

**MONTANA Public Safety Officer Standards and Training Council
Meeting Agenda ~ October 2, 2019
Face to Face Meeting 8:00 a.m. ~ 12:00 p.m.
MLEA Rooms 213 & 214
2260 Sierra Road East
Helena, MT 59602**

Dial-in Participant Information

Dial-in number: (866) 576-7975

Access code: 612394

- I. 8:00 a.m. ~ Call meeting to order, roll call, identify and welcome guests.**
- II. 8:05 a.m. ~ Pledge of Allegiance and Invocation**
- III. 8:10 a.m. ~ Approval of minutes for May 29, 2019 Council meeting**
- IV. 8:15 a.m. ~ Public Comment/Guest Issues**
- V. 8:25 a.m. ~ Welcome/Introduction of New Council Members**
 - A. Jason Jarrett ~ Detention Center Administrator Representative**
- VI. 8:35 a.m. ~ Old Business**
 - A. Legislative Updates**
 - 1. HB 96
 - 2. HB 97
 - 3. HB 98
 - 4. HB 99
 - 5. Law & Justice Interim Committee Memorandum
 - B. Instructor Biographies ~ ARM 23.13.301**
 - C. Officer Involved Shooting**
 - D. Kyle Adams Decision from MBCC Appeal**
 - E. Ross Drisinski Decision from MBCC Appeal**
 - F. Thad White Decision from MBCC Appeal**
- VII. 9:30 a.m. ~ Break**
- VIII. 9:45 a.m. ~ New Business**
 - A. Committee Reports**

1. Curriculum ~ Kevin Olson
 - a. SB 220
 - b. Misdemeanor Probation/Pretrial Services Syllabus
2. ARM ~ Leo Dutton
 - a. Changes to Sanctions
 - b. Misdemeanor Probation/Pretrial Services
 - c. TCPR
3. Case Status ~ John Strandell
4. Business Plan/Policy ~ Kimberly Burdick
5. Coroner ~ Leo Dutton

B. One Year Training Requirement Waiver ~ Brent Faulkner

C. Open & Advertised Waiver

D. Invisible Institute Request

1. Request Letter
2. Updated Email Request
3. Kristina Neal's Memo
4. Chris Tweeten's Memo
5. POST's Letter & Assertion Form

E. Director's Report

1. Budget
2. Certificates Awarded ~ 303
3. Trainings Approved
4. Equivalency Granted
5. Extensions Granted
6. Cases Open/Closed
7. Office Updates
 - a. Audits
 - i. POST Approved Trainings
 - ii. Twenty Hours of Training Every 2 Years Requirement
8. DOJ Policies & Operation Plan

F. Basic Syllabi Approval

1. Legal Equivalency
2. CDOB Equivalency

IX. 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.

1 MONTANA Public Safety Officer Standards and ¹
2 Training Council
3 May 29, 2019
4 Face to Face Meeting 8:00 a.m. 12:30 p.m.
5 MLEA Room 213 & 214
6 2260 E Sierra Road
7 Helena, MT 59602

9 Members Present:

- 10 Tony Harbaugh Chairman
- 11 Jim Thomas
- 12 Leo Dutton
- 13 Kevin Olson
- 14 John Strandell
- 15 Kimberly Burdick
- 16 Matt Saylor
- 17 Kristine White
- 18 Jess Edwards
- 19 Wyatt Glade - by phone
- 20 Tia Robbin - by phone

23 Members Not Present

- 24 Ryan Oster

1 POST Staff Present 2

- 2 Perry Johnson Executive Director
- 3 Mary Ann Keune Administrative Officer
- 4 Katrina Bolger Paralegal/Investigator

6 Legal Counsel

- 7 Kristina Neal

9 Guests Present

- 10 Clint Peters by phone
- 11 Andrea Lower
- 12 Steve Ette
- 13 Curt Stinson
- 14 William Harrington
- 15 Brad Bichler
- 16 John Dynneson - by phone
- 17 Truman Tolson - by phone

1 WHEREUPON, the following proceedings were ³
2 had:

3 * * * * *

4 CHAIRMAN HARBAUGH: So good morning.
5 I think we'll go ahead and get started, and we'll
6 call the meeting to order. I would ask that we
7 take roll.

- 8 MR. JOHNSON: Kimberly Burdick.
- 9 MS. BURDICK: Here.
- 10 MR. JOHNSON: Tony Harbaugh.
- 11 CHAIRMAN HARBAUGH: Here.
- 12 MR. JOHNSON: Mary Ann gave me an old
13 roster here.
- 14 MS. KEUNE: -- (inaudible) --
- 15 MR. JOHNSON: Thank you very much.
16 Kevin Olson.
- 17 MR. OLSON: Here.
- 18 MR. JOHNSON: Ryan Oster.
- 19 (No response)
- 20 MR. JOHNSON: Ryan is getting a new
21 Police Department building in Hamilton, so he's in
22 the process of moving, so he wasn't able to
23 participate today. Tia Robbin.
- 24 MS. ROBBIN: Here.
- 25 MR. JOHNSON: John Strandell.

- 1 MR. STRANDELL: Here. 4
- 2 MR. JOHNSON: Jim Thomas.
- 3 MR. THOMAS: Here.
- 4 MR. JOHNSON: Leo Dutton.
- 5 MR. DUTTON: Here.
- 6 MR. JOHNSON: Kristine White.
- 7 MS. WHITE: Here.
- 8 MR. JOHNSON: Jess Edwards.
- 9 MR. EDWARDS: Here.
- 10 MR. JOHNSON: Wyatt Glade.
- 11 MR. GLADE: Here.
- 12 MR. JOHNSON: Matt Saylor.
- 13 MR. SAYLER: Here.
- 14 CHAIRMAN HARBAUGH: Thank you. Maybe
15 what we could do is ask all of our guests in the
16 gallery to introduce as well, please.
- 17 MS. LOWER: I'm Andrea Lower, Pretrial
18 Supervisor in Gallatin County.
- 19 MR. ETE: I'm Steve Ette, I'm the
20 Director of Court Services in Gallatin County.
- 21 MR. STINAR: Glen Stinar, Administrator
22 here at the Academy.
- 23 MR. STINSON: Curt Stinson from the
24 Helena PD.
- 25 CHAIRMAN HARBAUGH: Thank you. And

1 probably our POST staff as well, if we could.⁵
2 MS. NEAL: Kristina Neal, contracted
3 Legal Counsel.
4 MS. BOLGER: Katrina Bolger, Paralegal
5 Investigator for POST.
6 MS. KEUNE: Mary Ann Keune,
7 Administrative Officer for POST.
8 MR. JOHNSON: Perry Johnson, Executive
9 Director for the POST Council.
10 CHAIRMAN HARBAUGH: I would ask next
11 that we stand and give the pledge, please.
12 (Pledge of Allegiance)
13 CHAIRMAN HARBAUGH: Thank you. Maybe
14 while we're still standing, if I could ask Sheriff
15 Dutton to give a short blessing this morning.
16 (Blessing)
17 CHAIRMAN HARBAUGH: Thank you, Sheriff.
18 Has everyone received a copy of the minutes from
19 both the February 26th and April 3rd Council
20 meetings, had a chance to review them?
21 I would entertain -- I think we can do
22 it under one motion. I would entertain a motion
23 to approve the minutes for both of those two
24 Council meetings.
25 MR. STRANDELL: This is John Strandell.

1 I'll make a motion to approve the minutes of the⁶
2 February 26th and April 3rd POST meetings.
3 MR. DUTTON: This is Leo. I'll second
4 it.
5 CHAIRMAN HARBAUGH: I have a motion and
6 a second. Any further discussion?
7 (No response)
8 CHAIRMAN HARBAUGH: All those in favor,
9 please signify by saying aye.
10 (Response)
11 CHAIRMAN HARBAUGH: Opposed, same sign.
12 (No response)
13 CHAIRMAN HARBAUGH: Motion carries.
14 Thank you. We have public comment and guest
15 issues, if anyone would like to speak at this
16 time, or we'll have another opportunity for that I
17 think later in the meeting as well.
18 MR. JOHNSON: I think this is Glen's
19 opportunity to step right up. Hey, though, I'll
20 remind everybody that once again, the recording is
21 the official record for the Council. So when you
22 speak, you have to introduce yourself, "This is
23 Perry," and "This is Kevin," and "This is Matt,"
24 and "This is Glen."
25 MR. STINAR: Good morning. I'm Glen

1 Administrator, S-T-I-N-A-R, from the Law⁷
2 Enforcement Academy.
3 A couple things this morning for the
4 good of the order. I'd first like to welcome new
5 members to the Council, and if you'd like a tour
6 of the facility, and kind of a briefing on what we
7 do, I'd be happy to do that for you at a time that
8 is convenient for you.
9 I have some things of interest to the
10 Council regarding training and standards. So
11 trends in the last twelve months, we've seen a
12 decrease in the student discipline issues here at
13 the Academy, so I'm spending a lot less time
14 having conversations with students and their
15 agencies, and I think that's a good thing.
16 Use of force training. We get positive
17 feedback from the field that the things we train
18 here are actually being used out in the field. In
19 the recent Glacier County shooting, the Deputy
20 there said he remembered Mike McCarthy's voice in
21 the back of his head saying you should --
22 (inaudible) --
23 Mike attends the Coroners inquests
24 around the state, and that use of force training,
25 those applications are always within best

1 practices. And what we're seeing is application⁸
2 in the field, especially with use of force
3 teaching, and the students are applying that, and
4 that's a good thing.
5 Comments about some EMD training. So
6 what we are seeing is an uptick in the number of
7 agencies using EMD -- (inaudible) -- manual
8 dispatching; maybe not the model that we can
9 adhere to, but a model that's -- (inaudible) --
10 around the state, with dispatch centers that
11 don't have anything, so that's a good news story,
12 and that's a reflection of what you had approved
13 two years ago.
14 Moving on, regional trainings. So since
15 January 1st, so for those of you that don't know,
16 we provide training here at the Academy and around
17 the state when requested, so we've been busy since
18 January providing seventeen separate trainings,
19 from drug endangered children, domestic violence,
20 human trafficking, Motor Carrier Services, as well
21 as we've done two instructor development classes,
22 one in Libby and one in Lewistown. That I think
23 correlates with your requirement that firearms
24 instructors have both that class and the firearms
25 instructor class.

1 So when agencies request that, we do ⁹
2 that. We'll have one here in August, and then
3 Cascade County has requested one in the fall, so
4 we'll be up there for that.

5 The benefit for that is we really, you
6 know, we don't charge. Typically we ask the
7 sponsoring agency to find a motel someplace for
8 us, but we cover our own meals and transportation.
9 They're free to finance it however they want.
10 It's been a great, I think a great thing.

11 The policy guidelines committee, it's
12 time to do that again, so Dave Rau is our risk
13 management program manager, he's scheduling that
14 for August.

15 Also be pushing on the legislative
16 update to agencies through our website, so David
17 Ortleby is our attorney on staff, and he would be
18 completing that, and we'll have that late summer
19 on our website. And I'll send an email out to the
20 agency administrators letting them know.

21 We've sort of been talking about this
22 for free and retention thing in Montana, so what
23 I've done is created a survey for the law
24 enforcement basic students, and the basic
25 detention students, and have done that; two LEOB

1 Agency Training Council, and I talked to Perry ¹¹
2 yesterday, so we're, POST and the Academy, is
3 going to co-sponsor a background, employment
4 background -- (inaudible) -- plan and internal
5 affairs training, and do that here.

6 PATC is going to put that together for
7 us. We think it will be five days, two and a half
8 days each, and so there has been some interest
9 around the state for that, so we'll do that here
10 sometime in the -- (inaudible) -- both those two
11 anyway, so we'll get that rolled out.

12 The last item is the POST -- (inaudible)
13 -- Perry, and Katrina, and Mary Ann. When we
14 think that is going to happen, you know there is
15 some construction going on here. So for us to go
16 from 106 beds to 136 beds, POST, your full-time
17 staff, will have to move from the Maple Building
18 over to the Administration Building.

19 As of today, I can tell you with some
20 degree of certainty that October 1st is our -- is
21 that -- between October 1st and October 15th is
22 that two week window when we believe -- if we can
23 believe what the construction company is telling
24 us today. So they will have plenty of time --
25 (inaudible) -- and we'll be able to sit leisurely

1 classes and two CDOB classes. And I said, "What ¹⁰
2 brought you here to Montana? And why do you like
3 the agency you work for?"

4 Typically we think that because your
5 millenials are going to come and go, and none of
6 them said, "I'm a -- (inaudible) -- don't worry
7 about me." They all sort of have, they have some
8 things they'd like to see, so I'll roll that out,
9 too, in the fall of as part of it, and I'll have
10 200 or 300 students I've surveyed. A pretty good
11 cross section.

12 I think nothing new. I think it will
13 remind agency administrators of some things to
14 keep an eye on that are important to people that
15 they're hiring.

16 Our two Law Enforcement Officer Basic
17 classes that are running right now are going well.
18 So we'll have one graduation in June 28th for the
19 larger class, and one July 12th at Carroll College
20 for that -- (inaudible) -- class. So it's been a
21 good model, so we now have something in our tool
22 kit that we can use when the wait lists become --
23 something that we deal with, so that's been a
24 success.

25 I've been in contact with the Public

1 and move everybody around. So that's what I'm ¹²
2 currently looking forward to. It hasn't gone that
3 way over here yet, but --

4 So we have the Aspen Building. You
5 know, the quality of life is something that -- if
6 you have ever been here, stayed here, you know,
7 that's always a concern, so if you've got a chance
8 today, go over to the Aspen dorm building.
9 They're turning that back over to us this week, if
10 they get the 100 little things on the punch list
11 done that they have to get done.

12 But really I think it is a -- I think it
13 is really an impressive effort that kind of gives
14 students a quality place to stay, so they've got
15 -- really enhances their training experience.
16 Then when we get that building back, they'll move
17 over to Spruce. You've seen the cafeteria, so
18 that foundation is being poured. Over the summer
19 they'll build out over there.

20 So there's a lot of moving parts at the
21 Academy, and we're just happy to -- (inaudible) --
22 Subject to your questions, that concludes my
23 comments for this morning.

24 MR. JOHNSON: This is Perry. I would
25 just point out that Glen just talked about a whole

1 lot of stuff there, but in regards to like that ¹³
2 instructor development, back in October and
3 November I traveled, and we put together that
4 training for that orange book. Andrea has got one
5 on her desk.

6 And I actually had a lot of comments
7 from people that said, "You know, it's just
8 impossible to get into instructor development."
9 And thank goodness I'd already had that
10 conversation with Glen, and I said, "Well, have
11 you talked to the Academy about hosting that?"
12 "No. They won't do it."

13 And I said, "I think absolutely they
14 would." And so the proof is in the pudding.
15 There you see one right in Lewistown, right, the
16 center of the state; and then you see one way up
17 in the northwest corner of Montana.

18 So I think just in regards to that
19 outreach and those regional programs, that's a
20 tremendous effort, and that puts a lot of people
21 on the same page as POST then in regards to what
22 we've adopted for those Administrative Rules that
23 then reference that in order to be a firearms
24 instructor, you also need instructor development.

25 So you know, those efforts, you know,

1 business. So when we leave, they have everything ¹⁵
2 they need for a lot of purposes.

3 MR. JOHNSON: Right. Right. Glen and I
4 have had a conversation, too, or several
5 conversations actually about the way this
6 transition is going to look from where we are
7 today and where we're going to be on July 1st.

8 And I think Brian Lockerby and I may
9 meet later on this afternoon just to talk about
10 some of that transition as well. So I think, you
11 know, we're getting our ears in the water, and I
12 think we're all starting to pull in the same
13 direction, and I think that's appropriate. That's
14 really what we need to do, just to anticipate that
15 inclusion into that DOJ program. So thanks for
16 the help.

17 MR. STINAR: Thank you. I appreciate
18 it.

19 MR. JOHNSON: You bet.

20 CHAIRMAN HARBAUGH: Anyone else at this
21 time?

22 (No response)

23 CHAIRMAN HARBAUGH: So maybe we can
24 start with introduction of our new Council members
25 that have been appointed. And again, welcome to

1 really need to be recognized, and I really ¹⁴
2 appreciate that you've gone on the road and that
3 you've taken that training out there. I think
4 that's just a real nice partnership between POST
5 and MLEA. So thank you.

6 MR. STINAR: As part of that course,
7 too, we want the agencies to know how to put their
8 own training together, and you -- (inaudible) --
9 requirements, so we really take a lot of time to
10 get them set up for success, and then we always
11 get emails, "Okay. Now how do I do that again?"
12 So we're really I think doing that, you know, the
13 work and spreading the word. (Inaudible)

14 MR. JOHNSON: Right. This is Perry
15 again. And as soon as those classes happen, our
16 phone rings more. We start hearing, "Hey, now, do
17 I have the right form? Am I doing this right?"
18 So we could tell that that's out there. And I
19 think the applications that we're looking at,
20 we're doing a lot less editing on and a lot less
21 editorial comment on as well. So thank you.

22 MR. STINAR: And we give everything that
23 you require for them to keep, we give on them
24 thumb drives now, so they have that, and we're
25 recommending that that's sort of the way they do

1 all of you. I think Perry asked that each of you ¹⁶
2 consider giving a little history of your
3 yourselves, and Jess, if we could start with you.

4 MR. EDWARDS: Good morning. This is
5 Jess. I started law enforcement back in 2005. I
6 was a detention officer with Glacier County.
7 Later on in the years I became a Deputy with the
8 Glacier County, and I'm the Chief of Police for
9 Browning. I was born and raised in Browning,
10 lived on the Blackfeet Reservation. And I'm glad
11 and honored to be a member of the POST Council.
12 I'm looking forward to being here with you guys.
13 It's a good opportunity.

14 MR. JOHNSON: Thanks, Jess.

15 CHAIRMAN HARBAUGH: Wyatt, are you still
16 with us?

17 MR. GLADE: Yes. I'm on the phone.

18 CHAIRMAN HARBAUGH: You're queued up.

19 MR. GLADE: I'm Wyatt Glade. I'm the
20 Custer County Attorney. I've been appointed by
21 the Governor as representative on the Board of
22 Crime Control and POST, and I'm honored to be part
23 of this.

24 I've been an attorney for fifteen years.
25 The first three of that was private practice --

17
1 (inaudible) -- Ever since then I've been the
2 Custer County Attorney, currently serve as Vice
3 President of the County Attorneys Association
4 also. I live on a ranch south of Miles City with
5 my family, and that's about it, I guess. I'm
6 excited.

7 CHAIRMAN HARBAUGH: Thanks, Wyatt.
8 Matt.

9 MR. SAYLER: My name is Matt Sayler.
10 I'm a Police Officer from Butte Silver Bow Law
11 Enforcement Department. I became a Police Officer
12 in 2010, spent the first three years up in Havre.
13 Met my wife. We have five children together. And
14 we moved down to Butte in 2014, where I've been
15 for the last five years. And I'm also the
16 secretary for the Montana Police Protective
17 Association. I'm looking forward to being on the
18 Council.

19 CHAIRMAN HARBAUGH: Thank you.
20 Catherine Kristine Byron White; is that correct?

21 MS. WHITE: Call me Kristine. You've
22 got the full length name there. So I'm Kristine
23 White, and I've been an attorney for 21 years, and
24 County Attorney for the last six in Rosebud
25 County. I have two boys who keep me very busy.

19
1 in the Sheriff's Office in June of 1978. I
2 currently serve as the Chair of the POST Council,
3 the President of the Montana Sheriffs and Peace
4 Officers Association, and represent the Sheriffs
5 seat on the Council.

6 In addition to that, I'm a member of the
7 POST Status Committee, which myself, John
8 Strandell, and Jim Thomas represent POST on the
9 Status Committee, and we are the ones then that
10 screen allegations and complaints. That's enough
11 about me.

12 Kimberly, would you like to continue?

13 MS. BURDICK: I knew you were going to
14 do that. Hi. My name is Kimberly Burdick, and
15 I'm with the Chouteau County Sheriff's Office.
16 I'm the public representative on the Council. I
17 guess my subject matter expertise is with 911, so
18 I like to think I represent the public safety
19 dispatchers on the Council. I have been with the
20 Sheriff's Office in Fort Benton for almost, it
21 will be 30 years this year.

22 MR. DUTTON: Tag, I'm in the ring. This
23 is Leo Dutton. Mary Ann, this is Leo.

24 MS. KEUNE: Good job.

25 MR. DUTTON: I'm just trying to speak

18
1 They're 17 and 12. And I grew up in Montana,
2 moved to the University of Montana, and then I
3 went out of state for my legal degree.

4 And about six, seven years ago, we
5 decided it was time to come back home, so we did.
6 I'm very glad we did, because we live out, the
7 freedoms, a good space, and it's just so much
8 better than living in the city. When I got off
9 the airplane, I -- (inaudible) -- I'm home. So
10 I'm really glad to be back.

11 CHAIRMAN HARBAUGH: Thank you. And
12 again, welcome to all of you. Our next item is
13 old business with --

14 MR. JOHNSON: This is Perry. You know,
15 we kind of have an advantage on these guys when
16 they come here. We get to hear about them, and
17 here they're sitting with strangers. So Tony, do
18 you think it would be okay if we just went around
19 the room and introduced ourselves to these guys,
20 so they kind of have a baseline of who we are?

21 CHAIRMAN HARBAUGH: Sure.

22 MR. JOHNSON: Tony.

23 CHAIRMAN HARBAUGH: My name is Tony
24 Harbaugh. I'm the Sheriff in Custer County. I've
25 been the Sheriff since March of 1985. I started

20
1 clearly so you can hear me when you're recording
2 later, and you smile when this comes on.

3 But I'm Leo Dutton. I'm the Sheriff of
4 Lewis & Clark County. I was appointed Sheriff in
5 2008 and elected in 2010, and I've been re-elected
6 a couple of different times.

7 I began my law enforcement career in
8 1985 when I was sworn in by Chuck O'Reilly as a
9 Reserve Deputy and went full-time in 1996. I am a
10 member of the Montana Sheriffs and Peace Officers
11 Association, and the Board of Crime Control, who I
12 represent here today. I'm also a member of the
13 Western States Sheriffs Association and a board
14 member with that organization.

15 I have learned a lot about POST Council,
16 and I've learned a lot about POST rules since I
17 got on the Council. Some of those I never thought
18 they existed. Some of them I hoped they didn't.
19 But anyway, it's helped me be a better leader.

20 MR. STRANDELL: I'm John Strandell. I'm
21 the state law enforcement representative to the
22 Council, Chief of the Investigations Bureau with
23 the Montana Department of Justice. Prior to that,
24 I was the Sheriff of Cascade County, retired from
25 there to take the State position. I've been in

1 law enforcement since 1976. So a few years under
2 my belt.

3 And anyway, I'm also Chair of the Status
4 Committee that Tony alluded to, and we work
5 closely with Perry on all their allegations,
6 misconduct allegations, that come into POST
7 Council, and review and screen those with him.

8 This is my second tour on the Council.
9 As a Sheriff, I served as a Sheriffs'
10 representative back in -- I forget now when that
11 was -- back in the 1980s probably, early 1990s,
12 and then took time off, and then I got back on as
13 state law enforcement, that was a requirement.

14 And really enjoy working with all the
15 members of the Council, and law enforcement around
16 the state.

17 (Inaudible conversation)

18 MS. KEUNE: I'm Mary Ann Keune. I've
19 worked as the Administrative Officer for POST
20 going on five years in two days. I've been
21 married 42 years yesterday, have three kids and
22 eight grandchildren. I love my life. I have a
23 tough job because you are who I work with every
24 day.

25 MR. JOHNSON: Don't take that

1 personally, Katrina.

2 MS. BOLGER: I try not to, Perry.

3 MS. KEUNE: And -- (inaudible) -- a lot
4 of times, and I'm just thrilled that you're all
5 here.

6 CHAIRMAN HARBAUGH: Thanks.

7 MR. OLSON: Good morning. My name is
8 Kevin Olson. I'm the Administrator for the
9 Probation and Parole Division of the Montana
10 Department of Corrections. Tony and John are
11 finally validated that they're older than I am.

12 I started my career in 1980, did most of
13 my time with the Havre Police Department, and
14 retired as Chief of Police there in 2004. I was
15 blessed to come to the Academy, and take over as
16 Administrator of the Law Enforcement Academy, and
17 was here for almost eleven years.

18 Then in 2014, then moved to the Montana
19 Department of Corrections as the Administrator for
20 Probation and Parole Division.

21 MR. THOMAS: Jim Thomas.

22 MR. JOHNSON: You got a drum roll.

23 MR. THOMAS: Anyway, I started my career
24 in 1982. I spent twenty years with the Helena
25 Police Department, and then seven years with the

1 Academy working with Kevin. I am on the Case
2 Status Committee also, and also serve as the POST
3 representative to the Department of Labor's
4 Private Security Board, which we meet quarterly
5 also.

6 MS. BOLGER: Katrina Bolger. I'm the
7 Paralegal Investigator for POST. I started my
8 legal career in the Appellate Defenders Office;
9 moved into Major Crimes Unit; got pretty burned
10 out after a couple of death penalty cases; came to
11 over to the Attorney General's Office in Agency
12 Legal Services Bureau, worked for POST on a
13 contract basis for about two years, before Perry
14 enticed me to come over full-time -- (inaudible)
15 --

16 So I've been doing POST cases for about
17 seven years, but I've been full-time with POST for
18 just over five. So married, been married almost
19 eight years now, and my daughter is four years old
20 today.

21 MR. DUTTON: Happy birthday.

22 MS. BOLGER: Yes.

23 MS. NEAL: I'm Kristina Neal. I'm
24 contracted Legal Counsel for POST. I've been
25 doing this for about a year, year and a half now.

1 I did my undergraduate work at the University of
2 Wyoming, and went to Missoula to law school. I've
3 been an attorney for 20 plus some years. Prior to
4 this, I did primarily public defender work, so it
5 has been a switch, and I've really enjoyed it. I
6 have got three boys ranging from seven to
7 thirteen, so we're always busy.

8 MR. JOHNSON: I'm Perry Johnson. I
9 started my career in 1986 with Ravalli County
10 Sheriff's Office, and I spent almost four years
11 with them. Then I went to work at the Hamilton
12 Police Department, spent almost nine years with
13 them. I got elected Sheriff in Ravalli County,
14 and I did one term there. The voters didn't have
15 a chance to re-elect me. My family did an
16 intervention and told me, "You can't be the
17 Sheriff anymore."

18 So I went right back into Detectives.
19 The new Sheriff hired me back. I did about five
20 more years in Detectives. I retired after four
21 years then as the Sheriff's Undersheriff in
22 Ravalli County. And on August 19th of 2013, I
23 took this position here at POST, so I've been here
24 almost six years.

25 I've been married for 41 years, and it

25
1 will be 42 in November; four kids, one boy, three
2 girls; eleven grandkids, four boys, seven girls.
3 I still live in Hamilton. We go back and forth
4 every week. So the last six years I've kind of
5 rolled that highway out a little bit. But I think
6 that's kind of the story for me.

7 I've really enjoyed this. I think we've
8 really had a nice process developed, and a great
9 group of people to work with. So those new
10 members that are here, I'm really excited that
11 you're willing to participate. That's a nice
12 thing for this group. I think it's always nice to
13 have some new ideas and some fresh thoughts come
14 to the table. So thank you for stepping forward,
15 and being willing to participate.

16 But while I've still got the floor, I
17 want to make sure that we acknowledge that Bill
18 Harrington, the East Helena Chief of Police, has
19 joined our meeting. And I think Sheriff Brad
20 Bichler was in the hallway, but he's been on the
21 phone for the last twenty minutes, so he'll
22 probably join us here in a few minutes. He's the
23 Park County Sheriff as well. So thanks for giving
24 us some opportunity to share a little.

25 MR. STRANDELL: It appeared to me that

27
1 Corporate Counsel and Director of Human Resources
2 for Flathead Electric Cooperative in Kalispell.
3 On POST, I'm a member of the ARM committee, and
4 the Business Policy Committee, I think. Right,
5 Perry?

6 MR. JOHNSON: Yes.

7 MS. ROBBIN: Married, have a daughter
8 who is 17, junior in high school, just finishing
9 -- next week will be her last week as a junior,
10 and then I thought "A year at last" starting next
11 year. And that's about it.

12 MR. JOHNSON: Thanks, Tia.

13 CHAIRMAN HARBAUGH: Do we have anyone
14 that -- (inaudible) --

15 MR. DUTTON: As long as we're talking
16 about different people, usually there's a person
17 in the audience that's vocal -- today he's not --
18 Jerry Williams. And a couple of days ago he had a
19 house fire. And he has a foster son that got
20 second degree burns on his right hand. And his
21 wife was able to get out okay.

22 But the son is healing. And Truman
23 Tolson is -- if you want to throw money toward
24 Jerry, Truman Tolson has been collecting it. But
25 just to let you know that they're doing okay,

26
1 we didn't have any choice -- (inaudible) --

2 MR. JOHNSON: We've all got choices,
3 don't we? But to bend on that, I want to make
4 sure that we acknowledge that there may be some
5 victims in this room. John.

6 CHAIRMAN HARBAUGH: Do we have any
7 people on the phone that want to -- I mean Tia.

8 MR. JOHNSON: Oh, yes. Hey, Tia, would
9 you give a short bio?

10 MS. ROBBIN: I was wondering if you were
11 going to get to me, Perry.

12 MR. JOHNSON: Doggone it, you know, I
13 get so full of my own self.

14 MS. ROBBIN: I'm Tia Robbin. I'm the
15 member of the citizens of Montana that got
16 appointed by the Governor. I guess I've been on
17 the Council for I think five years now, and I just
18 got reappointed for my second term. I finished
19 out a term of a person that was coming off the
20 Council, and so filled a full term, and now I just
21 got reappointed for another term, which is an
22 honor.

23 I am an attorney, and I've been in
24 private practice in Kalispell for about 20 years.
25 And then became Corporate Counsel. Currently I'm

28
1 reached out to him. And Truman is on the phone,
2 but could add anything he wanted, but I just
3 wanted to make you all aware of that.

4 CHAIRMAN HARBAUGH: Thank you.

5 MR. TOLSON: Thanks, Leo. I appreciate
6 that. This is Truman. You know, bad things
7 happen to good people, and unfortunately, as Jerry
8 says always, and no one was seriously hurt.
9 Everything can be replaced. I think that Jerry
10 has done a world of good for law enforcement over
11 the state, during his time at Butte-Silver Bow, to
12 the Academy, and to being the Executive Director
13 for MPPA.

14 And Jerry's really not aware that we are
15 collecting -- (inaudible) -- and that, but I think
16 that anything can help him, and that is the days
17 to come. This was to be his last year at MPPA,
18 and I have not talked to him any more about that.
19 -- (inaudible) --

20 MR. OLSON: Truman, this is Kevin Olson.
21 Would you rattle off an address where we could
22 send any contributions?

23 MR. TOLSON: You can send it to me at
24 the Missoula Police Department, 435 Ryman Street,
25 Missoula, 59802. And I'm going to MPPA's

29

1 convention next week, and taking vacation, and so
2 I'm leaving here about 11:00 on Monday. But if
3 you send it afterwards, I will make sure that he
4 gets it because I will be seeing him in the near
5 future as well.

6 MR. SAYLER: Matt from Butte. Our
7 convention is here in Helena, too, so I'm sure
8 Jerry will still be there. He hasn't --
9 (inaudible) -- So if anybody is here and wants to
10 stop by, they can do that, too.

11 UNKNOWN SPEAKER: Where at, Matt?
12 MR. SAYLER: It's at the --
13 MR. DUTTON: This is Leo. That was good
14 information to know.

15 UNKNOWN SPEAKER: Is it at the Delta?
16 UNKNOWN SPEAKER: I think it is.
17 UNKNOWN SPEAKER: I think it's the Great
18 Northern.
19 UNKNOWN SPEAKER: I think it's the Great
20 Northern.
21 UNKNOWN SPEAKER: I think it's the Great
22 Northern downtown?
23 MR. TOLSON: No, it's at the Colonial
24 Inn now, which is now the Delta Marriott.
25 UNKNOWN SPEAKER: And that starts when,

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1 Council. So that shows you the letter from the
2 Governor.

3 I'll also point out that Fredrick James
4 Sparks was appointed, but after conversation with
5 Stacey Otterstrom, the Governor's appointment
6 secretary, they recognized that he is not a
7 Detention Officer or Detention Center
8 Administrator, he's a Probation and Parole Officer
9 who is attached to a prison. So while the name is
10 on there, they didn't ask to confirm or affirm
11 him, and they have left that vacant until the
12 Governor makes an appointment to the Council for
13 that position.

14 So that takes us to Pages 111 to 122.
15 And I think specifically, the reason that I
16 attached this, this is a -- you know, we had four
17 bill drafts in front of the Legislature this time.
18 Two of them were very successful and were signed
19 into law, and two of them made it through the
20 House unanimously, I believe, and they died in
21 Senate committee.

22 So this one in particular on Page 119,
23 I'd like to discuss with the Council Section
24 (8)(b). And just for the purposes of this
25 discussion, it would be that first sentence about

30

1 Matt?

2 MR. SAYLER: Monday.
3 MR. DUTTON: Thank you. That's good to
4 know.

5 MR. TOLSON: -- (inaudible) -- There's
6 some actually good training going on on Tuesday,
7 Wednesday, and Thursday, and Friday morning as
8 well.

9 MR. DUTTON: Thank you, Mr. President,
10 or Chairman, whatever you are.

11 CHAIRMAN HARBAUGH: So shall we move
12 into old business? -- (inaudible) -- Legislative
13 updates.

14 MR. JOHNSON: This is Perry. I would
15 direct your attention to Pages 111 to 122. This
16 is an update on House Bill 98 that was, I think it
17 was signed into law on May 1st by the Governor.
18 -- (inaudible) --
19 MR. JOHNSON: Is that what date it was?
20 So it will become effective on October 1st. You
21 know, probably I already outran my headlights. I
22 would first direct your attention to Page 109 or
23 108, and that actually shows you the people that
24 were appointed to the POST Council, either their
25 term was renewed or they're new members of our

32

1 three lines down in (b), it starts, "And if that
2 Peace Officer's combined training and experience
3 had been reviewed and approved by the Council as
4 commensurate with the current Peace Officer Basic
5 Course offered at the Montana Law Enforcement
6 Academy, the Peace Officer shall successfully
7 complete the Peace Officer Basic equivalency
8 course as approved by the Council within one year
9 of the officer's initial appointment."

10 The change there, of course, is that
11 before we always looked hour for hour, and
12 syllabus to syllabus, to see if it was equivalent.
13 And the reason that we got into this position is
14 because both the Department of Justice, the
15 Gambling Division, and the Bozeman Police
16 Department have very qualified candidates that,
17 like some of us in the room, have been around for
18 30 or 40 years. They've got thousands of hours of
19 advanced training, but their Basic Academy course
20 was like back in 1978 for 200 hours, or 300 hours.
21 and our Basic Academy course today is 480, and
22 it's going to expand to -- is it 511?
23 UNKNOWN SPEAKER: 504.
24 MR. JOHNSON: -- 504. So what we wanted
25 to do with officers like that -- and obviously we

33
1 admit that there probably won't be a lot of those
2 officers, you know, but occasionally we will see a
3 candidate that really is qualified to challenge
4 that course to go to Law Enforcement Equivalency.

5 And so Len Declerq with the Department
6 of Justice Gambling Division, he came to us, or
7 came to that agency as a new agent for them. He
8 does have 42 years of experience, I believe. He
9 does have two Basic Academy courses, and neither
10 of them were 480 hours, but he's got thousands of
11 other hours of training.

12 William Cox has been hired by the
13 Bozeman Police Department, and he's got a decade
14 and a half of training, but his Basic Academy
15 course was not 480 hours either.

16 So we proposed with this that we have an
17 opportunity to review the training and experience
18 that those officers have, and hold that up against
19 our Basic Academy training, and to weight it to
20 consider how much a year of experience is worth in
21 regards to training.

22 So in regards to this conversation then,
23 the point is really this: The next law
24 enforcement equivalency training, that 32 hour
25 course at the Academy, begins at 13:00 hours on

34
1 September 30th, and this law goes into effect on
2 October 1st.

3 So I'm wondering if we can give
4 consideration to these fellows through our
5 discussion today to allow them to attend that
6 training, rather than wait until next spring to go
7 through that. So that's the topic I'd like you to
8 consider today.

9 CHAIRMAN HARBAUGH: Should we start by
10 making a motion and then go into discussion?

11 MR. OLSON: I would move to accept those
12 individuals into the legal equivalency course.

13 CHAIRMAN HARBAUGH: To waive the --

14 MR. OLSON: Yes. And then when we go to
15 discussion, I'll --

16 CHAIRMAN HARBAUGH: I have a motion.

17 MR. SAYLER: Second.

18 CHAIRMAN HARBAUGH: And a second. Now
19 we'll move to discussion.

20 MR. OLSON: So my argument is that their
21 certificate of completion isn't going to be dated
22 until after October. I don't think it's when they
23 start the course, it's when they finish the
24 course, and that's the argument I would make.

25 CHAIRMAN HARBAUGH: Any further

35
1 discussion?

2 MS. KEUNE: Who was the second?

3 UNKNOWN SPEAKER: Matt.

4 CHAIRMAN HARBAUGH: So we have a motion
5 and a second. Any further discussion?

6 MS. BOLGER: Perry, this is Katrina. My
7 only comment on that, I understand Kevin Olson's
8 point, but the statute actually says that it has
9 to be approved by the Council. The approval would
10 need to be conditioned upon this becoming law on
11 October 1st, because we would still be approving
12 it before October 1st. So it would be like a
13 conditional approval based on this becoming law on
14 October 1st while they're at the course.

15 CHAIRMAN HARBAUGH: Everyone is good
16 with the clarification?

17 MR. OLSON: Tony, this is Kevin. The
18 other thing, Perry, the other thing we could do is
19 instead of having our meeting October 7th, we
20 could have our meeting the last week of September
21 and approve their credentials then.

22 MR. JOHNSON: This is Perry. We've
23 reviewed their credentials, and today there will
24 be additional discussion in regards to this
25 statute, and I'm anticipating that we're going to

36
1 apply this out of the Business Plan Committee that
2 Kimberly has got, comes a seconded motion that
3 we'll address the way that we have discussed
4 weighting the experience and the hours of training
5 that these officers have obtained.

6 So we have already vetted these
7 candidates. We know where they stand in regards
8 to this statute and to the policy that will be
9 proposed. So I think today, at least the way that
10 I look at it, I think you're okay based on the
11 motion that you made to conduct your business,
12 especially considering those additional comments,
13 that this would be a conditional approval based on
14 the business of this Council today.

15 CHAIRMAN HARBAUGH: And I don't think
16 we're doing it to, specifically to these officers,
17 which should keep it clean as well. Any further
18 discussion on the motion?

19 (No response)

20 CHAIRMAN HARBAUGH: Everyone understands
21 the motion?

22 (No response)

23 CHAIRMAN HARBAUGH: All those in favor,
24 please signify by saying aye.

25 (Response)

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1 CHAIRMAN HARBAUGH: Opposed, same sign.
2 (No response)
3 CHAIRMAN HARBAUGH: Motion carries.
4 Thank you.
5 MR. JOHNSON: This is Perry again. Then
6 I would just say that everybody that participated
7 in drafting and testifying on these bills, we
8 really appreciate the folks that stood up at the
9 podium to support us. Was there any other comment
10 about House Bill 98?
11 (No response)
12 MR. JOHNSON: This of course is one that
13 we tried two years ago, but we put it all in one
14 package, and we went back and broke it out this
15 time, and this time we were successful in getting
16 it through.
17 So House Bill 99 is Pages 123 to 129. I
18 think that's a bill that discusses POST's
19 responsibility as it relates to Coroner education,
20 the Basic Academy training for the County
21 Coroners, and the advanced or continuing training
22 as well.
23 This was really an effort to reflect
24 what we actually do. We seldom conduct 40 hours
25 of training, but we do approve those training

39
1 sometimes it takes months to get those opinions.
2 MR. DUTTON: This is Leo. Must be.
3 MS. BOLGER: This is Katrina. We did
4 get a letter from the Attorney General's Office
5 basically saying they're giving themselves an
6 extension of time to respond. They have something
7 outlined in their laws for how long they have to
8 respond, and those are pretty typical. They give
9 themselves more time, so --
10 MR. DUTTON: Good to be the king.
11 MS. NEAL: This is Kristina. Especially
12 with the legislative session, they receive a lot
13 of Attorney General requests that come in during
14 the Legislative session. So I would anticipate
15 that it would be slightly more delayed than usual.
16 MR. JOHNSON: Hey, somebody is on the
17 phone, and your phone was playing music for us,
18 and --
19 That takes us to Pages 130 to 163. This
20 is House Bill 684. This is the document that
21 actually places POST under the oversight of the
22 Department of Justice. It makes us a bureau now.
23 So at the next meeting, unless we meet before the
24 first of July, I won't be an Executive Director,
25 I'll be a Bureau Chief.

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1 courses, and we've been doing a Basic Coroner
2 twice a year now instead of once every two years.
3 So I think it turned out really well.
4 And we've kind of defined that. Instead of
5 advanced, we call it Continuing Coroner Education,
6 and there's a lot of things that will fit into
7 that.
8 MR. DUTTON: Before we move on, Mr.
9 Chairman.
10 CHAIRMAN HARBAUGH: Yes.
11 MR. DUTTON: Perry, did we get a
12 definition of the -- whether your two years go to
13 the end of the month, or is it calendar day?
14 MR. JOHNSON: This is Perry. Following
15 that, I think it was the April 3rd meeting --
16 Katrina, correct me if I'm wrong -- where we asked
17 for the Attorney General's opinion.
18 MS. KEUNE: February.
19 MS. BOLGER: It was at the February
20 meeting.
21 MR. JOHNSON: Oh, February meeting. So
22 I think Kristina drafted that language for the
23 Chairman of the Council, and he signed it the
24 following week. It went to the Attorney General.
25 We haven't got a response yet. And I think

40
1 And then I just included some of the
2 testimony that was provided to the committee
3 during that, and you'll see a letter there from
4 Tony Harbaugh as the Chair of the Council; Bill
5 Dial as a Council member; Don Guiberson, the Chief
6 of Police in Dillon.
7 There is also -- I've included a history
8 of the POST legislation that Katrina provided to
9 me before I testified. My testimony is also
10 included in that as well. And then kind of a
11 survey that we conducted that we provided to that
12 committee, as well as the roster of the POST
13 Council.
14 And then finally, you see the way that
15 it was voted on, and the actions taken by the
16 Governor in regards to that. So I guess this is
17 the bill that was signed on May 1st, 684?
18 UNKNOWN SPEAKER: -- (inaudible) --
19 MR. JOHNSON: Man, I just can't get the
20 dates right. I was never good at math. New
21 calendars just drive me crazy, so --
22 The bottom line is it's the law now, and
23 that's the way that it is. So we're moving
24 forward. Any discussion on that?
25 (No response)

41

1 MR. JOHNSON: I guess I would just leave
2 it then to the Council to maybe take a look at any
3 of those other bills that you've got interest in.
4 Senate Bill 220 is one I think that
5 probably Steve and Andrea are interested in, and I
6 think that Kevin will be speaking to that later
7 during his report on the curriculum, as the
8 curriculum chair.

9 MR. DUTTON: Mr. Chairman, cruising
10 through here where it says POST Council
11 committees, have those been redone, or is that
12 still current?

13 MR. JOHNSON: What page are you on?
14 MR. DUTTON: 200.
15 MR. JOHNSON: 200.
16 MR. DUTTON: This is Leo. It was 2018,
17 so I'll just -- (inaudible) --
18 MR. JOHNSON: Hey, you know, we're not
19 quite to that point yet, Leo.
20 MR. DUTTON: Okay.
21 MR. JOHNSON: But we'll sure get there.
22 MR. DUTTON: Sorry about blowing up.
23 MR. JOHNSON: No worry.
24 CHAIRMAN HARBAUGH: So House Bill 97.
25 We didn't have any discussion -- Did we need any

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1 that Senate Judiciary Chairman was that he thought
2 that the District Courts were too busy, that we
3 should maintain doing what we do now, rather than
4 clog up their dockets.

5 So keeping in mind in the last five
6 years we've only gone in front of the Board of
7 Crime Control four times, I don't think we would
8 have really clogged up many dockets, but alas, we
9 didn't prevail anyhow, so there we are.

10 MR. STRANDELL: This is John. But they
11 still have the opportunity to go into District
12 Court via the Board of Crime Control. Did he
13 understand that?

14 MR. JOHNSON: This is Perry. Yes, they
15 did understand that. They knew that that was the
16 next step in the process. So there is some funny
17 things that happen up on that hill once in awhile,
18 and you just have to kind of scratch your head.

19 MR. STRANDELL: Every once in awhile?
20 MR. JOHNSON: Well, that's my life
21 experience, John. So Tony, your question was
22 about 97, right? And that was tabled in the House
23 Judiciary Committee.

24 I actually talked with Barry Usher, a
25 representative out of Billings, and asked him

42

1 discussion on that?

2 MR. JOHNSON: Well, House Bill 97 is one
3 that I think died in committee. And you know, I
4 think if you look on Pages 174 and 175, that
5 didn't -- Now I'm on page -- I'm on Senate Bill
6 220, so I've got to go back.

7 MS. BOLGER: 168.
8 MR. JOHNSON: 168. So House Bill 96 on
9 166 and 167, that died in committee. House Bill
10 97, that died, also died in the process. Both of
11 these bills came out of the House. If you look on
12 Page 164, you'll see House Bill 96 came out of the
13 House, came out of committee 18 to one; second
14 reading passed 100 to zero; third reading passed
15 98 to zero; but we couldn't get it out of the
16 Senate Judiciary Committee.

17 This is the one that would have revised
18 the process for POST's appeals to the Board of
19 Crime Control. We're the only Council, the only
20 group in Montana that is reviewed, our decisions
21 are reviewed by another council or committee. And
22 our intent was not to remove any due process, but
23 to move the due process from the POST Council's
24 decision right to the District Court.

25 And the explanation that I received from

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1 about what happened with this one, and he said,
2 "You know --" this is again one of these head
3 scratchers for me. He said, "You know, you got
4 two of your bills out, and two out of four isn't
5 bad." So he said we could probably come back and
6 visit this, but he said, "But I don't think you're
7 going to be successful."

8 So I sometimes think they just look at
9 what we're doing and think, "Well, if you're part
10 way successful, you're all successful." So I
11 really believe that this is a good bill, and I
12 think that this is something that we should come
13 back to the Legislature next time and pursue this,
14 because I think that it really does define what we
15 do here, and it provides good information for our
16 stakeholders.

17 Then that brings us to -- Did you want
18 to talk about that some more, Tony?

19 CHAIRMAN HARBAUGH: No. Thank you.
20 MR. JOHNSON: Then on 174 you see Senate
21 Bill 220. That revises those probation bills.
22 And I think the language on those begins on Page
23 177 and ends on 178.

24 This is the one that I think for the
25 first time -- Kevin, you can correct me if I'm

45
1 wrong -- but it actually defines a Probation and
2 Parole Officer, and it defines a Misdemeanor
3 Probation Officer by including those Misdemeanor
4 Probation Officers that are employed by a vendor
5 that contracts with a municipality or a county
6 now.

7 And before they were publicly employed,
8 so they would have worked for -- like Steve and
9 Andrea, they both are employees of Gallatin
10 County. Now it could be a vendor in Helena, for
11 example, that can contract with Lewis & Clark
12 County or the City of Helena to provide those
13 services, and then they would be under the same
14 training requirements as the Probation and Parole
15 Officers or those publicly employed employees in
16 regards to being required to be trained, and as
17 such then, they would meet the standard or the
18 definition of a Public Safety Officer that's found
19 in 44-4-401. "Any person required to have
20 training approved by POST." So that's how that
21 one fits with the POST Council.

22 MR. DUTTON: And this one passed?

23 MR. JOHNSON: It's been passed and
24 signed, Leo, yes.

25 -- (inaudible conversation) --

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1 issues, too, that because of the -- I don't know
2 -- the way the world is now, we're probably going
3 to continue to see that. We're going to see that
4 people are invested in their public education and
5 their schools, and they want to provide some kind
6 of threshold of security in the schools, and they
7 want to enjoin the schools in making that happen.
8 So I think it's something that should be on our
9 radar that we should be aware of.

10 CHAIRMAN HARBAUGH: Anything else under
11 legislative updates anyone?

12 (No response)

13 CHAIRMAN HARBAUGH: Shall we take a few
14 minute break?

15 MR. JOHNSON: Yes.

16 CHAIRMAN HARBAUGH: I can tell by that
17 look in your eye you needed to.

18 MR. JOHNSON: Ten minutes?

19 CHAIRMAN HARBAUGH: Sure.

20 MR. TOLSON: Hey, Tony, are you still
21 there by any chance?

22 CHAIRMAN HARBAUGH: Yes, I am, Truman.

23 MR. TOLSON: I just want to let you know
24 that I may be dropping off here within the next
25 half hour, but I will call back in once I'm done

46
1 CHAIRMAN HARBAUGH: Any other discussion
2 on that one before we go to Senate Bill 348?
3 MR. JOHNSON: 348 died in committee. I
4 included that one in there because Kevin and I
5 have had a conversation about this. Actually
6 we've had a lot of conversations about all of
7 these.

8 But this is the one that would have
9 provided for those Misdemeanor Probation Officers,
10 Pretrial Service Officers, to be trained at the
11 Law Enforcement Academy. And it died in
12 committee, I believe. I don't think that it did
13 get out of committee.

14 And the conversation that Kevin and I
15 had is this is one that is near and dear to the
16 hearts of those vendors, and this is one that's
17 probably going to come back, and they're going to
18 continue to take a run at this. So I included
19 that in here.

20 And then finally House Bill 567, that
21 would have affected us and the Academy in regards
22 to the School Marshal Bill. This did come out of
23 both houses, and it was transmitted to the
24 Governor who vetoed it.

25 But I think that's probably one of those

48
1 with the meeting.
2 CHAIRMAN HARBAUGH: Okay. Thank you. I
3 appreciate that, Truman.
4 MR. JOHNSON: Hey, this is Perry. Just
5 for those people on the phone, did somebody else
6 join the call that we failed to acknowledge?
7 (No response)
8 MR. JOHNSON: I thought that phone
9 dinged one time.

10 (Recess taken)

11 CHAIRMAN HARBAUGH: I think we'll go
12 ahead and reconvene. We've got a few Council
13 members that will be back in the room I'm sure
14 shortly here. I'd like to welcome Sheriff Brad
15 Bichler from Park County as well. I think he's
16 been here, but he was a little tied up before he
17 got into the room, it looked like.

18 Maybe we'll move into a discussion on
19 ARM 23.13.301, Instructor Bios.

20 MR. JOHNSON: This is Perry. That would
21 be on Page 199. That contains the entire
22 Administrative Rule.

23 What we wanted to talk about today was:
24 Instructor biographies are part of the requirement
25 to get training. And we've had these

1 conversations before, but just in regards to this
2 conversation, we started one several Council
3 meetings ago where we asked about a conditional
4 waiver of that instructor bio for some specific
5 classes, specifically some of the online training.

6 They're just not available. It's a good
7 training, they can capture the lesson plan, they
8 can capture the student materials, they're over
9 two hours, they meet all the standards except
10 there's not a bio because it's an online training.

11 And so that's what I wanted to bring to
12 the Council today to discuss to see if you would
13 consider that online -- or I'm sorry -- that
14 conditional waiver on courses like that.

15 There is also some that I'd point out to
16 you that we see that are really some top shelf
17 training, some SWAT training, some HIDTA training,
18 that is significant in scope, but either the DEA
19 or the FBI will not give you a bio for the
20 instructors of those courses; and that provides or
21 that creates a problem for those officers that
22 have 40 or 80 hours under their belt of that kind
23 of training, and they have to count it as
24 in-service rather than POST approved training.

25 And I would like to get some direction

1 from you on how to proceed with that.

2 CHAIRMAN HARBAUGH: What's the feelings
3 of the Council?

4 MR. OLSON: This is Kevin, and I agree.
5 For example, statutorily we're required to take at
6 least an hour of mental health training every year
7 for every P&P officer, and we use an online
8 company called Relias, and they put out some very
9 good courses.

10 But the same thing. You can't -- you're
11 not going to get an instructor bio. The State,
12 for every State employee, they're required to take
13 discrimination and harassment training. It's all
14 online from DOA. Same thing. So --

15 CHAIRMAN HARBAUGH: Would you propose
16 that it be at your discretion or under your
17 review?

18 MR. JOHNSON: Well, I think that's a
19 decision that the Council will need to make. I
20 think that if that's where you land on this, then
21 I think that that would work, but I think that it
22 would need to be specific in regards to the
23 direction that you give to me, how you want me to
24 be responsive to those kind of applications.

25 MR. DUTTON: Mr. Chairman. This is Leo.

1 I had the same problem when we have the FBI
2 retrainers, the FBI agents come in, and like you
3 were helping me get ready to get some of the POST
4 hours, training qualifications. I'm still dealing
5 with getting the outline, that I don't know that
6 I'm going to get, for the class. And then the
7 bios for the FBI, I don't know that I'll get that.

8 But those are continuing ed. hours that
9 help meet those minimum qualifications that you
10 need every year. So it would help to say -- if we
11 could do something where they're employed, bona
12 fide instructor, some kind of something that is
13 not so onerous to get hours.

14 MR. JOHNSON: So this is Perry again.
15 So I think I really need to break this into two
16 things. I need to have that discussion or that
17 direction on that online training, like Kevin just
18 talked about.

19 If I can't get, or if the officer or the
20 agency can't get that bio, I guess my question is:
21 Would you consider allowing us to on a
22 case-by-case basis -- it's so easy for me to say
23 -- to consider, to use my discretion to waive that
24 requirement just on the online? And then we'll
25 come back and talk about that other issue.

1 MR. OLSON: So this is Kevin.

2 MR. DUTTON: I would make a motion that
3 we would give you that authorization to do that,
4 to use your discretion on online training, whether
5 you feel it's appropriate, and to be able to waive
6 that requirement.

7 MR. OLSON: This is Kevin. I'll second.

8 CHAIRMAN HARBAUGH: I have a motion and
9 a second. I'll open for discussion.

10 MR. OLSON: This is Kevin. You know,
11 with a lot of those online courses, the only thing
12 you're going to get is a certificate of completion
13 that generally reflects how many hours that it
14 generally takes to complete those courses, and
15 that's about all you're going to get.

16 MR. JOHNSON: This is Perry. I've
17 reached out to -- I'm glad Kevin brought up
18 Relias. I've reached out to them and PoliceOne,
19 and they seem to be the big vendors in Montana
20 right now. And PoliceOne is working towards --
21 I've provided them with our Administrative Rule
22 and our application form; and I did the same with
23 Relias.

24 Relias is actually one of those
25 companies that is a pretty -- they're on their

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1 game. They've got a lot of the information that
2 we need, and I think they're cognizant of what we
3 need, and I think that they're going to be very
4 responsive in the future.

5 But we're talking about today. So at
6 some point we need to capture what's actually
7 happening today, and hope that those companies
8 will be able to provide that overview, or that
9 syllabus, or whatever that agenda is for that
10 training; but for right now, I think that's the
11 real world discussion today. So I think that that
12 motion would take care of that issue in regards to
13 the online.

14 CHAIRMAN HARBAUGH: Any further
15 discussion?

16 (No response)

17 CHAIRMAN HARBAUGH: We'll move to a
18 vote. All those in favor, please signify by
19 saying aye.

20 (Response)

21 CHAIRMAN HARBAUGH: Opposed, same sign.

22 (No response)

23 CHAIRMAN HARBAUGH: Motion carries.

24 Then do you want to address the --

25 MR. JOHNSON: Then this is Perry again.

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1 And I hate to see that not be a part of
2 an officer's history on his POST transcript. So
3 in those cases, again, I guess I would say if we
4 know that they have processed those requests, and
5 they've really worked hard to assure them that
6 they've got at least an outline and a syllabus of
7 training for those 40 hours, and we just can't get
8 the bio, or we can't get the -- I don't know what
9 else.

10 We absolutely have to have something in
11 order to review for an overview of the training.
12 That's all there is to it. But if we can't get
13 the bios, then I think we need to consider whether
14 or not that's important enough for us to do a
15 conditional waiver of that as well.

16 CHAIRMAN HARBAUGH: Jim.

17 MR. THOMAS: This is Jim. What about
18 people like you that have already gone through it,
19 and don't have it? Are you going to allow those
20 people to petition to get that POST certified?

21 MR. JOHNSON: This is Perry again. I
22 would say that it's pretty hard to put the
23 toothpaste back in the tube, and the bottom line
24 with that is that we'd be looking at the history
25 of guys like me that might go back 30 years, 35

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1 Then I'll come back to that statement that Leo
2 just talked about, and his is a real specific one
3 that we run into, but it's the same as that issue
4 in regards to that HIDTA training, that
5 clandestine lab training at Quantico, some of the
6 FBI stuff that is offered. In regards to that,
7 you know, that's hard work to get that, but it's
8 not impossible.

9 And so I think that, again, on a
10 case-by-case basis, I know this. I'm not going to
11 get bios from DEA. They're not going to give them
12 to me. And you know, I've been on the phone with
13 that SAC in Denver, and he said, "Well, what do
14 you need that for? We don't provide that to
15 anybody." And I said, "Well, then, our
16 Administrative Rules require it. These guys are
17 going to have to claim that as in-service
18 training."

19 It's not like they lose the training,
20 and it would still apply to that 20 hours every
21 two years; but you know, I've been to clan lab
22 training, I've went through the 40 hour block, and
23 I don't think it's on my transcript because I
24 didn't get that stuff. And that is some good
25 stuff.

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1 years.
2 And to be real honest with you, I think
3 that would be one of those never ending stories.
4 I don't think we'd ever be done. I think that we
5 would have to draw a line in the sand and say, "At
6 this point in time, we move forward with that."

