

MONTANA Public Safety Officer Standards and Training Council
Committee Meeting Agenda ~ June 13, 2023
Business Plan Committee Meeting 8:00 a.m. ~ 9:30 a.m.
Montana Law Enforcement Academy, Administration Building
Helena, Montana

Teams Videoconference Participant Information

Meeting ID: 233 323 569 35

Dial-in Participant Information

Dial-in number: 406-318-5487

Conference ID: 777849904#

- I. 8:00 a.m. ~** Call meeting to order, roll call, identify and welcome guests.
- II. 8:05 a.m. ~** Public Comment
- III. 8:10 a.m. ~** Business Plan / Policy Discussion
 - a. Business Plan ~ **pgs. 1-10**
 - b. Public Information Request Policy ~ **pgs. 11-14**
 - c. Public Information Request Form ~ **pgs. 15-16**
- IV. 9:30 a.m. ~** Adjourn

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

Times are approximate; actual times may vary depending on presentation/discussion time.

Montana Public Safety Officer Standards and Training Council



2023 Business Plan

POST General Overview

The Council was formed in 2007 under § 2-15-2029, MCA as an independent *quasi-judicial* board. As allowed by statute, the Council adopted Administrative Rules in order to implement the provisions of Title 44, chapter 4, part 4, MCA. Per § 44-4-403, MCA the Council is required to set employment and training standards for all Public Safety Officers as defined in § 44-4-401, MCA and in addition the Council shall provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

- ❖ **Our Mission:** To ensure competency and promote quality performance by public safety officers by establishing, maintaining and promoting excellence in standards and training.
- ❖ **Our Vision:** The public is safe, secure and has confidence in and respect for Montana Public Safety Officers.

History of the POST Council: The Montana Peace Officer Standards and Training Advisory Council was initially created during the 1971 Legislative Session in a roundabout way. The Council was conceived in response to a growing body of Federal caselaw and numerous research studies regarding the necessity of training standards in law enforcement. There were actually two bills brought before the Legislature creating POST. One bill would place POST under the Montana Board of Crime Control, the other would place POST under the Attorney General. The bill placing POST under the control and authority of the Attorney General passed both houses of the Legislature, then was vetoed by the Governor as unconstitutional. The Governor issued an executive order creating POST and placing it under the control and authority of the Montana Board of Crime Control. The Council was able to hire an Executive Director and depend upon the Board of Crime Control's nine staff to assist the Director and the Council.

The first meeting of the Montana POST Advisory Council was held on September 21, 1972. In 2007, POST underwent a major makeover. First, POST's name was changed from the "Montana Peace Officer Standards and Training Advisory Council," to the "Montana Public Safety Officer Standards and Training Council." The Council had already been providing standards and training for public safety officers, the 2007 name change just made that apparent. Second, POST was made

an independent agency, separate from the Montana Board of Crime Control and only administratively attached to the Montana Department of Justice (DOJ). Third, POST was made a *quasi*-judicial board as defined in Montana statute. POST was also given the ability and authority to promulgate its own rules. The Council expanded from eleven members to thirteen. Finally, POST was given two positions: an Executive Director, and an Administrative Assistant.

In 2008, POST promulgated its first set of Administrative Rules of Montana (ARMs). In 2010, POST was able to hire a third employee: an investigator. In December of 2014, POST completed an overhaul of its ARMs and has made amendments in 2017, 2018, 2019, 2021, 2022, and 2023. POST is working on additional changes to its ARMs and hopes to update its rules in 2023.

During the 2019 Legislative Session, the Legislature passed HB 684, which placed POST staff under the DOJ as the Public Safety Officer Standards and Training Bureau. This legislation was effective through June 30, 2021, but was extended during the 2021 session until June 30, 2023.

During the 2023 Legislative session, the passage of HB 697 allowed HB 684's temporary placement of POST as a bureau of DOJ to expire, and thereby placed POST staff back under the direct control of the Council, provided for quarterly reporting regarding POST's investigations, and required an interim study of the POST Council and its staff. In addition, funds were appropriated to POST in 44-10-204.

