

MONTANA
Public Safety Officer Standards and Training Council
Meeting April 12, 2012
MLEA Ohs Building
2260 Sierra Road E, Helena, MT

Thursday April 12, 2012 Regular Meeting

I. 8:30 Call Meeting to Order

II. Introductions

Council Members: Winnie Ore-Chair, Alex Betz, Steve Barry, Tony Harbaugh, Dennis McCave, Mike Anderson, Harold Hanzer,*Georgette Hogan-Boggio
*Jim Smith, John Schaffer (John left the meeting at 2:05pm)

“*” denotes phone conference to meeting.

Staff Present: Wayne Ternes – Executive Director, Clay Coker, Tana Meuer

Council Members Absent: Ray Murray, Bob McCarthy, Lewis Matthews

Staff Absent:

Guests: Curt Stinson-Helena PD, Kevin Olson-MLEA, Truman Tolson–
Missoula PD, Chief James Marble-Stevensville, Chief Mark Muir-Missoula

III. Approval of Minutes from the February 27, 2012 conference call meeting

Dennis McCave approved the minutes as written
John Schaffer Seconded
Motion carried

IV. 8:45 Old Business:

Winnie referenced the handout provided regarding the complaint policy.

Wayne stated we had not formally voted on this and would like the council to adopt and approve it if so chosen.

Steve Barry suggested placing some reference to ex-parte in terms of communication, once the complaint reached that point.

Clay commented that it already exist in the policy.

Winnie stated the verbiage could be strengthened.

Dennis stated the policy committee should come together to review this as he has not seen it before.

Winnie stated this has come before the council before and the policy committee has not been able to coordinate schedules so with this hold up, and that the committee had told Wayne to get it done regardless.

Steve Barry motioned to approve this policy on an interim basis of about six months time period until the policy committee can meet for review. Tony Harbaugh seconded

Dennis suggested that this be labeled as a draft interim policy. Then communication with departments and it's important that they know what we are considering and this draft policy get mailed out for review.

John Schaffer also stated this was the same type feedback he was getting from MACOP. They would like to see additional steps in getting information out to them.

Wayne stated we will go back to direct mail again. Also, ITSD is in the works of adding the ability for the field to register their email address on our website.

Motion carries to adopt the complaint and investigation policy on a draft basis for 6 month pending review by the policy committee.

a. Complaint File update

Clay referenced his handout regarding the 2010, 2011 and 2012 investigations files. Clay stated time lines have been put in place for the 2012 files so we don't get behind. We are keeping up with 2012, as there are already 4 complaints on file, and trying to get caught up with the previous years from not having any attorneys, no hearings officer etc.

Winnie commented the Clyde Peterson, Agency Legal Services (ALS) is comfortable with the idea that the council receive the name and agency regarding a complaint, so when they are approached by the public, they are familiar with what's going on and can advise them they are unable to discuss the matter.

Dennis commented the POST council is responsible to oversee the decisions of the director and he feels all the council is receiving is a 'list'. He feels these cases should be reviewing the files at an executive session.

Wayne stated he was told to provide only a redacted report by the council's previous attorney.

Dennis stated that he would like to know of all the complaints brought to POST.

Dennis feels the council should be making the decisions whether a case should be closed or not. And would like to know that the staff is doing the right thing.

Winnie stated that Clyde Peterson suggested this would be a function of a screening committee. Then if these go to hearings, the council cannot have all this information.

Dennis commented he was referring to the closed cases; and that there is no screening committee. So the council should be doing the screening.

Winnie explained that we do need a screening committee; however, due to the size of our council and quorum, we can't afford to lose any members to create a screening committee to review these cases. Then whoever would be part of the screening committee, could not be part of the hearings process.

Winnie stated we talked about building a screening committee and who would be on it. Wayne already talked to one ex-director who was interested, also folks from the field who are interested. Wayne is pursuing this per the council's guidance.

Steve Barry stated that there is something already in place and commented that he is not interested in reviewing those closed cases back to 2010 but suggested a 'snapshot' of closed cases with explanations.

Wayne explained that complaints have been cut down by using the complaint policy.

Tony stated that it would be important for the council members to have list of at least the closed cases with brief explanations.

Dennis stills feels we need an executive session to review all closed, and possibly active files in order to approve or bless it.

Winnie explained we have been doing this already. Winnie has asked Wayne that when cases are closed, (they do not need to be done in executive session); it becomes public and should be done in our council meetings. Wayne will bring a formal letter with the name, the issue. This is a public document at this time.

