

MONTANA Public Safety Officer Standards and Training Council
Meeting Agenda ~ December 6, 2023
Video Conference 9:00 a.m. ~ 12:30 p.m.
Helena, MT 59602

Teams Meeting
Dial in Number: (406) 318-5487
Teams Meeting ID: 375021077#

- I. 9:00 a.m. ~ Call meeting to order, roll call, identify and welcome guests.**
- II. 9:05 a.m. ~ Pledge of Allegiance and Invocation**
- III. 9:10 a.m. ~ Approval of minutes for September 6, 2023, Council Meeting**
- IV. 9:15 a.m. ~ Public Comment/Guest Issues**
- V. 9:25 a.m. ~ Break**
- VI. 9:30 a.m. ~ Stigen Oral Argument**
- VII. 9:45 a.m. ~ Old Business**
 - A. ARM Update**
 - **Executive Session**
 - B. HB 697**
- VIII. 10:00 a.m. ~ Break**
- IX. 10:10 a.m. ~ New Business**
 - A. PSC Basic Syllabus ~ Joel Wendland, Kim Much**
 - B. Committee Reports**
 - 1. Curriculum ~ Conner Smith**
 - 2. Case Status ~ Jim Thomas**
 - 3. Coroner ~ Leo Dutton**
 - 4. Business Plan/Policy ~ Jess Edwards**
 - 5. ARM ~ Leo Dutton**
 - C. Committee Membership ~**

X. 10:50 a.m. ~ Break

D. IADLEST National Certified Training Program (NCP)

E. Public Information Request Policy

F. CDOB Equivalency

G. Director's Report

1. Budget
2. Calendar Statistics ~ Quarter 3 2023
 - Total Public Safety Officers ~ **5,768**
 - Certificates Awarded ~ **1,455**
 - Training Approved ~ **1,363 trainings, 6,264 officers, 73,153 hrs.**
 - Equivalency Granted ~ **52**
 - Extensions Granted ~ **28**
 - Information Requests ~ **1,088**
 - Complaints ~ **112**
 - Opened Investigations ~ **50**
 - Sanctioned Certificates ~ **18**
 - Revoked/Denied Certificates ~ **21**
3. Office Updates
4. 2024 Council Meeting Dates

XII. 12:00 p.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.

RECEIVED

8:10 am, Sep 12 2023

Montana POST Bureau

MONTANA POST COUNCIL MEETING

September 6th, 2023

Meeting 9:00 a.m. to 11:37 a.m.

Council members present: Leo Dutton, Council

Chair: Jim Thomas, Bill Smith, Jess Edwards,
Kristine White, Mark Kraft, Kimberly Burdick,
Conner Smith, Anthony Hutchings, Jim Anderson,
Shellie Brady

Council Members not present:

Jesse Slaughter, Wyatt Glade

Staff Members Present: Timothy Allred, Executive

Director; Katrina Bolger, Paralegal/Investigator;
Tina Cranmer, Administrative Assistant; Brooke
Standish, Administrative Assistant.

POST Legal Counsel:

Stuart Segrest, Esq.

Guests:

Joel Wendland, Ken Breen, Sam Martin.

Guests via Teams: Chad Vanisko, Sara Hess, Jeremy

Kopp, Dan Springer, Richard Kelch, Shelby DeMars,
Sam Stecklow

WHEREUPON, the following proceedings were
had:

* * * * *

CHAIR DUTTON: It's 9:00. We'll call
the meeting to order. We'll start with a roll
call, and then we'll identify and welcome guests.
We'll start with roll call of POST board members.

MR. ALLRED: This is Timothy, the
Director of POST. I'm going to do roll call of
board members first. Sheriff Slaughter is excused
today, and so is Wyatt Glade. Jim Anderson.

MR. ANDERSON: Here.

MR. ALLRED: Anthony Hutchings.

MR. HUTCHINGS: Here.

MR. ALLRED: Leo Dutton.

CHAIR DUTTON: Here.

MR. ALLRED: Shellie Brady.

MS. BRADY: Here.

MR. ALLRED: Kristine White.

MS. WHITE: Here.

MR. ALLRED: Mark Kraft.

MR. KRAFT: Here.

MR. ALLRED: Jim Thomas.

MR. THOMAS: Here.

MR. ALLRED: Bill Smith.

MR. BILL SMITH: Here.

MR. ALLRED: Kimberly Burdick.

MS. BURDICK: Here.

MR. ALLRED: Jess Edwards.

MR. EDWARDS: Here.

MR. ALLRED: Conner Smith.

MR. CONNER SMITH: Here.

MR. ALLRED: POST staff. I'm the
Director of POST, Timothy Allred.

MS. STANDISH: Brooke Standish,
Executive Assistant.

MS. CRANMER: Tina Cranmer,
Administrative Assistant.

MS. BOLGER: Katrina Bolger, Paralegal
Investigator.

MR. SEGREST: Stu Segrest, Counsel to
POST.

MR. ALLRED: Guests in the room, will
you please step up to the podium and introduce
yourself, and spell your last name, please.

MR. MARTIN: Good morning. My name is
Sam Martin. I'm here on behalf of Calen Curtin,
and my last name is spelled M-A-R-T-I-N.

MR. BREEN: Ken Breen, B-R-E-E-N, Lewis
& Clark County Criminal Justice Services.

MR. ALLRED: Thank you. Anyone else in
the room?

(No response)

MR. ALLRED: Online, will you please
introduce yourselves.

MS. DEMARS: Shelby DeMars is on. I'm
representing MPPA. Last name is D-E-M-A-R-S.

MR. KELCH: Richard Kelch.

MR. ALLRED: Thank you, Richard.

MR. KOPP: Jeremy Kopp from the Gallatin
County Sheriff's Office.

MR. VANISKO: Chad Vanisko, Counsel for
POST.

MR. ALLRED: Thanks, Chad.

MS. HESS: Sara Hess, H-E-S-S, with
Legislative Services Division, and I staff the Law
and Justice Interim Committee.

MR. ALLRED: Thank you, Sara. Anyone
else online?

(No response)

CHAIR DUTTON: With that, if you'd stand
and remove your hat if you're wearing one, and
join in the Pledge of Allegiance, please.

(Pledge of Allegiance)

(Invocation)

5
1 CHAIR DUTTON: Thank you. You may be
2 seated. All right. Approval of minutes for the
3 May 3rd, 2023 Council meeting. Timothy.
4 MR. ALLRED: Yes. Do we have a motion
5 to approve the minutes?
6 MR. EDWARDS: I'll motion.
7 MS. WHITE: I'll second.
8 CHAIR DUTTON: Kristino seconds. Any
9 discussion?
10 (No response)
11 CHAIR DUTTON: Hearing no discussion,
12 we'll move to immediate vote. All those in favor,
13 signify by saying aye.
14 (Response)
15 CHAIR DUTTON: All opposed, say nay.
16 (No response)
17 CHAIR DUTTON: Hearing all of the ayes
18 have it, and carries unanimously. Now we move
19 into public comment or guest issues.
20 MR. ALLRED: So under this item the
21 Council will offer any opportunity to members of
22 the public in attendance to comment on any public
23 matter under the jurisdiction of the Council that
24 is not on the agenda at this meeting.
25 While the Council cannot take action on

6
1 any issues presented, the Council will listen to
2 comments, and may ask staff to place the issue on
3 a subsequent agenda. The presiding officer may
4 limit the comment period in order to proceed with
5 the Council meeting. So we'll start with anybody
6 in the room. Does anybody in the room have public
7 comment?
8 (No response)
9 MR. ALLRED: As noted, Sheriff Dutton,
10 Joel Wendland, the Administrator from the Academy,
11 will be attending us later, and he will be
12 providing short public comment. Anybody online
13 have public comment?
14 (No response)
15 CHAIR DUTTON: I don't see any hands
16 waving on the computer.
17 MR. ALLRED: Seeing none, the next item
18 on the agenda is POST Council members, and that's
19 on Page 27. I'd like to give an opportunity for
20 you to see the new Council members that we have on
21 the Council, and give an opportunity for Anthony
22 and Shellie to introduce themselves to the
23 Council, please. Shellie, do you want to go
24 first.
25 MS. BRADY: Sure. I'm Shellie Brady. I

7
1 work for Gallatin County Court Services. I'm the
2 officer supervisor for the Pretrial and
3 Misdemeanor Probation Officers. I've been with
4 Gallatin County for about 12 years. And I'm very
5 excited to be here.

6 MR. HUTCHINGS: Anthony Hutchings. I
7 work for Bozeman Police Department. I'm a Patrol
8 Sergeant currently. I've been there 16 years. I
9 started in Broadwater County Sheriff's Office in
10 2005. It's a pleasure to be here.

11 MR. ALLRED: Thank you, and thank you
12 for being willing to serve. It's also noted, so
13 they've been appointed to four year terms. It's
14 also noted that Wyatt Glade, Jim Anderson, have
15 also been reappointed to the Council as well, and
16 the same with Kristine White. Did I miss one that
17 was -- Oh, Mark Kraft. I'm sorry. So Mark Kraft,
18 Kristine White, Jim Anderson, and Wyatt Glade were
19 all reappointed to the Council as well. Welcome
20 again, Shellie and Anthony.

21 MR. ALLRED: Moving on on the agenda,
22 we're going to move to the Curtin settlement
23 agreement.

24 * * * * *

25 (Curtin transcript bound separately)

8
1 (9:08 a.m. to 9:16 a.m.)
2 * * * * *
3 MR. ALLRED: The next order of business
4 is old business.
5 So House Bill 697. This is the bill
6 that allowed POST to be administratively attached
7 again to the Department of Justice. That went
8 into effect on July 1.
9 Just so the Council is aware, we are
10 administratively attached as staff to the
11 Department of Justice, and CSD is who we are
12 attached to to provide that, and they're providing
13 services in budget, HR, payroll, IT, those kind of
14 things. We are paying \$4,000 per employee, so
15 it's a \$16,000 MOU that we have with them to be
16 under CSD.

17 But also as HB697, it also required that
18 the Law and Justice Committee study POST, and we
19 have, myself and Jesse Slaughter previously
20 presented towards, or already presented to this
21 committee, and at the time they were discussing
22 how much time they wanted to study POST. And Sara
23 Hess is online, so she can maybe help me. They
24 could have studied up to 1.5 FTE, and it was voted
25 I believe .15 FTE that they're going to study,

9
1 they're going to study POST.

2 We're scheduled to go before them as a
3 panel on September 11th, and what we've been asked
4 to speak about is the structure of the Council,
5 the structure of staff, training, and
6 certificates, and then complaints and the appeal
7 process.

8 And so how that's going to work is Chair
9 Slaughter is going to come and going to speak
10 about the structure of the Council. He's going to
11 talk about how often we meet, he's going to talk
12 about our committees and the purposes of our
13 committees.

14 I'm going to next discuss the structure
15 of staff, what our workload looks like, what we
16 do. And then I'm going to talk about training and
17 certificates. I'm going to explain how much
18 training we do a year, how much we approve, what
19 the certificate process is, and the importance of
20 that, and why certificates are important.

21 Jim Anderson is also going to be on the
22 panel, and he's going to discuss in his role
23 POST's -- the importance of certificates for
24 correction officers for the State of Montana,
25 Probation and Parole Officers, and different

10
1 incentives that they've created, and why
2 certificates are important, and what that means
3 for their agency.

4 And then Katrina is going to discuss the
5 complaint process, and the appeal process, and
6 then they're going to open it up for questions.
7 And I believe they start that morning at 9:00, I
8 believe we're on right around 10:00, and they're
9 hoping to be done by noon.

10 So that's where we're currently at.
11 Does anybody have any questions on that?

12 CHAIR DUTTON: What date is that?

13 MR. ALLRED: September 11th.

14 MR. SEGREST: What time?

15 MR. ALLRED: They start at 9:00, and the
16 Board of Pardons and Parole has not went before
17 the committee, so they're going to go before the
18 committee and ask them questions. They're
19 thinking around 10:00 it will start.

20 MR SEGREST: It's not exact?

21 MR. ALLRED: It's not an exact time.

22 Moving on to the next item, old
23 business, would be the ARM update. So in previous
24 meetings, the ARM Committee worked on updating
25 firearms proficiency standards, and the grounds

11
1 for denial and sanctions.

2 Just for those who are not aware,
3 previously to be a firearms instructor and to
4 qualify somebody, you had to have not only
5 completed the 40 hour minimum firearms instructor
6 course, but also the instructor development
7 course, and that was requested that that
8 instructor development part be removed, because if
9 you're just qualifying somebody, and not getting
10 POST credit, we didn't feel that that was needed
11 because they already did the 40 hours proficient,
12 and that was creating a backlog. And so with
13 meeting with the committee, and going through the
14 process, that was approved, and has been
15 published.

16 And the one for grounds for denials and
17 sanctions, that went through the same process as
18 the firearms, and what was included was under
19 substance abuse to include where it states that,
20 "Unauthorized use of or being under the influence
21 of an intoxicating substance, including alcohol
22 beverage or marijuana." Marijuana was included in
23 there basically. And then another section, too,
24 that, "or the use of intoxicating substance,
25 including alcohol beverages or marijuana are

12
1 grounds for sanction."

2 So those were added. That was old
3 business that we've already been through, but both
4 of those have been published and are online.

5 We are ahead of schedule. It's 9:22, it
6 looks like, 9:20. We can continue with the new
7 business, is what I would recommend, Chair,
8 instead of going to a break.

9 CHAIR DUTTON: Anybody overwhelmed with
10 needs they've got to go take care of?

11 (No response)

12 CHAIR DUTTON: I don't see any wild eyed
13 look, so we'll continue on.

14 MR. ALLRED: So on the phone we have
15 with us Undersheriff Kopp. He reached out to me a
16 few months ago, and they are putting together a
17 first line leadership academy, and I thought it
18 would be a good idea for the Council to hear what
19 they're doing. You can find the power point and
20 then information on Pages 34 through 45.

21 And so Undersheriff Kopp, I'm not sure
22 if the Sheriff is with you as well, but --

23 MS. BOLGER: Sheriff Springer did join
24 the meeting.

25 MR. ALLRED: Sheriff Springer is on.

13
1 All right. Now is your time, Sheriff Kopp. Just
2 so you're aware, too, Undersheriff, everybody in
3 the room has the information that you provided me.

MR. KOPP: Thank you, Timothy. I
5 appreciate it. Good morning, everyone. Thanks
6 for taking a couple of minutes. I just wanted to
7 take a few minutes, after Timothy and I had an
8 opportunity to talk, and he had asked to share
9 what we were thinking and doing here, hosting in
10 Gallatin County, and so not a real secret behind
11 the sauce.

We know the need for particularly first
13 line supervisor training, which is the real focus
14 of the series. So as you can see, it's a three
15 part series. We really like the model -- it's not
16 unique -- of having a module of training, and then
17 giving the students an opportunity and time to
18 actually put what they've learned into practice
19 before trying to build on that with the next
20 module, and keeping in mind that not everybody can
21 commit to all three modules.

So that was a conversation with Timothy
23 of making sure that we were creating modules that
24 in their isolation could be POST accredited per
25 module, so that somebody isn't tied to a year long

14
1 academy curriculum, that when life happens, and
2 they had to miss something, that they would lose
3 that opportunity for credit. So I appreciate
4 Timothy working with us on that.

The model being, starting out with
6 Module 1 focusing on the individual, and
7 challenging their assumptions. And the way that
8 the instructor Ron Bayne arranges that class we
9 really liked, and we had vetted that training
10 before we brought him in, was creating what is
11 essentially a safe space for the students, where
12 senior administration wasn't sitting in the
13 classroom, where they could really have those
14 challenging conversations.

And the students felt like they had the
16 space and autonomy to bring up their concerns, and
17 then the instructor could then challenge those,
18 and dig deeper into the why. And the feedback
19 that we got from the students was very good. So
20 that was the first module is looking at ourselves,
21 and how do we tend to ourselves, and control our
22 thoughts and perceptions, particularly with
23 Administration, and procedure, things like that.

And then the next module. So we built
25 in about a four month gap. The next module, for

15
1 all of the students that have that opportunity to
2 attend all of them, we can come back and talk
3 about what did you learn, what did you do, how has
4 that helped you, what questions do you have, so we
5 can address those and roll them into the next
6 module, which is really, "Okay. What do I -- what
7 is expected of me?," you know, as a first line
8 supervisor. "I have these stripes on. What am I
9 doing with my hands and feet?"

So it's really focused on who the
11 individual is, and how do you interact and get
12 maximum performance from what you're charged with
13 leading.

And I'm kind of doing a relatively quick
15 overview of the modules. So Phase 1, looking at
16 ourselves; Phase 2, how am I interacting and
17 maximizing the productivity of those that we're
18 charged with; and then Module 3 is really dig into
19 a course that I really found valuable, which is
20 how do I operate in this environment.

We have a number of people that may be
22 Veterans, they may come from different civilian
23 ventures before they enter into law enforcement,
24 and what are my left and right limits. So where
25 is the perspective of the senior leadership, where

16
1 are we going, what do I need to know about federal
2 and state labor law, how do I operate under
3 collective bargaining agreements.

The details that can hang up young
5 leaders, we wanted to really shape that, and give
6 them the knowledge that I found extremely
7 valuable, and share that with all of our students
8 that can attend.

So that's kind of, in a big picture,
10 those are the three modules. Some things I wanted
11 to share -- and this is -- I'm regurgitating
12 Sheriff Springer's guidance -- the focuses on
13 keeping a manageable size class, and they were
14 paying attention to kind of affordability and
15 accessibility to agencies and departments around
16 the state.

So I don't necessarily advocate for
18 this, but we're eating a decent amount of cost
19 with each of these modules, but it wasn't
20 necessarily about the financial impact, it's what
21 can we do to really invest in those that are kind
22 of the backbone of our profession.

So the way that we structured it was
24 over two fiscal years for one piece. We had the
25 Phase 1 and Phase 2 modules at \$300 per person,

17
1 and then Phase 3 is going to be \$100 per person.
2 It doesn't completely cover the cost, but again, I
3 think it makes it more accessible and affordable
4 for especially our smaller offices and
5 departments.

6 We kept the training on a four day
7 training module, again, trying to mitigate the
8 impact, and working with the instructors to say we
9 want this boiled down to the real meat and
10 potatoes, and let's stay focused on that, so that
11 we can get this done in a Monday through Thursday
12 training module, so people especially traveling
13 from afar can go on a Sunday and they're able to
14 get home on a Friday.

15 So that was a general model that the
16 Sheriff wanted to use as far as trying to make
17 this as accessible to all of our partners around
18 the state as possible. Sheriff, how have I done
19 so far in summarizing?

20 MR. STRINGER: I stopped listening a
21 long time ago. No, I'm just kidding. No, you did
22 great.

23 Essentially what we were doing was like
24 really trying to the first week being put yourself
25 first, and say look internally, and see where it

18
1 is that, you know, what are your blind spots, what
2 are your challenges. And then the second week
3 being how do I do that, what's the hands-on
4 actions I have to do to be a supervisor, how do I
5 document, how do I engage conflict, how do I
6 praise, how do I set expectations, and how have
7 you done in the second week.

8 The last thing, the third week would be
9 the guardrails. You and I know what we have to
10 abide by between CBA's, state laws, federal labor
11 laws, etc.

12 So Jeremy, you did an excellent job
13 explaining it. I'm just a simpler man than you.

14 MR. KOPP: I wanted to thank -- and
15 Timothy is going to shy his head away -- but
16 genuinely for working with us on a good model, how
17 do we give people the credit for the training that
18 they can do, and creating a space here, and just
19 kind of share with our friends. Here's what's
20 going on in Gallatin County right now.

21 CHAIR DUTTON: Excellent. Excellent
22 news. Good job putting that together. It looks
23 like a lot of work, some interesting instructors.
24 Are we sending anybody? I thought we were sending
25 one. I guess you're over here.

19
1 MR. KOPP: I believe you.

2 CHAIR DUTTON: You're on the computer to
3 my left, so I have to look at the owl right here.

4 MR. STRINGER: So yes, you had someone
5 at the first one, Leo, and I believe you have
6 someone -- (inaudible) --

7 CHAIR DUTTON: Any questions from the
8 board?

9 (No response)

10 MR. ALLRED: I have a few. So I just
11 wanted to clarify. So how many -- you said you
12 wanted a manageable size. How many students are
13 you -- what's kind of your max?

14 MR. KOPP: So we capped this at 30. And
15 so for an example, this Phase 2, and the Sheriff
16 talked about, really is how do I do this. So our
17 primary instructor is bringing with him three
18 additional coaches, so that when we start digging
19 into how do I do the work, and then doing
20 simulations, we're managing that coach-to-student
21 ratio to maximize the amount of time being able to
22 work simulations and really apply the skills.