Council

Council Meetings: The Council meets three to four times annually to discuss employment and training standards for all Public Safety Officers, provide for the certification or recertification of public safety officers, and for the suspension or revocation of certification of public safety officers as defined in 44-4-401, MCA. They further discuss the operation and goals of the Council and POST staff. The Council may also call Special Meetings to discuss issues that require more immediate attention. Meetings are open to the public.

Council Committees: Committees of the Council generally meet on an “as needed” basis. The Case Status Committee meets every six weeks, and occasionally holds special meetings, when necessary, in order to review the growing number of allegations and investigations.

- **ARM:** The ARM Committee’s purpose is to review and analyze POST ARMs and recommend appropriate rule language to carry out the decisions of the POST Council.
- **Business Plan/Policy:** The Business Plan/Policy Committee’s purpose is to review and, when necessary, propose changes to the long-range business plan of the Council and the daily operations, policies, and procedures under which the POST staff perform day-to-day business.
- **Case Status Committee:** The Case Status Committee’s purpose is to determine whether allegations of misconduct by a public safety officer warrant investigation by POST staff, to determine whether a certificate sanction or other action is appropriate, to determine the appropriate sanction to a certificate upon a finding of misconduct, and to review other proposed actions at the request of the director.
- **Coroner:** The Coroner Committee’s purpose is to track and monitor issues of interest to the Montana Coroner’s Association, and coroners in general.
- **Curriculum Review:** The purpose of the Curriculum Review Committee is to review and discuss proposed training curricula requiring POST approval or additional information.
- **Executive Committee:** The purpose of the Executive Committee is to make decisions necessary to implement the policies of the POST Council, and to provide additional oversight of POST staff.

Legislature and Legislative Interim Committees: The Council, Director, and the Executive Committee take an active role by working with the Montana Legislature or Legislative interim committees. They:

- Provide Requested Information
- Testify on POST Practices
- Provide information regarding positions adopted by the Council or the Executive Committee

Budget: The Council approves personnel expenses. The Director approves the day-to-day operating expenses. The Director provides a budget update at Council meetings.

Public Safety Agencies/Stakeholders: The Council and Director work with agencies and groups that have an interest in POST including, but not limited to, attending stakeholder meetings, providing POST updates and training, receiving feedback and concerns, and discussing possible legislation.

Staff

POST Staff Meetings: The staff at POST meet weekly to discuss their mission of providing support for the Council by working together as a team and supporting one another. They:

- Discuss Daily Operations
- Make Goals and Give Updates
- Plan for Council and Committee Meetings
- Review Schedules for Staff and Calendar Items
- Discuss General Concerns and Updates
- Discuss Investigations and the Status Thereof

POST Staff Daily Duties: POST staff complete tasks daily and work to support public safety officers and the community. Among other tasks, they:

- Process Training Applications
- Process Complaint Allegations/Investigations
- Respond to Extension Requests
- Respond to Public Information Requests
- Review Letter Responses
- Scan Training Files and Upload to Website
- Process Equivalency Applications

Contracts Updated: POST has contracts with several attorneys in order for POST to fulfill its statutory obligations.

- General Counsel to the Council
- Contested Case Counsel
- Hearing Examiners

POST Staff Provide Briefings at Basics: POST presents an overview of POST and its basic functions to every basic academy and basic equivalency course.

- Law Enforcement Officer (3 times a year)
- Probation and Parole (1 time a year)
- Public Safety Communicator (4 times a year)
- Misdemeanor Probation and Pre-trial Officers (1 time a year)
- Corrections/Detention officer (6 times a year)
- Coroner (2 times a year)
- Peace Officer Equivalency (2 times a year)
- Corrections/Detention Equivalency (as needed up to 6 times a year)

Audits: POST Staff will conduct random audits of POST-approved training and required continuing training.