Discussion held. No action taken

Winnie clarified that when Wayne finishes a case and closes it, the council will receive a formal letter. It will be a summary of what the facts are and what was done and that the case is closed. Winnie would like to be as transparent to the public and not have any more executive sessions unless absolutely necessary. Winnie also reminded the council that these reports must be guarded.

Steve Barry stated that he feels by the looks of Clays case reports that the process Wayne and Clay are using are working and commented that they are doing a great job.

b. Misdemeanor Probation training requirements

Wayne stated that we have been struggling with what basic training the Misdemeanor Probation officers should be attending. In the past, they had attended the Corrections Probation & Parole Basic but his course is not really tailored to them.

Wayne commented that the Meridian, Idaho POST academy train these officers and have contracted folks so per Mr. Flink, Idaho POST Director, said they are ok to take civilians that are private contract employees to attend their training. For right now, this would be our solution.

Dennis stated he doesn't understand why they couldn't fit into the private correction people such as CCA training when they are private employees. Dennis doesn't see that the onus is on us to train them.

Wayne commented that the onus is the statute that allows Misdemeanor Probation officer in Montana refers to the council to determines what their appropriate training is.

Kevin Olson stated that if they are not governmental employees, they are not eligible to attend the Law Enforcement academy per Administrative rule.

Discussion held. No action taken.

Winnie commented that this is an MCA issue, not an Administrative rule issue under our authority, because the authority really lies with the Department of Corrections for Probation & Parole officer and it needs to have some things that address Misdemeanor Probation which did not exist when that statute was put in place.

V. 10:00 Guest Issues

a. MLEA Report – Kevin Olson

Kevin introduced Randy Robinson who is the new Program Manager for the Correction/Detention Officer Basic program.

Kevin provided update on the academy and curriculums and stated they have now provided three sections of the LEOB program to the Curriculum Committee.

All hurdles have been crossed with the University of Montana for the accreditation of the Law Enforcement Officer Basic Course. They will be going to the Board of Regents in May. This will provide the students who have completed the 12 week basic program with up to 18 credits towards an Associates or Bachelors degree in a Police Science program with U of M.

Kevin stated that they plan to keep a CPI instructor in the CDOB curriculum, which is due for submission to the council in November.

Kevin also introduced Paul Czepanik who replaced Jerry Williams from the Risk Management position.

Jim Thomas, the Public Safety Communicators Program Manager has retired, Jennifer Dewey, Program Coordinator, has accepted another position, and Glen Stinar will be deployed in June; So Kevin stated they will be down on their staff count.

Kevin commented that some additional upgrades to the buildings will be in the works soon and an appropriation for a new dorm building.

Kevin stated that when they reach to other agencies for help they receive a great amount of support so they will continue to rely on the field for man power.

Kevin stated that Dennis McCave provided him with a couple concerns made by Kim Burdick regarding the Public Safety Communicator's course which is a 40 hour course. Kim would like to see their course expand from 1 week to a 2 week course. But Kevin would have to approach the Sheriffs and Chiefs to ask what their preference would be since they would endure the additional costs.

Secondly, the suggestion of adding more 'hands on' training would be far too difficult with the discrepancies in roles and responsibilities between all the agencies. There are 8-10 different software modules and this would be too difficult to incorporate 'hands on' into the basic training.

b. Public Questions/Concern

Chief James Marble came with the concern that Reserves are not getting all the required training that is provided through the LE basic program: cultural awareness and racial profiling as required by statute. 44-2-117 states that each municipal LE agency shall require for all of its peace officers; racial profiling and cultural awareness training and must be certified by POST.

James asked if POST would consider certifying some type curriculum or lesson plan for Reserves that would include these trainings.

Dennis stated that it is the responsibility of the local sheriff or police chief to perform the reserve training. If it's already specified in statutes that sworn officers are required to have this training, then it's the obligation of that sheriff or chief to have this done for all the Reserves also. Dennis feels reserves would be included in this statute.

Winnies asked if anyone has researched whether there is an e-learning course available in this topic area.

Discussion held. No action taken.

James also asked if there has been further action by the DACUM on the reserve curriculum.

Dennis explained that at this time we do not have the fiscal nor physical ability to develop it.

Additionally, James expressed great concern regarding the mental evaluations done by a licensed physician and feels this should be a very important forefront to the council legislatively.

Wayne stated that when these type calls come into the office, he refers them back to what the state statute says since that's what the attorneys are attacking.

Discussion held.

Winnie commented that we may need to have a group of people to discuss what may need to be reviewed legislatively and to be cautious as to what is truly a POST issue.

Winnie suggested bringing this to the council's attorney, Clyde Peterson, for his opinion.