7 MR. SAYLER: This is Matt. I was going
8 to say I think if they're not going to provide
9 that, they should at least provide a reason why
10 it's not available. You know, "We've attempted.
11 They won't provide it," and for one, I would have
12 a lot more faith in a course -- (inaudible) --
13 because it's a group of people -- (inaudible) --
14 online, and I think it makes more sense to do this
15 than the online -- (inaudible) --

16 MR. DUTTON: So I'm going to make a
17 motion -- not yet -- but I want to bring up that
18 my motion will be of a bona fide law enforcement,
19 something that if you -- to be able to waive it,
20 if it's a bona fide law enforcement, or some type
21 of training that has credibility. Is that where
22 we're having -- That's where I'm having the issue,
23 but I don't want to narrow the scope so close that
24 we're not solving the issue.

25 The issue is when they're the super

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1 secret squirrel agencies that we can't get the
2 bio, and sometimes it's difficult to get the
3 course outline. If I think I'm going to have
4 success at getting the course outline, I'll dog
5 them until I get that; but the bios are locked
6 somewhere.

7 But I think if it's a bona fide law
8 enforcement agency, or some kind of bona fide
9 training agency, that there ought to be some
10 latitude there. But if somebody rolls in from out
11 of town with, "Hey, I've got ABC training, and you
12 could attend," "Can we get a bio?" "No," those
13 are questionable. They're not bona fide. They
14 rolled in. They'll be gone tomorrow. That's my
15 concern, but that's why I wanted to put that in
16 there. Thoughts on that?

17 MR. JOHNSON: Well, this is Perry again.
18 Those guys that are selling training, like PATC --
19 Glen talked about -- them guys are waiving their
20 flag, "Hey, I'm so and so, and look at me. This
21 is why this is good training." I think the only
22 time that we get any push back comes from the FBI,
23 the DEA, the ATF, those guys are still -- those
24 training officers are still used in a capacity
25 once in awhile where they just don't want them

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1 -- I mean I send emails all the time, "You've got
2 to find the bio," and then eventually they will do
3 it if they want the credit, but it's only few and
4 far between that there is a real reason not to get
5 -- or that they're not able to get it.

6 MR. TOLSON: Tony, this is Truman. I
7 have a couple comments on this.

8 CHAIRMAN HARBAUGH: Go ahead, Truman.

9 MR. TOLSON: So Truman. Perry and I
10 have talked several times about this, and I agree
11 with you. They should have something on the
12 record and that to support it.

13 However, agencies like the FBI, the ATF,
14 military, you know, DOT guys that go down for
15 training down to Huntsville, and recertification,
16 and stuff like that, all of those agencies, they
17 have a director of training within them that they
18 are required to keep their program of instruction
19 and lesson plans on file, and if it comes down to
20 it, and we really needed it, I think that you
21 could serve them with a subpoena, and get it that
22 way there.

23 But I don't see an issue, like Leo says.
24 If they're a law enforcement agency, especially a
25 federal law enforcement agency, I don't think that

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1 identified.

2 And Mary Ann, you can jump in and
3 correct me, but I don't remember ever having an
4 agency sponsor a training from an outside vendor
5 where we didn't see not only a bio, but it was
6 like a little book sometimes, you know, "Boy, I'm
7 good at this, and this is why," and that's good,
8 you know, those credentials, because a lot of
9 those guys are guys like in the room, you know,
10 they've got 30, 40 years of experience. They've
11 got a lot to talk about. They are good
12 instructors.

13 But those instructors that are still the
14 point of the spear for those federal agencies, or
15 even it could be a state agency where we bring in
16 somebody to do -- you know, one of John's guys.
17 You know, "We're going to do an undercover, how to
18 handle informants." They might not want that
19 guy's bio in our public service -- or our public
20 information. And I get it.

21 So in those cases, I think that we're --
22 that would be the only situation that I've ever
23 identified that we can't get the bio. The rest of
24 the time we get the bio.

25 MS. KEUNE: This is Mary Ann, and we do

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1 that is a need, other than to know who the
2 instructor was. That's just my two cents, doing
3 this for all these years.

4 CHAIRMAN HARBAUGH: Thanks, Truman. Any
5 other discussion?

6 MR. SAYLER: This is Matt. That last
7 thing, what would be the part -- ending when we
8 cut it off?

9 MR. JOHNSON: I'd call it today. I
10 think that as we go forward, you know, a lot of
11 the correspondence that goes out of our office is,
12 "On September 10th, 2015, the Council delegated
13 the authority to Perry to provide equivalency, to
14 grant equivalency, or to grant extensions." And
15 we continue to use that date in our
16 correspondence, so that they know that there was a
17 delegated authority.

18 And I would suggest that today would be
19 a good day then, if that's what you decide to do.

20 MS. BOLGER: This is Katrina. The only
21 question that I would have on that is the Council
22 has previously adopted a policy for a one year
23 sunset date on training requests. So does that
24 mean that we can go a year back from today, or
25 does that mean that the request has to come in

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1 today or later?

2 MR. JOHNSON: This is Perry again. I

3 think for just our business purposes, it would

4 just be cleaner just to create that delegation

5 today, and to move it forward.

6 MS. KEUNE: How about those that you

7 have on your review pile, though, that are online

8 training that came in a week ago or --

9 MS. BOLGER: This is Katrina. If you

10 approved them today --

11 MR. JOHNSON: Yes.

12 MS. KEUNE: It doesn't matter when they

13 came in then.

14 MR. JOHNSON: Right. Yeah.

15 MS. KEUNE: Okay.

16 CHAIRMAN HARBAUGH: Are you ready to

17 make a motion --

18 MR. OLSON: This is Kevin. What about

19 Leo's issue over there where he's still trying to

20 get --

21 MR. JOHNSON: Well, Leo is still kind of

22 on a bubble. I know exactly what he's dealing

23 with there, and if you get jammed up, you know,

24 you're going to have to talk to me because I think

25 I can help you with that.

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1 second.

2 CHAIRMAN HARBAUGH: I have a motion and

3 a second. Any further discussion?

4 MS. BURDICK: Kimberly Burdick. So does

5 this also apply to all of the disciplines, right?

6 I mean it's not just law enforcement, it also

7 applies to dispatch and everything as well?

8 MR. JOHNSON: Yes.

9 UNKNOWN SPEAKER: Bona fide law

10 enforcement, then does that exclude military?

11 MR. DUTTON: It would, so that doesn't

12 cover -- can I change it?

13 -- (inaudible conversation) --

14 MR. TOLSON: Tony, this is Truman.

15 CHAIRMAN HARBAUGH: Go ahead, Truman.

16 MR. TOLSON: I'm sorry to cut in on

17 there. I just have to say again and that, you

18 know, earlier we got -- what was it -- 98, House

19 Bill 98, given that the training and experience of

20 combined whether it be federal, state, local, or

21 military, and again, if they're military, and

22 they're military police and that, they have

23 records of training at each branch, and all those

24 records are on file and can be requested.

25 So you know, if someone goes to a

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1 UNKNOWN SPEAKER: But that one's not

2 submitted yet.

3 MR. JOHNSON: No, but --

4 UNKNOWN SPEAKER: So if we --

5 MR. JOHNSON: -- he's going to get his

6 stuff. I know the guys that gave that

7 instruction. We're going to get it.

8 MR. DUTTON: I just sent another

9 reminder to Brenda with the FBI.

10 I would make a motion that we grant

11 Perry the authority to waive the requirement for

12 the instructor bio in certain circumstances where

13 a bona fide law enforcement agency exists. Does

14 that cover it, or do I need to put that

15 qualification on it?

16 MR. JOHNSON: Well, if it's a bona fide

17 law enforcement agency and officer who is the

18 instructor?

19 MR. DUTTON: Yes.

20 MR. JOHNSON: Okay.

21 MR. DUTTON: Bona fide agency and law

22 enforcement instructor.

23 CHAIRMAN HARBAUGH: I have a motion. Do

24 I have a second?

25 MR. STRANDELL: This is John. I'll

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1 military police training, because you have guard

2 and reserves units out here that go to military

3 police training, they should be able to get credit

4 for those that they go to.

5 MR. DUTTON: So could I amend that

6 motion to say bona fide law enforcement and

7 military?

8 CHAIRMAN HARBAUGH: You can amend, and

9 then the second would have to agree to --

10 MR. STRANDELL: Yes, I agree. I'll

11 second that also, the amendment.

12 CHAIRMAN HARBAUGH: Further discussion.

13 (No response)

14 CHAIRMAN HARBAUGH: Hearing no further

15 discussion, we'll move to an immediate vote. All

16 those in favor, please signify by saying aye.

17 (Response)

18 CHAIRMAN HARBAUGH: Opposed, same sign.

19 (No response)

20 CHAIRMAN HARBAUGH: Motion carries. So

21 just to clarify Katrina's question, if you have

22 someone on the table right now, and this goes into

23 effect today, anything that you address after

24 today would fall --

25 MR. JOHNSON: Yes.

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1 CHAIRMAN HARBAUGH: -- fall within the
2 parameters?

3 MR. JOHNSON: Yes. And it's for all
4 disciplines.

5 MR. STINAR: Perry -- (inaudible) --
6 This is Glen Stinar from the Academy. So because
7 POST is now requiring the individual agency to
8 keep documents to a bio, so when I send in that
9 POST credit application, I'm saying I have a bio
10 on file.

11 So I think what you just did is say to
12 agencies, "Under certain circumstances we will
13 waive that requirement for you to get a bio." So
14 how do I -- so how do we sort of document that
15 there is -- (inaudible) -- or is there a need to
16 do that?

17 So Perry's on -- has sort of a loose end
18 thing for future generations. How do we -- How do
19 I have a spot now with nothing -- (inaudible) -- I
20 guess that's what my question is, is under what
21 circumstances do we communicate with the --
22 (inaudible) --

23 MR. JOHNSON: This is Perry. That's a
24 good question, and I think the way our application
25 works now is it says, "Do you have an instructor

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1 MS. BOLGER: This is Katrina. I guess
2 my initial thought would be that we look at our
3 policy that the Council has adopted regarding
4 approval of POST training credit, and put
5 something in there regarding that issue. Policies
6 are super easy to change. You guys can just do it
7 as a Council at a meeting.

8 So we can draft that language into the
9 policy, and then put a note on the applications
10 for POST credit that, "If you don't have a bio,
11 please refer to this subsection of this policy.
12 This is what you're going to have to show."

13 CHAIRMAN HARBAUGH: Good with that?

14 MR. OLSON: This is Kevin. My fear is
15 along the same line as Glen's. What happens six,
16 seven years from now, that we have some case being
17 litigated, and someone stumbles upon this? And
18 you know, what I'm thinking is if you check the
19 box no, as Katrina said, in the policy at the very
20 least if they could send an email to someone at
21 POST and said, "Hey, I'm doing this course, but I
22 don't have a bio, and this is why," and then a
23 simple response of saying, "We hereby waive the
24 bio requirement."
25 So at least, like Glen says, you've got

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1 bio?," yes or no, and then they would have to
2 check no. And during our audit then, they would
3 have to be aware that we're going to ask them,
4 "How come there is not a bio?"

5 And if it's because they say, "Well, I
6 went to that training, and I just forgot to get
7 it," that isn't going to work. It's going to have
8 to be one of those situations where a bio is
9 unavailable because that DEA agent tomorrow is
10 going to be back in that biker gang or whatever.

11 And I see where you're going with it, I
12 think. You're thinking about what happens when
13 five years from now when Perry Johnson is not
14 around; or you know, what happens when the Council
15 changes, how are we going to capture that. And so
16 that's a good, I think a good thing for us to
17 consider and to discuss how are we going to cover
18 that.

19 And you know, I look to this staff all
20 the time because they're creative. They come up
21 with ways to incorporate some of these questions
22 or some of these concerns right into our
23 application forms. So I guess I'd probably defer
24 that to Katrina and say: Hey, where do you think
25 we go with this?

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1 something to stick in that file for four, five,
2 six years later.

3 MR. DUTTON: This is Leo, and I thought
4 that's what it was all about. I'm not asking for
5 -- I don't care about a bio anymore. I'm saying
6 there are special circumstances where I can't get
7 them, but I can list who the teacher was, what the
8 course subject was, those kind of things. I just
9 can't get Mr. Super Secret Squirrel bio because
10 they're still playing the cloak and dagger thing.
11 We'll dispense with the descriptions, but you get
12 the idea. Those are the thing. But who it was,
13 what the course outline was. It's just sometimes
14 it's hard to get those bios.

15 MR. OLSON: This is Kevin. Yes, I hear
16 you, Leo, and I'm just saying this discussion has
17 now evolved into the internal processes, not the
18 over reaching philosophy.

19 CHAIRMAN HARBAUGH: I think the --
20 (inaudible) -- part of it is --

21 MR. OLSON: I mean I know that Katrina,
22 and Perry, and Mary Ann weekly get inundated with,
23 "Well, seven years ago the POST Director at that
24 time said this, or did that, or did this," and
25 they're facing that all the time. And so you just

1 need to include some internal process that we have
2 some documentation that said, "You know what, it
3 wasn't a fact I was lazy and didn't get the bio.
4 That was a justified reason why a bio wasn't
5 available, and POST was informed, and they still
6 -- they granted me the waiver."

7 MR. STRANDELL: This is John. But
8 couldn't we incorporate that into Katrina's
9 recommendation on the policy? Just come up with
10 some language on this?

11 MR. OLSON: This is Kevin. Absolutely.
12 That's exactly where it should be addressed.

13 MS. BOLGER: This is Katrina again. I
14 think that would be very simple to put into the
15 policy, something to the effect of, "If you don't
16 have an instructor bio, you're required to get
17 documentation of the waiver. Acceptable
18 documentation would be the policy -- (inaudible)
19 --"

20 MR. OLSON: Perfect. This is Kevin.
21 Yes.

22 MS. BURDICK: This is Kimberly. Is it
23 something that maybe we could create a form for to
24 have it consistent for all of the agencies that
25 they could fill out -- (inaudible) -- perhaps

1 adopt?

2 MS. KEUNE: Yes.

3 MS. BOLGER: This is Katrina again. I
4 think it could actually be something that would be
5 just be included as maybe an additional page on
6 the application forms. "If you need a waiver,
7 print out the second page and fill that out, too."

8 MR. JOHNSON: This is Perry again then.
9 So that would be part of Kimberly's committee that
10 we could come up with that new policy. It sounds
11 like she's volunteering.

12 MS. BURDICK: Delegated.

13 MR. JOHNSON: There you go.

14 CHAIRMAN HARBAUGH: Anything else there
15 before we move off of that one?

16 MR. JOHNSON: This is Perry then. Just
17 to close the loop. We'll work on that then, and
18 bring that back to the next Council meeting, so
19 that we'll have a product for you guys to review
20 and to approve, or to tweak.

21 MS. KEUNE: But in the meantime -- this
22 is Mary Ann -- when they fill out that application
23 and they mark no for the bio, we do reach out.
24 That is something that is already in place and --
25 (inaudible) -- have it. So it's already kind of

1 there pretty much.

2 CHAIRMAN HARBAUGH: Officer involved
3 shooting.

4 MR. JOHNSON: This is Perry again. This
5 comes under old business because we've talked
6 about this for the last three or four years now.
7 This is a training that Sheriff Dutton has reached
8 out and brought into Montana. It's a two day
9 training. One is for administrators to understand
10 what processes or what procedures to apply to
11 officers that are involved in shootings; and then
12 the other day is for those officers that were
13 involved in shootings to sit down with this
14 instructor from out of state, and to go through
15 some of the emotional and just the chemical stuff
16 that they're going to process.

17 We have, when we've had discretionary
18 funding available at the end of the year, we have
19 encumbered that, and so I would ask you to
20 consider. Historically we've applied \$2,500 to
21 that training for POST to help co-sponsor, bring
22 that instruction into Montana.

23 I believe this year, if we have that
24 available, it would still be a good application of
25 our resources to the state of Montana and those

1 officers that are unfortunate enough to be
2 involved in these incidents.

3 Of course again, it would be contingent
4 on the availability of funds at the end of the
5 year. Last year we weren't able to do it.

6 MR. STRANDELL: This is John. I'll make
7 a motion we approve that training request if money
8 is available.

9 MR. SAYLER: Matt would be the second.

10 CHAIRMAN HARBAUGH: I have a motion and
11 a second. Any other discussion?

12 MR. DUTTON: Just a discussion, a little
13 bit more history on that class. The day where
14 people have been in the shooting, the important
15 part of the chemistry of that is -- Perry
16 mentioned the chemical process -- but to get into
17 a room where someone has a shared experience, and
18 not someone who questions whether, "I don't
19 understand. Can you explain the defensive
20 mechanisms that flare, and the openness that shuts
21 down?" That's why it's only open to those people
22 who have actually been involved in an officer -- a
23 shooting.

24 It's therapeutic, it works, and it does
25 keep people in our business, in our profession.

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1 The reason we do it each year is that
2 unfortunately Montana is now all grown up, and we
3 have shootings each year. It's not a one time and
4 you're done. If you've been involved in an
5 officer involved shooting, it's maintenance. I
6 try to send the ones that have been from our
7 agency back to it. They come out a little better.

8 Also then you're a qualified peer
9 counselor, and when you're talking to the other
10 leaders, please tell them that -- I talked to
11 Billings and said, "Hey, please send some people."
12 They did. They finally did. At first they were
13 going to have their own CISM team -- not the CISM
14 -- but just other officers who have been involved
15 in a shooting go talk someplace.

16 So that's nice. But a defense attorney
17 can subpoena that conversation. No matter where
18 they talk, that conversation is discoverable. But
19 if your Officer or Deputy has been through this
20 class, and they go as a peer counselor or a peer
21 -- peer counselor, that conversation is protected
22 under the CISM law that was signed about eight
23 years ago.

24 That's the difference between just
25 having somebody having a sympathetic shoulder

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1 versus somebody that's been through the class. So
2 that's what your money does. It protects the
3 people who we work for. It also keeps them
4 employed by keeping them mentally healthy.

5 So I really appreciate this, and it was
6 one of our chaplains who has really been the
7 spearhead of this, Chris Thompson. So thank you a
8 lot.

9 CHAIRMAN HARBAUGH: Is this, the timing
10 of the determination whether the funds are there
11 or not, will that carry us into Department of
12 Justice budget?

13 MR. STRANDELL: It should be prior to,
14 because all end of the year decisions are made
15 prior to June 30th. You should be having that
16 discussion -- (inaudible) --

17 MR. JOHNSON: Yes. We're working our
18 way through our --

19 MR. STRANDELL: So that money can be
20 appropriated based on Perry's discussions with --
21 (inaudible) --

22 CHAIRMAN HARBAUGH: Any further
23 discussion before we move to a vote?

24 (No response)

25 CHAIRMAN HARBAUGH: All those in favor,

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1 please signify by saying aye.

2 (Response)

3 CHAIRMAN HARBAUGH: Opposed, same sign.

4 (No response)

5 CHAIRMAN HARBAUGH: Motion carries.

6 MR. STRANDELL: I'd like to say, too. I
7 appreciate Sheriff Dutton being the champion of
8 this cause, too. He's really done a good job, and
9 when I send agents around the state to an officer
10 involved shooting case, that program plays a big
11 role in support of those officers. So good job,
12 Sheriff.

13 CHAIRMAN HARBAUGH: So anything else on
14 old business?

15 (No response)

16 MR. JOHNSON: This is Perry. None.

17 CHAIRMAN HARBAUGH: We'll move to new
18 business. Council committee reports. Any
19 discussion I guess first. Was there a question
20 earlier?

21 MR. JOHNSON: No. This is Leo's ARM
22 Committee. That's our first one that's up, and
23 they begin on 201 and 202.

24 MS. KEUNE: Were we going to talk about
25 committees themselves, though?

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1 MR. JOHNSON: Oh, yes. This is Leo's
2 deal.

3 MS. KEUNE: It's a mess. I'll tell you
4 right now. I have Matt and Mark, so --

5 CHAIRMAN HARBAUGH: So maybe we go down
6 through the committees individually, and make sure
7 we've got the right folks in the right places. So
8 our Business Plan and Policy Committee, Kimberly
9 Burdick is chair. In addition, committee members
10 are Tia Robbin, Ryan Oster, Jess Edwards, and E.J.
11 Clark. Are there any other additions or deletions
12 to make on that one?

13 (No response)

14 CHAIRMAN HARBAUGH: Okay. Curriculum
15 Review Chair is Kevin Olson. Tim Neiter has gone
16 off of the Council, so that will probably remain
17 vacant until a new appointment is made.

18 MR. JOHNSON: This is Perry. I would
19 say that it could be vacant until such time as
20 this Council decides to fill it with existing
21 members.

22 CHAIRMAN HARBAUGH: And we may need to
23 do that based on the fact that Tim and Lewis
24 Matthews both have gone off.

25 MR. OLSON: Mr. Chair, this is Kevin. I

1 would move to add Jim Thomas and Glen Stinar to
2 that committee. Glen says he's free every Tuesday
3 afternoon, so --

4 CHAIRMAN HARBAUGH: -- (inaudible) --

5 MR. STRANDELL: This is John. Before
6 Glen can comment, I'll second that motion.

7 CHAIRMAN HARBAUGH: I don't know if we
8 need to do this by motion and vote or --
9 (inaudible) --

10 MR. OLSON: This is Kevin. I think you
11 have the power to make the appointments. For what
12 it's worth, Glen, we haven't had to meet in quite
13 awhile.

14 MR. DUTTON: It's nothing. This is Leo.
15 It's nothing.

16 CHAIRMAN HARBAUGH: So hearing no
17 opposition, I would appoint Jim Thomas and Glen
18 Stinar to Curriculum Review. Any other
19 volunteers?

20 (No response)

21 MR. JOHNSON: This is Perry. I think
22 you've got further discussion coming today from
23 Kevin just in regards to additional curriculum
24 that he's going to talk to you about, and so I
25 think we've got Steve Ette and Andrea Lower in the

1 room that probably would be significant in some of
2 that discussion. So I think that -- I thought I
3 saw both of them raise their hands as volunteers,
4 but perhaps I was wrong.

5 MR. OLSON: So this is Kevin. I wrote
6 that down, depending on how the discussion evolves
7 with my curriculum review, I would --

8 CHAIRMAN HARBAUGH: -- (inaudible) --

9 MR. OLSON: -- then ask to probably add
10 like Andrea or Steve or whoever, so -- but we can
11 have that discussion.

12 CHAIRMAN HARBAUGH: Hold that in
13 abeyance until we -- okay. Case Status Committee.
14 Currently John Strandell chairs, and Jim Thomas
15 and I are current members yet there. I don't know
16 that anybody is wanting to push us out of our
17 chairs yet.

18 The Coroner Committee, Leo Dutton is
19 Chair. John Strandell, Kristine White, and Wyatt
20 Glade.

21 MR. DUTTON: This was a surprise. This
22 is Leo. This was a surprise. I didn't know Perry
23 was the Chairman until I was reading, wondering if
24 there was any other surprises in here.

25 MR. JOHNSON: This is Perry. This is a

1 draft. So I'm trying to incorporate the new faces
2 into some of the committees, and so I thought this
3 was a good opportunity to discuss that. But
4 Kristine is right here, and if she doesn't want to
5 be part of the Coroners Committee, she can say,
6 "I'm surprised, too."

7 MS. WHITE: I'll be part of whatever you
8 want to put me to. You just pick where I belong.

9 MR. JOHNSON: Okay.

10 MR. DUTTON: We meet every other
11 Tuesday.

12 MR. JOHNSON: We meet every other year.

13 CHAIRMAN HARBAUGH: Wyatt, are you
14 comfortable working on that committee as well?

15 MR. GLADE: Yes, I think so. I think
16 that's a good place to start out.

17 MR. DUTTON: Wyatt is kind of a trouble
18 maker. Are we sure we want him there?

19 CHAIRMAN HARBAUGH: The ARM Committee,
20 we've got another surprise for you there, Leo.

21 MR. DUTTON: I knew about that. Leo. I
22 knew about that one. Perry called and asked. Can
23 you tell them I'll call them back later. Somebody
24 puts us on hold.

25 MR. JOHNSON: Is that what happens?

1 MR. DUTTON: Yes, somebody put us on
2 hold, and then --

3 CHAIRMAN HARBAUGH: I'm not sure how you
4 -- Can we have you take us off hold or mute in
5 order to stop the music?

6 MR. DUTTON: It's hold.

7 CHAIRMAN HARBAUGH: I think we're out of
8 luck there.

9 MR. STRANDELL: The least they could do
10 is play good music.

11 MR. DUTTON: A little AC/DC next time.

12 CHAIRMAN HARBAUGH: So on the ARM
13 Committee, we currently have, in addition to Leo
14 as Chair, Jess Edwards, Tia Robbin, and Matt.

15 MS. KEUNE: Or Mark. Mark to me.

16 MR. SAYLER: I've been called worse.

17 UNKNOWN SPEAKER: Do we have a motion to
18 change your name to Mark?

19 CHAIRMAN HARBAUGH: Any other members
20 that would like to serve on the ARM Committee?
21 Reconsider.

22 (No response)

23 CHAIRMAN HARBAUGH: Hearing none.

24 UNKNOWN SPEAKER: We can put a man on
25 the moon.

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1 CHAIRMAN HARBAUGH: Can those of you on
2 the phone hear the background music as well, or is
3 it just here?
4 UNKNOWN SPEAKER: Oh, yes.
5 MS. ROBBIN: Yes. We can't hear the
6 conversation going on very much over it because of
7 the music. This is Tia.
8 CHAIRMAN HARBAUGH: So Tia and Wyatt.
9 MR. JOHNSON: Can you hear, Truman?
10 (No response)
11 CHAIRMAN HARBAUGH: I might have
12 Truman's cell number.
13 MR. DUTTON: Hey, Truman, are you on the
14 line?
15 (No response)
16 UNKNOWN SPEAKER: We're on hold.
17 MR. DUTTON: Breaker, breaker, Missoula.
18 CHAIRMAN HARBAUGH: Is anyone answering
19 Truman's number?
20 MR. JOHNSON: Have you got it?
21 CHAIRMAN HARBAUGH: Yes.
22 MR. DUTTON: Light him up.
23 MR. JOHNSON: Let's all call him at
24 once.
25 UNKNOWN SPEAKER: Call and put him on

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1 discussion, and I'm going to let him do the same
2 thing here. So go ahead.
3 MR. JOHNSON: The results of this
4 committee meeting, as well as the results of some
5 discussion that we had with Case Status Committee,
6 will be captured in our final report from
7 Kimberly's group, the Business Plan Committee
8 meeting.
9 But just in regards to the discussion
10 that we had at the ARM Committee meeting, we
11 started out with a real easy edit, and you'll find
12 that under on Page 201 sub (6), "Director or
13 Executive Director in the Administrative Rules
14 means the Bureau Chief of the Public Safety
15 Officer Standards and Training Bureau."
16 So rather than going through and editing
17 every time that that's found in the Administrative
18 Rules, Katrina came up with a suggestion that this
19 might be a good way to just move this forward.
20 And we were cognizant of maybe that two year
21 sunset. If something were to revert back, then we
22 could have that small edit again.
23 The next edit then in regards to the
24 discussion that Leo just referenced is found on
25 Page 203 and Page 205. And what you see there is

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1 hold.
2 MR. DUTTON: I only have his email.
3 MS. BOLGER: We used to get music when
4 there was nobody on the line.
5 MR. STRANDELL: Tony, did you have his
6 number?
7 CHAIRMAN HARBAUGH: I think I've got it
8 here. I'll try it and see.
9 So shall we move to committee reports?
10 We'll start with the ARM Committee.
11 MR. DUTTON: For those of you on the
12 phone, welcome. Enjoy the music while I'm
13 talking. This is Leo. By the way, I'll sound
14 better.
15 So on May 8th, we had an Administrative
16 Rules of Montana meeting here at the MLEA. I
17 called the meeting to order at 8:00, and there
18 were several things that were on the line.
19 One was to discuss -- if you follow
20 along, they're outlined right on your agenda. And
21 we discussed 23.13.102, 23.13.702, 23.13.703. We
22 had a good meeting. We had seven people there,
23 and it was a lively discussion. There was some
24 proposed language at the end. But we'll go over
25 each one of them. 23.13.702. Perry had led the

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1 from that meeting back in April, we talked about
2 -- actually I think even in February -- we talked
3 about this, the responsibility. Subsection (2),
4 "It is the responsibility of Public Safety
5 Officer's appointing authority," that's Subsection
6 (2), to do these things.
7 And that precipitated that conversation
8 where we said, "Hey, let's have that conversation.
9 Let's have that special meeting where we sit with
10 the members of the public safety community, and
11 let's talk to them about what this means."
12 That meeting then led to Leo's committee
13 where we had those heart to heart discussions
14 about what language will make it more clear to the
15 Administrators what we want them to report. And
16 the people that were in the room -- MPPA, MACOP,
17 MSPA -- those people were all part and parcel of
18 the resolution that came up with this language
19 that you find here.
20 So you see that there's some language
21 that's been redacted and there is some language
22 that's been added, in our hopes and the hopes of
23 that group that met that day, to make it easier
24 for them to understand.
25 We don't want a violation of your policy

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1 because the guy didn't fill his gas tank at the
2 end of his shift. We don't care. We want
3 allegations that relate to character, to honesty,
4 integrity, justice, or morality. That's what
5 we're invested in. That's what this group wants
6 to have at least an awareness and a conversation
7 and a partnership with the stakeholders.

8 So that's how this happened. And I
9 think that just in regards to any of that
10 conversation, then --

11 Oh, and a real significant part of that
12 then was I think if you guys remember that
13 meeting, April 3rd, the agencies were concerned
14 about being heard, and it was pointed out to them
15 that they have the ability already by
16 Administrative Rule, but we made it even clearer
17 that the agency has a responsibility, when they're
18 responding to us now, that they can and should
19 make a recommendation regarding whether or not a
20 sanction should be imposed or not.

21 And with that, I think I would turn it
22 back to you, Leo.

23 MR. DUTTON: Kevin.

24 MR. OLSON: Mr. Chairman --

25 -- (inaudible conversation) --

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1 CHAIRMAN HARBAUGH: I'll try and call
2 him. I texted him, but --

3 MR. OLSON: Mr. Chair, I was just going
4 to point out -- and I'm looking at Kristina and
5 Katrina. Maybe you look at 7-32-303. It says, "A
6 Public Safety Officer's appointing authority."
7 For cities, appointing authority is the Mayor or
8 the City Manager. So we're thrusting a POST
9 requirement, an ARM, upon a City Manager or a
10 Mayor.

11 MR. DUTTON: 7-32 what?

12 MR. OLSON: 303.

13 MR. JOHNSON: I think that's in our
14 meeting material today anyhow on Pages 123 to 129.

15 MR. OLSON: And it's Subsection (2),
16 7-32-303, "A Sheriff of a county, the Mayor of a
17 city, a Board or Commission or any other person
18 authorized by law to appoint peace officers. For
19 cities, appointment of peace officers occurs by
20 the Mayor or City Manager."

21 CHAIRMAN HARBAUGH: Even in some cases
22 police commissions, I think.

23 MR. OLSON: Police commissions, not
24 anymore, Tony. I think they used to have that
25 power, but I think any more police commissions are

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1 MR. DUTTON: Wyatt, just a second. We
2 have to turn you up. We had to turn the
3 background music down.

4 MR. STRANDELL: I think we lost
5 connection.

6 MR. DUTTON: Anybody still on the phone?
7 (No response)

8 CHAIRMAN HARBAUGH: Wyatt, are you still
9 there?

10 (No response)

11 CHAIRMAN HARBAUGH: He indicated that he
12 had to get off the line. We could hear him say
13 that.

14 MR. DUTTON: Anybody on the phone?

15 MS. ROBBIN: This is Tia. I'm still
16 here.

17 CHAIRMAN HARBAUGH: Thanks, Tia.

18 MR. DUTTON: I can barely hear her. Is
19 the music still going?

20 MS. KEUNE: I turned it down so you
21 couldn't hear the music. It's still going.

22 MR. DUTTON: I can still get in the
23 swing of things. Did Truman answer you?

24 MS. ROBBIN: It's very difficult to hear
25 over the music.

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1 not relegated simply to an appellate board or
2 to --

3 MS. BOLGER: This is Katrina. I would
4 just direct everybody's attention as well to Page
5 201 in the meeting material under subsection (7).
6 It says, "An employing authority includes any
7 entity that is statutorily empowered with
8 administration, supervision, hiring, or firing
9 authority, training or oversight of a public
10 safety agency or officer. This may include but is
11 not limited to the Chief of Police, Mayor, County
12 Attorney, City Council Board, and Sheriff, etc."

13 Those are the definitions that would be
14 offered within our Administrative Rules.

15 MR. OLSON: And this is Kevin, and I get
16 that. And this really didn't occur to me until
17 the last meeting and the discussion we had. And I
18 think it goes back to Colonel Butler. As he
19 eloquently stated, he doesn't have the ultimate
20 authority of termination. It rests with the
21 Attorney General.

22 And me and Jim were just visiting, and
23 back in my days as Chief of Police, I know that if
24 I wanted to terminate an employee, I can make a
25 recommendation to the Mayor, but the Mayor was the

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1 one that actually had to sign the letter of
2 termination. I could make recommendations on
3 hiring, but ultimately that recommendation had to
4 be signed by the Mayor.

5 So when it comes to hiring or firing
6 authority, that hiring and firing authority does
7 not rest with the Chief of Police in
8 municipalities. It rests with the City Managers
9 or Mayors.

10 MR. JOHNSON: This is Perry. I think,
11 though, that Katrina's statement that employing
12 authority captures the Mayor or any of them, but
13 it also captures anybody that is empowered with
14 supervision, training, or oversight over a public
15 safety agency. So I think that --

16 MS. BOLGER: That definition doesn't
17 state "and." They don't have to have all of that
18 authority. They only have to have one of those
19 authorities.

20 MR. OLSON: So in comparing -- this is
21 Kevin once again. In comparing seven, "Employing
22 authority," to Subsection (2) of grounds for
23 sanctions, it doesn't say it's the responsibility
24 of the employing authority. It says it's the
25 responsibility of the Public Safety Officer's

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1 appointing authority. Public Safety Officer's
2 appointment authority is a Mayor or City Manager.
3 So if you change that to "employing authority,"
4 maybe you capture that.

5 MR. JOHNSON: This is Perry. I think
6 that's a good idea then. I think that provides
7 some consistency in the rules and the
8 interpretation. But I'm not an attorney, but this
9 lady sitting next to me is.

10 MS. NEAL: This is Kristina. No, I
11 think that does capture it, and if it would fit
12 with what the definitions in the first part of the
13 ARM and gives some consistent language, and I
14 don't think it would change any of the heart of
15 what was trying to be captured by this part, and
16 makes sense to me.

17 MR. DUTTON: Do we need to do a motion?

18 MR. JOHNSON: Well, we haven't asked
19 yet. I think that will come when -- this is Perry
20 again -- that will come when Kimberly presents
21 this overall. We came out of this committee
22 saying, "This is language that we want you guys to
23 take a look at, and to be aware that this is the
24 result of that committee meeting and then
25 stakeholders conversations on that day on May

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1 8th," I think it was.

2 MR. DUTTON: Yes, May 8th.

3 MR. JOHNSON: And then so we carried
4 Leo's recommendations forward then to that
5 Business Plan Committee, but we also have some
6 conversations with that Case Status Committee that
7 will be captured in Kimberly's report as well.

8 MR. DUTTON: In Kimberly's report, did
9 you guys -- this is Leo. In Kimberly's report,
10 did you also discuss that addendum that you had
11 and that you prepared? I suspect you did. Do you
12 know what I'm talking about?

13 MS. BOLGER: This is the attachment to
14 the allegation policy --

15 MR. DUTTON: Yes, Attachment A.

16 MS. BOLGER: Yes. This is Katrina. We
17 took that to the Case Status Committee, we took it
18 to the ARM Committee, and we took it to the
19 Business Plan Policy Committee.

20 MR. DUTTON: Okay. We start, or you
21 started, we reviewed it. Who is going to give the
22 final? I don't want to take somebody's thunder.
23 I'll just pass on it and say we brought it
24 forward, it will be further discussed, or do you
25 want to do it now?

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1 MR. JOHNSON: Well, actually, Leo --
2 this is Perry again. I think this is an
3 opportunity for you to talk to it. Go ahead.

4 MR. DUTTON: Okay. I'm looking for it.
5 I just had it. Actually Mary Ann went and got it
6 for me. I try to sound prepared, but it was her
7 making me look good. The same with you, Perry.
8 Anyway, I'll find it.

9 Perry put together a thing called
10 Attachment A, and I'm looking for it. And it was
11 a document that resulted from listening to the
12 stakeholders. I just had it. I'll use yours if I
13 can't find it here real quick, which I can't.
14 There it is. Okay. So I don't know if -- is it
15 in the book?

16 MS. BOLGER: It's 208.

17 MR. DUTTON: If you turn to Page 208 in
18 your book, Page 208. Those of you on the phone,
19 if you have it on your email or whatever, it's on
20 Page 208. It's "Allegation Policy and Procedure,
21 Attachment A." And go ahead, Perry. You did a
22 good job explaining it then, and I'll let you do
23 it again.

24 MR. JOHNSON: Well, this is Perry. This
25 again is that conversation that not only did Leo's

1 group have, but John's committee, the Case Status
2 Committee, also reviewed this. The Case Status
3 Committee every month meets. It's the only
4 committee that meets that consistently.

5 And just in regards to that conversation
6 then, I'd like to take credit for all kinds of
7 stuff that I can't. This is something that
8 Katrina gave us the rough draft, and after we got
9 all done with it, this is the final product. So I
10 think this really lends itself to that next
11 conversation then with John's committee as well.

12 We've reviewed this. This is the
13 product that actually represents the efforts of
14 that Case Status Committee in regards to what we
15 do, and what we consider, and how we apply
16 sanctions to every allegation.

17 And so with that, I think I would just
18 turn it to John and let him and his committee take
19 it from there.

20 MR. STRANDELL: This is John. We spent
21 quite a bit of time going over this policy, the
22 proposed policy, and it was the committee's
23 recommendation that we bring this before the full
24 Council for consideration. We think it's a well
25 written policy that does provide good guidelines

1 for sanctions.

2 And then more importantly, if you look
3 at the end there on Page 209, we added a Section 2
4 that's called period of limitations, or if you
5 want to call statute of limitations. That would
6 be basically anything beyond the five-year period,
7 the allegation would be sent back -- am I correct,
8 Perry -- if I remember right would be sent back to
9 the agency for review and consideration, and we
10 wouldn't even consider it, except for the
11 exceptions that are outlined there that we think
12 are very pertinent to the reviews that we do on
13 Case Status.

14 So I think with that, I won't belabor
15 it, but I think it's a well written policy, and
16 the Case Status Committee is in full agreement to
17 bring this forward to the full Council.

18 CHAIRMAN HARBAUGH: Are we at a point
19 where adoption by motion would be appropriate,
20 or --

21 MR. JOHNSON: This is Perry again. I
22 think that we're at a point where if we think that
23 the ARM Committee's report is over, and I don't
24 think that we had anything further from that Case
25 Status Committee, I think we could move right into

1 the Business Plan Committee and talk about --

2 MR. DUTTON: That concludes my report.

3 MR. OLSON: Mr. Chair, this is Kevin.
4 Going back to 23.13.702 Subsection (g) and (i).

5 MR. STRANDELL: What page?

6 MR. OLSON: 203.

7 CHAIRMAN HARBAUGH: You said (g) and
8 (i)?

9 MR. OLSON: Yes.

10 CHAIRMAN HARBAUGH: Okay. Go ahead.

11 MR. OLSON: How do we define morality?

12 MR. DUTTON: That's funny. This is Leo.
13 We had that conversation, exact conversation in
14 our committee. And morality was outlined in our
15 Code of Ethics. That's how we're defining it is
16 we have published a Code of Ethics, and that was
17 the definition of it, because Perry -- or not
18 Perry -- but Jerry Williams asked the same
19 question. And we came to the -- "That's the Code
20 of Ethics that we're using there:" is that
21 correct? That's what I remember.

22 MR. JOHNSON: That's the way I remember
23 it. Matt.

24 MR. SAYLER: I believe so.

25 MR. OLSON: And this is Kevin. The only

1 reason I bring it up is I flashed back to my days
2 at the Havre Police Department. We used to have a
3 policy that used the term "moral turpitude," and
4 when it went before legal review, they're like,
5 "Define that. Show me." Because morality, in my
6 opinion, is really in the eyes of the beholder.
7 And I think -- and the reading of it here in my
8 opinion is a very subjective term.

9 UNKNOWN SPEAKER: It is. I agree.

10 MR. OLSON: And so I'm not saying we
11 have to remove it, but I'm saying that maybe we
12 want to --

13 MR. DUTTON: This is Leo. We did rework
14 that, if I recall, because that was coming in
15 yours. We did rework that and say -- do you
16 remember that? We reworked that sentence, or
17 eliminated one of them, because they were
18 redundant.

19 MR. OLSON: This is Kevin. I look up
20 above, specifically in Subsection (d), which
21 pertains to the use of drugs or alcoholic
22 beverages, and we used the term "which tends to
23 discredit the officer." And a term "which tends
24 to discredit the officer or the employing agency."
25 I think that that is a more specific objective

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1 term than "morality," because once again, what's
2 moral for me may not be moral for somebody else.
3 MS. BOLGER: This is Katrina. My
4 recollection is that the reworking of those two
5 sections was to remove "the highest standard of,"
6 because we had, "which was contrary to the highest
7 standards of honesty, integrity, justice, or
8 morality."

9 And the further discussion was the
10 definition of "what would be contrary to honesty,
11 integrity, justice, or morality would be a
12 violation of POST's Code of Ethics." That's what
13 the interpretation was. And that was my
14 understanding and recollection from the ARM
15 Committee meeting.

16 MR. DUTTON: This is Leo. And we also
17 discussed if we take out the morality, which I
18 know that it's arguable what morality is, but it's
19 also -- once we start there, it's in state law
20 when you're hiring a peace officer that you have
21 to attest that they're of good moral character.
22 And we didn't feel like, okay, if we start
23 rewriting it here, where does it end?

24 It's the Legislature's job to come in
25 and say, "You don't have to be moral, or what is

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1 difficult to put a set of parameters on. But do
2 we delete it, or do we talk about it in the
3 purview of a reasonable person?

4 MR. DUTTON: I mean if you have the
5 morals of an alley cat, then anything that's
6 standing still is fair game. But do we want an
7 officer acting like that? So I guess you have to
8 have -- That's kind of where that moral turpitude
9 comes in. What is the definition of that? I get
10 it. But there has to be some standard. They're
11 saying okay.

12 CHAIRMAN HARBAUGH: I certainly agree.
13 I think it can be subjective, but I also think
14 that that's part of the reason that there is a
15 process that more than one person weighs in on. I
16 think even from -- and I can't speak for the other
17 members of the Status Committee, but I think there
18 have been times where some of us maybe have been
19 at different ends of that spectrum, and still
20 reached what I believe have been a reasonable
21 resolution as to whether we moved it forward or
22 close it at that time.

23 I'm with you. I think it's hard to
24 really delineate or articulate what it is for each
25 of us, but I think when we approach it as more

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1 moral." Somewhere they had a definition.
2 Somewhere there was -- at the beginning of writing
3 this code, there was some sense of unity about
4 what moral was. Well, that's where we landed with
5 the definition of moral character was defined in
6 the Code of Ethics. That's --

7 MR. OLSON: This is Kevin. So under
8 this, an officer having an extramarital affair, we
9 could decertify him?

10 MR. DUTTON: Your HR probably wouldn't
11 like it, but --

12 MR. OLSON: And that's where I'm trying
13 to get the things congruent.

14 MR. DUTTON: The HR -- this is Leo
15 again. But this has to do with their certificate;
16 is that something we want?

17 MR. OLSON: Once again, I just pose the
18 question. On an extramarital affair, the spouse
19 that was offended against could file a complaint
20 with POST and say, "You guys have to act under
21 this (g) or (h). I want some action."

22 CHAIRMAN HARBAUGH: I think we deal with
23 a lot of ambiguous terms. Can you define
24 integrity the same way that I might define it, or
25 -- you know, some of those terms really are

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1 heads in the circle, we reach a more reasonable
2 agreement as to whether or not it reaches the bar
3 of POST's involvement.

4 MS. NEAL: This is Kristina. In both of
5 the ones in (g) and (i), I mean it's tied to, in
6 some capacity, to either a neglect of orders, or
7 policies, or duty, or harmful to the officer's
8 integrity and employing authority. So I think
9 it's tied in some respects to more than just
10 looking at their personal lives, and it's tied to
11 their work and professional lives as well.

12 MR. JOHNSON: This is Perry. I think,
13 too, that we have to go back, and we're kind of
14 trying to capture this conversation with these
15 different attachments. On Page 208, the following
16 factors -- this is Sub (2) of the allegation
17 policy and procedure.

18 I think that in regards to what John,
19 and Tony, and Jim, and I do, and Kristina, and
20 Katrina, and Mary Ann do every month is we
21 consider these factors: The gravity and nature of
22 those responsibilities; the officer's mental
23 state; the length of time; the actual or potential
24 injury to the public, the legal system, or the
25 profession.

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1 And it comes back to this: We have
2 never, in the last six years that I've been here,
3 we have never taken action on a certificate for an
4 officer having an affair. But we have taken
5 actions, and we have examined allegations that
6 relate to moral conduct.

7 And I'll use the example of an officer
8 that was sanctioned for -- in his capacity as an
9 officer, he had a relationship with a minor that
10 fell under his supervision. We've taken action
11 against officers who had developed relationships
12 with people that were established during the scope
13 of his responsibilities as an officer responding
14 to a call for service.

15 So that is some moral actions that these
16 officers are exposing themselves to, and their
17 agency, and the POST Council, to make decisions
18 on. And I think it's important that we have the
19 ability to weigh that, and to sort the wheat from
20 the chaff, I guess, for purposes of the
21 conversation, because there is some moral behavior
22 that is very damaging to what we do, and the badge
23 that we wear, or the position that we find
24 ourselves in as just members of our community.

25 I think that it's appropriate that we

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1 with what we would take action on for morality?

2 MR. JOHNSON: This is Perry. I guess
3 the way that I feel about that is if there is a
4 question about it, they should submit it. This
5 isn't not putting gas in the car at the end of the
6 day. Apparently if there was a head scratcher
7 about it, then it's probably something that should
8 be reviewed by John Strandell, and Tony Harbaugh,
9 and Jim Thomas, and Perry Johnson. We should have
10 that conversation.

11 And maybe I'm naive, and I think I am a
12 lot of times, but I'm really thinking that Glen
13 kind of spoke to it this morning. In the last
14 year, last 18 months, we're seeing less of that
15 stuff at the Academy, and I don't know why. I
16 don't know.

17 I'm hoping that we see less of it. I
18 hope that every day, though, because man, I want
19 people to have wonderful lives. That's all there
20 is to it. I want them to be successful, but I
21 want them to know that, man, if you're not, if
22 you're an SRO that's out there grooming kids to
23 come to your house in the summertime, I want them
24 to know that that ain't going to work. That's
25 just the way I feel about it. But everybody

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1 have a standard where we at least get to examine
2 that and to apply these factors, but that's just
3 what I think.

4 MR. OLSON: This is Kevin. Mr. Chair,
5 do you want to admonish Truman Tolson while he's
6 on the phone?

7 CHAIRMAN HARBAUGH: Truman, are you
8 back?

9 MR. TOLSON: I have been back, yes.

10 MR. OLSON: Truman, does your phone have
11 music that plays when you put it on hold?

12 MR. TOLSON: I have no idea. I've never
13 listened to it.

14 MR. OLSON: We've been listening to it
15 for 15 minutes.

16 UNKNOWN SPEAKER: At least you can get
17 some better music, Truman.

18 MR. TOLSON: What can I say? It's
19 Missoula.

20 MR. OLSON: This is Kevin. I'm really
21 not worried about our internal processes
22 pertaining to morality, but what we're doing here
23 is exactly what Colonel Butler and everybody else
24 complained about. What are the side boards? How
25 do we know their definition of morality aligns

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1 should know. My world is more black and white
2 than everybody else's, so --

3 CHAIRMAN HARBAUGH: Kevin, I think if I
4 were to have a one-on-one discussion with the
5 Colonel, my perspective -- and I can't speak for
6 the Status Committee, I'm only able to speak for
7 myself -- in that to me when it's job related,
8 it's a clearer line for me. If it's something
9 that has occurred on duty, it's a much clearer
10 line for me.

11 I can tell you that years ago we had a
12 case where the Chief of Police in a particular
13 town in Montana was having hot tub parties with
14 high school girls, and we really didn't have a
15 complainant. His employing authority was okay
16 with it. The minors' parents were okay with it.
17 And I had a struggle with that.

18 But I think if we don't have an
19 opportunity to consider it, you know, if we take
20 it off the board completely, then we have to try
21 and fit some of those issues into, well, okay,
22 does it fall into integrity or other matters on
23 the Code of Ethics.

24 I absolutely don't argue that perception
25 of morality is different for everyone, but I think

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1 that as we narrow down what we rule in the Status
2 Committee to either move forward or not move
3 forward, we do try to create that distinguishable
4 line, if you will, for Administrators.

5 And I think that if -- like Perry says,
6 if there is a question for an Administrator in
7 regards to morality or any other item on the list,
8 if there is a question, let's try to clarify it on
9 a case-by-case. But I don't know that we can ever
10 reach the point of being able to say, "Yes, here's
11 the line, and if it's this, it comes; if it's not
12 this, it doesn't."

13 Because every instance that we've dealt
14 with in the years that this Status Committee has
15 existed, we never had any two that were the same.
16 And there are so many mitigating factors always
17 that it's -- I think you have to try and remain as
18 consistent as possible, and I believe that we do
19 that; but it's hard to take it out of the
20 language, I believe.

21 MR. DUTTON: In our meeting, we really
22 came back to that Code of Ethics that if you're
23 having trouble, come back and read that. If you
24 feel that your Deputy or Officer, Peace Officer,
25 is in violation of that, that's your cue.

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1 was here, because I'd like to debate that. It's
2 not that ambiguous. We did listen to him, but I
3 think if you're having that much trouble thinking
4 about what's bad behavior --

5 MR. OLSON: This is Kevin. And I just
6 used Colonel Butler, but he wasn't the only one
7 that asked for clarity. The whole audience asked
8 for clarity.

9 MR. DUTTON: They did, and they came in,
10 and I got the list of all this here. But I think
11 we did come back to that definition, and they
12 liked it, of, okay, it is the Code of Ethics.
13 That's what you need to send in. If you went out
14 and struck a deer, that's not something that's --
15 that's not an ethical violation. I mean it's just
16 something that happened. It's not everything.
17 It's not send everything in.

18 I know there is frustration. You're
19 right. There was a room full of people. But I
20 think we had a good meeting, we came to some good
21 resolution. And the reason I'm rather boisterous
22 about this is that we talked exactly about what
23 your question was. So valid question. I hope
24 that we got it answered.

25 MR. STRANDELL: I was going to just ask

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1 I think what you're thinking of is some
2 outside person saying, "I want to file a complaint
3 because the Chief or the Sheriff won't do anything
4 about it," but if it's a morality issue, that this
5 person is off duty, and off duty and having
6 extramarital affair or affairs, I think there is
7 some case law that applies to that, because I've
8 had to go through it, that some of the off duty
9 stuff, until it becomes public knowledge, or
10 something that the public is affronted by, I
11 really can't do anything about; but if it becomes
12 public knowledge, I can, and I should.

13 But as far as a morality issue, I may
14 not approve, such as the fraternization law got
15 put in. You used to be able to not be married and
16 be on the same office or same department; now you
17 can.

18 I think there is some definitions out
19 there that help guide the Status Committee, and
20 one of the reasons that we kept the moral part --
21 again, I'll bring back to the -- for me, it was,
22 "Okay. I get it now." If it's an ethical
23 decision that they should have known, this is my
24 cue, I should send that in.

25 And I think Butler should -- I wish he

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1 -- this is John -- that the stakeholders were
2 present during the committee meeting, right? A
3 lot of stakeholders were present?

4 MR. DUTTON: Yes.

5 MR. STRANDELL: And they didn't express
6 any concerns about morality as a --

7 MR. DUTTON: If I may. Who we had was
8 Clint Peters from Columbia Falls, Jim Veltkamp
9 from Bozeman, Curt Stinson from Helena PD, Brian
10 Gootkin from Gallatin County, William Harrington
11 -- Bill Harrington I call him -- and Jerry
12 Williams, and then the ARM Committee was present.

13 So we had the stakeholders from the
14 associations here, and they did. It wasn't an
15 easy conversation by any means, and we had some
16 lively discussion, but I thought we did good.

17 MR. STRANDELL: This is John again.
18 Just adding. You know, I understand your
19 concerns, Kevin. It is subjective, but that's the
20 process, that's the reason we have a Case Status
21 Committee is to be able to carefully review the
22 complaints they receive, the allegations made.

23 You're concerned about someone filing a
24 complaint based on an extramarital affair. You
25 know, that's our role then is to carefully review

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1 that, and look at the allegations, and make the
2 right decisions, and support Perry on what he's
3 trying to do.

4 MR. OLSON: This is Kevin. And I use
5 that as an example. Once again, I have no qualms
6 with the Case Status Committee, the work you do,
7 the ones you say we're passing on, the ones you
8 take. I'm a firm believer in all of that. I
9 really am.

10 The point I'm making is we have a large
11 group of stakeholders that are saying, "Just tell
12 us what you want, and we'll send it to you." And
13 when we have ambiguity written into what we want,
14 or we have subjective terms written into what we
15 want -- and I get the fact that the stakeholders
16 were there, and thank you for reading off that
17 list, Leo.

18 But what about the Chief that's hired
19 two weeks from now? You know. If we said, "Refer
20 to this," is that providing him the clarity of --

21 MR. DUTTON: And we talked about that --

22 MR. OLSON: -- where we fall right back
23 to saying, "Just send us everything."

24 MR. STRANDELL: This is John again.
25 I've had conversations with Colonel Butler on

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1 these issues, too, and I think I could speak for
2 him today. I may be wrong. But I think this is
3 going to provide better direction, and this is
4 what he's asking for, and I think he'd be fine.

5 Him and I have had that conversation,
6 and the changes that are being made here does
7 clarify, you know, the things that I think people
8 were concerned about. Are we going to cover all
9 of it? Probably not. And if there are concerns
10 down the road with different things that occur,
11 then we can address it at that point, too.

12 MR. DUTTON: This is Leo. We talked
13 about -- Like you were at the meeting. We talked
14 about that, too.

15 So it's incumbent on the Montana Chiefs
16 of Police and the Montana Sheriff and Peace
17 Officers Association to actively and aggressively
18 go out and say, "Okay, Sheriffs, every four
19 years," or chance we get to do that training, to
20 have the ability to say, "I know you got just
21 Sheriff. Here are some things you've really got
22 to know," and to incorporate that. The same with
23 the Chiefs of Police to be able to incorporate
24 that into a training that they might have.

25 If we're going to have a segment or a

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1 module on the POST, or a POST section in our
2 Sheriffs Institute to invite new Chiefs, and to
3 work cooperatively across the lines to say, "We
4 really need to do some education." That's how we
5 came up with the resolution to that exact concern,
6 of what happens --

7 Example -- not to point you out, Bill --
8 but Bill was new, and say, "Okay, where could we
9 get him?" because he might not have known some of
10 this. So to invite that.

11 So valid question, and we did talk about
12 it, Mr. President.

13 MS. BOLGER: This is Katrina. Just a
14 comment on -- You know, we had all these committee
15 meetings, we've had all this discussion today, and
16 agencies, you as a Council, get to interpret your
17 rules, and that has some legally persuasive
18 authority.

19 If you say that this is what morality
20 means in an open meeting like this, that's a
21 matter of record. Anybody can take this record to
22 a Court, and the Courts have said that you guys
23 get deference in interpreting your rules. So it's
24 not ambiguous if you take it all into
25 consideration together.

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1 MR. OLSON: Makes sense.

2 CHAIRMAN HARBAUGH: So --

3 MR. JOHNSON: Well, this is Perry then.
4 Leo said that his committee had rested, for lack
5 of a better term, and I think that John just
6 stepped out of the room, but we've gone over what
7 that committee intended to speak to today. And so
8 I think that brings us to the Business Plan
9 Committee with Kimberly.

10 MR. OLSON: Mr. Chair, Perry, and not
11 going to go over the top of Kimberly. I have to
12 leave here no later than 11:30. I was wondering
13 if we could move -- because that curriculum one is
14 going to take a little bit of discussion, too.