- During the last full week of every month, POST staff will audit a POST-approved training.
- During the last full week of every month, POST staff will audit an officer's required continuing training.
- Should records be lacking, the officer or the agency will be given an opportunity to remedy the matter.
- If POST staff does not receive a response, or the response received does not remedy the issue, the training credit hours related to the training may be removed from the officer or officers' training transcript.
- If an officer has not received the required continuing training, the agency and officer will be given 6 months to obtain and document the required training.
- If an officer has obtained the requisite continuing training, the employing authority will submit a letter to POST staff, stating that the officer has been brought into compliance.

Executive Director Attends Basic Graduations:

- Law Enforcement Officer (3 times a year)
- Probation and Parole (1 time a year)
- Public Safety Communicator (4 times a year)
- Misdemeanor Probation and Pre-trial Officers (1 time a year)
- Corrections/Detention officer (6 times a year)

Website

POST Information and Resource Guide: POST Staff will keep the “POST Information and Resource Guide” updated on the POST website to provide information, laws, and legal opinions that direct the Council or affect stakeholders. The following information is available for transparency for all public safety agencies and the community:

- General Information
- Statistics and Graphs
- Current Integrity Report
- Statutes
- ARMs
- AG-Opinions
- Attorney Memos
- Policies
- Legislative Reports

Statistics/Graphs/Reports: POST staff collect statistics and develop graphs to track progress and growth, measure performance, analyze problems, and prioritize requests. The following statistics and graphs will be on POST’s website along with an annual report:

- Equivalency Requests
- Courses Available to Officers
- Courses that Officers Completed
- Training Hours Officers Completed
- Training profile/Information Requests
- Complaints
- Cases Closed
- Investigations
- Investigations Closed
- Sanctions
- Revocations/Denial of Certificates

Public Record Requests: POST staff will establish a public information request process, provide statistics about public information requests, and retain and

publish public information requests on POST's website. This information will include:

- Requester
- Date of Request
- 5-day Acknowledgement
- 90-day Deadline
- Completion Date
- Hours/Cost

Preliminary Investigations: POST staff track allegations that are received and the time to complete the preliminary investigation.

- Employing Agency of the Subject Officer
- Investigator Assigned
- Date Allegation Received
- Date Letter 1 Response Received
- Date Preliminary Investigation Started
- Anticipated Completion Date
- Actual Completion Date

Integrity Reports: The Montana POST Integrity Reports provide a summary of cases which resulted in a certificate sanction, and on which the POST Council has ruled. The integrity reports are on POST's website.

- Current Integrity Report
- Historical Integrity Reports

Goals

FTE: POST Currently has three FTE, one Modified FTE, and a DCI Compliance Specialist who has been assisting POST with investigations on a part-time basis. POST has an immediate need for two FTE.

- **Administrative Assistant Modified Position:** This modified position is currently staffed. This staff reviews applications for individuals seeking POST credit, prepares certificate applications, completes minutes for Case Status Committee Meetings, is the file clerk for contested cases, and handles public records requests for officers' transcripts.

- **Compliance/Administrative Investigator:** The duties of the one POST Paralegal/Investigator have grown substantially over the years. POST has an obligation to conduct its own unbiased investigation of allegations of misconduct. The increased allegations and investigations justify the need for an additional FTE POST Compliance/Administrative Investigator.

Software: POST upgraded its officer training and certification database in 2017. As the needs of the stakeholders have increased, and as POST has continued to fulfill its obligations to the people of Montana, POST has identified the need for more robust software to meet the growing demand on POST.

- **Case Management System:** The case management system would be a central location for all POST case information including reports, recordings, letters, and statements. It would track information of the individuals/agencies involved. It would track deadlines for the POST letter processes, contested case proceedings, petitions for judicial review, and appeals to the Montana Supreme Court. It would also run reports from the information concerning what cases are open, closed, active, or holding.
- **Portal:** Officers could submit training to POST through a portal. POST would receive notification of the training submitted. Notices and Certificate Applications would also be submitted to POST through the portal.
- **Training:** Officers' training hours for certificates would be compiled automatically, and POST would then be notified when an officer completes the required training and years of service.
- **Forms:** All POST forms could be included and built in the software system.
- **Storage:** Officers would be able to store all their training documents in the storage that the software provides.