VI. 10:30 Financial Report

Wayne stated we are sitting very well financially, but the only concerning issue is without using the legal service fees, which were budgeted for, we have cash available and if we don't use it in this base year, it's a problem. We have only expended 37% of our operating budget.

Wayne reminded everyone that last year at the end of our budget, we had monies left so we transferred some funds to the Law Enforcement Academy from the 'rent' category. We are not required by law to do this as per the administrative attached law which says the Department of Justice must provide us with reasonable accommodations for our offices.

Wayne stated we can look at doing that again come June. He also spoke with Mr. Olson about anything his training staff may need to help with their training.

Winnie commented on a couple concerns; one being those hearings are coming, we just have the legal problem of the attorneys not being able to make their times work. So we know that budget will come up eventually. Also, the issue around the curriculum for the Reserve officers in addition to the Academy's needs.

Winnie asked the council what their thoughts would be on expending the money.

Dennis suggested a curriculum writer to develop an 88 hour curriculum.

Winnie commented that E-Learning would be the way to go in addition to some blended learning modules.

Truman Tolson recommended looking into PATCs webinars.

Steve suggested an internship, since the academy is partnering with U of M, utilizing a student to take on some of our projects that need researching. Another suggestion is AmeriCorps.

VII. 10:45 New Business

a. Director's report

1. Complaint Files – update

Wayne stated that complaints were pretty well discussed previously today so will work on a letter to everyone explaining complaint files.

Steve stated he has concerns about the notary piece when a complaint is filed.

John expressed that an allegation against an officer is a serious issue and feels a notarized complaint is an important part of the process.

i. new complaints being made

no discussion held

ii. cases to be closed

Wayne will provide lists to the council of all the cases to be closed.

iii. cases pending hearings

There are three cases still pending hearings.

2. Compliance Officer Report

Wayne stated the plan for the office, for this year is to schedule a series of 'town hall meetings' around the state, for agencies, personnel, administrators, public officials, mayors, etc., to educate the field again on the hiring process, complaint process, what is needed for training and much more on what we (POST) do.

3. General Updates for the Council

Wayne referenced a handout regarding Council issues needing action. Explained these were not to take action on today, but for review of the council for future discussions.

Topic of discussion:

1. Absence of a list of "Professional Standards".

Dennis feels we would be treading on sensitive turf when making moral decisions when it comes to misconduct.

Wayne asked the council to think about that professional conduct and we can bring it up for discussion at our next council meeting.

Wayne provided a story: "Montana gets a D+ in integrity study", found in the IR State Bureau also including a survey that stating Montana got an "F" for ethics enforcement.

Wayne stated he has a call in to the professor at the college that was part of that survey, and he would like to come speak to the council about ethics and ethics enforcement.

2. The need to have mandatory reporting by Agencies of officer misconduct.

Wayne would like to see mandatory reporting of only criminal violations. This would need to be done by adopting a resolution and stated a lot of states have gone to this.

Wayne commented on many examples of misconduct that was not reported to POST then later discovered through concerned citizens, newspapers, concerned officers, neighboring agencies, or other governmental units and/or staff. He asked the council how they would like these issues handled.

Steve asked who should be responsible for the employees, and feels the agencies should be educated so they understand that the impact is beyond their own agency and employee

Wayne stated that we provide the information to all the groups that we are invited to.

Wayne commented that all the states struggle with this; Utah decided they were not the ethics police anymore and will deal only with felony violations.

Dennis asked if we are the HR of the state of Montana.

Dennis also stated we should be careful with instituting things we can't keep up with.

Wayne expressed he is only asking the council for direction.

Dennis asked what we would do when an administrator doesn't mandatorily report misconduct and stated we do not have any leverage.

Steve proposed we continue to do what we are doing in terms of educating through associations, through one on one visits, etc. He also mentioned a previous comment about 'doing the right thing for the right reason' and we may not always know what the right thing is or the right reason.

Dennis stated 'buyer beware'.

John and Alex both commented they are not ok with this.

Tony felt it wouldn't matter if this gets imposed, it will be too difficult to manage all of these issues and feels we need to draw the line somewhere to figure out at what level we need to deal with these at.

Tony stated he has an aversion to regulating ethics in law enforcement from this board. He does it within his own agency which he feels is his responsibility but he's not sure he can clearly go along with regulating or legislating it for everyone else.

3. The allowance of officers with a Felony charge to continue to be "certified" or "certifiable" until outcome of court procedures

Wayne asked about a resolution: 09-003: "A Resolution Requiring the Automatic Certificate Suspension for Officers

Facing Felony charges”, which had been previously talked about but no action had been taken.

Winnie wants to put this resolution aside or move it forward.