23 MR. ALLRED: That makes sense. And then
24 what is the goal moving forward? Is this a one
25 time thing? Are you going to hope to do it every

20
1 year?

2 MR. STRINGER: I'll take that one,
3 Jeremy. So the goal here is to try and continue
4 this going forward, but we wanted to make sure
5 that we did one. We will sit down after the third
6 week or the third session, and revise, critique,
7 and see what we need to do differently, do we have
8 instructors. So no.

9 So we will take a look after it's all
10 completed, see if there's anything we need to fix,
11 and we'll hopefully be so we will submit this
12 spring and go forward.

13 MR. ALLRED: Thank you. And then so the
14 Council is made up of public safety officers
15 representatives, whether it be law enforcement,
16 corrections, dispatchers, pretrial services, those
17 kind of things. This is, just to clarify, this is
18 for all public safety officers?

19 MR. SPRINGER: That's correct. We had a
20 number of detention officers in there on this one
21 on the first week as well, and I'm not sure if we
22 had any dispatchers. Jeremy, do you know?

23 MR. KOPP: I don't think we had any
24 dispatchers, but we did have a fair number of
25 detention officers.

21
1 MR. ALLRED: Well, on our end if there's
2 anything that we can do to help get the word out,
3 please let us know.

4 CHAIR DUTTON: This is Leo. I suspect
5 that you'll be giving POST credit for these
6 classes. Sorry. I keep looking at the computer.

7 MR. KOPP: The goal is to get the POST
8 credit for -- to get leadership academy
9 certificate. If you do all three sessions, you'll
10 get the leadership academy certificate. If you
11 are only able to make one or two of the sessions,
12 you will get those hours of POST credit for that
13 particular coursework. And hopefully, it's the
14 same instructors and the same materials what we do
15 going forward. I think we would like to come back
16 to POST and say if they went to the first session
17 this year, and the second session next year, and
18 then finish on the third one that year, can we
19 still give them the entire certification for the
20 leadership academy. It depends on if we use the
21 same instructors. I get that. That will be
22 something we'll be asking, but we're not there.

23 CHAIR DUTTON: Thank you. Any other
24 questions?

25 MR. KOPP: Thanks, everyone, for taking

22
1 the time to chat with us.

2 MR. ALLRED: Thank you very much,
3 Sheriff and Undersheriff. We're going to move
4 into executive session at this time.

5 MS. BOLGER: Sam Stecklow is on the
6 line. I don't know if he has anything that he'd
7 like to put on the record for the Council or not.
8 Sam Stecklow. He is the requester of the public
9 information.

10 MR. ALLRED: Oh, okay. We're going to
11 move on to New Business "B," which is the public
12 record request information, and Sam Stecklow is on
13 Teams. Do you have anything for the POST Council
14 to hear before we move into executive session?

15 MR. STECKLOW: No. I guess I would just
16 say that I'm simply requesting copies of previous
17 requests and responses, not the actual information
18 that was sent out, the requests that POST received
19 and the response that POST sent out. I think
20 that's pretty clearly within public records law,
21 so that's all I will say. Thank you.

22 MR. ALLRED: Thank you. We'll move to
23 Council Counsel Stuart Segrest to lead this.

24 MR. SEGREST: Well, are we going into
25 executive session?

23
1 MR. ALLRED: Yes.

2 MR. SEGREST: So Katrina, let us know --
3 We'll ask our guests to leave, and then you can
4 let us know when we're clear.

5 (Off the record for executive session at
6 9:37 a.m. and reconvened at 9:57 a.m.)

7 CHAIR DUTTON: We're back on the record
8 now. We did go into executive session to discuss
9 their request, and we did affirm that the
10 Executive Director will be authorized to release
11 the information as requested. Anything else?

12 MR. ALLRED: No.

13 CHAIR DUTTON: Now, it feels like my
14 hair's out of place, so we probably need a ten
15 minute break. I've got to go style again. Let's
16 take a ten minute break and we'll be back.

17 (Recess taken)

18 CHAIR DUTTON: It looks like we're all
19 back. Back on the record.

20 MR. ALLRED: Are we back on Teams?

21 MS. BOLGER: Yes.

22 CHAIR DUTTON: Welcome, everybody.
23 We're back. Make sure that you can see us all.
24 Anyway, we have a guest that didn't make it. So
25 do you want to come up, Mr. Director of MLEA.

24
1 MR. WENDLAND: Yes.

2 CHAIR DUTTON: Introduce yourself.

3 MR. WENDLAND: Good morning. So I was
4 downstairs. We just on-boarded a new Law
5 Enforcement Basic class of 66 students. We
6 started out yesterday morning with 66. By the
7 afternoon we had 65, because one dropped out. But
8 then we called a local agency and said, "Hey,
9 we've got a slot." They sent somebody, so we're
10 back to 66. So my kind of attitude is no wasted
11 opportunity, right?

12 So I asked our staff, like, "Hey, if we
13 have somebody drop out," because we had that
14 happen a couple Academies ago. The first day he
15 showed up, and said, "This isn't for me." I said
16 I want somebody else we can slide right in and
17 just not waste that opportunity. So we're doing
18 those types of things to try to hammer down on our
19 wait list, and give opportunities for agencies to
20 get their well trained officers back.

21 I don't have a lot of exciting news, but
22 other than that, if you don't know, we've changed
23 the format of the Academy, which was approved by
24 all of you awhile back, where we kind of went from
25 about 60 percent sit in the desk and get power

25
1 pointed to death -- you're aware. You're
2 participating in some of that -- to where we're
3 now more like about 60 percent out of the desk,
4 hands on, learning the skills.

5 And we are trying to create an
6 environment here where the students come in, and
7 it's pretty much like going to work, right? You
8 come in, you do your office stuff, and then we get
9 up and we do hands-on. We do scenarios, and we're
10 doing building blocks of scenarios.

11 When I first came here there was only
12 scenarios at the tail end of the Academy, which
13 said final scenarios on the course sheet. And I
14 was like final scenarios? I looked backwards, and
15 I'm like, "Where is the other scenarios?" And
16 they're like, "We don't do any. This is it." I'm
17 like, "No wonder they're failing. No wonder
18 they're not able to do that activity when they get
19 to the final scenario."

20 So we've started doing micro scenarios
21 throughout the Academy. In fact, this next Monday
22 is when we do our first one. It's just a real
23 baby-stepping into scenarios, gives them an
24 opportunity to see what it's like, doing kind of a
25 role play, because it's awkward. You pretend --

26
1 it's like, "Hey, we're going to pretend land,"
2 right?

3 So the students have been reacting well
4 to that. What we heard from the last Academy that
5 graduated in the spring was that they were going
6 back and talking to their agencies, and hopefully
7 this word is starting to spread that things are
8 changing here at the Academy, but they went back
9 and talked to their fellow workers and said, "Hey,
10 we're getting to do this, this, this, and this,"
11 and all those people that have jumped through here
12 before are like, "Man, I wish I would have got to
13 do that."

14 So that's exciting news for us,
15 hopefully exciting news for you. One ask I would
16 have is for any of you that have influence on any
17 agency out there, when we send out those loud
18 hails and whatnot for volunteers to come help us
19 in role playing or for instructorships, please
20 respond to that, because that directly impacts the
21 service delivery to the actual students, and to
22 the communities that we serve out there.

23 So with that, I'll stop talking. Does
24 anybody have any questions?

25 MR. ALLRED: Do you mind identifying

27
1 yourself for the Court Reporter.

2 MR. WENDLAND: Sorry. Yes, I am the
3 Bureau Chief of the Montana Law Enforcement
4 Academy, Joel Wendland, that's W-E-N-D-L-A-N-D.
5 Anybody have any questions?

6 (No response)

7 MR. WENDLAND: If not, I think I'm going
8 to go serve lunch, because apparently our lunch
9 staff all has COVID. So me and a couple of the
10 training officers are going to go over and assist.

11 CHAIR DUTTON: Are we skipping lunch?

12 MR. WENDLAND: You'll be skipping lunch.
13 So we're going to go over there and help them out
14 for the next couple hours. So thank you.

15 CHAIR DUTTON: I appreciate it.
16 Timothy, do you want to pick us back up with the
17 POST Council committee membership.

18 MR. ALLRED: Yes. So we're going to
19 Item C, Page 47 through 48. So one thing that the
20 Council discussed at our last Council meeting, and
21 we've also included it in our ARMs, is that POST
22 will consider the committee, to review the current
23 committees and the make-up during the last
24 committee meeting of the year, of the calendar
25 year, and so we wanted to have it on the agenda

28
1 this time, but it's going to be discussed in our
2 meeting in December.

3 Jesse Slaughter, the Chair, is not here.
4 And so if you look on Page 47, this is our current
5 make-up, and we've had some vacancies due to a
6 couple members no longer being on the Council.
7 But our administrative rules state that the Chair
8 will appoint members to these committees in an
9 open meeting.

10 And so with Jesse Slaughter, we helped
11 draft the letter that was signed by Jesse
12 Slaughter on Page 48. I'm going to read that in a
13 minute about members that he wants to appoint, so
14 it's done in an open meeting.

15 But when I met with a few of you
16 previously, or those who are new on the Council,
17 how do you get on a committee. If you have any
18 interest in one of these committees, please reach
19 out to the Chair in the meantime. But we're not
20 going to be making any other appointments to
21 committees today, other than the ones that are in
22 the letter, because it has to be in an open
23 meeting.

24 So any questions on Page 47 from anybody
25 about the committees, or what they want to know

about a committee before we move on?

(No response)

MR. ALLRED: So I'm going to read the letter that was submitted by Jesse Slaughter on August 24th, 2023. This is in regards to interim appointment of committee members to Montana POST Council members.

"As the Chair of Montana POST Council, I have appointed the following Council members to serve on the Executive Committee as defined in the Council resolution 23-002 as interim members, and now as members: Jim Anderson, Department of Corrections representative; Kimberly Burdick, public representative; Mark Kraft, representing Chiefs of Police; Leo Dutton, representing the Board of Crime Control.

"As outlined in the Council resolution 23-002, I will serve as the Chair of the Executive Committee. As is outlined in the Council resolution 23-002, I formally request that the Council confirm these appointments, and allow these individuals to serve as members of the Executive Committee."

My request, Chair Dutton, at this time is that we would take a vote on that, and then I

will continue to read the rest of the letter, if we will approve those appointments that have been submitted.

CHAIR DUTTON: So we have a request from Chairman Slaughter to appoint those four that were just read onto an executive council, and he would like a vote of the board either affirming or denying, whatever your pleasure be. So I would entertain a motion to Jesse's ask.

MR. THOMAS: This is Jim Thomas. I move that we grant the request from Chairman Slaughter.

CHAIR DUTTON: Do I have a second?

MR. EDWARDS: This is Jess. I'll second.

CHAIR DUTTON: It's been moved and seconded. Any further discussion?

(No response)

CHAIR DUTTON: Hearing none, we'll move to an immediate vote. All those in favor, signify by saying aye.

(Response)

CHAIR DUTTON: Those opposed, nay.

(No response)

CHAIR DUTTON: Motion passes unanimously. Back to you.

MR. ALLRED: So continue with the letter, "Due to the departure of Matthew Saylor, as the Chair of the Montana POST Council, I have appointed the following Council members to serve on the Case Status Committee as defined in ARM 23.13.102(2) as an interim member: Bill Smith representing detention officers and detention center administrators. I formally request the Council confirm this appointment and allow this member to serve as a member of the Case Status Committee."

CHAIR DUTTON: Bill Smith's name being read as the representative of detention officers and detention center administrators be formally accepted onto the Case Status Committee by Chairman Slaughter, I would entertain a motion to approve this.

MR. ANDERSON: Jim Anderson. I'll make a motion.

CHAIR DUTTON: Jim Anderson.

MR. CONNER SMITH: Connor Smith. I'll second.

CHAIR DUTTON: Any other discussion?

(No response)

CHAIR DUTTON: No other discussion,

we'll move to an immediate vote. All those in favor, signify by saying aye.

(Response)

CHAIR DUTTON: Opposed, say nay.

(Response)

CHAIR DUTTON: Motion passes unanimously. Back to you.

MR. ALLRED: Thank you, and thank you for all who are serving on committees, and willing to serve on committees, and have been serving on committees. A lot of the work we've done and some of the things we're going to discuss moving forward in the committee reports is only because of the time that you put into this, and your dedication to this.

So we're going to move to committee reports.

MR. SEGREST: Speaking of committees.

MR. ALLRED: Speaking of, yeah. Here you go. Conner Smith, do you have an update on curriculum?

MR. CONNER SMITH: Nothing to report.

MR. ALLRED: Moving on, Case Status Committee, Chair Thomas.

MR. THOMAS: The report is in front of

1 you, Pages 49 through 52.

2 I would add also. I hope everybody got
3 a chance to read that newspaper article that Mr.
4 Allred shared with us. It talks about what I
5 guess Case Status has been doing for the last two
6 years.

7 And I remember -- I don't know who was
8 here, but Perry Johnson several years ago shared
9 an article, I think it was from Deseret News in
10 Salt Lake, and their article about Utah POST was
11 right the opposite of this article. That article
12 was about how Utah POST was not holding people
13 accountable.

14 And I thought this, while it wasn't 100
15 percent accurate, I thought it was close. This
16 article you shared with us, Timothy, was pretty
17 good, I thought. Anyway. Any questions for me?

18 (No response)

19 MR. THOMAS: Thank you.

20 MR. ALLRED: If you haven't had a chance
21 to read through this or see this report that's put
22 together for the Case Status Committee, there's a
23 lot of work that goes into that.

24 So move to Business Plan Policy
25 Committee, Chair Edwards.

1 MR. EDWARDS: On June 13th, 2023, the
2 Business Plan Policy Committee of the POST Council
3 met. The committee reviewed a draft business
4 plan, and draft policy and procedures for public
5 information requests.

6 The committee has two seconded motions
7 for the Council, discussions, and considerations.
8 The motion of the committee is to be approved and
9 drafted business plan and a draft policy and
10 procedures for public information requested, both
11 of which are in the Council's meeting materials.

12 CHAIR DUTTON: So you have in front of
13 you the 2023 business plan. I don't know if
14 you've had to a chance to peruse it yet. I
15 believe that that is brought as a seconded motion
16 from that committee. But take a minute. Is that
17 correct?

18 MR. EDWARDS: Yes.

19 MR. ALLRED: I'd like to give them a
20 moment to discuss it.

21 CHAIR DUTTON: When we get to
22 discussion, we'll have more. So the seconded
23 motion is to request for the approval. So for
24 under discussion, we'll need a nomination and a
25 second, and then we'll go into discussion. So I

1 would entertain a motion to approve.

2 MS. WHITE: I move to approve.

3 CHAIR DUTTON: Kristine motions.

4 Second?

5 MR. CONNER SMITH: I'll second.

6 CHAIR DUTTON: Thank you. Conner Smith
7 seconds. Discussion. Timothy.

8 MR. ALLRED: Yes. So one of the things
9 when I came on as Director is that people have
10 asked me, "What's your business plan? What are
11 the goals of POST Council?" And there was a lot
12 of goals and a lot of plans that were pieces here
13 and there.

14 And so I got looking back, and there was
15 a business plan that was created in 2011. There
16 was a staff plan I believe in 2019. But the last
17 business plan that the Council approved was in
18 2011.

19 And so with the help of the committee
20 and staff, we went through, and we created a
21 business plan. It goes over some of the overall
22 history of POST, an overview, and goes into the
23 Council, what their responsibilities are, what
24 some of their goals are, including working with
25 the different committees, the Legislature, and

1 Legislature interim committees, the budget, and
2 public safety agency stakeholders, work with them.

3 And then it goes into staff in, again,
4 staff's role, what they do, different staff
5 meetings that they attend, their role with law
6 enforcement basics, the public safety officer
7 basics, the briefings that the staff give.

8 And then also one area that we've really
9 tried to improve is our website. Katrina has done
10 an excellent job. All staff have put a lot of
11 input into that. I was down talking with Shellie
12 in Gallatin County, and one of her coworkers said
13 to me, "I love your new website. It looks great.
14 It's so much more user friendly," and that was one
15 of our goals that we wanted to have. We wanted to
16 give --

17 POST used to hand out -- You have in
18 front of you, one of your things on your desk, is
19 the POST Information Resource Guide. We'll talk
20 about that a little bit further, but we call it
21 the PIRG. We used to have the resource guide.
22 And POST would mail these hard copies to all
23 different agencies, and if there was ever a
24 change, they would mail out the change to all
25 those different agencies.

One of our goals was to be more effective and efficient, and to get that on our website. So if you look on our website, it's current. It's up to date. Whatever is on our website, everybody has that. We no longer mail those out to agencies. If an agency wants to know about our information, we guide them to the website.

So all that's on there, and it says in here what the information guide consists of. We've also included stats, and graphs, and reports to show just the workload that we have, analyze things, look to see where we could be more productive, and what requests we should be making.

Our website also includes public record requests, what our process is going to be for that, and information that we're receiving, and --

MR. SEGREST: Keep going.

MR. ALLRED: It also includes, so preliminary investigations. One of the requirements of HB697 was that we track information, when we get a complaint, how the process is going, and so we're going to have all that included in there as well, and then also make sure our Integra report, what Jim Thomas was

management system. We still use for our case management system, tracking everybody that you saw in the report that Jim Thomas had, we use Excel spreadsheets, we use Outlook, and we use Katrina's white board that she can move around, and make sure that we're --

MR. SEGREST: Analog.

MR. ALLRED: So we're trying to move away from the rock and chisel.

MS. BOLGER: There's multiple outputs happening.

MR. ALLRED: So that's one of our goals, and we're working on that, and we've also really been working on going paperless, or least as paperless as possible, and Tina and Brooke have been working hard on that.

So that just shows our -- so a lot of things we're doing. And then the audio video conferencing room, we got that up and running last, the end of last year officially, where we moved away from the telephone, and we can do Teams. Those ows were purchased along with TV's, and it's just very cost effective, whether it be time, and also money.

And it just states in here different

referring to previously, our Integra report is going to be on there as well. It's already on there, but we're going to have it in this PIRG on the website and up to date, and we're going to be updating it monthly.

And then this report also goes into goals that we have. One of the big things you'll see is in FTE, making sure that our modified position with Tina is approved; also striving to get a modified position as a compliance investigator.

Talks about different software. We've been working with our stakeholders -- and we had a meeting just the other day with MSPOA and MPPA, and Jim Anderson was on it from Corrections, and Bill Smith was on it from Detention -- and what a software system would look like if we're moving forward, how there's portals that they could use to enter in all their training, and make sure that their training is accrued automatically; when they get certificates they're notified of those things.

So we've been working on that, and that's one of the things that we're hoping to get some ground on.

And also in the software is a case

things that we can do. So we went together as a committee, and we discussed all these different things, and the committee approved it.

The letter that Jess Edwards read read these both together as approved motions, so before I move on to the policy and process, I'll ask: Does anybody have any questions for me on the business plan?

MR. SEGREST: I have a general question. Could you give us some timelines -- or maybe you don't know them yet -- on the software upgrades?

MR. ALLRED: So in regards to the software upgrades, we've had quotes from different vendors. And POST does not have a budget to pay for the software, and so we're working with MACOP, and MPPA, and MSPOA, and others -- detention, corrections, whoever -- that have an interest in that, at the Law and Justice Committee, to hopefully make that request that we receive funding going forward.

We've got several bids, and we've presented those bids, and what they would look for, and it does have to go out to an invitation for a bid, so it's a competitive process. But we do have a few that will honor what their bid is

41
1 now two years from now. Well, they have a 5
2 percent increase two years from now, but at least
3 we know what we would be asking for.

4 And so to answer your question, it's all
5 up in the air, if we get the funding, but I think
6 it's one thing that we've discussed is the
7 importance of -- This is not so much POST
8 requesting all this extra funding for the software
9 system. This is a request for all public safety
10 officers, and POST would be managing the software
11 system for them.

12 There's almost 6,000 public safety
13 officers, and so this would be able for all of
14 them to be used, whether you're Dispatch,
15 Pretrial, Probation and Parole, everybody would be
16 able to use this.

17 Any other questions on -- I'm super
18 excited about this plan. To me, it's the easiest
19 thing to show somebody, and just right up front,
20 what POST staff and Council do. And the whole
21 PIRG is excellent, too.

22 So moving on to the policy and process
23 for submission, and response, and reporting, for
24 public information requests. This really came out
25 of a lot of the language from Senate Bill 280 and

42
1 House Bill 580. One of them was Mercer's bill,
2 and I cannot remember who sponsored the other
3 bill.

4 But these bills have a lot of
5 requirements. They're companion bills of when
6 information will be requested, what the process
7 will look like, how long you have to respond.

8 And so working with Stuart and Katrina,
9 we created kind of a draft for this, and we tried
10 to really incorporate all those requirements and
11 the timelines, and when this will be posted on our
12 website.

