

**MONTANA**  
**Public Safety Officer Standards and Training Council**  
**Meeting Agenda August 11, 2011**  
**Oh's Building, MLEA Campus**  
**2260 Sierra Rd E., Helena, MT**

**Thursday August 11, 2011**

**I. 8:30 Call Meeting to Order**

**II. Introductions**

**Council Members Present:** Winnie Ore-Chair, James Smith, Lewis Matthews, Tony Harbaugh, Harold Hanser, Steve Barry, Ray Murray, Dennis McCave, Greg Watson, Georgette Hogan-Boggio (conference), John Schaffer (conference)

**Staff Members Present:** Wayne Ternes-Executive Director, Clay Coker, Tana Meuer, Deborah Butler

**Council Members Absent:** Mike Anderson, Bob McCarthy

**Staff Members Absent:**

**Guest:** Kevin Olson-MLEA, John Strandell-DCI, Steve Kendley- Lake County resident, Terry Leonard – citizen of Polson, Ken Scott-resident of St Ignatius, John Swenson- Ronan, Dan Wadsworth-Ronan PD, Kerry Reynolds-Lake County Sheriff's Office, Jay Doyle-Lake County SO, Mitch Young-Lake County Attorney, James Raymond-Polson City Attorney, John Mitchell-Ronan PD, Doug Chase- Polson PD, John Stevens-Polson PD, Roy Horning-Polson resident, Bob Williams-Polson resident, Jim Kropp-FWP

**III. Approval of Minutes from the June 20, 2011 conference call meeting**

John Schaffer pointed out a correction needed on page 3.

**Dennis McCave motioned to approve the minutes with the amended correction**

**Steve Barry seconded**

**Motion carries**

**IV. 8:45 Old Business**

**a. Complaint File update**

Clay stated a couple complaints have been forwarded and only one new complaint added this year. He plans to get closure on 2010 complaints.

Wayne commented the majority of recent complaints have been coming from the town of Hot Springs and stated Clay had visited the chief of Hot Springs to explain the complaint process. They have not heard much for complaints since the visit.

**b. Resolution 11-01 Annual Training Requirement**

Winnie asked the council members what they were hearing from the field in regards to annual training requirements.

John Schaffer stated a lot of his feedback came from the Law Enforcement Summit but stated it comes down to the set number of hours and whether or not we want to sanction. and was directed more toward 40 hours every two years.

Steve Barry stated he had received comments on the hours and restrictions etc. from Department of Corrections. Steve commented that training is provided on an overtime basis and would have fiscal impact. Steve commented that he heard a couple options for required hours every two years; varying from 16 hours (being acceptable) and 40 hours (as too high for some, acceptable by others).

John Schaffer commented everyone he spoke with liked 40 hours every two years allowing for catch-up and flexibility. (or 20 hours/yr.)

Jim smith stated the he send an email to the chiefs around the state and the feedback he received was from 20-40 hours and would like the in-service training as part of the required hours.

Winnie asked Jim what the response rate with his survey was.

Jim stated 12 responded back; 10 were positive stating this was a great idea, and the other 2 had concerns of man power and budget would be their issues.

Wayne stated his vision is that the council would only receive an annual self audit report submitted from each agency and about 3 months prior the end of the year, it would be followed up by the compliance officer to do spot checks.

Steve Barry feels the primary question is really whether there will be any disciplinary action against those officers that do not meet the standard.

Winnie's concern is whether an agency states an officer is in compliance, but the audit finds it to be false.

Wayne stated is should be as simple as stating a document of the State of Montana has been falsified.

Wayne explained that in 7-32-303, for employment, the peace officers must adhere to the standards set in law, in addition to those set by POST, so Wayne reminded the council they are the standard setters. Wayne also added; in the ARMs it states that any public safety officer that has not met the requirements set by the council, does not have the authority to perform their duty.

Wayne commented that upon the audit check, help of an action plan could be provided to help those that have not yet met the requirement. Possibly some type of extension request to complete the hours.

Wayne explained that under the Fair Labor Standards Act, the employer (agency) is not required to pay for required training to work by certification/licensure.

Dennis stated that sometimes state law supersedes federal law and there should be an understanding of employee contracts.

Dennis also stated he supports in-service and ongoing training but has concerns of what 'doesn't' count toward the requirement and then what would the reporting mechanism be.