15 MR. JOHNSON: Okay.

16 MR. OLSON: So if we could move the
17 Curriculum Committee report up.

18 MS. BURDICK: And Business Plan is
19 probably not going to take very long either, but
20 sure.

21 MR. JOHNSON: You know, let's spend five
22 minutes on this right now, and we'll get to Kevin
23 at 10:45, will at least make that target, because
24 I think we vetted most of this material except
25 that last procedure for qualifications of POST

1 certification. 113
2 And this is the procedure that we
3 created that talks about that statute 7-32-303,
4 that House Bill 99, that allows us to look at
5 experience and other training from other agencies.
6 And it's really very comprehensive just in regards
7 what it captures here.
8 And so just -- and Kimberly, I'm sure
9 not trying to drive the wagon --
10 MS. BURDICK: Oh, no --
11 MR. JOHNSON: But I would say that in
12 regards to what her committee came up with, was
13 she reviewed the results of the Administrative
14 Rules Committee, she reserved the input on that
15 other policy, that Addendum 1, in regards to the
16 sanction policy. And then her committee has also
17 reviewed this.
18 And again, good discussions, and
19 collectively they came to the conclusion that if
20 we captured them all, they would bring them to
21 this Council as a seconded motion to adopt the
22 policies, and to adopt the suggestions for the
23 edits to the Administrative Rules.
24 So when you're looking at this, these
25 last pages 211 through 217, that tells or gives

1 direction on how your POST staff would interpret 114
2 years of training, and other experience that those
3 officers have, what can be used, and what wouldn't
4 be used then after it is used.
5 So there is kind of quite a formula that
6 is captured on those pages, and I think it's
7 pretty comprehensive. Mr. Chairman.
8 UNKNOWN SPEAKER: Do we want to move
9 forward then with adopting the seconded motion?
10 CHAIRMAN HARBAUGH: I believe it's
11 appropriate if the Council is comfortable with
12 putting the seconded motion on the floor, and open
13 to discussion.
14 MS. KEUNE: With the changes, that one
15 change in -- (inaudible) -- authority?
16 MR. JOHNSON: Right.
17 MS. KEUNE: -- (inaudible) --
18 MR. DUTTON: Sorry. Who was that?
19 MR. JOHNSON: Oh, Mary Ann it was.
20 MS. KEUNE: Very interesting.
21 MR. DUTTON: I couldn't tell.
22 CHAIRMAN HARBAUGH: So we have a
23 seconded motion to the full Council to adopt the
24 language in the -- is the right term policy and
25 procedure for determination of qualifications for

1 POST certification? And then that would include a 115
2 correction in regards to -- I'm looking for where
3 it would fit.
4 MR. JOHNSON: 702.
5 UNKNOWN SPEAKER: Part 2. It's on Page
6 203.
7 UNKNOWN SPEAKER: "Appointing authority"
8 is changed to "employing authority"?
9 MR. JOHNSON: Yes.
10 CHAIRMAN HARBAUGH: Any other -- Do we
11 need to include the language changes in 703, or
12 that's just 702?
13 MR. JOHNSON: 702. Well, actually I
14 think their seconded motion would be to adopt the
15 Administrative Rule changes with the addition of
16 that, with 102, 702 with the change from
17 "appointing" to "employing;" 703; then addendum --
18 I'm sorry -- allegation policy and procedure,
19 Caption A, and then that other procedure that we
20 just --
21 CHAIRMAN HARBAUGH: Right. So it would
22 cover the language in all of the ones that we have
23 just reviewed.
24 MR. JOHNSON: Yes.
25 CHAIRMAN HARBAUGH: We have a seconded

1 motion before the Council. Any further discussion 116
2 before we move to a vote?
3 (No response)
4 CHAIRMAN HARBAUGH: We'll move to an
5 immediate vote. All those in favor, please
6 signify by saying aye.
7 (Response)
8 CHAIRMAN HARBAUGH: Opposed --
9 MS. ROBBIN: Aye.
10 CHAIRMAN HARBAUGH: Tia, I apologize.
11 I've cut you off several times today. Opposed
12 same sign.
13 (No response)
14 CHAIRMAN HARBAUGH: Hearing none, the
15 motion carries. Thank you.
16 Kevin, are you good to go then?
17 MR. OLSON: Yes.
18 CHAIRMAN HARBAUGH: Okay.
19 MR. OLSON: So bear with me because I'm
20 going to bring the topic up for probably the 739th
21 time in how many years?
22 UNKNOWN SPEAKER: Sixteen.
23 MR. OLSON: Sixteen. Okay. Misdemeanor
24 Probation Officers and Pretrial Service Officers
25 versus Adult Probation and Parole Officers.

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1 So historically -- most of the Council
2 is well aware -- that back during my time as
3 Administrator for the Law Enforcement Academy, I
4 prohibited private enterprise from attending
5 courses upon the campus. At that time the funding
6 mechanism we had, I didn't think it was
7 appropriate that we provide education and training
8 to private enterprise. POST similarly said, "We
9 won't credential private enterprise."

10 And we've held fast and firm to that the
11 whole time. But during that, there are some
12 people that have been slighted, and those are
13 people like Steve Ette, and Andrea Lower, and
14 Misdemeanor Probation Officers, and Pretrial
15 Service Officers that work for county or city
16 governments.

17 Our stance historically has been that,
18 "Okay. You are government entities, so therefore
19 you do fall within the definition of Public Safety
20 Officer, and therefore you can attend training,
21 and you can get credentialed by POST as a Public
22 Safety Officer."

23 The problem is the training was provided
24 by Department of Corrections. We have it here on
25 the campus, but the training is hosted by the

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1 prior legal opinions in there -- 46-23-1003
2 Subsection (2) refers to the training that is
3 required for Probation and Parole Officers. It
4 says, "Each Probation and Parole Officer shall
5 through a source approved by the officer's
6 employer obtain sixteen hours a year of training
7 in subjects related to the powers and duties of
8 Probation Officers, and at least one hour which
9 must include training on serious mental illness
10 and recovery from serious mental illness. In
11 addition, each Probation and Parole Officer must
12 receive training in accordance with standards
13 adopted by POST."

14 We've historically relied upon that
15 phrase as meaning that all Misdemeanor Probation
16 and Parole Officers and Pretrial Service Officers
17 must meet the same training standard as required
18 as Adult Probation and Parole Officers.

19 Something occurred to me about six weeks
20 ago, eight weeks ago, when I was reading this
21 again. The term "standards" is plural. That
22 means you could have different standards. POST
23 can adopt a standard for training Misdemeanor
24 Probation and Pretrial Service Officers, and POST
25 could create a different standard for Adult

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1 Department of Corrections. We manage the course,
2 we provide the vast majority of instructors --
3 Glen has stepped up, but he provides a few of the
4 instructors, which we're grateful -- but the vast
5 majority was that.

6 Rolling back the clock, as you remember
7 correctly a couple years ago, we made Andrea Lower
8 attend the Basic Academy. She was a champion.
9 She came for ten weeks. I give her great
10 admiration for doing that.

11 Back in my time as Administrator of the
12 Law Enforcement Academy, the Probation and Parole
13 Officer Basic course was four weeks long. Grossly
14 deficient. Upon my arrival at Corrections, that
15 course went to ten weeks, and now we've scaled it
16 back to eight weeks, not by eliminating training,
17 but by identifying that training that we can
18 perform immediately upon hire, so that they can
19 perform some tasks in the jobs.

20 Statutorily 46-23-1005, 46-23-1005, as
21 amended by Senate Bill 220, talks, now defines
22 Misdemeanor Probation Officers as either being
23 public or private entities, and must have the
24 minimum training required in 46-23-1003.

25 Now, historically -- and you see some

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1 Probation and Parole Officers.

2 The time has come for that to happen.
3 We've been kicking this can down the road for far
4 too long, and people are being left out, and that
5 can't happen any longer.

6 I had a good meeting with Glen a couple
7 weeks ago, and then we had a follow up meeting
8 with me, and Glen, and Andrea a week and a half
9 ago.

10 It's high time that POST creates a
11 standard for training for Misdemeanor and Pretrial
12 Service Officers, and the reason is because the
13 training they're getting in Adult Probation and
14 Parole Officer Basic course has nothing to do with
15 the vast majority of the tasks they're called upon
16 to perform each and every day. They don't carry
17 firearms; they don't make arrests; they don't do
18 excessive case planning.

19 We need to identify the specific tasks
20 that they're called upon to perform, and we need
21 to create a basic course that will address those
22 tasks. And I know this is kind of sudden and
23 urgent, but what makes this the urgency here is in
24 the past, I welcomed in Steve and Andrea's
25 officers into my course for many years, but

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1 Corrections is not in the training business.
2 We used to have an attrition rate of
3 about seven, eight percent of officers a year, so
4 when it came time to put our Basic course
5 together, we had sixteen, eighteen officers.
6 Taking on another five or six wasn't a burden.
7 I have thirty officers that have to be
8 trained in July. I have no room for Steve's
9 people or Andrea's people. I have no room for the
10 Pretrial Service Officers in Lewis & Clark County.
11 I can't train them this year. I just can't. Not
12 only that, but we're wasting eight weeks of their
13 time.
14 I went through the course syllabus --
15 and I'm not a Pretrial Services Officer, but
16 Andrea is. I looked through our course syllabus,
17 and I eliminated all the stuff that I was just
18 certain didn't pertain to the functions they
19 perform. I whittled it down to a two to three
20 week course.
21 If you remember right, I think Jim
22 Thomas was involved with Randy Robinson when he
23 was here, and I can't remember who else. Was it
24 Dave Garcia or Ray Forseth?
25 UNKNOWN SPEAKER: Right.

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1 MR. OSTER: Ray. They looked at the
2 current curriculum, and they, too, said, "You know
3 what, when we exclude all this stuff, we, too,
4 think this is probably a two week course at the
5 max."
6 What I'm asking for from POST is to
7 recognize that we can create different standards
8 for those professions, and that you give me your
9 blessing to move forward, because what I'd like to
10 do is I have to -- I was visiting with Steve -- I
11 have to notice these people immediately that they
12 can't come to our July course, and then we have to
13 put a course together.
14 And I'm offering up DOC resources to
15 help build them a course. And we'll rely upon
16 Andrea and her network of people in there. Glen
17 will facilitate that. Glen said that he would be
18 willing to host such a course on the Law
19 Enforcement Academy.
20 The very first year is going to be, DOC
21 is going to be heavily involved with a lot of the
22 instruction, because a lot of Andrea's people
23 don't have instructor development. Glen said
24 he'll put a course on that they can get their
25 instructor development, so the very first year,

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1 we'll be heavily involved. The second year, next
2 year, we'll kind of take a back seat, and watch
3 how they do it; and by the third year, we're out
4 of it.
5 And that's the direction we have to go.
6 We can't keep kicking this can down the road,
7 folks. With that, Mr. Chairman, I'd ask that you
8 give some of the people in the audience an
9 opportunity to speak to this as well.
10 CHAIRMAN HARBAUGH: Sure.
11 MR. STINAR: -- (inaudible) -- Glen
12 Stinar, Academy. So I guess for a couple reasons
13 I have an interest. One is that I think it's the
14 right thing to do and nobody else is going to do
15 it. And I speak from a couple different
16 perspectives. One is from being a public safety,
17 and the other one is because I have a son on
18 probation, felony probation, but I'm okay with it
19 now. I wasn't several years ago. I'm okay
20 talking about it today.
21 And I think here's these pretrial
22 services people out trying to do the right thing,
23 and typically it involves offenders and it
24 involves families. And I think that the value
25 that you can bring is provide some structure in

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1 the training that will allow these folks, once
2 they're trained, to communicate with those
3 families who are involved in the process.
4 I think that's the thing I missed, you
5 know, as a family member. "What the hell is going
6 on here?" So I think there is value there. I
7 think that it's obvious being involved in the
8 legislative process that these folks, they just --
9 they want to do the right thing, and they don't
10 seem to be able to get an answer to do that.
11 So now being -- I'll fast forward to
12 where I am today. I think Kevin's solution is a
13 good one. I get it that there's some nexus
14 between the training and you, because it's -- this
15 ain't right.
16 I think I agree with Kevin that the
17 standards, one standard we know cannot apply to
18 everybody, but I think that the Council has an
19 obligation to provide standards and training, and
20 this is a group of people that are asking for
21 standards and they're asking for training, and
22 there's nobody else out there to do it.
23 And the proposal is that they become
24 self-sufficient. I'm willing to host it here. I
25 don't want to charge any money. It's not a money

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1 making thing for us. It's really a matter of
2 trying to do the right thing when nobody else is
3 there to do it.

4 And at least if you approve the
5 standards that we develop, that there is some --
6 it's not some private vendor coming in here
7 charging them a pile of money, and then leaving
8 the state and -- (inaudible) -- none of it was any
9 of our problem.

10 So that's kind of where I'm at.
11 Hopefully you'll give it some consideration, and
12 at least let's give it a whirl, and if it works,
13 great, and if it doesn't work, then it doesn't,
14 but at least we tried to do something that needs
15 to be done that nobody else is willing to do. So
16 that's my comment.

17 MR. ETE: My name is Steve Ette. I'm
18 the Director of Gallatin County Court Services.

19 Just to give you a little bit of
20 information about myself, a little bio I guess, is
21 I joined the Air Force in 1978. I served 21 years.
22 Approximately ten of that time was in training and
23 evaluation. I did large scale evaluations to
24 include NATO, other services in other countries.

25 After I retired, I started working with

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1 the Department of Corrections. I am a certified
2 instructor. I have followed up the Department of
3 Corrections Probation and Parole Officer courses.
4 And ten, I guess about nine years ago, I took over
5 as the Director of Court Services. So we have
6 Misdemeanor Probation and Pretrial Officers in our
7 organization.

8 I'd just like to mention that Andrea is
9 the first person in Montana that ever started a
10 pretrial organization, and she's worked in that
11 capacity for the last twenty years. She's worked
12 very close with national associations, just like
13 we do with the Misdemeanor Probation, APPA,
14 National Association of Drug Courts, and so on.
15 So we have a lot of experience that we can share.

16 I don't want to correct my counterpart
17 over here, but I do want to mention that I don't
18 believe that we've totally wasted our time at the
19 Probation and Parole Officer Academy. We have ten
20 officers who have all been through that course.

21 One of the things I don't want to see is
22 creating a different Academy and say, "Okay. Now
23 those ten people have to go to a different
24 Academy." We just went that route. But we've got
25 those people certified.

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1 Another issue that I'd like to bring up
2 is that we do do assessments, we do do case
3 management, and we do effect arrests and
4 misdemeanor probation. So I would be willing to
5 sit on that committee who looks at the criteria
6 for that course, and develop that curriculum. I
7 would really also like to have Andrea on that --
8 (inaudible) -- since she is the pretrial expert.

9 We are opposed to setting up a separate
10 Academy. There are a lot of things that our staff
11 sat through that are week long course at the
12 Probation and Parole Academy that they're never
13 going to do. And their risk assessment,
14 understanding the need for a risk assessment, and
15 understanding why you have a risk assessment is a
16 lot shorter course than going through motivational
17 interviewing for 40 hours, and then 40 hours of
18 how to do a risk assessment that only DOC
19 provides.

20 So I do believe there is good options
21 for us to look at to develop a course that meets
22 our needs. I, for one, would like to keep all of
23 them together. Our officers in our office at any
24 given time may work in one or the other positions.
25 We have people in the office that when we have an

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1 opening, or somebody leaves, they could move into
2 the other side. We have one side pretrial and the
3 other side is post-trial and misdemeanor
4 probation. So I wouldn't want to give up the
5 ability to move them in my office, or somebody
6 just fill in when we have people at the Academy.

7 So we're not against it. I think that
8 what he's brought up and the points that he's made
9 are very to the point. I think we do have the
10 ability to do that, from just -- (inaudible) --
11 and I hope POST considers that.

12 MR. OLSON: Mr. Chair, this is Kevin
13 once again. In closing with my argument, one of
14 the things that Glen and I talked extensively
15 about is this isn't going away. In fact, my
16 assessment is it's gaining some momentum at the
17 Legislature.

18 Senate Bill 348, which died in
19 committee, would have required the Law Enforcement
20 Academy to do the training; would have required
21 POST to credential. And as me and Perry talked
22 last week, POST is going to end up credentialing
23 them anyhow because of the other way that the
24 statute is written.

25 So as me and Glen talked about, because

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1 at that committee hearing up on the Capitol, there
2 were no opponents. The private enterprise came in
3 as proponents, and Glen went up there with the
4 marching orders to be informational.

5 We can be proactive or we can be
6 reactive. It will come back next session, and
7 it's only a matter of time before legislatively
8 they mandate us to do something. My thought is
9 let's get a little proactive here. Let's see what
10 we can do. Let's look at this. Let's get a
11 course or two under our belt, and get feedback
12 from Steve and Andrea and other people involved,
13 and Glen, see what's working, see what's not
14 working. How can we massage it?

15 Throughout my professional career and my
16 experience with the Legislature -- and I'll go
17 back to most people who sit on this committee who
18 have been involved with the Legislature process,
19 when they mandate something, they don't give a lot
20 of wiggle room, and we end up having to do
21 something that if we would have been a little
22 creative, we could have accomplished in a better
23 fashion.

24 So that's my plea, is what I'm asking
25 the Council for is to say yes. I agree that we

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1 for pretrial, which is currently in five
2 jurisdictions; and if those get sustainable
3 funding, they will grow. And then my anticipation
4 would be like Rosebud County has people doing
5 misdemeanor probation and pretrial. So I would
6 anticipate that that's going to grow, you know,
7 statewide. (Inaudible)

8 CHAIRMAN HARBAUGH: I know we're
9 starting to see it more and more.

10 MR. OLSON: This is Kevin. I think we
11 had six or seven of the government employed
12 officers slated to come to our course. Time is
13 kind of an essence. We can't push this off to
14 October because -- and I've got to work with Glen
15 again, but I was talking to Steve and Andrea.
16 We've got to look at the timelines that these
17 people are running up against, because they're
18 going to probably have to get extensions.

19 So in order for us -- go ahead, Sheriff
20 Dutton.

21 MR. DUTTON: Will this require POST
22 staff to do?

23 MR. OLSON: It won't require POST staff
24 to do anything. All it does is I'm asking, and
25 I'm going to make a motion here in a minute, to

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1 can create different standards. I'm not asking
2 you to approve a course today, but if you agree
3 you can create different standards, the Curriculum
4 Committee will work with DOC resources, we will
5 pull a group together, we'll survey them again as
6 to what the tasks are.

7 As Steve said, they do use risk and
8 needs assessments, a different instrument than
9 what we use, and the instrument they use probably
10 may not be being used in Kalispell, but there
11 needs to be a course on why do we use risk and
12 needs assessments, and what can they tell us.

13 And let's put a course together so that
14 on an annual basis, those folks can come take a
15 course that's two to three weeks in length that
16 addresses the individual tasks that they perform
17 on a regular basis, and not force them into the
18 Adult Probation and Parole Basic course any
19 longer.

20 CHAIRMAN HARBAUGH: Do we know ballpark
21 wise how many there are across the state, both in
22 misdemeanor probation and pretrial?

23 UNKNOWN SPEAKER: I don't know numbers
24 specifically, but right now, you've got, under the
25 sentencing commission, you've got a pilot program

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1 ask the POST Council to agree that we can create
2 different standards for the different disciplines,
3 and then --

4 MR. DUTTON: Will they have to keep
5 track of the --

6 MR. OLSON: Yes.

7 MR. DUTTON: Will there be extra
8 paperwork?

9 MR. OLSON: Well, for the government
10 ones, they're already doing that. Where the door
11 swings open is we'll be credentialing private
12 enterprise under the -- what was the clause,
13 Perry, that you pointed out under POST?

14 MR. JOHNSON: This is Perry.

15 MR. OLSON: Duties of the POST Council.

16 MR. JOHNSON: Yes. It would be --
17 they're actually captured under the definitions in
18 44-4-401. "Any other person that's subject to the
19 training requirements established by POST."

20 MR. OLSON: And as you see in Senate
21 Bill 220, that that specifically says that,
22 "Private or public Misdemeanor Probation Officers
23 must have the minimum training required in
24 46-23-1003," which falls under that POST
25 definition.

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1 MR. DUTTON: Would we have to have a
2 special caveat of law to say, "Okay. If it's a
3 private entity --" which I'm not against -- having
4 the officers, things like that, are coming through
5 the training to have a surcharge. So I don't know
6 how many there would be. I'm just thinking of
7 hiring an extra person for POST.

8 MR. OLSON: This is Kevin. I don't
9 think that you could impose that upon them. That
10 would take further legal review.

11 I know I talked to Glen about -- you
12 know, because in that Senate Bill 348, it also
13 specified that they must pay actual costs of the
14 training, and of course, that got tabled in
15 committee. And Glen hasn't taken a stance if he
16 would actually calculate out the actual cost of
17 training and charge private enterprise with one
18 thing.

19 What you're looking at, in my
20 estimation, is looking at the private vendors and
21 provide these services. Steve, Andrea, chime in,
22 please. I'm going to guess you're looking on an
23 annual basis of six to eight, probably growing ten
24 to twelve on the publicly employed officers; and
25 you're probably looking to ten or twelve in the

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1 And this goes back to we have a lot of
2 people out there doing just ankle bracelets, or
3 PBT's. They're not supervising anybody. They're
4 just giving the tests. And that's not what the
5 course is for. Okay.

6 And so the other thing is we would also
7 create an application that would, once again, is
8 asking the private provider, "Have you done a
9 criminal history? Have they ever been arrested?,"
10 you know, kind of all the requirements in 7-32-303
11 that they would have to attest that they meet
12 those standards, and then that would give them
13 access to the course.

14 MR. JOHNSON: This is Perry. I just
15 need to expand on that a little bit. Every
16 Coroner in Montana is elected. There is not a
17 private Coroner in Montana. Some of them are
18 funeral home directors, but they're elected
19 officials, and their Deputies are government
20 officials then, right?

21 In regards to this proposal, I think
22 there is a lot of merit to it, but I think that
23 I'd be remiss if I didn't point out to you in the
24 information that you've got in front of you on
25 Page 7, that second major paragraph in there was

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1 private sector. So a course annually probably 20
2 to 24 people.

3 CHAIRMAN HARBAUGH: To make a comparison
4 with Coroners, for example, now we have government
5 Coroners and private Coroners. And I think one of
6 the questions that comes up is in regards to
7 certification, and sanctions, etc.

8 Do we deal with those issues in a
9 similar manner down the road if we create this, in
10 that, you know, how do we deal with employing
11 agencies that are not governmental agencies?

12 MR. OLSON: This is Kevin, and I'm glad
13 you brought that up about the Coroners, because I
14 kind of had that epiphany last week, too, is it's
15 not out of the realm that we credential private
16 enterprise because we have a lot of funeral home
17 and other individuals as Coroners that are
18 private.

19 I think the rules are the same. One of
20 the things that Andrea, and I, and Glen talked
21 about is with creating this course, we also create
22 what are the requisites to get into this course.
23 So if you're in private enterprise, if you do X,
24 Y, and Z you can come into this course; but if you
25 do only "X," you can't come into the course.

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1 authored by your Legal Counsel back in 2012 that
2 says:

3 "Misdemeanor Probation Officers employed
4 by a local government are required to meet the
5 same educational requirements as are the DOC
6 officers. It is my opinion that Misdemeanor
7 Probation Officers employed by a local government
8 are required to meet training standards
9 established by the Council."

10 On Page 10, Sarah Clerget, who was your
11 Counsel, under Subsection (1) said, "Publicly
12 employed Misdemeanor Probation Officers and all
13 Pretrial Service Officers are Public Safety
14 Officers who must be certified by POST with a
15 basic certificate. These officers must have the
16 same training, or training that is at least
17 equivalent to the training that felony Probation
18 and Parole Officers receive."

19 And then finally on Page 15, her
20 conclusion is under (d), "Under the current
21 statutory scheme, publicly employed Misdemeanor
22 Probation Officers and all Pretrial Service
23 Officers must receive the same or equivalent
24 training as felony Probation and Parole Officers
25 receive."

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1 I think that it's time to create this
2 curriculum, but I think that if we fail to
3 acknowledge the legal advice that we've received,
4 and paid for, and completely disregard it now, and
5 say to them, "We're going to interpret this one
6 word with this 'S' on the end of it as something
7 that enables us to do this," I think that we're
8 walking a pretty tight line.

9 And I'm not opposed to walking a tight
10 line because you see the way that I operate. See,
11 I get it. And I don't want to talk out of both
12 sides of my mouth. I'd like to see us move this
13 forward, but I think that it would be in our best
14 interests to reach out to the Attorney General and
15 say, "Can we?"

16 I think that we need to develop the
17 program, because Kevin said -- and I agree with
18 him -- the time is of the essence. The
19 Legislature has already said, "You guys just got a
20 new family."

21 In regards to the demands on this staff,
22 there are demands on this staff. We're going to
23 create a new discipline; we're going to certify
24 new officers; we're going to sanction privately
25 employed officers; and we have that responsibility

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1 saying that at all. But what hangs in the balance
2 is the power of authority of eight county and city
3 officers that are not going to get trained by me
4 in July, and they're going to run out of time.

5 It's going to put Lewis & Clark County's
6 Pretrial Service Officers out of business. We've
7 got to provide some training mechanism for them.

8 DOC, I've already cleared this with our
9 Directors. We're not in the training business any
10 longer. We got cut ten and a half positions. We
11 don't have the resources to train them any longer.
12 I don't think it's fair to Steve, and Andrea, and
13 the other folks that we just keep kicking this can
14 down the road.

15 If we proceed with the path where --
16 Yes, I concur that on the surface it looks like we
17 can create different standards; yes, go forth, put
18 forth the resources, which is not a cheap
19 investment -- Steve and Andrea have travel time,
20 and their hours are valuable like everyone else's
21 -- and DOC, the resources we're going to put
22 getting this.

23 Because this curriculum that we put
24 forth will have to be blessed in October 1. Now
25 if the legal analysis, if we can't make this legal

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1 now with pretrial, but until October 1st we've
2 never had that responsibility with privately
3 employed Misdemeanor Probation Officers.

4 So I really feel like -- I think this is
5 a good discussion, I think that you've got the
6 right people involved in it, but I think that if
7 we move forward without getting an opinion from
8 the AG, I think that we could have trouble. Maybe
9 Kevin --

10 MR. OLSON: So this is Kevin. And I
11 have the utmost respect for Perry and his
12 opinions, and him and I had a very lengthy
13 conversation last week, almost an hour and a half.
14 And I certainly am not in a position to make legal
15 argument with Chris Tweeten, for God sakes, but I
16 think that if you read his opinion on Page 7
17 there, he draws a conclusion, and then he restates
18 what's in law. "It is my opinion that misdemeanor
19 -- employed by local government are required to
20 meet training standards established by the
21 Council." And then the word "standards" is once
22 again plural.

23 And here's the risk that happens if we
24 proceed down the -- I'm not saying that we don't
25 need further legal analysis in this. I'm not

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1 argument, then what happens is in October the
2 course doesn't happen. All their folks are out of
3 business, Leo's folks are out of business.

4 MR. JOHNSON: I would say this -- I'm
5 sorry, Leo.

6 MR. DUTTON: I was just going to ask if
7 we can do a parallel track, one get started, and
8 get things going, and ask for the Attorney
9 General's opinion at the same time, because
10 apparently -- I'm still waiting on the other one
11 -- it's going to take awhile. But if time is of
12 the essence, can we get started, develop the
13 curriculum, have a plan. If they come back and
14 say -- what harm have we done?

15 But if we wait, if we wait I understand
16 the harm; but if we start saying, "Yes, Kevin.
17 Go. Let's get going," and ask for the opinion, if
18 they come in and say, "No, you shouldn't do this,"
19 or "No, this curriculum isn't the correct way," we
20 can fix it, but we have to do something.

21 MR. OLSON: So here's the risk. If they
22 come in and they say that, who is going to put on
23 the eight week course?

24 MR. DUTTON: We're not saying no. It
25 would be them to come back and say whatever. What

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1 I'm saying is let's get -- let's say go ahead, and
2 start, let's figure this out, but we still have to
3 ask. "Hey, you said -- or does this exclude what
4 we're about to do?"

5 Am I hitting right, or am I off? I've
6 been known to be off. A little, but not a lot.

7 CHAIRMAN HARBAUGH: If the Council
8 agrees that we should move forward with the
9 planning side of it, and also agrees that we need
10 to seek the opinion -- and I'll defer to people
11 who get to ask for those opinions, or have more
12 experience in doing so -- if the letter, if the
13 cover letter requesting that opinion expresses the
14 urgent need to get it resolved, and request that
15 that includes, you know, "People's livelihoods
16 depend on this," does that make sense to approach
17 it that way?

18 And I guess I would ask if you guys
19 think that's a reasonable way to present it to the
20 AG as far as requesting.

21 MS. NEAL: This is Kristina. I think --
22 I mean you do prepare a cover letter when you send
23 in an Attorney General request, and I think it's
24 completely appropriate if you could explain some
25 type of a timeline. You couldn't -- It wouldn't

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1 what hangs in the balance here is several county
2 and city government programs that offer these
3 services being out of business by this fall
4 because DOC will not train them. We are not a
5 training agency.

6 We have been blessed. Steve laid it out
7 real good. You know, he comes from a DOC
8 background and everything else. And you know,
9 when we had capacity, it wasn't a problem, but
10 we're out of capacity. My attrition rate now is
11 extensive, and we will prioritize training our
12 people, but we cannot train other people.

13 And when it comes to that topic, there
14 is two agencies that are in that game -- not the
15 training part -- but MLEA and POST. DOC is not in
16 that conversation.

17 MR. JOHNSON: I just need to make sure
18 that we recognize. Back in October 2017, we met
19 in Miles City as a Council, and we approved this
20 training track that would match Kevin's syllabus
21 for P&P to be offered by other entities if they
22 could match that, if it would be equivalent, at
23 another location away from MLEA.

24 So in regards to POST kicking the can
25 down the road, we've never done it. We've

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1 be forcing the AG to make, but at least it may
2 highlight it.

3 And as I said earlier, they're also done
4 with the legislative session, and they really do
5 get bombarded with a lot of AG opinion requests
6 during the legislative session. And so if they
7 received one, and it's got a highlight of some
8 necessity and urgency to it, and they've kind of
9 worked their way through, taking their breather
10 after the legislative session, it may be able to
11 come through a little quicker.

12 MR. OLSON: So this is Kevin. Just a
13 couple things, because I do have to get out of
14 here.

15 Kristina, just on the surface, what
16 you've listened to today, is there a rationale to
17 my argument that standards could be plural?

18 MS. NEAL: There is rationale, but I
19 agree with Perry that it would be nice to have
20 some type of an AG opinion coming, rather than --
21 especially just a quick reading, and without
22 having the opportunity to do the research on my
23 own as well.

24 MR. OLSON: And I know I've said this
25 several times, but I'm going to say it again, is

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1 acknowledged that there is a problem; we've
2 acknowledged that there is another way for
3 especially the private vendors at that point,
4 because at that time, we had DOC as an option as a
5 training facility. And I recognize that it's
6 gone.

7 But the bottom line is: That's a
8 business. Those businesses always had the
9 opportunity to come to this group and say, "We
10 have examined his curriculum. This is our
11 proposal, and this is where we would do it." And
12 we had a motion that was adopted by the Council
13 that that was a business model that we would
14 approve.

15 But I've got to make sure that we
16 recognize this, too. There has been
17 conversations. Steve and I have talked about it.
18 Do we want to create a statute that would allow us
19 to have a different training track? And at that
20 time DOC was a good option for Gallatin County,
21 and he said, "I don't think we want to step away
22 from it right now."

23 And I think that's what, when he stepped
24 up there and said, "Hey, we didn't waste our
25 time," I don't think he did either. I think that

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1 was probably good training. But the bottom line
2 is we've consciously made a decision, "No, we're
3 not going to look at statutory language that would
4 allow us to do that." That was part of that
5 stakeholder decision then.

6 And granted there is new stakeholders
7 now, but the bottom line is the Legislature
8 created that issue. We've examined it, and we
9 took a position that would allow us to be
10 responsive to any agency that wanted to present
11 that training, and nobody has ever come to us and
12 said, "Hey, we want to do that. Would you approve
13 it?"

14 So I think you guys have worked pretty
15 hard on this. And I don't know if -- Kevin said
16 it was the sixteenth time. I don't know how many
17 times we've talked about it. It's a lot.

18 MR. OLSON: This is Kevin. And once
19 again, for us to say, "Yes, you can do the same
20 training," that's all good and fine. Leo, could
21 you put on an eight week course?

22 MR. DUTTON: No.

23 MR. OLSON: You've got a pretty large
24 agency.

25 CHAIRMAN HARBAUGH: But --

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1 MR. OLSON: I mean the reality is Steve
2 doesn't want to step away from my P&P Officer
3 Basic. I'm kicking him out of my P&P Officer
4 Basic. And what I'm telling Steve is, "I'm
5 kicking you out, and go figure it out." And I'm
6 not comfortable with that.

7 CHAIRMAN HARBAUGH: I think that's --
8 based on what I've heard today -- the solution
9 that you're offering is very tangible in that
10 let's condense down what these people need.

11 And whoever provides the training --
12 which I think if the Curriculum Committee were to
13 work on building that curriculum, and if Glen can
14 manage it here, I think that's ideal. But I still
15 believe as well that if someone out there in any
16 agency says, you know, "Hey, now, it's two weeks
17 instead of eight weeks," is that more palatable or
18 more doable, if you will. Then maybe providers
19 will step up and say, "Yes, we can put the
20 training together."

21 So I think from the standpoint of, as
22 Leo said earlier, doing this in a parallel means,
23 I would certainly support the idea of talking
24 about, you know, let's task a group with putting
25 that curriculum together, and coming back with it.

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1 But I also believe that we do need to clarify the
2 legal side of it, if we can.

3 MR. OLSON: This is Kevin. To that end,
4 that's exactly why I called upon Andrea and Steve.
5 They're willing to step up, and they're willing to
6 reach out in their network, and groom trainers.
7 Glen is willing to host it, and they would
8 predominantly provide the vast majority of the
9 trainers; reliant upon Judge Ortley for legal, and
10 the Academy for other things like ethics and
11 domestic violence, and things like that that Glen
12 says, "We already provide that, so we can provide
13 that."

14 I just want everyone to know that I'm
15 not saying that we should fly in the face of
16 legal, but those are opinions, and what really
17 lies in risk here is because after today, my
18 letter will go out to Steve, and to the other
19 pretrial and misdemeanor officers that work for
20 cities and counties and saying, "You won't be
21 joining us in July." We can't. I don't have
22 capacity, and I've got to prioritize my officers.

23 Which means that their clock is running,
24 and at some point in time they're going to hit the
25 eighteen month thing, and then they're going to be

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1 out of business.

2 MR. DUTTON: So if we say yes, is there
3 time -- If we said, "Yes, let's go for it," is
4 there time to get that course done, in line,
5 approved, so they don't run into this, running
6 into over their year?

7 MR. OLSON: Right. So I was just
8 talking to Andrea about that. We'll have to poll
9 the seven or eight officers on here to find out
10 when their employment started. We had picked the
11 first week in November, I think it was, to do the
12 course; but we're also confident that when we
13 build the course, a lot of the course content is
14 stuff that MLEA has already completed online.

15 And so they could do a lot of the stuff
16 online, and looking at maybe two weeks on campus.
17 A two week course for Glen on campus is a lot
18 easier than a longer term course. So we'll have
19 to query that group and find out what timelines on
20 that are.

21 I think we can have the course built
22 certainly by October 1 when this Council comes
23 back together, and bring before you the syllabus
24 for approval.

25 MR. STINAR: I mean I understand because

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1 we don't put Probation and Parole through a law
2 enforcement. Basically I tell them, "Some of this
3 applies to you and some of it doesn't," so I think
4 that's a pretty good argument to get them the
5 training that they need, rather than just one size
6 fits all.

7 So I think that's a good plan to develop
8 a curriculum tailored to what they do, and not to
9 what someone else does, and they just share --
10 (inaudible) --

11 CHAIRMAN HARBAUGH: What's the pleasure
12 of the Council? Do you want to address tasking
13 the Curriculum Committee first?

14 MR. OLSON: This is Kevin. As far as
15 building the curriculum, the Curriculum Committee
16 won't need to be involved in that. We'll use DOC
17 resources, and work with Andrea and her network,
18 and Steve and their network of people, and we'll
19 do what's called a decum (phonetic), which means
20 develop a curriculum. And what they'll do is
21 they'll develop a draft curriculum, and they'll
22 bring it to the Curriculum Committee for review.

23 CHAIRMAN HARBAUGH: At least through the
24 Curriculum Committee makes sense.

25 The second item in regards to the legal

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1 side then, consensus that we make the request?

2 UNKNOWN SPEAKER: Yes.

3 MR. DUTTON: I think we need to. That's
4 a parallel track.

5 CHAIRMAN HARBAUGH: If working on
6 putting a draft request together, the sooner the
7 better. I'll be in town tomorrow and Friday if
8 you need a signature that quickly as well.

9 MS. NEAL: Okay.

10 CHAIRMAN HARBAUGH: I think --
11 (inaudible) --

12 MS. BOLGER: This is Katrina. Most of
13 the research is already done. And I know I did a
14 legislative history on misdemeanor probation
15 specifically. I would like to look back at the
16 history on probation and parole statutes,
17 specifically that training statute, to see if
18 there is any indication of what the legislative
19 intent was, what that standards rule or word.

20 CHAIRMAN HARBAUGH: Okay. Any further
21 action that we need there?

22 MR. JOHNSON: Heck, as long as we got
23 that decum going.

24 CHAIRMAN HARBAUGH: That would be --

25 MR. JOHNSON: I think you've probably

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1 got the lesson plans already. I think you just
2 need to collate them now and -- (inaudible) --

3 MR. OLSON: Exactly. I think between
4 what we have, and I know Andrea said that she's
5 got some resources from her national group of some
6 topics that she can get. We'll be stealing from
7 many different sources, but between DOC's training
8 library and what Andrea can get, I don't think it
9 would take long to build the curriculum.

10 MR. DUTTON: Mr. President.

11 CHAIRMAN HARBAUGH: Sheriff.

12 MR. DUTTON: He's President of MSPDA.
13 That's why I keep doing "Mr. Chairman." Anyway
14 all hail.

15 Anyway, both of our pretrial officers
16 have been through the basic, so you don't have to
17 worry about them.

18 MR. OLSON: Didn't we have a couple
19 others on the waiting list to come to ours?

20 MR. DUTTON: Not for the county. If
21 there is somebody else.

22 MR. OLSON: Okay.

23 MR. DUTTON: I just checked. In case
24 you thought I was intentionally ignoring you, I
25 wasn't -- (inaudible) --

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1 MR. OLSON: I know we have -- and I
2 don't remember where they were all from. I know
3 one from Lincoln County and --

4 MR. DUTTON: Yeah, there is five pilot
5 counties, as Andrea said, that should have come
6 through or waiting.

7 CHAIRMAN HARBAUGH: Anything further on
8 that?

9 (No response)

10 CHAIRMAN HARBAUGH: Any comments that
11 you guys would like to make?

12 MS. LOWER: The only comment that I
13 wanted to make is that --

14 MR. DUTTON: Can you come up? The
15 people on the phone can't hear you. Sorry, Mr.
16 Chairman, President.

17 CHAIRMAN HARBAUGH: Sorry.

18 MS. LOWER: So this is Andrea Lower.
19 And the only comment that I have is that this has
20 been a roller coaster of events for, like I said,
21 the last sixteen years. I had previously come to
22 this Council when I started developing pretrial in
23 Gallatin County, and we were posed with a
24 situation of where we were issued the previous
25 certificates, and then come to find out through

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1 the process that those were pulled, but that
2 information did come to this Council.

3 So I want to make sure that all of this
4 information, it is recorded, that we do refer back
5 to that information, so that we do have an audit
6 trail, that it doesn't fall in a hole somewhere,
7 and not acknowledged, not recognized.

8 My concern, like with what Leo had
9 brought up, is that people who have gone through
10 the training, we need to find a mechanism for them
11 to move forward, and not have redo, go back.

12 The House Bill that was brought up
13 regarding equivalency I think should be moved
14 forward to the other disciplines as well, not just
15 for law enforcement. So when I attended the ten
16 week training, I had 22 years of experience, and
17 all POST certified. So I think those things also
18 need to be acknowledged when you're looking at the
19 other disciplines that report to this POST
20 Council.

21 So I'm happy to hear that this is an
22 option that we're looking at doing it, moving
23 forward, because it definitely needs to take
24 place; and I think that pretrial services
25 statewide is going to grow. Everybody's jails are

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1 That was for -- she's putting in for two more.

2 MR. OLSON: Oh, no, that I was right.

3 MR. DUTTON: I have a hunch you might be
4 onto something.

5 CHAIRMAN HARBAUGH: Do you want to take
6 a short break before we go into budget?

7 MR. JOHNSON: I want to do whatever you
8 want to do, Mr. Chairman.

9 CHAIRMAN HARBAUGH: Mary Ann, I'm not
10 sure where we're at in regards to lunch, the time
11 frame.

12 MS. KEUNE: It's here whenever.

13 CHAIRMAN HARBAUGH: What's the pleasure?

14 MR. DUTTON: We're scheduled to go to
15 eleven tonight, I see on the --

16 CHAIRMAN HARBAUGH: Yes, we're on until
17 11:00 p.m. So --

18 MR. JOHNSON: You're going to be
19 lonesome here.

20 MR. DUTTON: That's what your thing
21 says.

22 CHAIRMAN HARBAUGH: Let's maybe start
23 lunch, and then we can reconvene as we're wrapping
24 lunch up.

25 MR. JOHNSON: Okay.

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1 overcrowded, there is a lot of lack of
2 alternatives for incarceration at this point, so I
3 really think that we do need to move forward with
4 it, including the private entities, like we were
5 talking. You're looking at alternatives, you're
6 looking at Missoula Correctional, CCCS.

7 The ones that my concern that I brought
8 forward was your bail bondsmen who are kicking out
9 bracelets. They're not monitoring the people, all
10 they're doing is slapping a bracelet on and going
11 about their day.

12 So I think that through some of those
13 criteria, looking at the application process to
14 attend the trainings I think is very important as
15 well. So I'm just excited that this is finally
16 moving forward, and I hope it works, so thank you.

17 CHAIRMAN HARBAUGH: Thank you.

18 MR. OLSON: With that I have to --

19 CHAIRMAN HARBAUGH: Thanks, Kevin.

20 MR. DUTTON: Kevin, you were right.
21 They're putting in for two more -- sorry, Mr.
22 President -- in the budget. She's putting --

23 MR. OLSON: Could you say that a little
24 louder, please?

25 MR. DUTTON: Oh, yeah. This is Leo.

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1 MR. DUTTON: Don't put us on hold,
2 Truman.

3 (Lunch recess taken)

4 CHAIRMAN HARBAUGH: Jim's on his way
5 back in. We'll go ahead and reconvene. Tia, are
6 you still on the line?

7 (No response)

8 CHAIRMAN HARBAUGH: Truman?

9 (No response)

10 CHAIRMAN HARBAUGH: Who else was on the
11 line this morning?

12 MS. KEUNE: Wyatt.

13 CHAIRMAN HARBAUGH: Wyatt went off
14 already, I think.

15 MR. JOHNSON: We had Clint Peters, Tia,
16 Truman, and Wyatt.

17 MS. KEUNE: Dynneson.

18 MR. JOHNSON: Oh, and John Dynneson.
19 Yeah. Mueller. Nobody there.

20 CHAIRMAN HARBAUGH: I think we still
21 have a quorum, so we can continue forward.

22 UNKNOWN SPEAKER: -- (inaudible) -- for
23 the first time.

24 CHAIRMAN HARBAUGH: The next item was
25 MCS certificate discussion.

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1 MR. JOHNSON: MCS certificate, you'll
2 find that on Page 218 of your material, but you
3 also have a memo from Kristina Neal regarding
4 Motor Carrier Service certification. So that kind
5 of really is the point of the spear that we want
6 to talk about.

7 We've put the definition in there to
8 just make sure that you understand that a
9 Department of Transportation employee under (d)
10 appointed as a peace officer is a Public Safety
11 Officer. They used to have their own Basic
12 Academy class, years ago, thirty some years ago.
13 Their officers attended LEOB, and then they
14 created their own Basic Academy, and it was only
15 six weeks. And six, seven years ago, they were
16 certifying them as peace officers.

17 But that standard for peace officer
18 doesn't attach to them. They don't meet that
19 definition for those fellows that got that
20 training.

21 So our question is: Can we give them an
22 advanced certificate? And the answer is captured
23 in Kristina's memo to you that she acknowledges
24 they had different training, and that based on the
25 Business Plan seconded motion today that we

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1 arresting people, a year of experience, the way
2 that we've weighted it, is worth 40 hours of
3 training every year.
4 So those guys that are out there,
5 they're probably doing that training, they're
6 probably doing that driving, they're making them
7 stops, they're going to the range every year to
8 stay qualified. So I think that it must be
9 pertinent training, but we're not going to break
10 it down by years of -- I mean by what the training
11 is. We're going to weight that experience and
12 apply it to that then.

13 So they would need, in order to get
14 those other -- I don't know -- they got six weeks,
15 so they got 240. To get those 240, they'd need to
16 be in for six or seven years before they could
17 meet that standard for their intermediates, and
18 their advanced, and those things.

19 So I think that it works. We're going
20 to say that it works for those guys that are
21 coming from out of state, so it seems fair that we
22 would apply it to them fellows as well.

23 CHAIRMAN HARBAUGH: Do we need to act on
24 that as a motion?

25 MR. DUTTON: I think we just made, we

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1 probably have the ability to go back and take a
2 look at their experience, and apply it then
3 towards those advanced certificates. But
4 obviously those fellows that went through the
5 Basic Academy for peace officers can get advanced
6 certificates.

7 So the issue I guess that we would talk
8 about today is: Is that a reasonable
9 accommodation for them fellows that are applying
10 that only have that six weeks basic, but they've
11 got twenty years of experience? And we can now,
12 based on what we adopted today as that process, we
13 can look at their experience, and other training,
14 and hold it and apply it towards that.

15 So is that reasonable to you guys? I
16 think that's where we're at.

17 CHAIRMAN HARBAUGH: Any thoughts?

18 UNKNOWN SPEAKER: Does the training
19 still have be pertinent, right? I mean it can't
20 just be -- they still have to do driving, and PFMA
21 law, or something like that, or is it --

22 MR. JOHNSON: I think the way that we
23 have weighted their experience is, for instance,
24 we feel a peace officer that's out on the street,
25 if he's applying the law, he's writing citations,

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1 just passed it. I think that falls under the same
2 category as what we just said yes to.

3 CHAIRMAN HARBAUGH: I guess I'm
4 comfortable, as long as we're on the record, that
5 this Motor Carrier Services, and/or really any
6 other Public Safety Officers for that matter, that
7 may have a differing method of getting from basic
8 to where they're at now would apply. Is that
9 consensus at least that we include Motor Carrier
10 Services as well?

11 UNKNOWN SPEAKER: I would agree, yes.

12 MR. STRANDELL: I would agree.

13 MR. DUTTON: Do you need a motion, or
14 can we do that with a consensus?

15 CHAIRMAN HARBAUGH: I think we can stand
16 on it as a consensus that it should be included
17 with the other language that we have moved to
18 accept.

19 MR. JOHNSON: Okay. I'll take that as
20 the direction to go.

21 That brings us to Page 219, the budget.
22 It looks pretty fat when you look at the bottom
23 line right there now, but we've got some
24 commitments out there. While I think that we're
25 looking at year end by about a month from now,

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1 fiscal year end, I think that we're in pretty good
2 shape on the books right now.

3 Mary Ann checked, and we had \$94,000
4 still in our budget. We've got -- We encumbered
5 \$2,500 today if we've got it. We also have
6 personnel costs that will probably be \$40,000 to
7 \$45,000 before the end of the year; we have a data
8 base that we've written a claim for \$23,000; we've
9 got some legal expenses, and a temporary position
10 in the office as well, and just miscellaneous
11 expenses.

12 I think by our best estimate, we
13 probably are, even after all of our expenses when
14 all the bills are paid, we're probably still going
15 to have \$15,000 to \$20,000 at the end of the year.

16 So that brings me to the discussion
17 about: We usually revert those funds back to the
18 General Fund, but this year I want to at least
19 talk to you guys and make you aware that there may
20 be an opportunity for us to encumber them funds
21 with DOJ and with Glen at MLEA here.

22 He's proposed to construct a 5,000
23 square foot dry storage building behind the old
24 infirmary over there, back behind Maple, and that
25 would give us an opportunity to archive some of

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1 the records that we're not into all the time, but
2 it would be a safe, dry environment for them.

3 And I think rather than revert those
4 funds -- it will be the last year probably that
5 we'll have our own funding source -- I would ask
6 for, if you find it in your hearts to do that, ask
7 for your permission to at least continue to have
8 those conversations with him, and if we can move
9 that money into that direction, I think it would
10 be a good investment for us.

11 MR. DUTTON: Do you need a motion or
12 just an affirmation? I think it's a great idea.

13 CHAIRMAN HARBAUGH: I think where it
14 involves budget, we maybe should do it by motion.
15 Perry, are you inclined to have a figure somewhere
16 down the road in the not too distant future
17 anyway, that as far as funds available yet, or --

18 MR. JOHNSON: Really I think, just when
19 we really hit the high spots, it really looks like
20 to me -- and Mary Ann can chime in -- but it
21 really looks to me like we're probably -- our
22 funding will end with a balance in the book
23 between \$10,000 and \$20,000.

24 I know that's a big ballpark, but you've
25 always got those little expenses that come in

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1 that, you know, they may look little, but they
2 sure add up at the end of the year. So I guess
3 what I'm saying is if there's \$10,000 left in the
4 books, I think that \$10,000 should go to that
5 building. If there is \$20,000, I think that
6 should go to that building. I think that we
7 should be invested in that program now. That's --

8 CHAIRMAN HARBAUGH: I think if it's
9 \$10,000, it should only be nine-nine-nine-nine, so
10 that you have a dollar left in your budget.

11 MR. JOHNSON: Yeah, I want to have a
12 dollar left. You know, we spent it down to 200
13 bucks last year, and on a \$400,000 budget that's
14 -- I like to say it's great management, but better
15 to be lucky than good.

16 CHAIRMAN HARBAUGH: I would entertain a
17 motion to allow -- however --

18 MR. STRANDELL: This is John. I will
19 make the motion that we allow the Director to
20 contribute towards that project if there is money
21 left over at the end of the year.

22 MR. THOMAS: This is Jim. I'll second.

23 MR. JOHNSON: Then just for discussion
24 then, just to make sure. Glen and I have had this
25 conversation, and he doesn't know how it works,

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1 and I don't know how it works to encumber it
2 either. Historically we've encumbered some funds
3 with invoices, and that's what we'll do with this
4 OIS training. We'll get an invoice from Leo, and
5 we'll be able to encumber that money from this
6 budget, because that's actually going to take
7 place in August.

8 So as long as -- I think as long as it's
9 anticipated costs, and we can work with his
10 accounting officer, and I think we might be able
11 to get it done, but I'm not sure. But at least it
12 would provide that option to us.

13 MR. STRANDELL: If it doesn't work, it
14 was a good faith effort on our part -- (inaudible)
15 --

16 MR. JOHNSON: That's what I think, too.

17 CHAIRMAN HARBAUGH: Any other questions
18 or discussion?

19 (No response)

20 CHAIRMAN HARBAUGH: We'll move to a
21 vote. All those in favor, please signify by
22 saying aye.

23 (Response)

24 CHAIRMAN HARBAUGH: Any other discussion
25 --

1 MR. JOHNSON: Tia?
 2 CHAIRMAN HARBAUGH: Tia didn't vote yet.
 3 I was making sure I gave her ample time. Opposed
 4 same sign.
 5 (No response)
 6 CHAIRMAN HARBAUGH: Motion carries.
 7 Okay. Go ahead.
 8 MR. JOHNSON: Pages 220 to 243 show you
 9 the certificates that were awarded. We awarded
 10 317 of them this time. On Page 244, that's the
 11 training that's been approved.
 12 I want to take just a minute to make
 13 sure that everybody's looking at Page 244, because
 14 this is pretty significant. It shows that just in
 15 regards to this last three months, we've approved
 16 training for 218 courses, 2,900 officers, and
 17 27,595 hours.
 18 So you know, we talk an awful lot about
 19 the standards, right, the Case Status Committee,
 20 and the ARMs, and the sanctions, and things like
 21 that. But once in awhile I think that training
 22 component that you guys oversee is kind of
 23 disregarded. And you're approving a lot of
 24 training. We're probably on track to approve over
 25 100,000 hours of training this year. And for

1 October 7th for next year is what we proposed, but
 2 that's a long ways out there, and those are moving
 3 dates. We can come back in October and talk about
 4 them. But I thought at least we could maybe get
 5 them out there in front of you guys right now.
 6 CHAIRMAN HARBAUGH: Any glaring
 7 conflicts at this point?
 8 MR. STRANDELL: This is John. Should
 9 we, based on that calendar there, your scheduled
 10 dates you have, should we consider hitting the
 11 road again at some point? Instead of having
 12 everything in Helena, having one meeting
 13 somewhere?
 14 MR. JOHNSON: This is Perry. One
 15 meeting next year?
 16 MR. STRANDELL: Yes.
 17 MR. JOHNSON: Do you want to do it in
 18 the fall? The reason I hesitate to do it in June
 19 is because that's when MPPA usually meets. MACOP
 20 is doing the League of Cities and Towns. They're
 21 going to be in October. But MSPOA always meets in
 22 June. Can we do it maybe in the fall?
 23 MR. STRANDELL: Uh-huh.
 24 MR. JOHNSON: Have you got a suggestion?
 25 MR. STRANDELL: We went to Miles City,

1 those Administrators in the room and those guys
 2 that work by the hour, that's 50 years. That's
 3 pretty cool.
 4 Okay. You're on Page 245. That shows
 5 what open cases we do have and continue to have.
 6 245, 246, and 247. Equivalency is also on pages
 7 -- help me out, Katrina. Did I miss something
 8 there?
 9 MS. BOLGER: We didn't have --
 10 (inaudible) -- the last Council meeting.
 11 MR. JOHNSON: Oh, that's right.
 12 MS. BOLGER: Because the last Council
 13 meeting was the third day of -- (inaudible) --
 14 CHAIRMAN HARBAUGH: April 3rd.
 15 MR. JOHNSON: Right. Right. Then you
 16 see your extensions granted on that report; cases
 17 opened and closed; office updates. Do we have a
 18 calendar in here?
 19 CHAIRMAN HARBAUGH: On the last page, I
 20 think.
 21 UNKNOWN SPEAKER: 2020.
 22 UNKNOWN SPEAKER: 2020 calendar.
 23 MR. JOHNSON: We just proposed some for
 24 next year, just to kind of get this out there in
 25 front of people. So February 26th, June 3rd, and

1 didn't we, one year?
 2 MR. JOHNSON: We did.
 3 MR. STRANDELL: Wasn't that last year
 4 that travelled?
 5 UNKNOWN SPEAKER: Two.
 6 MR. STRANDELL: I couldn't make it, but
 7 two years ago?
 8 CHAIRMAN HARBAUGH: Two years ago this
 9 October.
 10 MR. STRANDELL: Maybe the western part
 11 of the state? Eureka -- (inaudible) -- northwest.
 12 UNKNOWN SPEAKER: I'm thinking Hawaii.
 13 CHAIRMAN HARBAUGH: Troy.
 14 MR. JOHNSON: You know, we've been in
 15 Kalispell, and we got that -- Tia set us up with
 16 that -- that was nice.
 17 MR. DUTTON: That was real nice.
 18 MR. STRANDELL: Oh, that's right.
 19 MR. JOHNSON: Should I ask her if she
 20 could make that happen again a year and a half
 21 from now?
 22 MR. STRANDELL: Uh-huh. Gives her time.
 23 MR. JOHNSON: I like that idea.
 24 MR. STRANDELL: Yeah, I do, too.
 25 UNKNOWN SPEAKER: -- (inaudible) --

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1 CHAIRMAN HARBAUGH: I can just shoot
2 antelope on the way home, I guess. Isn't that
3 usually the first weekend of rifle season?
4 UNKNOWN SPEAKER: Pretty close.
5 MR. DUTTON: You've still got the same
6 tag you got in 1970.
7 UNKNOWN SPEAKER: Decoupage.
8 UNKNOWN SPEAKER: You need a tag?
9 MR. DUTTON: Can't you just decoupage
10 that, and you kind of kind of throw it in --
11 MR. STRANDELL: Animal tags.
12 MR. DUTTON: That's how I did it. She
13 told me.
14 MS. KEUNE: Are you talking about this
15 October or a year and a half?
16 MR. STRANDELL: No, mean a year and a
17 half. It would be next year.
18 MR. JOHNSON: That is what you were
19 talking about.
20 MR. STRANDELL: Based on the schedule.
21 MR. JOHNSON: We could talk about it
22 this October, I guess, but --
23 MR. STRANDELL: I couldn't do this
24 October, but next year gives us plenty of time to
25 plan and -- (inaudible) --

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1 MR. JOHNSON: Yes.
2 MR. DUTTON: The power company was nice
3 to us.
4 MR. JOHNSON: That was nice digs.
5 UNKNOWN SPEAKER: It worked out.
6 MR. JOHNSON: Okay. All right. Now
7 just a reminder that that agenda that says we get
8 done at 11:00 tonight, so you know, we'll probably
9 break here for fifteen minutes when we're done
10 here, and we're going to go right into Case Status
11 then.
12 UNKNOWN SPEAKER: It does say 11:00 at
13 night.
14 CHAIRMAN HARBAUGH: That included the
15 Case Status Committee meeting, I think is why it's
16 scheduled until 11:00 tonight. So --
17 MR. JOHNSON: Hey, I do need to update
18 you just a little bit on what my plans are. Next
19 week is a week of travel for me. I'll be out of
20 the office on June 9th, a week from Sunday. I'll
21 be in Milwaukee for that IADLEST conference, and
22 IADLEST is that International Association of
23 Directors of Standard and Training. So their
24 conference is there this year.
25 Glen Stinar is going to fly out, and I'm

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1 CHAIRMAN HARBAUGH: Maybe we should do
2 Great Falls?
3 MR. STRANDELL: I want to get out of
4 town.
5 MR. DUTTON: We could do Plentywood.
6 MR. JOHNSON: That's a long ways away.
7 I wouldn't mind doing Lewistown either, you know.
8 We've never been here.
9 UNKNOWN SPEAKER: Plentywood is a long
10 way from anywhere.
11 MR. DUTTON: Williston.
12 UNKNOWN SPEAKER: -- (inaudible) -- This
13 stuff I guess. Kalispell drive six hours.
14 MR. DUTTON: Yeah, Kalispell is nice.
15 MR. JOHNSON: Let's talk about it again
16 in October.
17 MR. STRANDELL: I like the idea of
18 Kalispell. That's too far for some folks.
19 UNKNOWN SPEAKER: We'd just make a trip
20 out of it.
21 MR. JOHNSON: Okay.
22 MR. DUTTON: Yes, Kalispell was nice.
23 MR. STRANDELL: We had pretty good
24 attendance, too, from Sheriffs and Chiefs that
25 attended, didn't we, if I remember?

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1 going to drive out, because at the end of that
2 conference, I'll drive to Rochester. My wife is
3 going back to Mayo Clinic for some follow up on
4 those procedures she had a couple of years ago.
5 So that week, I'll be out for the next two weeks.
6 The week after that I'll be back in
7 Montana, and I'll be at MSPOA at the conference up
8 there. POST has been asked to present a one hour
9 segment of training to the Sheriffs Institute, and
10 I usually participate during most of that
11 institute because I've got so much knowledge and
12 wisdom to share, and it just seems to be a shame
13 to let it go to waste.
14 UNKNOWN SPEAKER: Is it time to go?
15 MR. JOHNSON: It did take this long to
16 kind of get back to make it to this group, now,
17 did it?
18 MR. STRANDELL: Is the title of your
19 presentation BS?
20 MR. DUTTON: That's why Kevin said, you
21 know, we had a lengthy conversation, an hour and a
22 half with Perry. I said that was a short one.
23 MR. STRANDELL: It's like a caged
24 animal, only giving him an hour or hour and a
25 half.