Paperless: For the last several years POST staff have archived an electronic and hard copy of training, investigations, notices, and other documents regarding public safety officers. POST staff have begun the process of ensuring that files are digitized and removing the hard copies of documents. In addition, in 2022, POST staff began issuing all certificates electronically. This has saved time and money.

- There are over 17 filing cabinets of current officers' documents. POST staff verify that the information has been archived electronically and then shred the documents.
- New documents sent in are digitized and shredded.

- POST's inactive or closed investigation files are being saved electronically, and hard copies are being destroyed. Additionally, POST staff will no longer create any hard files on investigations until an investigator is assigned to the case. For those cases that are dismissed without an investigation, or in which the officer does not respond, all files are maintained electronically.
- Council meeting records, including meeting recordings, minutes and materials, have all been digitized and are available to all staff in POST's electronic shared drive. This includes the meeting minutes for every POST Council meeting held since its first meeting in September of 1972.

Audio/Video Conferencing: POST recently updated its conference room with audio/video capability. This will save time, money, increase productivity, and allow POST to be more efficient. The goal is for the Council and staff to have audio/video conferencing options and make scheduling meetings more convenient. Video conferences is available for:

- Council Meetings
- Committee Meetings
- Investigations
- Interviews
- Training
- General Meetings

Policy and Process for Submission, Response, and Reporting of Public Information Requests

Policy

POST will provide timely responses to all public information requests submitted pursuant to POST's processes. POST will report data on public information requests to the Legislative Finance Committee and to the public pursuant to Montana law.

This Policy and Process and the Public Information Request Form will be posted on POST's website, and POST's Administrative Assistant will be listed on the website as the designated contact for public information requests by October 1, 2023.

Effective October 1, 2023, the following processes will be followed regarding submission, response, and reporting of requests for public information.

Section 1: Process for Submitting Public Information Requests

1. All public information requests must be submitted by completing and sending POST's Public Information Request Form to POST's Administrative Assistant via mail or email. The following information requests do not need to be submitted pursuant to this process:
 - a. A public safety officer requesting his or her own POST transcript;
 - b. A public safety agency requesting information pursuant to a background release;
 - c. A public safety agency requesting an employee officer's information;
 - d. Any governmental agency requesting information for the purpose of determining an individual's eligibility for professional licensure or certification;
 - e. Discovery requests or other requests made pursuant to pending court action;
 - f. Subpoenas duces tecum; or
 - g. Requests for information from a criminal justice agency when the information is requested for the purpose of conducting a legally authorized investigation.
2. If POST's Administrative Assistant is unavailable, the requester may submit POST's Public Information Request Form to POST's Executive Assistant via mail or email.

Section 2: Process for Responding to Public Information Requests

1. Upon receipt of a POST Public Information Request Form, the Administrative Assistant will record the following information:
 - a. The identity of the requester;
 - b. What information is requested;
 - c. The date of the request; and
 - d. Indicate the request is "in progress."
2. Within five business days, the Administrative Assistant will consult with the Director or POST staff to determine which staff member should respond to the request. The

Administrative Assistant will then contact the requester to acknowledge receipt of the request, and to inform the requester who will be responding to the request. If this acknowledgement is made by the Administrative Assistant via email, the staff member responsible for responding to the request will be copied.