Discussion held. No action taken.

Steve Barry suggests we look at this as a two year pilot program then do a review at the end of this to verify whether we need to change the criteria.

Winnie stated we should add a 'definition of training' so officers have the understanding it does include in-service.

Lewis read the BIA policy, which stated that all law enforcement officers receiving a minimum of 40 hours of in-service training are required training also includes: "First Aid".

Dennis feels that the term 'continuing education' would be more suitable.

Winnie explained that 'continuing education' does not include in-service and this is an issue for CEUs.

Jim smith mentioned to the smaller agencies that their agency briefings could be considered in-service training and this alleviated a lot of anxieties.

Wayne read the ARMs developed in 2008 which in 23-13-301 already provides four definitions for training.

Wayne stated if we are going to run this as a pilot, we would have to hold off on placing this into ARM but run it by resolution first.

Winnie state the census seems to run the mandatory requirement as a pilot program under a resolution of 40 hours every two years.

Jim commented he would like to see this in action, in addition to a resolution stating the agency is responsible for keeping record of the officer's training.

John asked if this pilot program was going to be voluntary and can agencies decide whether or not they want to participate in our program.

Winnie commented that this will have to be a mandatory pilot. the definition of pilot seems too voluntary, and feels maybe we should change the verbiage to a two year 'study' or some sort of phase.

Deborah had an idea of creating a phase I: 2 year program implementation without sanction, and phase II: when sanctions become in effect.

Kevin Olson suggested providing agencies in compliance a plaque of some sort stating the agency is POST accredited for training standards and is in compliance; adding a sticker of the year, changing it out each year an audit has been successful.

Discussion held; the October meeting we will do a final adoption/rejection of this resolution.

**c. October 17, 2011 meeting in conjunction with the Crime Prevention Conference to be held in Butte, MT**

The Council's meeting will be held Monday in Butte at 1820 Meadow Lark Lane at the Forest Service Bld.; prior the MBCC Crime Prevention Conference at the Copper King Convention Center. Winnie encourages everyone to sign up for the conference.

**V. 10:00 Guest Issues**

**a. MLEA Report – Kevin Olson**

Kevin commended Dennis on the Curriculum Committee meeting.

Kevin gave update on MLEA: Had re-posted the CDOB program manager position. Jerry Williams resigned. There is ongoing building upkeep. The academy is in a web-site remake to provide on-line registration.

Wayne thanked Kevin for the additional support with the hire/term slips to make sure the field is meeting the requirements.

Steve Barry thanked Kevin and Peter Bovingdon for visiting DOC on a Use of Force consortium their department brought together, which is an annual event. They come together to look at current issues then try to redefine where they're at.

**b. Ronan/Polson City Attorney James Raymond**

James Raymond, Polson City Attorney, stated he had written a letter, (which has been distributed to the council members). James commented that his issue is the accountability and discipline and how the POST Council staff is working and how it is having a negative impact on them and the criminal justice system in Lake County.

**c. Public Questions/Concern**

Public concerns were expressed by Doug Chase-Polson Chief, Jay Doyle-Lake County Sheriff, Kerry Reynolds-Lake County Undersheriff, Mitch Young-Lake County Attorney, Ken Scott-St. Ignatius, and Rory Horning-Polson Resident.

Winnie reminded the public that any discussion that lead into cases that are still open would have to be stopped.

John Strandell stated one investigation is being finished up and presented to the county attorney shortly.

Deborah stated that any case at the AG's office is now closed also.

Discussions held. No actions taken.

**VI. 11:15 Financial Report**

Wayne commented on year end savings and stated we could only hold back 30% of the remaining funds prior it going back; so POST transferred \$12,000 to the academy for 'rent'.

Wayne stated the budget was negative \$15.85.

Steve Barry commented that maybe the next fiscal year if POST could project the budget and figure in rent to the academy, we could do a transfer at an earlier time so the academy could use the funds for different expenses.

**VII. 11:30 New Business**

**a. Director's report**

**1. Complaint Files – update**

**i. new complaints being made**

Clay stated there has only been one new complaint opened.

**ii. cases to be closed**

No cases currently to be closed, but still working on 2010.

**iii. cases pending hearings**

Deborah stated she had 3 cases pending, two of them she couldn't collect service on. One in particular was even provided with a 'second chance' notice to respond, but did not, so Mike McCarter took the complaint to be true.