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1 CHAIRMAN HARBAUGH: I can tell you I
2 checked last night, and he hadn't turned in his
3 bio yet either to be an instructor for that
4 segment, so --

5 UNKNOWN SPEAKER: Holding the line.
6 Holding the line.

7 MR. JOHNSON: Hey, speaking of which,
8 while we're still on the record, there came an
9 article out in the Billings Gazette last week -- I
10 don't know if you saw it -- that talked about our
11 recent POST Council meetings, February and April.
12 Did you see it?

13 MR. DUTTON: I read it.

14 MR. JOHNSON: I think it needs to be
15 said that on the same day I think that article
16 came out, I think that was last Friday, Katrina
17 got a call from somebody in Billings, a lady that
18 said, "Don't stop doing what you're doing. That's
19 important what you're doing. You've got to do
20 that. Just keep that in mind. Don't stop."

21 CHAIRMAN HARBAUGH: I saw the article.
22 I did not -- I don't do Facebook. But my wife
23 indicated that in addition to the article being on
24 Facebook, that there were lengthy comments from
25 the public, and she explained to me that the very

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1 majority of those comments were that we're doing
2 what we need to be doing, and there was some
3 reassurance there that some of the comments made
4 in the article, it sounded like at least that the
5 public at large didn't agree with. So --

6 UNKNOWN SPEAKER: As opposed to the Salt
7 Lake article? Was it Salt Lake?

8 MR. JOHNSON: Is that the one --

9 UNKNOWN SPEAKER: Colorado, or no, Utah.

10 MR. STRANDELL: It was Utah.

11 UNKNOWN SPEAKER: The Utah. Remember,
12 you shared it with us here --

13 UNKNOWN SPEAKER: That article.

14 UNKNOWN SPEAKER: -- that article.

15 MR. JOHNSON: Yes.

16 UNKNOWN SPEAKER: Which basically said
17 they weren't doing anything.

18 MR. JOHNSON: That's right. Man, how
19 disheartening that must be to know that you're
20 empowered to do that, and you maybe can't just
21 catch gear or whatever. I don't know.

22 MS. KEUNE: Katrina got a call right
23 after that, though, from Utah asking about
24 standards here.

25 MR. JOHNSON: Yes.

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1 MR. DUTTON: Sorry. Was that Mary Ann?
2 MS. KEUNE: No.

3 MR. DUTTON: I thought that was Tony
4 there for a minute.

5 CHAIRMAN HARBAUGH: Do we have any
6 issues that we need to go into executive session
7 for?

8 (No response)

9 CHAIRMAN HARBAUGH: Hearing none,
10 anything else before the Council?

11 (No response)

12 CHAIRMAN HARBAUGH: Are you guys good
13 convening the Status Committee shortly, and --

14 UNKNOWN SPEAKER: You bet.

15 MR. STRANDELL: About ten minutes?

16 CHAIRMAN HARBAUGH: Sure. I guess I
17 would entertain a motion to adjourn the Council
18 meeting.

19 MR. DUTTON: Motion to adjourn.

20 MR. SAYLER: Matt. Second.

21 CHAIRMAN HARBAUGH: We'll stand in
22 adjournment until -- what is the date of our next
23 meeting?

24 UNKNOWN SPEAKER: October 6th.

25 CHAIRMAN HARBAUGH: Sixth.

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1 MR. DUTTON: Anybody has --
2 MR. STRANDELL: It's good to have you on
3 board.
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OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

August 6, 2019

The Honorable Corey Stapleton
Secretary of State
State Capitol
Helena, MT 59620

RECEIVED
AUG 08 2019

MT POST Council

Dear Secretary of State Stapleton:

Effective immediately, I have appointed the following member to the **Board of Funeral Service**, in accordance with Montana Code Annotated 2-15-1743, under the Department of Labor and Industry.

- Mr. Tyson K. Moore, 4259 Lily Lane, Stevensville, MT 59870, is appointed to serve a term ending July 1, 2024. Mr. Moore fulfills the qualifications of Licensed mortician and replaces Ms. Donna Amaro.

Effective immediately, I have appointed the following member to the **Public Safety Officer Standards and Training Council (POST)**, in accordance with Montana Code Annotated 44-4-402, under the Department of Justice.

- Captain Jason R. Jarrett, GCDC, 605 South 16th Avenue, Bozeman, MT 59715, is appointed to serve a term ending January 1, 2021. Mr. Jarrett fulfills the qualifications of Detention center administrator or detention officer and replaces the vacated term of Mr. Fred Sparks.

If you need additional information, please call Stacey Otterstrom, Boards and Appointments Advisor at extension 4405.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Bullock".

STEVE BULLOCK
Governor

CC: Commissioner Galen Hollenbaugh, Department of Labor and Industry
Mr. Mike Milburn, Department of Justice

2019 Montana Legislature

[Additional Bill Links](#) [PDF \(with line numbers\)](#)

HOUSE BILL NO. 96

INTRODUCED BY F. GARNER

BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT FOR THE BOARD OF CRIME CONTROL TO HEAR APPEALS FROM DECISIONS MADE BY THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; AND AMENDING SECTIONS 44-4-403 AND 44-7-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-4-403, MCA, is amended to read:

"44-4-403. Council duties -- determinations -- appeals. (1) The council shall:

(a) establish basic and advanced qualification and training standards for employment;

(b) conduct and approve training; and

(c) provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

(2) The council may waive or modify a qualification or training standard for good cause.

(3) A person who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6, ~~except that a decision by the council may be appealed to the board of crime control, as provided for in 44-7-101.~~ A decision of the board of crime control council is a final agency decision subject to judicial review.

(4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety officers in order to provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer. The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5."

Section 2. Section 44-7-101, MCA, is amended to read:

"44-7-101. Functions. (1) As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall perform the functions assigned to it under that act. The board shall also provide to criminal justice agencies technical assistance and supportive services that are approved by the board or assigned by the governor or legislature.

~~(2) The board shall consider all appeals brought from decisions of the Montana public safety officer standards and training council pursuant to 44-4-403. A board member designated as a member of the Montana public safety officer standards and training council, as provided in 44-4-402, may not participate in appeals brought to the board from decisions of the council. The board shall promulgate rules governing the manner and method of the appeals."~~

- END -

Latest Version of HB 96 (HB0096.01)

Processed for the Web on December 14, 2018 (1:47pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

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Prepared by Montana Legislative Services

(406) 444-3064

2019 Montana Legislature

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HOUSE BILL NO. 97

INTRODUCED BY F. GARNER

BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL LAWS; REVISING THE DEFINITION OF "PUBLIC SAFETY OFFICER"; REVISING COUNCIL DUTIES AND RULEMAKING AUTHORITY; ALLOWING THE COUNCIL TO DELEGATE CERTAIN RESPONSIBILITIES TO STAFF; REVISING LAWS RELATED TO THE SUSPENSION OR REVOCATION OF A PUBLIC SAFETY OFFICER'S CERTIFICATION; REVISING DUTIES OF APPOINTING AUTHORITIES; PROVIDING A PENALTY FOR A VIOLATION OF CERTAIN PUBLIC SAFETY OFFICER CERTIFICATION REQUIREMENTS; AND AMENDING SECTIONS 44-4-401, 44-4-403, AND 44-4-404, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-4-401, MCA, is amended to read:

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

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

(2) "Public safety officer" means:

(a) a corrections officer who is employed by the department of corrections, established in 2-15-2301, and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state correctional facility for adults or juveniles;

(b) a detention officer who is employed by a county and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a detention center, as defined in 7-32-2241, or a youth detention facility, as defined in 41-5-103;

(c) a peace officer, as defined in 46-1-202;

(d) a department of transportation employee appointed as a peace officer pursuant to 61-12-201;

- (e) a ~~law enforcement officer~~ or reserve officer, as the terms are defined in 7-32-201;
- (f) a public safety communications officer, as defined in 7-31-201;
- (g) a probation or parole officer who is employed by the department of corrections pursuant to 46-23-1002;
- (h) a person subject to training requirements pursuant to 44-2-113 or 44-4-902; and
- (i) a sheriff, except that nothing in this part may be construed to require an elected sheriff to possess a certificate issued by the council or be eligible for certification;
- (j) a coroner with the duties described in 7-4-2911 or a deputy coroner appointed pursuant to 7-4-2901, except that nothing in this part may be construed to require an elected coroner to possess a certificate issued by the council or be eligible for certification;
- (k) a publicly employed misdemeanor probation officer as described in 46-23-1005;
- (l) a pretrial services officer who meets the training requirements described in 46-23-1005 and who is employed by a pretrial services agency; and
- ~~(i)~~(m) any other person required by law to meet the qualification or training standards established by the council."

Section 2. Section 44-4-403, MCA, is amended to read:

"44-4-403. Council duties -- determinations -- appeals. (1) The council shall:

- (a) establish through administrative rule the basic and advanced qualification and continuing training and employment standards for employment, including professional conduct standards for all public safety officers in Montana;
 - (b) ~~conduct and approve~~ or review the training necessary to satisfy standards established pursuant to subsection (1)(a) for all public safety officers in Montana; and
 - (c) ~~provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers~~ determine an individual's eligibility or ineligibility for certification as a public safety officer in Montana;
 - (d) provide for a minimum of basic certification for a public safety officer who meets the qualification, training, and employment standards for the discipline in which the officer is currently employed; and
 - (e) sanction, suspend, revoke, or deny the certification of public safety officers who violate or fail to meet standards established by the council.
- (2) The council may waive or modify a qualification or training standard set in

administrative rule for good cause.

(3) ~~(a) A person who has been denied certification or recertification or whose certification or recertification has been sanctioned, suspended, or revoked, or denied based on misconduct or who has been declared ineligible for certification by the council~~ is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6, and administrative rules established by the council that are consistent with Title 2, chapter 4, part 6, except that a decision by the council may be appealed to the board of crime control, as provided for in 44-7-101. A decision of the board of crime control is a final agency decision subject to judicial review.

(b) The revocation or suspension of a public safety officer's basic certificate in any discipline automatically revokes or suspends for the same period all other public safety certificates held by the officer. A person may not be appointed or employed as a public safety officer if the person has ever had a public safety officer basic certificate revoked or if the person currently has a public safety officer basic certificate suspended.

(4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety officers in order to ~~provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer~~ fulfill the duties specified in subsections (1)(d) and (1)(e). The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5.

(5) The council may delegate decisions related to the grant or denial of equivalent credit or the duties listed in 7-32-303(5) and subsection (1)(b) of this section to the council's staff or executive director as long as the council reviews any decision that adversely affects the rights of an individual pursuant to Title 2, chapter 4, part 6."

Section 3. Section 44-4-404, MCA, is amended to read:

"44-4-404. Appointing authority responsible for applying standards. (1) A public safety officer in Montana must meet the applicable qualification, training, and employment standards for the discipline in which the officer is currently employed and must be certified in that discipline by the council or eligible for the certification after the completion of a 1-year probationary period.

(2) It is the responsibility of a public safety officer's appointing authority to apply ensure that every public safety officer the authority employs meets the training and employment standards and training criteria established by the council pursuant to this part, including but not limited to:

(a) requiring the successful completion of minimum training standards that the public safety officer be certified by the council in the discipline in which the officer is currently employed or be eligible for the certification within 1 year of the public safety officer's hire date; and

(b) terminating or suspending the employment of a public safety officer for failure to meet the minimum standards established by the council pursuant to this part whose certification has been suspended, revoked, or denied or who has been declared ineligible for certification until the officer has obtained a valid certification from the council in the appropriate discipline.

(3) It is unlawful for a person whose basic certification as an officer in any discipline has been revoked or denied by the council for misconduct or who has been declared ineligible for certification by the council based on misconduct to act, be appointed, or be employed as a public safety officer in any discipline in Montana. It is unlawful for a person whose basic certification has been suspended by the council to act, be appointed, or be employed as a public safety officer in any discipline in Montana during the period for which the certification is suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

(4) Within 10 days of the appointment, termination, resignation, or death of a public safety officer, the officer's employing authority shall give written notice of the event to the council."

- END -

Latest Version of HB 97 (HB0097.01)

Processed for the Web on December 14, 2018 (1:47pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

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Prepared by Montana Legislative Services

(406) 444-3064

HOUSE BILL NO. 98

INTRODUCED BY F. GARNER

BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PEACE OFFICER STANDARDS AND CERTIFICATION LAWS; REVISING CERTIFICATION LAWS FOR PEACE OFFICERS ON ACTIVE RESERVE STATUS; REVISING THE RULEMAKING AUTHORITY OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; REVISING DUTIES OF APPOINTING AUTHORITIES; REVISING PENALTIES FOR A PEACE OFFICER WHOSE BASIC CERTIFICATE IS SUSPENDED; AND AMENDING SECTIONS 7-32-240 AND 7-32-303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-240, MCA, is amended to read:

"7-32-240. Certification of Montana peace officer who leaves full-time or part-time employment to enter active reserve status in Montana -- definition. ~~A peace officer who leaves full-time or part-time employment and enters an active reserve status within 36 to 60 months retains basic certification status after entering reserve status for as long as the peace officer remains an active reserve officer.~~ (1) Except as provided in subsection (2), an officer who leaves full-time or part-time employment and enters an active reserve status within 36 to 60 months retains basic certification status after entering reserve status for as long as the peace officer remains an active reserve officer. has been issued a peace officer basic certification by the Montana public safety officer standards and training council or who is eligible for the certification and who becomes an active reserve officer in Montana may retain the officer's peace officer certification and return to full-time or part-time employment as a peace officer under the following circumstances:

(a) If 36 or more months have passed the reserve officer has not had a break in service of more than 3 years at any time since the peace officer's last date of employment as a full-time or part-time employment and the peace officer in Montana returns to full-time or part-time employment, the peace officer shall, upon return to retains the peace officer certification and may return to full-time or part-time employment, comply with 7-32-303(5)(c) as a peace officer from reserve status without attending an equivalency course or returning to the basic academy.

(b) If the reserve officer has had a break in service of more than 3 years at any time since the officer's last date of employment as a full-time or part-time peace officer in Montana, the officer must successfully



1 complete the peace officer basic equivalency course, as approved by the council, within 1 year of the officer's
 2 most recent appointment as a full-time or part-time peace officer in Montana in order to maintain the officer's
 3 peace officer certification. If the officer fails the basic equivalency course, the officer must attend the peace officer
 4 basic course at the Montana law enforcement academy at the next available opportunity. The officer's agency
 5 may request an extension of time for the officer to meet the basic requirement pursuant to 7-32-303(9).

6 (c) If the reserve officer has had a break in service of more than 5 years at any time since the officer's
 7 last date of employment as a full-time or a part-time peace officer in Montana, the officer must successfully
 8 complete the peace officer basic course at the Montana law enforcement academy, as approved by the council,
 9 within 1 year of the officer's most recent appointment as a full-time or part-time peace officer in Montana in order
 10 to retain the officer's peace officer certification. The officer's agency may request an extension of time for the
 11 officer to meet the basic requirement pursuant to 7-32-303(9).

12 (2) (a) The provisions of subsection (1) do not apply to a peace officer who was last employed as a
 13 full-time or part-time peace officer outside of Montana, a peace officer who was last employed by a federal or
 14 United States military law enforcement agency, or to a reserve officer outside of Montana.

15 (b) Officers listed in subsection (2)(a) are subject to the provisions of 7-32-303(6) through (8).

16 (3) For the purposes of part 3 and this part, the phrase "break in service" means a continuous period in
 17 which the officer is not performing the duties of a peace officer in Montana, either as a full-time or part-time peace
 18 officer or as an active reserve officer."

19

20 **Section 2.** Section 7-32-303, MCA, is amended to read:

21 **"7-32-303. Peace officer employment, education, and certification standards -- suspension or**
 22 **revocation -- penalty.** (1) For purposes of this section, unless the context clearly indicates otherwise, "peace
 23 officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park
 24 ranger, campus security officer, or airport police officer.

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

30 (a) be a citizen of the United States;

- 1 (b) be at least 18 years of age;
- 2 (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any
3 criminal record;
- 4 (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or
5 state penitentiary;
- 6 (e) be of good moral character, as determined by a thorough background investigation;
- 7 (f) be a high school graduate or have been issued a high school equivalency diploma by the
8 superintendent of public instruction or by an appropriate issuing agency of another state or of the federal
9 government;
- 10 (g) be free of any mental condition that might adversely affect performance of the duties of a peace
11 officer, as determined after:
- 12 (i) ~~be examined by a licensed physician or, for the purposes of a mental health evaluation; performed by~~
13 ~~a person licensed physician or a mental health professional who is licensed by the state under Title 37, and who~~
14 ~~is acting within the scope of the person's licensure when performing a mental health evaluation, who is not the~~
15 ~~applicant's personal physician or licensed mental health professional, appointed and who is selected by the~~
16 ~~employing authority to determine if the applicant is free from any mental or physical condition that might adversely~~
17 ~~affect performance by the applicant of the duties of a peace officer; or~~
- 18 ~~(ii) (A) satisfactorily complete the physical examination required by subsection (2)(g)(i); and~~
19 ~~—— (B) complete a standardized mental health evaluation instrument determined by the employing authority~~
20 ~~to be sufficient to examine for any mental health conditions that might adversely affect the performance by the~~
21 ~~applicant of the duties of a peace officer if the instrument is scored by a mental health professional acting within~~
22 ~~the scope of licensure by any state and the mental health professional finds that the applicant is free of any such~~
23 ~~mental health condition;~~
- 24 (ii) satisfactory completion of a standardized mental health evaluation instrument determined by the
25 employing authority to be sufficient to examine for any mental conditions within the meaning of this subsection
26 (2)(g), if the instrument is scored by a licensed physician or a mental health professional acting within the scope
27 of the person's licensure by a state;
- 28 (h) be free of any physical condition that might adversely affect performance of the duties of a peace
29 officer, as determined after satisfactory completion of a physical examination performed by a health care provider
30 who is licensed by the state under Title 37 and acting within the scope of the person's licensure when performing

1 the physical examination, who is not the applicant's personal health care provider, and who is selected by the
 2 employing authority;

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

6 ~~(j) possess or be eligible for a valid Montana driver's license; and~~

7 (k) be certified or be eligible for certification as a peace officer by the council or become eligible for
 8 certification upon completion of the requirements contained in subsections (6) through (10).

9 (3) At the time of appointment, a peace officer shall take a formal oath of office. No other oath may be
 10 required.

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

14 (5) ~~(a) Except as provided in subsections (5)(b) and (5)(c), it~~ It is the duty of an appointing authority in
 15 Montana to ensure that each peace officer appointed under its authority ~~to attend and successfully~~
 16 ~~complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified~~ has the basic
 17 training, including any training required in subsections (6) through (8), in addition to meeting all other
 18 requirements of peace officer certification promulgated by the Montana public safety officer standards and training
 19 council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as
 20 set forth in subsection (2) or who fails to complete the basic course ~~as required by this subsection (5)(a)~~ training
 21 required by subsections (6) through (8) forfeits the position, authority, and arrest powers accorded a peace officer
 22 in this state.

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

29 ~~(c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace~~
 30 ~~officer's course that is taught by a federal, state, or United States military law enforcement agency and that is~~

1 reviewed and approved by the Montana public safety officer standards and training council as equivalent with
 2 current training in Montana and whose last date of employment as a peace officer or member of the military law
 3 enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1
 4 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy
 5 the basic educational requirements by successfully completing a basic equivalency course administered by the
 6 Montana law enforcement academy. The prior employment of a member of the military law enforcement must
 7 be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer
 8 fails the basic equivalency course, the peace officer shall complete the next available appropriate basic course.

9 (6) Except as provided in subsections (7) and (8), a peace officer shall successfully complete the peace
 10 officer basic course at the Montana law enforcement academy, as approved by the council, within 1 year of:

11 (a) the peace officer's initial appointment as a peace officer; or

12 (b) the peace officer's most recent appointment as a peace officer if the peace officer has had a break
 13 in service as a peace officer of more than 5 years.

14 (7) (a) If a peace officer previously satisfied the requirement in subsection (6), is certified or is eligible for
 15 certification as a peace officer in Montana or may become eligible for certification upon completion of the
 16 probationary period in subsection (10), and has had a break in service as a peace officer of less than 3 years,
 17 the peace officer is not required to satisfy the requirement in subsection (6) or to attend an equivalency course
 18 prior to returning to work in Montana as a peace officer.

19 (b) If a peace officer previously satisfied the requirement in subsection (6), is certified or is eligible for
 20 certification as a peace officer in Montana or may become eligible for certification upon completion of the
 21 probationary period in subsection (10), and has been continuously employed as a peace officer outside of
 22 Montana for no more than 3 years, the peace officer is not required to satisfy the requirement in subsection (6)
 23 or to attend an equivalency course prior to returning to work in Montana as a peace officer.

24 (c) If a peace officer previously completed the peace officer basic course successfully, is certified or is
 25 eligible for certification as a peace officer in Montana or may become eligible for certification upon completion
 26 of the probationary period in subsection (10), and has been continuously employed as a peace officer outside
 27 of Montana for more than 3 years or who has had a break in service as a peace officer for more than 3 years but
 28 less than 5 years, the peace officer shall successfully complete the peace officer basic equivalency course, as
 29 approved by the council, within 1 year of the peace officer's most recent appointment as a peace officer in
 30 Montana. If the peace officer fails the basic equivalency course, the officer shall satisfy the requirement in

1 subsection (6) at the next available opportunity.

2 (d) If a person satisfied the requirement in subsection (6) prior to the person's appointment or
 3 employment and is hired or appointed as a peace officer more than 3 years but less than 5 years after the date
 4 that the person satisfied the requirement in subsection (6), the person shall successfully complete the peace
 5 officer basic equivalency course, as approved by the council, within 1 year of the person's most recent
 6 appointment or employment as a peace officer. If the person is not appointed or employed as a peace officer
 7 within 5 years after the date of the person's successful completion of the requirement in subsection (6), the
 8 person shall satisfy the requirement in subsection (6) within 1 year of the person's most recent appointment or
 9 employment as a peace officer in Montana.

10 (8) (a) Except as provided in subsection (8)(b), if a peace officer has successfully completed a peace
 11 officer basic course that is taught or approved by a federal, state, local, or United States military law enforcement
 12 agency, that satisfies the peace officer basic training requirement for that agency, and that the council has
 13 reviewed and approved as commensurate with the current peace officer basic course offered at the Montana law
 14 enforcement academy, the peace officer shall successfully complete the peace officer basic equivalency course,
 15 as approved by the council, within 1 year of the officer's initial appointment in Montana. If the officer fails the basic
 16 equivalency course, the officer must satisfy the requirement in subsection (6) at the next available opportunity.

17 (b) If the peace officer has had a break in service as a peace officer for more than 5 years, the officer
 18 shall complete the requirement of subsection (6) within 1 year of the officer's initial appointment as a peace officer
 19 in Montana.

20 ~~(6)(9)~~ The Montana public safety officer standards and training council may extend the 1-year time
 21 requirements of subsections ~~(5)(a) and (5)(c)~~ ~~(6) through (8)~~ upon the written application of the ~~peace officer and~~
 22 ~~the~~ appointing authority of the officer. The application must explain the circumstances that make the extension
 23 necessary. Factors that the council may consider in granting or denying the extension include but are not limited
 24 to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access
 25 to the basic equivalency course, and an unreasonable shortage of personnel within the department. The council
 26 may not grant an extension to exceed 180 days.

27 ~~(7)(10)~~ A peace officer who has successfully met the training, employment, and educational standards
 28 ~~and qualifications and the educational requirements~~ of this section, has successfully met the training and
 29 employments standards set by the council, and ~~who~~ has completed a 1-year probationary term of employment
 30 must be issued a peace officer basic certificate by the council certifying that the peace officer has met all of the

1 basic qualifying peace officer standards of this state.

2 ~~(8)(11)~~ It is unlawful for a person whose basic certification as a peace officer, ~~detention officer,~~ or
3 ~~detention center administrator~~ has been revoked or ~~suspended~~ denied by the Montana public safety officer
4 standards and training council for misconduct to act as a peace officer, ~~detention officer,~~ or ~~detention center~~
5 ~~administrator~~. It is unlawful for a person whose peace officer basic certification has been suspended by the
6 council to act or be appointed or employed as a peace officer in Montana during the period in which the
7 certification is suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable
8 by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both."

9

- END -

HOUSE BILL NO. 99

INTRODUCED BY F. GARNER

BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE EDUCATION REQUIREMENT FOR COUNTY CORONERS AND DEPUTY CORONERS; AND AMENDING SECTIONS 7-4-2901, 7-4-2904, AND 7-4-2905, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2901, MCA, is amended to read:

"7-4-2901. Appointment of deputy coroners. (1) The coroner, with approval of the county commissioners, may appoint one or more deputy coroners to assist the coroner or act in the coroner's absence.

(2) At the time of appointment, a deputy coroner or acting coroner must meet the qualifications required of a coroner as provided in 7-4-2904(1) and (2)(a). Within a reasonable time after appointment, ~~a the~~ deputy shall successfully complete the basic coroner course, as provided for in 7-4-2905(2)(a). ~~The~~ After successfully completing the basic coroner course, the deputy ~~shall~~ must also meet the requirements for ~~advanced~~ continuing education as provided in 7-4-2905(2)(b).

(3) A deputy coroner may be the coroner or qualified deputy coroner from another county."

Section 2. Section 7-4-2904, MCA, is amended to read:

"7-4-2904. Qualifications for office of county coroner. (1) In addition to the qualifications set forth in 7-4-2201, to be eligible for the office of coroner, at the time of election or appointment to office a person must be a high school graduate or holder of an equivalency of completion of secondary education as provided by the superintendent of public instruction under 20-7-131 or of an equivalency issued by another state ~~or jurisdiction.~~

(2) Each coroner, before entering the duties of office, shall:

(a) take and file with the county clerk the constitutional oath of office; and

(b) certify to the county clerk that:

(i) the individual has ~~satisfactorily~~ successfully completed the basic coroner course of study as provided for in 7-4-2905 or that the individual has completed the equivalent educational requirements as approved by the



1 ~~attorney general~~ public safety officer standards and training council established in 2-15-2029; or
 2 (ii) the individual intends to take the basic coroner course at the next offering of the course if the coroner
 3 has been appointed or was elected by other than a local government general election and, from the date of
 4 appointment or election and assumption of the duties as coroner, a basic coroner course was not offered. A
 5 coroner forfeits office for failure to take and ~~satisfactorily~~ successfully complete the next offering of the basic
 6 coroner course."

7
 8 **Section 3.** Section 7-4-2905, MCA, is amended to read:
 9 **"7-4-2905. Coroner education and continuing education.** (1) Coroner education must be ~~conducted~~
 10 approved by the Montana public safety officer standards and training council established in 2-15-2029. The
 11 council may adopt rules establishing standards and procedures for basic and advanced education. The cost of
 12 conducting the education must be borne by the department of justice from money appropriated for the education.
 13 The county shall pay the salary, mileage, and per diem of each coroner-elect, coroner, and deputy coroner
 14 attending from that county.

15 (2) (a) The council shall ~~conduct~~ approve a 40-hour basic coroner course of study after each general
 16 election. The course, or an equivalent course approved by the council, must be completed before the first Monday
 17 in January following the election. The council may ~~conduct~~ approve other basic coroner courses at times it
 18 considers appropriate.

19 (b) The council shall ~~annually conduct~~ approve a 16-hour ~~advanced continuing~~ coroner education course.
 20 Unless there are exigent circumstances, failure of any coroner or deputy coroner to satisfactorily complete the
 21 ~~advanced 16-hour continuing~~ coroner education course, or an equivalent course approved by the council, at least
 22 once every 2 years results in forfeiture of office. The council may adopt rules providing a procedure to extend the
 23 2-year period because of exigent circumstances."

24 - END -



Memorandum

DCI

To: Law and Justice Interim Committee
From: Bryan Lockerby, Administrator
CC: Perry Johnson, POST Bureau Chief; Tony Harbaugh, POST Council Chairman
Date: 9/9/2019
Re: Status Update Regarding POST per MCA 2-15-2029

The 2019 Montana legislature passed HB684 which merged Public Safety Officers Standards and Training (POST) with the Montana Department of Justice, under the Division of Criminal Investigation (DCI). The bill added POST as a Bureau to DCI with a two-year sunset and required regular updates to the Law and Justice Interim Committee.

Following the end of the session, stakeholders from the Montana Sheriff's and Peace Officers Association, Montana Association of Chiefs of Police, Montana Police Protective Association, and the Chairman of the POST Council met with Montana DOJ senior leadership at their request in May of this year. A frank and open discussion about the transition, management, and oversight process took place which provided clarity about POST's continued independent role and responsibilities to all public safety officers.

DOJ staff at CSD, JITSD, and DCI worked closely with POST and other entities to ensure that the July 1, 2019 transition date would be as seamless as possible. This included making changes to internal reporting systems, fiscal accounts, time reporting, and the other nuances that sometimes get missed. A fiscal tech was also reassigned by DCI to support POST operations.

The operational changes went smoothly but the human element was not forgotten. The DOJ Chief of Staff and DCI Administrator met personally with POST staff to assure them that their positions were secure and would be unaffected by the change. A letter was distributed to DCI staff welcoming POST and the talented staff that was joining the team.

An early assessment with POST staff identified a great need for imaging of records. Over 23,000 active and archived files that consist of multiple paper documents were being stored in the building and needed to be uploaded into a digital imaging file. JITSD program managers met with POST to develop a plan to accommodate such a large scanning project that would require high speed internet for processing. With MLEA construction currently underway, fiber optic cable was being installed which would greatly enhance POST imaging. The tremendous increase in speed will greatly reduce the time, effort, and cost to complete the imaging. It is anticipated that imaging may begin as early as Fall of 2019.

POST staff have submitted both operational plans and their written policy to DCI. The (draft) operational plans include short- and long-term goals and objectives, needs assessment, performance measurements, efficiencies, and help identify other specific needs of the Bureau. The POST written policy will be merged into the DCI policy manual with other Bureau policies.

MT DOJ is reviewing what role staff can provide to support POST legal needs. POST's process is doing well but as hearings and appeals increase, so does the demand for legal review and actions. MT DOJ hopes to provide relief in some of these matters as the POST Council requests.

In general, POST operations have been unaffected by the change and continue to function as previously. The staff is to be commended for their responsiveness, particularly Bureau Chief Perry Johnson for his leadership and support.



PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

Law and Justice Interim Committee

66th Montana Legislature

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RACHEL WEISS, Lead Staff
JULIANNE BURKHARDT, Staff Attorney
LAURA SHERLEY, Secretary

TENTATIVE AGENDA

September 9, 2019
8:30 a.m.
State Capitol, Room 102

Please note: All times are tentative. Some items may take more or less time than scheduled.

- 8:30 a.m. **Call to Order – Roll Call** -- Rep. Barry Usher, Presiding Officer
- 8:35 a.m. **Judicial Branch and Office of Court Administrator Introduction and Update**
- Beth McLaughlin, Court Administrator
 - Questions from the committee
 - Public comment on the agenda item*
- 9:00 a.m. **Agency Oversight: Department of Corrections (DOC) introduction and overview**
- Director Reginald Michael
 - Questions from the committee
 - Public comment on the agenda item*
- 10:15 a.m. **Agency Oversight: Advisory councils, required reports, and administrative rule review**
- Rachel Weiss, Research Analyst, Legislative Services Division (LSD)
 - Julianne Burkhardt, Staff Attorney, LSD
 - Questions from the committee
 - Public comment on the agenda item*
- 10:30 a.m. **Administrative Matters: Review of draft work plan, meeting chart**
- Rachel Weiss, LSD
 - Questions from the committee
- 10:45 a.m. **Break**

- 11:00 a.m. **HJ 36 Study of Compensation for Wrongfully Convicted Persons:** Discussion of Montana laws, other state models, experiences of exonerated individuals and their families, suggestions for legislation
- Frank Knaack, Executive Director, Montana Innocence Project
 - Patrick Webb, Director of Grassroots Operations, Americans for Prosperity
 - Cody Marble, exoneree
 - Jerry Marble, father of an exoneree
 - Questions from the committee
 - Public comment on the HJ 36 study*
- 12:15 p.m. **Lunch**
- 1:15 p.m. **Agency Oversight:** Department of Justice (DOJ) introduction and overview
- Liz Bangert, Government Affairs Director, DOJ
 - Other DOJ staff TBD
 - Questions from the committee
 - Public comment on the agenda item*
- 2:00 p.m. **HJ 31 Study of the Board of Crime Control**
1. Overview of the Board's structure, duties, and grant distribution processes
 - Peter Ohman, Board Presiding Officer
 - Natalia Bowser, Bureau Chief, Crime Control Bureau, DOC
 - Questions from the committee
 2. Analysis of Board's authority and legislative oversight after SB 95 transfer
 - Julianne Burkhardt, LSD
 - Questions from the committee
 3. Public comment on the HJ 31 study*
- 3:00 p.m. **Break**
- 3:15 p.m. **SJ 19 Study of Sexual and Violent Offender Registries**
1. Overview of legislative history
 - Rachel Weiss, LSD
 - Questions from the committee
 2. Public comment on the SJ 19 study*
- 3:45 p.m. **Public comment*** on any item within the committee's jurisdiction but not on this agenda

4:00 p.m. **Committee Work Session**

- Administrative matters
 - Revise/adopt draft work plan
 - Revise/adopt meeting dates
- Agency Oversight - What additional updates or information would the LJIC like to request from the agencies? Are there questions the LJIC wants addressed during future agency presentations?
- HJ 31: Board of Crime Control study - What information related to the study would the LJIC like to receive at future meetings? Are there speakers or stakeholders the LJIC would like to invite for future meetings?
- HJ 36: Study of compensation for wrongfully convicted - What additional information related to the study would the LJIC like to receive? Are there speakers or stakeholders the LJIC would like to invite for future meetings or next steps it would like to take?
- SJ 19: Study of sexual and violent offender registries - What information related to the study would the LJIC like to receive at future meetings? Are there speakers or stakeholders the LJIC would like to invite for future meetings?
- Other directions to staff?
- Tentative next meeting date: Nov. 18-19, Helena

5:00 p.m. **Adjourn**

* Public comment provided in person to the committee is a public record that is recorded, archived, and available on the Internet. Public comment submitted in writing at a committee meeting is a public record that will be posted to the legislative Web site as part of the minutes log for the committee meeting.

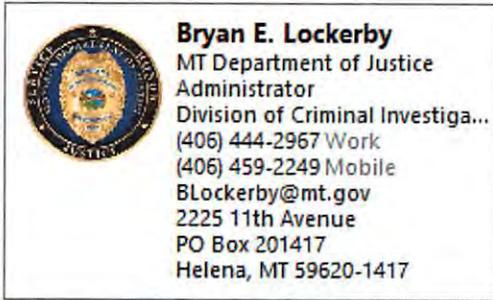
The Montana Legislative Services Division will make reasonable accommodations for persons with disabilities who wish to participate in this public meeting. For questions about accessibility or to request accommodations, please contact Lenore Adams at 406-444-4456 or leadams@mt.gov as soon as possible before the meeting date.

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Johnson, Perry

From: Lockerby, Bryan
Sent: Tuesday, September 3, 2019 12:24 PM
To: Johnson, Perry
Subject: FW: Sept 9 L&JIC meeting
Attachments: agenda-ljic-september-9-2019.pdf

FYI...



From: Bangerter, Liz <LBangerter@mt.gov>
Sent: Monday, September 2, 2019 1:14 PM
To: Schlichting, Melissa <MSchlichting@mt.gov>; Lockerby, Bryan <BLockerby@mt.gov>
Cc: Toole, Dana <DToole@mt.gov>; Olson, Ole <OOlson@mt.gov>; Seder, Gary <gseder@mt.gov>
Subject: Sept 9 L&JIC meeting

Hello all,

Rachel W from Legislative Services Division let me know that the following items will be covered at their next meeting. I met with Jon Bennion and these were his suggestions of people to attend/answer questions.

HB640 report process and plans-Ole O
SAKI update-Dana T (or Kayla?)
Missing persons specialist update-Melissa S (?)
SVOR-Gary S.
POST council transition (if it comes up) Bryan L.

I've attached the agenda.

Please let me know if you won't be in attendance.

Thanks.

Liz

Liz Bangerter
Director of Government Affairs and
Central Services Division Administrator
Montana Department of Justice
840 Helena Avenue
Helena, MT 59601

23.13.301 QUALIFICATIONS FOR APPROVAL OF PUBLIC SAFETY OFFICER TRAINING COURSES

(1) The director or the director's designee may approve any request for POST training credit. Any person aggrieved by a determination made by the director under this rule may seek review of the decision by the POST Council.

(2) To obtain the status of POST-approved training, training courses must:

(a) meet the requirements for trainee attendance and performance, and the instructor requirements contained in these rules;

(b) be based upon generally recognized best practices;

(c) comport with Montana laws and court decisions;

(d) be at least two hours or more in length;

(e) be advertised and open to all public safety agencies; and

(f) contain course content that has been reviewed and approved by the agency hosting the training, or the employing authority of the officer receiving credit for the training, either before or after the training occurs, through the procedures set forth in (3).

(3) A POST-certified instructor seeking course credit for public safety officers must have an active POST certificate that is not suspended or on probation and must submit an application for accreditation to the director and retain documentation of:

(a) an education or training record that indicates the officer has received education or training in the specific field, subject matter, or academic discipline to be taught;

(b) material showing course content, including an agenda, syllabus and/or lesson plan and student handouts; and

(c) a copy of the course advertisement.

(4) To receive POST training credit, an agency hosting a training by any other person or entity for a public safety officer or officers must submit an application for accreditation to the director and retain documentation of:

(a) an instructor certification or training record and an instructor biography;

(b) material showing course content, including an agenda, syllabus and/or lesson plan and student handouts; and

(c) a copy of the course advertisement.

(5) It is the responsibility of the employing authority or any person or entity wishing to receive POST-approved training credit to retain the required documentation set forth in these rules and monitor the standards for training, trainee attendance, and performance as set by the council. Records maintained under this rule are subject to audit by the executive director or the director's designee during normal business hours upon reasonable notice to the agency.

History: [2-15-2029](#), MCA; [IMP, 2-15-2029, 44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

dojmt.gov/post

Phone: (406) 444-9975

Fax: (406) 444-9978

REQUEST FOR WAIVER OF POST TRAINING STANDARD

MCA § 44-4-403(2); ARM 23.13.301 & 23.13.302

Instructions: This form is to be completed and submitted by the individual or agency requesting POST Credit Hours when a standard cannot be met. You must attach this form to your application for credit hours, such as: Application for POST Credit Hours for a Training; Application for Individuals Seeking POST Credit Hours for Out-of-State and Other Courses; or Application for Individuals Seeking POST Credit Hours for Online Courses.

Requester Information:

Name: _____ Phone: _____

Email Address: _____

Course Information:

Course Name: _____

Course Dates: _____ Course Location: _____

Number of Course Hours: _____

Waiver Information:

I am requesting a waiver of the requirement that I retain an instructor biography for the following reason/s:

Please list documentation of your efforts to meet the standard:

Have you retained the documentation listed above for POST audit purposes? Yes No

Certification:

My signature certifies that all listed documentation has been obtained and will be retained and that the above is true and accurate to the best of my knowledge. I request a waiver as outlined above.

Printed Name

Signature

Date

Certification of Agency:

My signature certifies that all required documentation has been obtained and will be retained and that all other requirements of ARMs 23.13.212, 23.13.215, 23.13.217, 23.13.301 and 23.13.302 have been met. I certify that this officer should be granted the requested waiver for this course.

Printed Name of Agency Head

Signature of Agency Head

Date

E-mail:

Phone:

For POST Staff Use:

Approved by

Date

3) the course must be a minimum of two hours in length

Is the course at least 2 hours in length? Yes No

4) the course must be open and advertised to all public safety agencies

Is the course open and advertised to all public safety agencies? Yes No

5) you must attend a minimum of 90% of the training

Did you attend a minimum of 90% of the training? Yes No

If you do not meet these requirements, you will not receive POST credit hours. The documents which you are required to retain may be audited by POST on a random basis.

Course Information:

Course Name: _____
Date Taken: _____ Number of Course Hours: _____
Course Provider: _____ Provider Website: _____

Certification of Applicant:

My signature certifies that all required documentation has been obtained and will be retained and that all of the requirements of ARMs 23.13.301 and 23.13.302 have been met. I certify that I should be granted POST Training Credit Hours for this course.

Signature of Applicant Date

Certification of Agency:

My signature certifies that all required documentation has been obtained and will be retained and that all of the requirements of ARMs 23.13.301 and 23.13.302 have been met. I certify that this officer should be granted POST Training Credit Hours for this course.

Printed Name of Agency Head Signature of Agency Head Date

E-mail: _____ *Phone:* _____

For POST Staff Use:	
_____ Reviewed by	_____ Date

CERTIFICATE OF SERVICE

I certify that on the 21st day of June 2019, a true copy of the foregoing Final Agency Decision was served by U.S. Mail, postage prepaid, on the following:

Eric Holm
HOLM LAW FIRM, PLLC
115 N. Broadway, Ste. 304
P.O. Box 3094
Billings, MT 59103
Eric@holm-law.com

Kristina Neal
4385 Wylie Drive
Helena, MT 59602
Kristinaneal46@gmail.com
Attorney for POST Council

Perry Johnson
MONTANA POST COUNCIL
2260 Sierra Road East
Helena, MT 59602
pjohnson@mt.gov



Natalia Bowser
Bureau Chief
Crime Control Bureau
Montana Department of Corrections

BEFORE THE MONTANA BOARD OF CRIME CONTROL

In Re Appeal of KYLE ADAMS
from Decision of the Public Safety
Officer Standards and Training (POST)
Council

FINAL AGENCY DECISION

Procedural History

On November 29, 2017, the POST Council notified KYLE ADAMS that his POST certification was revoked subject to a contested case hearing. A contested case hearing was conducted June 27, 2018, before a hearing examiner (HE) with the Montana Department of Labor and Industry's Office of Administrative Hearings. On July 26, 2018, the HE issued proposed findings of fact, conclusions of law, and recommended order (PFOF, COL and RO). Based thereon, the HE recommended to the POST Council that KYLE ADAMS' POST certification *remain revoked*. The POST Council's Final Decision dated October 3, 2018, accepted in total the PFOF, COL and RO as its final decision. ADAMS timely appealed and POST Council remitted the record on appeal to the Board of Crime Control's Appeal Review Committee (ARC).

Upon notice, the ARC initiated its review then continued the matter pending receipt of additional briefs before resuming deliberations. ARC issued to the

Board and served on the parties, a written recommendation as to the disposition of the appeal. ARC unanimously recommended that the Board reverse the POST Council's decision that ADAMS' certification remain revoked and recommended that the certification be restored to him good standing.

ORDER

At its meeting on June 14, 2019, the Montana Board of Crime Control considered ADAMS' appeal. Upon motion made, seconded and carried, ARC's written Recommendation to the Board, a copy of which is attached as Exhibit A and incorporated herein by reference, was adopted by the Board. It is ORDERED under authority of §44-7-101(2), MCA, that the POST Council's Final Decision dated October 3, 2018, is REVERSED and ADAMS' certification is restored to him in good standing.

The Board based its decision on the record as a whole and, in particular, on the fact that most of the alleged violations occurred before ADAMS' had begun his POST certification training. In addition, the record did not support the POST Council's decision that its November 29, 2017, revocation of ADAMS' certification (subject to a contested case hearing) should remain in effect following the hearing at which the facts were fully developed. ADAMS' conduct, as determined at the hearing and memorialized in findings of fact, was considerably

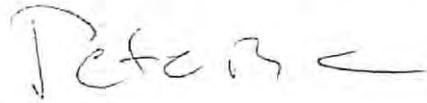
more benign or ambiguous than had been asserted as of November 29, 2017.

POST Council's Final Decision dated October 3, 2018, is incongruous with the facts.

This Final Agency Decision is subject to judicial review.

DONE: June 14, 2019

SIGNED: 6/21/2019

A handwritten signature in black ink that reads "Peter Ohman". The signature is written in a cursive style with a long horizontal stroke at the end.

Peter Ohman, Chair
Montana Board of Crime Control



Montana Board of Crime Control
5 S Last Chance Gulch
PO Box 201408
Helena MT 59620
Phone (406)444-3604
Fax (406)444-4722
TTY (406)444-7099
www.mbcc.mt.gov

Peter Ohman
State Public Defender
Chairperson

Rick Kim
Fort Peck Executive Board
Member
Vice Chairperson

Laurie Barron
Superintendent

Tim Brunud
Youth Justice Council Chair

Katie Campbell
Probation Parole Officer

Jared Cobell
Assistant U.S. Attorney

Brenda Desmond
4th Judicial District Court
Standing Master

William Dial
Whitefish Police Chief

Leo Dutton
Lewis & Clark Sheriff

Tim Fox
Attorney General

Wyatt Glade
Custer County Attorney

Beth McLaughlin
Court Administrator

Reginald Michael
Department of Corrections
Director

Laura Obert
Broadwater County
Commissioner

Olivia Rieger
7th Judicial District
District Court Judge

Angela Russell
Attorney

Geri Small
Professional & Community
Organizations

Derek VanLuchene
Public Representative

TO: Montana Board of Crime Control
FROM: POST Appeal Review Committee
DATE: June 6, 2019
RE: Committee Recommendation to Board
KYLE ADAMS APPEAL from POST Council Revocation of Certification

Procedural History

On November 29, 2017, the Public Safety Officer Standards and Training Council (POST) issued a notice to Kyle Adams of the revocation of his POST certification subject to a contested case hearing.

The contested case hearing was conducted on June 27, 2018. Hearing Examiner Caroline Holien of the DLI Office of Administrative Hearings presided. Present were Kyle Adams, Adams' attorney Eric Holm, Perry Johnson, Executive Director and representative of the POST Council in this matter, and POST Council's attorney Kristina Neal.

On July 26, 2018, the Hearing Examiner issued Proposed Findings of Fact, Conclusions of Law and Recommended Order (PFOF/COL/RO). The Hearing Examiner recommended that Adams' POST certification remain revoked. The PFOFs/COL/RO were adopted in their entirety by the POST Council.

Adams timely appealed the POST Council's decision to the Appeal Review Committee of the Montana Board of Crime Control pursuant to §§44-4-403(3) and 44-7-101(2), MCA. Adams' legal argument on appeal was included in his notice of appeal. POST timely submitted the record to the Montana Board of Crime Control's Appeal Review Committee (ARC). POST Council submitted its legal brief.

Pursuant to notice, the ARC met on November 30, 2018 to consider the record. The ARC review is informal; it may hear argument. ARM 20.24.1007(1)(2). Findings of Fact must be supported by the evidence in the record; in its discretion the ARC may request briefs. Kristina Neal and Perry Johnson appeared on behalf of POST Council. Having included his legal argument in the Notice of Appeal, Mr. Adams and his counsel Eric Holm did not appear. Ms. Neal summarized the POST Council's position and presented argument. ARC members asked questions of Ms. Neal to clarify several issues. Under authority of ARM 20.24.1006(3), ARC's review was continued in order to: obtain additional briefs, obtain a transcript of the contested case hearing; and allow sufficient

time for review of the transcript upon receipt. The Appeal Review Committee's review/deliberations resumed on March 15, 2019.

The ARC has authority under ARM 20.24.1008, to recommend to the Board that it affirm or reverse the POST Councils decision or that it remand to the hearing examiner for additional findings pursuant to ARM 20.24.1008.

BASED UPON THE RECORD, the Review Committee unanimously voted to RECOMMEND to the remaining members of the Board of Crime Control that it REVERSE the POST Council's revocation of Kyle Adams' POST Certification and restore the certification to him in good standing. Adams' appeal to the Board of Crime Control stayed the enforcement of POST's revocation decision pursuant to ARM 20.24.1004(4). The Board may adopt the ARC's recommendation or send the recommendation back to ARC for further consideration. Once adopted by the board, the ARC's recommendation becomes the final agency decision that is subject to judicial review. ARM 20.24.1009.

The basis for ARC's recommendation is set out below.

1. Despite affording POST Council's decision deferential consideration, the Committee could not conclude that the record, considered as a whole, supported its decision.
2. The ARC's decision, based on the record was that POST prosecuted the case presented to it by the employing agency, Yellowstone County Detention Facility (YCDF), apparently over the course of several months via multiple submissions, but that revocation of Mr. Adams' certification was not supported. The violations alleged by YCDF and by POST as the basis alleged for revoking Adams' certification (subject to the right to a contested case hearing) were based on ARM 23.13.702¹(a), (g), (h). The Hearing Examiner concluded in the PFOF, COL, RO (first paragraph of the INTRODUCTION), that POST asserts that Adams engaged in prohibited conduct under ARM 23.13.702. The subsections plead require proof of neglect of duty, "willful falsification" or willful violations". However, in relation to the evidence actually presented at the hearing, Adams' conduct was considerably more benign and ambiguous than the pleadings suggested. For that reason, the Hearing Examiner's recommendation that Adams' certification "remain" revoked, is incongruous with the examiner's own PFOF, COL, RO. The proposed findings of fact as determined by the examiner and adopted in their entirety by POST, paint a markedly different and less serious picture of Adams' conduct. Rather the findings were favorable to Adams relating to certain of the conduct that POST had alleged was the basis for revocation. ARC believes that for the board to adopt the hearing examiner's recommendation that the certification remain revoked would not comport with

¹ Although the citation form was incorrect, it obviously was intended to refer to ARM 23.13.702(2)(a),(g),(h). Additionally, the POST alleged violation of ARM 23.13.201(4)(a)(i). No such rule subsection exists now or did at any time pertinent to this proceeding.

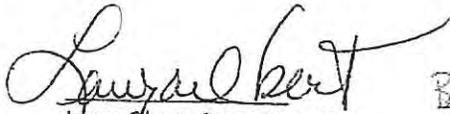
the facts as they are now fully established, would be an injustice to Adams based on the record as a whole.

3. Adams was appointed as a Detention Officer at the Yellowstone County Detention Facility (YCDF) on October 16, 2015. The Detention Officer position requires POST certification. ARM 23.13.201.
4. POST's Notice of Action revoking Adams' certification, subject to a contested case hearing, alleged multiple instances where Adams' conduct fell short. All of the conduct with one exception occurred on a single day: August 1, 2016.
 - A. One violation on August 1, 2016 pertained to a verbal altercation between inmates that quickly escalated to pushing and shoving. The entire episode lasted 10 seconds or less. (PFOF # 29). Adams was playing on-line solitaire in the control room when it began. He minimized the screen (one key stroke) before calling for backup. (PFOF #30). Several detention officers responded, and none took any action prior to arrival of Sgt. DeMello. (PFOF #32) who ordered the inmates to "bunk down" and they complied. (PFOF #32). Adams assisted in identifying the inmates involved in the altercation using the inmates' booking cards. (PFOF #33). YCSO/YCDC and POST Council asserted that Adams "failed to properly supervise" the inmates and "failed to respond appropriately to the altercation", asserting he should have made an effort to verbally de-escalate the situation before backup arrived. (PFOF # 36). Adams testified that he did tell the inmates to stop (PFOF #50) and that he called for backup based on having intervened in an altercation without backup on a different prior occasion and been told he was supposed to wait for back up. (PFOF #31). Neglect or dereliction of duty is not borne out by the findings.
 - B. Another infraction involved a "head count" discrepancy on August 1, 2016. Adams repeated his head count with the same result. Then an officer from another shift assisted and the discrepancy was resolved on the third count. Adams was not aware that one inmate had been checked out. The Hearing Examiner in the contested case hearing found that with respect to the head count issue, Adams did not intentionally miscount, nor did he intentionally report an incorrect number. (PFOF #13). POST adopted that finding.
 - C. Another incident on August 1, 2016, pertained to security checks (walk-throughs) and whether they were conducted. The Hearing Examiner found that Adams performed numerous security checks during his shift on August 1, 2016 and that he had been called away from the unit at one point during his shift which prevented him from performing his security checks at the regular 30-minute intervals or at the exact times logged in the computer. (PFOF #20). The Hearing examiner concluded Adams had missed "at least one" security check/walk through. By finding that Adams missed at "least one", the Hearing Examiner erroneously relied on speculation. Any failure to perform a second security check was not established by credible evidence or it would have warranted an affirmative finding of two missed security checks.

ARC concludes based on the record that Adams admittedly logged one security check/walk through that he did not perform. (PFOFs ## 17, 18, 19, 20).

- D. Another claim of the YCDF/POST pertained to 4 shakedowns assigned to Adams on his shift on August 1, 2016, two of which involved empty bunks/cells. Adams logged the shakedowns as having been performed. Adams admitted that his shakedowns of the empty bunks/cells were cursory, lasting approximately 2 minutes each, when a properly conducted shakedown of an empty cell should last “5 to 10 minutes” per policy. YCDF/POST asserted that logging those 2 shakedowns as having been performed when they were only cursorily performed constituted a falsification of the logs. ARC deems the quality or thoroughness of an empty bunk shakedown to be a training or discipline issue and not a records falsification issue. POST presented little evidence relating to the nature or extent of Adams’s training on the job before attending the MLEA course to earn his POST certification. The minimal evidence presented at the contested case hearing which touched upon that issue, was the testimony of an individual who was the training officer at YCDF and at the time of the contested case hearing was under scrutiny/investigation relating to honesty/integrity issues. POST Council acknowledged this to the ARC stating that POST became aware immediately before the contested case hearing that the witness was under investigation, but that POST had no documentation related to it or the documentation would have been provided to ARC with the rest of the record on appeal.
5. Adams had not even begun his *POST training* program on August 1, 2016 when the foregoing events took place. He began his POST training program in October 2016 and was POST certified in December 2016. Therefore, POST’s argument that its rule 23.13.702 applies to persons before they are certified, misses the point of what consideration, if any, it gave to the issue of Adams’s job training prior to August 1, 2016. ARC deems the issues in this case to be largely training-related and that on balance, after careful consideration, determines they do not implicate Adams’ integrity or honesty or warrant revocation of his POST certification.
6. The only violation that occurred after Adams completed his POST certification training at the MLEA, occurred on February 9, 2017. That alleged violation was for failure to remove/confiscate a *large* number of large “excess property items” from a cell during a shakedown. The volume and type of excess items (as listed in the Hearing Examiner’s PFOF #46 adopted by POST Council), when considered in conjunction with PFOF #21 pertaining to assignment of shakedowns each shift based on a rotation system, raises concern about how long the items had been accumulating in the cell and how consistently the policy relating to confiscation of excess property items is applied.

7. ARC notes that the Board has express authority under ARM 20.24.1008 to reverse a POST Council decision and it has that authority for a reason, even if it is seldom invoked.
8. Adams made mistakes, but revocation is unduly harsh and unwarranted in light of the evidence in the record.


Laura Cbert, Committee Chair


Brenda Desmond


Jared Cobell

Montana Board of Crime Control Board of Directors
POST Appeal Review Committee

Kristina Neal
Attorney for POST
4385 Wylie Drive
Helena, MT 59602
(406) 461-9664
kristinaneal46@gmail.com

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JUL 22 2019

ANGIE SPARKS, Clerk of District Court
By C. POTUZA Deputy Clerk

ATTORNEY FOR PETITIONER

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY, MONTANA**

PUBLIC SAFETY OFFICERS)
STANDARD AND TRAINING COUNCIL)
(POST))

Petitioner,)

vs.)

KYLE ADAMS and)
MONTANA BOARD OF CRIME)
CONTROL)

Respondents.)

Cause No. DDV 2019-995

PETITION FOR JUDICIAL REVIEW

JAMES P. REYNOLDS
Presiding Judge

The Petitioner, POST, petitions this Court for judicial review of the final decision of the Montana Board of Crime Control (BOCC) to restore Kyle Adams's POST certification. POST files this petition pursuant to the Montana Administrative Procedure Act (MAPA), Mont. Code Ann. § 2-4-702(1), (2)(a), (2)(b) and (2)(d) because this action challenges a final decision made pursuant to Mont. Code Ann. § 44-7-101. POST seeks a determination by this Court that the BOCC's decision was unlawful, was arbitrary and capricious, and was clearly erroneous in view

of the reliable, probative and substantial evidence on the whole record. *See*, Mont. Code Ann. § 2-4-704.

I. FACTS UPON WHICH JURISDICTION AND VENUE ARE BASED)MONT. CODE ANN. §2-4-702(2)(b))

1. Petitioner, POST, is an Administrative Agency of the State of Montana, created under Mont. Code Ann. § 2-15-124. *See also*, Mont. Code Ann. § 2-15-2029.

2. Respondent Kyle Adams is an individual detention officer, who had been employed by the Yellowstone County Detention Facility.

3. Respondent Montana Board of Crime Control is an Administrative Agency of the State of Montana, created under Mont. Code Ann. § 2-15-124. *See also*, Mont. Code Ann. § 44-7-101.

4. On or about June 21, 2019, the BOCC issued a final decision to restore POST certification to Kyle Adams.

5. POST has exhausted all known available administrative remedies and is aggrieved by the final decision of the BOCC.

6. Under Mont. Code Ann. § 2-4-702(1)(a) and Mont. Code Ann. §2-4-702(2), this Court has jurisdiction to review agency actions.

7. This Petition was filed within thirty days of service of the BOCC's final decision to restore Kyle Adams's POST certification. Mont. Code Ann. § 2-4-702(2)(a).

8. Venue is proper in Lewis and Clark County, Montana because Lewis and Clark County is where POST maintains its principal office. Mont. Code Ann. § 2-4-702(2)(a).

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II. STATEMENT OF THE FACTS WHICH DEMONSTRATE THAT THE BOCC'S ERRONEOUS RULING WAS ARBITRARY AND CAPRICIOUS.

