

MONTANA Public Safety Officer Standards and Training Council
Special Meeting Agenda ~ January 18, 2023
Zoom and Conference Call Meeting 9:00 a.m. ~ 10:00 a.m.
Helena, MT 59602

Dial-in Participant Information
Dial-in number: (866) 576-7975
Access code: 612394

OR

Zoom Meeting ID: 850 5845 8646
Password: 367453

- I. 9:00 a.m. ~ Call meeting to order, roll call, identify and welcome guests.**
- II. 9:05 a.m. ~ Public Comment**
- III. 9:10 a.m. ~ MOU Discussion**
- IV. 10:00 a.m. ~ Meeting Adjourned**

* Executive Sessions are closed to the public in order to protect the privacy rights of individuals or to discuss active litigation strategy. Times are approximate, except for public comment; actual times may vary depending on presentation/discussion time.

MEMORANDUM OF UNDERSTANDING BETWEEN DOJ AND POST

A. Parties

This Agreement is entered into between the Montana Department of Justice (DOJ) and the Montana Public Safety Officer Standards and Training Council (POST).

B. Background

POST and DOJ are both state agencies, but they are charged with different functions. DOJ is an executive branch agency charged with, among other duties, enforcing criminal and civil laws. POST is quasi-judicial board charged with the certification (and decertification) of public safety officers. Members of the POST Council are appointed by the Governor.

Although POST remains a quasi-judicial board with independent authority and duties, the Legislature, in 2019, temporarily allocated POST's staff and expenses to DOJ. *See* § 2-15-2029, MCA (2019). This hybrid arrangement has recently led to some issues, particularly in the areas addressed by this MOU. To address these issues, facilitate the relationship between DOJ and POST, and clarify protocol and lines of authority, DOJ and POST hereby agree to the following.

C. POST Staff

While § 2-15-2029 (2019) provides that the POST Council shall "coordinate with" DOJ "to hire the bureau chief" of the POST bureau (i.e. the POST Director), it does not address hiring or appointing other POST staff (such as investigators). It also does not address which agency may direct the actions of POST staff.

DOJ and POST agree that DOJ will obtain POST's consent prior to hiring or appointing any POST staff. DOJ will also obtain POST's consent prior to firing or reassigning POST staff or reorganizing the POST bureau. The POST Council, or the POST Director at the direction of the Council, will direct and control the activities of POST staff relating to work for the Council or in relation to the Council's information.

D. Public Information Requests

The parties acknowledge that the POST Council has authority to determine the appropriate response to requests for information regarding the POST Council, its activities, and its records and other information, including records of POST certifications and sanctions (collectively “POST Information”). DOJ will inform and coordinate with the POST Council and POST Director prior to answering requests for POST Information. The POST Council and POST Director will inform DOJ of requests it receives for POST Information so that DOJ may provide its perspective and advice on the request as appropriate.

E. Administrative Rules

The POST Council is authorized to adopt administrative rules. POST uses the DOJ rule reviewer to review its proposed rules prior to publishing the proposed rule notice with the Secretary of State’s office. As DOJ may not dictate the substance of POST’s rules, however, POST staff need not provide DOJ with copies of proposed rules prior to the rule-reviewer stage of the rule-adoption process.

F. Termination

This Agreement will terminate on June 30, 2023, should the current, temporary version of § 2-15-2029 expire as provided by statute. Should the Legislature extend or make permanent the temporary version of § 2-15-2029, this Agreement shall remain in effect, though either party may terminate this Agreement by giving 60-days written notice to the other party.

G. Approval

This Agreement has been reached between DOJ and POST in consultation with the appropriate individuals in each agency, including counsel for both DOJ and POST. It has been discussed and approved at an open and public meeting of the POST Council.

.....Signatures on next page.....

Signed this ____ day of _____, 2022.

AUSTIN KNUTSON (or designee)
Montana Attorney General

Signed this ____ day of _____, 2022.

BRYAN LOCKERBY
Division Administrator
Division of Criminal Investigation

Signed this ____ day of _____, 2022.

TIMOTHY ALLRED
Executive Director/Bureau Chief
POST

Signed this ____ day of _____, 2022.

JESSE SLAUGHTER
Council Chair
POST Council