13 And then we took it before the
14 committee, and the committee reviewed it with
15 their suggestions -- and as Jess Edwards --
16 approved it.

17 It also states in here there's a
18 specific timeline. They really have it broken
19 down in those two bills, like you have to respond
20 within five days of when the public information
21 request came in. You have up to 90 days to
22 provide the response, unless you feel that there's
23 a reason why you can't reply within 90 days, and
24 you have to email them and justify it, and just
25 let them know.

43
1 For example, if they made a request that
2 this Council had to consider, and we can't do it
3 within 90 days because of our schedule, that would
4 be the reason why. We need to take it to our next
5 Council, and our Council does not meet -- you
6 know, we won't be able to do it with 90 days, and
7 then you have up to six months to provide the
8 request.

9 So there's several different things.
10 They broke down a lot. It was also defined in
11 here, too, that like what a public information
12 request process we're discussing. So if somebody
13 is asking for the personal transcripts, that is
14 not part of this process, and we have it outlined
15 in here.

16 There's specific individuals that are a
17 part of this process, and we made that clear. We
18 also created a form on Page 67, so that when
19 somebody is filling out the form -- because
20 they're required to fill this out to make a
21 request -- and if they're checking yes, it says,
22 "If you respond yes to any of the above, do not
23 submit this form. Just make a request to POST
24 staff," basically, and it doesn't fall under this
25 process. Does anybody have any questions about

44
1 that part, policy and process?

2 (No response)

3 MR. ALLRED: Mr. Chair, those are the
4 two things that the committee considered and
5 approved to be brought before the full Council.

6 CHAIR DUTTON: Any questions from board
7 members? We're in the discussion phase.

8 (No response)

9 CHAIR DUTTON: I don't see any. We have
10 a motion on the floor. It's been motioned and
11 seconded for the approval of the business plan.

12 And as long as we're in discussion, I'd
13 like to thank all of you for the hard work that
14 you did. This is a nice document, outlines a lot
15 of things, and it gives direction where clarity is
16 needed, and I appreciate it. So seeing no other
17 discussion --

18 MR. ALLRED: There's also the business
19 plan and the policy and process for submission of
20 response.

21 CHAIR DUTTON: That was the original
22 motion then?

23 MR. ALLRED: Yes.

24 CHAIR DUTTON: The business plan and the
25 policy -- what did you call it?

45
1 MR. SEGREST: Public information request
2 policy.

3 CHAIR DUTTON: My wife says I don't
4 listen, but I don't remember what she said.
5 Anyway, so policy information request. All in
6 favor, signify by saying aye.

7 (Response)

8 CHAIR DUTTON: Those opposed, say nay.

9 (No response)

10 CHAIR DUTTON: Motion passes. Good job.
11 Thank you, Jess. Thank you, Timothy.

12 MR. ALLRED: So the next committee
13 report -- I did skip one. I apologize. We'll
14 move to Coroner.

15 CHAIR DUTTON: Curriculum?

16 MR. ALLRED: We did curriculum, Conner
17 Smith.

18 MR. SEGREST: Conner said nada.

19 MR. ALLRED: So Coroner update by
20 Sheriff Dutton.

21 CHAIR DUTTON: Thank you, Timothy. So
22 the Coroner update. Get to that page. There will
23 be a continuing education training that POST
24 sponsors December 5th through the 7th at 16 hours;
25 and a Coroner Basic December 11th through the

46
1 15th, 40 hours.

2 One of the new laws that went into
3 effect -- and thank you for who supported it, and
4 God bless you who didn't, but we'll talk about it
5 just for a moment -- is allowing --

6 It used to be that if you had an
7 in-custody death, if you were a law enforcement
8 agency, you could not use another law enforcement
9 agency to investigate that. And that new law
10 changed that. Basically -- Thank you, Jim
11 Anderson, for being the genesis of that. We all
12 piggy backed on that.

13 But what that allows us to do, because
14 we've had several in-custody deaths. They may
15 have been -- we never touched them, but because we
16 were there, they're considered an in-custody
17 death.

18 But now the over-worked independent
19 elected Coroners were the only ones who could do
20 that investigation. Now we can call other elected
21 Coroners or their staff to do that investigation.
22 It is up to the County Attorney to select who they
23 want to do the Coroner's inquest. That is their
24 prerogative and what they do. They can use
25 another Sheriff from what I understand, or they

47
1 can use an independent, either one. It's what
2 they feel comfortable with.

3 But the law has, that change in the law
4 has been widely received from Sheriffs that are
5 Coroners with great enthusiasm. We have used it
6 many times. We've reached out to Cascade County,
7 we've reached out to Gallatin County. We ran a
8 streak where we were having in-custody deaths
9 quite frequently.

10 So I just wanted to say thanks from the
11 discipline that they appreciate that new law. Any
12 questions on that?

13 (No response)

14 CHAIR DUTTON: Thank you. End of
15 report.

16 MR. ALLRED: Thank you. Then moving to
17 ARM Committee, Sheriff Dutton.

18 CHAIR DUTTON: The ARM Committee of the
19 POST Council met on May 24th and August 8th. The
20 committee reviewed all of the Council's ARMs, and
21 have a seconded motion for the Council's
22 discussion and consideration.

23 The motion of the committee is to
24 approve the draft ARMs changes which are found in
25 the Council's meeting materials. And I believe

48
1 that you have something to talk about there, or is
2 it you?

3 MR. ALLRED: Katrina.

4 MS. BOLGER: Are we open for discussion
5 at this point?

6 CHAIR DUTTON: I guess there's a motion
7 in there. So yes, I've got to follow through.
8 Consistency is my good key. So I will accept a
9 nomination or a motion to approve those changes.
10 We'll go to discussion. So you haven't approved
11 it yet, just a motion to approve.

12 MR. EDWARDS: This is Jess. I'll make
13 the motion.

14 CHAIR DUTTON: Jess Edwards makes a
15 motion to approve. Do I have a second?

16 MR. KRAFT: I'll second that.

17 CHAIR DUTTON: Chief Kraft seconds. Now
18 we'll move to discussion. Thank you for that
19 point of order.

20 MS. BOLGER: All right. I'll try to be
21 brief, but I got super excited about
22 administrative rules because I'm a nerd. So I'll
23 just kind of go over the high points of the
24 changes that are in front of you.

25 It looks like a lot, but the majority of

1 it is basically just matching our administrative
2 rules to our practice, and making things more
3 clear for those who are using our rules and trying
4 to navigate them.

5 So you'll see some changes to
6 definitions. There's some new definitions that
7 provide some clarity for various things. It was
8 actually brought up in the Business Plan Committee
9 that they wanted to see a glossary of POST terms,
10 and some of these terms aren't even in our
11 definitions, so we added them.

12 We did add a rule, New Rule I. It's
13 Subchapter 1, Page 9 and 10; actually 9, 10, and
14 all the way through 12. And this goes through all
15 of our standing committees that the Council has.
16 It just formalizes and defines what they are, how
17 people get appointed to committees, how many
18 people are on committees, that type of thing.

19 And it does insert that requirement that
20 committee memberships be reviewed annually by the
21 Council. So that's a new rule. It's not new
22 business necessarily. It is just formalizing what
23 has been in place for awhile.

24 I always, I think we've always felt that
25 the Council has always operated that they might

1 puts it all into one spot, so we can easily just
2 navigate them to a single subchapter.

3 So there's a little bit of movement
4 going on, but the rules haven't changed a whole
5 ton. Just a renumbering. So you'll see in the
6 Subchapter 2 section, there's a lot of transfers.

7 The SWAT rule that was in Subchapter 2,
8 we're proposing it be transferred to Subchapter 3,
9 which is the training subchapter. There is no
10 SWAT certificate. I think it was initially
11 proposed as such, and that's why it got plopped in
12 the certification rules, but it is a training.
13 It's about getting a SWAT training approved. So
14 that's why the movement there.

15 So if you go to Pages 14 and 15 of
16 Subchapter 2, that's where the new rule is that
17 provides the procedure for applying for all
18 certificates. That way no matter what somebody is
19 applying for, they've just got one rule that they
20 can go to and review.

21 So do we have any questions so far? Am
22 I going too fast? I'm trying to --

23 MR. SEGREST: I think it's good info,
24 Katrina. Thank you.

25 MS. BOLGER: Subchapter 3, as I said,

1 make a resolution or a policy. If it stands for
2 awhile and it seems to be working, why not put it
3 in the rules. So that was where the committee
4 rule came from.

5 Subchapter 2, we did a lot of changes
6 here, but they're not substantive. It's just an
7 organizational change. We took out -- In each
8 rule it had instructions on how to apply for a
9 certificate. We took that out of each individual
10 rule, and created a procedural rule for applying
11 for certificates.

12 It also really clarifies that officers
13 don't need to apply for their Basic unless they're
14 a reserve officer. They're the only ones who have
15 to submit an application.

16 A couple of the other big changes here.
17 We are proposing another subchapter that would be
18 "Appointments of Public Safety Officers," and that
19 would actually move these non-certification rules,
20 your minimum requirements for appointment, the
21 Code of Ethics, and some other things, to its own
22 subchapter that's just about appointing officers.

23 We get questions daily from agencies,
24 "Can I appoint this person? Like what do I need
25 to do here? How does this work?" This rule just

1 the training. We did a similar sort of
2 reshuffling in the training subchapter. We took
3 out the information about applying for credit, and
4 made a procedural rule to apply for credit. We
5 again moved the SWAT rules here.

6 And then we actually for the first time
7 ever are proposing -- If you look at Subchapter 3,
8 Pages 3 through 6, there are two new rules that
9 are proposed here. And we're actually separating
10 out our sort of preapproval process, where a POST
11 certified instructor applies for training credit,
12 and they have the officers fill out a roster when
13 they come.

14 So it's approved by the instructor
15 versus an individual applying for a training
16 credit. Individual training credit applications
17 make up about half of our training that we
18 approve, and so it just makes sense to have a rule
19 that says they can do that. It's always been just
20 assumed, and allowed, but never stated. So that's
21 the highlights there.

22 Coroner rules. We made some
23 clarifications about the timelines running. These
24 were based upon an Attorney General letter of
25 advice that we received, where we just requested

some clarity. When does the two year time period to get that 16 hours run? So we got that done.

Then also on Page 2 of Subchapter 6, it clarifies that if you don't get your ongoing training, you just go back to Basic. That's never been clarified in the rule, but it logically makes sense.

The grounds for sanction on Subchapter 7, generally about complaints and cases, not a lot of huge changes here. A few. If you look on Page 1 in 702.

We've had some employing authorities contact us and say they're not sure when to report something that's being investigated, do they need to wait, should they do it ahead of time, and how do they do that. And so this provides some clarity to the agency Administrators to say, "Go ahead and report it, and then you can request that the committee place it on hold pending any other matters." And so that's generally our practice anyhow.

Just providing some clarity as far as how these cases kind of run through the process. The major, I think the largest change in Subchapter 7 is going to start on Subchapter 7

Page 15 and 16. It provides some exceptions on ex parte contact rules.

We've run into issues where a Council member is a witness in a case, and we don't want to violate ex parte contact, but we need them to be able to testify. So we have that as an exception.

We've made clear and better sort of timelines for when cases proceed to the full Council for briefing and oral argument. I often have opposing Counsel call me and say, "So what are we doing? What are we supposed to do for this?" And so this actually clarifies what happens during that argument, and how that proceeds.

So that's the major changes to that stuff. And then of course, you have a new Subchapter 8 that we're proposing for appointment of officers. So I'm happy to answer any questions about any specifics, but that's kind of the highlights of everything.

CHAIR DUTTON: Just for clarity, the members of the committee were me, Jess Edwards, Bill Smith, Jesse Slaughter, and Mark Kraft, and Timothy, and Katrina. There was a lot of work

done prior to us getting there, discussion points, great discussion points.

They weren't hotly debated. They were debated at times to make sure there was clarity. So if you don't understand it, make sure and let us know, because we did take a lot of time. And you're welcome to those meetings anytime you want. We have an ARMS committee meeting. If you feel like you'd like to be included, please join. You don't have to do any kind of initiation fees to get in, you've just got to say what you want to do. So any other discussion?

MR. KRAFT: Sheriff, I mentioned this in the committee meeting. I'd just like to mention in the full meeting. The amount of work that POST staff did was tremendous on this. I'd just like to commend them for the work that they put into this. It made it really easy for the committee members to understand what was going to change and why, and I think it really smoothed that process out.

CHAIR DUTTON: I agree 100 percent. Jess, anything from you?

MR. EDWARDS: No.

CHAIR DUTTON: Are you sure?

MR. EDWARDS: Yes.

CHAIR DUTTON: Jesse's not here. Bill?

MR. BILL SMITH: No. I think we got it covered.

CHAIR DUTTON: Thank you for that long speech.

MR. BILL SMITH: You're welcome.

CHAIR DUTTON: It's time now to ask questions. We did vet these carefully, but you are voting. You are voting on these, and they made sense.

Some of the, just by way of background and rationale, the request to change some of the SWAT nomenclature was, one, that they wanted to change the name back to SWAT Basic, and the committee felt that there would be some confusion and difficulty when we started throwing around so many words of basic, Basic SWAT, Basic Law Enforcement.

And when this first came out, that's why we did not go to SWAT Basic, or call it that, because the Academy staff asked us not to do that just because of the confusion.

And then the second one was to take away the firearms qualification, and that the offering

agency submitting their candidate assures and asserts that they are qualified, so they could spend time on other tactics and things like that. So we did approve that. So that's in there. Made sense. Any other questions?

(No response)

CHAIR DUTTON: One at a time, please.

(No response)

CHAIR DUTTON: I don't hear anything.

So we have a seconded motion on the floor, so no more discussion. We'll move to an immediate vote. All those in favor, signify by saying aye.

(Response)

CHAIR DUTTON: Those opposed, say nay.

(No response)

CHAIR DUTTON: Motion passes. That ends my report.

MR. ALLRED: That was a great report, and --

CHAIR DUTTON: Thank you for all your work.

MR. SEGREST: Timothy, do you want Katrina to talk about next steps, now that they've been adopted?

MR. ALLRED: Yes, but it was --

CHAIR DUTTON: It's not from the cafeteria, is it?

MR. ALLRED: Is that okay to take a break until 11:10?

CHAIR DUTTON: Sure. Typhoid Mary is on her way now.

MR. CONNER SMITH: There's a special sandwich for you.

(Recess taken)

CHAIR DUTTON: Looks like we're back.

MR. ALLRED: We're back on the record. So under Executive Committee reports, as we just established our first Executive Committee, and we approved that today. Of course you know there's nothing to report other than that, but Sheriff Dutton has a few things he'd like to say.

CHAIR DUTTON: I do. Every year, well, for the past seven, eight years, by way of background, one of our Chaplains, Chris Thompson, had a heart for Deputies or Officers who had been involved in shootings. We were beginning to lose people from our profession because no after action follow up care.

He saw that as an opportunity, and contacted a woman named Nancy Bull Penrod

MR. SEGREST: Or you.

MR. ALLRED: Mr. Chair, we just need a direction from the Council to move forward with the formal rulemaking process in MAPA.

MS. BOLGER: Do they know what that is?

CHAIR DUTTON: I do, but maybe not everybody else. Do they need to go "uh-huh"? Is that what we're looking for?

MR. ALLRED: If there's any questions about the process, so we just need a directive from the Council saying move forward with the process of having an open meeting, and go forward with the rulemaking process. That would be an open and advertised meeting, we'll schedule a time for the public to come, and receive any public comment and consideration.

CHAIR DUTTON: Does the Council approve that process?

(Nods head)

CHAIR DUTTON: I see yes. Go ahead. It's been approved.

MR. ALLRED: Then at this time, I recommend that we take a break at this time. We're going to bring over some sandwiches and some lunch and get that ready, and then we'll continue.

(phonetic) from Riverside, California, who provides training for the Deputy, or the Officer, the peace officer, who has been involved in a shooting about what the psychological effects were of those things, what's going to happen.

And it's been very, very beneficial. That's a day training, and it's limited to only those who have been, who sent a bullet down range. The second day is for Administrators to know what the emotional effects. It's not how to handle an OIS, it's how to handle the emotional section that affects your officers, affects you. Oftentimes Administrators don't get the attention for the mental health that they should.

So those are the two classes that we do. POST used to budget \$2,500 each year to put in for that, and I can tell you we've got top billing, but since budgets got tight, and had to do away with optional things, that was one that went away, not for us, but for POST.

My office budgets for it every year, and we've offered the training for free. This last time we moved the training to Billings. Billings has had numerous officer involved shootings. It was easier to have a class there than it was to

61
1 have all the Billings officers come here. They
2 find it very beneficial, very emotional, and very
3 draining, but it's good training.

4 With some of the soft costs that either
5 MLEA does, or maybe POST, but when we have it here
6 in Helena, we have it out here at the Academy. As
7 we move forward, I just want to put that in front
8 of you, when we're starting to talk about budgets,
9 and if we do, if we ever have the opportunity to
10 put money in there, it's well worth it.

11 And if you're an Administrator or a
12 peace officer of some kind, you can attend. And
13 the Administrator class is open to communicators,
14 or even detention officer commanders that would go
15 through there, because detention officers deal
16 with some use of force issues.

17 That's what I wanted to report. It was
18 a good class, well received, and it will be back
19 next year. Thank you.

20 MR. ALLRED: Great segue into the
21 Director's report. The first item on there is
22 budget. I want to discuss the budget, so we're
23 aware of it.

24 There's a lot of things that have
25 happened since fiscal year budget of 2024. POST's

63
1 it was a one time expense, and POST Council
2 approved to pay it.

3 And so I requested that that be removed,
4 the storage unit and that downstairs room. So
5 after quite a bit of discussion, it was removed,
6 and we are now paying \$26,000, instead of the
7 \$35,000 a year.

8 We're going to have an increase of
9 \$16,000 a year, which could move up to \$20,000 if
10 we do get a compliance investigator. I'll explain
11 a little bit further, but that's an increase as
12 well.

13 I've done a lot of math, and looked into
14 this. If you look on the spreadsheet that you
15 have in front of you, that's almost to the end of
16 August. I printed a new one off that showed the
17 two months through August.

18 One of the big expenses in there was the
19 software that we're currently using, which is
20 called Blue Skills (phonetic), and that was
21 \$26,190. But where we're sitting right there is
22 really good. We've tried to be more efficient
23 with working with our time, with the Council's
24 Counsel, or the contested case Counsel, the
25 Hearing Examiner.

62
1 budget currently is \$619,000. Last year we were
2 significantly over budget, and so working with the
3 Legislature this year, and Cathy Duncan, it was
4 approved, but POST received an increase to
5 compensate for the increased legal fees, and also
6 for POST to function appropriately.

7 POST has an increase. For the first
8 time we were required to pay rent at the Montana
9 Law Enforcement Academy. That was originally
10 going to be \$35,000. And when we found out where
11 areas that they were charging POST, one of the
12 areas was downstairs in this old area, this old
13 room, where we had a lot of stuff. They were
14 counting out square footage.

15 And we learned our storage unit was
16 pretty much empty, so one morning all of the POST
17 staff, we all came in our work clothes, and we
18 moved -- I don't know how many file cabinets, and
19 boxes, and everything out of that area, moved it
20 over to the storage unit to save money there.

21 Then we came to find out that that
22 storage unit was actually purchased -- Well, there
23 was a one time expense that different agencies put
24 into the storage unit. There was like four
25 agencies in that storage unit here on campus. And

64
1 Katrina is using a lot of her time that
2 she has, was helping us, helping out more with the
3 Council, so that we're not using them as much.

4 Last year I was not able to go to
5 IADLEST or the training for directors, because we
6 did not have a budget for it. I would love to be
7 able to go this year, but if I don't go, I don't
8 go.

9 We've made a priority that we are going
10 to work hard on getting a modified compliance
11 investigator. We feel that that's really needed
12 to continue to move forward in a positive way to
13 keep up with our complaints that come in, and
14 allow Katrina to continue to function in the
15 capacity of a paralegal, and helping out with
16 things that you saw today, with the administrative
17 rules, the website things, all those other things
18 that she does, if that's gone, and she's just
19 focusing on investigations, everything else just
20 kind of getting pushed on the back burner.

21 I think -- Well, not think. I know
22 we'll be able to budget for this, and I stuck my
23 neck out. We're going to be hiring a compliance
24 investigator. That's further on the agenda. But
25 we're only approved right now to do it part-time,

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1 and it cannot exceed 18.5 hours. That at least
2 would give us somebody to help out with that.

3 So in this budget right here, I have
4 been reviewing, and looking at it very close.
5 We're doing everything we can to not spend any
6 more than we need to, because we have necessities
7 right there to live within the budget. We're not
8 going to go over this budget. It's important as
9 us being an independent staff, and independent
10 Council, that we're only attached
11 administratively, that we are not over budget at
12 all, and so we're really making sure that we
13 follow that.