9. On November 29, 2017, POST filed a Notice of POST action revoking Adams's POST certification. POST alleged that Adams, on August 1, 2016, had had logged security checks that he did not perform. Also, on August 1, 2016, Adams was playing solitaire and failed to properly supervise his unit when a fight broke out directly in front of him. The Notice further alleged that on February 9, 2017, Adams falsified a shakedown log when he indicated that he had performed two cell shakedowns, which he had not completed.

A. The Hearings Examiner's findings

10. A hearing in this matter was held before Hearing Examiner Caroline S. Holien on June 27, 2018. (Exhibit A.)

11. Adams testified on his own behalf. He called no other witnesses.

12. POST called as witnesses POST's Bureau Chief, Perry Johnson, Sergeant Jacob Willoughby, Lieutenant Steve Metzger, Sergeant Hans DeMello, and Lieutenant Roger Bodine.

13. The Hearing Examiner found that Adams became a detention officer on October 16, 2015. He was not POST certified at the time of his hire and could not become certified until he was employed for one year. In October, 2016, he attended the law enforcement academy and obtained his POST certification on December 16, 2016.

14. The Hearing Examiner found that on August 1, 2016, Adams was working in the unit designated as North Four.

15. Upon his arrival, Adams was to complete a head count. Adams's count did not match the facilities' records, and, after three attempts, another office had to assist Adams with the count. Adams's repeated incorrect counts prompted Sgt. Willoughby to review the security footage from that date.

16. One of Adams's duties was to conduct security checks, which requires the officer to walk the unit and physically check the security of each inmate.

17. The hearings examiner found that Adams logged at least one security check that he did not actually perform.

18. Another duty included performing shakedown of a bunk or cell. All searches must be recorded in the shakedown logs. A shakedown is required even if a bunk is empty. A shakedown of an empty bunk should take between five to ten minutes. Entering that a shakedown had occurred on an empty bunk when one has not actually been performed is falsifying a log entry.

19. The hearings examiner found that Adams logged having completed four shakedowns even though he did not complete two of the shakedowns he logged because the bunks were empty.

20. Also, on April 1, 2016, two inmates engaged in a verbal argument that escalated to pushing and shoving between the two men. The altercation was directly in front of where Adams was seated. Adams was playing Solitaire when the argument escalated. Once the argument escalated, Adams minimizes his Solitaire game, calls for help and waits by the door for help.

21. Adams should have been telling the inmates to bunk down and attempted to verbally take control of the situation.

22. Sgt. DeMello and other officers arrive to help and instruct the inmates to "bunk down." As the other officers take control of the situation, Adams returns to his desk to close out the Solitaire game. Adams could not describe the fighting inmates to DeMello.

23. Lt. Bodine was assigned to conduct an internal investigation into Adams's conduct on August 1, 2016.

24. As part of his investigation, Bodine watched the security video of Adams's August 1, 2016 shift, reviewed Sgt. Willoughby's report and personally interviewed Adams.

25. When Bodine interviewed Adams, he admitted he logged two security checks that he did not conduct. He also admitted that he was not watching his unit when the altercation occurred. Based on his investigation, Bodine concluded that Adams had failed to properly supervise the inmates and that he had knowingly falsified his logs by indicating he had performed security checks and shakedowns that he had not actually performed.

26. The Hearings Examiner found that on February 9, 2017, Adams had logged that he had conducted a shakedown of an inmate's cell. When Sgt. Willoughby did a follow-up shakedown, twenty minutes later, he discovered three extra blankets, two extra sheets, one extra bed cover, three extra towels, six extra pairs of underwear, two extra shirts, three extra pairs of pants, two pairs of IL socks, coffee bags filled with juice, and a shampoo bottle filled with juice.

27. Adams admitted to Willoughby that he had only done a "quick shakedown" where he only "went and saw and looked around."

28. On April 14, 2017, YCDF reported to POST the allegations regarding the August 1, 2016 incidents.

29. In response to POST's inquiry, Adams admitted to failing to monitor his unit when the fight broke out and admitted that he logged a security check that he did not do. He also admitted that "I admitted guilt to everything I did to Lt. Bodine during a recorded interview."

30. In his response, Adams did not address the February, 2017, incident.

31. On May 30, 2017, YCDF sent POST another letter with the February incident.

32. POST Bureau Chief Johnson subsequently interviewed Adams. During the interview, Adams admitted to Johnson that he had falsified his log books on August 1, 2016, and failed to properly supervise his inmates. Adams also admitted that he had logged doing shakedown on February 9, 2017, that was only a “quick shakedown.”

B. The Hearings Examiner’s Conclusions

33. The Hearings Examiner concluded that the Code of Ethics applied to Adams even though he had not received his certification on August 1, 2016.

34. The Hearings Examiner found that Adams admitted that he engaged in conduct that involved logging security checks and shakedowns not actually conducted during his shift on August 1, 2016. Adams also admitted that he failed to properly supervise inmates because he was playing Solitaire.

35. The Hearings Examiner also found that Adams admitted that he only conducted a “quick shakedown” of the cell in question in February, 2017. The Hearings Examiner found that given the amount of contraband discovered and removed during the subsequent shakedown of that cell that Adams had falsified the log when he indicated that he completed a “shakedown.”

36. The Hearings Examiner did not find credible Adams’s testimony that he thought he had discretion based on his training.

37. The Hearings Examiner found the testimony of Lt. Steve Metzger, YCDF’s training officer, more persuasive.

38. The Hearings Officer found concerning Adams’s attempt to minimize the importance of the log falsification.

39. The Hearings Officer found that Adams’s conduct and his attempt to minimize the impact of his actions supported revocation of his POST certification.

40. The Hearings Officer specifically found, “Adams has demonstrated a lack of integrity that cannot be corrected by further training.”

41. The Hearings Examiner concluded that Adams had engaged in conduct during his employment as a detention officer that violated the oath that he took as a public safety officer and that revocation of his certification was appropriate.

C. The POST Council Findings

42. On October 3, 2018, the POST Council reviewed the Hearing Examiner’s Findings of Fact and Conclusions of Law and heard argument from both POST’s attorney and Adams’s attorney.

43. The POST Council unanimously voted to accept the Hearings Examiner’s Findings of Fact and Conclusions and Law and voted that Adams’s certification remain revoked.

D. Board of Crime Control Appeal

44. Adams appealed to the Board of Crime Control.

45. A hearing was held before the BOCC’s Appeal Review Committee. Adams failed to appear both in person and through counsel. POST’s attorney and executive director both appeared at the hearing.

45. The Appeal Review Committee of the BOCC recommended that the BOCC reverse the POST Council’s decision and recommended that Adams’s certification be restored to him in good standing.

46. The BOCC adopted the Appeal Review Committee’s recommendation. (Exhibit B).

47. Specific to Adams’s dereliction of duty, on August 1, 2016, when he was playing Solitaire and failed to properly supervise his unit when a fight broke out directly in front of him,

the BOCC rejected the Hearings Examiner's finding and, instead, accepted Adams's testimony that he did call for back up when the fight broke out and that no dereliction of duty occurred.

48. Specific to Adam's falsification of the log book for security check's that Adams did not complete, on August 1, 2016, the BOCC recognized that Adams admitted that he did not conduct at least one security check that he logged. Nonetheless, the BOCC found that the Hearings Examiner erroneously relied on speculation and that this violation was not established by credible evidence.

49. Specific to Adams's falsification of the log book for shakedowns that he did not complete, the BOCC found that Adams performed these shakedowns. Thus, the BOCC implicitly rejected the Hearing Examiner's findings that Adams explicitly admitted to Perry Johnson that he logged shakedowns that he did not perform and the Hearing Examiner's finding that Lt. Bodine was credible in testimony that he concluded from his investigation that Adams knowingly falsified his logs.

50. The BOCC disregarded the Hearing Examiner's specific finding that "Adams demonstrated a lack of integrity that cannot be corrected by further training."

51. Specific to the violation from February 9, 2017, the BOCC disregarded the Hearing's Examiner's findings that Adams admitted that he only did a "quick shakedown" and the testimony of the other YCDF officers and supervisors as to what constitutes a shakedown.

III. GROUNDS FOR RELIEF

A. The BOCC Improperly Substituted Its Judgment for that of the Hearing Examiner and for that of the POST Council.

52. Petitioner incorporates by reference, paragraphs 1-51.

53. Since a hearing examiner is in the unique position of hearing and observing all testimony entered in the case, his or her determinations as to witness credibility are entitled to

great deference. *Knowles v. State ex. rel. Lindeen*, 2009 MT 415, ¶ 21, 353 Mont. 507, 222 P.3d 595.

54. Therefore, when reviewing a hearings examiner's findings of fact, the question is not whether there is evidence to support *different* findings, but whether substantial evidence supports the findings made. *Knowles*, ¶ 21 (emphasis in original).

55. The Hearings Examiner was able to determine the credibility of Adams as well as the credibility of the YCDF officers and Bureau Chief Johnson.

56. The BOCC's ruling disregards Adams's admissions to Lt. Bodine and Bureau Chief Johnson that Adams admitted to them that he logged two security checks that he did not conduct and admitted that he was not watching his unit when the altercation occurred on August 1, 2016.

57. The BOCC's ruling disregards Lt. Bodine's testimony that he investigated and concluded that Adams failed to properly supervise the inmates and knowingly falsified his logs.

58. The BOCC's ruling disregards that Adams admitted to Johnson that he logged a shakedown on February 7, 2017 when he had only completed a "quick shakedown."

59. The BOCC's ruling ignores the Hearings Examiner's specific finding regarding Adams's credibility when the Hearings Examiner concluded that Adams minimized the impact of his actions and demonstrated a lack of integrity that cannot be corrected by further training.

B. The BOCC Improperly Altered the Conclusions of Law Reached by the Hearings Examiner and the POST Council.

60. Petitioner incorporates by reference, paragraphs 1-59.

61. When determining whether an agency correctly interpreted its own rules, procedures or policies, the agency's interpretation should be afforded greater weight, unless it is plainly inconsistent with the spirit of the rule. *Knowles*, ¶22.

62. The BOCC found Adams's violations on August 1, 2016, less significant and more of a training issue because they occurred before Adams received his POST certification.

63. However, the Hearing's Examiner considered this issue and concluded that, "It stands to reason that an individual seeking certification from POST would understand that its rules would apply to them not only after receiving certification but during that one-year period in which they were required to gain 'discipline-specific employment experience with the current employing agency.' Adams's argument that POST rules did not apply to him prior to certification also ignores the basic fact that he was seeking certification as a public safety officer, which carries a greater responsibility than merely complying with the policies and procedures of the employing agency." Thus, the Hearings Examiner concluded that on August 1, 2016, the POST standards and the Code of Ethics applied to Adams.

64. Adams raised this same issue at the October 3, 2018 POST Council meeting. The POST Council considered and rejected Adams's argument. Similar to the Hearing's Examiner, the POST Council concluded that the Code of Ethics and Standards applied to Adams on August 1, 2016, and that his violations on August 1, 2016, were relevant and appropriate grounds for sanction under A.R.M. 23.13.702.

C. The BOCC Ruling Improperly Usurps Its Judgment for that of the POST Council.

65. Petitioner incorporates by reference, paragraphs 1-64.

66. The weighing and balancing of expert opinion pro and con is properly vested in the administrative agency in its field of expertise. *State ex rel. Department of Public Service Regulations v. Montana Irrigators*, 209 Mont. 375, 381, 680 P.2d 963, 966 (1984).

67. Further, when evaluating the evidence, the agency's experience, technical competence, and specialized knowledge should be utilized. *Mayer v. Board of Psychologists*, 2014 MT 85, ¶ 27, 374 Mont. 364, 321 P.3d 819.

68. The POST Council is comprised of public safety officers from a variety of disciplines as well as three members from the public at large. (*See*, Mont. Code Ann. §44-4-402). Thus, it is against public policy and judicial economy for another unrelated agency, such as the BOCC, to review and alter the decisions of the POST Council.

IV. RELIEF REQUESTED

POST requests that the Court:

A. Order a stay of the BOCC decision and reimpose the revocation of the Adams's POST certification. *See*, Mont. Code Ann. § 2-4-702(3).

B. Order that the BOCC transmit the full record to this Court. *See*, Mont. Code Ann. § 2-4-702(4).

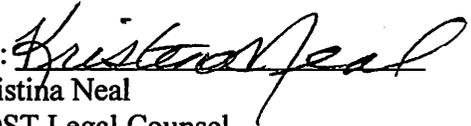
C. Order any additional briefing, with a briefing schedule, as the Court deems appropriate.

D. Find, as a matter of fact and as a matter of law, that the BOCC's decision to reverse the findings of fact and conclusions of law rendered by the Hearing's Examiner and reviewed and adopted by the POST Council, was clearly erroneous, arbitrary, capricious, and unlawful

///

E. Grant such other and further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED this 22nd day of July, 2019.

By: 
Kristina Neal
POST Legal Counsel

CERTIFICATE OF SERVICE

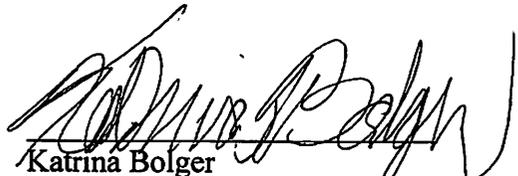
I certify that on the 22nd day of July 2019, a true copy of the foregoing petition was served by U.S. Mail, postage prepaid, on the following:

Eric Holm
HOLM LAW FIRM, PLLC
115 N. Broadway, Ste. 304
P.O. Box 3094
Billings, MT 59103

Tim Fox
Montana Attorney General
215 N. Sanders St.
Helena, MT 59601

I certify that on the 22nd day of July 2019, a true copy of the foregoing petition was served by hand-delivery, on the following:

Natalia Bowser
Bureau Chief, Crime Control Bureau
Montana Department of Corrections
5 S. Last Chance Gulch Street
Helena, MT


Katrina Bolger
POST Paralegal/Investigator

BEFORE THE PUBLIC SAFETY OFFICER STANDARDS
AND TRAINING COUNCIL
STATE OF MONTANA

IN THE MATTER OF CASE NO. 17-18 REGARDING:

THE REVOCATION OF THE) Case No. 1003-2018
CERTIFICATE OF KYLE ADAMS,)
)
)

PROPOSED FINDINGS OF FACT; CONCLUSIONS OF LAW;
AND RECOMMENDED ORDER

I. INTRODUCTION

This matter concerns the Montana POST Council's November 29, 2017 Notice of POST Action revoking the POST certification of Kyle Adams. POST's Notice asserted violations of Admin. R. Mont. 23.13.702(a), (g), and (h) and Admin. R. Mont. 23.13.201(4)(a)(i). Specifically, POST asserts that Adams engaged in prohibited conduct under Admin. R. Mont. 23.13.702.

On June 27, 2018, this matter came before Hearing Examiner Caroline A. Holien for hearing. Adams was present and represented by Eric Holm, Attorney at Law. POST was present through its representative, Perry Johnson, Executive Director, and was represented by Kristina Neal, Attorney at Law. Adams, Johnson, Sergeant Jacob Willoughby, Lieutenant Steve Metzger, Sergeant Hans DeMello, and Lieutenant Roger Bodine all testified under oath. POST's Exhibits 3, 4, 6, and 8 through 15 were all admitted into evidence.

Counsel graciously agreed to present written argument regarding the admissibility of letters of support offered by Adams as his proposed Exhibit A. POST argues the letters are irrelevant and hearsay. Adams readily concedes the letters are hearsay but counters the letters are relevant as to the bias that infected POST's investigation and to Adams' character and ability to serve as a detention officer. Adams argues he is not attempting to invoke an exception to the bar against hearsay under Rule 802, M.R.Evid., but merely to show Johnson's approach to the investigation was flawed.

Johnson conceded that he did not contact the authors of the three letters. Johnson testified that he interviewed only those who he believed had first-hand knowledge of the events in question. While the letters are potentially relevant to issues surrounding Adams' character, the letters constitute inadmissible hearsay. Therefore, Adams' Exhibit A is hereby excluded.

II. ISSUE

Whether Kyle Adams' POST certification should be revoked under the provisions of Mont. Code Ann. § 44-4-403 and other provisions cited in the Notice of POST Action and Opportunity for Hearing.

III. FINDINGS OF FACT

1. Kyle Adams began working at the Yellowstone County Detention Facility (YCDF) as a Control Operator in December 2013.
2. Adams served in the U.S. Army for seven years from 2001 to 2008. Adams obtained a bachelors degree in Law Enforcement Administration from Ashford University in 2014.
3. Adams became a Detention Officer at YCDF on October 16, 2015.
4. Adams was not POST certified at the time of his hire. Adams could not become POST certified until he was employed for one year.
5. In October 2016, Adams attended the Montana Law Enforcement Academy and obtained his POST certification on or about December 16, 2016.
6. On August 1, 2016, Adams was working in the unit designated as North Four. The North Four unit is an open bay with single beds in roughly one half of the unit and an open seating area in the other half. There are also shower and toilet stalls in the unit. Inmates are free to roam the unit. There is one officer station that overlooks a large portion of the unit.
7. Upon his arrival at North Four, Adams was to complete a head count of the inmates in the unit and report that count to the sergeant on duty, Sergeant Jacob Willoughby.
8. YCDF Policy 4-05-00.00 sets forth the facility's head count procedure. The policy provides:

A physical head count of all inmates will be conducted at the beginning of each shift and at lock-down and at other established times. Each officer will be required to record the head count on the post log and to report the head count to the control officer.

Ex. 2.

9. Officers are required to enter the head count in the post log for the unit or post; the control officer's log; and the booking officer's log, which is the official head count record. Ex. 2.

10. The head count policy provides:

In order to reconcile the differences between the actual count and the number of inmates in custody, the booking officer will determine the whereabouts of all inmates by checking the inmate check-out log and any other information indicating authorized absence of inmates and crosscheck the information with the cell assignment board.

Ex. 2.

11. The policy further provides that, if there are inmates unaccounted for, the head count procedure is to be repeated and the cell check logs and inmate checkout sheets are to be checked completely. If an incorrect head count occurs again, the officer is to compare the actual inmates accounted for against the cell assignment board and inmate roster to determine who is missing. If the head count continues to be incorrect, the facility command is to be notified immediately and a systematic inspection of all other areas of the facility is done until the missing inmate is located. Ex. 2.

12. Adams' count resulted in a number that did not match the facility's records. Adams re-counted twice and came up with the same number. Adams only provided an accurate count after Sgt. Willoughby sent the prior shift's North Four officer back to the unit to assist Adams with the count.

13. Adams performed each of the head counts on August 1, 2016 by walking through each walkway and counting the individuals present. Adams was not aware that one inmate had been checked out. Adams did not intentionally miscount; nor did he intentionally report an incorrect number.

14. Adams' repeated incorrect counts prompted Sgt. Willoughby to review the security video footage of North Four from that same date on August 2, and August 3, 2016.

15. There is approximately a 10-minute discrepancy between YCDF's computer log and security video log. Sgt. Willoughby's review of the security video took into account the time lag.

16. While incorrect head counts are not unusual at YCDF, it is unusual for an officer to have to repeat the head count three times.

17. One of Adams' duties included performing security checks, which requires the officer to walk around the unit and physically check the security of each inmate. Generally, security checks are to be performed every 30 minutes in North Four.
Ex. 3.

18. Adams documented at least one security check that he did not actually perform.

19. Security checks are not always performed at precisely 30-minute intervals due to interruptions in the detention officers' work day.

20. On August 1, 2016, Adams performed numerous security checks during his shift. Adams was called out of his unit at one point during his shift, which prevented him from performing his security checks at the regular 30-minute intervals or at the exact times logged in the computer.

21. One of Adams' duties also included performing shakedowns, which is a search of a bunk or cell. Officers are assigned, based on a rotation, which bunks they are required to shakedown for that shift.

22. YCDF Policy 4-03-00.00 sets forth its Security Inspections (Shakedown) policy and procedure. The policy provides:

It is necessary to conduct frequent searches of the inmates' cells and other areas where inmates work, play, congregate, or are temporarily held to discover and eliminate these problems.

Shakedowns should be frequent, but irregularly scheduled to prevent inmates from guessing when a shakedown is coming. The area and property search should be systematic and thoroughly checked.

Ex. 4.

23. Officers are required to conduct a shakedown even if the bunk is empty. Shakedowns are used to locate contraband that may have been hidden by the

inmates. A proper shakedown of an empty cell should take between five to ten minutes. An occupied cell should take much longer.

24. A log entry in the inmate's progress reports is required if contraband is found in the cell. All cell searches must be recorded in the post and shakedown logs. If any item is removed from the cell during a shakedown, a receipt listing those items must be given to the inmate. Ex. 4.

25. The search procedure is outlined in the policy, which requires the officer to stand in the cell and visually observe the layout and contents of the cell and determine if anything is out of the ordinary. The officer is required to search all clothing and to confiscate any clothing in excess of the allowed issue. All blankets, mattress covers, and mattresses must be examined and removed from the bedframe. The sink and toilet must be examined inside and out, as well as the faucets, drains, ventilator grills, shelves, doortracks, and windows. All personal items must be checked, including books, letters, toiletries, etc. The officer is also required to determine if there is any damage in the cell suggesting sabotage or damage by the inmate. Ex. 4.

26. The officer is required to "[l]eave the cell as nearly as possible to the condition [the officer] found it." Ex. 4.

27. Adams logged having completed four shakedowns during his shift on August 1, 2016. Adams did not complete two of the shakedowns he logged because the bunks were empty.

28. An officer should not log a shakedown on an empty bunk if a shakedown has not been completed due to the possibility that inmates would hide weapons, excess issue, or other contraband in the empty bunk. Entering a shakedown had occurred on an empty bunk when one has not actually been performed is falsifying a log entry.

29. In his review of the security video from Adams' August 1, 2016 shift, Sgt. Willoughby discovered two inmates had engaged in a verbal argument that escalated to pushing and shoving between the two men at approximately 1950 hours. The altercation occurred directly in front of the officer station where Adams was seated. Adams is seen on the security video playing Spider Solitaire on the computer while the inmates' argument starts and quickly escalates. The altercation lasted 10 seconds or less. Ex. 6.

30. Adams is observed minimizing his Solitaire game before calling for assistance and going to the door to wait for help to arrive. Ex. 6.

31. Adams had been taught to wait for backup to arrive from a previous inmate altercation in which he immediately intervened in the fight himself without backup. Officers are required to wait for backup before intervening unless it appears reasonably certain they can handle the situation without putting themselves or any of the inmates in danger.

32. Several detention officers reported to the unit and are seen standing near the officer station in the security video. Sgt. Hans DeMello was the sergeant who responded to Adams' call for help. Sgt. DeMello instructed the inmates to "bunk down" and the inmates complied. Other detention officers who had reported to the area had not done anything to contain the situation before Sgt. DeMello's arrival.

33. As the detention officers began to take control of the unit, Adams returned to his desk and closed out his Solitaire game. Adams did assist the officers in identifying the inmates involved in the altercation using the inmates' booking cards.

34. When questioned by Sgt. DeMello on who had been involved in the fight, Adams responded, "I don't know," and, "I didn't see who it was." Adams could not describe the fighting inmates to Sgt. DeMello.

35. Adams should have been telling the inmates to bunk down when the altercation was observed. Adams should have made an effort to verbally take control of the situation before backup arrived.

36. On August 2, 2016, Lieutenant Roger Bodine was assigned to conduct an internal investigation into Adams' conduct during his shift on August 1, 2016.

37. Lt. Bodine reviewed Sgt. Willoughby's report and reviewed the security video of Adams' August 1, 2016 shift.

38. As part of his investigation, Lt. Bodine also interviewed Adams. Adams admitted he logged two security checks that he did not conduct. Adams also admitted not watching the unit when the altercation occurred on August 1, 2016.

39. Based upon his investigation, Lt. Bodine concluded that Adams had failed to properly supervise the inmates and had knowingly falsified his logs by indicating he had performed security checks and shakedown that he had not actually performed. Lt. Bodine also found a dereliction in duty by Adams' failure to respond appropriately to the inmate altercation.

40. Some time prior to February 9, 2017, YCDF staff conducted a unit shakedown in Unit Three. A particular inmate's books were taken during that

shakedown. The inmate later complained that his books should not have been taken and efforts were made to locate the books and return them to the inmate. One of the books was located and returned to the inmate, and the inmate found another one in his cell.

41. Adams was familiar with the inmates in Cell No. 19 of Unit Three. Adams had not experienced any behavioral problems with the inmates.

42. Sgt. Willoughby requested that Adams call the Sergeants Office so he could request that another detention officer conduct a shakedown of the inmate's cell to ensure the books had been returned.

43. Adams called the Sergeants Office and spoke to Sgt. DeMello. Adams reported that he had just completed a shakedown of the inmate's cell. Adams noted in his log that he had done a shakedown of the inmate's cell. Sgt. Willoughby subsequently checked Adams' log and determined that Adams had logged a shakedown of the inmate's cell approximately 20 minutes earlier.

44. Adams informed the inmate during the shakedown that his missing books could not be located. Adams allowed the inmate to keep extra laundry in his cell.

45. Detention officers do not have the discretion to leave items in a cell except for perhaps empty cracker boxes in which inmates typically store their personal papers.

46. Due to concerns about a potential conflict between Adams and the inmate due to Adams conducting a second shakedown within such a short time period, Sgt. Willoughby conducted a shakedown of the inmate's cell. Sgt. Willoughby discovered the inmate had three extra blankets, two extra sheets, one extra bed cover, three extra towels, six extra pairs of underwear, two extra shirts, three extra pairs of pants, two pairs of IL socks, coffee bags filled with juice, and a shampoo bottle filled with juice. The discovery of these items led Sgt. Willoughby to conclude that Adams had not done a proper shakedown of the inmate's cell.

47. Sgt. Willoughby subsequently met with Adams to discuss the items he had discovered in the inmate's cell. Adams admitted that he had done a "quick shakedown" where he "went and saw and looked around." Sgt. Willoughby reviewed the security video for the time Adams had noted conducting the shakedown and determined Adams had spent two minutes inside the cell.

48. On April 14, 2017, Captain Sam Bofto sent a letter to Perry Johnson, Executive Director of Montana POST, informing him that Adams had been

suspended without pay for 40 hours “for an ethics violation as well as policy violations” at YCDF. Ex. 10.

49. On May 4, 2017, Johnson sent Adams a letter advising him that POST had received notice of allegations of misconduct against him from YCDF. Johnson’s letter advised Adams that the allegations included:

That you failed to respond appropriately to a physical altercation between inmate, instead playing a computer game;

That you falsified cell check logs, shakedown logs, and head counts, indicating that you conducted the checks when, in fact, you did not.

Johnson’s letter further advised Adams that the allegations, if proven true, could result in sanction, suspension, or revocation of his POST certification. Ex. 11.

50. On May 24, 2017, POST received Adams’ written response to Johnson’s letter. Adams wrote:

I wrongfully represented myself at [YCDF]. A fight happened in my unit at the time I was playing a game on the computer. I did tell them to stop, but I could have ended sooner if I was watching the unit. I also logged a security check that I did not do, and conducted a “shakedown” on an empty bunk.

During the investigation and questioned about my actions I did not may accuses [sic] or deny any allegations. I admitted guilt to everything I did to LT. Bodine during a recorded interview.

I understood and accepted I make [sic] a huge mistake from the beginning, and I should never have compromised myself . . .

Ex. 12.

51. Adams did not disclose the February 2017 incident for which he was being investigated.

52. On May 30, 2017, POST received a second letter from Captain Bofto reporting that Adams had been disciplined for an ethics violation that included a last chance agreement and an 80 hours suspension without pay. Ex. 13.

53. On July 12, 2017, Johnson sent a second letter to Adams advising him that POST had received notice of additional allegations of misconduct. The letter listed the previous allegations, as well as the most recent ones that included:

That you falsified shakedown logs when you stated that you performed two cell shakedowns which you did not do.

The letter went on to describe the possible sanctions that may result from the additional allegations, if proven to be true. Ex. 14.

54. On August 2, 2017, POST received a written response from Adams. Adams explained what had occurred during his shift in February 2017 that had led to the additional discipline. Adams wrote:

I told Lt. Bodine that I should have contacted Sgt. Willoughby for approval before I made my decision. If I would have contacted my supervisor for permission before hand, it would have prevented me of receiving my write up and suspension. I did not think leaving additional laundry would be considered falsifying my log. I did not log taking items out that I did not remove.

Ex. 15.

55. Johnson personally interviewed Adams. Adams admitted to Johnson that he had falsified his log books on August 1, 2016, as well as failing to properly supervising the inmates during his shift on that day. Adams also admitted that he had logged doing a shakedown on February 9, 2017, but that it was actually only a "quick shakedown."

56. On November 29, 2017, POST notified Adams of the revocation of his POST certification.

IV. DISCUSSION

The Montana POST Council is a quasi-judicial board administratively attached to the Department of Justice. Mont. Code Ann. § 2-15-2029. The POST Council has a legislative mandate to "provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers" in Montana. Mont. Code Ann. § 44-4-403(1)(c). POST has also enacted administrative rules to effectuate this legislative mandate, including specific rules regarding contested cases. Admin. R. Mont. 23.13.101 *et seq.*

POST revoked Adams' certification on the grounds that he had engaged in conduct prohibited under Admin. R. Mont. 23.13.702, which include:

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

...

(g) neglect of duty or willful violation of orders or policies, procedures, rules, or regulations;

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

...

Admin. R. Mont. 23.13.203 contains an oath all public safety officers take that includes:

(a) My fundamental responsibilities 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;

...

(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.

A. Events Occurring Prior to Adams' POST Certification are Relevant and Appropriate Grounds for Sanction.

Adams argued that he was not bound by POST's certification standards or code of ethics until he actually achieved certification, which, in this case, was not until on or about December 16, 2016. Adams notes that Admin. R. Mont. 23.13.205(3) provides, "Acceptance of POST certification is an agreement to abide by and adopt the code of ethics [as prescribed in ARM 23.13.203] and refrain from the behaviors outlined in ARM 23.13.702."

Adams ignores the requirements set forth in Admin. R. Mont. 23.12.206(2)(a)(i), (ii), which provides:

Public safety officers hired after August 1, 2008 are required to complete the following:

- (i) the probationary period prescribed by law or by the current employing agency, but in any case have a minimum of one year discipline-specific employment experience with the current employing agency; and
- (ii) the basic course or the equivalency as defined by the council.

Adams would not have been eligible for POST certification without first having completed one year of employment with YCDF. It stands to reason that an individual seeking certification from POST would understand that its rules would apply to them not only after receiving certification but during that one-year period in which they were required to gain "discipline-specific employment experience with the current employing agency." Adams' argument that POST rules did not apply to him prior to certification also ignores the basic fact that he was seeking certification as a public safety officer, which carries a greater responsibility than merely complying with the policies and procedures of the employing agency. It means that the individual is prepared to accept and to meet the responsibilities attached to serving as a public safety officer in the State of Montana. As a public safety officer, there were rules governing Adams' behavior, therefore, making him subject to the Code of Ethics. The events occurring prior to Adams' certification in December 2016 are relevant and are appropriate grounds for sanction under Admin. R. Mont. 23.13.702.

B. Testimony Describing Events Observed in the Security Video of Adams' August 1, 2016 Shift is Relevant.

Adams argues that evidence regarding what was observed in the security video of his August 1, 2016 shift should be disregarded or not given significant weight as POST failed to produce the original recording as required under Rule 1002, M.R.Evid.

Adams' argument is well taken. There is no indication that the security video had been destroyed or otherwise not obtainable. *See* Rule 1004, M.R.Evid. Sgt. Willoughby testified to certain conclusions he came to as a result of his viewing the entirety of the security video from Adams' August 1, 2016 shift. However, the security video supporting Sgt. Willoughby's conclusions was not offered at hearing. Therefore, testimony that involved conclusions based upon Sgt. Willoughby's review of the security video for August 1, 2016 and not merely that portion that is included in Ex. 6 has not been considered by the Hearing Examiner.¹

¹ It should be noted that Adams has admitted to much, if not all of the conduct, pointed to in the testimony of Sgt. Willoughby, Lt. Bodine, and Johnson.

C. Adams Received Proper Notice of the Allegations and Evidence that led to POST's Revocation of his Certification.

Adams argues that the Notice of POST Action failed to give him proper notice of any evidence or allegations of misconduct on August 1, 2016. The notice refers to events occurring on August 2, 2016. It was fairly apparent at hearing that Adams not only understood the events occurred on August 1, 2016 at the time of hearing but throughout the investigations conducted by YCDF and POST. The Hearing Examiner is not persuaded that Adams did not receive proper notice of the allegations against him or that he did not have adequate opportunity to respond to those allegations.

D. Adams has Failed to Prove by a Preponderance of the Evidence That There is no Basis for Revocation of his POST Certification.

There was sufficient evidence presented at the hearing to justify revocation as the appropriate sanction based solely on the already-proven violations. Adams admitted that he engaged in conduct that involved logging security checks and shakedowns not actually conducted during his shift on August 1, 2016. Adams also admitted that he failed to properly supervise inmates, which resulted in an albeit brief physical altercation between two inmates, while playing Spider Solitaire at the office station during that same shift. Finally, Adams also admitted logging a shakedown in February 2017, which he characterized as a "quick shakedown." However, that shakedown clearly never occurred given the amount of contraband discovered and removed during a subsequent shakedown of that same cell.

Adams argues that some of his conduct was as a result of discretion he thought he had as a detention officer. Adams also points to issues in the training he received from his Field Training Officers. Adams' testimony was not particularly persuasive when compared to the testimony of Lt. Steve Metzger. Lt. Metzger has served at YCDF for 32 years - 16 of those years as a training officer. Lt. Metzger denied YCDF has ever had a policy that allowed detention officers to skip conducting a shakedown of an empty bunk. Lt. Metzger testified that detention officers do not have the discretion to leave items in a cell and that no detention officer would have received training to the contrary. Lt. Metzger also denied that a "quick shakedown" is an accepted approach at YCDF and that a shakedown of a cell should take approximately 15 minutes.

Not only does Lt. Metzger have the training and experience that supports his serving as an expert witness on YCDF policies and procedures, his testimony is more inherently consistent and reasonable considering the immense responsibility of detention officers in ensuring the health and safety of inmates committed to their care. It makes little sense that an empty bunk would not warrant a shakedown given

that the inmates are free to roam the area with little supervision. Further, allowing detention officers the discretion to allow certain inmates to keep excess issue or other items inevitably invites the scenario of one inmate receiving what appears to be preferential treatment, which certainly could lead to bad result. Finally, and perhaps most concerning, is Adams' attempt to minimize the importance of true and accurate logging of events occurring during his shift. Other officers are entitled to rely upon the information contained in those logs. Not only is that reliance necessary for the orderly administration of the facility but to avoid any potential liability issues if something was to occur to an inmate or another officer.

Adams' conduct during the shifts in question, as well as his attempt to minimize the impact of his actions, shows that revocation of his POST certification is the appropriate sanction in this case. Adams has demonstrated a lack of integrity that cannot be corrected by further training.

In order for the Hearing Examiner to find the decision of POST's Executive Director to revoke Adams' certification was not appropriate, a preponderance of the evidence must show that there was no basis for that revocation. Admin. R. Mont. 23.13.714(8)(a). Based on the evidence presented by the parties, there is no basis in either the Montana Code or Administrative Rules to overturn the revocation. Adams has failed to meet his burden² to show "by a preponderance of the evidence that there was no basis for the . . . revocation of certification imposed by the director, as stated in the notice of agency action." Admin. R. Mont. 23.13.714(8)(a). Because Adams has failed to meet his burden, the Executive Director's decision to revoke Adams' certification should be affirmed.

V. CONCLUSIONS OF LAW

1. POST has jurisdiction to determine this matter. Mont. Code Ann. § 44-4-403.

2. Kyle Adams engaged in conduct during his employment as a detention officer at YCDF that violated Admin. R. Mont. 23.13.702(a), (g), and (h). Adams is therefore subject to sanction of his POST certification. Admin. R. Mont. 23.13.702(2).

3. Adams engaged in conduct during his employment as a detention officer at YCDF that violated the oath he took as a public safety officer. See Admin. R.

² The Hearing Examiner questions whether, because of due process concerns, Adams should bear this burden. However, she is bound by the administrative rules governing this proceeding.

Mont. 23.13.203(a), (i). Adams is therefore subject to sanction of his POST certification. Admin. R. Mont. 23.13.702(2).

4. As a result of Adams' conduct, he is subject to revocation of his POST certification. Admin. R. Mont. 23.13.702(2)(f).

5. Adams' conduct was improper and was harmful to his own reputation as a detention officer. Admin. R. Mont. 23.13.702(2)(l).

6. Adams failed to meet his burden that "by a preponderance of the evidence that there was no basis for the . . . revocation of certification imposed by the director, as stated in the notice of agency action." Admin. R. Mont. 23.13.714(8)(a).

7. The appropriate sanction for Adams' violations of Admin. R. Mont. 23.13.702 and 23.13.203 is revocation of his POST certification.

VI. RECOMMENDED ORDER

Based on the foregoing findings of fact and conclusions of law, it is the recommendation of this Hearing Examiner to the POST Council that the POST certification of Kyle Adams remain revoked.

DATED this 24th day of July, 2018.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: Caroline A. Holien
CAROLINE A. HOLIEN
Hearing Examiner

NOTICE: Pursuant to Admin. R. Mont. 23.13.719(2), within 15 days after the Hearing Examiner has issued findings, conclusions, and a proposed decision, an adversely affected party may submit exceptions to the Hearing Examiner's decision. The Council shall receive briefs and hear oral arguments at its next meeting and deliberate pursuant to Mont. Code Ann. § 2-4-621. The party filing the exceptions must incorporate a supporting brief in the document stating the exceptions. The opposing party may file a brief in response to the exceptions within ten days. No reply brief will be received.

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

Eric Holm
Attorney at Law
P.O. Box 3094
Billings, MT 59103

Kristina Neal
Attorney at Law
4385 Wylie Drive
Helena, MT 59602

DATED this 26th day of July, 2018.

Sandy Duncan

BEFORE THE MONTANA BOARD OF CRIME CONTROL

In Re Appeal of KYLE ADAMS
from Decision of the Public Safety
Officer Standards and Training (POST)
Council

FINAL AGENCY DECISION

Procedural History

On November 29, 2017, the POST Council notified KYLE ADAMS that his POST certification was revoked subject to a contested case hearing. A contested case hearing was conducted June 27, 2018, before a hearing examiner (HE) with the Montana Department of Labor and Industry's Office of Administrative Hearings. On July 26, 2018, the HE issued proposed findings of fact, conclusions of law, and recommended order (PFOF, COL and RO). Based thereon, the HE recommended to the POST Council that KYLE ADAMS' POST certification *remain revoked*. The POST Council's Final Decision dated October 3, 2018, accepted in total the PFOF, COL and RO as its final decision. ADAMS timely appealed and POST Council remitted the record on appeal to the Board of Crime Control's Appeal Review Committee (ARC).

Upon notice, the ARC initiated its review then continued the matter pending receipt of additional briefs before resuming deliberations. ARC issued to the

Exhibit B

Board and served on the parties, a written recommendation as to the disposition of the appeal. ARC unanimously recommended that the Board reverse the POST Council's decision that ADAMS' certification remain revoked and recommended that the certification be restored to him good standing.

ORDER

At its meeting on June 14, 2019, the Montana Board of Crime Control considered ADAMS' appeal. Upon motion made, seconded and carried, ARC's written Recommendation to the Board, a copy of which is attached as Exhibit A and incorporated herein by reference, was adopted by the Board. It is ORDERED under authority of §44-7-101(2), MCA, that the POST Council's Final Decision dated October 3, 2018, is REVERSED and ADAMS' certification is restored to him in good standing.

The Board based its decision on the record as a whole and, in particular, on the fact that most of the alleged violations occurred before ADAMS' had begun his POST certification training. In addition, the record did not support the POST Council's decision that its November 29, 2017, revocation of ADAMS' certification (subject to a contested case hearing) should remain in effect following the hearing at which the facts were fully developed. ADAMS' conduct, as determined at the hearing and memorialized in findings of fact, was considerably

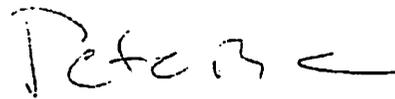
more benign or ambiguous than had been asserted as of November 29, 2017.

POST Council's Final Decision dated October 3, 2018, is incongruous with the facts.

This Final Agency Decision is subject to judicial review.

DONE: June 14, 2019

SIGNED: 6/21/2019

A handwritten signature in black ink that reads "Peter Ohman". The signature is written in a cursive style with a long horizontal stroke at the end.

Peter Ohman, Chair
Montana Board of Crime Control



Montana Board of Crime Control
5 S Last Chance Gulch
PO Box 201408
Helena MT 59620
Phone (406)444-3604
Fax (406)444-4722
TTY (406)444-7099
www.mbcc.mt.gov

Peter Ohman
State Public Defender
Chairperson

Rick Kim
Fort Peck Executive Board
Member
Vice Chairperson

Laurie Barron
Superintendent

Tim Brunud
Youth Justice Council Chair

Katie Campbell
Probation Parole Officer

Jared Cobell
Assistant U.S. Attorney

Brenda Desmond
4th Judicial District Court
Standing Master

William Dial
Whitefish Police Chief

Leo Dutton
Lewis & Clark Sheriff

Tim Fox
Attorney General

Wyatt Glade
Custer County Attorney

Beth McLaughlin
Court Administrator

Reginald Michael
Department of Corrections
Director

Laura Obert
Broadwater County
Commissioner

Olivia Rieger
7th Judicial District
District Court Judge

Angela Russell
Attorney

Geri Small
Professional & Community
Organizations

Derek VanLuchene
Public Representative

TO: Montana Board of Crime Control
FROM: POST Appeal Review Committee
DATE: June 6, 2019
RE: Committee Recommendation to Board
KYLE ADAMS APPEAL from POST Council Revocation of Certification

Procedural History

On November 29, 2017, the Public Safety Officer Standards and Training Council (POST) issued a notice to Kyle Adams of the revocation of his POST certification subject to a contested case hearing.

The contested case hearing was conducted on June 27, 2018. Hearing Examiner Caroline Holien of the DLI Office of Administrative Hearings presided. Present were Kyle Adams, Adams' attorney Eric Holm, Perry Johnson, Executive Director and representative of the POST Council in this matter, and POST Council's attorney Kristina Neal.

On July 26, 2018, the Hearing Examiner issued Proposed Findings of Fact, Conclusions of Law and Recommended Order (PFOF/COL/RO). The Hearing Examiner recommended that Adams' POST certification remain revoked. The PFOFs/COL/RO were adopted in their entirety by the POST Council.

Adams timely appealed the POST Council's decision to the Appeal Review Committee of the Montana Board of Crime Control pursuant to §§44-4-403(3) and 44-7-101(2), MCA. Adams' legal argument on appeal was included in his notice of appeal. POST timely submitted the record to the Montana Board of Crime Control's Appeal Review Committee (ARC). POST Council submitted its legal brief.

Pursuant to notice, the ARC met on November 30, 2018 to consider the record. The ARC review is informal; it may hear argument. ARM 20.24.1007(1)(2). Findings of Fact must be supported by the evidence in the record; in its discretion the ARC may request briefs. Kristina Neal and Perry Johnson appeared on behalf of POST Council. Having included his legal argument in the Notice of Appeal, Mr. Adams and his counsel Eric Holm did not appear. Ms. Neal summarized the POST Council's position and presented argument. ARC members asked questions of Ms. Neal to clarify several issues. Under authority of ARM 20.24.1006(3), ARC's review was continued in order to: obtain additional briefs, obtain a transcript of the contested case hearing; and allow sufficient

time for review of the transcript upon receipt. The Appeal Review Committee's review/deliberations resumed on March 15, 2019.

The ARC has authority under ARM 20.24.1008, to recommend to the Board that it affirm or reverse the POST Councils decision or that it remand to the hearing examiner for additional findings pursuant to ARM 20.24.1008.

BASED UPON THE RECORD, the Review Committee unanimously voted to **RECOMMEND** to the remaining members of the Board of Crime Control that it **REVERSE** the POST Council's revocation of Kyle Adams' POST Certification and restore the certification to him in good standing. Adams' appeal to the Board of Crime Control stayed the enforcement of POST's revocation decision pursuant to ARM 20.24.1004(4). The Board may adopt the ARC's recommendation or send the recommendation back to ARC for further consideration. Once adopted by the board, the ARC's recommendation becomes the final agency decision that is subject to judicial review. ARM 20.24.1009.

The basis for ARC's recommendation is set out below.

1. Despite affording POST Council's decision deferential consideration, the Committee could not conclude that the record, considered as a whole, supported its decision.
2. The ARC's decision, based on the record was that POST prosecuted the case presented to it by the employing agency, Yellowstone County Detention Facility (YCDF), apparently over the course of several months via multiple submissions, but that revocation of Mr. Adams' certification was not supported. The violations alleged by YCDF and by POST as the basis alleged for revoking Adams' certification (subject to the right to a contested case hearing) were based on ARM 23.13.702¹(a), (g), (h). The Hearing Examiner concluded in the PFOF, COL, RO (first paragraph of the INTRODUCTION), that POST asserts that Adams engaged in prohibited conduct under ARM 23.13.702. The subsections plead require proof of neglect of duty, "willful falsification" or willful violations". However, in relation to the evidence actually presented at the hearing, Adams' conduct was considerably more benign and ambiguous than the pleadings suggested. For that reason, the Hearing Examiner's recommendation that Adams' certification "remain" revoked, is incongruous with the examiner's own PFOF, COL, RO. The proposed findings of fact as determined by the examiner and adopted in their entirety by POST, paint a markedly different and less serious picture of Adams' conduct. Rather the findings were favorable to Adams relating to certain of the conduct that POST had alleged was the basis for revocation. ARC believes that for the board to adopt the hearing examiner's recommendation that the certification remain revoked would not comport with

¹ Although the citation form was incorrect, it obviously was intended to refer to ARM 23.13.702(2)(a),(g),(h). Additionally, the POST alleged violation of ARM 23.13.201(4)(a)(i). No such rule subsection exists now or did at any time pertinent to this proceeding.

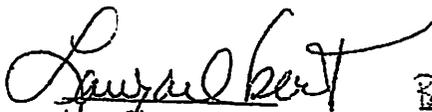
the facts as they are now fully established, would be an injustice to Adams based on the record as a whole.

3. Adams was appointed as a Detention Officer at the Yellowstone County Detention Facility (YCDF) on October 16, 2015. The Detention Officer position requires POST certification. ARM 23.13.201.
4. POST's Notice of Action revoking Adams' certification, subject to a contested case hearing, alleged multiple instances where Adams' conduct fell short. All of the conduct with one exception occurred on a single day: August 1, 2016.
 - A. One violation on August 1, 2016 pertained to a verbal altercation between inmates that quickly escalated to pushing and shoving. The entire episode lasted 10 seconds or less. (PFOF # 29). Adams was playing on-line solitaire in the control room when it began. He minimized the screen (one key stroke) before calling for backup. (PFOF #30). Several detention officers responded, and none took any action prior to arrival of Sgt. DeMello. (PFOF #32) who ordered the inmates to "bunk down" and they complied. (PFOF #32). Adams assisted in identifying the inmates involved in the altercation using the inmates' booking cards. (PFOF #33). YCSO/YCDC and POST Council asserted that Adams "failed to properly supervise" the inmates and "failed to respond appropriately to the altercation", asserting he should have made an effort to verbally de-escalate the situation before backup arrived. (PFOF # 36). Adams testified that he did tell the inmates to stop (PFOF #50) and that he called for backup based on having intervened in an altercation without backup on a different prior occasion and been told he was supposed to wait for back up. (PFOF #31). Neglect or dereliction of duty is not borne out by the findings.
 - B. Another infraction involved a "head count" discrepancy on August 1, 2016. Adams repeated his head count with the same result. Then an officer from another shift assisted and the discrepancy was resolved on the third count. Adams was not aware that one inmate had been checked out. The Hearing Examiner in the contested case hearing found that with respect to the head count issue, Adams did not intentionally miscount, nor did he intentionally report an incorrect number. (PFOF #13). POST adopted that finding.
 - C. Another incident on August 1, 2016, pertained to security checks (walk-throughs) and whether they were conducted. The Hearing Examiner found that Adams performed numerous security checks during his shift on August 1, 2016 and that he had been called away from the unit at one point during his shift which prevented him from performing his security checks at the regular 30-minute intervals or at the exact times logged in the computer. (PFOF #20). The Hearing examiner concluded Adams had missed "at least one" security check/walk through. By finding that Adams missed at "least one", the Hearing Examiner erroneously relied on speculation. Any failure to perform a second security check was not established by credible evidence or it would have warranted an affirmative finding of two missed security checks.

ARC concludes based on the record that Adams admittedly logged one security check/walk through that he did not perform. (PFOFs ## 17, 18, 19, 20).

- D. Another claim of the YCDF/POST pertained to 4 shakedowns assigned to Adams on his shift on August 1, 2016, two of which involved empty bunks/cells. Adams logged the shakedowns as having been performed. Adams admitted that his shakedowns of the empty bunks/cells were cursory, lasting approximately 2 minutes each, when a properly conducted shakedown of an empty cell should last "5 to 10 minutes" per policy. YCDF/POST asserted that logging those 2 shakedowns as having been performed when they were only cursorily performed constituted a falsification of the logs. ARC deems the quality or thoroughness of an empty bunk shakedown to be a training or discipline issue and not a records falsification issue. POST presented little evidence relating to the nature or extent of Adams's training on the job before attending the MLEA course to earn his POST certification. The minimal evidence presented at the contested case hearing which touched upon that issue, was the testimony of an individual who was the training officer at YCDF and at the time of the contested case hearing was under scrutiny/investigation relating to honesty/integrity issues. POST Council acknowledged this to the ARC stating that POST became aware immediately before the contested case hearing that the witness was under investigation, but that POST had no documentation related to it or the documentation would have been provided to ARC with the rest of the record on appeal.
5. Adams had not even begun his *POST training* program on August 1, 2016 when the foregoing events took place. He began his POST training program in October 2016 and was POST certified in December 2016. Therefore, POST's argument that its rule 23.13.702 applies to persons before they are certified, misses the point of what consideration, if any, it gave to the issue of Adams's job training prior to August 1, 2016. ARC deems the issues in this case to be largely training-related and that on balance, after careful consideration, determines they do not implicate Adams' integrity or honesty or warrant revocation of his POST certification.
6. The only violation that occurred after Adams completed his POST certification training at the MLEA, occurred on February 9, 2017. That alleged violation was for failure to remove/confiscate a *large* number of large "excess property items" from a cell during a shakedown. The volume and type of excess items (as listed in the Hearing Examiner's PFOF #46 adopted by POST Council), when considered in conjunction with PFOF #21 pertaining to assignment of shakedowns each shift based on a rotation system, raises concern about how long the items had been accumulating in the cell and how consistently the policy relating to confiscation of excess property items is applied.

7. ARC notes that the Board has express authority under ARM 20.24.1008 to reverse a POST Council decision and it has that authority for a reason, even if it is seldom invoked.
8. Adams made mistakes, but revocation is unduly harsh and unwarranted in light of the evidence in the record.


Laura Obert, Committee Chair


Brenda Desmond


Jared Cobell

Montana Board of Crime Control Board of Directors
POST Appeal Review Committee

CERTIFICATE OF SERVICE

I certify that on the 21st day of June 2019, a true copy of the foregoing Final Agency Decision was served by U.S. Mail, postage prepaid, on the following:

Eric Holm
HOLM LAW FIRM, PLLC
115 N. Broadway, Ste. 304
P.O. Box 3094
Billings, MT 59103
Eric@holm-law.com

Kristina Neal
4385 Wylie Drive
Helena, MT 59602
Kristinaneal46@gmail.com
Attorney for POST Council

Perry Johnson
MONTANA POST COUNCIL
2260 Sierra Road East
Helena, MT 59602
pjohnson@mt.gov



Natalia Bowser
Bureau Chief
Crime Control Bureau
Montana Department of Corrections

Montana Board of Crime Control
POST Appeal Committee
5 South Last Chance Gulch, Helena Montana



September 3, 2019

Montana Board of Crime Control
5 South Last Chance Gulch
Helena Montana 59601

RE: POST Appeal Review Committee Recommendation to the Montana Board of Crime Control

The Montana Board of Crime Control POST Appeal Review Committee met on July 31, 2019 to hear oral arguments in the Matter of the Proposed Suspension or Revocation of the Certificate of Mr. Ross Drishinski.

The Committee reviewed all governing Montana law including, decisional law, Montana Code Annotated statutes, Montana Administrative Rules along with Respondent's Notice of Appeal and applicable documentation. The Committee heard oral arguments from legal counsel for Mr. Drishinski and legal counsel for the POST Council. Based on its review in accordance with Mont. Code. Ann. §§ 40-4-403(3), 44-7-101, and A.R.M. § 20.24.1007, the Committee determined that Mr. Drishinski had established procedural defects in the proceedings below. Specifically, the Council's deliberations are subject to the Montana Administrative Procedure Act, Mont. Code Ann. Title 2, ch.4, and the record does not include a complete record of the Council's deliberations that led to its modification of the Hearing Officer's Findings of Fact, Conclusions of Law and recommended disposition.

The committee voted unanimously to recommend to the Montana Board of Crime Control to reverse the council's decision the POST Council's final decision to revoke Mr. Drishinski's POST certification.

Sincerely,

Handwritten signature of Laura Obert in blue ink.

Laura Obert, Committee Chair

Handwritten signature of Brenda Desmond in blue ink.

Brenda Desmond

Handwritten signature of Jared Cobell in blue ink.

Jared Cobell

Montana Board of Crime Control Board of Directors
POST Appeal Review Committee

Montana Board of Crime Control
POST Appeal Committee
5 South Last Chance Gulch, Helena Montana



September 3, 2019

Montana Board of Crime Control
5 South Last Chance Gulch
Helena Montana 59601

RE: POST Appeal Review Committee Recommendation to the Montana Board of Crime Control

The Montana Board of Crime Control POST Appeal Review Committee met on July 31, 2019 to hear oral arguments in the Matter of the Proposed Suspension or Revocation of the Certificate of Mr. Thad White.

The Committee reviewed all governing decisional law, Montana Code Annotated statutes, Montana Administrative Rules along with Respondent's Notice of Appeal and applicable documentation. The Committee heard oral arguments from legal counsel for Mr. Thad White and legal counsel for POST.

On August 13, 2019, the POST Appeal Review Committee reconvened. Having determined the absence of factual or legal error in the prior proceedings, the committee voted unanimously to recommend to the Montana Board of Crime Control to affirm the POST Council's final decision to revoke Mr. Thad White's POST certification.

Sincerely,

Handwritten signature of Laura Obert in blue ink.

Laura Obert, Committee Chair

Handwritten signature of Brenda Desmond in blue ink.

Brenda Desmond

Handwritten signature of Jared Cobell in blue ink.

Jared Cobell

Montana Board of Crime Control Board of Directors
POST Appeal Review Committee



SENATE BILL NO. 220
INTRODUCED BY K. REGIER, S. HINEBAUCH, T. RICHMOND, D. SANDS, F. SMITH

AN ACT GENERALLY REVISING LAWS RELATED TO PROBATION; CLARIFYING THAT A LOCAL GOVERNMENT HAS THE AUTHORITY TO CONTRACT WITH A PRIVATE MONTANA ENTITY FOR MISDEMEANOR PROBATION SERVICES; PROVIDING THAT ONLY PUBLICLY EMPLOYED PROBATION OFFICERS MAY MAKE ARRESTS; AND AMENDING SECTIONS 46-23-1001 AND 46-23-1005, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-1001, MCA, is amended to read:

"46-23-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful.

(2) "Board" means the board of pardons and parole provided for in 2-15-2305.

(3) "Compliance violation" means a violation of the conditions of supervision that is not:

(a) a new criminal offense;

(b) possession of a firearm in violation of a condition of probation or parole;

(c) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of an offense or a member of the victim's immediate family or support network;

(d) absconding; or

(e) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(4) "Department" means the department of corrections provided for in 2-15-2301.

(5) "Misdemeanor probation officer" means a person who is employed by a county or municipality or who is employed by a private entity that contracts with a local government to provide misdemeanor probation supervision services pursuant to 46-23-1005.

~~(5)~~(6) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of the prisoner's term, subject to conditions imposed by the board and subject to supervision of the department.

~~(6)~~(7) "Probation" means the release by the court without imprisonment, except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court.

(8) "Probation and parole officer" means an officer employed by the department pursuant to 46-23-1002."

Section 2. Section 46-23-1005, MCA, is amended to read:

"46-23-1005. Misdemeanor probation offices -- misdemeanor probation officers -- costs. (1) A local government may establish a misdemeanor probation office associated with a justice's court, municipal court, or city court. The misdemeanor probation office shall monitor offenders for misdemeanor sentence compliance and restitution payments. An offender is considered a fugitive under the conditions provided in 46-23-1014.

(2) A local government may appoint or contract with a private Montana entity for the provision of misdemeanor probation officers and other employees necessary to administer this section. Misdemeanor probation officers:

~~(a) must have the minimum training required in 46-23-1003;~~

(a) must have the minimum training required in 46-23-1003; and

~~(b)(b) shall follow the supervision guidelines required in 46-23-1011; and,~~

~~(c)~~(3) A publicly employed misdemeanor probation officer may order the arrest of an offender as provided in 46-23-1012.

~~(3)~~(4) An offender who is convicted of the offense of partner or family member assault under 45-5-206 or of a violation of an order of protection under 45-5-626 and who is ordered to be supervised by misdemeanor probation must be ordered to pay for the cost of the misdemeanor probation. The actual cost of probation supervision over the offender's sentence must be paid by the offender unless the offender can show that the

offender is unable to pay those costs. The costs of misdemeanor probation are in addition to any other fines, restitution, or counseling ordered."