Deborah stated Mike felt, based on the evidence, Carroll should be revoked permanently and has asked the council to accept this request and revoke Mr. Carroll's certificate permanently. Deborah has prepared a Final Order for the Chair to sign if the Council so decides to do so.

Deborah reviewed other cases that are pending.

**Ray Murray motioned to accept the findings of the hearings officer on the Jason Carol's case.**

**Tony Harbaugh seconded**

**Motion carries**

**2. General Updates for the Council**

Wayne thanked the council for listening to the prior complaints and reviewing any materials handed out.

Brief discussions held regarding cases.

Wayne stated that Steve Barry provided him with the National Decertification Index which is a national database of officers who have had actions taken upon their certifications. This also makes for a good back ground check. Wayne explained we will have access to it since we are part of IADELST.

Wayne also shared there is an issue with the Oaths of Office give by agencies. These documents should be filed with both MLEA and POST.

Wayne also stated that by law with each report submitted to our website, there is supposed to contact information for each council member: name, term date and either; phone number, address or email address.

Everyone will let Wayne know their own contact information.

Wayne also received a letter from an attorney regarding Ben Knaff. The attorney felt the council continued to 'snoop' on Knaff and asked that all actions cease and desist. Wayne replied to this with a letter.

Discussion held. No action taken.

Wayne met with Jim Nye, HR specialist, to discuss building a performance evaluation for the Executive Director position.

#### **b. Complaint Investigation/Hearing Process Procedural Guideline**

Wayne distributed a Complaint Investigation Procedural Guideline which was briefly reviewed.

Steve Barry stated we should establish a procedural guide which would be clear about the Executive Director's authority to conduct the investigations, and then move on these actions the council agrees on (in compliance with MAPA). Steve felt the end result in this process would minimize the issues the council has to deal with.

Discussion held regarding complaints, cases and investigations. No actions taken.

Tony asked that with any case where criminal charges are pending, would we create an issue that may taint a case if a time frame was put on our actions.

Wayne stated he would really like to get away from awaiting criminal case outcome and feels we could look at cases up front.

Winnie state that Deborah has concerns about putting time lines on cases because often times they cannot be met.

Jim smith stated he felt there should be time lines because just today there was a county attorney before the council and wondered why this was going on since 2009. On a weekly basis, Jim stated that he is asked citizens what's going on with the chief of police in Troy and what actions are being taken.

Dennis agrees with Jim and feels we need to re evaluate our process and give time lines especially when they are being questioned continuously on these cases.

Georgette also has concerns with time lines not being able to be met and the pressure that may cause on the council.

Discussion held regarding Wayne having authority to take action on a certificate.

Dennis feels the council needs information prior to action being taken.

Jim stated that the council doesn't meet enough to discuss each and every case nor second guess the director.

Wayne stated upon completion of an informal case he would provide an updated report to the council advising them of the contested case.

Discussion held.

Winnie asked the council that if Wayne is going to take informal action, do they want the letter sent to them the minute he closes the case, or do they want to wait until the next meeting.

Wayne would like to offer the letter upon closing a case since the duration between meetings is long. This would keep everyone informed more current.

Winnie commented that she would rather a letter go out upon a closed case via email, and just keep an ongoing spreadsheet.

Winnie summed up that Wayne will send out a letter upon each closed case, providing an ongoing spread sheet that consists of name, beginning date, end date, the steps that were done.

Winnie explained the purpose of the document Wayne handed out (hearing process procedural guideline) was for the council's use only so they could decide which process they would use for every case.

Deborah explained the 4 different hearings options (which are pursuant to MAPA) and stated we need to chose one option only and stick to it as a council.

Ray highly recommended sticking to option #2; Hearing Examiner/Officer means an **individual** that has been designated by the Presiding Officer to conduct a contested case hearing on behalf of the Council.

Dennis felt we should probably continue with option #2, possibly offering the options to the person contesting whether they would want a jury trial or a trial by judge.



Jim commented that he feels an attorney is not necessarily a technical expert in the given areas of training and that we have enough members on the council with adequate backgrounds and feels opt. 2 doesn't meet this. Jim feels #4; referring to a **Council Committee**, is the better option.

Steve stated #2 is his preference.

Discussion held.

Winnie stated option 2 is the one we've been using and asked the council if they'd like to stay with it.