14 And so in regards to the budget, like I
15 said, as of right now we're doing really good.
16 We're going to continue that pace. But at any
17 time we could get a request for a hearing that
18 could move on, and go past, where it goes all the
19 way to the Hearing Examiner, and that can really,
20 really impact our budget.

21 So we're working hard to make sure, that
22 there's different things that we're working on, to
23 make sure we're doing good investigations and
24 thorough investigations, and all of the
25 information before we move forward on some things,

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1 but we know that that can impact us greatly as
2 well.

3 If you just get two or three
4 investigations, and somebody needs to be held
5 accountable, they are fighting it, there's not
6 much that we can do, but we're going to do
7 everything we can to do that, and to make sure
8 that we continue to stand for integrity as a POST
9 Council, and hold officers when needed to be held
10 accountable.

11 So in regards to the budget part, does
12 anybody have any questions on the budget?

13 CHAIR DUTTON: The only thing I would
14 add, if there's money, and I hope there is, to
15 send you to the IADLEST conference. We used to
16 send Perry. I think it's education well worth it
17 to bring back existing trends, what are other
18 people doing, and how are they combating probably
19 similar problems that we have.

20 I'm sure that helps with your
21 recommendation with the Legislature to get more
22 money, \$1,500, but I support you in that.

23 MR. ALLRED: Absolutely. I'm attending
24 -- they're doing a western conference, too. They
25 do, not just IADLEST, but they do a western

67
1 conference for the western directors, and I'm
2 going to be attending that by Zoom. So most of
3 them are going down. I think I'm the only one by
4 Zoom, but they made it possible for me to be
5 there. So living in the budget, right?

6 So I'm going to move down to the
7 compliance investigator. I've spoken about that
8 quite a bit. If you go to Page 70 to 74, it just
9 states some of the requirements. The compliance
10 investigator, this is kind of like the job
11 overview.

12 They will conduct unbiased
13 investigations of allegations and misconduct filed
14 against public safety officers, and the incumbent
15 will be responsible for gathering preliminary
16 information from the complaint, sending
17 correspondence to the respondent, submitting the
18 requests for supporting documentation,
19 interviewing witnesses, reviewing documents,
20 recordings, and other supporting documents
21 submitted as part of the investigation, and will
22 prepare a synopsis based upon findings of the
23 investigation.

24 Glen Stinar was helping us with this in
25 this process, and he's actually -- I don't know if

68
1 he's officially retired, but he's done working. I
2 think he's kind of like finishing up his vacation
3 days. So we no longer have that service there.

4 And so we're kind of back to where we
5 were before he was there, and so we're trying to
6 move this forward as quick as possible. Like I
7 said, I'm confident that we'll be able to manage
8 this within our budget. It's needed. We've
9 already showed several ways that we're cost
10 savings. Let alone having Katrina be able to help
11 out with the attorneys right there will cost save
12 the difference between having somebody hired for
13 18.5 hours a week.

14 The interviews are scheduled for
15 September 13th for the candidates. The panel is
16 going to be me, Katrina, Chair Slaughter, and Jim
17 Thomas are going to be on the interview panel for
18 those candidates. We've been told there's some
19 good candidates in the pool. We've reviewed them
20 a little bit. So we're excited for that.

21 If you look through just the quarterly
22 statistics, and those kind of things, this gives
23 overview of the year or every quarter. We run
24 this every quarter, so this would be the second
25 quarter report, so this would be through June.

1 It's interesting how it fluctuates a
2 little bit, but we're always right in between
3 5,500 and 6,000 public safety officers. You'll
4 see the certificates awarded. In 2022, I believe
5 we issued just over a thousand, so we're up a lot
6 in certificates this year already. You can see
7 the training and the training hours, the
8 equivalencies, the information requests.

9 And so one thing to understand is when
10 you get to complaints, so there's 53 complaints,
11 and we opened 24 investigations. It's important
12 to understand that like not all those complaints,
13 or less than half actually, go to an
14 investigation. Sometimes the committee feels like
15 it's not a POST issue, or they feel that the
16 agency has already appropriately addressed it, and
17 so they close the case, and maybe sustain the
18 findings, those kind of things.

19 But it shows that a lot of our
20 revocations or denied certificates, those are from
21 individuals, the majority of them are ones who did
22 not participate in the process, and did not
23 respond to the allegations, and so their
24 certificate was automatically revoked.

25 I want to give some office updates. So

1 Tina Cranmer was awarded an award of excellence.
2 She was awarded that award earlier this year. I
3 reached out to staff, and asked if they had
4 anything to say about Tina, and staff both said
5 the same thing. She does not complain. And how
6 many of you would like an employee that does not
7 complain?

8 CHAIR DUTTON: Nice to know there's one
9 that exists.

10 MR. ALLRED: Thank you, Tina. Recently
11 we were requested -- a public information request
12 from a Billings reporter, and they wanted to get
13 the 84 Integra report, 84 cases on the Integra
14 report. They wanted all the information. We came
15 up with some information that they agreed that we
16 could send them.

17 And I didn't tell you this, Katrina,
18 because I was waiting. When I talked to Amanda
19 who was the reporter, she said to me, "That is the
20 fastest turn around I've had ever had for a public
21 information request." I asked them to send me a
22 certificate, and she said she would, but it
23 wasn't. I was hoping to give you that certificate
24 today, the fastest turn around. She no longer
25 goes by Katrina, just fastest turn around. But

1 thank you.

2 Wayne Bye, he's a Deputy Chief Probation
3 and Parole, he constantly tells me that when he
4 submits a certificate to POST for an officer, it's
5 approved either that day and sent to him, or the
6 very next day. He goes, "I don't even know how
7 you guys do it." And so that speaks volumes to
8 what the staff do.

9 So with contracts and MOU's, we signed
10 an MOU, a one year MOU with the DOJ. Agency Legal
11 Services, they have their one year renewal as
12 well. Stuart's contract was renewed for two
13 years. Stuart did request a modest increase on
14 that. Thank you, Stuart, for all your service and
15 help.

16 The Hearing Examiner DeeAnn Cooney, we
17 renewed her contract for three years. And then
18 BluePeak skills manager, we have a contract for
19 ten years with them, but every year we have to do
20 an amendment, and so out of that ten year
21 contract, we renewed amendment one with them.

22 I want to talk a little bit about this
23 POST Information Resource Guide. I know I've
24 touched on it a little bit, but one thing that we
25 really sat down as staff -- We meet weekly, and we

1 discuss different things that we can support the
2 Council, and how we can support different
3 stakeholders and agencies, and better providing a
4 better service for them.

5 And we looked at a lot of areas that we
6 could improve on and make better, and I'm a lot
7 more confident and grateful for the position that
8 we're in moving forward with the Law and Justice
9 Interim Committee study because of the work that
10 we did to prepare for this. We did not want to be
11 preparing today or asking them questions.

12 And so if you go through this, it just
13 really breaks out, you know, like several
14 different sections that we never had included in
15 here. We had the resource guide, but we included
16 some information.

17 And then also we have the legislative
18 update. That's going to be in the back, too.
19 We're going to provide information to the
20 Legislature, so we have provided the public
21 information requests that we receive, and also the
22 complaints that we get and the processes. All
23 that's going to be on here. So if somebody is
24 looking for information about POST, it's right
25 here.

1 And when I was before the Law and
2 Justice Interim Committee, I remember them holding
3 up the book and saying, "We already have all this
4 information right here," and they were very
5 grateful that we provided it with them.

6 So staff has done a lot of work to get
7 this together, and to make sure we have it.
8 There was the pieces that we approved today. One
9 was the business plan. That was approved today.
10 The policy, that was approved today. And then
11 you can just see as you look in here.

12 People can see actually like charts,
13 like how many like public safety officers there
14 are, and how many fit in the pie, whether it's
15 detention correction, there's 28 percent; law
16 enforcement, there's 48 percent or 45, depending
17 on which chart you look at, you know.

18 But they got a quick view. They can
19 view like how many training hours we do, and how
20 it's grown over, you know, since 2017. And so I
21 just --

22 This is your book. Our intention is not
23 to give you a new book, or just give you updates.
24 We just wanted you to have our first one that we
25 had. Any of our updates will be online, but if

1 that one.

2 MR. KRAFT: I suggest Teams.

3 MR. SEGREST: You're fine if they do
4 Teams?

5 MR. CONNER SMITH: Either way I won't be
6 here.

7 MR. BILL SMITH: Teams is fine.

8 MR. ALLRED: So if we do Teams, just so
9 you're aware, everybody who is local, we still set
10 up in the conference room, and when we've done the
11 Teams meeting, everybody who's local just shows up
12 anyway, so you're more than welcome to, if you are
13 a local, to just show up, but that does save us,
14 for those who are not here, it saves us the
15 mileage, and hotels, and also probably time that,
16 you know, you travel eight hours, you miss two
17 days full of work.

18 But that was one of the reasons, too,
19 why we wanted that conference room, that we're
20 grateful that we have, that we can quickly set up
21 and do that.

22 So Chair, do you have anything else for
23 me as the Director before you --

24 CHAIR DUTTON: I don't, other than say
25 thank you, and I know that you have another

1 you do want something, let us know, and if you
2 want it, I will definitely get that for you. But
3 thank you for your support today, and what you
4 approved, and for the staff helping get that
5 together.

6 Our next Council meeting is scheduled
7 for December 6th, 2023. That is going to be a
8 900. So what I need to know is -- At one time we
9 discussed doing two Teams meetings and two in
10 person meetings.

11 As you know for budget reasons, and time
12 issues, and travel, by the time you do per diem
13 and travel, each Council meeting that we do in
14 person is going to cost us around \$5,000 to
15 \$6,000, \$7,000, just to do one, including legal,
16 and all the other things that go into it.

17 So my recommendation, and I know we
18 discussed this previously, was to just kind of do
19 at least two in person a year and two Teams a
20 year. That's kind of what I was thinking, or
21 however they want to do it. But the question for
22 the Council is do they want to do the next meeting
23 by Teams, or in person. Keeping mind it's in
24 December.

25 MR. CONNER SMITH: I won't be here for

1 Interim Law and Justice Committee report in front
2 of them, and I may be there for the Board of Crime
3 Control, so there's --

4 That book that you put together answers
5 a lot of their questions, and I hope that they see
6 the relevancy of the board, and the staff that
7 work for the board now, have the ability to be
8 independent and not influenced by another law
9 enforcement agency, and that's been the secret to
10 this, is that we're not under the thumb, and can
11 make independent decisions, but we are also held
12 accountable or responsible for those decisions
13 that we do make.

14 But I think as representatives of the
15 people and the disciplines that bring us here,
16 it's important that we have followed the
17 guidelines.

18 And not everybody was happy about the
19 report that came out. There was an aghast of how
20 many people that were sanctioned, or all of those
21 type of things, but nonetheless, those people were
22 held accountable for actions that were done that
23 weren't acceptable to the law enforcement, or to
24 the peace officer, or communicator, or detention
25 officer, division.

[illegible]

RECEIVED

8:12 am, Sep 12 2023

Montana POST Bureau

PEACE OFFICER STANDARDS AND TRAINING COUNCIL

IN THE MATTER OF THE) Case No. 23-04
DENIAL OF CALEN CURTIN'S)
CERTIFICATE APPLICATION)

TRANSCRIPT OF PROCEEDINGS

September 6, 2023

SPECIAL MASTER STUART SEGREST, ESQ.

BEFORE CHAIRMAN LEO DUTTON,
COUNCIL MEMBERS JESS EDWARDS, BILL SMITH, KRISTINE
WHITE, KIMBERLY BURDICK, MARK KRAFT

PREPARED BY: LAURIE CRUTCHER, RPR
COURT REPORTER, NOTARY PUBLIC
lauriecrutcher@gmail.com

WHEREUPON, the following proceedings were
had:

* * * * *

MR. ALLRED: Moving on on the agenda,
we're going to move to the Curtin settlement
agreement, and the Council's Counsel Stuart
Segrest will lead that.

SPECIAL MASTER SEGREST: I don't have
much to add to this honestly. I think we probably
should let Chad, and then basically let the two
Counsel discuss the settlement agreement, and how
they came to it. Chad, are you on there?

(No response)

CHAIR DUTTON: You're still on mute,
Chad.

MR. VANISKO: Thank you. I've got two
different mute buttons here. I apologize for
that. I am here. Mr. Segrest, would you like me
to proceed?

SPECIAL MASTER SEGREST: Yes, please.

MR. VANISKO: I apologize to the Council
that I'm not there in person today. I became ill
yesterday, so I thought it would be best if I
didn't get all of you ill as well.

In any event, with respect to this

A P P E A R A N C E S

ATTORNEY APPEARING ON BEHALF OF THE POST COUNCIL:

MR. CHAD VANISKO, ESQ. (via Teams)
Assistant Attorney General
Montana POST Bureau
2260 Sierra Road East
Helena, MT 59602

ATTORNEY APPEARING ON BEHALF OF THE DEFENDANT:

MR. SAM MARTIN, ESQ.
Attorney at Law
Delli Bovi, Martin & Reed, LLC
30 West 14th St.
Helena, MT 59601

matter, Mr. Curtin had been appointed as a peace
officer with the Hardin Police Department in
November of 2021, and he had successfully
completed the equivalency course with MLEA. He
had come in from out of state.

In March of 2022, there was an
allegation raised that he had inappropriately
punched an individual after having tased him. A
second allegation was raised with respect to an
incident in March of 2023 where he had provided
incorrect information, claiming that he had run an
individual's name when he had in fact not done so
as part of a stop.

Mr. Curtin did timely request a hearing.
The parties had proceeded, and during those
proceedings, the City of Hardin had conducted
their own investigation, and found that Mr.
Curtin's actions were warranted, and had also
obtained the services of an expert who had
determined that under the totality of the
circumstances that the use of force was justified
and reasonable.

Furthermore, there was some confusion
with respect to Mr. Curtin, Officer Curtin, in his
confusion over whether or not he had run the

individual that he in fact had pulled over, so⁵
there was some room for argument there.

As a result, the parties came together
and determined that a settlement would be the most
appropriate course of action in this matter, and
so that leads us to the settlement agreement that
the parties did enter into.

As part of that, Officer Curtin has
agreed that -- and give me just one moment here
while I pull this up -- he will have a two year
suspended probation, and he hasn't been issued a
POST certificate during this time. He had
requested that the Hearing Officer stay the denial
of that certificate. That was granted, and so he
does currently have a certificate, but he will not
be eligible for any additional movement on the
certificate during his two years of probation, as
is standard under POST agreements.

With that having been said, in the midst
of reaching the settlement agreement, Mr. Curtin
did end up moving back out of state to his home
state of Georgia, where his wife is actually
currently living. My understanding is that Mr.
Curtin does not have any intent on returning to
Montana, so although he will be still continuing

on with the settlement agreement, the position of⁶
Officer Curtin has changed in so far as that he
will not be a peace officer in Montana, and we do
not anticipate he will return. With that, do any
members have any questions?

(No response)

CHAIR DUTTON: I don't see any.

MR. VANISKO: I know that Mr. Martin,
Officer Curtin's Counsel, is also here to I think
present some information as well.

MR. MARTIN: That is correct. One, I
want to echo everything that Mr. Vanisko just
presented to you all. And Officer Curtin has
returned to his home state of Georgia. I don't
believe that he has any intention of returning to
Montana at this time. I think he found his time
in Hardin to be quite difficult, and just there
were some general differences between his law
enforcement background coming from Georgia up to
Montana.

He did want me to pass along, because he
is unable to be here today both in person and via
phone, that he is very sorry for what transpired,
how it transpired, and how it came about. Again,
he hopes that everything can hopefully move

forward, and everyone will continue to move⁷
forward through all of these things.

So that's the information that I have
for you all today, and we hope that you will agree
with the settlement that we have reached, and that
this may put all of this to rest. Thank you.

CHAIR DUTTON: Thank you. Mr. Segrest,
any follow up?

SPECIAL MASTER SEGREST: I think with
that, are there any additional questions from the
Council?

(No response)

SPECIAL MASTER SEGREST: Seeing none, I
think you would look for a motion, and take it
under advisement.

MR. ALLRED: I do want to say and I want
to make sure on the record that it's reflected
that Jim Thomas and Conner Smith are recused from
voting because they were on the Case Status
Committee that previously considered this case.

CHAIR DUTTON: With that, having the
information before you in written and oral
presentation, it's now incumbent upon the board to
make a vote to accept the recommendations and
terms. And with that, I'd entertain a motion to

accept.⁸

COUNCIL MEMBER KRAFT: I so move.

CHAIR DUTTON: Mark makes a motion. Do
I have a second?

COUNCIL MEMBER BILL SMITH: Bill Smith.
Second.

CHAIR DUTTON: Any further discussion?

(No response)

CHAIR DUTTON: Seeing no other
discussion, we'll move to an immediate vote. All
those in favor, please signify by saying aye.

(Response)

CHAIR DUTTON: Those opposed, say nay.

(No response)

CHAIR DUTTON: Motion passes. Thank
you, gentlemen.

MR. MARTIN: Thank you.

MR. VANISKO: Thank you.

(The proceedings were concluded
at 9:16 a.m.)

* * * * *

STATE OF MONTANA
BEFORE THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING
COUNCIL

IN THE MATTER OF ERIC STIGEN'S
CERTIFICATE SUSPENSION AND
SANCTION

Case No. 21-66

**ORDER ON POST'S MOTION
FOR SUMMARY JUDGMENT**

This matter is before the undersigned Hearing Examiner on POST's Motion for Summary Judgment. Eric Stigen (Mr. Stigen) has not filed a response brief opposing summary judgment or set forth admissible evidence which establishes any genuine issues of material fact.

The undisputed record before the Hearing Examiner demonstrates there is no genuine issue as to any material fact, and this case may be decided as a matter of law.

Summary Judgment is granted in favor of POST.

I. STATEMENT OF UNDISPUTED FACTS

1. Except for the allegation that Mr. Stigen did not turn off his WatchGuard, as alleged in the Notice of POST Action and Opportunity for Hearing Mr. Stigen admitted to the allegations set forth in paragraphs 1 through 26 of the September 21, 2022 Notice of Post Action and Opportunity for Hearing. (Mr. Stigen's Response to Request for Admission No. 1.) From this admission, the following facts are established:

a. Mr. Stigen was hired by the Billings Police Department (BPD) as a police officer on September 3, 2019.

- b. POST issued Mr. Stigen a peace officer basic certificate on September 30, 2020.
- c. On November 8, 2020, Mr. Stigen was dispatched to a reported disturbance relating to intoxicated individuals in the drive-through of a downtown business in Billings.
- d. A commander and three other officers were on scene.
- e. Upon arrival, Mr. Stigen observed the first officer taking the suspect to the ground and placing him in handcuffs.
- f. The first officer advised Mr. Stigen that the suspect was agitated and hostile due to the officer pouring out the suspect's open bottle of alcohol.
- g. The suspect was taken out of handcuffs and told to leave the area.
- h. The suspect started walking away and kicked an object in the parking lot.
- i. Another officer told the suspect to pick up the garbage.
- j. The first officer on scene called the suspect back and advised him that the officer was going to write him a ticket for littering.
- k. The suspect started walking back to the scene.
- l. Mr. Stigen was positioned away from the rest of the officers on a curb in the drive-through for the business.
- m. The suspect was walking back toward Mr. Stigen.

n. Mr. Stigen believed that if he allowed the suspect to get closer, the suspect would attempt to physically harm him.

o. Mr. Stigen thought the suspect's hands were clenched into fists. It was later determined the suspect's hands were in his pockets.

p. Mr. Stigen grabbed the suspect by the front of the coat and threw him to the ground.

q. The suspect was very intoxicated and caught his feet on an elevated curb and could not get his hands up to catch the fall.

r. The suspect landed on his upper chest and face. The suspect was possibly knocked unconscious – although this was not confirmed.

s. The suspect was then placed in handcuffs.

t. All officers left the individual lying handcuffed, face-down for one minute and thirty seconds.

u. Medical services were called because of the suspect's level of intoxication and a small cut over one eye.

v. Mr. Stigen did not advise the commander on scene as to what happened.

w. Mr. Stigen's statements to the commander on scene led the commander to believe that the suspect had fallen.

x. Mr. Stigen commented that he hoped the WatchGuard video would not be reviewed.

y. Mr. Stigen's microphone was turned off.¹

z. Mr. Stigen resigned his position at the BPD, effective June 3, 2022.

2. On November 8, 2021, POST received a letter from the BPD regarding the November 8, 2020 incident. (November 2, 2021 Letter from Chief Rich St. John to Eric Gilbertson, (Ex. 1).