- END -

Latest Version of SB 220 (*SB0220.ENR*)

Processed for the Web on April 9, 2019 (12:27pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

[Status of this Bill](#) | [2019 Legislature](#) | [Leg. Branch Home](#)

[All versions of this bill \(PDF format\)](#)

[Authorized print version of this bill \(PDF format\)](#)

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Prepared by Montana Legislative Services

(406) 444-3064

	A	B	C	D
1	Misdemeanor / Pre-Trial Officer Basic Course			
2	BASIC COURSE- 140 Hours	HOURS		INSTRUCTOR
3	POST Council Overview	2		POST Staff
4	Risk and Needs Assessments	4		Jennie Hansen, DOC
5	Professional Boundaries	3		Dave Garcia, DOC
6	Child Protection Services	2		Mark Laramore, CPS
7	American Indian Cultural Awareness	2		Harlan Trombley, DOC
8	Montana Court Systems	2		Judge Ortley, MLEA
9	Civil Rights	4		Judge Ortley, MLEA
10	Constitutional Law	2		Judge Ortley, MLEA
11	Court Room Testimony	4		Judge Ortley, MLEA
12	Dangerous Drugs (Identification)	2		Brad Gremaux, DCI
13	Supervising Sex Offenders	2		Dawn Handa*
14	Urinalysis and Drug Testing	3		Chris Evans, DOC
15	Case Planning / Management	6		Tara Kattell, DOC
16	Ethics	2		Scott Sterland, MLEA
17	Supervising Mental Health	2		Terry Boyd, DOC
18	Verbal Defense and Influence	8		Dave Garcia, DOC
19	Interstate Compact	2		Cathy Gordon, DOC
20	Substance Use Addictions and Treatment	4		Isaac Coy, DPHHS
21	Sexual Violent Offenders Registry	2		Jamie Lavinder, DCI
22	Reports of Violations / Report Writing	4		Kim Lahiff, DOC
23	Mental Health First Aid	8		Rebecca Guyer-Strait, MLEA
24	Situational Awareness	2		Wayne Bye, DOC
25	Motivational Interviewing	2		Dave Garcia, DOC
26	Legal Issues Pertaining to Use of Force	4		Judge Ortley, MLEA
27	Defensive Tactics	20		Ravalli County Sheriff's Office
28	Firearms	16		Ravalli County Sheriff's Office
29	Fatigue to Fulfillment	4		Dave Garcia, DOC
30	FINAL EXAM	2		
31	TOTAL	120		
32				
33	PRE-ACADEMY ON-LINE INSTRUCTION	HOURS		
34	Orientation	2		
35	Ethics	2		
36	Constitutional Law	2		
37	Sexual Harassment	2		
38	PREA	2		
39	Montana Code Annotated	2		
40	Risk Management	2		
41	Domestic Violence	2		
42	Human Trafficking	2		
43	Drug Endangered Children	2		
44	TOTAL	20		
45				
46	TOTAL COURSE HOURS	140		

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 23.13.102, 23.13.702, and) PROPOSED AMENDMENT
23.13.703 pertaining to the)
certification of public safety officers)

TO: All Concerned Persons

1. On August 14, 2019, at 10:00 a.m., the Public Safety Officers Standards and Training (POST) Council will hold a public hearing in Room 1 of the Administration Building of the Montana Law Enforcement Academy, 2260 Sierra Road East, at Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The POST Council will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the POST Council no later than 4:00 p.m. on July 24, 2019, to advise us of the nature of the accommodation that you need. Please contact Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

23.13.102 DEFINITIONS As used in this chapter, the following definitions apply:

(1) through (5) remain the same.

(6) "Director" or "executive director" means the ~~executive director~~ bureau chief of the public safety officer standards and training ~~council~~ bureau.

(7) through (26) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: The amendments to this rule are necessary due to the passage of HB 684 during the 2019 Legislative Session, creating a Public Safety Officer Standards and Training Bureau under the Department of Justice and providing for a "bureau chief" rather than an "executive director." HB 684 contains a sunset date which would revert the Bureau to the Council on June 30, 2021, unless the Legislature creates a permanent Public Safety Officer Standards and Training Bureau.

23.13.702 GROUNDS FOR DENIAL, SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION (1) remains the same.

MAR Notice No. 23-13-257

(2) The public safety officer's employing authority must report to the executive director the existence of any potential ground for denial, sanction, suspension, or revocation of POST certification as enumerated in (3).

(2) through (2)(d) remain the same, but are renumbered (3) through (3)(d).

(e) conviction of a misdemeanor or felony, or an offense which would be a misdemeanor or felony if committed in this state;

(f) remains the same, but is renumbered (3)(f).

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

(h) remains the same.

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

(j) and (k) remain the same.

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

(2)(m) through (3) remain the same but are renumbered (3)(l) through (4).

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These amendments are necessary to clarify that an employing authority must report violations to the Council and to limit the potential grounds for denial, sanction, suspension, or revocation of POST certification to those grounds involving ethical misconduct. Employing authorities and public safety officers have expressed concerns that the grounds are vague and overbroad, for example because they would include an officer failing to refuel a vehicle at the end of a shift. These amendments are needed to clarify that only certain violations fall under the scope of the rules and to ensure consistency with the public safety officers' Code of Ethics set forth in Administrative Rule 23.13.203.

23.13.703 PROCEDURE FOR MAKING AND RECEIVING ALLEGATIONS OF OFFICER MISCONDUCT AND FOR INFORMAL RESOLUTION OF THOSE ALLEGATIONS BY THE DIRECTOR (1) through (3) remain the same.

(4) Within 30 days of being notified of the allegation, or in making its own allegation of misconduct, the employing authority must give POST a notice of the employing authority's investigation, action, ruling, finding, or response to the allegation, in writing, which must include a description of any remedial or disciplinary action pending or already taken against the officer regarding the allegation in question, and a recommendation from the employing authority regarding whether POST should impose a sanction. If the employing authority recommends POST impose a sanction, the employing authority must state what sanction the employing

MAR Notice No. 23-13-257

authority deems reasonable. POST shall consider but is not bound by the recommendation of the employing authority. If available, a copy of the initial allegation made to the employing authority and the employing authority's written response must be forwarded to the director. The employing authority may make a written request to the director for additional time to respond. Such a request must provide good cause as to the reason more time is required. The director may grant or deny requests for additional time at his discretion.

(5) through (5)(b)(iii) remain the same.

(iv) ~~the remedy sought, including a recommendation for a denial, sanction, suspension, or revocation of the officer's POST certification;~~

(5)(c) through (11) remain the same.

AUTH: 2-4-201, 2-15-2029, MCA

IMP: 2-4-201, 2-15-2029, 44-4-403, MCA

REASON: These rules clarify that the employing authority may make a recommendation to POST regarding whether the authority believes a sanction is appropriate. This change also provides for a complainant to make recommendations other than sanction of certification. Employing authorities have indicated that they do not make recommendations regarding sanctions because they do not believe POST would consider such recommendations; these amendments are needed to make clear that POST will in fact consider recommendations. The amendments are also necessary to allow complainants to recommend something other than a sanction, such as an apology or an investigation.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Katrina Bolger, POST Council, 2260 Sierra Road, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov, and must be received no later than 5:00 p.m., September 20, 2019.

5. Kristina Neal, Attorney at Law, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

Hannah Tokerud
Rule Reviewer

Sheriff Tony Harbaugh
Chairman
Public Safety Officers Standards
and Training Council

By: _____
Perry Johnson
Executive Director

Certified to the Secretary of State June 25, 2019.

23.13.206 REQUIREMENTS FOR THE BASIC CERTIFICATE (1) POST will issue basic certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation and parole officer;
- (d) misdemeanor probation/pretrial services officer;
- ~~(d)~~ (e) public safety communications officer;
- ~~(e)~~ (f) coroner; and
- ~~(f)~~ (g) reserve officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the following are required for the award of the basic certificate:

- (a) Public safety officers hired after August 1, 2008, must have completed:
 - (i) the probationary period prescribed by law or by the current employing agency, but in any case have a minimum of one year discipline-specific employment experience with the current employing agency; and
 - (ii) the basic course or the equivalency as defined by the council.
- (b) Public safety officers hired before August 1, 2008, must have:
 - (i) completed the probationary period prescribed by the employing agency, and served a minimum of one year with the present employing agency;
 - (ii) completed the basic course at the MLEA, or an equivalency as defined by the council; and
 - (iii) satisfied the requirements for the basic certificate by their experience, and satisfactorily performed their duties as attested to by the head of the agency for which they are employed.
- (c) Public safety officers with out-of-state training or who have been formerly employed by a designated federal agency, state, tribal entity, county, municipality, city, or town who do not have basic certification and are employed by a Montana law enforcement and/or public safety agency:
 - (i) must have completed the probationary period prescribed by law, but in any case have a minimum of one year experience with the present employing agency;
 - (ii) whose training or service time is determined by the council as equivalent to the basic course must successfully complete an equivalency program, approved by the council and administered by the MLEA. The council will require those who fail an equivalency program to successfully complete the basic course at the academy; and
 - (iii) whose training or service time is determined by the council as not equivalent to the basic course must, within one year of initial appointment, successfully complete the basic course.
- (d) All of the training and equivalency requirements for the basic certificate must be accomplished within one year of the initial appointment.
- (e) The council may grant a one-time extension to the one year time requirement for public safety officers upon the written application of the officer's appointing authority. The application must explain the circumstances that make the extension necessary. The council may not grant an extension to exceed 180 days. Factors that the council may consider in granting or denying the extension include but are not limited to:

- (i) illness of the public safety officer or a member of the public safety officer's immediate family;
 - (ii) absence of reasonable access to the basic course, or the legal training course; and/or
 - (iii) an unreasonable shortage of personnel within the department.
- (f) A public safety officer who has been issued a basic certificate by the council and whose last date of employment as a public safety officer in the discipline for which the officer received a basic certificate was less than 36 months prior to the date of the person's present appointment as a public safety officer in the discipline for which the officer received a basic certificate is not required to fulfill the basic educational requirements as set forth in these rules.
- (g) If the last date of employment as a public safety officer in the discipline for which the officer received a basic certificate is more than 36 months but less than 60 months prior to the date of present employment as a public safety officer in the discipline for which the officer received a basic certificate, the public safety officer may satisfy the basic requirement by successfully passing a basic equivalency course administered by the academy. If the public safety officer fails the basic equivalency course, the basic course shall be completed within the time frames set forth in the rules. If no basic equivalency course exists for the public safety officer's specific discipline, then the applicable basic course must be completed within one year of the public safety officer's most recent appointment.

(3) An officer meeting the qualifications outlined above will be issued a basic POST certificate. Effective [the effective date of this rule], the discipline of the basic POST certificate will correspond to the basic training course which the officer attended. POST will consider the completion of the above requirements to constitute the officer's application for a POST basic certificate. However, if an officer wishes to fill out an application form, then POST will also consider that application.

23.13.207 REQUIREMENTS FOR THE PUBLIC SAFETY OFFICER INTERMEDIATE CERTIFICATE (1) POST will issue intermediate certificates in the following disciplines:

- (a) peace officer;
 - (b) detention/corrections officer;
 - (c) probation and parole officer; ~~and~~
 - (d) misdemeanor probation/pretrial services officer; and
 - ~~(d)~~ (e) public safety communications officer.
- (2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or probation and parole officer who is an applicant for an award of the intermediate certificate:
- (a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;
 - (b) must possess the discipline-specific basic certificate; and
 - (c) must have four years of discipline-specific experience and 200 combined job-related training hours as provided in these rules.
- (3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer or a misdemeanor probation/pretrial services officer who is an applicant for an award of the intermediate certificate:

(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;

(b) must possess the discipline-specific basic certificate; and

(c) must have four years of discipline-specific experience and 144 combined job-related training hours as provided in these rules.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communication officer who is an applicant for an award of the intermediate certificate:

(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;

(b) must possess the discipline-specific basic certificate; and

(c) must have four years of discipline-specific experience and 84 combined job-related training hours as provided in these rules.

(5) Officers who believe they are eligible for an intermediate certificate must submit a completed application, with a verification from the agency administrator that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will review the application and approve or deny the certification, unless the director determines as a matter of discretion that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director, the certificate becomes valid unless the council takes further action.

(6) A misdemeanor probation/pretrial services officer who was issued a probation and parole basic certificate prior to [effective date of this rule] will have met the requirement contained in (3)(b) of this rule.

23.13.208 REQUIREMENTS FOR PUBLIC SAFETY OFFICER ADVANCED CERTIFICATE (1)

POST will issue advanced certificates in the following disciplines:

(a) peace officer;

(b) detention/corrections officer;

(c) probation and parole officer; ~~and~~

(d) misdemeanor probation/pretrial services officer; and

~~(e)~~ (e) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or probation and parole officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have eight years of discipline-specific experience and 400 combined job-related training hours as provided in these rules.

(3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer or a misdemeanor probation/pretrial services officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have eight years of discipline-specific experience and 304 combined job-related training hours as provided in these rules.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communications officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have eight years of discipline-specific experience and 184 combined job-related training hours as provided in these rules.

(5) Officers who believe they are eligible for an advanced certificate must submit a completed application, with a verification from the agency administrator that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

(6) A misdemeanor probation/pretrial services officer who was issued a probation and parole intermediate certificate prior to [effective date of this rule] will have met the requirement contained in (3)(a) of this rule.

23.13.209 REQUIREMENTS FOR PUBLIC SAFETY OFFICER SUPERVISORY CERTIFICATE (1)

POST will issue supervisory certificates in the following disciplines:

(a) peace officer;

(b) detention/corrections officer;

(c) probation and parole officer; ~~and~~

(d) misdemeanor probation/pretrial services officer; and

~~(d)~~ (e) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the supervisory certificate:

(a) must possess the discipline-specific intermediate certificate;

(b) must have successfully completed a 32-hour POST-approved management course; and

(c) must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency.

(3) A first-level supervisor is a position above the operational level for which commensurate pay is authorized, is occupied by an officer who, in the upward chain of command, principally is responsible for the direct supervision of employees of an agency or is subject to assignment of such responsibilities.

(4) Officers who believe they are eligible for a supervisory certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

(5) A misdemeanor probation/pretrial services officer who was issued a probation and parole intermediate certificate prior to [effective date of this rule] will have met the requirement contained in (2)(a) of this rule.

23.13.210 REQUIREMENTS FOR PUBLIC SAFETY OFFICER COMMAND CERTIFICATE (1)

POST will issue command certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation and parole officer; ~~and~~
- (d) misdemeanor probation/pretrial services officer; and
- ~~(d)~~ (e) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the command certificate:

- (a) must possess the discipline-specific supervisory certificate;
- (b) must have completed a professional development course or courses cumulating a minimum of 160 hours or more of POST-approved, supervisory, management or leadership topic matter; and
- (c) must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency.

(3) Officers who believe they are eligible for a command certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

(4) A misdemeanor probation/pretrial services officer who was issued a probation and parole supervisory certificate prior to [effective date of this rule] will have met the requirement contained in (2)(a) of this rule.

23.13.212 INSTRUCTOR CERTIFICATION REQUIREMENTS (1) Instructor certificates are not discipline-specific and POST may issue an instructor certificate to any public safety officer who meets the qualifications in these rules.

(2) A public safety officer providing POST approved training as defined in these rules must be certified by the council as an instructor.

(3) To qualify as an instructor, the officer shall apply to the council, on a form approved by the council, and shall meet the following requirements:

- (a) two years of public safety experience;

(b) an active POST basic certificate in the officer's current discipline;
(c) an endorsement from the applicant's agency head; and
(d) successful completion of a POST-approved instructor development course. Effective October 28, 2017, all instructor development courses must be a minimum of 40 hours in length and must include a minimum of the following:

- (i) 12 hours of curriculum design;
- (ii) 8 hours of adult learning theories;
- (iii) 8 hours of foundation skills for trainers;
- (iv) 8 hours of training preparation and delivery; and
- (v) 4 hours of context of training.

(4) Instructor certificates in any discipline issued prior to October 28, 2017 and any instructor certificate issued after October 28, 2017, may be renewed every four years.

(5) The council or the director may deny applications for instructor certification for failure to satisfy the required qualifications. The council or the director may recall, suspend, or revoke instructor certificates at any time for good cause to ensure the quality of the training programs.

(6) Officers who believe they are eligible for any instructor certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

(4) A misdemeanor probation/pretrial services officer who was issued a probation and parole basic certificate prior to [effective date of this rule] will have met the requirement contained in (3)(b) of this rule.

23.13.215 FIREARMS PROFICIENCY STANDARDS (1) Each agency that employs a public safety officer who is authorized to carry firearms during the work assignment must:

(a) require the officer to complete successfully the firearms proficiency requirements provided in this rule at least once a year, for any manufacture and model of firearm customarily carried by that officer;

(b) designate a POST-certified instructor as defined in these rules to conduct or oversee and document annual firearms proficiency. The instructor must also have attended a minimum 40-hour firearms instructor course or its equivalent, which includes the following topics:

- (i) firearms safety;
- (ii) role of the instructor;
- (iii) civil and criminal liability exposure;
- (iv) instructional techniques for firearms instructors;
- (v) operation of the firing line;
- (vi) range preparation;
- (vii) handgun;
- (viii) disabled officer techniques; and

- (ix) low light shooting techniques.
- (c) keep on file in a format readily accessible to the council a copy of all firearms proficiency records, which must include:
 - (i) date of qualification;
 - (ii) identification of the officer;
 - (iii) firearm manufacture and model;
 - (iv) results of qualifying; and
 - (v) course of fire used.
- (2) The minimum standards for annual firearms proficiency are:
 - (a) Handgun – a minimum of 30 rounds, fired at ranges from point-blank to 15 yards with a minimum of 15 rounds at or beyond seven yards;
 - (b) Shotgun – minimum of five rounds fired at a distance ranging from point-blank to 25 yards;
 - (c) Precision rifle – a minimum of ten rounds fired at a minimum range of 100 yards;
 - (d) Patrol rifle – a minimum of 20 rounds fired at a distance ranging from point-blank to 50 yards;
 - (e) Fully automatic weapon – a minimum of 30 rounds fired at a distance ranging from point-blank to ten yards, with a minimum of 25 rounds fired in full automatic (short bursts of two or three rounds), and a minimum of five rounds fired semi-automatic.
- (3) The minimum passing score for annual firearms proficiency is 80% for each firearm on an IPSC Official Target or dimensional equivalent.
- (4) The MLEA sets the passing score for the Montana Law Enforcement Basic Firearms Qualification.
- (5) Any misdemeanor probation/pretrial services officer must meet the standards of this rule and receive a minimum of a 40-hour POST approved firearms course prior to carrying a firearm during the officer's work assignment.

OR

- (5) Any misdemeanor probation/pretrial services officer must meet the standards of this rule and attend the 120-hour POST approved Advanced Misdemeanor Probation/Pretrial Services course prior to carrying a firearm or making any arrests during the officer's work assignment.

23.13.206 REQUIREMENTS FOR THE BASIC CERTIFICATE (1) POST will issue basic certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation/~~pretrial services and parole~~ officer;
- (d) public safety communications officer;
- (e) coroner; and
- (f) reserve officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the following are required for the award of the basic certificate:

- (a) Public safety officers hired after August 1, 2008, must have completed:
 - (i) the probationary period prescribed by law or by the current employing agency, but in any case have a minimum of one year discipline-specific employment experience with the current employing agency; and
 - (ii) the basic course or the equivalency as defined by the council.
- (b) Public safety officers hired before August 1, 2008, must have:
 - (i) completed the probationary period prescribed by the employing agency, and served a minimum of one year with the present employing agency;
 - (ii) completed the basic course at the MLEA, or an equivalency as defined by the council; and
 - (iii) satisfied the requirements for the basic certificate by their experience, and satisfactorily performed their duties as attested to by the head of the agency for which they are employed.
- (c) Public safety officers with out-of-state training or who have been formerly employed by a designated federal agency, state, tribal entity, county, municipality, city, or town who do not have basic certification and are employed by a Montana law enforcement and/or public safety agency:
 - (i) must have completed the probationary period prescribed by law, but in any case have a minimum of one year experience with the present employing agency;
 - (ii) whose training or service time is determined by the council as equivalent to the basic course must successfully complete an equivalency program, approved by the council and administered by the MLEA. The council will require those who fail an equivalency program to successfully complete the basic course at the academy; and
 - (iii) whose training or service time is determined by the council as not equivalent to the basic course must, within one year of initial appointment, successfully complete the basic course.
- (d) All of the training and equivalency requirements for the basic certificate must be accomplished within one year of the initial appointment.
- (e) The council may grant a one-time extension to the one year time requirement for public safety officers upon the written application of the officer's appointing authority. The application must explain the circumstances that make the extension necessary. The council may not grant an extension to exceed 180 days. Factors that the council may consider in granting or denying the extension include but are not limited to:

- (i) illness of the public safety officer or a member of the public safety officer's immediate family;
 - (ii) absence of reasonable access to the basic course, or the legal training course; and/or
 - (iii) an unreasonable shortage of personnel within the department.
- (f) A public safety officer who has been issued a basic certificate by the council and whose last date of employment as a public safety officer in the discipline for which the officer received a basic certificate was less than 36 months prior to the date of the person's present appointment as a public safety officer in the discipline for which the officer received a basic certificate is not required to fulfill the basic educational requirements as set forth in these rules.
- (g) If the last date of employment as a public safety officer in the discipline for which the officer received a basic certificate is more than 36 months but less than 60 months prior to the date of present employment as a public safety officer in the discipline for which the officer received a basic certificate, the public safety officer may satisfy the basic requirement by successfully passing a basic equivalency course administered by the academy. If the public safety officer fails the basic equivalency course, the basic course shall be completed within the time frames set forth in the rules. If no basic equivalency course exists for the public safety officer's specific discipline, then the applicable basic course must be completed within one year of the public safety officer's most recent appointment.
- (3) An officer meeting the qualifications outlined above will be issued a basic POST certificate. POST will consider the completion of the above requirements to constitute the officer's application for a POST basic certificate. However, if an officer wishes to fill out an application form, then POST will also consider that application.

23.13.207 REQUIREMENTS FOR THE PUBLIC SAFETY OFFICER INTERMEDIATE CERTIFICATE (1) POST will issue intermediate certificates in the following disciplines:

- (a) peace officer;
 - (b) detention/corrections officer;
 - (c) probation/~~pretrial services and parole~~ officer; and
 - (d) public safety communications officer.
- (2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or probation/~~pretrial services and parole~~ officer who is an applicant for an award of the intermediate certificate:
- (a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;
 - (b) must possess the discipline-specific basic certificate; and
 - (c) must have four years of discipline-specific experience and 200 combined job-related training hours as provided in these rules.
- (3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer who is an applicant for an award of the intermediate certificate:
- (a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;
 - (b) must possess the discipline-specific basic certificate; and

(c) must have four years of discipline-specific experience and 144 combined job-related training hours as provided in these rules.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communication officer who is an applicant for an award of the intermediate certificate:

(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;

(b) must possess the discipline-specific basic certificate; and

(c) must have four years of discipline-specific experience and 84 combined job-related training hours as provided in these rules.

(5) Officers who believe they are eligible for an intermediate certificate must submit a completed application, with a verification from the agency administrator that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will review the application and approve or deny the certification, unless the director determines as a matter of discretion that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director, the certificate becomes valid unless the council takes further action.

23.13.208 REQUIREMENTS FOR PUBLIC SAFETY OFFICER ADVANCED CERTIFICATE (1)

POST will issue advanced certificates in the following disciplines:

(a) peace officer;

(b) detention/corrections officer;

(c) probation/pretrial services and ~~parole~~ officer; and

(d) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or probation/pretrial services and ~~parole~~ officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have eight years of discipline-specific experience and 400 combined job-related training hours as provided in these rules.

(3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have eight years of discipline-specific experience and 304 combined job-related training hours as provided in these rules.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communications officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have eight years of discipline-specific experience and 184 combined job-related training hours as provided in these rules.

(5) Officers who believe they are eligible for an advanced certificate must submit a completed application, with a verification from the agency administrator that the officer's

training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

23.13.209 REQUIREMENTS FOR PUBLIC SAFETY OFFICER SUPERVISORY CERTIFICATE (1)

POST will issue supervisory certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation/~~pretrial services and parole~~ officer; and
- (d) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the supervisory certificate:

- (a) must possess the discipline-specific intermediate certificate;
- (b) must have successfully completed a 32-hour POST-approved management course;

and

(c) must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency.

(3) A first-level supervisor is a position above the operational level for which commensurate pay is authorized, is occupied by an officer who, in the upward chain of command, principally is responsible for the direct supervision of employees of an agency or is subject to assignment of such responsibilities.

(4) Officers who believe they are eligible for a supervisory certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

23.13.210 REQUIREMENTS FOR PUBLIC SAFETY OFFICER COMMAND CERTIFICATE (1)

POST will issue command certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation/~~pretrial services and parole~~ officer; and
- (d) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the command certificate:

- (a) must possess the discipline-specific supervisory certificate;

(b) must have completed a professional development course or courses cumulating a minimum of 160 hours or more of POST-approved, supervisory, management or leadership topic matter; and

(c) must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency.

(3) Officers who believe they are eligible for a command certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

23.13.215 FIREARMS PROFICIENCY STANDARDS (1) Each agency that employs a public safety officer who is authorized to carry firearms during the work assignment must:

(a) require the officer to complete successfully the firearms proficiency requirements provided in this rule at least once a year, for any manufacture and model of firearm customarily carried by that officer;

(b) designate a POST-certified instructor as defined in these rules to conduct or oversee and document annual firearms proficiency. The instructor must also have attended a minimum 40-hour firearms instructor course or its equivalent, which includes the following topics:

- (i) firearms safety;
- (ii) role of the instructor;
- (iii) civil and criminal liability exposure;
- (iv) instructional techniques for firearms instructors;
- (v) operation of the firing line;
- (vi) range preparation;
- (vii) handgun;
- (viii) disabled officer techniques; and
- (ix) low light shooting techniques.

(c) keep on file in a format readily accessible to the council a copy of all firearms proficiency records, which must include:

- (i) date of qualification;
- (ii) identification of the officer;
- (iii) firearm manufacture and model;
- (iv) results of qualifying; and
- (v) course of fire used.

(2) The minimum standards for annual firearms proficiency are:

(a) Handgun – a minimum of 30 rounds, fired at ranges from point-blank to 15 yards with a minimum of 15 rounds at or beyond seven yards;

(b) Shotgun – minimum of five rounds fired at a distance ranging from point-blank to 25 yards;

(c) Precision rifle – a minimum of ten rounds fired at a minimum range of 100 yards;

(d) Patrol rifle – a minimum of 20 rounds fired at a distance ranging from point-blank to 50 yards;

(e) Fully automatic weapon – a minimum of 30 rounds fired at a distance ranging from point-blank to ten yards, with a minimum of 25 rounds fired in full automatic (short bursts of two or three rounds), and a minimum of five rounds fired semi-automatic.

(3) The minimum passing score for annual firearms proficiency is 80% for each firearm on an IPSC Official Target or dimensional equivalent.

(4) The MLEA sets the passing score for the Montana Law Enforcement Basic Firearms Qualification.

(5) Any probation/pretrial services officer who is employed by a private entity contracting with a local government must meet the standards of this rule and receive a minimum of a 40-hour POST approved firearms course prior to carrying a firearm during the officer's work assignment.

DRAFT

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

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

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

(3) Every public safety communications officer, as a part of the training required in (2)(k), must complete every two calendar years, a telephone cardio-pulmonary resuscitation (TCPR) course covering the following topics:

- (i)
- (ii)
- (iii)

(4)(3) The POST Council is not responsible for maintaining records of continuing education hours acquired to satisfy the requirements of (2)(j), ~~and (2)(k)~~, and (3). The employing agency must maintain records of the administration of the oath and the continuing

education hours acquired to satisfy (2)(j) and (2)(k). Agency records maintained under this rule are subject to audit by the executive director during normal business hours upon reasonable notice to the agency.

Keune, Mary Ann

From: Johnson, Perry
Sent: Friday, June 28, 2019 6:30 AM
To: Faulkner, Brent
Cc: Keune, Mary Ann
Subject: RE: Post credit

Deputy Faulkner,

Good morning and thank you for your eloquent appeal regarding this issue.

I will provide your request for waiver of the policy as an agenda item to the POST Council during the next meeting, October 2nd for their consideration. The policy that Mary Ann advised you of is theirs, and any departure from the policy should belong to them.

Please let me know if you have any questions or if we can be of any assistance to you.

Thanks and have a great day!

***Perry Johnson, Executive Director
Montana Public Safety Officer Standards and Training Council
2260 Sierra Road East
Helena, Montana 59602
(406) 444-9976 Desk
(406) 444-9978 Fax
(406) 475-5524 Cell***



From: Faulkner, Brent <bpfaulkner@lcso.mt.gov>
Sent: Friday, June 28, 2019 1:59 AM
To: Johnson, Perry <PJohnson@mt.gov>
Subject: Post credit

Director Johnson,

A bit over three years ago, I stepped down as undersheriff after about five interesting years in that position. I'm now back in patrol and finally enjoying my career again. Feel ten years younger. I'll hopefully running a canine soon.

On to the subject. I did not know that there was a one year time limit on submissions for POST credit. I surveyed colleagues and found it was not widely known here at our agency. The more time in service we have (1991 for me) the less chance they knew of this policy.

On your desk you'll see that I attended a Desert Snow training taken back in June of 2018. It was out of state so I had to submit for credit myself... but I can procrastinate at times. Both the sheriff and I signed the form just prior to a year, but I submitted the form via email a few weeks long of a year.

After Mary Ann called a foul, I begged and groveled... it was not pretty I'm sure.

Mary Ann said it will go to your desk for consideration. I would appreciate a favorable decision, as that was a great course and well worth the time and expense. It does not belong on a simple in-service training record. POST credit is a far better fit.

I have just sent a warning email to all of the sworn deputies advising against procrastinating.

Thanks in advance, hope all is well at POST.

Brent

*Deputy Brent Faulkner
Lincoln County Sheriff's Office
512 California Avenue
Libby, MT 59923
(406) 293-4112 ext.229*



SHERIFF'S OFFICE

FLATHEAD COUNTY

BRIAN HEINO - SHERIFF / CORONER

920 SOUTH MAIN STREET, STE 100, KALISPELL MONTANA

PHONE: 406-758-5585 FAX: 406-758-2420

Undersheriff Wayne Dubois
Flathead County Sheriff's Office
920 S Main St. 100
Kalispell, Montana 59901

RECEIVED

JUL 12 2019

MT POST Council

Montana Public Safety Officer Standards and Training Council
2260 Sierra Road East
Helena, Montana 59602

Members of the Council:

This letter is intended to request a waiver of the rules for a specific training two of our deputies recently attended.

During the dates of June 17th-27th, our office hosted an 80 hour "Narcotic Detection K9 Training" course which was taught by MAKOR K9 out of Napa, California. This course was available to any K9 handler which operates a dog serviced by MAKOR. Currently, there are three K9's in the state which are serviced by MAKOR. Two of these are ours and one is out of Mineral County. The handler from Mineral County was invited to and attended several days of instruction including renewal of his certification. Both Deputies Vander Ark and Pesola represented our office, certified and completed this course.

Due to the nature of this training, only handlers whom train and service their canines with MAKOR are eligible to participate in this certification. As the number of handlers eligible was only three, and all three handlers participated, the course was not advertised to "all public agencies" as required by POST rules.

Please consider granting Deputies Pesola and Vander Ark 80 POST credit hours for this course after reviewing and considering the unique circumstances of this training.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wayne Dubois', with a stylized flourish at the end.

Undersheriff Wayne Dubois

**MAKOR K9 NARCOTIC DETECTION
CANINE COURSE SYLLABUS**

MODULE 1

I. Introduction

- A. Demo of Your Trained Dog
- B. Introduction of Dogs to Handlers
- C. Commands used:
 - Search for Narcotics

MODULE 2

II. Scent Theory

- Scent Recognition
 - B. Detection Science Basics
 - C. Scent Pools and Scent Cones
 - D. How the dog Processes Odor
 - E. Reading the dog

MODULE 3

III. Training, Practical Deployment, & Obedience to Odor

- A. Vehicles
- B. Random Searches at Checkpoints
- C. Rooms & Buildings
- D. Warehouses (Scans)
- E. Boxes, parcels and luggage
- F. Scenario – Based Exercises
- G. Maintenance Training Issues
- H. Problem Solving

MODULE 4

IV. Maintaining Training Aids & Training Records

- A. Contamination Issues
- B. Sterilization procedures
- C. Preparation of Training Aids
- D. Training Records
- V. Training Theory
 - A. The imprinting
 - B. Developing the Search
 - C. Removing visual cues
 - D. Adding Distractions
 - E. The Alert-Time Continuum/Behavior Change
 - G. The Indication-Pay the Hunt.
 - H. Scans, Directed Searches, Free Searches
 - I. Courtroom Testimony designed to help in the handling and usage of a Detection Dog. You and your K9 can expect to learn how to effectively search various venues, set up training situations, set up a maintenance training schedule, record keeping, and most importantly, prepare for Court

RESUME

MARK RISPOLI

**Professional K9 Trainer
Attorney and Counselor at Law
CA State Bar # 92302
Professional Law Enforcement K-9 Trainer**

**3078 Encanto Drive
Napa, CA 94559 USA
707.252.4600
707.252.1300 Facsimile**

Professional History: A varied background in law enforcement public safety, the judicial system and as a *professional canine scent discrimination trainer and handler*.

*** Attorney and Counselor at Law (1980 to Present)**

I have been member of the California Bar since 1980. From 1980 to 1990 I maintained a private practice which was focused on civil litigation and family law. From 1990 into 1991, I was a Deputy District Attorney in Monterey, County, California. My practice is generally focused in the area of the 4th Amendment and how it impacts canine detection searches and police patrol dog civil liability. I instruct on canine detection and ancillary disciplines on local, state, national and international levels. I am **legal counsel** for the **California Narcotic Canine Association** and the **Scientific Working Group on Dog and Orthogonal Detector Guidelines** (SWGDOG*Sponsored by the FBI/DOJ/NIJ). Member of the **US Department of Commerce Organization of Scientific Area Committees for Forensic Science/National Institute for Standards and Technology/Dogs & Sensors**.

*** Canine Scent Discrimination Training (1980 to Present)**

Initial training and experience was in the field of Search and Rescue canine training. In 1984 attended the West German Customs Advanced Narcotic Detection Instructors Course. Since that time I have trained and/or participated in the training of over several hundred detection dogs. Since 1991 I have dedicated on a full-time basis, the training of narcotic, explosive, accelerant, and dual purpose police canines. I am the sole owner of MAKOR K-9 and of MAKOR DETECTION DOGS. MAKOR is registered with DEA and properly certified to possess narcotics and other contraband substances. I have extensive knowledge in the instruction of canine scent discrimination training, on local, state, national and international arenas. I am also a canine trainer and consultant for Scientific Application International Corporation. I am founding partner of Battle Born K9. www.battlebornk9.com. I am a certified canine trainer and instructor for the World Customs Organization.

*** Law Enforcement and Public Safety(1972-1998)**

Collectively, I have over twenty-five years experience in the area of law enforcement. I have been employed by the Phoenix Arizona Police Department from 1972-1974 and the Tempe, Arizona Police Department from 1974 until 1977. I was employed by the Salinas Police Department, California from 1980 until 1990, having spent my last three years assigned to the narcotics unit as the asset forfeiture officer and narcotic detection canine handler. I was a reserve officer with the City of Bell California from 1990 through 1998.

EDUCATION: Graduate of Law School and hold a Bachelor of Arts degree in Public Administration

Golden Gate Law School, San Francisco, California
1987-1989, Advanced Studies LLM Taxation Program
Western State University College of Law, Fullerton California
1977-1979-Juris Doctorate
St. Mary's College, Moraga, California
1975-1977-BA Public Management

SPECIAL SKILLS & QUALIFICATIONS:

Resulting from the business relationships developed over the years. I have in place, some the most qualified detection and scent discrimination, patrol and dual purpose canine trainers in the world. Because of MAKOR'S high standard of excellence, the renowned success of our service dogs is without equal, both in the United States and in the global service canine community. A *major portion* of our business is dedicated to research and development of new applications of canine scent discrimination training. We are the leader in developing the pairing of the excellent scent detection and discrimination of the canine with scientific technology to achieve a synergistic effect, superior to either one, independently. MAKOR detection dogs, drug, bomb, endangered species, pipeline leak or other specialized tasked are excellent in performance and accuracy.

My diverse background of work experience and education has resulted in the perfect blend of knowledge required to instruct and train new and experienced handlers in varied disciplines of canine training. The importance of understanding the legal aspects of police patrol/detection law can not be disregarded. As a licensed Attorney at Law, and former prosecutor, with current emphasis in the area of the legal aspects of canine patrol and detection law, I am able to provide the most substantive and relevant case law and canine policy and procedure, that ultimately impacts on how and when a police canine should be deployed in order maximize successful use and minimize civil and vicarious liability. I have participated as a consultant numerous times to various law enforcement agencies, related to narcotic detection canine case law.

MAKOR K9 is a designated Department of Homeland Security and has formerly been under contract with the FBI for K9 related research.

MARK is also on the National Institute of Science Technology (NIST) Organization of *Scientific Area Committees* for Forensic Science re Detection Dogs.

PROFESSIONAL ORGANIZATIONS:

SWGDOG: Legal Counsel/FBI Working Dog Standards Group.www.swg.dog.com
US Department of Commerce Organization of Scientific Area Committees for Forensic Science/National Institute for Standards and Technology/Dogs & Sensors Member
Fire K9.org Instructor and Certifying Official
California Narcotic Canine Association (Legal Counsel and Charter Member & Certifying Official)
World Customs Organization K9 Trainer & Instructor
California Bar Association
California Police Games (Judge)
California-Swiss Search Dog Association (President 1985-2002)
Western States Police Search Dog Association (Judge)
North American Working Police Dog Association

Diploma of Merit and Honor

presented by the General Directorate of Customs of the Czech Customs Administration
and the WCO Regional Canine Training Centre in Heřmanice



Mark Rispoli

MAKOR K9

Napa, California



Certified World Customs Organization K9 Trainer and Instructor

Milan Poulíček

Czech Customs Administration

Director General

Kunio Mikuriya

WCO Secretary General

Josef Dušánek

Head of WCO Regional Canine

Training Centre



Czech Republic, Prague 22 March 2018



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

dojmt.gov/post

Phone: (406) 444-9975

Fax: (406) 444-9978

APPLICATION FOR POST CREDIT HOURS FOR A TRAINING

ARM 23.13.301 & 23.13.302

Instructions: This form is to be completed and submitted by the individual or agency offering training. This form and a POST roster are the only documents the individual or agency needs to submit to POST. This form and the POST roster must be submitted within one year of the training.

Course Information:

Course Name: Makor K9 Narcotic Detection K9 Training

Course Dates: 06/17/19 - 06/27/19

Course Location: Kalispell

Number of Course Hours: 80

Requirements:

Please note the requirements for POST credit are:

1) if the course is taught by a Montana public safety officer, the officer must be a certified instructor. If the course is not taught by a Montana public safety officer, you must retain the instructor biography.

- Is the instructor/s a Montana public safety officer? Yes No

- If the instructor/s is a Montana public safety officer, does the instructor/s have a POST instructor certificate? Yes No

- If the instructor/s is not a Montana public safety officer, do you have a copy of the instructor's biography/ies? Yes No

2) you must complete this application and retain all required materials. Do NOT submit the materials to POST with this application.

Do you have the following materials:

- course outline, lesson plan, or agenda? Yes No

- study guide or course syllabus? Yes No

- student materials & handouts? Yes No

3) the course must be a minimum of two hours in length

Is the course at least 2 hours in length? Yes No

4) the course must be open and advertised to ALL public safety agencies

Is the course open and advertised to ALL public safety agencies? Yes No

Do you have a copy of the course advertisement? Yes No

If the course does not meet these requirements, it will not receive POST credit. The documents which you are required to retain may be audited by POST on a random basis.

Sponsoring Agency Information:

Agency Name: Flathead County Sheriff's Office Agency E-mail: mvanderark@flathead.mt.gov
 Mailing Address: 920 S Main Street
 City: Kalispell State: Montana Zip: 59901
 Contact Name(s): Matthew Vander Ark
 Contact Phone: 406-871-0615 Contact E-mail: mvanderark@flathead.mt.gov

Instructor Information:

Instructor Name(s): Mark Rispoli
 (if available) Phone: _____ E-mail: mark@makork9.com

POST Bulletin Board Information:

(All courses which are granted POST Credit Hours will be posted on POST's Bulletin Board webpage.)

If the training has a link that you wish to have posted, please provide it here:

 Please provide the contact person/information you wish to have posted for registration and other questions:

Matthew Vander Ark 406-871-0615

Name Contact Information

BEFORE YOU CERTIFY THIS DOCUMENT: There are additional requirements for special courses as follows:

Instructor Development ARM 23.13.212	Firearms Instructor ARM 23.13.215	SWAT Primary ARM 23.13.217
<ul style="list-style-type: none"> o Minimum 40 Hours o 12 Hours of Curriculum Design o 8 Hours of Adult Learning o 8 Hours of Foundation Skills for Trainers o 8 Hours of Training Prep and Delivery o 4 Hours of Context of training 	<ul style="list-style-type: none"> o Minimum 40 Hours o Firearms Safety o Role of Instructor o Civil & Criminal Liability Exposure o Instructional Techniques o Operation of Firing Line o Range Preparation o Handgun o Disabled Officer Techniques o Low Light Shooting Techniques 	<ul style="list-style-type: none"> o Minimum 40 Hours o Team Communication, Team Make-up o Confrontation Management o Weapons, Munitions, and Equipment o Team Movement and Interior Tactics o Open Air/Mobile Assault, Downed Officer Citizen Rescue, Chemical Agents/Diversionsary Device/Less Lethal, Practical Exercises, and Legal Issues

Ensure any of the above courses meet these requirements!

Certification:

My signature certifies that all required documentation has been obtained and will be retained and that all of the requirements of ARM 23.13.301 have been met. I certify that this course should be granted POST Training Credit Hours.

 Printed Name Signature Date

For POST Staff Use:	
_____ Reviewed by	_____ Date



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

dojmt.gov/post

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

APPLICATION FOR POST CREDIT HOURS FOR A TRAINING

ARM 23.13.301 & 23.13.302

Instructions: This form is to be completed and submitted by the individual or agency offering training. This form and a POST roster are the only documents the individual or agency needs to submit to POST. This form and the POST roster must be submitted within one year of the training.

Course Information:

Course Name: Makor K9 Narcotic Detection K9 Training
Course Dates: 06/17/19 - 06/27/19 Course Location: Kalispell
Number of Course Hours: 80

Requirements:

Please note the requirements for POST credit are:

1) if the course is taught by a Montana public safety officer, the officer must be a certified instructor. If the course is not taught by a Montana public safety officer, you must retain the instructor biography.

- Is the instructor/s a Montana public safety officer? Yes No

- If the instructor/s is a Montana public safety officer, does the instructor/s have a POST instructor certificate? Yes No

- If the instructor/s is not a Montana public safety officer, do you have a copy of the instructor's biography/ies? Yes No

2) you must complete this application and retain all required materials. Do NOT submit the materials to POST with this application.

Do you have the following materials:

- course outline, lesson plan, or agenda? Yes No

- study guide or course syllabus? Yes No

- student materials & handouts? Yes No

3) the course must be a minimum of two hours in length

Is the course at least 2 hours in length? Yes No

4) the course must be open and advertised to ALL public safety agencies

Is the course open and advertised to ALL public safety agencies? Yes No

Do you have a copy of the course advertisement? Yes No

If the course does not meet these requirements, it will not receive POST credit. The documents which you are required to retain may be audited by POST on a random basis.

Sponsoring Agency Information:

Agency Name: Flathead County Sheriff's Office Agency E-mail: mvanderark@flathead.mt.gov
 Mailing Address: 920 S Main Street
 City: Kalispell State: Montana Zip: 59901
 Contact Name(s): Matthew Vander Ark
 Contact Phone: 406-871-0615 Contact E-mail: mvanderark@flathead.mt.gov

Instructor Information:

Instructor Name(s): Mark Rispoli
 (if available) Phone: _____ E-mail: mark@makork9.com

POST Bulletin Board Information:

(All courses which are granted POST Credit Hours will be posted on POST's Bulletin Board webpage.)

If the training has a link that you wish to have posted, please provide it here:

Please provide the contact person/information you wish to have posted for registration and other questions:

Matthew Vander Ark 406-871-0615

Name Contact Information

BEFORE YOU CERTIFY THIS DOCUMENT: There are additional requirements for special courses as follows:

Instructor Development ARM 23.13.212	Firearms Instructor ARM 23.13.215	SWAT Primary ARM 23.13.217
<ul style="list-style-type: none"> o Minimum 40 Hours o 12 Hours of Curriculum Design o 8 Hours of Adult Learning o 8 Hours of Foundation Skills for Trainers o 8 Hours of Training Prep and Delivery o 4 Hours of Context of training 	<ul style="list-style-type: none"> o Minimum 40 Hours o Firearms Safety o Role of Instructor o Civil & Criminal Liability Exposure o Instructional Techniques o Operation of Firing Line o Range Preparation o Handgun o Disabled Officer Techniques o Low Light Shooting Techniques 	<ul style="list-style-type: none"> o Minimum 40 Hours o Team Communication, Team Make-up o Confrontation Management o Weapons, Munitions, and Equipment o Team Movement and Interior Tactics o Open Air/Mobile Assault, Downed Officer Citizen Rescue, Chemical Agents/Diversionsary Device/Less Lethal, Practical Exercises, and Legal Issues

Ensure any of the above courses meet these requirements!

Certification:

My signature certifies that all required documentation has been obtained and will be retained and that all of the requirements of ARM 23.13.301 have been met. I certify that this course should be granted POST Training Credit Hours.

 Printed Name Signature Date

For POST Staff Use:	
_____ Reviewed by	_____ Date

**CERTIFICATE OF COMPLETION
MAKOR K9 TRAINING CENTER**

NAPA, CALIFORNIA

**HEREBY, CERTIFIES, ATTESTS & ENDORES
THAT**

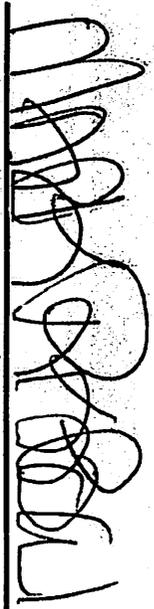
MATTHEW VANDER ARK & K9 'VICTOR'

FLATHEAD COUNTY SHERIFF'S OFFICE-KALISPELL, MONTANA

HAVE SUCCESSFULLY COMPLETED -80 - HOURS OF

NARCOTIC DETECTION K9 TRAINING

GIVEN THIS 27TH OF JUNE 2019



**MARK RISPOLI/MAKOR K9
INSTRUCTOR-TRAINER**

**CERTIFICATE OF COMPLETION
MAKOR K9 TRAINING CENTER**

NAPA, CALIFORNIA

**HEREBY, CERTIFIES, ATTESTS & ENDORES
THAT**

CHARLES PESOLA & K9 'SAWYER'

FLATHHEAD COUNTY SHERIFF'S OFFICE-KALISPELL, MONTANA

HAVE SUCCESSFULLY COMPLETED -80 - HOURS OF

NARCOTIC DETECTION K9 TRAINING

GIVEN THIS 27TH OF JUNE 2019

**MARK RISPOLI/MAKOR K9
INSTRUCTOR-TRAINER**

INVISIBLE INSTITUTE

Via: Email to ContactDOJ@MT.Gov
Attention: Office of the Attorney General
Montana Peace Office Standards and Training
215 N Sanders St.
Helena, MT 59601

8/15/2019

To Whom It May Concern,

Please accept this letter as a request, pursuant to the Montana Public Records Act § 2-6-1001 et seq., for a copy of all records detailed below. For the purposes of this request, “officer” means a sworn member of all sworn law enforcement officers in the state of Montana of any rank, and “data” means logs or spreadsheets showing individual information. I request the following:

1. Any data maintained by your agency sufficient to show all officers who have been certified by the state, dating back as far as is maintained, year-by-year, showing as much of the following information as is maintained:
 - a. First name
 - b. Middle name or initial
 - c. Last name
 - d. Badge/star number
 - e. Employee number
 - f. Date of certification
 - g. Date of decertification (if applicable)
 - h. Department
 - i. Rank
 - j. Gender
 - k. Race
 - l. Year of birth
 - m. Date of separation from department if applicable
 - n. Reason for separation (e.g., termination, resignation, retirement), if applicable
 - o. Unique identifier, certification number, badge, and/or employee number

Please email the documents or files, and any communications, to foia@invisibleinstitute.com.

This request was not made for a commercial purpose. Specifically, I am writing on behalf of the Invisible Institute, an award-winning nonprofit journalistic production company based in Chicago’s Woodlawn neighborhood. The Invisible Institute’s mission is to enhance the capacity of citizens to hold public institutions accountable, and to disseminate information to members of the general public concerning their safety, welfare, and legal rights. I am requesting these documents in order to fulfill that mission. As such, I request a fee waiver for this data. Because this goal concerns information regarding the safety, welfare, and legal rights of the public, a fee waiver is in the public interest. To the extent that you intend to assess any charges, please notify me to discuss first.

Thank you for your time and prompt attention to this matter. Please contact me should you have any questions related to this request.

Experimental Station
6100 South Blackstone Avenue
Chicago, Illinois 60637
foia@invisibleinstitute.com

Keune, Mary Ann

From: Johnson, Perry
Sent: Wednesday, September 18, 2019 3:56 PM
To: Bolger, Katrina; Keune, Mary Ann
Subject: FW: Records Request: MT Certified Officers

*Perry Johnson, Executive Director
Montana Public Safety Officer Standards and Training Council
2260 Sierra Road East
Helena, Montana 59602
(406) 444-9976 Desk
(406) 444-9978 Fax
(406) 475-5524 Cell*



From: Invisible Institute <foia@invisibleinstitute.com>
Sent: Tuesday, August 20, 2019 4:00 PM
To: Johnson, Perry <PJohnson@mt.gov>
Subject: Re: Records Request: MT Certified Officers

CAUTION: This email message may contain an unsafe attachment.

We scan email attachments for malicious software to protect your computer and the State's network. If we determine that an attachment is unsafe, then we block it and you will only see an attachment called 'Unsupported File Types Alert.txt'. If we cannot scan an attachment, then we provide this warning that the attachment may be unsafe and advise you to verify the sender before opening the attachment. If you don't see a file attached to this message, it doesn't mean that we blocked it, some email signatures contain image files that we cannot scan. Please contact your agency IT staff for more information.

Hello Mr. Johnson

I just got off the phone with your paralegal Katrina regarding this request. As a result of the phone call, I understand there is some requested information that POST cannot provide. This is: information from the database of archived officers, the star/badge number of active officers, the race of active officers, and the rank of non-administrative active officers. We understand and accept these limitations.

To clarify regarding our request: I did not realize that detention and probation officers are not considered "sworn" officers in Montana, and would like to include those to the request if possible. If they have to be provided in separate files, that is fine.

Finally, I understand that POST needs to reach out to all relevant agencies to ascertain which of their officers is currently working undercover and whose information cannot be released, and that the process. We understand and accept this timeframe.

Please let me know if I can answer any questions regarding this request or email.

Thank you

Sam Stecklow on behalf of Rebecca Boorstein
Invisible Institute

On August 19, 2019 at 4:22 PM, Johnson, Perry (PJohnson@mt.gov) wrote:

Good afternoon!

Would you please call me on the telephone to discuss your records request?

Thank you

***Perry Johnson, Executive Director
Montana Public Safety Officer Standards and Training Council
2260 Sierra Road East
Helena, Montana 59602
(406) 444-9976 Desk
(406) 444-9978 Fax
(406) 475-5524 Cell***



From: Invisible Institute <foia@invisibleinstitute.com>

Sent: Thursday, August 15, 2019 2:44 PM

To: Contact DOJ <contactdoj@mt.gov>; Johnson, Perry <PJohnson@mt.gov>

Subject: Records Request: MT Certified Officers

Please see my request attached

To: Perry Johnson, POST Bureau Chief
From: Kristina Neal, POST Legal Counsel
Re: Release of public information
Date: September 9, 2019

Pursuant to your e-mail, dated August 19, 2019, and our meeting on August 28, 2019, you requested that I prepare a memorandum addressing issues regarding disclosure of POST files. Specifically, you requested a discussion regarding the issues of 1) what Montana case law exists to establish what information should be released and 2) when does POST material become public information?

At the onset, I would point out that the Montana Supreme Court has repeatedly held that law enforcement officers are in a position of public trust. Therefore, they have less of a reasonable expectation of privacy in information regarding their abilities to perform their public duties. As such, officers have no reasonable expectation of privacy with respect to disciplinary records. For example, in *Bozeman Daily Chronicle v. City of Bozeman Police Department*, 260 Mont. 218, 220, 859 P. 2d 435, 436-437 (1993), an officer resigned after a cadet at the MLEA made an allegation of sexual intercourse without consent. The Court, in ordering that the investigative file be released, explained, “the nature of the job mandates that the officer be properly subject to public scrutiny in the performance of his duties, and the public has the right to be informed of the actions and conduct of such officers.” *Bozeman Daily Chronicle*, 260 Mont. at 227, 859 P. 2d at 440.

In another example, the Montana Supreme Court, in *Great Falls Tribune v. Cascade County Sheriff*, 238 Mont. 103, 107, 775 P.2d 267, 1269 (1989), explained that since law enforcement officers occupy positions of great public trust, whatever privacy interest the officers have in the release of their names as having been disciplined, is not a strong right as recognized by society. The Court found that the health, safety and welfare of the public is closely tied to an honest police force. *Great Falls Tribune*, 238 Mont. at 107, 775 P. 2d at 1269. The Court expounded, “it is not good public policy to recognize an expectation of privacy in protecting the identity of a law enforcement officer whose conduct is sufficiently reprehensible to merit discipline.” *Great Falls Tribune*, 238 Mont. at 107, 775 P. 2d at 1269.

1. What Montana case law exists to establish what information should be released?

The Montana Supreme Court has consistently held that no single policy can be developed for what information may be released upon public request. *Havre Daily News LLC v. City of Havre*, 2006 MT 215, ¶17, 333 Mont. 331, 142 P. 3d 864. In *Havre Daily News LLC*, the newspaper sought prospective relief and argued that it had a constitutional right to receive the information contained in initial arrest and offense reports. *Havre Daily News LLC*, ¶16. The Montana Supreme Court rejected this argument and found that cases arising under Montana Constitution's Right to Know provision (Article II, Section 9 of the Montana Constitution) should be determined on a case-by-case basis and no single rule can apply to all future controversies. *Havre Daily News LLC*, ¶17. In *Billings Gazette v. City of Billings*, 2013 MT 334, ¶59, 372 Mont. 409, 313 P. 3d 129, the Montana Supreme Court held that the identifying information of employees disciplined for accessing pornography on their government computers should not be released to the newspaper because the employees had a reasonable expectation of privacy that outweighed the public's right to know. In reaching this conclusion, the Court explained, "no single rule or policy can be used to determine what information may be released upon public request because each request requires a fact specific, case-by-case analysis of interests at issue and a balancing of the demands of individual privacy and the merits of public disclosure." *Billings Gazette*, ¶15.

At least one district court has held that requests regarding POST's regulation of peace officers are legitimate pursuant to open government and the Right to Know provision of the Montana Constitution. *Montana Public Safety Officers Standards and Training Council v. Missoula Independent*, CDV 2012-568, 2013 Mont. Dist. Lexis 7, *2-3. Therefore, the analysis hinges on whether a constitutionally protected privacy interests exists. *POST v. Missoula Indep.*, 2013 MT Dist. Lexis, 7, *3. The courts use a two-part test to determine whether a person has a constitutionally protected privacy interest: First, whether the person has a subjective or actual expectation of privacy and, next, whether society is willing to recognize that expectation as reasonable. *POST v. Missoula Indep.*, 2013 MT Dist. Lexis, 7, *4. As previously discussed, law enforcement officers, as individuals which hold a position of public trust, have less of a reasonable

expectation of privacy regarding information that bears on their ability to perform public duties. *POST v. Missoula Indep.*, 2013 MT Dist. Lexis, 7, *4.

Nonetheless, the Montana Supreme Court has stated that “time, place and status are *all* factors in the reasonableness determination. The determination should include consideration of all relevant circumstances, including the nature of the information sought.” *Billings Gazette*, ¶26 (emphasis in original.) As guidance, the Court used the severe discipline imposed and the officers’ positions of trust, in *Great Falls Tribune* and *Bozeman Daily Chronicle*, as an example of when the right to know outweighs an individual privacy interest. *Billings Gazette*, ¶¶44-45. Still, the Court reaffirmed, “the right of privacy turns on the reasonableness of the expectation, which may vary, even regarding the same information and the same recipient of that information.” *Billings Gazette*, ¶49.

Therefore, in summary, although the courts do not offer specific guidance as to what information must be released, courts likely will determine that requests for most POST information will be legitimate, pursuant to the constitutional provisions related to open government and the public’s right to know. As such, when evaluating officers’ right to privacy, law enforcement officers will have a lesser right to privacy, especially regarding information that pertains to their duties or their ability to perform their duties. Additional factors include the egregiousness of the conduct and the discipline received or sought.

Specific to POST’s current practice, it is important to note, when POST receives a request for public information, and decides to provide the information, POST only provides information that consists of POST’s files. POST will refer the requesting entity to the actual custodian of any records that POST obtains through an investigation. For example, if POST has obtained personnel and discipline records from a local sheriff’s office, POST refers the requesting entity to the local sheriff’s office to obtain such records.

2. When does POST material become public information?

No case law or statutes define when POST material becomes public information. However, in cases in which the courts have ordered the release of information, an investigation had been completed or the agency was in the process

of an investigation. For example, in *Bozeman Daily Chronicle*, the alleged sexual intercourse without consent had been investigated and reviewed by a prosecutor when the newspaper requested the investigative files. *Bozeman Daily Chronicle*, 260 Mont. at 220, 859 P. 2d at 436. In *Great Falls Tribune*, the officers had already been investigated and disciplined imposed when the newspaper requested the investigative files and officers' names. In the context of a POST investigation, I would suggest that officers still maintain a reasonable expectation of privacy and that such privacy interests would outweigh a public release of a complaint until, at minimum, the complaint has been vetted by the Case Status Committee and an investigation deemed appropriate. Therefore, although every case must be evaluated individually, before a complaint is released to the public, the Case Status Committee should have discussed the case and voted to initiate an investigation and send a "Letter 1" to the officer. By not releasing the complaint until an investigation has been initiated, complaints that are wholly unfounded will be voted to be closed by the Case Status Committee, and the officer's reasonable privacy interests will be protected.