**Conclusion:** The Council will continue to use option #2 for our cases; with the exception of these two current cases. Wayne will have to take the cases forward to the hearings officer.

**12:00 – 1:00 Lunch Break**

**VII. 1:00 POST meeting resumes - New Business Continues**

**c. Approval/Denial of Certification Requests**

**Dennis McCave motioned to approve the certification requests.  
Tony Harbaugh seconded  
Motion carries**

**d. Approval/Denial of Extension Requests**

**Tony Harbaugh motioned to approve the Extension Request.  
Dennis McCave seconded  
Motion carries**

**e. Approval/Denial of Equivalency Requests**

**Jim Smith motioned to approve the EQ Requests  
Lewis Matthews seconded  
Motion carries**

**f. Committee Report Questions or Discussions**

**1. Curriculum Committee – Dennis McCave**

Dennis stated the curriculum committee meeting yesterday and felt it was a successful one. Thanks to Rich McLane for attending.

Dennis stated that Kevin would like the council to look at subject matter vs. week by week in the approval of their curriculum/lesson plans.

Dennis also commented that the purpose of what the curriculum review is for, is to establish what the standards are and to be able to identify the goals and objectives.

Dennis stated he would like the council to review the first topic September/October.

And Steve Barry graciously offered to establish a web base platform to put documents on to be accessed by password. This project will be worked on in October into November.

Steve Barry commented that ITSD already approved this particular platform; which is called Base Camp.

Dennis commented then in November into the first part of December, he would be looking for an internet or phone conference training on this review process for the Curriculum Committee to get together to go over the training process.

Dennis stated this will fall into place with Kevin's time line with getting the council course curriculums. Then in December we will get the PSC course curriculum; and in January we will start receiving the Law Enforcement Basic curriculum from Kevin:

January 4<sup>th</sup> will be Survival Skills;  
February 1<sup>st</sup>, 2012 will be Health and Wellness,  
March 7<sup>th</sup> –Traffic Enforcement,  
April 4<sup>th</sup> –Investigations,  
May 2<sup>nd</sup> – Patrol Operations,  
June 6<sup>th</sup> -Human Behavior and Social Interaction,  
July 11<sup>th</sup> – Law and Criminal Procedure. And this should cover the Law Enforcement Basic which will be submitted to the Council all by July.

In September, the Academy should be getting a new program manager for CDOB and getting them up to speed over the next few months. September 5<sup>th</sup>, 2012 will be the CDOB class.

The P&P course is about 2/3 done and will do an update during the October meeting.

Coroner basic will not be ready for December's course.

Reserve basic is still on hold with the work load we currently have.

Dennis commented on the discussion held by his committee about whether we should be certifying Reserve Officers and whether we should suspend Reserve certification since we do not know the training yet.

Discussion held.

Winnie commented that is we are going to suspend issuing basic certificates to Reserve Officers, then we better make a distinction why and stated we would need to generate a letter explaining the reason for suspension.

**Dennis McCave made a motion to suspend issuing POST certification for Reserve Officers until the POST Council can establish a review process for the Reserve training.**

**Jim Smith seconded**

**Tony Harbaugh Opposed**

**Motion carries**

**Georgette Hogan-Boggio sustained.**

**2. Business Plan Committee – Steve Barry**

No report

**3. Professionalism & Integrity Committee – John Schaffer**

No report, but has a September 14<sup>th</sup> meeting scheduled.

**4. Policy Committee – Greg Watson**

No report

**6. Coroner Committee – Tony Harbaugh**

Did not meet but are waiting on Derek VanLuchene to compile all previous information/material.

**VIII. 3:30 Council Member Reports, Questions, and Discussion**

~Jim Smith – no report

~Lewis Matthews – no report

~Harold Hanser – no report

~Steve Barry – recruiting for Warden position at MSP

~Ray Murray – no report

~Dennis McCave – no report

~Tony Harbough – no report

**IX. 4:30 Public Comments**

**No public comment**

**X. 5:00 Adjourn**

**Dennis McCave moved to adjourn**

**Lewis Matthews seconded**

**Motion carries**

**All times are approximate, actual times may vary depending on presentation/discussion time.**

**\* Executive Sessions are closed to the Public in order to protect the privacy rights of individuals.**

**\*\*Recordings of minutes are available upon request. This excludes Executive Sessions.**