3. On December 16, 2021, former POST Executive Director Eric Gilbertson sent Mr. Stigen a letter. The purpose of the letter was to inform Mr. Stigen of the allegations of misconduct and to request a written response to the allegations. (Response to RFA 2; Exhibit 2, December 16, 2021 letter from Eric Gilbertson to Mr. Stigen (Ex. 2).

4. Former Director Gilbertson's December 16, 2021 letter requested that Mr. Stigen provide a written response to the following allegations:

That on November 9, 2020², you used inappropriate force against an intoxicated individual; and

That you gave your supervisor an inaccurate recitation of the events surrounding the above use of force.

(Response to RFA 2; Ex 2, p. 1).

¹ Mr. Stigen noted, and POST concedes that Billings Police Officer Tanner Messerschmidt turned off Mr. Stigen's microphone.

²Initial documentation indicated, incorrectly, that the use of force incident occurred on November 9, 2020. During the course of POST'S preliminary investigation, the correct date of the incident was determined to be November 8, 2020.

5. On January 13, 2022, POST received a written response from Mr. Stigen. (Response to RFA 2; Exhibit 3, January 11, 2022, Letter from Mr. Stigen to Eric Gilbertson (Ex. 3)).

6. In his response to POST, Mr. Stigen stated, in part:

I made several mistakes on this call. I had been on my own for less than a year and had not had a use of force. It was my belief that the commander on scene knew about the incident[,] and it was also my belief that I had told him. I was advised at my hearing with the Captain that I had not advised the commander on scene as to what happened and that the commander had believed that the suspect fell, due to what I had stated. It was not my intention to hide what had happened.

...

There could have been several different outcomes to this incident that would not have resulted in the use of force[,] and I am aware of this. ...

(Response to RFA 2; Ex. 3, p. 2).

7. In January and February of 2022, POST obtained a copy of the BPD's investigation of the November 8, 2020 incident, including video of the use of force itself. (Response to RFP 2; Response to RFA 2; Exhibit 4, BPD Investigation Information (Ex. 4); Exhibit 5, BPD's Interview of Eric Stigen (Ex. 5); Exhibit 6, Eric Stigen's November 8, 2020, in-car WatchGuard video (Ex. 6)).

8. Additional facts were established, as follows:

a. On November 8, 2020, at about 6:30 p.m., Officer Tanner Messerschmidt, Mr. Stigen, Officer Lane Diercks, and Sergeant Harley Cagle responded to the US

Bank in downtown Billings. The initial report had been for a fight, but it was eventually determined that there was not a fight in progress. *Id.*

b. Officer Messerschmidt was the first officer on the scene and found there were several transients loitering in the area. (Response to RFA 2; Ex. 4, POST 000135-000137. Response to RFP 2; Exhibit 7, Tanner Messerschmidt's November 8, 2020, in-car WatchGuard video (Ex. 7) at 00:00-01:00.)

c. Officer Messerschmidt made contact with a male individual, MC, and took a bottle of alcohol from him. Officer Messerschmidt poured out the remaining alcohol and MC became upset and aggressive. (Response to RFA 2; Ex.4, POST 000127; Response to RFP 2; Response to RFP 2; Ex. 7 at 00:00-01:35).

d. Mr. Stigen pulled up to the scene while Officer Messerschmidt was pouring out the alcohol. *Id.*

e. Officer Messerschmidt then stepped behind MC and instructed him to put his hands behind his back. MC did not and resisted Officer Messerschmidt's efforts to bring MC's arms behind his back. Officer Messerschmidt then pulled MC back and directed MC onto the ground so that MC was laying on his stomach. Mr. Stigen then assisted Officer Messerschmidt with getting MC into handcuffs. *Id.*

f. Sgt. Cagle arrived on the scene and began instructing the other subjects to leave the area. (Response to RFA 2; Ex. 4, POST 000116; Exhibit 8, Harley Cagle's November 8, 2020, in-car WatchGuard video (Ex. 8) at 00:00-04:00).

g. Officer Diercks arrived on the scene and the other transients were gone, so Sgt. Cagle told the officers he was going to check on OG. (*Id.*; *See also*, Response to RFP 2; Response RFA 2; Exhibit 9, Lane Diercks' November 8, 2020, in-car WatchGuard video (Ex. 9).

h. After Sgt. Cagle had left the area, Officer Messerschmidt cited MC for having an open container. Mr. Stigen remained with MC while Officer Messerschmidt wrote up the citation. Officer Diercks stood near Officer Stigen watching MC as well. (Response to RFA 2; Ex. 4, POST 000112, POST 000126-000127, POST 000135; POST 000137; Response to RFP 2; Ex. 6 at 00:45-07:00).

i. MC was muttering "fuck you" while Officers Stigen and Diercks watched MC. MC was able to roll over onto his back and sit up. (Response to RFP 2; Ex. 6 at 00:45-07:00.)

j. Although MC had warrants, the jail could not take him, so Officer Messerschmidt removed the handcuffs from MC and told him that he was free to go and to "leave." (Response to RFA 2; Response to RFP 2; Ex. 6 at 08:12; Ex. 7 at 12:00-12:08).

k. MC began walking away and kicked a plastic bottle that was on the ground. Officer Messerschmidt told MC to pick up the bottle. MC responded, "Why don't you pick it up?" Officer Messerschmidt then said, "Okay, come back over here, I'll

give you a ticket for littering.” (Response to RFA 2; Ex. 4 at POST 000137; Response to RFP 2; Ex. 6 at 08:12-08:29; Ex. 7 at 12:05-12:20; Ex. 9 at 6:55-7:20).

l. MC then began to walk back toward Officer Messerschmidt, who said, “Sit your ass down.” MC continued to walk with his hands in his pockets. Mr. Stigen then started walking toward MC and Officer Messerschmidt said, “You need to sit your ass down,” while Mr. Stigen was approaching and grabbing MC. (Response to RFA 2; Ex. 4 at POST 000137; Response to RFP 2; Ex. 6 at 08:30-08:37; Ex. 7 at 12:15-12:27; Ex. 9 at 7:20-7:25).

m. Mr. Stigen grabbed MC by the coat on his left shoulder and sleeve and threw MC down on the ground while saying, “You’re gonna end up getting your ass beat.” Response to RFA 2; Ex. 4 at POST 000137; Response to RFP 2; Ex. 6 at 08:36-08:40; Ex. 7 at 12:26-12:30).

n. MC first contacted the ground with his forehead and chest. Mr. Stigen was standing on a raised curb in the bank drive-through which is elevated above the drive-through lanes on either side. (Ex. 6 at 08:32-08:40; Ex. 7 at 12:17-12:20; Ex. 9 at 7:30-7:33).

o. Upon contact with the ground, MC’s body immediately went limp. *Id.*

p. While MC was on his stomach not moving, Officers Messerschmidt and Diercks placed his hands behind his back and handcuffed him. Both officers then walked away from MC toward their respective vehicles, leaving MC laying on the

ground. (Response to RFA 2; Ex. 4 at POST 000137; Response to RFP 2; Ex. 6 at 08:40-09:08; Ex. 7 at 12:30-13:00).

q. Mr. Stigen walked away, toward Officer Messerschmidt's patrol car, leaving MC alone. (Response to RFA 2; Ex. 4 at POST 000136; Response to RFP 2; Ex. 6 at 09:10-09:20; Ex. 7 at 13:00-13:08; Ex. 9 at 8:07-8:32).

r. Sgt. Cagle returned to the area. (Response to RFP 2; Ex. 6 at 09:38-10:15; Ex. 7 at 13:30-13:35; Ex. 9 at 8:35).

s. MC had a cut on his head and there was blood on the ground. Mr. Stigen then contacted medical services, and Sgt. Cagle walked away for a moment. (Ex. 6 at 10:23-10:47; Ex. 7 at 14:35-14:41).

t. When Sgt. Cagle returned, Mr. Stigen said he contacted medical to look at MC because "he took a pretty good spill." (Ex. 6 at 11:46-11:50; Ex. 7 at 15:40-15:42).

u. Mr. Stigen made comments about MC being told to go, but then he came back; and that MC came back and "buck[ed] up again." (; Ex. 6 at 12:10-12:40; Ex. 7 at 16:00-16:30; Ex. 9 at 11:04-11:31).

v. No one told Sgt. Cagle at that time that MC was instructed to come back, or that MC did not appear to "buck up". Further, no one told Sgt. Cagle that Mr. Stigen had thrown MC down. (Response to RFP 2; Exs. 6, 7 and 9 *Id.*; Ex. 8 at 12:24-15:00; Ex 4 at 000112-113, 000116).

w. While waiting for medical to arrive and check on MC, Sgt. Cagle again walked away from the immediate area. (Ex. 6 at 14:52-14:56; Ex. 7 at 18:40-18:45).

x. Mr. Stigen told Officer Messerschmidt, “Hopefully that WatchGuard doesn’t get reviewed.” (Response to RFP 2; Ex. 6 at 14:56-14:59).

y. Officer Diercks walked away shortly after that, and Officer Messerschmidt then reached over to shut off Mr. Stigen’s mic. Mr. Stigen stated, “Oh, is mine on?” before the audio shut off. (Response to RFA 2; Ex. 6 at 16:42-16:55).

z. Sgt. Cagle reviewed the video, he referred the matter to Captain Neil Lawrence for review. (Ex. 4 at 000112).

aa. There is no evidence that the officers were concerned about MC’s behavior or perceived him as aggressive or a threat, as they were laughing when he was told to come back so he could be ticketed for littering. (See: Ex.6, 7, 9, portions set out above).

bb. Mr. Stigen’s view of MC, as he returned as ordered, was unobstructed, as he faced MC directly, contrary to his statement to the investigator. (*Id.*; Ex. 5 at 23:12-23:25).

cc. During the investigation, Mr. Stigen and Officer Messerschmidt both denied that they were trying to hide anything by turning off the mic. (Response to RFA 2; Ex. 4).

dd. In his interview, Mr. Stigen said he made the comment about not wanting the video reviewed because he knew he made a mistake. Mr. Stigen stated, in part:

I knew I messed up. Even in my mind putting him on the ground was the right thing to do. I injured him, and we are taught not to basically 'mother fuck' people when we throw them. I did not give commands. I didn't do anything in that throw that was right, and how we're taught. So yeah, immediately after it happened, I knew that I had messed up.

(Ex. 5 at 17:34-18:18).

kk. In the same interview, when Mr. Stigen was asked whether the "grab and throw" was an appropriate use of force, Mr. Stigen stated, "No." (Ex. 5 at 16:40-17:00).

ll. Mr. Stigen denied that he intentionally failed to report the use of force to Sgt. Cagle. (Response to RFA 2; Ex. 4).

mm. All the officers were disciplined for leaving MC in an unsafe position after being handcuffed. (Response to RFA 2; Ex. 4).

nn. Mr. Stigen was also disciplined regarding the inappropriate use of force. He completed 40 hours of education-based discipline. (Response to RFA 2; Ex. 4).

9. On March 23, 2022, POST conducted a recorded interview with Mr. Stigen.

10. During his interview with POST, Mr. Stigen stated, "I made a mistake. I made a bad mistake." (Response to RFA 2; Ex. 10 at 15:17-15:20).

11. Upon completion of its investigation, on April 25, 2022, POST sent Mr. Stigen another letter requesting a written response. (Exhibit 11, April 25, 2022 letter from POST to Mr. Stigen (Ex. 11).

12. On May 23, 2022, Mr. Stigen provided a written response to POST's letter which POST received on May 25, 2022. (Ex. 11; Exhibit 12, May 23, 2022, Letter from Mr. Stigen to POST (Ex. 12). In his response, Mr. Stigen indicated that his use of force had been reasonable, and not a violation of POST's ARMs. *Id.*

II. LEGAL STANDARD

A. Summary Judgment Burden

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

The initial burden of proof is on the moving party (here POST), to establish that no genuine issues of material fact exist. *Westmont Tractor Co. v. Continental I, Inc.*, 224 Mont. 516, 521, 731 P.2d 327, 330 (1986). After the moving party has met its burden, the burden then shifts to the party opposing the motion (here Mr. Stigen), to establish the existence of a genuine issue of material fact. *Sprunk v. First Bank System*, 252 Mont. 463, 466, 830 P.2d 103, 104 (1992). Mr. Stigen must present facts of a “substantial nature” showing that genuine issues of material fact remain for trial. *Wangen v. Kecskes*, 256 Mont. 165, 172, 845 P.2d 721, 726 (1993).

In order to meet this burden, Mr. Stigen was required to present “substantial evidence, not mere denial, speculation, or conclusory statements.” *Klock v. Town of Cascade*, 284 Mont. 167, 174, 943 P.2d 1262, 1266 (1997). Additionally, the facts presented to create a genuine issue of material fact, “must be material and of a substantial nature, not fanciful, frivolous, gauzy, nor merely suspicions.” *Klock*, 284 Mont. at 174, 943 P.2d at 1266 (citing *Fleming v. Fleming Farms*, 221 Mont. 237, 241, 717 P.2d 1103, 1105 (1986)). Mr. Stigen could not rest upon mere allegations in the pleadings. He had an affirmative duty to respond by Declarations or other sworn testimony containing material facts that raise genuine issues; conclusory or speculative statements will not suffice.” *Klock*, 284 Mont. at 174, 943 P.2d at 1266 (quoting *Groshelle v. Reid*, 270 Mont. 443, 893 P.2d 314, 316 (1995)). “Mere disagreement about the interpretation of a fact or

facts does not amount to genuine issues of material fact.” *Sprunk*, 252 Mont. at 466, 830 P.2d at 104 (1992).

In this case, Mr. Stigen failed to respond to the Motion for Summary Judgment and has thus failed to raise genuine issues of material fact.

At the summary judgment stage, facts must be viewed in the light most favorable to the nonmoving party only if there is a “genuine” dispute as to those facts. Mont. R. Civ. P. 56(c); *Scott v. Harris*, 550 U.S. 372, 380 (2007) (cited in *Fasch v. M.K. Weeden Constr., Inc.*, 2011 MT 258, ¶¶ 19-20, 362 Mont. 256, 262 P.3d 1117

Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no ‘genuine issue for trial.’” *Scott*, 550 U.S. at 380 (quoting *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986)). Instead, when “opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment.” *Scott*, 550 U.S. at 380.

B. POST’s Laws and Rules

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). The Montana POST Bureau's statutory purpose is to "provide staff support" to the Council. Mont. Code Ann. § 2-15-2028. The POST Council has also enacted administrative rules to effectuate its legislative mandates, including specific rules regarding contested cases. ARM 23.13.101 to 721.

Administrative Rule of Montana 23.13.702 states the "Grounds for Denial, Sanction, Suspension, or Revocation" of POST Certification applied to Mr. Stigen's conduct in relation to the sanction of his POST certificates. ARM 23.13.702(3)(f) states that "neglect of duty or willful violation of orders or policies, procedures, rules, 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;" is a ground for sanction of certification. Subsection (3)(g) states that "willful violation of the code of ethics set forth in ARM 23.13.203" is an additional ground for sanction of POST certification. Subsection (3)(h) of ARM 23.13.702 also provides that "conduct which, whether committed in the officer's capacity as an officer or otherwise, is prejudicial to the administration of justice or reflects adversely on the employing authority's integrity or the officer's honesty, integrity, or fitness as an officer;" is a ground for sanction of POST certification. Subsection (3)(l) of ARM 23.13.702 states that "the use of excessive or unjustified force in conjunction with official duties;" is grounds for sanction of POST certification.

The Code of Ethics to which ARM 23.13.702(3)(g) refers is found in ARM 23.13.203(3). Subsection (a) of the Code of Ethics states “My fundamental responsibility as a public safety officer is to serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure the constitutional rights of all are not abridged.” Subsection (d) states “I will never employ unnecessary force or violence and will use only such force in the discharge of my duties as is objectively reasonable in all circumstances. I will refrain from applying unnecessary infliction of pain or suffering and will never engage in cruel, degrading, or inhuman treatment of any person.” ARM 23.13.203(3)(i) provides “I will at all times ensure that my character and conduct is admirable and will not bring discredit to my community, my agency, or my chosen profession.”

Violation of any one of the subsections of ARM 23.13.702(3) or engaging in conduct which violates any portion of the Code of Ethics in ARM 23.13.203 constitutes “Grounds for Denial, Sanction, Suspension, or Revocation” of Mr. Stigen’s POST certification.

III. DISCUSSION

Mr. Stigen violated POST’s rules when he used excessive force against MC. “[T]he use of excessive or unjustified force in conjunction with official duties” is one such form of misconduct which provides grounds for sanction of a POST certification. ARM 23.13.702(3)(1).

In evaluating use of force and whether it is excessive, courts must determine “whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” *Graham v. Connor*, 490 U.S. 386, 397 (1989). This inquiry “requires a careful balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the countervailing governmental interests at stake.” *Id.* at 396 (quotation and citation omitted). “Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application . . . its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Id.* (quotation and citation omitted). This calculus must account for the fact that police officers are often “forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Id.* at 396-97. Consequently, the objective reasonableness of an officer’s use of force must be judged from the perspective of a reasonable officer on the scene, “rather than with the 20/20 vision of hindsight.” *Id.* at 396 (citing *Terry v. Ohio*, 392 U.S. 1, 20-22 (1968)). The ultimate question is whether the officer’s actions were objectively reasonable considering the facts and circumstances confronting him or her. *Id.* at 397. Courts follow a three-step analysis in analyzing the reasonableness of an officer’s use of force:

First, we must assess the severity of the intrusion on the individual's Fourth Amendment rights by evaluating the type and amount of force inflicted. Next, we must evaluate the government's interests by assessing (1) the severity of the crime; (2) whether the suspect posed an immediate threat to the officers' or public's safety; and (3) whether the suspect was resisting arrest or attempting to escape. Third, we balance the gravity of the intrusion on the individual against the government's need for that intrusion. Ultimately, we must balance the force that was used by the officers against the need for such force to determine whether the force used was greater than is reasonable under the circumstances.

Espinosa v. City and Cnty. of San Francisco, 598 F.3d 528, 537 (9th Cir. 2010) (internal quotations and citations omitted).

Mr. Stigen did not dispute the underlying facts of his encounter with MC. In fact, he admitted them. Based on his correspondence, in response to POST, Mr. Stigen's only dispute in this matter concerns an issue of law, whether his actions were objectively reasonable in light of the facts and circumstances confronting him. Mr. Stigen asserted that MC was already hostile and aggressive toward the officers on scene, and that MC's level of intoxication did not render him less threatening or unable to understand commands. *Id.* Mr. Stigen also asserts MC walked toward him and not the other officers, causing Mr. Stigen to believe MC was going to cause him physical harm. *Id.* Mr. Stigen also alleges he believed that MC's hands were out of his pockets in balled fists. *Id.* Finally, Mr. Stigen argues it was never his intention to injure MC, and that he used what he had at his disposal to stop MC, which resulted in unintentional injury. *Id.*

While it is true that excessive use of force must be evaluated from the perspective of a reasonable officer on the scene, the undisputed facts in evidence in the record

demonstrate there are no genuine issues of material fact as to the reasonableness of Mr. Stigen's use of force. Mr. Stigen's use of force was in clear violation of all three elements of a use of force analysis.

With respect to the severity of MC's alleged crimes, they were minimal. MC was initially cited for a misdemeanor open container violation and released. While ambling away from the officers, he kicked a bottle that was already on the ground. Officer Messerschmidt then ordered MC to return in order to be cited for a misdemeanor littering violation, notwithstanding that MC had not littered.

The alleged open container and littering crimes were misdemeanor offenses, nonviolent in nature. The video evidence shows that MC presented no significant threat to Mr. Stigen or anyone else. MC had only offered passive resistance, and he had actually been released from custody at the time of the incident. It was only as a result of complying with an instruction, that he return so he could be cited for littering, that MC was approaching Mr. Stigen and the other officers. MC was not in the process of committing a crime at all when Mr. Stigen grabbed and threw him to the ground. Nothing about the situation about the situation or MC's alleged crimes would have warranted a use of force used by Mr. Stigen.

MC was objectively of little threat to the safety of Mr. Stigen, the other officers, or the public in general. The WatchGuard videos reflect Mr. Stigen was wearing body armor and had immediate access to both lethal and nonlethal weapons. MC had no armor, and

within the pockets of his jacket. Nothing about the situation was fast-moving or would have impaired Mr. Stigen's ability to observe MC.

Where someone's purported recollection of a scene is at clear odds with incontrovertible facts depicted in a video recording, there is no reason it must be believed. Mr. Stigen's version of the events is clearly contradicted by the record. Mr. Stigen's claim that he observed a form of aggression from MC is, under the circumstances, self-serving and completely unsupported by the video record. Even Mr. Stigen himself immediately acknowledged on the scene that his use of force was inappropriate (*e.g.*, his statement that he hoped no one watched the WatchGuard video) while mentioning nothing of believing MC was about to attack either him or the other officers. Such behavior is inconsistent with someone who actually observed and believed MC presented a serious threat under the circumstances. The video evidence conclusively establishes the actual circumstances of Mr. Stigen's use of force and belies his statement that MC's fists were balled up or that he appeared aggressive or threatening.