Dennis stated he is very hesitant about this resolution because it brings us back to being the HR.

4. The need to give a clear definition of what it means to be a “Reserve Officer” or “part-time employee officer”.

Wayne reminds the council that they are tasked by state statute to set employment and training standards.

This is resolution 11-002 which had only been talked about, but still needs to be worked on.

Wayne’s question is *if* the minimum of 88 hours of training has been met and can perform 100% of Peace officer duties by themselves, and the council feels this is okay, then why do we have a 480 hour basic when all we really need is 88 hours of training by a local agency to be a Peace Officer.

5. Requiring training and certification of Sheriff’s performing Peace Officer duties.

In 2007, a new definition of Peace Officer was written and added to public safety officers. 7-32-303 has been the foundation law for training and certification of Peace Officers. But it really only applies to those listed in subsection 1. Now, the new law, 44-4-401 identifies all the public safety officers in Montana that the council is responsible for their training.

Wayne state the council gets to decide what the appropriate training is for a Peace Officer to maintain their status.

Tony commented that another issue we need to look at is ‘when’ is it required. Would a person running for Sheriff need to have that basic certificate when he; files to run? Or by the day of the election? Or by the day he takes office?

Wayne expressed that the Sheriff is the elected administrator with Peace Officer duties assigned to their job by law. The council does not have any control over their election, or qualifications, but their Peace Officer duties are the council’s to decide how they would do that.

Wayne feels the council has the authority to set a minimum amount of training. The Sheriff would still be the

administrator but could not perform Peace Officer duties unless the minimum standards had been met.

6. POST not being seen (or defined) as a “Criminal Justice” agency in statute.

Wayne stated that we have our letter from 1994 from the AG’s office that said POST was seen as a criminal justice agency for the ability to see certain documents. It was written to for the benefit of Lewis & Clark County Attorney Mike McGrath who is now Chief Justice of the Supreme Court. A solution may be a law adjustment.

7. Non-compliance of Agencies with statutory requirements of hiring practices.

Wayne stated the main concern is the folks that are simply ignoring what the current minimum standards are to hire someone. We have several examples.

Tony commented that we do not have the authority to compel somebody to come before this board.

Discussion held. No action taken.

Winnie stated that getting a screening committee together will help with some of these issues. And, we need to figure out “what is a standard”.

Winnie understands that the ARMS have been forwarded out to the agencies, but feels it would be helpful if one new piece or section of the ARM get sent out every month giving the field the opportunity to ask any questions.

Discussion held regarding different ways to provide information to the field.

Wayne stated he had been invited to attend the Law and Justice Interim Committee May 20th.

i. Outstanding resolutions and issues that need Council work.

Winnie asked for Wayne to bring the Resolution 09-003: “A Resolution Requiring the Automatic Certificate Suspension for Officers Facing Felony charges”, to the next council meeting for either approval or denial.

12:00 – 1:00 Lunch Break

VIII. 1:00 POST meeting resumes - New Business Continues

Director's report work continued.

b. Revocation of Officers with Felony Convictions

- 1. Jay Zeier, former DOC Correctional Officer, Felony DUI conviction.**

Alex Betz motioned to approve the revocation of Zeier's certification

Dennis McCave seconded

Motion carries

c. Approval/Denial of Certification Requests

Dennis McCave motioned to approve the certification requests

Steve Barry seconded

Motion carries

d. Approval/Denial of Extension Requests

Deputy Watkins - from Carter County Sheriff's Office

Tony Harbaugh moved to grant the extension request

Mike Anderson seconded

Motion carries

e. Approval/Denial of Equivalency Requests

Joshua Van Dyke – Helena PD

Roger Dittberner – Uof M PD

Brian Griffeth – former officer of the Heath PD, Heath TX

Mike Anderson moved to approve the EQ requests.

Tony Harbaugh seconded

Motion carries

f. Committee Report Questions or Discussions

1. Curriculum Committee – Dennis McCave

The Curriculum Committee received the lesson plans for some of the topic matter for the Law Enforcement Basic. This was reviewed by the Under Sheriff in Yellowstone County who is subjects matter specialist for firearms. The Under Sheriff said everything was there that he feels is appropriate, and lesson plans look good.

Dennis provided the council with a handout regarding the Public Safety Communicator's Basic course; which had previously been sent to Kim Burdick , Communications Supervisor in Chouteau County, as a subject matter expert. Kim stated that the course basically is complete as it is at 40 hrs.

Dennis asked if the council would like to make a motion to approve these lesson plans as submitted.

Winnie felt that if the lessons plans were already submitted to the Curriculum Committee, then submitted to the subject matter experts, that it would come as a second in motion to the POST council.