To: POST Council and Perry Johnson, Executive Director
From: Chris D. Tweeten, POST Legal Counsel
Re: Jones Right to Know Request
Date: November 8, 2016

On December 7, the Council will consider policy questions related to a Right to Know request submitted to the Council by Ross Jones, a reporter affiliated with Scripps News Service. The requester seeks information about law enforcement officers who have been de-certified or otherwise disciplined by POST for wrongdoing, and for officers who are in good standing. The information sought includes the names, dates of certification, dates of de-certification (if applicable), and the employing agencies for each currently certified officer and each officer who has been de-certified for bad conduct.

The request presents several issues, which I discuss below.

1. Does Jones, as a non-resident of Montana, have standing to make the request?

Yes. The Supreme Court has clarified in the recent *Krakauer* decision that the Montana Right to Know applies to requests by persons and entities whether the requester is a Montana resident or not.

2. Do the officers whom POST has disciplined for misconduct have the right to ask POST to withhold their records based on an assertion of a right to privacy?

No. The Court has repeatedly held that law enforcement officers have no reasonable expectation of privacy with respect to disciplinary records. *See, e.g., Great Falls Tribune v. Cascade County Sheriff*, 238 Mont. 103, 107, 775 P.2d 1267, 1269 (1989). I think based on these decisions POST has no grounds to resist the request for information regarding officers who were either de-certified or otherwise disciplined for serious misconduct.

3. Does a public employee have an expectation of privacy with respect to their names and employing agencies?

It is unclear. The Attorney General has opined that a public employee's expectation of privacy does not clearly outweigh the public's right to know the names of publicly employed persons. 54 Op. Att'y Gen. No. 3 (September 16, 2011). However, that decision does not show the kind of individualized balancing of the right to privacy against the public's interest in disclosure that the Supreme Court requires. *See, e.g., Billings Gazette v. City of Billings*, 2013 MT 334, ¶ 14, 372 Mont. 409, 413, 313 P.3d 129, 133. It seems a bit doubtful a court would agree with the Attorney General's opinion now.

There is certainly room to argue that the personal safety interests of law enforcement officers are part of their rights of privacy, and that officer safety clearly outweighs the public's right to know the names and employing agencies of all law enforcement officers who have been certified by POST.¹ This is especially true now that the statutes recognize an exception to the obligation to disclose information that may jeopardize the safety of a member of the public. MCA 2-6-1003(2) (2015) ("A public officer may withhold from public scrutiny information relating to individual or public safety....") However, this statute is effective only to the extent it is determined by a court to be consistent with the constitutional Right to Know provision. Early Right to Know decisions from the Montana Supreme Court tended to take a very narrow view of the exceptions to the scope of Article II, § 9. Later decisions, however, have been less restrictive. The Court has, for example, held a criminal defendant's fair trial rights can overcome the public's right to know. Whether the Court is willing to give effect to the new statute likely depends on the extent to which the Court is willing to say that personal safety is an element of a police officer's privacy right.

The Court has not addressed these questions to date, and its willingness to reach the conclusion POST would be advancing probably depends substantially on the facts of the case that raises the issue. It is the consensus of your attorneys, Sarah Clerget and me, that the proof of a personal safety interest for Montana law enforcement officers as a class would be difficult, and success could not be predicted with any degree of confidence. However, the individual circumstances of specific officers might lead a court to find a personal safety interest with respect to the specific officers in question.

4. Is POST obligated to gather the information in its records and reproduce the information in a spreadsheet to be created by POST staff.

¹ The obvious example of the officer with a personal safety interest would be an officer working undercover. There is also evidence from other states of officers who have been, in effect, assassinated near their homes.

The 2015 rewrite of the public records laws has clarified that an agency is under no obligation to create a new summary document distilling information found in public records held by the agency. MCA 2-6-1006 (4) (2015) (“A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.”)

So, mashing all of this together, I have the following thoughts:

1. I think his request that we create a spreadsheet should be evaluated by considering whether it would be less time and trouble to set up a spreadsheet containing the information he wants or to assemble the files we are going to produce and either have them copied at his expense or make them available for him to come out and examine them. POST is under no legal obligation to make the requested spreadsheet. In either case, POST is within its statutory rights to charge the actual cost of producing the records, and to collect an estimate of the fees in advance if it wants, although the constitutionality of the statutory provision allowing an agency to recover fees could be called into question.

According to Katrina, the request regarding all of the officers' information can be achieved without redaction in approximately one hour.² The IT Division for DOJ can extract the data from POST's database. POST's current database is an Access database, so any extraction would be an excel spreadsheet or similar format. POST anticipates this to be a substantial number of records (at least one thousand, if not several thousand). POST staff and/or DOJ IT staff will then be required to manually go through the retrieved data to remove and set aside the records of any officers who have asserted a privacy interest in their individual data.

POST staff has a running list of decertified officers which was prepared for another records request. If POST decides that it will produce the records of officers who have been sanctioned since its inception in 2007, most of that information is available. POST staff will find it necessary to manually retrieve certification and employment information on each officer who has been sanctioned by looking each one up in the database and entering the data into the existing excel spreadsheet.

² Katrina is providing more information about this in a separate document in the packet.

2. I think there are no grounds to withhold documents relating to officers who have been de-certified or disciplined for serious misconduct.

3. I think in light of the new statutes and recent case law, POST could make an argument that it is lawful to withhold the names and of certified officers it has not disciplined or de-certified. The statute now creates an explicit exception for information that would, if produced, jeopardize officer safety. As we've previously discussed, the problem, should that exception be litigated, would be to prove to the court that the information actually would create a significant threat to officer safety if it was released. If POST is interested in invoking that exception, we should think before we reject the request about how we would make that proof. Again, your attorneys believe the factual arguments about a privacy interest in the context of all officers as a class are difficult to prove.

The AG Opinion discussed above can be criticized because it creates a categorical rule that public employee names and addresses must be disclosed without allowing for individual consideration of the balance between the merits of public disclosure and the rights of the employees. The opinion treats all public employees as if they were situated the same for purposes of that balancing, while I think POST would take the position that there are some unique considerations that apply to public safety officers.

A separate question is whether POST should make these arguments, or whether we should inform the certified officers that the demand has been made and rely on the officers to raise the issue. Recall that in the first go around of the Lake County litigation, POST filed a declaratory judgment action (sometimes referred to for short as a "Dec Action") asking the Court to evaluate the documents at issue and decide which should be produced and which could be withheld. POST took the position in that case that it would abide by whatever the Court decided, and that POST did not adopt or advance the arguments of either the officers or the requester, the Missoula Independent. The officers (who were contemplating a lawsuit against the State for damages) appeared and contested the obligation to produce the information, and the Court ultimately held that essentially all the requested information should be produced. It is noteworthy that by adopting this middle ground approach and seeking the assistance of the Court as to its obligations, POST avoided the obligation to pay the requester's attorney fees, which are allowable by statute in the discretion of the Court.

Sarah has suggested several considerations that argue against the idea that the POST Council should make these privacy arguments on behalf of the officers. An attempt by POST to prevent the disclosure of the identities of law enforcement officers could open the agency to criticism that the agency is being less than transparent. Sarah also notes that in many cases the identity of law enforcement officers has already been released by the employing agency, local (*see* <http://townsendpd.org/about/department-roster/>) or state (*see* <https://employeepay.mt.gov/transEmpPay/faces/index.xhtml>). The Supreme Court has made it clear that an agency cannot deny production of records whose contents are already available to the public.

Finally, there is the matter of POST's litigation costs. Filing the declaratory judgment action would not be free. Attorney costs for either me or Sarah, or both, could be substantial, depending on how hotly contested the litigation was. Just to take an example, in the declaratory judgment in the Lake County matter, Sarah's fees related to the declaratory judgment action exceeded \$20,000. This case would probably be less than that, since we've learned a lot about such action from the first case. But it does demonstrate that these cases have an effect on POST's budget.

The statutes also allow the requester to recover attorney fees against the agency holding the records at the Court's discretion. In the Lake County declaratory judgment action POST filed regarding the records request, the requester's attorney sought more than \$6700 in fees from POST. The Court in its discretion denied that request, but the case illustrates another potential expense POST could incur if it adopts the litigation option.

4. If POST were to decide to honor the request, several considerations come into play. First, whatever approach the Council adopts, significant efforts will be required from staff to comply with the request. See discussion in 1. above and Katrina's document. Second, POST would have to decide whether any redactions should be made. Third, POST would have to advise the requester of the estimated tie required for the production and an estimate of the cost to the requester.

Second, if the Council decides to contest the production of any of the information, the best approach would be to file a declaratory judgment action against Jones seeking guidance from the Court as to what information

must be produced and what, if any, may be withheld. The Council will then have to decide whether POST will represent the interests of the officers. If not, POST should somehow notify the affected officers and agencies that if they wish to contest production of the requested information, they should plan to intervene in POST's action to assert those interests.

Third is the question of attorney fees. POST would of course have to pay its own attorney or attorneys to litigate the case. But there is also the question of the requester's fees, which the court may allow in its discretion. The declaratory judgment action POST filed in the earlier Montana Independent case did not result in an award of fees, but the matter is discretionary and there is a possibility of a fee award against POST when the lawsuit is over.

Conclusion

POST has not adopted a policy governing disclosure of information at this time. At its next meeting, the response to Jones' request will be on the agenda for discussion, and many of the issues discussed above will be decision points for the Council. (1) Does the Council want to comply with the request? (2) Would it be preferable to defer that issue and instead take the route POST took in the Lake County case, i.e., file a lawsuit and ask the Judge what it should do. (3) Should the Council argue that there is a privacy interest in personal safety that would be jeopardized by production of information regarding the identity of law enforcement officers as a class? If so, what guidance can the Council give to its attorneys regarding evidence that could be introduced in Court to prove that this privacy interest exists and clearly outweighs the merits of public disclosure? (4) If POST adopts the approach suggested in (3), would POST prefer to require the individual officers to argue their own privacy issues instead of representing the interests of the officers?

I look forward to the discussion at the Council's meeting.



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975

Fax: (406) 444-9978

dojmt.gov/post

August 22, 2019

Dear Agency Administrator:

The POST Council has received a request under the Right to Know provisions of Montana law. The Invisible Institute has asked POST to provide the POST ID number, name, gender, year of birth, date of certification, date of decertification (where applicable), date/s of appointment or termination, termination type's, and employing agency/ies for **peace officers, reserve officers, P & P officers and correction/detention officers** who have been certified by POST.

POST has determined that officers who have been decertified for misconduct have no reasonable expectation of privacy in this identifying information, and accordingly will comply with this request as it pertains to officers who have been decertified or otherwise disciplined by POST for misconduct.

As to officers who are currently certified, however, the law is not clear as to whether a privacy interest exists that is sufficient to clearly exceed the merits of public disclosure. I write to notify you of the request and ask that you forward this letter to all of your agency employees identified above.

The right to privacy is a personal right, and POST does not feel it is appropriate that it should assume whether an officer wants to assert a right of privacy, and, if so, to assume what the individual grounds might be for asserting that right. Each officer should decide for him- or herself whether their privacy right should be asserted.

POST intends to provide the requested information to Invisible Institute on or after October 1, 2019. Any officer who wishes to assert a privacy interest to prevent disclosure of the officer's personal information must inform POST by filling out and sending the Assertion of Privacy Interest form (which can be found at the following link: <https://dojmt.gov/wp-content/uploads/Privacy-Interest-form-Invisible-Institute.pdf>) to POST staff. Forms will be accepted until October 1, 2019 at 12:00 p.m. If you or your county officials have any questions, please feel free to contact POST staff.

Sincerely,

Perry Johnson, Bureau Chief
Montana POST Bureau



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

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NOTICE OF ASSERTION OF PRIVACY INTEREST

*This form is to be completed and forwarded to the POST Council **by October 1, 2019** if you wish to assert an individual privacy interest in your information pursuant to POST's August 22, 2019 letter to you.*

The Invisible Institute has agreed that it does not seek the information of officers who are currently working undercover if disclosure of the information may threaten the public or officer's safety.

If you are currently working undercover and your information needs to remain confidential for your safety or for the safety of the public, check here: _____

If you wish to assert a privacy interest for any other reason, check here: _____

The following is a list of items which could affect your ability to assert a privacy interest in the requested information:

- **If you are identified on social media as being law enforcement**
- **If you and your occupation have been disclosed in print media**
- **If you are listed on a roster on a public website or other public media**
- **If you are in an elected or appointed law enforcement position**

I have reviewed POST's August 22, 2019 letter, and I believe that I have an individual privacy interest which outweighs the public's right to know. I am requesting that my information be withheld from the information provided to The Invisible Institute.

(Signature)

(Date)

(Printed Name as it appears on your POST record)

(Employing Agency Name)

POST Budget as of 9/25/19

	A	B	C	D	E	F
1	05POST POST		458,990.00	64,319.19	0.00	394,670.81
2		61000 Personal Services	261,052.00	55,716.31	0.00	205,335.69
3		62000 Operating Expense	197,938.00	8,602.88	0.00	189,335.12
4						

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Adams, Ashley A. 025657							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Adams, Seth H. 022864							
Peace Officer Intermediate		5-30-2019	Certified		5-30-2019		
Aliperto, Benjamin J. 025733							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Allen, Payton E. 025919							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Amaro, Ishmael G. 025336							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Andersen, Shad A. 019490							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Anderson, Jessica A. 025740							
Communicator Basic		9-05-2019	Certified		9-05-2019		
Andrews, Justin C. 020912							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Atkins, Dustin L. 020950							
Detention/Correction Command		9-05-2019	Certified		9-05-2019		
Austin, Alicia M. 018355							
Peace Officer Intermediate		5-30-2019	Certified		5-30-2019		
Baggs, David J. 017559							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Barbera, Andrew J. 025525							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Bartholomew, Joel E. 021790							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Bartholomew, Ryan C. 019862							

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Baum, Michael J. 023317							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Becker, Thomas 025626							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Beeson Jr., Myron 025744							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Berg, Shannon 025666							
Adult Parole & Probation Basic		7-01-2019	Certified		7-01-2019		
Bichler, Brad W. 022162							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Bigelow, Casey A. 023499							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Boger, Brock A. 025359							
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		
Bossaert, Kaitelyne M. 025727							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Boyer, Thomas J. 024777							
Coroner Basic		7-01-2019	Certified		7-01-2019		
Bradley, Justin 022913							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Bragg Jr., Jeffrey E. 014203							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Peace Officer Supervisor		7-01-2019	Certified		7-01-2019		
Braun, Justin T. 019063							
Peace Officer Command		7-31-2019	Certified		7-31-2019		
Bravo, Hector 025736							
Reserve Basic		9-05-2019	Certified		9-05-2019		

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Brewer, Cameron D. 020515							
Detention/Correction Supervisor		9-05-2019	Certified		9-05-2019		
Broesder, Seth W. 019650							
Peace Officer Advanced		9-05-2019	Certified		9-05-2019		
Brown, Rayna E. 025680							
Communicator Basic		7-08-2019	Certified		7-08-2019		
Bruckner, Tobias L. 025698							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Buchanan-Frost, Michelle D. 022026							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Buck, Jamie L. 020940							
Peace Officer Advanced		5-30-2019	Certified		5-30-2019		
Burdick, Kimberly D. 002277							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Burner, Bonnie M. 025452							
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		
Communicator Basic		7-01-2019	Certified		7-01-2019		
Burnett, Paul 025751							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Burt, Wanda L. 021862							
Detention/Correction Command		7-01-2019	Certified		7-01-2019		
Calkin III, Warren D. 025549							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Cantrell, Orin J. 020322							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Peace Officer Supervisor		5-30-2019	Certified		5-30-2019		
Canzona, Joe A. 020758							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Carey, Michael D. 022332							
Detention/Correction Command		7-01-2019	Certified		7-01-2019		
Carrington, Kelly S. 016845							
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
Cartwright, Valerie N. 024812							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Caton, James V. 014313							
Peace Officer Supervisor		7-01-2019	Certified		7-01-2019		
Chaffin, Elizabeth 025802							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Chapman, Duane S. 025641							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Chroniger, Jordan B. 022155							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Clary, Christopher C. 024080							
Coroner Basic		9-05-2019	Certified		9-05-2019		
Coats, Kori 025689							
Communicator Basic		7-08-2019	Certified		7-08-2019		
Conrad, Berkley A. 013343							
Peace Officer Supervisor		5-30-2019	Certified		5-30-2019		
Coppola, James P. 025819							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Corbett, Brett 010151							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Cornell, Jessica 025775							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Corona, Martin	025526						
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Cortes II, Cristobal	025342						
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Coutu, Walter M.	025662						
Communicator Basic		7-01-2019	Certified		7-01-2019		
Crandall, Randy A.	025760						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Cubbage, Hannah J.	025649						
Communicator Basic		5-30-2019	Certified		5-30-2019		
Danzer, Matthew A.	020901						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Deklyen, Scott H.	024395						
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Dewitt, Cody	024998						
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Dodson, Bradley G.	020175						
Peace Officer Advanced		5-30-2019	Certified		5-30-2019		
Doherty, Tylor M.	025356						
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Dossett, Sue G.	019684						
Detention/Correction Intermediate		7-31-2019	Certified		7-31-2019		
Douglas, Justin D.	025838						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Duke, Christopher	025795						
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Duong, Bobby	025755						

Montana POST Council
Employee Certification Report
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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Edwards, Claude E. 018244							
Detention/Correction Intermediate		9-05-2019	Certified		9-05-2019		
Detention/Correction Supervisor		9-05-2019	Certified		9-05-2019		
Eggum, Casey G. 020692							
Adult Parole & Probation Basic		5-30-2019	Certified		5-30-2019		
Eichner, Erik 025711							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Ellerton, Paul 025653							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Ellis, Titus N. 018931							
Detention/Correction Advanced		9-05-2019	Certified		9-05-2019		
Esquivel, Federico B. 023679							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Esteves, Alex C. 020744							
Peace Officer Advanced		7-31-2019	Certified		7-31-2019		
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Falkos, Joshua L. 025465							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Ferris, Kyle M. 025776							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Formell, Anthony S. 025796							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Fuss, Tyler L. 025620							
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		
Gallegos, Julian C. 025527							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Gange, Jason R. 018852							

Montana POST Council
Employee Certification Report
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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peace Officer Advanced		7-01-2019	Certified		7-01-2019		
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Geissler, Alex C. 025783							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Gentile, Christopher 025242							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Gibbs, Nolan T. 025567							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Gibson, Justin D. 018255							
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Gibson, Nicole 025716							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Gleason, Ben R. 023693							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Peace Officer Intermediate		5-30-2019	Certified		5-30-2019		
Gomez, Crystal D. 023276							
Detention/Correction Intermediate		9-05-2019	Certified		9-05-2019		
Graff, Casey L. 025528							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Graham, Lorna D. 007039							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Gramm, Joel M. 022482							
Peace Officer Intermediate		7-31-2019	Certified		7-31-2019		
Grande, Jennifer L. 013377							
Detention/Correction Advanced		7-31-2019	Certified		7-31-2019		
Detention/Correction Supervisor		7-31-2019	Certified		7-31-2019		
Grimsrud, Jordan A. 025713							

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Grommes, Jacob 025800							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Grover, Jason R. 015679							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Guffin, Jessie J. 022153							
Detention/Correction Intermediate		9-05-2019	Certified		9-05-2019		
Detention/Correction Supervisor		9-05-2019	Certified		9-05-2019		
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Gunderson, Jason D. 024933							
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Hackett, Casey 025761							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Hansen, Kaci M. 024521							
Peace Officer Basic		9-11-2019	Certified		9-11-2019		
Hansen, Victoria J. 025636							
Communicator Basic		7-01-2019	Certified		7-01-2019		
Hanson, Cody L. 019428							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Harkins, Michael 025927							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Harmon, Robert C. 015326							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Hart, Dakota 025754							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Harvey, Casey 025113							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Hawthorne, Becky A. 018439							

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Detention/Correction Intermediate		7-01-2019	Certified		7-01-2019		
Heaton, Matthew M. 017120							
Peace Officer Advanced		7-31-2019	Certified		7-31-2019		
Heffernan, David A. 017060							
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Peace Officer Supervisor		7-01-2019	Certified		7-01-2019		
Herbst, Clay W. 017222							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Hergesheimer, Scott A. 019615							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Herman, Christine M. 025635							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Hetler, Joshua B. 025640							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Heusner, Hunter A. 025798							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Hight, Marion S. 014765							
Peace Officer Advanced		9-05-2019	Certified		9-05-2019		
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Hildebrand, Chance D. 023890							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Hines, Brian J. 022513							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Hobart, Isabella K. 025718							
Communicator Basic		5-30-2019	Certified		5-30-2019		
Hoffman, Richard L. 017121							

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peace Officer Advanced		8-12-2019	Certified		8-12-2019		
Holcomb, Ross W.	025104						
Coroner Basic		9-05-2019	Certified		9-05-2019		
Horn, Stephen D.	022978						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Hostetter, Brett A.	025632						
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Howlett, Scott J.	025724						
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Hughes, Alan R.	015477						
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
Hughes, Jack P.	019993						
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Idland, Rayne	025930						
Communicator Basic		7-31-2019	Certified		7-31-2019		
Isbell, Jacob J.	026119						
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Jackson, Cayden	025745						
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Jackson, Gerald R.	004331						
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Jackson, Linsey G.	025612						
Communicator Basic		5-30-2019	Certified		5-30-2019		
Jacobs, Audre L.	025722						
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Jaquith, Kayla D.	025614						
Peace Officer Basic		5-30-2019	Certified		5-30-2019		

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Jenkins, Paden J. 022073							
Detention/Correction Intermediate		5-30-2019	Certified		5-30-2019		
Johnson, Jace C. 025813							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Johnston, Joshua J. 022731							
Coroner Basic		9-05-2019	Certified		9-05-2019		
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Jones, Carl 025752							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Kamura, Ryan M. 021447							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Kappler, Andrew G. 025750							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Kazinsky, Matthew E. 017336							
Peace Officer Advanced		7-01-2019	Certified		7-01-2019		
Peace Officer Supervisor		7-01-2019	Certified		7-01-2019		
Kedie, Glenville G. 017292							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Kelso, Michael J. 020766							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Kessel, Scott E. 019338							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Peace Officer Supervisor		7-01-2019	Certified		7-01-2019		
Ketchum, Ryan 020328							
Peace Officer Basic		8-12-2019	Certified		8-12-2019		
Kilsdonk, Scott 026323							
Communicator Basic		9-05-2019	Certified		9-05-2019		

Montana POST Council
Employee Certification Report
Certs

Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
King, Darrell R.	026446						
Reserve Basic		7-31-2019	Certified		7-31-2019		
King, Levi D.	020440						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
King, Scott S.	019077						
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Kingman, Edward E.	022484						
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Klunder, William H.	010249						
Peace Officer Supervisor		7-01-2019	Certified		7-01-2019		
Knows His Gun, Lane P.	025531						
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Koch, Brenton B.	024263						
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Kohrman, Sophia L.	026116						
Communicator Basic		5-30-2019	Certified		5-30-2019		
Koteskey, Landon E.	016865						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Kraft, Mark E.	020651						
Peace Officer Command		7-31-2019	Certified		7-31-2019		
Krivitz, Brian M.	018863						
Peace Officer Command		9-05-2019	Certified		9-05-2019		
Kruse, Patrick H.	021889						
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Kuka, Kqyn E.	019161						
Peace Officer Advanced		7-31-2019	Certified		7-31-2019		
Kyser, Ashley R.	025696						

Montana POST Council
Employee Certification Report
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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Communicator Basic		7-31-2019	Certified		7-31-2019		
LaBard II, Richard C.	013077						
Instructor		9-16-2019	Certified		9-16-2019	9-16-2023	
Lamb, Christopher P.	015306						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
LaRocque, Brandon G.	023939						
Detention/Correction Intermediate		9-05-2019	Certified		9-05-2019		
Larson, Steven N.	024540						
Coroner Basic		7-01-2019	Certified		7-01-2019		
Lauwers, Adam D.	018223						
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Lee Jr., Howard G.	022857						
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Leonard, Robert T.	009162						
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
Leonhardt, Sandra L.	025723						
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Lewis, Donald R.	025233						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Lewis, Keifer D.	024160						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Licht, Katherine M.	025759						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Liechty, Jason G.	020875						
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Light, Cory J.	022735						
Adult Parole & Probation Basic		7-01-2019	Certified		7-01-2019		

Montana POST Council
Employee Certification Report
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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Lusby, James	020900						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Marketon, Jessica J.	024417						
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Martin, Grant	026137						
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Marvin, Andrew J.	024816						
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
McDonald, Mackenzie J.	025837						
Communicator Basic		9-05-2019	Certified		9-05-2019		
McGinn, David L.	026257						
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
McLean, Sean E.	025777						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
McNeil, Dale S.	009040						
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
McWhirter, Gregory	024300						
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Meinzen, Austyn P.	025654						
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Merritt, Bryan D.	015049						
Detention/Correction Advanced		5-30-2019	Certified		5-30-2019		
Metcalfe, John M.	023582						
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Milender, Judd	018542						
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Minnick, Chad	025669						

Montana POST Council
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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Mitchell, Skyler W. 023818							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Moala, Newton 025587							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Moll, Dylan A. 025482							
Peace Officer Basic		7-08-2019	Certified		7-08-2019		
Morris, David R. 022869							
Peace Officer Intermediate		5-30-2019	Certified		5-30-2019		
Mullins, Briana C. 025887							
Communicator Basic		7-01-2019	Certified		7-01-2019		
Munsey, Thomas E. 022128							
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
Reserve Basic		7-31-2019	Certified		7-31-2019		
Mursch, Tyler A. 025693							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Myers, Anthony R. 025673							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Myers, Nicolas J. 023401							
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Naillon, Erica 025719							
Communicator Basic		7-31-2019	Certified		7-31-2019		
Neal, Stewart 026247							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Nelson, Scott D. 016798							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Neujahr, Donovan K. 025615							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Nichols, Christopher K. 008869							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Norton, Phillip L. 025705							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Novak, Andrew R. 018171							
Peace Officer Advanced		9-05-2019	Certified		9-05-2019		
Olhausen, Colter 025579							
Detention/Correction Basic		7-31-2019	Certified		7-31-2019		
Olson, Erhart M. 025223							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Padilla, Tyler A. 025456							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Pankey, Eric M. 022084							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Pape, Chris S. 020705							
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
Papka, Austin 025687							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Papke, Russell G. 017486							
Peace Officer Advanced		9-05-2019	Certified		9-05-2019		
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Pedersen, Eric A. 023808							
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Peters, Codi S. 021334							
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Petersen, Katherine R. 013749							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peterson, Braden J. 024506							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Petz, Daryl M. 022665							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Pfau, Paul A. 008983							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Picken, Thomas R. 023756							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Poser, Randy J. 019013							
Peace Officer Intermediate		5-30-2019	Certified		5-30-2019		
Postma, Josh 021330							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Pretty Boy, Bryan A. 025619							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Prichard, William R. 025805							
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Prindle, Justin R. 024089							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Rebo, Christopher S. 022243							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Reed, Jacob J. 025794							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Rees, Erik 025624							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Reichelt, Christopher A. 019341							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Reighard, Matthew J. 017354							

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peace Officer Command		7-31-2019	Certified		7-31-2019		
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	
Peace Officer Supervisor		7-31-2019	Certified		7-31-2019		
Rexin, Troy J. 020606							
Peace Officer Command		7-31-2019	Certified		7-31-2019		
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Peace Officer Supervisor		5-30-2019	Certified		5-30-2019		
Reyes, Rafael 024143							
Peace Officer Basic		7-08-2019	Certified		7-08-2019		
Reynoso, Michelle J. 025655							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Rhodes, Ashley B. 025764							
Communicator Basic		9-05-2019	Certified		9-05-2019		
Rice, Brandon L. 025634							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Richardson, Tamara L. 025613							
Communicator Basic		5-30-2019	Certified		5-30-2019		
Robins, Jeff 020187							
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Romeo, Ashley 023021							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Rugotska, Zane W. 026118							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Rumsey, Jared C. 025707							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Sager, Kurt J. 016152							
Peace Officer Command		7-31-2019	Certified		7-31-2019		
Instructor		7-31-2019	Certified		7-31-2019	7-31-2023	

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Schaible, Brenna M. 022507							
Detention/Correction Intermediate		7-01-2019	Certified		7-01-2019		
Detention/Correction Supervisor		7-01-2019	Certified		7-01-2019		
Schaumloeffel, Peter M. 024560							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Schultz, Rebecca M. 025633							
Communicator Basic		5-30-2019	Certified		5-30-2019		
Scoggins, Joshua A. 017569							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Shawback, Logan J. 018156							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Shelley, Brooke M. 024813							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Siegle, Timothy R. 008350							
Peace Officer Command		9-05-2019	Certified		9-05-2019		
Simmons, Willie B. 025502							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Skorupa, Robert C. 005588							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Small, Kirby R. 025616							
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		
Smith III, George W. 017073							
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Smith, Robert A. 017661							
Peace Officer Advanced		7-08-2019	Certified		7-08-2019		
Snyder, Robert 020366							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Sondersen, Chad R. 025677							
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Spanogle, Stephen D. 009412							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
Spotts, Cooper L. 025642							
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		
Staley, Kyle M. 018521							
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Stanton, Darren A. 025793							
Detention/Correction Basic		9-05-2019	Certified		9-05-2019		
Steele, Skylar R. 025697							
Peace Officer Basic		7-08-2019	Certified		7-08-2019		
Stevenson, Andrew D. 026091							
Reserve Basic		7-01-2019	Certified		7-01-2019		
Stevenson, Shelby L. 023618							
Peace Officer Basic		7-08-2019	Certified		7-08-2019		
Stineford, Jonathan P. 008504							
Peace Officer Command		7-08-2019	Certified		7-08-2019		
Stonesifer, Matthew R. 017920							
Peace Officer Supervisor		9-05-2019	Certified		9-05-2019		
Story, Judy L. 023293							
Communicator Intermediate		7-01-2019	Certified		7-01-2019		
Supalla, Kevin M. 022256							
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Sutton, Benjamin T. 021272							
Peace Officer Advanced		9-05-2019	Certified		9-05-2019		
Sutton, Brandy J. 015234							

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Communicator Intermediate		7-01-2019	Certified		7-01-2019		
Tharp, Sydney L.	021298						
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Thennis, Christin A.	020645						
Adult Parole & Probation Intermedia		5-30-2019	Certified		5-30-2019		
Adult Parole & Probation Supervisor		5-30-2019	Certified		5-30-2019		
Thomas, Tyler H.	019167						
Peace Officer Command		7-31-2019	Certified		7-31-2019		
Thompson, Jason S.	024033						
Peace Officer Basic		7-01-2019	Certified		7-01-2019		
Truesdale, Shawn H.	026480						
Communicator Basic		9-05-2019	Certified		9-05-2019		
Tyree, Courtney S.	019169						
Peace Officer Supervisor		5-30-2019	Certified		5-30-2019		
Underwood, John K.	019964						
Peace Officer Advanced		7-31-2019	Certified		7-31-2019		
Vandersloot, Eric D.	020302						
Peace Officer Advanced		5-30-2019	Certified		5-30-2019		
Veneman, Kaleb M.	024709						
Peace Officer Basic		7-31-2019	Certified		7-31-2019		
Vigue, Linda D.	026298						
Communicator Basic		7-01-2019	Certified		7-01-2019		
Vines, Clay W.	025799						
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Volinkaty, Joshua J.	020405						
Peace Officer Command		9-05-2019	Certified		9-05-2019		
Walker, Justin T.	025605						
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Wanner, Scott P. 025450							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Ward, James T. 019306							
Peace Officer Advanced		9-05-2019	Certified		9-05-2019		
Instructor		9-05-2019	Certified		9-05-2019		
Wardensky, James R. 008835							
Peace Officer Command		7-01-2019	Certified		7-01-2019		
Warkentin, Samuel 025663							
Adult Parole & Probation Basic		7-01-2019	Certified		7-01-2019		
Watts, Hannah R. 026023							
Detention/Correction Basic		7-08-2019	Certified		7-08-2019		
Weaver, Brian H. 022514							
Peace Officer Intermediate		9-05-2019	Certified		9-05-2019		
Weber, Lance W. 025801							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
West, Jacob J. 022027							
Instructor		7-01-2019	Certified		7-01-2019	7-01-2023	
West, Jerami C. 025582							
Peace Officer Advanced		7-01-2019	Certified		7-01-2019		
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Weston, Katherine 022405							
Instructor		9-05-2019	Certified		9-05-2019	9-05-2023	
Whaley, Joshua H. 025688							
Peace Officer Basic		7-08-2019	Certified		7-08-2019		
White, Corey D. 023620							
Peace Officer Intermediate		7-01-2019	Certified		7-01-2019		

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Whitlow, Jeffrey A. 025737							
Reserve Basic		9-05-2019	Certified		9-05-2019		
Wiens, Kaitlyn R. 026120							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Wigert, Howard E. 008618							
Instructor		5-30-2019	Certified		5-30-2019	5-30-2023	
Wigert, Michael 025625							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
William, Jakle 025532							
Detention/Correction Basic		5-30-2019	Certified		5-30-2019		
Winn, Tucker R. 025422							
Detention/Correction Basic		7-01-2019	Certified		7-01-2019		
Winzel, Jami V. 023933							
Detention/Correction Intermediate		9-05-2019	Certified		9-05-2019		
Wirtz, Joseph A. 025738							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Wischhusen, Cameron 025598							
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Wise, Darrin F. 025604							
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Witkowski, Shylo A. 025925							
Communicator Basic		9-05-2019	Certified		9-05-2019		
Woodland, Alesha 021379							
Peace Officer Advanced		7-01-2019	Certified		7-01-2019		
Woods, Tyler B. 025779							
Peace Officer Basic		9-05-2019	Certified		9-05-2019		
Wooley, Brandon W. 019102							

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Certificate	Level	Status Date	Status	Cert #	Certified	Expires	Probation
Peace Officer Command		9-05-2019	Certified		9-05-2019		
Young, Sydney		025597					
Peace Officer Basic		5-30-2019	Certified		5-30-2019		
Zellers, Matthew C.		023177					
Peace Officer Intermediate		7-31-2019	Certified		7-31-2019		
Zenko, Jessica		026322					
Communicator Basic		7-01-2019	Certified		7-01-2019		

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**Montana POST Council
Employee Training Report**

Date	Year	Course	Class	Title	Hours	Score	Status	
Zidack, Brandon T.				024946				
8-16-2019	2019	035519	002	PoliceOne-Arrest, Search, and Seizure (4th Amendme	2.00		Passed	
6-16-2019	2019	035877	001	PoliceOne-De-Escalation and Minimizing Use of Forc	2.00		Reg Denied	
5-31-2019	2019	035845	002	PoliceOne-Distracted Driving for Law Enforcement	4.00		Passed	
		Courses:	3	Hours Completed:	6.00	Hours Instructed:	0.00	
Zimmerman, Chad W.				006676				
7-12-2019	2019	035936		Officer Involved Shootings Mental Health Care LE	8.00		Passed	
		Courses:	1	Hours Completed:	8.00	Hours Instructed:	0.00	
Zimmermann, Tunde				019018				
8-30-2019	2019	035388	002	Leadership Phase III	36.00		Passed	
6-01-2019	2019	035836	002	CJIN Recertification 15 Detention Access	2.00		Passed	
		Courses:	2	Hours Completed:	38.00	Hours Instructed:	0.00	
Zody-Ewers, Tara				010126				
6-18-2019	2019	035881	003	PREA Classroom Refresher Training - 2019	2.00		Passed	
		Courses:	1	Hours Completed:	2.00	Hours Instructed:	0.00	
Zorzakis, George B.				005919				
7-28-2019	2019	035851	002	CJIN Recertification 15 Mobile Acss	2.00		Passed	
		Courses:	1	Hours Completed:	2.00	Hours Instructed:	0.00	
Zuber, Michael D.				007350				
6-05-2019	2019	035881	005	PREA Classroom Refresher Training - 2019	2.00		Passed	
		Courses:	1	Hours Completed:	2.00	Hours Instructed:	0.00	
Zwerneman, Janice R.				026356				
6-01-2019	2019	034985	010	CJIN Inquiry Certification Course	8.00		Passed	
6-01-2019	2019	035390	010	CJIN Criminal History Endorsement	8.00		Passed	
		Courses:	2	Hours Completed:	16.00	Hours Instructed:	0.00	
Employees this Report:		1,699	Courses:	2,482	Hours Completed:	33,237.25	Hours Instructed:	0.00

**Montana POST Council
Employment Report**
Equivalency Granted

Agency	Date	F/P	Action	Status	Assignment	Pos/Rank	Level	Class	Shift
Atkin, Ethan R. 026095									
Missoula Co. SO	7-01-2019		Assigned	Active		Deputy			
Missoula Co. SO Reserves	6-14-2019		Resigned	Inactive		Reserve			
Brook, Mark J. 024429									
Madison Co. SO	4-25-2019		Assigned	Active		Deputy			
Madison Co. SO Detention	6-01-2016		Assigned	Active		D/C Office			
Budd, Trevor 026233									
Department of Justice/DCI	4-15-2019		Assigned	Active		Officer			
Champa, Nathan R. 026277									
Missoula Police Department	8-05-1983		Assigned	Active		Officer			
Cox III, William R. 025749									
Bozeman Police Department	8-17-2018		Assigned	Active		Officer			
Daniels, Randy L. 026564									
Montana Highway Patrol	8-26-2019		Assigned	Active		Trooper			
DeClercq, Leonard R. 025917									
Department of Justice/DCI	11-07-2018		Assigned	Active		Officer			
DuBois, Wayne K. 026042									
Flathead Co. SO	1-01-2019		Assigned	Active		Undersher			
Elkins, Bradley D. 026523									
Musselshell Co. SO Coroner	9-09-2019		Assigned	Active		Dep Coron			
Fletcher, Thomas I. 026058									
Flathead Co. SO	7-24-2019		Resigned	Inactive		Deputy			
Frederick, Shelly A. 026562									
Fort Peck Dept Of Law & Justice	5-30-2018		Assigned	Active		Officer			
Gatlin, John R. 022398									
Powder River Co. SO	8-15-2019		Assigned	Active		Deputy			
Hackleman, Jason L. 026352									
Fort Peck Dept Of Law & Justice	7-09-2018		Assigned	Active		Officer			
Herl, Lucas M. 026565									
Montana Highway Patrol	8-26-2019		Assigned	Active		Trooper			
House, Gerald 024504									
Department Of Corrections-P & P	6-15-2019		Resigned	Inactive		P & P Offi			
Cascade Co. SO	6-14-2019		Assigned	Active		Deputy			
Johnson, Quin R. 025947									
Billings Police Department	12-03-2018		Assigned	Active		Officer			

Montana POST Council
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Equivalency Granted

Agency	Date	F/P	Action	Status	Assignment	Pos/Rank	Level	Class	Shift
Maehrer, Brian T. 026216									
West Yellowstone PD	9-07-2019		Resigned	Inactive		Officer			
Mustoe, Marc G. 026156									
Bozeman Police Department	3-15-2019		Assigned	Active		Officer			
Patrick, Nathan 026009									
Bozeman Police Department	12-14-2018		Assigned	Active		Officer			
Perry, Kenneth B. 026363									
MSU Police Department Bozeman	6-12-2019		Assigned	Active		Officer			
Powell, Shane M. 026408									
Cascade Co. SO	6-14-2019		Assigned	Active		Deputy			
Riediger, Jonah J. 026405									
Fort Peck Dept Of Law & Justice	6-14-2018		Assigned	Active		Officer			
Rutherford, Thomas M. 026303									
Yellowstone Co. SO Detention	5-24-2019		Assigned	Active		D/C Office			
Saylor, James D. 026274									
Colstrip Police Department	4-29-2019		Assigned	Active		Officer			
Standley, Todd J. 022280									
Department Of Livestock	5-23-2019		Assigned	Active		Officer			
Cascade Co. SO	6-07-2014		Resigned	Inactive		Deputy			
Stewart, Lucas A. 026010									
Bozeman Police Department	12-14-2018		Assigned	Active		Officer			
Teniente, Edward T. 026223									
Stevensville Police Department	4-01-2019		Assigned	Active		Officer			
Valentine, Jack R. 026353									
Department of Justice/DCI	6-10-2019		Assigned	Active		Officer			

Employees this report: 28

Montana POST Council
Employment Report
Extensions Granted

Agency	Date	F/P	Action	Status	Assignment	Pos/Rank	Level	Class	Shift
Cain, Anthony			025763						
Pine Hills Youth Correctional Facility	8-13-2018		Assigned	Active				J/Det Offr	
Peterson-Dighans, Melissa D.			025603						
Ted Lechner Regional Youth Services Ctr	5-20-2018		Assigned	Active				J/Det Offr	
Rossetti-Bauerle, Cecelia A.			025585						
Gallatin County Office Of Court Services	4-19-2018		Assigned	Active				Msd PO	
Sadowsky, Chris			025667						
Dawson Co. SO Detention	6-23-2018		Assigned	Active				D/C Office	
Schell, Erica M.			026032						
Gallatin County Office Of Court Services	9-22-2019		Resigned	Inactive				Msd PO	
Shepherd, Hayden J.			026508						
Custer Co. SO Detention	8-13-2019		Assigned	Active				D/C Office	
Van Fossen, Skye N.			026136						
Custer Co. SO Detention	3-12-2019		Assigned	Active				D/C Office	
Wilson, Christopher L.			026416						
Teton Co. SO Dispatch	7-11-2019		Assigned	Active				PSC Office	
Witkowski, Shylo A.			025925						
Rosebud Co. SO Dispatch	7-30-2018		Assigned	Active				PSC Office	

Employees this report: 9



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

2260 Sierra Road East
Helena, MT 59602

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

dojmt.gov/post

September 26, 2019

To: POST Council

From: Perry Johnson
Executive Director

Subject: Closure of Cases

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

2015: No cases from 2015 were closed

There are 3 open cases from 2015. One is active and two are officers serving a sanction.

2016: One case from 2016 was closed

16-35 was closed. The officer engaged in a pattern of becoming highly intoxicated and engaging in violent and volatile behavior. The officer's certification was revoked and he has not requested a hearing.

There are 3 open cases from 2016. Two are officers serving a sanction, and one is being investigated.

2017: One case from 2017 was closed

17-27 was closed. The officer was involved in an altercation with his wife which led to him being arrested. The charges were later dismissed. POST reached a stipulation with the officer, placing his certification on probation on various conditions, and the officer has successfully completed that probation.

There are 5 open cases from 2017. Two are officers serving a sanction, two are in the post-hearing contested case process, and one is in the pre-hearing contested case process.

2018: Six cases from 2018 were closed

18-44 was closed. The officer provided alcohol to a minor then lied to authorities about it. She also attempted to get witnesses to “minimized” what happened and lied to authorities about it. Her certification was revoked and she has not requested a hearing.

18-47 was closed. While attending reserve officer training in Helena, the officer became highly intoxicated, and police were called to a bar where he was trying to engage the bouncer in a fight. After responding and removing the officer from the bar, police observed the officer urinating on the sidewalk and cited him. Later, he was found passed out on the steps of the Capitol. The officer repeatedly lied to his supervisors about his contact with law enforcement and about why he did not show up for training the next morning. His certification was revoked and he has not requested a hearing.

18-35 was closed. The officer had an affair with a sergeant and lied about it. She was later arrested for PFMA and lied to the responding officers about the altercation. She lied to POST while attending basic and during POST’s investigation. Her certification was revoked and she has not requested a hearing.

18-26 was closed. The officer was alleged to have improperly confronted citizens while off duty regarding a trespassing issue. POST dismissed the case.

18-51 was closed. The officer was alleged to have violated various policies. The officer has left public safety work and does not intend to return. POST dismissed the case.

18-01 was closed. The officer was alleged to have inappropriately disseminated CJIN and lied on his activity logs. POST dismissed the case.

There are 6 open cases from 2018. Two cases are on hold pending litigation; in two cases, the officer is serving a sanction; and two cases are active investigations.

2019: Eight cases from 2019 were closed

19-22 was closed. The officer stole commissary from the detention facility and provided inmates with commissary in exchange for information. The officer’s certification was revoked and she has not requested a hearing.

19-26 was closed. The officer was convicted of a misdemeanor in connection with allegations of inappropriate touching of a 15-year-old. The officer surrendered his certification.

19-41 was closed. The officer engaged in sexual activity in his department vehicle. The officer surrendered his certification.

19-12 was closed. The officer was convicted of partner/family member assault and later contacted the victim in violation of his no-contact order. The officer’s certification was revoked and he has not requested a hearing.

19-06 was closed. The officer was gambling with an inmate and provided the inmate a bag of coffee. POST reached a stipulation with the officer for probation, and the officer has successfully completed his sanction.

19-15 was closed. The officer engaged in a “sexting” conversation while on duty, sending at least one explicit photo. The officer’s certification was revoked and he has not requested a hearing.

19-27 was closed. The officer was convicted of two felony sex offenses. The officer surrendered his certification.

19-31 was closed. The officer was assigned as the treatment court officer and engaged in a sexual relationship with a treatment court participant. The officer surrendered his certification.

There are 29 open cases from 2019. Two officers are serving a sanction, two cases are on hold pending other matters and 25 cases are active investigations.

POST has closed **5** cases regarding officers who are not certified or who are not going to return to public safety work. POST has also closed **12** allegations as unfounded or that did not rise to the level of POST involvement.

Since the last Council meeting, POST has **closed a total of 33 cases**.

POST currently has 30 active investigations.

POST currently has 3 cases which are in the MAPA process.

POST currently has 7 new allegations to present to case status.

POST currently has 26 cases awaiting information from agencies.

POST currently has 4 investigations on hold pending other matters.

POST has **a total of 70 cases** which it is currently working on.

POST currently also has **10 cases** in which officers are serving sanctions.

Perry Johnson, Executive Director
Montana POST Council



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

2260 Sierra Road East
Helena, MT 59602

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

dojmt.gov/post

September 26, 2019

To: POST Council

From: Perry Johnson
Executive Director

Subject: Training Audits

Pursuant to the Council's policy and procedure for auditing training hours, POST has conducted audits of 5 POST-accredited trainings and 5 public safety officers' training records.

POST has received a response regarding all of the audits and has found 100% compliance with ARMs 23.13.201, 23.13.301, and 23.13.302.

Perry Johnson, Executive Director
Montana POST Council

Policy and procedure for auditing training hours

Policy

POST will conduct random audits of officer and/or agency training records in order to ensure compliance with POST ARMs 23.13.201, 23.13.301 and 23.13.302. Should records be lacking, POST will provide officers and agencies an opportunity to remedy the matter.

Procedure for auditing POST-accredited training:

- During the last full week of every month, POST staff will use a computer program to automatically generate a 6-digit number. The first 6-digit number generated which is the POST ID number of an active public safety officer will determine the officer or training to be audited.
- The training transcript of the officer will be reviewed, and the most recent POST-accredited training on the transcript will be audited.
- POST staff will locate the application which corresponds to the training and contact the agency, entity or individual who is required to retain the record pursuant to ARM 23.13.301.
- The contact will be made in the form of a written letter, which will provide the agency, entity, or individual with 30 days from the date of the letter to provide a copy of the training records which have been retained pursuant to ARM 23.13.301.
- If POST staff does not receive a response, the training credit hours related to the training may be removed from the officer or officers' training transcript upon written notice to the officer or officers.
- If POST receives a response which is lacking required information, POST will make written contact with the agency, entity, or individual in the form of a letter. The agency, entity, or individual officer will be given 30 days from the date of the letter to obtain the required documentation and submit a copy to POST.
- If POST staff does not receive a response, or the response received does not remedy the issue, the training credit hours related to the training may be removed from the officer or officers' training transcript upon written notice to the officer or officers.

Procedure for auditing training required pursuant to ARM 23.13.201

- During the last full week of every month, POST staff will use a computer program to automatically generate a 6-digit number. The first 6-digit number generated which is the POST ID number of an active public safety officer will determine the officer to be audited.
- POST staff will contact the officer's employing authority in the form of a written letter, which will provide the employing authority and the officer with 30 days from the date of the letter to submit to POST a copy of the officer's training records which demonstrate the officer received 20 hours of training in the last 2 years, to include an ethics training.
- If POST receives a response which is lacking required information, POST will make written contact with the agency and officer in the form of a letter. The agency and officer will be given 30 days from the date of the letter to obtain the required documentation and submit a copy to POST.
- If the officer has not received the required training, or if no response is received, POST will contact the officer and agency in the form of a written letter. The agency and officer will be given 6 months from the date of the letter to obtain and document the required training and submit it to POST. No training obtained during the 6-month period may be used toward the next 2-year training requirement.
- At the agency's request, POST may provide training material or options for bringing the officer into compliance with ARM 23.13.201.
- Once the officer has obtained the requisite training, the employing authority will submit a letter to POST, stating that the officer has been brought into compliance. The employing authority will attach a transcript or other written record establishing that the officer's training is in compliance.

2000 – PUBLIC SAFETY OFFICER STANDARDS AND TRAINING BUREAU

The Public Safety Officers Standards and Training (POST) Bureau was created by the 2019 Legislature to provide support to the Montana POST Council, a quasi-judicial board. Per [44-4-403](#), MCA, the Council is required to set employment and training standards for all Public Safety Officers as defined in [44-4-401](#), MCA. In addition, the Council shall conduct and approve training and provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

Pursuant to its authority in [2-15-2029](#), MCA, the Council has adopted the following [Administrative Rules of Montana](#) (ARMs) to implement the provisions of [Title 44, chapter 4, part 4](#), MCA:

Number	Title
23.13.101	Organization and General Provision, Public Inspection of Orders and Decisions
23.13.102	Definitions
23.13.103	Record of all POST Council Meetings
23.13.104	Notice of the Public of POST Council Actions of Significant Interest to the Public
23.13.201	Minimum Standards for the Appointment and Continued Employment of Public Safety Officers
23.13.203	Code of Ethics
23.13.204	Purpose of Certificates
23.13.205	General Requirements for Certification
23.13.206	Requirements for the Basic Certificate
23.13.207	Requirements for the Public Safety Officer Intermediate Certificate

<u>23.13.208</u>	Requirements for the Public Safety Officer Advanced Certificate
<u>23.13.209</u>	Requirements for the Public Safety Officer Supervisory Certificate
<u>23.13.210</u>	Requirements for the Public Safety Officer Command Certificate
<u>23.13.212</u>	Instructor Certification Requirements
<u>23.13.214</u>	Employment and Training of Reserve Officers
<u>23.13.215</u>	Firearms Proficiency Standards
<u>23.13.216</u>	Public Safety Officer Employment, Education, and Certification Standards
<u>23.13.217</u>	Requirements for SWAT Primary Course Credit
<u>23.13.301</u>	Qualifications for Approval of Public Safety Officer Training Courses
<u>23.13.302</u>	Requirements for Trainee Attendance and Performance in POST Approved Courses
<u>23.13.304</u>	The Basic Courses
<u>23.13.601</u>	Coroner Education and Continued Education and Extension of Time Limit for Continued Certification
<u>23.13.702</u>	Grounds for Denial, Sanction, Suspension, or Revocation of POST Certification
<u>23.13.703</u>	Procedure for Making and Receiving Allegations of Officer Misconduct and for Informal Resolution of those Allegations by the Director
<u>23.13.704</u>	Requests for a Formal Contested Case Hearing Under MAPA
<u>23.13.705</u>	Formal MAPA Contested Case Proceedings
<u>23.13.706</u>	Contested Cases, Emergency Suspension of a License
<u>23.13.707</u>	Adoption of Attorney General's Model Rules
<u>23.13.709</u>	Contested Cases, Discovery
<u>23.13.711</u>	Contested Cases, Record
<u>23.13.713</u>	Contested Cases – Hearing Examiners
<u>23.13.714</u>	Contested Case Hearing
<u>23.13.715</u>	Contested Cases, Evidence
<u>23.13.716</u>	Contested Cases, Ex Parte Communications
<u>23.13.719</u>	Decision and Order, Stays
<u>23.13.720</u>	Contested Cases, Settlement or Stipulation and Process for Review by the POST Council
<u>23.13.721</u>	Appeals

The POST Council consists of 13 voting members who are appointed by the Governor and confirmed by the Senate. Each member is appointed to a four-year term. Membership is defined by [44-4-402](#), MCA. The current Council members are as follows:

<u>Name</u>	<u>Representing</u>
Tony Harbaugh, Council Chair	Sheriff
Ryan Oster	Chief of Police
Kristine White	County Attorney
Jess Edwards	Tribal Law Enforcement
Matthew Saylor	Local Law Enforcement
Wyatt Glade	Board of Crime Control
John Strandell	State Law Enforcement
Tia Robbin	Public Representative
Kevin Olson	Department of Corrections
<i>Vacant</i>	Detention Center Representative
Kimberly Burdick	Public Representative
Jim Thomas	Public Representative
Leo Dutton	Board of Crime Control

The Council has regular meetings three times annually and conducts special meetings when required. There are currently five Council Committees; the Business Plan/~~Policy~~ Committee, the Curriculum Review Committee, the

Case Status Committee, the Coroner Committee, and the ARM committee. The POST Bureau maintains a current list of [committee membership](#). The Case Status Committee meets once per month, and all other committees meet when a need is identified by the Council or the POST Bureau staff.

The POST Council has adopted policies and procedures to assist the POST Bureau with supporting the Council's duties and objectives.

2001. CERTIFICATIONS – POST certifications are issued in accordance with ARMs 23.13.201-.212. Pursuant to ARM 23.13.204(3), “Certificates remain the property of the council. The council has the power to recall, sanction, suspend, or revoke any or all certificates upon good cause based on a preponderance of the evidence as determined by the council.”

Policy

POST will issue certificates to public safety officers upon notice to POST of an officers' qualification for certificates.

Section 1 Procedure for Determining Qualifications for the POST Basic Certificate

1. POST will issue basic certificates pursuant to ARM 23.13.206. Issuance will be based upon an officer's completion of the appropriate basic requirements. When POST is notified of an officer's fulfillment of the requirements, POST will issue the certificates within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the Notice of Appointment which the employing authority sends to POST.
 - a. POST will create a system to identify officers' time in service which allows POST to issue basic certificates in a timely manner.
3. POST will determine whether the basic requirements have been met based upon:
 - a. Confirmation from the Montana Law Enforcement Academy (MLEA), that the officer successfully completed the appropriate basic course;
 - b. In the case of a Probation and Parole Officer, confirmation from the Department of Corrections that the officer successfully completed the Probation and Parole basic course;
 - c. In the case of reserve officers, the officer's and agency administrator's submission of the Notice of Qualifications for Reserve Certificate and Application for Award of Reserve Certificate form which has been approved by the council; or
 - d. Confirmation from MLEA that the officer successfully completed the appropriate equivalency course.
 - i. Equivalency is available to peace officers and Detention/Corrections officers and POST must approve an officer for equivalency prior to an officer's attendance, if the officer wishes to meet the basic training qualification by attending equivalency in lieu of a full basic course.
 - ii. POST will approve or deny requests for equivalency based upon the procedures outlined in Sections 1.1 or 1.2.

Section 1.1 Procedure for Determining Qualifications for Peace Officer Equivalency

1. POST will consider only requests for equivalency for peace officers which are submitted to POST by an employing authority.
2. An employing authority may make an equivalency request to POST for a peace officer on a Basic Equivalency form or on the agency's letterhead. The request for equivalency must provide a minimum of the following information:
 - a. The date and location of the officer's basic course;
 - b. The agency from whom the officer has received certification and the date on which the officer was certified; and

- c. A notarized release of information which has been signed by the officer. The release of information which the officer signed for the employment background may be sufficient. POST staff has an equivalency release of information available to employing authorities which may be provided upon request.
- 3. Upon receipt of a request for equivalency for a peace officer, POST staff will determine whether the officer has been appointed. No officer will be approved for equivalency if:
 - a. The employing authority has not submitted a Notice of Appointment to POST; or
 - b. The employing authority has not informed POST of an offer of employment which is conditioned in whole or in part upon POST's approval for the officer to attend equivalency.
- 4. After confirmation of an officer's appointment status, POST staff will contact the appropriate entity/ies to investigate the training and certification status of the officer which may include, but is not limited to:
 - a. The officer's prior employers
 - b. The officer's prior certifying agency/ies
 - c. The officer's current employer
- 5. POST staff will check the National Decertification Index to determine whether the officer's certification has been sanctioned.
- 6. POST staff may request any additional documentation concerning training, discipline, or certification sanction which POST deems reasonable to determine the officer's qualification.
- 7. If an equivalency request is made to POST prior to October 1, 2019, and the officer's prior basic academy hours are not at least equivalent to the current MLEA peace officer basic, equivalency will not be granted.
- 8. If a request for equivalency is made after October 1, 2019, and the officer's basic academy course hours are not at least equivalent to the current MLEA peace officer basic course, POST may examine the officer's experience and ongoing training to determine training equivalency.
 - a. POST will first examine all of the officer's training and determine if the officer's ongoing training would meet or exceed the number of hours taught at the current MLEA peace officer basic. If an officer's ongoing training is used to determine equivalency, the officer may not receive credit hours toward other certificates from the hours used.
 - i. Example: An officer attended a 200-hour basic course and has 300 hours of ongoing training which would, in combination with the basic, be equivalent to the 480-hour MLEA peace officer basic course. Only 20 hours of the officer's ongoing training may be applied to other certificates:

$$\begin{array}{r}
 200 \text{ hours} - \text{basic} \\
 + \underline{300 \text{ hours} - \text{ongoing training}} \\
 500 \text{ hours} - \text{total training}
 \end{array}$$

$$\begin{array}{r}
 500 \text{ hours} - \text{total training} \\
 - \underline{480 \text{ hours} - \text{MLEA basic}} \\
 20 \text{ hours} - \text{training that may be used toward further certificates}
 \end{array}$$
 - ii. POST will not use the officer's prior ongoing training courses for basic equivalency which may qualify an officer for other certificates (i.e., instructor development or management courses) without the consent of the officer and the employing authority.
 - b. If an officer does not have sufficient ongoing training or there is not sufficient documentation of ongoing training to determine that the officer's training is equivalent, POST will then examine the officer's years of experience to determine whether the experience would be equivalent to receiving an MLEA basic. POST will use the following formula to determine basic training based upon years of service: 1 year of service = 40 hours of training.
 - i. Example an officer attended a 200-hour basic course and has 7 years of experience. The years of service are equivalent to 280 hours of training.

$$\begin{array}{r}
 7 \text{ years} \\
 \times \underline{40 \text{ hours}}
 \end{array}$$

280 hours – years of service

200 hours – basic

+ 280 hours – years of service

480 hours – total training

- ii. If an officer's years of service are such that the above formula would exceed the required basic hours, the officer may not use the additional years of service as equivalent to ongoing training for the purpose of receiving additional certificates.
 - iii. If an officer's years of service are used to meet the training requirement for equivalency, the officer may still use those years of service toward other certificates.
9. Upon approval of the equivalency request, POST will send the approval letter to the employing authority and copy the officer. The appropriate MLEA application will be attached to that letter with instructions on how the officer may gain acceptance to the equivalency course. If the request is denied, POST will send a letter to the employing authority with a copy to the officer which will include instructions concerning how the officer may challenge the denial.