The undisputed facts in the record established that MC posed virtually no threat to either law enforcement or the public. MC's only transgression was not immediately complying with an order to sit down, which contradicted an order to move toward officers that had literally just been given. MC was complying with the order to come back and, as the video evidence reveals, there was effectively no time between the order that MC sit down and Mr. Stigen taking action.

Under the totality of the circumstances, the only objective conclusion is that MC could not have been viewed as any kind of significant threat to a reasonable officer in Mr. Stigen's shoes.

With respect to the threat of escape, no one has alleged MC was attempting to escape from a group of armed officers.

In light of the minimal threat, demonstrated in the analysis of the foregoing use of force factors, no use of physical force was warranted when Mr. Stigen took acted to use significant force on MC. While Mr. Stigen has stated that the severity of his physical use of force was unintentional, that assertion is irrelevant to the analysis and contradicted by the WatchGuard video evidence. The undisputed facts in the record do not support any argument that Mr. Stigen's decision to use force was that of a reasonable officer and that the result of his force was mistaken and unintentional.

When Mr. Stigen used physical force against MC, he was standing on a raised curb in the bank drive-through which is elevated above the drive-through lanes on either side. Without any attempt at de-escalation, Mr. Stigen grabbed MC by the coat on his left shoulder and sleeve and threw him down on the ground while saying, "You're gonna end up getting your ass beat." MC first contacted the ground with his forehead and chest and immediately went limp. As MC was on his stomach not moving, Officers Messerschmidt and Diercks placed his hands behind his back and handcuffed him. All of the officers, including Mr. Stigen, then walked away from MC, leaving him lying on the ground as he

bled from a head wound. It was not until Sgt. Cagle returned, and observed that MC appeared unconscious, that Mr. Stigen sat MC up off the ground and requested medical on the scene.

While the injury to MC may have been unintentional, the use of force, applied by Mr. Stigen was, as reflected on the video, clearly intentional.

The undisputed evidence is clear that the use of force against MC was swift and violent. Mr. Stigen's use of force was strong enough that he caused abrasions and injury to MC's head and rendered MC unconscious in the process. The Billings Police Department determined Mr. Stigen's use of force was not within policy or training, and Mr. Stigen has himself admitted this fact: "I know I messed up. Even in my mind putting him on the ground was the right thing to do, I injured him and we are taught not to basically 'mother fuck' people when we throw them. I did not give commands. I didn't do anything in that throw that was right, in how we're taught. So yeah immediately after it happened I knew that I had messed up." Any use of physical force was unwarranted under the circumstances; but given the severity of the force used by Mr. Stigen against MC, it was objectively unreasonable under the circumstances.

The undisputed facts establish that, as a matter of law, Mr. Stigen's actions were not objectively reasonable in light of the facts and circumstances confronting him. See *Graham*, 490 U.S. at 397; *Espinosa*, 598 F.3d at 537. Based on the undisputed facts in the

record and the applicable law, the only conclusion is that Mr. Stigen's was unreasonable as a matter of law.

With regard to specific violations, Mr. Stigen violated ARM 23.13.702(3)(1) when he used excessive and unjustified force against MC in conjunction with his official duties. ARM 23.13.702(3)(1). Mr. Stigen violated ARM 23.13.702(3)(h) and (f) when, by using excessive force against MC, he willfully acted in violation of policies, procedures, rules, and regulations which reflected adversely on both his employer's integrity and his own honesty, integrity, and fitness as an officer, and was prejudicial to the administration of justice.

Mr. Stigen also violated ARM 23.13.702(3)(g), by willfully acting in violation of the Code of Ethics set forth in ARM 23.13.203. Mr. Stigen specifically violated ARM 23.13.203(3)(a) by failing to uphold his fundamental responsibility as a public safety officer to serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure the constitutional rights of all are not abridged. Similarly, Mr. Stigen violated ARM 23.13.203(3)(d) when he employed unnecessary force or violence, which force was only to be used in the discharge of his duties as is objectively reasonable in all circumstances and without applying unnecessary infliction of pain or suffering or engagement in cruel, degrading, or inhuman treatment of any person. Likewise, Mr. Stigen violated ARM 23.13.203(3)(i) in that he did not at all times ensure that his character and

conduct were admirable and would not bring discredit to his community, agency, or chosen profession.

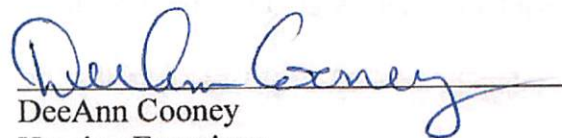
Violation of any one of the subsections of ARM 23.13.702(3) or engaging in conduct which violates any portion of the Code of Ethics in ARM 23.13.203 is grounds to sanction Mr. Stigen's POST certification. A violation of any one of the forgoing ARMs would supply sufficient grounds to sanction Mr. Stigen's certification. Together, however, they overwhelmingly weigh in favor of sanction. The purpose of summary judgment is to encourage judicial economy through the prompt elimination of questions not deserving of resolution by trial. *Harland v. Anderson*, 169 Mont. 447, 450, 548 P.2d 613, 615 (1976).

The undisputed facts establish that Mr. Stigen's behavior violates the standards of conduct for public safety officers in Montana. There are no genuine issues of material fact which requires a hearing, and summary judgment in favor of POST is appropriate as a matter of law.

IV. CONCLUSION

Based on the foregoing discussion, Summary Judgment is granted in favor of POST.
It is So Ordered.

DATED October 30th, 2023.


DeeAnn Cooney
Hearing Examiner

RECEIVED

3:19 pm, Nov 03 2023

Montana POST Bureau

STATE OF MONTANA
BEFORE THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING
COUNCIL

IN THE MATTER OF ERIC
STIGEN'S CERTIFICATE
SUSPENSION AND SANCTION

Case No. 21-66

**NOTICE OF FULL POST COUNCIL
CONSIDERATION PURSUANT TO
MONTANA CODE ANNOTATED § 2-4-
621**

The Special Master notifies the parties that the Hearing Examiner's proposed decision in this case shall be submitted to the full POST Council for review and decision pursuant to the procedure outlined in Mont. Code Ann. § 2-4-621.

An exceptions brief may be filed with the Special Master by email addressed to: stuart@cplawmt.com. Mr. Stigen or his counsel shall file his exceptions brief **within 14 days** of the date of this Notice and Order. POST's response shall be due **14 days after** Mr. Vinintin's brief is filed. No reply brief shall be filed. *See* ARM 23.13.719(2).

The POST Council will consider whether to adopt, reject, or modify the Hearing Examiner's "Order on POST's Motion for Summary Judgment" submitted in this case at its next scheduled meeting on Wednesday, December 6, 2023, at 9:30 a.m. The POST Council will hear oral arguments at that time from the parties or their counsel.

A current and updated agenda for that meeting as well as information on how to appear telephonically or in person will be available on the POST Council's website at dojmt.gov/post.

NOTICE OF FULL POST COUNCIL CONSIDERATION
PURSUANT TO MONTANA CODE ANNOTATED § 2-4-621
PAGE 1

DATED this 3rd day of November, 2023.

s/ J. Stuart Segrest
Special Master

cc: Chad R. Vanisko, Counsel POST, chad.vanisko@mt.gov
Eric Stigen, Respondent, estigen01@gmail.com

NOTICE OF FULL POST COUNCIL CONSIDERATION
PURSUANT TO MONTANA CODE ANNOTATED § 2-4-621
PAGE 2

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

(1) I, Jesse Slaughter, Chairman, Montana POST Council, by virtue of and pursuant to the authority vested in me by 2-15-2029, MCA, transfer the following rules:

TRANSFER:

<u>OLD</u>	<u>NEW</u>	
23.13.201	23.13.801	MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS
23.13.203	23.13.803	CODE OF ETHICS
23.13.214	23.13.804	EMPLOYMENT AND TRAINING OF RESERVE OFFICERS
23.13.215	23.13.805	FIREARMS PROFICIENCY STANDARDS
23.13.216	23.13.806	PUBLIC SAFETY OFFICER EMPLOYMENT, EDUCATION, AND CERTIFICATION STANDARDS
23.13.217	23.13.807	REQUIREMENTS FOR SWAT PRIMARY COURSE CREDIT

as permanent rules of this Council.

(2) This order, after first being recorded in the order register of the Council, shall be forwarded to the Secretary of State for filing.

APPROVED AND ADOPTED: November 7, 2023

CERTIFIED TO THE
SECRETARY OF STATE: November 7, 2023

BY: /s/ JESSE SLAUGHTER

Jesse Slaughter, Chair
Montana POST Council

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the transfer of ARM) NOTICE OF TRANSFER
23.13.201, 23.13.203, 23.13.214,)
23.13.215, 23.13.216, and 23.13.217)
pertaining to the certification of public)
safety officers)

TO: All Concerned Persons

1. The Public Safety Officers Standards and Training Council transfers the above-stated rules to ARM Title 23, chapter 13, subchapter 8.
2. This transfer is necessary because subchapter 2 of POST's administrative rules contains rules regarding certification. The rules being transferred are not certification rules, but rather rules regarding appointment and employment of officers or regarding training. This transfer provides greater clarity and better organization for POST's rules.
3. The transferred rules are assigned the following numbers under ARM Title 23, chapter 13, subchapter 8:

<u>OLD</u>	<u>NEW</u>	
23.13.201	23.13.801	MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS
23.13.203	23.13.803	CODE OF ETHICS
23.13.214	23.13.804	EMPLOYMENT AND TRAINING OF RESERVE OFFICERS
23.13.215	23.13.805	FIREARMS PROFICIENCY STANDARDS
23.13.216	23.13.806	PUBLIC SAFETY OFFICER EMPLOYMENT, EDUCATION, AND CERTIFICATION STANDARDS
23.13.217	23.13.807	REQUIREMENTS FOR SWAT PRIMARY COURSE CREDIT

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ JESSE SLAUGHTER
Jesse Slaughter
Chair
Montana POST Council

Certified to the Secretary of State November 7, 2023.

Montana Code Annotated 2023

TITLE 44. LAW ENFORCEMENT

CHAPTER 4. MISCELLANEOUS FUNCTIONS OF DEPARTMENT OF JUSTICE

Part 4. Montana Public Safety Officer Standards and Training Council

Investigations Report

44-4-408. Investigations report. Starting October 1, 2023, and each quarter after, the council shall provide a written report on pending investigations to the law and justice interim committee in accordance with **5-11-210**. The report must protect the privacy rights of the individuals involved and must provide for each investigation:

- (1) when it was opened;
- (2) the process that remains to be completed; and
- (3) the likely timing for resolution of the investigation.

History: En. Sec. 1, Ch. 531, L. 2023.

Active POST Investigations/Contested Cases

POST Quarterly Report to the Law and Justice Interim Committee					
Case Number	Date Opened	Stage	Process Remaining	Anticipated Completion Date	Additional Notes
23-26	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
23-20	6/12/2023	Preliminary Investigation	Complete Investigation	December, 2023, if settled	
23-27	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
23-28	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
23-25	7/19/2023	Preliminary Investigation	Take to Committee	October, 2023	
23-29	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
22-26	7/19/2023	Investigation Complete	Offer Settlement, Settle or take action	July, 2023, if settled	Investigation was placed on hold pending criminal charges, but is moving forward now
22-48	11/16/2022	Investigation Complete	Offer Settlement, Settle or take action	July, 2023, if settled	
22-56	6/12/2023	Awaiting Officer Response to allegations	Investigation	November, 2023, if settled	Investigation was placed on hold pending criminal charges, but is moving forward now
23-15	5/8/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
23-19	6/12/2023	Preliminary Investigation	Complete Investigation	December, 2023, if settled	
22-44	11/14/2022	Settlement Negotiations	Settle or take action	November, 2023, if settled	
23-08	3/20/2023	Settlement Negotiations	Settle or take action	November, 2023, if settled	
23-22	6/12/2023	Settlement Negotiations	Settle or take action	November, 2023, if settled	
23-31	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
23-18	5/25/2023	Settlement Negotiations	Settle or take action	October, 2023, if settled	
21-66	12/16/2021	MAPA Process, Scheduling Conf. 6/5/23	Contested Case Process	January, 2024	
23-32	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	
23-33	9/6/2023	Awaiting Officer Response to allegations	Investigation	January, 2024, if settled	

POST Investigations on Hold

POST Quarterly Report to the Law and Justice Interim Committee					
Case Number	Date Opened	Stage	Process Remaining	Anticipated Completion Date	Additional Notes
21-49	8/30/2021	Case is on hold	Investigation	Unknown	Case is on hold for employment grievance process
22-47	Not Yet Opened	Case is on hold	Investigation	Unknown	On hold for criminal
21-59	10/18/2021	Case is on hold	Investigation	Unknown	Case is on hold for employment grievance process
21-60	10/18/2021	Case is on hold	Investigation	Unknown	Case is on hold for employment grievance process
22-07	1/26/2022	Case is on hold	Investigation	Unknown	Case is on hold for civil litigation
22-09	1/26/2022	Case is on hold	Investigation	Unknown	Case is on hold for employment grievance process
23-09	3/20/2023	Case is on hold	Investigation	Unknown	Case is on hold for civil litigation
22-13	3/8/2022	Case is on hold	Investigation	Unknown	On hold for criminal
22-32	10/14/2022	Case is on hold	Settle or take action	Unknown	On hold for criminal
23-23	6/12/2023	Case is on hold	Investigation	Unknown	On hold for criminal
23-24	6/12/2023	Case is on hold	Investigation	Unknown	Case is on hold for employment grievance process
23-11	3/20/2023	Case is on hold	Investigation	Unknown	Case is on hold for employment grievance process

POST Cases, Officer Serving Sanction

POST Quarterly Report to the Law and Justice Interim Committee					
Case Number	Date Opened	Stage	Process Remaining	Anticipated Completion Date	Additional Notes
18-31	8/14/2018	Reached Settlement	Monitor compliance with settlement agreement	January, 2024, if no violations	
21-33	5/3/2021	Action taken	Monitor compliance with sanctions	October, 2023 if no violations	
23-04	2/3/2023	Reached Settlement	Monitor compliance with settlement agreement	July, 2025, if no violations	
22-21	7/21/2022	Reached Settlement	Monitor compliance with settlement agreement	January, 2024, if no violations	
18-32	8/14/2018	Reached Settlement	Monitor compliance with settlement agreement	November, 2024 if no violations	
20-14	5/11/2020	Reached Settlement	Monitor compliance with settlement agreement	October, 2025 if no violations	
21-64	12/16/2021	Action taken	Monitor compliance with sanctions	October, 2023 if no violations	
22-04	1/25/2022	Reached Settlement	Monitor compliance with settlement agreement	May, 2026 if no violations	
22-15	5/31/2022	Reached Settlement	Monitor compliance with settlement agreement	May, 2025 if no violations	
23-06	3/20/2023	Reached Settlement	Monitor compliance with settlement agreement	July, 2024 if no violations	
23-07	3/20/2023	Reached Settlement	Monitor compliance with settlement agreement	July, 2025, if no violations	
22-12	3/8/2022	Reached Settlement	Monitor compliance with settlement agreement	November, 2023 if no violations	
22-36	10/17/2022	Reached Settlement	Monitor compliance with settlement agreement	March, 2024 if no violations	
19-01	1/14/2019	Reached Settlement	Monitor compliance with settlement agreement	Upon retirement if no violations	
21-53	8/31/2021	Reached Settlement	Monitor compliance with settlement agreement	February, 2025 if no violations	
22-31	10/14/2022	Reached Settlement	Monitor compliance with settlement agreement	March, 2024 if no violations	
22-51	11/16/2022	Action taken	Monitor compliance with sanctions	October, 2025 if no violations	
22-37	10/17/2022	Action taken	Monitor compliance with sanctions	July, 2025, if no violations	
20-33	9/23/2020	Reached Settlement	Monitor compliance with settlement agreement	November, 2024 if no violations	
22-52	11/17/2022	Reached Settlement	Monitor compliance with settlement agreement	October, 2024 if no violations	
19-13	3/12/2019	Reached Settlement	Monitor compliance with settlement agreement	November, 2023 if no violations	
21-43	6/1/2021	Reached Settlement	Monitor compliance with settlement agreement	July, 2024 if no violations	
22-55	1/5/2023	Reached Settlement	Monitor compliance with settlement agreement	July, 2025, if no violations	
23-14	3/20/2023	Reached Settlement	Monitor compliance with settlement agreement	July 1, 2026 if no violations	
23-12	3/20/2023	Settlement Negotiations	Monitor compliance with settlement agreement	July, 2024 if no violations	
19-57	11/25/2019	Reached Settlement	Monitor compliance with settlement agreement	January, 2024, if no violations	

PSC Basic Courses and Hours: PSC97 Proposed Changes

Dispatchers Role – 2hrs

Bullying / Negativity in Comm Center – 2hrs

SVOR – 2hrs

Call Taking (foundation) – 2hrs

~~Text to 911 – 2hrs~~

911 Scenarios – 2hrs

Fire/Hazmat/EMS Call Operations w/ Scenarios – 4hrs

LE Call Operations – 2hrs

Wildland Fire 6hrs

Search and Rescue – 2hrs

Radio Operations – 2hrs

Missing persons (amber alert) – 2hrs

Q&A Scenarios showing active listening CJIN Systems – 4hrs (CJIN)

Crisis Incident Call Taking - 4hrs

Introduction to NG 9-1-1 – 2hrs

Active Shooter – 2hrs

Risk Management – 2hrs – move to online prerequisite. Will have 30 days pre-PSC to complete.

Ethics – 2hrs– move to online prerequisite. Will have 30 days pre-PSC to complete.

Crisis Intervention Stress Management (CISM) – 2hrs

~~Resilience as a First Responder – 2hrs~~

Healthy Lifestyles – 2hrs

Sexual Assault Doc – 2hrs– move to online prerequisite. Will have 30 days pre-PSC to complete.

Interpersonal Communication – 4hrs

Domestic Violence – 2hrs

Law and Criminal Procedure – 4hrs

Racial Profiling/ Cultural Awareness – 2hrs– move to online prerequisite. Will have 30 days pre-PSC to complete.

Call Documentation – 2hrs

Leadership Training – 4hrs

TTY/TDD Devices – 1hr

POST – 1hr

Sexual Harassment – 2hrs

Final Exam – 2hrs

Orientation 4hrs



Montana Public Safety Officer Standards & Training Council

Website: dojmt.gov/post
2260 Sierra Road East
Helena, MT 59602

Email: mtpost@mt.gov
Phone: (406) 444-9975
Fax: (406) 444-9978

DATE: NOVEMBER 27, 2023

TO: MONTANA POST COUNCIL

FROM: JIM THOMAS, COMMITTEE CHAIR

SUBJECT: CASE STATUS COMMITTEE REPORT AND CLOSURE OF CASES

The Case Status Committee of the POST Council have met twice, since the September 6, 2023, Council meeting. The Committee had two regularly scheduled meetings on October 11, 2023, and November 21, 2023. This is the Committee's written report setting forth the circumstances and resolution of cases. After consultation with legal counsel and meeting of the Case Status Committee of the POST Council, the following cases have been closed:

2018 ~ No cases from 2018 were closed:

There are two open cases from 2018. In both cases, the officer is serving a sanction.

2019: One case from 2019 was closed

19-13 was closed. A peace officer was off duty at a bar when he became highly intoxicated and was involved in a fight. The officer and POST reached a Settlement Agreement, wherein the officer's POST certification was placed on suspension for two years, followed by a two-year probationary period. The officer successfully completed his suspension and probationary period and his case is closed.

There are two open cases from 2019. In both cases, the officers are serving a sanction.

2020 ~ No cases from 2020 were closed:

There are two open cases from 2020. In both cases, the officers are serving a sanction.

2021 ~ Five cases from 2021 were closed:

21-33 was closed. A peace officer was off duty in a bar and became highly intoxicated. Law enforcement responded when a patron at the bar saw the officer in a bathroom stall with a firearm. After citing the officer, law

enforcement took the officer to an apartment, believing it to be the officer's home. The officer then broke into the apartment which was now occupied by someone else. Law enforcement responded and the officer was cited and taken to a friend's house. POST suspended the officer's certification for two months, which was followed by a twenty-two month probationary period.

21-63 was closed. A peace officer was off duty and consumed alcoholic beverages. After having consumed alcohol, the officer drove, and he was stopped by a Montana Highway Patrol Trooper. The officer was cooperative with the investigation. Ultimately, the prosecuting attorney determined not to charge the officer. The officer and POST reached a Settlement Agreement, wherein the officer's POST certification was placed on a one-year probationary period. The officer successfully completed his probationary period and his case is closed.

