andrea Bethel, PO Missoula</td>
<td>Aug 15</td>
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<td>Radio Communication Training</td>
<td>Dispatch HWP</td>
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<td>Tactical Skills: Room Clearing and Guided Practice</td>
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<td>Tactical Skills: Basics of Home Arrest Preplanning</td>
<td>In-Service Training Group</td>
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<td>Kim Cross/Savannah Girlinghouse: DOC Statistics and Data Quality Unit</td>
<td>26-Aug</td>
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<td>MT Analysis and Technical Information Center (MATIC)</td>
<td>Greg Schulz, DOJ Crime Analyst</td>
<td>26-Aug</td>
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<td>Public Information</td>
<td>Carolynn Bright, Public Relations Specialist</td>
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<td>Reentry Simulator</td>
<td>Katie Weston, Region 4 POII</td>
<td>29-Aug</td>
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<td>P&amp;P 101</td>
<td>Katie Weston</td>
<td>30-Aug</td>
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<td>Rocky Mountain Information Network</td>
<td>Dean Mahlum, Rocky Mountain Information Network</td>
<td>31-Aug</td>
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<td>Prison Rape Elimination Act (PREA)</td>
<td>Michele Morgenroth, Q&amp;A Program Manager</td>
<td>31-Aug</td>
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## Employee Certification Report

Certificates issued between 8-8-21 to 11-30-21

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## Employee Certification Report

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Employees this Report 323
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Billings Police Department

- Bistline, Matthew K. 027559
- Geiger, Tyler D. 027565

Bozeman Police Department

- Deets, Cassandra M. 027855
- Dimcurrio, Dante G. 027856
- Harvey, Bryan C. 027805

Columbus Police Department

- Smith, Justin O. 019514

Dillon Police Department

- Wheatley, Quinton 027808

Fort Peck Dept Of Law & Justice

- Bieber, Charles H. 027823

Great Falls Police Department

- Willcox, Dale B. 027763

Employees this Agency: 2

Employees this Agency: 3

Employees this Agency: 1

Employees this Agency: 1

Employees this Agency: 1
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Employees this Agency:

- Hardin Police Department: 1
- Lincoln Co. SO: 1
- MSU Police Department Bozeman: 2
- Madison Co. SO: 2
- Missoula Co. SO: 1
- Montana Highway Patrol: 1
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Employees this Report: 24

NOTE: Some employees may be associated with more than one Agency which can inflate the report total.
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Montana POST Council
Employee Notes By Agency Report
Extensions Granted

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Employees this Agency: 1
Employees this Report: 11

NOTE: Some employees may be associated with more than one Agency which can inflate the report total.
Montana Public Safety Officer Standards and Training (POST) Council & Staff
2021

Ryan Oster
Hamilton Police Department
223 S. 2nd Street
Hamilton, Montana 59840
(406) 363-2100
chief@cityofhamilton.net
Term ends: January 1, 2023 (2nd term)
Qualification: Chief of Police

Jess Edwards
Box 348
Browning, MT 59417
(406) 450-6090
chiefjessedwards@gmail.com
Term ends: January 1, 2023 (1st term)
Qualification: Certified Tribal Law Enforcement Representative

Matt Sayler
Butte Silver Bow Law Enforcement
15 East Center Street
Butte, MT 59701
(406) 490-5724 (cell)
(406) 497-1171 (work)
msayler@bsb.mt.gov
Term ends: January 1, 2023 (1st term)
Qualification: Local Law Enforcement Officer (non administrative)

Wyatt Glade
1010 Main Street
Miles City, MT 59301
(406) 874-3310 (work)
(406) 421-5695 (home)
w.glade@co.custer.mt.us
Term ends: January 1, 2023 (1st term)
Qualification: Board of Crime Control Representative

Conner Smith
2550 Prospect Ave
Helena, MT 59601
(406) 461-4115
csmith2@mt.gov
Term ends: January 1, 2025 (1st term)
Qualification:  State Government Law Enforcement Representative

Jesse Slaughter
3800 Ulm North Frontage Road
Great Falls, MT  59404
(406) 454-7688
jslaughter@cascadecountymt.gov
Term ends:  January 1, 2025 (1st term)
Qualification: Sheriff

Kevin Olson
PO Box 201301
Helena, MT  59620-1301
(406) 444-9610
kolson@mt.gov
Term ends:  January 1, 2023 (2nd term)
Qualifications:  Department of Corrections Representative

Bill Smith
920 Main Street, Ste. 100
Kalispell, MT 59901
(406) 758-5919
wsmith@flathead.mt.gov
Term ends:  January 1, 2025 (1st term)
Qualification: Detention Center Representative

Kimberly Burdick
Chouteau County Sheriff’s Office
Box 459
Fort Benton, MT  59442
(406) 622-5425
kburdick53@outlook.com
Term ends:  January 1, 2025 (3rd term)
Qualification: Detention Center Representative

Jim Thomas
P. O. Box 503
Canyon Creek, MT  59633
H: (406) 368-2349
barlazyil@linctel.net
Term ends:  January 1, 2025 (3rd term)
Qualification: Public Representative
Leo Dutton  
221 Breckenridge  
Helena, MT  59601  
(406) 447-8235  
ldutton@lccountymt.gov  
Term ends:  January 1, 2025 (2nd term)  
Qualification:  Montana Board of Crime Control

Kristine Byron-White  
P.O. Box 146  
Forsyth, MT 59327  
(406) 351-3359 (cell)  
(406) 346-2236 (work)  
ckwhite@rosebudcoatty.net  
Term ends:  January 1, 2023 (1st term)  
Qualification:  County Attorneys

Eric Gilbertson  
2260 Sierra Road East  
Helena, MT  59602  
(406) 431-5297  
(406) 444-9976 (work)  
eric.gilbertson@mt.gov

Mary Ann Keune  
2260 Sierra Road East  
Helena, MT  59602  
(509) 993-8601 (cell)  
(406) 444-9975 (work)  
mkeune@mt.gov

Katrina Bolger  
2260 Sierra Road East  
Helena, MT  59602  
(406) 444-9974 (work)  
kbolger@mt.gov

Tina Cranmer  
2260 Sierra Road East  
Helena, MT  59602  
(406) 444-9964 (work)  
tina.cranmer2@mt.gov