Section 1.2 Procedure for Determining Qualifications for Detention/Correction Officer Equivalency

1. POST will consider only requests for equivalency for detention/correction officers which are submitted to POST by an employing authority.
2. An employing authority may make an equivalency request to POST for a detention/correction on a Basic Equivalency form or on the agency's letterhead. The request for equivalency must provide a minimum of the following information:
 - a. The date and location of the officer's basic course;
 - b. The agency from whom the officer has received certification and the date on which the officer was certified; and
 - c. A notarized release of information which has been signed by the officer. The release of information which the officer signed for the employment background may be sufficient. POST staff has an equivalency release of information available to employing authorities which may be provided upon request.
3. Upon receipt of a request for equivalency for a detention/correction, POST staff will determine whether the officer has been appointed. No officer will be approved for equivalency if:
 - a. The employing authority has not submitted a Notice of Appointment to POST; or
 - b. The employing authority has not informed POST of an offer of employment which is conditioned in whole or in part upon POST's approval for the officer to attend equivalency.
4. After confirmation of an officer's appointment status, POST staff will contact the appropriate entity/ies to investigate the training and certification status of the officer which may include, but is not limited to:
 - a. The officer's prior employers
 - b. The officer's prior certifying agency/ies
 - c. The officer's current employer
5. POST staff will check the National Decertification Index to determine whether the officer's certification has been sanctioned.
6. POST staff may request any additional documentation concerning training, discipline, or certification sanction which POST deems reasonable to determine the officer's qualification.
7. If the officer's basic academy course hours are not at least equivalent to the current MLEA detention/correction basic course, POST may examine the officer's experience and ongoing training to determine training equivalency.
 - a. POST will first examine all of the officer's training and determine if the officer's ongoing training would meet or exceed the number of hours taught at the current MLEA detention/correction basic. If an officer's ongoing training is used to determine equivalency, the officer may not receive credit hours toward other certificates from the hours used.

- i. Example: An officer attended a 100-hour basic course and has 100 hours of ongoing training which would, in combination with the basic, be equivalent to the 160-hour MLEA detention/correction officer basic course. Only 40 hours of the officer's ongoing training may be applied to other certificates:

$$\begin{array}{r} 100 \text{ hours} - \text{basic} \\ + 100 \text{ hours} - \text{ongoing training} \\ \hline 200 \text{ hours} - \text{total training} \end{array}$$

$$\begin{array}{r} 200 \text{ hours} - \text{total training} \\ - 160 \text{ hours} - \text{MLEA basic} \\ \hline 40 \text{ hours} - \text{training that may be used toward further certificates} \end{array}$$

- ii. POST will not use the officer's prior ongoing training courses for basic equivalency which may qualify an officer for other certificates (i.e., instructor development or management courses) without the consent of the officer and the employing authority.
- b. If an officer does not have sufficient ongoing training or there is not sufficient documentation of ongoing training to determine that the officer's training is equivalent, POST will then examine the officer's years of experience to determine whether the experience would be equivalent to receiving an MLEA basic. POST will use the following formula to determine basic training based upon years of service: 1 year of service = 40 hours of training.

- i. Example an officer attended a 100-hour basic course and has 2 years of experience. The years of service are equivalent to 80 hours of training.

$$\begin{array}{r} 2 \text{ years} \\ \times 40 \text{ hours} \\ \hline 80 \text{ hours} - \text{years of service} \end{array}$$

$$\begin{array}{r} 100 \text{ hours} - \text{basic} \\ + 80 \text{ hours} - \text{years of service} \\ \hline 180 \text{ hours} - \text{total training} \end{array}$$

- ii. If an officer's years of service are such that the above formula would exceed the required basic hours, the officer may not use the additional years of service as equivalent to ongoing training for the purpose of receiving additional certificates.
- iii. If an officer's years of service are used to meet the training requirement for equivalency, the officer may still use those years of service toward other certificates.
- 8. Upon approval of the equivalency request, POST will send the approval letter to the employing authority and copy the officer. The letter will provide instructions on how the officer may gain acceptance to the equivalency course. If the request is denied, POST will send a letter to the employing authority with a copy to the officer which will include instructions concerning how the officer may challenge the denial.

Section 2 Procedure for Determining Qualifications for Intermediate and Advanced Certificates

- 1. POST will issue intermediate and advanced certificates pursuant to ARMs 23.13.207 and 23.13.208. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for intermediate and advanced certificates, POST will issue the certificates within a timeframe which POST determines is reasonable.
- 2. POST will determine whether the time in service requirement has been met based upon the Notices of Appointment which the employing authorities send to POST, except as provided in 2.b.
 - a. All time in service must be discipline-specific. For example, an officer who was employed as a Probation and Parole officer for 2 years may not use those 2 years of service toward a detention/correction intermediate or advanced certificate.

- b. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for that time in service upon providing documentation of that time in service to POST with the officer's certificate application. Such documentation may include:
 - i. A POST transcript from another state
 - ii. An inservice training record from the officer's non-Montana employing authority/ies
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.
 - c. In the case of intermediate certificates, the officer must have been working a minimum of one year with the officer's current employing authority. POST will review its appointment records to determine if this requirement has been met.
3. POST will review its certification records to determine if the officer has the required certificate/s to qualify for additional certification/s. For example, an officer must have the discipline-specific basic certificate in order to qualify for an intermediate certificate.
 4. POST will review its training records and the officer's inservice records, if provided, to determine if the officer has the required hours for certification.
 - a. Training credit hours are not discipline-specific. For example, if a peace officer was previously employed as a detention/correction officer and received 100 POST training credit hours during the officer's detention/correction employment, the peace officer may use those 100 hours toward a peace officer intermediate certificate.
 - i. No training credit will be granted for any college courses which were not submitted for approval prior to December 22, 2018.
 - ii. No training credit will be granted for any military training which was not submitted for approval prior to December 22, 2018, except for military training received when the officer was working as a public safety officer as defined in 44-4-401, MCA.
 - iii. No training credit will be granted for any basic training.
 - iv. No training credit will be granted for any training received when the officer was not employed as a public safety officer, as defined in 44-4-401, MCA, except as provided in 4.b.
 - b. If an officer applied for POST credit hours for college courses or military training prior to December 22, 2018, and the credit was granted by POST, up to 25% of the required hours may be applied from that credit. For example, if a peace officer applies for an intermediate certificate which requires 200 hours of POST Training Credit, POST may apply up to 50 college or military credit hours toward the 200-hour requirement.
 - c. If an officer attaches an inservice training record to the application, up to 15% of the required hours may be applied from that record. For example, if a detention/correction officer applies for an intermediate certificate which requires 144 hours of POST Training Credit, POST may apply up to 21.6 inservice training hours toward the 144-hour requirement.
 - i. Acceptable documentation of inservice training may include an excel spreadsheet which includes at least the dates of the training, the length of the training, and the type of training the officer received, an agency transcript, or any other list which provides the information required for POST to identify the training received. The acceptability of inservice documentation will be determined on a case-by-case basis.
 - d. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit hours toward certificates upon providing documentation of training which would meet POST's requirements in ARMs 23.13.301 and 23.13.302. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A training record from the officer's non-Montana employing authority/ies

1. When submitting a training record from an employing authority, the officer must indicate which training would meet POST requirements in ARMs 23.13.301 and 23.13.302
- iii. Other documentation may be approved as sufficient on a case-by-case basis.

Section 3 Procedure for Determining Qualifications for Instructor Certificates

1. POST will issue instructor certificates pursuant to ARM 23.13.212. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for instructor certification, POST will issue the certificate within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the Notices of Appointment which the employing authorities send to POST, except as provided in 2.b.
 - a. Time in service is not discipline-specific. For example, a detention/correction officer who was employed as a Probation and Parole officer for 6 months may use those 6 months of service toward an instructor certificate.
 - b. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for that time in service upon providing documentation of that time in service to POST with the officer's certificate application. Such documentation may include:
 - i. A POST transcript from another state
 - ii. An inservice training record from the officer's non-Montana employing authority/ies
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.
3. POST will review its certification records to determine if the officer has the required basic certificate and that the status of that certificate meets the requirements of ARM 23.13.212.
4. POST will review its training records, to determine if the officer has the required Instructor Development course or its equivalent.
 - a. If an officer attended an instructor development course or its equivalent prior to October 28, 2017, and that course was approved by POST the officer may use that course to qualify for instructor certification.
 - b. If an officer attends a course which the officer believes is equivalent to instructor development, or an instructor development course which has been approved as such by POST after October 28, 2017, the officer and the employing authority must certify that the course met the requirements of ARM 23.13.212(2)(d), such certification is subject to audit pursuant to POST's training audit policy. Courses which may be recognized as equivalent to instructor development include, but may not be limited to:
 - i. DARE
 - ii. SFST Instructor
 - iii. A Bachelor's degree in Education
 - c. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for an instructor development course which meets the requirements of 23.13.212. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A lesson plan from the course which the officer wishes to use to meet the training requirement
 - iii. A training record from the officer's non-Montana employing authority/ies
 1. When submitting a training record from an employing authority, the officer must indicate the instructor development course that meets POST requirements in ARMs 23.13.212, 23.13.301 and 23.13.302
 - iv. Other documentation may be approved as sufficient on a case-by-case basis.

1. POST will issue supervisory certificates pursuant to ARM 23.13.209. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for supervisory certification, POST will issue the certificate within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the application certification by the employing authority
3. POST will review its certification records to determine if the officer has the required intermediate certificate.
4. POST will review its training records to determine if the officer has the required management course.
 - a. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for management course which meets the requirements of 23.13.209. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A training record from the officer's non-Montana employing authority/ies
 1. When submitting a training record from an employing authority, the officer must indicate the management course that meets POST requirements in ARMs 23.13.209, 23.13.301 and 23.13.302
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.

Section 5 Procedure for Determining Qualifications for Command Certificates

1. POST will issue command certificates pursuant to ARM 23.13.210. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for command certification, POST will issue the certificate within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the application certification by the employing authority
3. POST will review its certification records to determine if the officer has the required supervisory certificate.
4. POST will review its training records to determine if the officer has the required training.
 - a. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for training which meets the requirements of 23.13.210. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A training record from the officer's non-Montana employing authority/ies
 1. When submitting a training record from an employing authority, the officer must indicate the training/s that meets POST requirements in ARMs 23.13.210, 23.13.301 and 23.13.302
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.

Section 6 General Provisions for Determining Certification Qualifications

1. As provided in POST ARM 23.13.205 no training hours will be granted for any basic training. This includes but is not limited to out of state, federal, tribal and military basic training.
2. Unless otherwise noted in Montana law, POST policies, or POST ARMs, no training credit will be granted for any training which an officer obtains if the officer is not employed as a public safety officer, as defined in 44-4-401, MCA, at the time the training is received.
3. Upon issuance of any certificate, POST will mail the original certificate to the employing authority of the applicant. It is the responsibility of the employing authority to disseminate the certificate to the appropriate officer upon the employing authority's receipt of the certificate.

2002. TRAINING RECORDS – The POST Bureau maintains records of public safety officers’ certification, training, and employment. Training credit hours are recorded after approval pursuant to ARMs 23.13.301 and .302.

Policy

POST will approve training credit hours on an hour-for-hour basis. When a training has been approved, and when POST receives documentation that a public safety officer has completed the training, POST will enter training hours on the public safety officers’ transcripts.

Procedure for Montana Public Safety Agencies

- Any agency that would like to request POST credit hours may do so by using POST’s “Application for POST Credit Hours for a Training.” The application may be obtained from POST staff or on POST’s website.
- The agency applying for POST credit hours must provide the following information on the application:
 - the course name
 - the course location
 - the number of course hours
 - the course date/s
- The agency must provide the email address and phone number of the individual responsible to retain documentation of:
 - any/all non-public safety officer instructors’ biography/ies
 - the course agenda
 - a lesson plan
 - student materials and handouts
 - the PowerPoint, if available
- The agency must certify:
 - that the course is over 2 hours in length
 - that the course was open and advertised
- After the course is complete, the agency or entity that requested credit must submit a POST single or multi-day roster to POST.
- Upon receipt of an application and roster from an agency, POST staff will review the application. If all required information has been provided, and the application is certified, the credit hours will be entered on the officer or officers’ transcript.

No credit hours may be requested for non-working lunches. POST credit may only be granted for hours of actual instruction which are supported by the course material retained by the agency.

At any time, on a random basis, POST staff may audit the training records of any agency upon reasonable notice.

Procedure for Non-Criminal Justice Entities

- Any entity that would like to request POST credit hours may do so by using POST’s “Application for POST Credit Hours for a Training.” The application may be obtained from POST staff or on POST’s website.
- The entity applying for POST credit hours must provide the following information on the application:
 - the course name
 - the course location
 - the number of course hours
 - the course date/s

- The entity must provide an email address and phone number of the individual responsible to retain documentation of:
 - any/all non-public safety officer instructors' biography/ies
 - the course agenda
 - a lesson plan
 - student materials and handouts
 - the PowerPoint, if available
 - The entity must certify:
 - that the course is over 2 hours in length
 - that the course was open and advertised
 - After the course is complete, the entity that requested credit must submit a POST single or multi-day roster to POST.
 - Upon receipt of an application and roster from an entity, POST staff will review the application. If all required information has been provided, and the application is certified, the credit hours will be entered on the officer or officers' transcript.

No credit hours may be requested for non-working lunches. POST credit may only be granted for hours of actual instruction which are supported by the course material retained by the agency.

At any time, on a random basis, POST staff may audit the training records of any entity upon reasonable notice.

Procedure for Individual Public Safety Officers

- Any individual officer who would like to request POST credit hours which has not been preapproved using the procedures above may do so by using POST's "Application for Individuals Seeking POST Credit Hours for Out-of- State and Other Courses," or for online courses, POST's "Application for Individuals Seeking POST Credit for Online Courses." The applications may be obtained from POST staff or on POST's website.
- Every officer applying for POST credit hours must provide the following information on the application:
 - the officer's full name
 - the officer's date of birth
 - the name of the agency for which the officer works
 - the officer's phone number and email address
 - the course name
 - the course location
 - the number of course hours
 - the course date/s
- The officer or the officer's employing authority must retain documentation of:
 - any/all non-public safety officer instructors' biography/ies
 - the officer's certificate of completion
 - the course agenda
 - the lesson plan
 - student materials and handouts
 - the PowerPoint, if available
- The officer and the officer's employing authority must certify
 - that the course was over 2 hours in length
 - that it was open and advertised
 - that the officer attended at least 225% of the training

- Upon receipt of an application from an individual officer, POST staff will review the application. If all required information has been provided, and the application is certified, the credit hours will be entered on the officer's POST transcript.

No credit hours may be requested for non-working lunches. POST credit may only be granted for hours of actual instruction which are supported by the course material retained by the agency.

At any time, on a random basis, POST staff may audit the training records of any officer upon reasonable notice.

2003. TRAINING AUDITS – The POST Bureau conducts training audits to ensure compliance with ARMs 23.13.301 and .302, and ARM 23.13.201.

Policy

POST will conduct random audits of officer and/or agency training records in order to ensure compliance with POST ARMs 23.13.201, 23.13.301 and 23.13.302. Should records be lacking, POST will provide officers and agencies an opportunity to remedy the matter.

Procedure for auditing POST-accredited training:

- During the last full week of every month, POST staff will use a computer program to automatically generate a 6- digit number. The first 6-digit number generated which is the POST ID number of an active public safety officer will determine the officer or training to be audited.
- The training transcript of the officer will be reviewed, and the most recent POST-accredited training on the transcript will be audited.
- POST staff will locate the application which corresponds to the training and contact the agency, entity or individual who is required to retain the record pursuant to ARM 23.13.301.
- The contact will be made in the form of a written letter, which will provide the agency, entity, or individual with 30 days from the date of the letter to provide a copy of the training records which have been retained pursuant to ARM 23.13.301.
- If POST staff does not receive a response, the training credit hours related to the training may be removed from the officer or officers' training transcript upon written notice to the officer or officers.
- If POST receives a response which is lacking required information, POST will make written contact with the agency, entity, or individual in the form of a letter. The agency, entity, or individual officer will be given 30 days from the date of the letter to obtain the required documentation and submit a copy to POST.
- If POST staff does not receive a response, or the response received does not remedy the issue, the training credit hours related to the training may be removed from the

officer or officers' training transcript upon written notice to the officer or officers.

Procedure for auditing training required pursuant to ARM 23.13.201

- During the last full week of every month, POST staff will use a computer program to automatically generate a 6- digit number. The first 6-digit number generated which is the POST ID number of an active public safety officer will determine the officer to be audited.
- POST staff will contact the officer's employing authority in the form of a written letter, which will provide the employing authority and the officer with 30 days from the date of the letter to submit to POST a copy of the officer's training records which demonstrate the officer received 20 hours of training in the last 2 years, to include an ethics training.
- If POST receives a response which is lacking required information, POST will make written contact with the agency and officer in the form of a letter. The agency and officer will be given 30 days from the date of the letter to obtain the required documentation and submit a copy to POST.
- If the officer has not received the required training, or if no response is received, POST will contact the officer and agency in the form of a written letter. The agency and officer will be given 6 months from the date of the letter to obtain and document the required training and submit it to POST. No training obtained during the 6- month period may be used toward the next 2-year training requirement.
- At the agency's request, POST may provide training material or options for bringing the officer into compliance with ARM 23.13.201.
- Once the officer has obtained the requisite training, the employing authority will submit a letter to POST, stating that the officer has been brought into compliance. The employing authority will attach a transcript or other written record establishing that the officer's training is in compliance.

2004. COMPLAINTS AND INVESTIGATIONS – Pursuant to ARM 23.13.703, the POST Council has adopted the following policy and procedure for processing allegations of officer misconduct:

Purpose: To establish a procedure for the uniform receipt and investigation of allegations of misconduct by Montana public safety officers, to protect citizens from misconduct by public safety officers, and to protect public safety officers who conduct themselves appropriately.

Classification: All allegations of misconduct are subject to Montana and Federal Right to Know and Right to Privacy laws. Information regarding allegations of misconduct will be released under the direction of legal counsel. No information regarding pending allegations is to be released to Council members, except those

members who participate in the Case Status Committee, until such release is allowed by the Montana Administrative Procedures Act (MAPA).

If an officer who is accused of misconduct retains an attorney at any time during this procedure, communications regarding the allegations will be directed to the officer's attorney unless a release signed by both the officer and the officer's attorney is received.

Making an Allegation:

1. An employing agency may make an allegation directly to the executive director or designee. All other allegations must be made to the employing agency first either by the complainant or POST, unless the executive director determines that it would be inappropriate to do so.
2. Allegations which are not made by the employing agency will initially be communicated to the employing agency unless the executive director determines that it would be inappropriate to do so. The executive director or designee will request a written response to the allegation from the employing agency.

If an allegation is received from an employing agency, the executive director may, at his discretion, proceed to sending Letter 1 to the officer prior to consultation with the Case Status Committee. If the officer is not certified and is not working as a public safety officer, the director may send a letter closing the matter and informing the officer that an investigation will be open if the officer becomes employed as a public safety officer again.

3. Upon receipt of the employing agency's allegation or response to the allegation, the allegation will be placed on the agenda to be presented to the Case Status Committee at the next committee meeting. The Case Status Committee members will be provided copies of the allegation and agency response, if any. The Case Status Committee will make a recommendation to the executive director regarding how to proceed with the allegation. They may recommend the executive director request more information, close the file, or move forward to Letter 1, or other recommendations as each case may warrant. If the executive director sends a Letter 1 or a closure letter to an officer prior to consultation with the Case Status Committee, the allegation and Letter 1 or the closure letter will be presented to the Case Status Committee at the next committee meeting.

4. If more information is requested, the executive director or designee will request and obtain available information and provide it to the committee at its next meeting. If a case is closed, the executive director will contact the complainant in writing and in a timely manner and inform the complainant of that decision. If the complainant is not an employing authority, the executive director will copy the employing authority and the officer with the information sent to the complainant.
5. If Letter 1 is to be sent, the allegation will be assigned a case number by POST staff and Letter 1 will be sent by the executive director in a timely manner. Letter 1 will include a description of the allegations against the officer, citation to the specific ARMs that the officer may have violated, a request for a release of personnel information and form, a voluntary surrender form and instructions regarding surrender, and will give the officer thirty-five days from the date of the letter in which to respond. The officer may request an extension of time in writing, which will be granted or denied at the executive director's discretion. All letters to the officer (1 through 3 and Notice of Agency Action) will be copied to the employing agency and/or former employing agency if the officer no longer works there.
6. If the officer does not respond to Letter 1, the executive director will send a letter with a Notice of Agency Action to the officer. The officer's certificate(s) will be revoked. The officer will be provided thirty days from the date of the Notice to request a hearing.
7. If the officer does respond to Letter 1, POST staff will begin investigating the allegations. The officer's response and results of the investigation will be disseminated to the Case Status Committee for review prior to the next committee meeting. The Case Status Committee will make a recommendation to close the case, make an offer of a stipulated sanction, or further investigate officer. If the case will be closed, a letter advising the officer of that will be sent, and the executive director will call or write a separate letter to the employing agency reflecting the decision. If further investigation is recommended, the director will continue to keep the committee apprised of the investigation during committee meetings until the investigation is complete. Once an investigation is complete, the committee will make a recommendation regarding what an offered stipulated sanction should be. The executive director will then send Letter 2 to the officer containing an offer. The officer will be given thirty-five days to respond by

either accepting the offer, rejecting it and making a counteroffer, or rejecting it with no counteroffer.

8. If the officer responds to Letter 2, that response will be provided to the Case Status Committee for review prior to the next committee meeting. If the officer accepts the offer, the committee will be informed. If the officer makes a counteroffer, the committee will make a recommendation about whether to accept the counteroffer or not. If the officer simply rejects the offer, the committee will make a recommendation as to what sanction should be applied with Letter 3. If a counteroffer is accepted, a stipulation will be sent to the officer. If it is not, the committee will make a recommendation as to what sanction should be applied with Letter 3.
9. If a Letter 3 is to be sent, the executive director will hire a hearing examiner and prepare Letter 3 and a Notice of Agency Action with the assistance of staff and legal counsel. Letter 3 and the Notice of Agency Action will inform the officer that he or she has thirty days to request a hearing. The original Notice of Agency Action will be sent to the hearing examiner for filing, along with a copy of Letter 3. A copy of Letter 3 and the Notice of Agency Action will be sent to the employing agency. The original letter and a copy of the Notice of Agency Action will be sent to the officer. The thirty days will run from the date upon which the Notice of Agency Action is signed by the executive director. Any sanction applied in the Notice of Agency Action will begin upon the executive director's signature.

The executive director or designee may present any allegation to the Case Status Committee at any time during the complaint procedure.

Upon receipt of the officer's request for hearing, MAPA and the ARMs will govern further procedure.

Allegation Policy and Procedure Attachment A

Section 1 – Guidelines for Certification Sanctions

1. Sanction of officer certification may take one or more of the following forms:
 - a. Revocation of all certifications as defined in ARM 23.13.102(22).
 - i. POST may revoke only advanced certifications of an officer, leaving a basic certification intact, such that the officer may continue working.
 - b. Denial of certification. Denial of an officer's application for basic certification due to the officer's misconduct is equivalent to a revocation of the basic certification of an officer.
 - c. Suspension as defined in ARM 23.13.102(26).
 - i. POST may suspend only advanced certifications of an officer, leaving a basic certification intact, such that the officer may continue working.
 - ii. Suspension of any or all certificates may be based upon conditions similar to those outlines in 1.d. below.
 - iii. POST may suspend certification on an emergency basis pursuant to ARM 23.13.706. Such emergency suspension will be utilized sparingly and only in the most egregious of cases and only upon concurrence of the chair of the case status committee or the committee chair's designee.
 - d. Probation. Probation will be based upon conditions. The conditions of probation may include, but need not be limited to any of the following:
 - i. A requirement that the officer self-report any violation of Montana law, POST rules, POST policies, or any violation of additional probation conditions;
 - ii. A requirement that the officer's employing authority report any violation by the officer of Montana law, POST rules, POST policies, or any violation of additional probation conditions;
 - iii. Suspension of an officer's ability to apply for additional certifications;
 - iv. Suspension of a POST-certified instructor's ability to provide POST-approved training;
 - v. A requirement that the officer remain at a specific agency;
 - vi. Requirements for training;
 - vii. Requirements for treatment;
 - viii. If the probation is part of a stipulated agreement between POST and the officer, the officer must agree that he will not engage in the contested case process contained in MAPA;
 - ix. A requirement that the officer produce documentation of any training or treatment upon which probation has been conditioned; or
 - x. A requirement that the officer petition to the case status committee or POST for removal from probation.
2. The following factors may be considered in determining an appropriate sanction:
 - a. The gravity and nature of the ethical responsibility violated, including whether the responsibility is owed to the public, to the legal system, or to the profession;

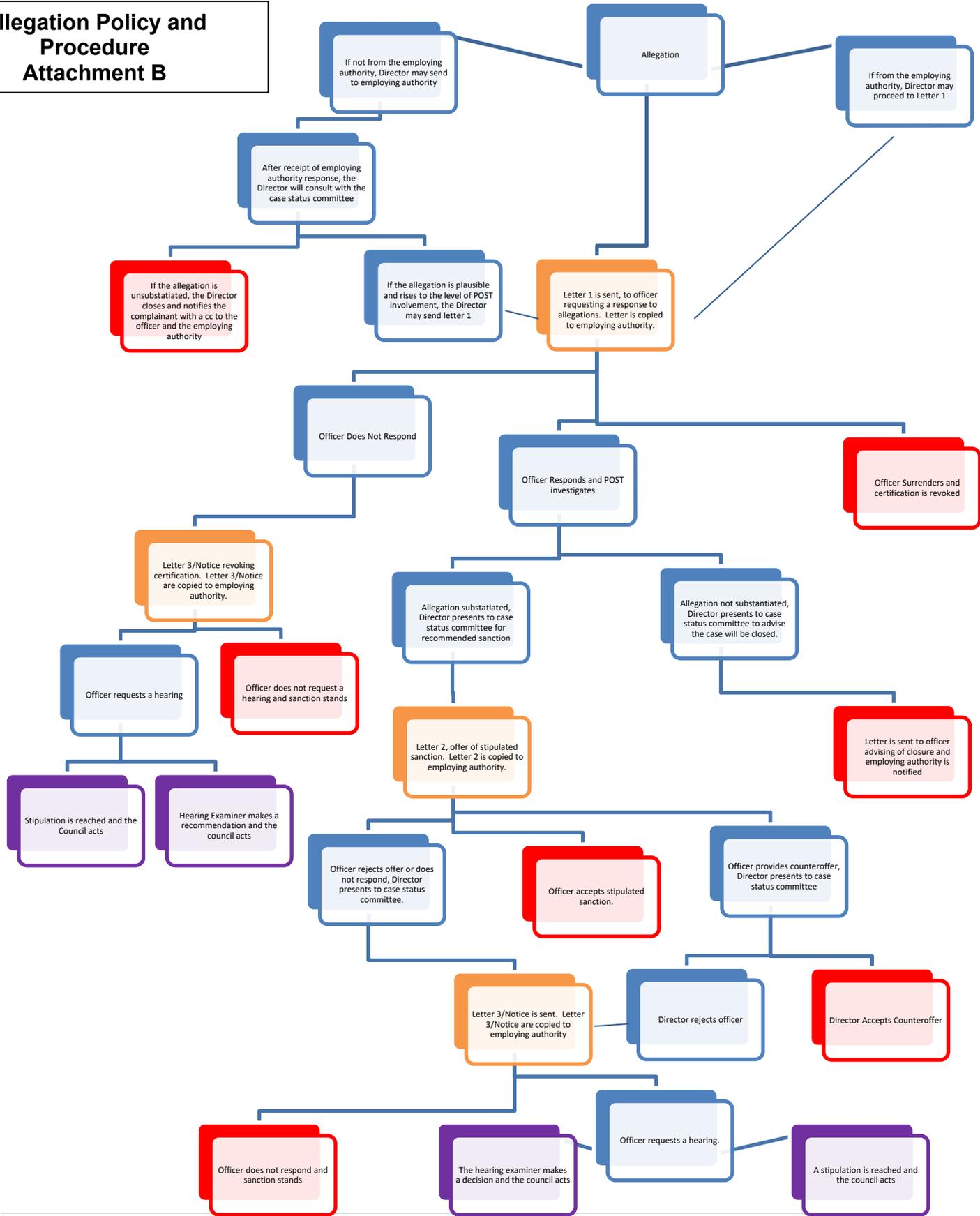
- b. The officer's mental state, if appropriate;
 - c. The length of time since the conduct occurred;
 - d. The actual or potential injury to the public, the legal system or to the profession;
 - e. Any aggravating or mitigating factors;
 - f. The existence of prior offenses;
 - g. Sanctions imposed on other officers based upon similar conduct;
 - h. The employing authority's recommendation;
 - i. The officer's response to the allegations and any ongoing reaction to the allegations including the officer's interactions with POST during the course of its investigation; or
 - j. Any additional information which tends to influence the officer's ability to perform the functions of a public safety officer with the highest standards of honesty, integrity, justice and morality.
3. Except in cases of an officer's wanton disregard for such violations, POST will not proceed with investigation or sanction of allegations which do not include an ethical violation or a failure to meet the minimum standards for appointment or certification. Such allegations need not be reported to POST by the employing authority unless a Notice of Termination is required to be submitted. Such allegations may include:
- a. Issues of insufficient training which may be remedied by the employing authority;
 - b. Policy violations which do not include violations of the public safety officer's code of ethics or the employing authority's ethics policies;
 - c. Violations of standard operating procedures which do not include any ethical violations, and which may be remedied through the criminal justice system. Such violations include, but may not be limited to: search warrant deficiencies, lack of probable cause or particularized suspicion, or other investigative deficiencies; or
 - d. Failure to complete an employing authority's probationary period for any issue which does not include a violation of the public safety officer code of ethics. This may include, but is not limited to: failure of firearms qualifications, failure of the Montana Physical Abilities Test, or an officer's general unsuitability for the chosen field or agency.

Section 2 – Period of Limitation

- 1. Except as provided in 2. below, POST will not proceed with investigation of any allegation of misconduct when the alleged misconduct occurred more than 5 years prior to POST's receipt of the allegation.
- 2. Exceptions to 1. could include, but may not be limited to the following:
 - a. Any felony conviction;
 - i. Dismissal of a conviction following a guilty finding shall not constitute a bar to sanction of an officer's certification for the conviction.
 - b. An ongoing pattern of conduct which began more than 5 years prior to POST's receipt of the allegation;
 - c. Failure to meet any of the minimum standards for appointment or certification found in ARMs 23.13.201 or 23.13.205;

- d. Failure of a peace officer to meet any of the minimum standards for appointment found in 7-32-303, MCA;
- e. Falsification of information which resulted in the appointment or certification of an officer when the officer would not have otherwise been appointed or certified absent the officer's falsification;
- f. Falsification of information during any legally authorized investigation;
- g. Conduct involving unlawful physical violence or unlawful sexual conduct whether the officer received a criminal conviction or not;
- h. Any sexual conduct which occurs while the officer is on duty or which the officer facilitates with public safety agency property; or
- i. Any other conduct which is so egregious in nature that POST's failure to take action could undermine the public's confidence in the integrity of the profession.

Allegation Policy and Procedure Attachment B



POST Bureau Goals and Objectives:

Short Term: 0-3 years

Goal 1 **Digitally imaging all active officer files.** POST has purchased a database which allows staff to attach an electronic image of any document to an officer's electronic record. This project will allow staff to have every document at their fingertips to provide more efficient and accurate service to our stakeholders and citizens throughout the State.

Percentage completed: 20%

POST has already procured the software required to complete this project and electronic folders are automatically created for every officer entered into the database. Staff have come up with a plan for how to organize and attach all documents into subfolders in each officer's record. POST has also retained a temporary employee to begin the process once fiber optic cable internet is available.

Objectives:

- When fiber optic cable internet is available to POST staff, they will begin the task of creating folders and subfolders for documents within the database.
- When folders and subfolders are created, POST's temporary employee will begin scanning the documents from all active POST officer files and attaching those documents to each officer's electronic record.

Performance Measurement:

Performance will be measured by whether documents are easily accessible to staff and how long it takes to respond to inquiries when all documents on an officer are available at staff's workstations.

Goal 2 **Digitally imaging all archived officer files.** POST has purchased a database which allows staff to attach an electronic image of any document to an officer's electronic record. This project will allow staff to have every document at their fingertips to provide more efficient and accurate service to our stakeholders and citizens throughout the State.

Percentage completed: 10%

POST has already procured the software required to complete this project. When POST's data was transferred from the old system to the new system, an electronic folder was not created for every existing officer. Staff have come up with a plan for how to organize and attach all

documents into subfolders in each officer's record. POST has also retained a temporary employee to begin the process once the active files have been imaged.

Objectives:

- When all active officer files have been imaged, staff will begin the task of creating folders and subfolders for documents within the database.
- When folders and subfolders are created, POST's temporary employee will begin scanning the documents from all archived POST officer files and attaching those documents to each officer's electronic record.

Performance Measurement:

Performance will be measured by whether documents are easily accessible to staff and how long it takes to respond to inquiries when all documents on every officer are available at staff's workstations.

Goal 3 **Create and adopt a retention policy.** Historically, POST has not had a retention policy and has simply kept all of its hard files. Once POST's files have all been imaged into its database, it will adopt a retention policy which is workable for the type of information it processes, and which will allow for the destruction of paper records after a period of time, while POST maintains digital records in perpetuity.

Percentage completed: 0%

POST has not begun this process yet and hopes to begin discussions with the Business Plan/Policy Committee of the POST Council after Goals 1 and 2 have been met.

Objectives:

- Prepare a draft retention policy for hard files which POST has retained since the 1970s, and provide that draft to the Business Plan/Policy Committee of the POST Council for review.
- Upon adoption by the full Council, provide the draft policy to DOJ, the Historical Society, and the Secretary of State's Office for approval.
- Should it be necessary, develop the resources to either contract out storage and destruction, or use existing staff and resources to complete the tasks in-house.

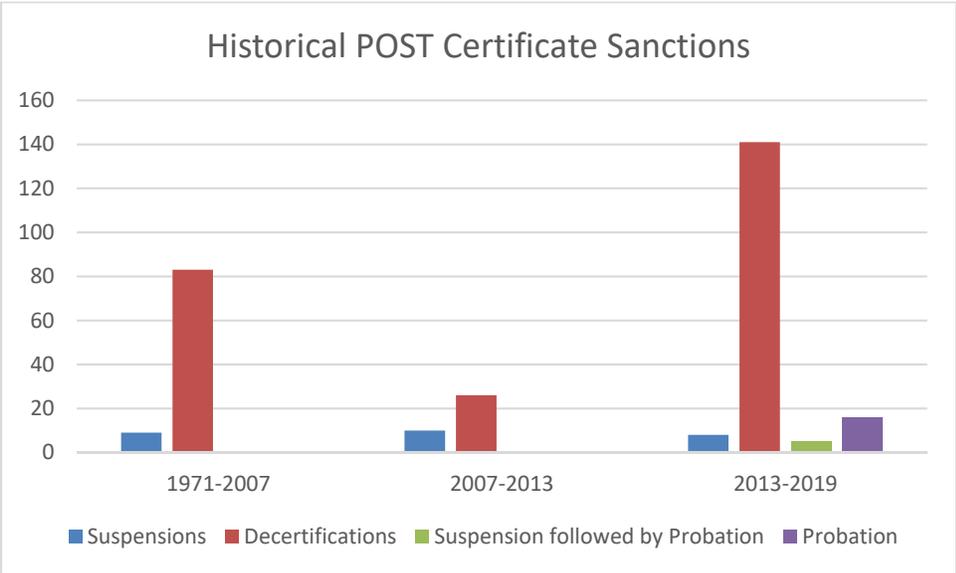
Performance Measurement:

Performance will be measured by whether POST can maintain a workable system for storage, use, movement and destruction of its hard files, and whether POST can maintain the required files in the space allotted to it.

Long Term: 3-5 Years

Goal 1 **Identify a training resource to implement an Ethics and Peer Intervention Training and track the effect it has on allegation of officer misconduct.** POST

has seen an increase in the number of officer misconduct allegations it has received. POST has identified a number of cases wherein an officer’s career may have been salvaged if the officer’s peers were trained and empowered to intervene. The history of POST’s actions on certifications are contained in the following graph.



Percentage completed: 10%

POST has begun the process of entering all of its officer misconduct cases into its database. Staff is working on ways to use the database’s reporting function to track types of allegations in individual cases. POST has approved many trainings over the years, some of which have to do with ethics and peer intervention topics.

Objectives:

- Identify and develop a training and develop interest with POST’s stakeholders.
- Provide opportunities throughout the state for officers to attend the training at a cost and in a format which is workable for every agency.
- Enter allegation “types” from POST’s code of ethics and grounds for sanction into POST’s database in order to allow tracking of the types of conduct which POST is investigating.

Performance Measurement:

Performance will be measured over the long term via reporting and records within the CMS. If allegations of misconduct decrease or the types of misconduct which are common change, POST can use that data to determine whether the training continues to be of value to its stakeholders.

Goal 2 Provide education and outreach to agencies across the State regarding POST’s laws and agencies’ responsibilities under those laws. POST has begun to provide a free 2-hour block of training to agencies throughout the state

regarding POST statutes, Administrative Rules, and Policies. In addition, POST has created a Resource Guide which it provides to everyone attending the training. POST has also sent a copy to every agency. POST hopes to continue to provide this training and update the Resource Guide and training every time there are changes to the laws and at a minimum, after every Legislative session.

Percentage completed: 50%

POST has already developed a training and student material along with ensuring that material gets to every agency. POST will continue to update the information it provides and encourage greater attendance at the trainings. POST would also like to explore an online training option for agencies who may not be able to send officers to the classroom training POST provides.

Objectives:

- Continue to track bills of interest to POST and public safety officers which are brought to each session.
- Update the information in POST's training and Resource Guide to provide to students and agencies. Provide cross-training to all POST staff so any staff may provide the training.
- Create an online training option for agencies who are unable to attend trainings in the classroom.
- Continue providing the training in person throughout the state on a schedule and upon request by stakeholders.

Performance Measurement:

Performance will be measured based upon attendance at the training, agency responsiveness to the material provided, and on comments from stakeholders throughout the state.

Goal 3 Obtain an additional FTE from the Legislature. POST has a serious need for another administrative/legal staff member in its office. The amount of information and data being filtered through the office far exceeds the personnel resource that POST has been provided. POST has had a temporary worker in its office for the majority of the twelve years that it has existed. Previously, the work of POST was performed within the Board of Crime Control, and it was shared by nine staff members. POST now has 3 FTE. Real issues have arisen during contested cases when POST's paralegal/investigator has been excluded from depositions and hearings, and potential conflicts exist with having a witness assist POST's standing masters.

Percentage completed: 0%

Although POST has repeatedly requested additional FTE from the Legislature, this has not come to fruition.

Objectives:

- Identify the staffing needs of POST and present them in an understandable form to obtain approval from DOJ and the Governor's office.
- Garner support from stakeholders and legislators throughout the legislative session/s and bring attention to the issue.

Performance Measurement:

Performance will be measured based upon whether POST's request is successful with the Legislature.

Public Safety Officers Standards & Training

Performance Measurements and Evaluation

Performance is measured through consistent contact with stakeholders throughout the state, reports regarding the number of training hours approved, certificates issued, and updates with the Council regarding equivalency granted, extensions granted. The Bureau Chief provides a report to the Council at every meeting concerning cases opened and closed, and every full Council meeting and Committee meeting allows for public comment and guest issues.

The Bureau Chief attends a number of public safety association meetings and conferences throughout the state in order to garner comment and suggestions from public safety agencies.

Evaluation – Staff performance and responsiveness receives consistent positive comment; certifications sanctions have recently received mixed comments from various public safety agencies. The Council held a special council meeting in order to discuss the concerns regarding sanctions and began the process of updating its Administrative Rules to address many of the concerns brought forth. The Council has updated its policies regarding the processing of sanctions to provide clarity to public safety officers and administrators throughout the state. The POST Bureau has developed and provided a 2-hour block of training throughout the state, free of charge, for public safety officers to attend and receive information regarding all of POST's Administrative Rules and the processing of allegations. Every individual who attends POST's training received a Resource Guide, which includes the statutes, ARMs, AG opinions, memoranda, policies, and forms relevant to POST issues. The Resource Guide includes a disc that contains the entire contents of the guide for individuals to print additional copies. The disc also contains the PowerPoint presentation from the training as additional reference and a training resource for agencies. Staff have also mailed a copy of the guide to every agency and provided an updated copy to attendees of the Montana Sheriff's and Peace Officers Association's conference.

Communication

POST staff meets nearly every day to discuss any issues or projects that are being handled by each staff member. Emails, telephones, cellular phones and in-person contact are utilized daily.

POST staff is in constant contact with stakeholders around the state and has pushed out a 2018 and 2019 Resource Guide to every public safety agency. Additionally, POST has developed a training block about POST issues that it has provided numerous times throughout the state. Over the next 3-5 years, POST hopes to continue to develop updated Resource Guides, providing timely and relevant updates each time the laws concerning POST change. POST wants to be able to continue to provide its training block throughout the state and integrate all staff into the delivery of the training in order to timely serve requests for the training across the state. This type of education and outreach is both effective and critical to developing and maintaining positive relationships with public safety officers in Montana.

Efficiencies

Eliminated the requirement that every training be approved only after a lesson plan, instructor biography, agenda, and other materials are provided. The Council amended its Administrative Rules to provide that trainers or officers retain all documentation of training. This removes the burden on staff to review and maintain the material in-house, and staff conducts an audit every month to ensure compliance. This has reduced the number of trainings reviewed each month to one.

Eliminated Notices of Rank Change except for administration. Agencies are required by law to notify POST within ten days of an officer's appointment or termination. Historically, POST tracked rank changes in order to determine eligibility for certification. POST has eliminated entering rank changes into its system, which has reduced data entry time for staff in the office.

Updated forms to reduce review and approval time. POST has updated all of its forms to allow quick review and approval by reviewing a series of checkmarks that coincide to the legal requirements for the certification or approval.

Mission Critical

The POST Council, for whom the Bureau provides support, is mandated by 44-4-403, MCA, to conduct and approve training; provide for certification or recertification of public safety officers; and provide for suspension or revocation of the certification of public safety officers. In order to support the Council in meeting these obligations, it is critical that the POST Bureau has:

- Well trained staff.
- Adequate facilities.
- Continued cooperation and communication with public safety agencies.
- Adequate funding for operational needs including legal expenses.

Vulnerabilities

Weaknesses – POST’s exposure to legal expenses is a significant weakness. Due to the Council’s ARMs, its autonomy and issues involving conflicts of interest, POST contracts with legal counsel for the council, Contested Case Counsel, hearing examiners, and standing masters. POST’s cases, historically, have cost between \$10,000 and \$80,000 to process one case through the Council decision. POST’s caseload has increased by approximately 300% in the past five years, and the staff has little to no control over this issue. A contested case hearing is conducted at the request of the officer, not at the request of POST. While the ARMs provide the ability to stay a proceeding, the interests of justice and the people of Montana would not be served if all of POST’s cases came to a standstill for lack of funding. The fact that POST does not have a dedicated, conflict-free staff attorney to handle legal issues for the Council and move cases at a fixed cost, is a major weakness.

The POST Council has historically been authorized to hire its own staff and conduct its own business. During the 2019 Legislature, the POST Bureau was created and placed under the Department of Justice. There are potential conflicts that could arise when the Council’s wishes do not align with the Department’s wishes. Should conflicts arise, it could negatively impact the integrity of the entire POST system, officers’ certification, public safety officer professions, the Council, and the Department.

POST has requested additional FTE from the Legislature several times. Most recently, POST requested a half-time attorney and two additional staff. This request was rejected. The volume of work flowing in and out of POST justifies POST’s Legislative request. Should any of the current staff separate from employment or require a long-term absence, portions of the workflow at POST could simply come to a standstill.

Budget Crisis – The POST Council’s duties are mandated by statute. In the event of a state budget crisis, POST staff would discontinue tracking training and issuing advanced certificates, and will only issue basic certificates, approve and conduct training, and sanction certifications.

Resources Lacking – Looking forward, to provide for support for the POST Council, the POST Bureau will need the following;

1. Fiber optic internet to provide for continuing use of POST’s databases and to provide agencies around the state the ability to review officer training records.
2. A half-time staff attorney to provide general legal counsel to the Council and continue to move contested cases forward. Currently, POST contracts legal counsel for these purposes. A staff attorney would likely be a fixed cost to POST that can be projected accurately into the future.
3. A legal secretary or paralegal. POST’s paralegal/investigator provides support on informal investigations and on formal MAPA contested cases. This creates an issue when witnesses are excluded from a hearing and the paralegal/investigator cannot provide support to legal counsel due to exclusion from the room. Additionally, POST has seen an increase in allegations of over 300%. If POST has another legal support staff,

the paralegal/investigator would be able to develop more time for informal investigations. Ideally, this would result in faster results, a safer public, and more informal resolutions of cases.

4. An administrative assistant to assist with the voluminous data entry, filing, scanning, and record-keeping. Historically, POST has almost always had a full-time temporary worker providing these services. Getting an FTE would alleviate the need to expend resources on a temp and would again create a fixed cost which POST can accurately project for the future.

Training and Professional Development

POST utilizes the online training provided by DOA and DOJ. All staff are up-to-date on mandated training provided by both systems. POST staff have also attended training provided by the PDC in areas such as Roberts Rules of Order, and Minute Taking for Council meetings.

POST has three staff: A Bureau Chief; an Administrative Officer; and a Paralegal/Investigator. The Bureau Chief is in consistent contact with instructors and other subject-matter experts in order to remain apprised of relevant subjects in all disciplines which the Council certifies. The Bureau Chief also attends a number of training conferences which are sponsored by various public safety associations and departments. The Administrative Officer attends regular AO meetings to remain apprised of issues concerning AO duties. POST's Paralegal/Investigator is required to maintain CLE credits to maintain certification and utilizes the National Association of Legal Assistants' webinars and attends in-person trainings when budget allows. All staff are cross trained in the day-to-day business of POST so that regular business practices and service to stakeholders and citizens may be maintained if a staff member is absent.

Succession Planning

The POST Bureau Chief conducts annual appraisals of POST staff. Historically, those evaluations were provided to the POST Council for review and discussion. If the Council identified the need to reclassify a position or provide merit-based compensation to the employees of POST, the Council would approve the decision by motion. All staff at POST are cross trained to maintain operations in the office and each staff is recognized as a leader for the organization.

Currently, the Bureau Chief also represents the Western Region of the International Association of Directors of Law Enforcement Standards and Training (IADLEST).

Performance Development Plan and Assessment (PDPA)

The POST Bureau Chief conducts annual appraisals of POST staff. Historically, those evaluations were provided to the POST Council for review and discussion.

Personnel Needs

A half-time staff attorney to provide general legal counsel to the Council and continue to move contested cases forward. Currently, POST contracts legal counsel for these purposes. A staff attorney would likely be a fixed cost to POST that can be projected accurately into the future.

A legal support staff. POST's paralegal/investigator provides support on informal investigations and on formal MAPA contested cases. This creates an issue when witnesses are excluded from a hearing and the paralegal/investigator cannot provide support to legal counsel due to exclusion from the room. Additionally, POST has seen an increase in allegations of over 300%. If POST has another legal support staff, the paralegal/investigator would be able to develop more time for informal investigations. Ideally, this would result in faster results, a safer public, and more informal resolutions of cases.

An administrative assistant to assist with the voluminous data entry, filing, scanning, and record-keeping. Historically, POST has almost always had a full-time temporary worker providing these services. Getting an FTE would alleviate the need to expend resources on a temp and would again create a fixed cost which POST can accurately project for the future. POST staff can envision that this position and the legal support staff may be able to be combined into one position.

IT Needs and Mapping

POST is housed with MLEA, which is connected to the state system by a Century Link T-1 Line. POST needs fiber optic cable internet in order to meet its short- and long-term imaging goals.

In the next year, POST hopes to image every document in every active public safety officer's POST file. POST has purchased a database which has the capability of attaching documents to officers' electronic records. Over the next three years, POST hopes to scan all of the documents in POST's archived files. Fiber optic cable internet is essential to POST meeting its goals, thereby fully utilizing the resources it has, creating efficiency within the office, and providing timely responses to all inquiries.

POST would like to have its grounds for sanction programmed into its database so that POST can track the type of allegations that it has processed and provide accurate data regarding the types of conduct that have led to sanction. This information would assist POST with determining areas in which additional training could be established as a preventative measure. POST hopes to develop an ethics/peer intervention training resource in the next 3-5 years. Having the ability to track misconduct will illustrate whether the training is reducing certain types of misconduct and what types of conduct may be affected by the training.

Legislative Needs

The legislature needs to:

1. Approve one legal support and/or administrative support FTE to enable POST staff to meet the Council's statutory obligation.
2. Approve a one-half FTE attorney to provide legal support to POST at a fixed cost.
3. Move the POST Bureau back under the Council in order to avoid conflicts of interest and to maintain the integrity of the public safety profession. The legislature needs to identify and define the revenue stream to provide the Council and its staff the resources to meet its statutory obligations.
4. Remove the appeal from the Council to the Montana Board of Crime Control. There is no other state agency whose decisions are reviewed by another agency. This is an archaic carryover from before POST was designated a quasi-judicial board. This is an additional appeal, which makes cases longer and more expensive.
5. Adopt additional language in Tit. 44, Ch. 4, Pt. 4 to clarify definitions and the duties of the council.

Committees and Travel

- Perry Johnson – IADLEST, FBINA, MSPOA, MACOP. Requires travel in and out of state approximately 23 days per year. Minimal impact to budget.

Reports Calendar

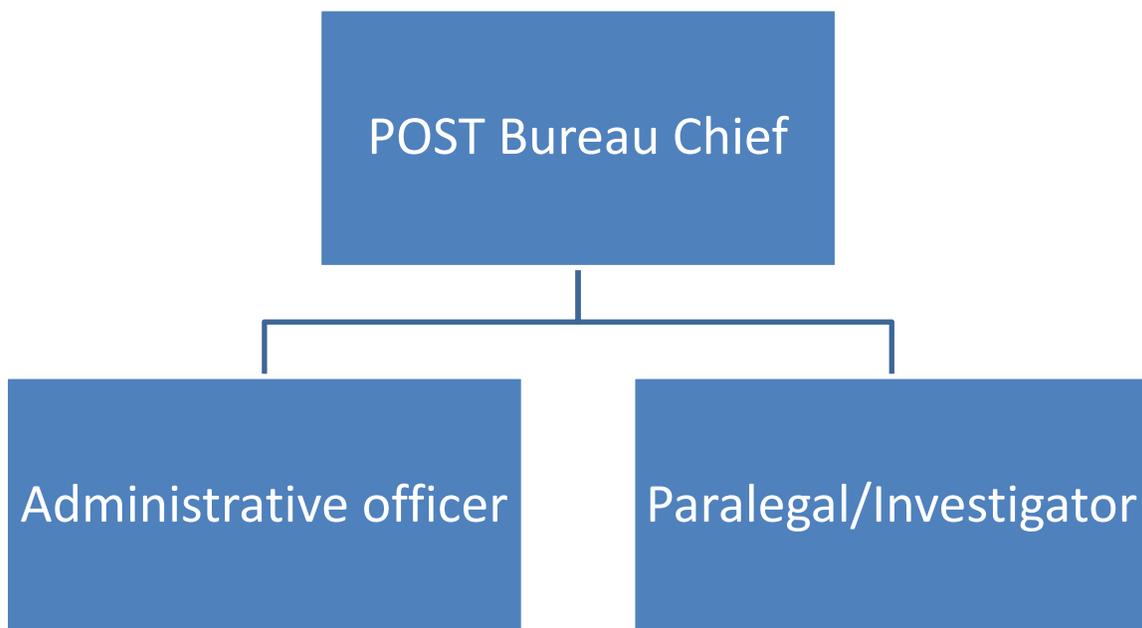
Montana Code Annotated 2-15-2029 directs the Department of Justice and the POST Council to report to the Law and Justice Interim Committee.

POST posts its Meeting and Conference Call Schedule on its website at dojmt.gov/post.

Budget

POST's budget has historically been 100% general fund. The 2019 legislature changed its funding to special revenue.

Organizational Chart



Other

Tribal Nation Interactions

Union Relationship

POST has no union members.

TIME	MONDAY 09-30	TUESDAY 10-01	WEDNESDAY 10-02	THURSDAY 10-03	FRIDAY 10-04
8:00 AM					
9:00 AM	Orientation POST Johnson	Juvenile Procedure Youth Court Act Ortley	Mental Illness Intervention Guyer-Strait	Ethics Sterland	Domestic Violence Victimology Adorni
10:00 AM					
11:00 AM	Constitutional Law State & Federal Ortley	Laws of Domestic Violence Orders of Protection Ortley	Mental Illness Intervention Guyer-Strait	Photo Arrays Sterland	Human Trafficking Adorni
12:00 PM					
1:00 PM	LUNCH	LUNCH	Lunch	LUNCH	LUNCH
2:00 PM	Montana Code Annot. Criminal Procedure Laws of Arrest Ortley	Search & Seizure Custodial Interrogation Ortley	Victim's Rights/ Hate Crimes Ortley	Fair and Impartial Policing- Cultural Awareness Sterland	Confidential Criminal Justice Information Ortley
3:00 PM					
4:00 PM					
5:00 PM			Use of Force Ortley		End of Course Examination

Orientation	0.5
Ethics	2
Mental Illness Interv.	4
Juvenile Procedure	2
P.O.S.T	1.5
Search & Seizure	4
Use of Force	2
MCA/Crim Law/Arrest	4
Victim Rights	1
Hate Crimes	1
Constitutional Law	2

Fair & Impart. Policing Cultural Awareness	4
Photo Array's	2
Domestic Violence	2
Trafficking	2
Victimology	2
Crim. Justice Info.	2
End of Course Exam	2
Total Hours	40

Advanced Certified Paralegal – Discovery
Montana Public Safety Officer Standards and Training Council
2260 Sierra Road East
Helena, MT 59602
Phone: 406-444-9974
Fax: 406-444-9978
Office Hours: Mon.-Fri. 8:00-4:00



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From: Guyer-Strait, Rebecca <RGuyer-Strait@mt.gov>
Sent: Tuesday, September 17, 2019 12:37 PM
To: Bolger, Katrina <KBolger@mt.gov>
Subject: RE: CDOB EQ

Hello Katrina,

We only give them the:

Mental Health First Aid Book
MLEA Mental Illness Intervention Field Manual
CDOB Binder

Mike McCarthy informed us that since the student isn't taking the full class, they do not get the Defensive Tactics book. The CPI book is a "fill in the blank" book, so with out them taking the class, the book doesn't do them any good.

Hope this helps,
Rebecca

From: Bolger, Katrina <KBolger@mt.gov>
Sent: Monday, September 16, 2019 1:16 PM
To: Guyer-Strait, Rebecca <RGuyer-Strait@mt.gov>
Cc: Johnson, Perry <PJohnson@mt.gov>
Subject: CDOB EQ

Hi Rebecca,

Can you confirm that the attached is still accurate for CDOB EQ? We are going to add POST's presentation to the process for the Council to approve at their October 2, 2019 meeting.

Katrina Bolger, ACP

Advanced Certified Paralegal – Discovery
Montana Public Safety Officer Standards and Training Council

Keune, Mary Ann

From: Johnson, Perry
Sent: Tuesday, September 17, 2019 1:19 PM
To: Guyer-Strait, Rebecca; Parks, Bruce
Cc: Stinar, Glen; McCarthy, Mike; Bolger, Katrina; Keune, Mary Ann
Subject: FW: CDOB EQ

Rebecca,

Good afternoon!

It appears that the curriculum/process for Correction/Detention EQ has changed. POST was not aware of changes to the process.

Would you please provide me with a guide/description of how the current process works so that I can provide it to the Council during their meeting on October 2.

After their review they will be able to review and approve the new process and move forward.

Of course this conversation began because we identified a void where the new correction/detention officer did not receive any POST training, and we would like to see that component as part of the process.

Please let me know if you have questions or if we can be of any assistance to you.

Thanks and have a great afternoon!

***Perry Johnson, Executive Director
Montana Public Safety Officer Standards and Training Council
2260 Sierra Road East
Helena, Montana 59602
(406) 444-9976 Desk
(406) 444-9978 Fax
(406) 475-5524 Cell***



From: Bolger, Katrina <KBolger@mt.gov>
Sent: Tuesday, September 17, 2019 12:44 PM
To: Johnson, Perry <PJohnson@mt.gov>; Keune, Mary Ann <MKeune@mt.gov>
Subject: FW: CDOB EQ

FYI. I will get the procedure and such together with the updated information for the Council to approve.

Katrina Bolger, ACP