21-20 was closed. A public safety communications officer was off duty when he became highly intoxicated from consuming alcoholic beverages. The officer became disorderly, resulting in law enforcement being contacted. While the officer was being transported by law enforcement, he damaged the law enforcement officer's patrol vehicle. The officer and POST reached a Settlement Agreement, wherein the officer's POST certification was placed on a two-year probationary period. The officer successfully completed his probationary period and his case is closed.

21-49 was closed. A corrections officer was terminated after placing food in an inmate's pocket and making inappropriate comments regarding another inmate. POST's investigation was closed with findings of "sustained." POST found that the agency's action taken (termination) was appropriate.

21-64 was closed. A peace officer was found to have used inappropriate force when he pulled down on an intoxicated person who was on an elevated platform, resulting in the intoxicated person falling to the ground from the elevated platform. POST placed the officer's certification on a one-year probationary period. The officer successfully completed his probationary period and his case is closed.

There are five open cases from 2021. Of those, one is in the MAPA contested case process, two cases are on hold pending other matters, and two officers are serving a sanction.

2022 ~ Two cases from 2022 were closed:

22-44 was closed. A reserve officer was terminated after it was found that he had stolen a copy of an examination from his supervisor's office. The officer admitted to his actions. The officer and POST reached a Settlement Agreement, wherein the officer's POST certification was placed on a two-year probationary period. The officer successfully completed his probationary period and his case is closed.

22-51 was closed. A detention officer fell asleep while on duty. The officer was not yet certified, so POST issued a Notice, stating that his certification would be placed on probation for two years upon issuance of his basic. However, the officer was terminated from his position prior to being certified, and his case has been closed pending reappointment.

There are seventeen open cases from 2022. Of those, two cases are active investigations, three of them are on hold pending other matters; and in twelve cases the officer is serving a sanction.

2023 ~ Four cases from 2023 were closed:

23-25 was closed. A peace officer was alleged to have engaged in inappropriate, offensive conduct while off duty; and to have inappropriately shared information regarding an internal affairs investigation. POST closed the matter with a finding of "sustained," and determined that the agency took appropriate action.

23-17 was closed. A public safety communications officer received a call regarding a young male who required medical assistance. After dispatching medical, a call regarding a structure fire came in. Medical told the officer they were rerouting to the fire and instructed the officer to call the reporting party about the male requiring medical; and to instruct the reporting party to take the male to the emergency room. The officer failed to call the reporting party back and the male died. When questioned, the officer lied and stated she was "overwhelmed" by the volume of calls coming in at the time. The officer's certification was revoked when she failed to respond to POST's allegations.

23-10 was closed. A juvenile detention officer used his agency's computer programs, containing confidential criminal justice information, for his own personal use. When questioned about his queries, the officer lied, claiming

he ran the queries for legitimate reasons. The officer's certification was revoked when the officer failed to respond to POST's allegations.

23-13 was closed. A peace officer was questioned under a Garrity advisement and failed to directly respond to a question. POST closed its investigation with a finding of "sustained," noting that the agency has taken appropriate action.

There are 29 open cases from 2023. Of those, 21 cases are active investigations, three of them are on hold pending other matters, and in five cases the officer is serving a sanction.

Since the last Council meeting, POST has **closed a total of 33 cases**.

POST currently has **35** active investigations.

POST currently has **1** case which is in the MAPA process.

POST currently has **2** new allegations to present to case status.

POST currently has **12** cases awaiting information from agencies.

POST currently has **8** investigations on hold pending other matters.

POST has **a total of 58** cases which it is currently working on.

POST currently also has **26 cases** in which officers are serving sanctions.

To: Montana Coroner and Deputy Coroners

Prepared by: Kayla Wallace, Coroner Liaison

From: MT DOJ Forensic Science Division Medical Examiners Office, Montana Coroner Association, and POST Council

Date: November 6, 2023

Subject: Approval of Joint Memo for Continuing Education for Montana Coroners

This memo provides recommendations on what topics or activities constitute continuing education for coroners. Continuing education should align with the duties of the county coroner set forth in MCA 7-4-2911 including:

- Medical knowledge in relation to cause and manner of death (medical terminology, basic disease processes, infectious disease concerns, etc.)
- Investigations knowledge (interviewing, scene investigation, photography, general documentation, etc.)
- Identification
- Ethical and professional practices (various cultural observations, disposal of unclaimed bodies, notifications, job related stressors/counselling, etc.)
- Maintaining and distributing records
- Notification of death to next of kin
- Evidence collection and preservation
- Interagency communications (release of information, media releases, etc.)
- Disaster planning

Death investigation combines an array of topics which can be captured through various disciplines. One pertinent component to continued education should be collecting experience from more than one of the suggested areas of education (e.g., disaster planning AND medical knowledge; not simply going to the same criminal investigations course repeatedly).

Kayla Wallace, Coroner Liaison

Dr. Walter Kemp, Chief Medical Examiner

Andy LeBrun, President - Montana Coroners Association

Jesse Slaughter, Chair - POST Council

Current POST Council Committees

Business Plan/Policy

Jess Edwards – Chair
Kimberly Burdick
Jesse Slaughter
EJ Clark - Ex officio

Curriculum Review

Conner Smith – Chair
Bill Smith
Kimberly Burdick
Vacant
Jim Anderson
Joel Wendland - Ex officio

Case Status

Jim Thomas – Chair
Conner Smith
Bill Smith

Coroner

Leo Dutton – Chair
Bill Smith
Kristine White
Wyatt Glade

ARM

Leo Dutton – Chair
Jess Edwards
Bill Smith
Jesse Slaughter
Mark Kraft

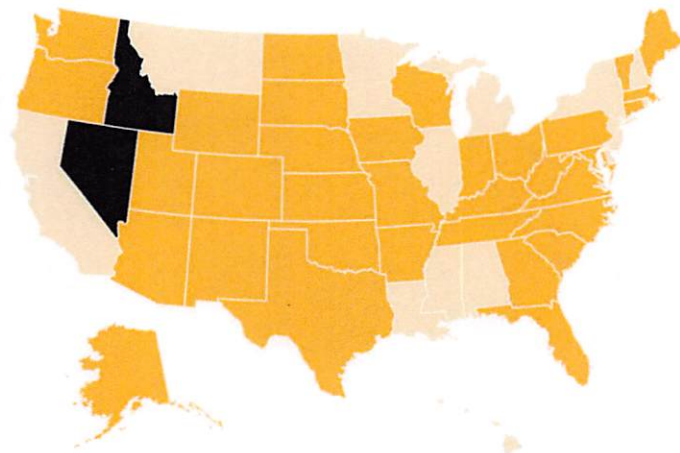
Executive Committee

Jesse Slaughter – Chair
Mark Kraft
Jim Anderson
Leo Dutton
Kimberly Burdick



National Certified Training Program

36 Supporting States



■ POST has policies requiring NCP certification*
■ POST accepts NCP certified courses.
■ NCP will help apply for State's certification

Training That Is:

DEFENSIBLE

MEASURABLE

BIAS-FREE

RELEVANT

CONTEMPORARY

Reviewed by instructional design
& content subject matter experts.

Recognized by state POST entities
as **"Best Practices"** in the design
& delivery of Law Enforcement Training
Programs & will count towards annual
in-service training credit .

IADLEST National Certification



The International Association of Directors of Law Enforcement Standards and Training recently developed a National Certification Program (NCP) for Law Enforcement continuing education.

The Fire and Emergency medical disciplines each have established standards for ongoing recertification training. However, in the Criminal Justice field, each State's Peace Officer Standards and Training (POST) had its own unique process for awarding in-service or continuing education credit for officers attending vendor-provided training. This process ranged from a complete review of training curriculum in a few states to no review at all by others. Moreover, there had not been a uniform national standard for police continuing education to ensure training quality. As a result, Departments risked spending money on outdated training, of poor quality, not legally defensible, or even dangerous.

In 2015, IADLEST, in partnership with POST organizations around the Nation, launched this innovative program designed to eliminate many of the problems associated with a lack of standardization within criminal justice training. The IADLEST National Training Certification program establishes minimum standards for vendors providing law enforcement continuing education and ensures the training content meets those quality standards. The standards are designed to meet or exceed any individual State certification requirements ensuring that training achieving National Certification is accepted by all participating POST organizations around the Nation for in-service or advanced training credit.

1. WHY IS THIS GOOD?

- Third-party validation from experts who know the topics they are reviewing is key.
 - Most states have limited staff expertise and are experiencing diminishing yearly budgets. IADLEST employs more than 150 experts to accomplish this certification process sourced from all states.
 - Expert review and validation help mitigate liability for departments.
- Our assessed training involves a more rigorous process than any one state currently uses.
 - All state POSTS can feel secure knowing the training courses surpass their requirements for certification.
 - Additionally, for the few states that do not currently certify courses, this provides an incredible resource that law or current budgets may not allow.
- An Online Training Record database for all officers is included FREE, at no charge.
 - All officers participating in an NCP course, if a roster is uploaded, will have their attendance recorded and stored in the officers' online training record.
 - Out of state officers can easily transfer their training records thereby saving money by reducing the need to retake training an officer may have already completed previously.
 - Provides a single authoritative source for officer training records that simplifies access to

- records for POST organizations and officers.
- Ongoing feedback about the quality of all of the certified courses.
 - All students can provide feedback upon course completion by creating an account and logging into the FirstForward catalog to rate the course and comment.
 - Critical feedback serves as another check on completed training, helping to ensure the training stays fresh and continues to meet the highest standards of quality. Staff monitors the feedback provided.
 - Quality courses rise to the top, helping officers receive the best training available and assists Training Officers by easily finding the best courses for their officers.
- Training providers save on the costs and time of attempting multiple state certification.
- Courses are archived in the FirstForward LMS after submission to aid in records retention.

2. WHAT'S IN IT FOR MY STATE OR ORGANIZATION?

- The training your officers receive is the best in the nation.
- Agencies save money by not using existing staff to review training.
- Reduced liability costs from bad training year after year.
- In many cases, the course approval process is quicker with the NCP, ensuring officers meet their annual in-service and advancement requirements.

3. WHY SHOULDN'T I WAIT?

- National certification unifies us making us all "Greater as One." Currently, at 36 states and growing.
- More states are already working on legislation to make this mandatory in their states.
- All 50 states recognize IADLEST National Certification training, regardless of their participating status.
- If a particular state still requires a provider lesson plan for evaluation due to rules or legislation requirements, IADLEST will send them the information requested and assure all officers receive training credit for taking a Nationally Certified course.
- Being a part of the certification process lets you have a voice in this process.

4. REQUIREMENTS FOR TRAINING PROVIDERS

They must:

- List their certified courses in the National Catalog for easy officer access.
- Provide information about the course to conduct a proper assessment/evaluation.
- Renew their course certification every two years.
- Ensure their training curriculum reflects current content.

5. NEXT STEPS

- Let us know when your state or organization will accept the NCP training.
- Help us spread the word so we can get all of the agencies in the US signed up to gain access to the National Training catalog.
- Add a link from your agency's site, directing providers and officers to the <https://iadlest-ncp.org> so they can establish an account.
- Let IADLEST add your state or organization in support of this new National standard to the NCP website at <https://iadlest-ncp.org>

Provider	Course Name				
VirTra	Simulation Science: Foundations of Simulated Event				
VirTra	High Risk Vehicle Stop: Communication to Custody				
IADLEST/NHTSA	Part 1 - Data Driven Strategy Basics				
IADLEST/NHTSA	Part 2 - DDACTS in Action				
IADLEST/NHTSA	Part 3 - Connectivity: What is it? Why do I need it? And how do I get it!?				
IADLEST/NHTSA	Part 4 - Everything Tables and Linking				
IADLEST/NHTSA	Part 5 - Creating Master Tables Using 'Make Table' and 'Append' Queries				
IADLEST/NHTSA	Part 6 - Data Quality and Cleaning Tips Like You've Never Seen Before!				
IADLEST/NHTSA	Part 7 - Making Analytics Easier with Expressions				
IADLEST/NHTSA	Part 8 - How to Identify "Top" Locations, Offenders, and More with Queries				
IADLEST/NHTSA	Part 9 - Reports and Macros				
IADLEST/NHTSA	Part 10 - Z-Score and Statistical Significance Made Easy (Excel)				
Gracie University	Gracie Survival Tactics Instructor Level 1 Certification course				
AXON Enterprises, Inc.	Critical Thinking Skills Course (CTSC)				
The ALERRT Program At Texas State University	Active Attack Integrated Response - Train the Trainer				
The ALERRT Program At Texas State University	ALERRT Active Attack Response - Level 1				
The ALERRT Program At Texas State University	ALERRT Active Attack Response - Level 1 Train-the-Trainer				
The ALERRT Program At Texas State University	ALERRT Solo Officer Rapid Deployment				
The ALERRT Program At Texas State University	ALERRT Solo Officer Rapid Deployment Train the Trainer				
The ALERRT Program At Texas State University	Civilian Response To Active Shooter Events (CRASE) Train the Trainer				
Transformational Consultants	Police and Community Connections Training				
Police One Academy	Employee Free Speech				
Police One Academy	Investigating Officer-Involved Shootings				
Police One Academy	Addressing Homeless Populations				
National Deescalation Training Center	De-escalation Fundamentals				
NCMEC	Protect Reduce Prevent Executive Leadership (PRPL) Series				
NW3C	Stress & Resilience in Law Enforcement				
Blue to Gold Law Enforcement Training, LLC	Advanced Search & Seizure				
VirTra	Active Threat/Active Killer-Module 3-(Explosives)				
Fair and Impartial Policing, LLC	Fair and Impartial Policing - Patrol Training				
Fair and Impartial Policing, LLC	Fair and Impartial Policing - First Line Supervisor Training				
Police One Academy	Managing Fatigue in 24/7 Operations				
Strategic Operations	TECC-LEO Provider				

360 Policing	Verbal De-escalation & Use of Force Prevention for Detention Officers				
NW3C	The Dark Web: An Introduction				
Center for Domestic Preparedness	Field Force Operations				
Vigilant/Motorola Solutions	Facial Recognition Technology and Best Practices				
Force Science Institute	Fundamentals of Realistic De-escalation				
Police One Academy	Duty to Intercede				
National De-Escalation Training Center	NDTC De-Escalation Recertification				
Blue to Gold Law Enforcement Training, LLC	Advanced Criminal Investigations				
Blue to Gold Law Enforcement Training, LLC	Duty to Intervene				
Blue to Gold Law Enforcement Training, LLC	Real World De-escalation				
NW3C	Introduction to Mortgage Fraud				
Blue to Gold Law Enforcement Training, LLC	Bulletproof Report Writing				
Force Science Institute	Realistic De-Escalation Instructor Course				
Center For Applied Insight Conflict Resolution, LLC	Insight Policing Core Skills				
Police One	Public Free Speech				
J Harris Academy of Police Training	Use of Force: Constitutional Responses to Subject's Resistance				
NW3C	Overview of White Collar Crime				
NW3C	Understanding Digital Footprints				
Blue to Gold Law Enforcement Training, LLC	Advanced Traffic Stops				
Primal Response Training Group	Pistol Red Dot Instructor Course				
Force Science Institute	Body-Worn Cameras - Agency Development and Implementation				
Police One	Emotional Survival for Law Enforcement				
Blue Force Learning	Using Google Location Data in Your Investigations				
Second Sight Training Systems	Threat Awareness for Law Enforcement				
VirTra	Active Threat/Active Killer (ATAK):Basic Principles-(Module 1)				
VirTra	Realistic De-Escalation by Force Science Institute and VirTra				
Institute for Intergovernmental Research	VALOR Survive and Thrive				
Vector Solutions	Art of Effective Communication				
Auschwitz Institute for the Prevention of Genocide and	Redefining Policing to Affirm and Instill Human Rights				
Auschwitz Institute for the Prevention of Genocide and	Introduction to Redefining Policing to Affirm and Instill Human Rights				
Con10gency Consulting LLC	The C.A.L.M. Approach				
Force Science Institute	Realistic De-escalation for Corrections Professionals				
Polis Solutions, Inc.	T3 - Tact, Tactics, and Trust Basic User Course				
RL Oatman & Associates, Inc.	7 Day Residential Dignitary & Executive Protection Program				

Office for Bombing Prevention	Response to Suspicious Behaviors and Items for Bombing Prevention				
Security Equipment Corporation (SABRE)	SABRE Aerosol Irritant Projector Instructor Course				
RL Oatman & Associates, Inc.	Dignitary and Executive Protection Program				
Institute for Intergovernmental Research	SAFLEO Line Officer Training				
National White Collar Crime Center (NW3C)	Ransomware: An Introduction				
The Innocent Justice Foundation	SHIFT Virtual- Supporting Heroes in Mental Health Foundational Training				
National White Collar Crime Center (NW3C)	Deepfakes: An Introduction to Synthetic Media				
National White Collar Crime Center (NW3C)	Introduction to Previewing				
Equine Assisted Learning Training Center (EALTC)	Self-Control Awareness and Resilience Training				
National White Collar Crime Center (NW3C)	How Computers Work and Store Data				
360 Policing	De-escalation & Documenting Use of Force				
VirTra	Red Dot Optic Training & Sustainment				
VirTra	Tony Blauer: Immediate Threats				
VirTra	Active Threat/Active Killer (ATAK):Decision Making-(Module 2)				
NW3C	Introduction to Cell Phone Investigations				
NW3C	Introduction to Social Media and Networking				
IADLEST/COPS Office	Every Officer is a Leader - Executive				
IADLEST/COPS Office	Every Officer is a Leader - Train-the-Trainer				
IADLEST/COPS Office	Every Officer is a Leader - Line Officer				
NW3C	Basic Cyber Investigations: Digital Footprints				
Institute for Intergovernmental Research	VALOR Survive and Thrive Fundamentals				
VirTra	Mental Illness: A Practical Approach				
VirTra	Mental Illness: Anxiety				
VirTra	Mental Illness: Crisis Intervention				
VirTra	Mental Illness: Depression				
VirTra	Mental Illness: Neurocognitive Disorder (NCD)"				
VirTra	Mental Illness: Substance Use				
VirTra	Mental Illness: Suicide				
VirTra	Mental Illness: Trauma				
VirTra	Mental Illness: Traumatic Brain Injury (TBI)				
Vigilant/Motorola Solutions	License Plate Recognition Technology and Best Practices				
IADLEST/NHTSA	DDACTS 2.0: Agency Strategic Planning Session				
Wicklander-Zulawski & Associates, Inc.	WZ Criminal Investigative Interviewing Techniques - Level 1				
Force Science Institute	Methods of Instruction - Training Practical Professional Policing Skills				

NW3C	Encryption				
NW3C	Virtual Currency				
Institute for Intergovernmental Research	VALOR Executive-Level Leadership Matchbook				
Institute for Intergovernmental Research	SAFLEO Leadership and Supervision Training (In-Person)				
Institute for Intergovernmental Research	SAFLEO Leadership and Supervision Virtual Training				
Institute for Intergovernmental Research	SAFLEO Line Officer Virtual Training				
NW3C	OSINT Module 1: Advanced Search Engine Techniques				
NW3C	OSINT Module 2: Deep Web Searching				
NW3C	OSINT Module 3: Social Media Searching				
Security Equipment Corporation (SABRE)	SABRE Aerosol Irritant Projector Instructor Course (In Person Class)				
VirTra	Tourniquet Application				
Institute for Intergovernmental Research	VALOR Mid-Level Leadership Matchbook				
Institute for Intergovernmental Research	SAFLEO Executive Forum (In-Person)				
Institute for Intergovernmental Research	VALOR Survive and Thrive Fundamentals Virtual Course				
VirTra	Weapon Transitions Concepts & Skills				
Spokane County Sheriff's Office	Use of Force Defensive Tactics (Instructor)				
Spokane County Sheriff's Office	Firearms Range Instructor Course				
Spokane County Sheriff's Office	Emergency Vehicle Operations Course				
Institute for Intergovernmental Research	VALOR Train-the-Trainer Workshop				
Wicklander-Zulawski & Associates, Inc.	WZ Conflict Resolution and De-Escalation				
Code 9 Project	Code 9 Project Command Staff Workshops				
Code 9 Project	Code 9 Project First Responder S.H.A.R.E Workshops				
Institute for Intergovernmental Research	SAFLEO Train-the-Trainer Workshop (In-Person)				
Institute for Intergovernmental Research	VALOR Virtual Train-the-Trainer Workshop				
Institute for Intergovernmental Research	SAFLEO Executive Leadership Virtual Training				
NW3C	Digital Trust				
Institute for Intergovernmental Research	SAFLEO Train-the-Trainer Virtual Workshop				
VirTra	Behavior Analysis Threat Response				
Get Safe	Advanced CIT: Youth in Crisis				
VirTra	Mental Illness: Schizophrenia and Mood Disorders				
Office For Bombing Prevention	Homemade Explosives Awareness and Precursor				
Office For Bombing Prevention	Improvised Explosive Device (IED) Construction and				
Office For Bombing Prevention	Surveillance Detection Principles				
VirTra	High Risk Vehicle Stop				