Steve stated asked what would be the matter with putting this recommendation together into a short memo and email to the members of the committee for any comments, then Dennis can bring it back to the council. This might help to keep the issue moving along.

Jim Smith stated he is on the curriculum committee and has not seen any of the curriculum outlines and would like to review it before making any recommendation , so Dennis said he would get these sent to him.

2. Professionalism & Integrity Committee – John Schaffer

No report (John absent as of 2:05pm)

Per Winnie, John had previously mentioned that he does not have the time to chair this committee.

Winnie commented that Greg Watson is no longer on the committee/council, so Alex Betz volunteered to be his replacement as Chair.

Winnie stated she wants a screening committee in place And ready to go. Alan Horsfall said he'd be happy to part of the screening committee, as well as E.J. Clark. Winnie feels the committee should not exceed more that 3-4 people so the likeliness of them being able to meet would be better.

3. Policy & Procedure Committee –

Winnie stated that Greg Watson is no longer on the committee/council, so Alex Betz volunteered to be his

replacement as Chair.

The Committee consists of Georgette Hogan-Boggio, Ray Murray, Jim Smith, and Wayne Ternes

4. Coroner Committee – Tony Harbaugh

Wayne stated the people in the working group putting together the coroner's curriculum wants to get this together and make it happen. They will bring forward the material to the committee, then the council as a second in motion for approval.

IX. 3:30 Council Member Reports, Questions, and Discussion

~ **Alex Betz, State Representative** - stated the MHP has a SFST compliance audit coming and he would like to invite Kurt Sager to the next council meeting to ask the POST council to adopt any suggestions they may have received.

~ **Jim Smith, Chiefs of Police** –Jim just sent out an information letter to all 61 Chiefs. He sends a letter every quarter, and this being his 4th one. Jim only received one response back and that was from Chief Fisk of Havre. Chief Fish (retired officer from AZ) had forwarded Jim some information from Arizona regarding the Reserve program. Jim would like to forward this out to the Reserve Officer Committee, and then present this to the council. Arizona has a 2-tier Reserve system that might be something to look at.

Winnie asked if Jim had heard anything from other Chiefs

Jim commented that some Chiefs state they never hear from him. Jim restated that he sends out letters quarterly to every Chief in this state. He also has sent them where either they or their administrative assistant has to sign for the envelope (registered mail). Jim stated he rarely hears anything from most of the Chiefs

Jim stated that the few chiefs he has spoken with really want to get the reserve curriculum set.

~**Steve Barry** - commented that is professional development bureau position has been vacant for some time.

They have about 40 positions available at MSP so they are looking for an objective type test to see who is really fit for that type of job.

Since 1988 the state has had an administrative policy that states you cannot pay for professional licensing fees. Attorneys, medical position, licensed social workers etc.; Governor Schweitzer just changed that.

In DOC, Steve stated they will be paying for professional licensing fees for about

135 people. So, if the council is looking for supplemental staffing at the state level, something to Consider might be to charge for basic certificate or an annual renewal fee, etc.

~**Tony Harbaugh, Sheriff's Assoc.** – looking to do their long range planning conference June 12-15 in great falls. Regionally, they are seeing tremendous impact from The BAKKEN.

~**Dennis McCave** - April 19th he will be attending the Law & Justice Committee meeting to discuss HB 68 regarding the jail suicide issue. The focus has been shifted a little bit toward DPPHS as far as establishing a state wide suicide screening tool with some type of protocol in place. Dennis then gets drug into it because of training. The focus is primarily the jail suicide project, but may drift over to the jail standards and jail review process. Dennis has been negligent of any work progress on this during the last 5-6 months due to other projects did set up a May 10th meeting to meet with a group of selective people from different agencies in Bozeman to talk about updating jail standards. The last update was done in 2006 so they're way past due.

June 12th will be the first day of the MSPOA conference; an all training for Detention specific training.

Winnie mentioned that Hardin was going to give their jail back to the bonding company, then asked Dennis if he heard anything new regarding Bozeman's new jail.

Dennis stated they are currently running below capacity and are willing to accept residences. They are only running about 70-80 population when they have the capacity for about 130.

~ **Mike Anderson, Montana Board of Crime Control (MBCC)**, got a new director, Brook Marshall. They are working on the EPP process, and working on a new flow chart for the staff. The Board is also putting together the MBCC Crime Prevention Conference which is held in Billings this year.

~**Harold Hanser** - no report

X. 4:30 Public Comments

No public present

XI. 5:00 Adjourn

**Dennis McCave motioned to adjourn
Tony Harbaugh seconded
Motion carries**

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

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