VirTra	Injured Officer Handgun Manipulation				
VirTra	Human Factors in Force Encounters				
Blue Courage	The Heart and Mind of the Guardian				
IACP	Hate Crimes: Recognition & Reporting				
NW3C	Cyberstalking				
Byrna Technologies	Byrna LE T3				
Natl Emergency Number Association	Center Training Officer Course				
Oregon DPSST	Adv De-Escalation and Escalation Prevention				
NW3C	Basic Digital Forensic Analysis-Seizure				
NW3C	Preservation Letters-Role in Investigations				
Granite State Police Career Counseling	Leadership Development for First-Line Supervisors				
Vector Solutions	Constitutional Law				
Vector Solutions	Understanding Fatigue for Law Enforcement				
Vector Solutions	Domestic Violence				
Vector Solutions	Policies and Procedures in LE				
Vector Solutions	Use of Force				
NW3C	Human Trafficking Awareness				
HYPER DYNAMIC HEALTH DISCOVERIES (HY-DY INC.)	HYPER/T - Higher Yoga Protective Edu/Training				
Anti Defamation League	Intro to Hate Crimes				
Natl De-Escalation Training Center	De-Escalation Principles and Practice				
Force Science Institute	Force Encounters: Investigation Fundamentals,				
Force Science Institute	Adv Force Science Specialist Course				
Anti Defamation League	Violent Extremism 101				
Granite State Police Career Counseling	Field Training Officer				
Jacobs Et Al LLC	Instructional Design for LE Instructors				
Jacobs Et Al LLC	Law Enforcement Instructor Certification				
IADLEST	Evidenced Based Strategic Decision Making				
VirTra	Injured Officer Handgun Manipulation				
VirTra	Human Factors in Force Encounters				
VirTra	Tourniquet Application Under Threat				
Force Science Institute	Wellness and Emotional Resilience for First				
IADLEST	DDACTS Strategic Agency Planning Session				
BATI	Investigative Interview and Interrogation				
BATI	Documenting Use of Force Report Writing				

IADLEST	Data Driven Decision Making for Commanders &				
ADL	Inclusive Policing for Leaders				
NW3C	Elder Abuse Guide for LE				
ADL	Inclusive Policing				
Complete Tactical Consultants	Tactical Athlete Program Instructor Course				
Center for Council	POWER - Peace Officer Wellness, Empathy &				
VirTra	Mental Illness Training: A practical Approach				
Armitage Tactical	AR15/M4/M16 Law Enforcement Armorer				
VirTra	Special Populations- Autism				
VirTra	Contact & Cover Concepts				
IADLEST	Truck and Bus Traffic Enforcement				
IADLEST	Truck and Bus Traffic Enforcement T4T				
ASU	APRAIS - Arizona intimate Partner Risk Assessment				
ICARUS AEROSPACE INC	UAS for Public Safety				
NRA	School Shield Security Assessor Training				
Calibre Press	Constitutional Use of Force				
IADLEST	Crime and Traffic Safety Analysis: Techniques to				
IADLEST	Advancing the DDACTS Analytical Toolset- Level II				
USDOJ COPS	Human Trafficking-Preliminary Investigations				
Police2Peace	Peace Officer: Realizing the True Purpose of Policing				
Granite State Police Career Counseling	FTO SAC Course				
Fundamentals of Cellular Analysis	Subsentio				
J. Harris Academy of Police Training	Body Worn Cameras: Tactics for Effective Use				
GTD Scientific, Inc.	Fundamentals of Biomechanics and Injury Causation				
NW3C	Introduction to the Internet of Things				
NASRO	NASRO Basic Course				
Controlled Force	Close Range Subject Control				
AXON Enterprises, Inc.	Axon Body Worn Camera 3 - Instructor Certification				
Police One	Ambush Awareness and Preparation				
Police One	Anti Harassment in the Workplace				
Police One	Emotional Intelligence for Leaders				
Police One	Ethics in Law Enforcement				
Police One	Generational Differences				
Police One	Law Enforcement and the Family Dynamic				

Police One	Litigation Procedures				
Police One	Opioid Crisis- Protecting our First Responders				
Police One	Sexual Harassment in the Workplace				
Police One	Shaping an Ethical Workplace Culture				
Police One	Building Financial Strength in First Responder Families				
Police One	Employee Recognition				
Police One	Human Trafficking Part 1				
Police One	Cultural Awareness and Diversity Overview				
Police One	Dispatcher Stress Management				
Police One	Implicit Bias				
Police One	Interacting w/Mentally Ill as a First Responder				
Police One	Racial Profiling Part 1				
Police One	The LGBTQ Community				
Police One	Developing Leadership				
Police One	Officer Wellness and Mental Health Awareness				
Police One	Sexual Harassment for Managers				
Police One	Understanding and Responding to Excited Delirium				
Police One	Campus Based Training-Clery Act				
Police One	Distracted While Driving				
Police One	Presenting Effective Testimony in a Courtroom				
Vector Solutions	Command - Core Competencies of Leadership				
Vector Solutions	Officer Survival - Physiological Response to Stress				
NW3C	Introduction to Intelligence Analysis				
RD2 Consulting LLC	Autism Awareness				
NW3C	Financial Crimes Against Seniors				
R3ResultsLLC	De-escalation: Verbally Defusing Violent				
Vector Solutions	Patrol-Law Enforcement Personnel Standards				
Vector Solutions	Civil Rights				
Vector Solutions	Patrol- Report Writing to Win Cases				
Vector Solutions	Search and Seizure				
Vector Solutions	Police Officer Liability				
Virtra	Duty to Intervene				
O-ROB-W TRAINING SOLUTIONS, LLC	Informant Management Course				
The Innocent Justice Foundation	Supporting Heroes in Mental Health Foundational				

NW3C	Responding to Transnational Elder Fraud - A Victim-				
Vigilant/Motorola Solutions	License Plate Recognition Technology Basic User				
Daigle Law Group	Body Worn Cameras				
Vector Solutions	Active Shooter Preparation and Response				
Vector Solutions	Law Enforcement Instructor Best Practices and Values				
Vector Solutions	Rapidly Evolving Challenges, Perspectives and				
Vector Solutions	Servant Leadership				
Vector Solutions	Patrol - Critical Incident Stress Management				
Total Control Training, Inc.	Total Control Advanced Motor School				
Bill Farr	Anger Management/Incident Prevention				
Virtra	One Badge One Brain One Life				
DHS Office of Bombing Prevention	Surveillance Detection for Bombing Prevention				
DHS Office of Bombing Prevention	Vehicle Borne IED				
Daigle Law Group	Supervisory Liability				
Virtra	High Risk Vehicle Stop Communication to Custody				
Virtra	Crisis De-Escalation				
NW3C	Responding to Transnational Elder Fraud				
Vector Solutions	Body Cameras				
Vector Solutions	Suicide by Cop				
Vector Solutions	Cultural Competency in Law Enforcement				
Wrap Technologies, Inc	BolaWrap Instructor Course				
Vector Solutions	Patrol - Sex Crimes Against Children				
Vector Solutions	First Amendment Auditors and Sovereign Citizens				
Offset Consulting LLC	Report Writing- the Gap Free Narrative				
Offset Consulting LLC	Report Review and Approval for Supervisors				
Offset Consulting LLC	Adaptive Leader-Frontline Leadership for Supervisors				
VirTra	Taser Targeting				
IADLEST	Part 1 Data Driven Strategy Basics				
IADLEST	Part 2 DDACTS 2.0 In Action				
IADLEST	Part 3 Connectivity: How to Connect Your Data				
IADLEST	Part 4 Everything Tables & Linking				
IADLEST	Part 5 Creating Master Tables Using 'Make Table' and				
IADLEST	Part 6: Data Quality and Cleaning Tips Like You've				
IADLEST	Part 7: Making Analytics Easier with Expressions				

IADLEST	Part 8: How to Identify "Top" Locations, Offenders, and				
IADLEST	Part 9: How to Create Rocking Reports and				
IADLEST	Part 10: Z-Score and Statistical Significance Made Easy				
IACP	What Does Wellness Look Like?				
Vector Solutions	Human Trafficking Basics for First Responders				
Vector Solutions	Health and Wellness in Public Safety				
Vector Solutions	Patrol - Officer Training Techniques				
Vector Solutions	Contact and Cover				
Vector Solutions	Vehicle Close Quarter Battle				
National Emergency Number Association	Leadership in the 9-1-1 Center				
National Emergency Number Association	Understanding Bias - Better Workplace - Better Service				
Controlled Force	40-Hour Pistol and Shotgun Instructor				
Vector Solutions	CPR Academic				
J Harris Academy of Police Training	Caught on Camera: Law Enforcement Viral Video				
Daigle Law Group	Virtual Internal Affairs Certification Training Program				
Vector Solutions	Justice Based Policing				
Vector Solutions	Critical Incident Response				
IADLEST	Part 11 Introduction for ArcGIS Pro for DDACTS				
IADLEST	Part 12 Dots on the Map				
IADLEST	Part 13 Identifying and Analyzing Hot Spots for				
NW3C	Stress & Resilience in Law Enforcement				
Vector Solutions	Drug Investigations				
Vector Solutions	Drug Interdiction				
Natl Emergency Number Association	Enhanced Caller Management				
Gracie University	Gracie Survival Tactics Instructor Level 1 Certification				
Verbal Judo Institute	Verbal Judo Instructor Course				
Vector Solutions	Excessive Force				
Vector Solutions	Open Carry Interactions				
Vector Solutions	Evidence-Based Policing				
Vector Solutions	Emergency Vehicle Pursuit Operations				
NW3C	Investigating Incidents Involving Unmanned Aerial				
ALERRT	Civilian Response and Casualty Care				
ALERRT	Exterior Response to Active Shooter Events Train the				
ALERRT	Exterior Response to Active Shooter Events				

ALERRT	Breaching Train the Trainer				
ALERRT	Breaching				
ALERRT	Solo Officer Rapid Deployment Train the Trainer				
ALERRT	Solo Officer Rapid Deployment				
ALERRT	Active Attack Response - Level 1 Train-the-Trainer				
ALERRT	Active Attack Response - Level 1				
ALERRT	Active Attack Integrated Response - Train the Trainer				
ALERRT	Active Attack Integrated Response				
SRT Project	Proactive Stress Management and Wellness for Public				
VirTra	Active Threat/Active Killer-Module 3-(Explosives)				
VirTra	My Story: Kyle Dinkheller				
AXON Enterprises, Inc.	De-escalation as an Outcome				
NW3C	Financial Investigation Basics				
NW3C	Identifying and Seizing Digital Evidence				
NW3C	Intro to the Dark Web				
J Harris Academy of Police Training	Road Sgt Tune Up				
ALERRT	Fire as a Weapon Integrated Response Course				
Center for Domestic Preparedness	Field Force Operations				
Force Science Institute	Realistic De-Escalation Instructor Course				
Force Science Institute	Fundamentals of Realistic De-Escalation				
NW3C	Digital Forensic Triage with EZ Tools				
Police 2 Peace	Peace Officer: Realizing the True Purpose of Policing				
VirTra	Simulation Science: Foundations of Simulated Event				
National De-Escalation Center	De-escalation Fundamentals				
Vigilant/Motorola Solutions	Image Comparison Technology and Best Practices-4hr				
NW3C	Introduction to Mortgage Fraud				
AXON Enterprises, Inc.	Interactive Case Law 1				
NW3C	Intellectual Property Theft: Time to Make a Difference				
NW3C	Tools and Techniques for Financial Investigations				
Police One	Emotional Survival for L/E				
Police One	Duty to Intercede				
Center for Applied Insight Conflict Resolution LLC	Insight Policing Core Skills				
Vector Solutions	Bloodborne Pathogens Safety				
Vector Solutions	Use of Force/De-Escalation				

Attachment B

The POST Council has established the following guidelines for responses to Requests for Public Information made pursuant to this policy:

Request for individual officer's POST Transcript: transcript produced in pdf format, with the officer's personal information removed or redacted (date of birth, photograph, personal contact information, etc.).

Request for POST investigation information: POST staff will coordinate with legal counsel to make a case-by-case determination regarding what information may be produced.

Request for information on a sanctioned officer: The identity of sanctioned officers will be provided absent case-specific privacy or safety concerns that outweigh the public's right to know.

Request for a officer list or other export of information from POST's database: staff may respond with either csv or pdf files as appropriate, except that staff will not release an officer's name, date of birth, contact information, or any other identifying information. Officers may be identified by a randomly generated and identified number from POST's database. POST will not release any internal data-entry information that may be used to identify officers, such as POST employee usernames or change timestamp information.

Request for training information: POST staff will provide a pdf copy of the application for POST training credit. If the request is for training material in POST's possession, POST staff may provide the material in its native format or pdf format as appropriate. POST will not produce information identifying any attendees of a specific training course, such as the attendees' names, email addresses, dates of birth, etc.

Other information requests: POST staff will consult with the Executive Director, and legal counsel where appropriate, regarding other information requests not covered by the above categories, and may present the request to the POST Council for review in appropriate cases where additional direction is needed.

LEGAL MEMORANDUM

To: Timothy Allred, POST Executive Director

From: J. Stuart Segrest, Counsel to POST

Date: November 28, 2023

Cc: Katrina Bolger

Re: CDOB Equivalency

Timothy,

You have asked that I analyze whether completion of Law Enforcement Officer Basic (LEOB), or its equivalent, qualifies an officer for Corrections-Detention Officer Basic (CDOB) equivalency. Similarly, whether Probation and Parole (P&P) Basic qualifies an officer for CDOB equivalency. As explained below, the Council may authorize LEOB and P&P Basic to qualify for CDOB equivalency, either as a matter of interpretation or by waiver.

Background

Montana statute dictates the required basic training for every public safety officer discipline except CDOB. Nonetheless, because correction and detention officers are public safety officers, they are required to meet the Council's training requirements within one year of the initial appointment.

As to LEOB, 7-32-303, MCA, requires that every officer, within one year of initial appointment, attend a basic course or its equivalent as approved by the POST Council, which must occur "at the Montana Law Enforcement Academy." This is the only statute regarding public safety officers' basic training that contemplates or allows the Council to approve "equivalent" training. P&P officers' basic training requirements are found in § 46-243-1003, MCA, which requires the training be held at the Montana Law Enforcement Academy "unless the council finds that training at some other place is more appropriate."

The Montana POST Council has only approved equivalency for two disciplines: peace officers and correction/detention officers. Equivalency is determined on a

case-by-case basis after POST staff have investigated and examined an officer's training, experience, and qualifications. The Council has authorized the Executive Director to approve or deny requests for equivalency.

Applicable Law and Analysis

I. The Council's Policy Regarding Equivalency.

The Council has adopted a Certification Policy which outlines the procedures that POST staff must follow when determining whether an officer qualifies for equivalency. According to POST staff, when the policy was adopted there was discussion concerning detention/correction officers being able to use non-basic hours for approval. Due to the differences in standards and training from state to state, the Council allowed correction/detention officers latitude regarding the type of training that qualified for CDOB equivalency. The following language from Section 1.2 of POST's Certification Policy reflects how equivalency hours are calculated from training hours:

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.

In applying this policy, POST staff consider the number of hours of training and whether the applicant has received similar types of training. For example, POST has previously allowed individuals to attend the 40-hour driving course to qualify for LEOB equivalency if they lacked this training. POST does not, however, provide any training credit hours for the course, and the officer may not use those training hours toward professional certificates. This practice comports with ARM 23.13.205(6)(a), which states: "no training hours for the basic courses or legal equivalency courses may be applied to any other certificate."

Both LEOB and P&P Basic courses exceed the required number of hours for CDOB. These basic courses, however, are missing at least one area required by

CDOB: cell extraction. I suggest POST require cell-extraction training prior to granting CDOB equivalency to peace and P&P officers.

II. The Training Limitation in ARM 23.13.205(6)(a).

An agency's interpretation of its rule is afforded great weight, and a court will defer to that interpretation unless it is plainly inconsistent with the wording and rationale of the rule. *Clark Fork Coalition v. Mont. Dep't. of Env'tl. Quality*, 2008 MT 407, ¶ 20, 347 Mont. 197, 197 P.3d 482 (citations omitted). As such, as long as POST's interpretation of its ARM is reasonable, that interpretation will be afforded deference in court.

In practice, POST has applied ARM 23.13.205(6)(a) – “no training hours for the basic courses or legal equivalency courses may be applied to any other certificate” – to mean that basic training hours may not be used toward professional certificates, but that they may be able to be used toward other basic certificates. Moreover, because CDOB is based on the Council's policy as opposed to statute, POST has greater flexibility in determining what training qualifies as equivalent. As such, the Council may reasonably interpret ARM 23.13.205(6)(a)'s limitation to apply only to advanced, professional certificates and not to basic certificates in other disciplines, and thus allow LEOB and P&P Basic to apply towards CDOB equivalency.

III. The Waiver Option.

Alternatively, § 44-4-403, MCA, allows the Council to waive a standard for good cause. As explained in a prior letter of advice from the Montana Attorney General's Office, the Council may waive standards that are not set by statute. As CDOB standards are not set by statute, and indeed only set in policy and not administrative rule, the Council may waive them. An explicit waiver allowing equivalency for LEOB and P&P Basic has the added advantage of rendering an interpretation of ARM 23.13.205(6)(a) unnecessary, or at least limiting it to this unique situation. A waiver could also include a requirement that peace and P&P officers complete a 16-hour cell-extraction course.

The Council may authorize the Executive Director to grant CDOB equivalency on a case-by-case basis. It may be advantageous to provide more specific direction, however, that would apply uniformly. For example:

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 detention/correction officer who has previously met the minimum training requirements for peace officers or probation & parole officers may be approved for CDOB equivalency, provided that the officer has successfully completed a minimum of 16 hours of cell-extraction training. Under ARM 23.13.205(6)(a), the cell-extraction training hours used to qualify for CDOB equivalency may not be used toward any professional certificates, e.g., an intermediate or advanced certificate.

Conclusion

As explained above, the Council may authorize LEOB and P&P Basic to qualify for CDOB equivalency, either as a matter of interpretation or by waiver. I suggest the Council authorize CDOB equivalency via waiver, by adding specific language to its policy. This option allows the Council to more narrowly define the equivalency requirements.

60000 Expenditures	179,884.29	179,884.29
61101 Regular	73,636.94	73,636.94
61103 Sick Leave	6,779.82	6,779.82
61104 Vacation	6,411.16	6,411.16
61105 Holiday	3,416.87	3,416.87
61158 Compensatory Time Taken	73.00	73.00
61401 FICA	6,758.70	6,758.70
61402 Retirement - Other	8,282.13	8,282.13
61403 Group Insurance	21,607.00	21,607.00
61404 Workers Compensation Insur	553.66	553.66
61410 State Unemployment Tax	135.49	135.49
62102 Consult & Prof Services	925.00	925.00
62108 Legal Fees & Court Costs	12,059.30	12,059.30
62113 Warrant Writing Services	13.14	13.14
62114 HRIS Service Fees	293.68	293.68
62114A Workers' Comp Program Fees	28.37	28.37
62134 Honorariums	3,500.00	3,500.00
62148 SABHRS Administrative Costs	234.38	234.38
62162 Witness Fees	10.00	10.00
62187 Records Storage	218.00	218.00
62191 Printing/Other Provider	47.72	47.72
62216 Gasoline	212.73	212.73
62236 Ofc Supplies/E-Market	1,212.93	1,212.93
62241 Office Sup/Minor Equip-NonStat	30.00	30.00
62245 Computer Hardware	1,695.00	1,695.00
62249 NonCapitalized Soft & SBITAs	26,190.00	26,190.00
62304 Postage & Mailing	6.98	6.98
62319 Cellular Phones	200.83	200.83
62322 Teleconferences	0.47	0.47
62489 Non-Employee In State Mileage	1,336.32	1,336.32
62490 Non-Employee In State Meals	173.75	173.75
62497 Non-Employee In-State Lodging	705.36	705.36
62506 Postage Meter	241.74	241.74
62519 Photo Copy Equipment	1,181.83	1,181.83
62801 Dues	400.00	400.00
62809 Education/Training Costs	279.00	279.00
62817 Meetings/Conference Costs	189.29	189.29
62823 Licenses & Permits	51.50	51.50
62886 Procurement Card Default	0.00	0.00
62888 Statewide Indirect Costs	752.20	752.20
62891A DOA AccessID Card Fee	40.00	40.00

2024

January

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February

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18	19	20	21	22	23	24
25	26	27	28	29		

March

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31						

April

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28	29	30				

May

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June

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September

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October

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November

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24	25	26	27	28	29	30

December

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				