3. Within five business days of the Administrative Assistant's acknowledgement, the responding staff member will provide one of the following to the requester:
 - a. If the request is for a single, specific, clearly identifiable, and readily available public record, the responding staff member will provide the record; or
 - b. If the request is not for a single, specific, clearly identifiable, and readily available public record, the responding staff member will provide an estimate of the time it will take to provide the information, and any fees that may be charged for fulfilling the request.
 - i. Fees may be charged for any request that exceeds 50 pages of copying, more than one hour of staff time, or more than 30 minutes (.5 hours) of attorney time. See Attachment A.
 - ii. Upon notifying the requester of fees, POST's time to respond to the request will be suspended until payment is received.
4. Upon the requester's payment of fees, or upon notification of the estimate of time to fulfill the request when no fees are charged, the responding staff member will provide the requested information within 90 days.
5. If the Executive Director determines that additional time is necessary to respond to any public information request, the Executive Director or the Director's designee will inform the requester in writing, explaining the reasons for the additional time required. The responding staff member will be notified of the written explanation and will produce the information within 6 months of acknowledgment or payment.
6. If the responding staff member requests additional information or clarification of an information request, the response time will be suspended until the requester has provided the requested information or clarification. If the request for additional information or clarification is denied by the individual requesting the public information, that denial must be made in writing. If, after 30 days of the responding staff members request, the individual requesting public information fails to respond to a request for clarification or additional information, POST may close the request upon written notice to the person requesting the public information.
7. The POST Administrative Assistant will record a public information request as closed when the public information is produced, when the request is denied, or when the requester is notified of closure pursuant to paragraph 6, above.
8. POST will maintain electronic copies of every public information request and all related correspondence and responses under the applicable record retention policy.

Section 3 Reporting

1. POST will publish, on its website, information regarding the number of public information requests made pursuant to this process and the length of time it took for POST to respond to requests for public information. The information will be updated quarterly and will include:
 - a. Each request for public information received by POST;
 - b. A description of the responses from POST to each request for public information;
 - c. The total number of requests for public information received by POST;
 - d. The identity of each requester;
 - e. The information requested;
 - f. The date of each request;
 - g. The date on which each request was closed;
 - h. The number of hours it took for POST to respond to the request;
 - i. The costs imposed on the requester, if any; and
 - j. Statistics, which could include graphs or charts, regarding the number of public information requests POST has received and the length of time it took for POST to close the request.
2. Beginning July 1, 2024, POST will provide quarterly reports to the Legislative Finance Committee, which will include the above information.

Attachment A

| POST Public Records Request Fee Schedule | |
|---|--|
| Photocopying | |
| Photocopying Charges, including staff time spent copying or scanning | \$0.35 per page in excess of 50 pages |
| Staff time to prepare material for production | Actual Cost |
| If the request is for extraordinarily voluminous material, POST may have copies made by Print and Mail Services | Actual Cost |
| Electronic Media Copies | |
| Electronic Media Copies – Staff time for copying electronic files | Actual Cost |
| Electronic media | Actual Cost |
| Mainframe and mid-tier processing charges, including processing time, transmission time, and report writing charges | Actual Cost |
| Email export | \$127.78 per hour |
| Other State ITSD Services | Actual Cost per rate schedule at http://sitsdservicecatalog.mt.gov/services |
| Legal Review | |
| Legal Review and/or Redactions | Actual Cost per hour after .5 hours of Attorney time and/or after 1 hour of staff time |
| Research and/or analysis whether involving paper or electronic records | Actual Cost per hour after .5 hours of Attorney time and/or after 1 hour of staff time |



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

PUBLIC INFORMATION REQUEST FORM

Instructions: This form should be completed by any entity making a request for public information. This form may be submitted to POST's Administrative Assistant via email at the email address above. Alternatively, this form may be mailed to POST Administrative Assistant at the mailing address above.

Do any of the following describe you or your request for information?

- I am a public safety officer requesting my own POST records. ☐ Yes ☐ No
- I am a representative of a public safety agency requesting information regarding employee/s I supervise, or pursuant to a release of information. ☐ Yes ☐ No
- I am a representative of a governmental agency requesting information for the purpose of determining an individual's eligibility for professional licensure or certification. ☐ Yes ☐ No
- I am requesting information for the purpose of conducting discovery in a pending court case.
☐ Yes ☐ No
- I am attaching a subpoena duces tecum. ☐ Yes ☐ No
- I am a representative of a criminal justice agency, and I am requesting information for the purpose of conducting a legally authorized investigation. ☐ Yes ☐ No

If you responded "Yes" to any of the foregoing questions, DO NOT submit this form to request information.

Please contact POST staff to make your request.

Requester's Information:

Your Name: _____

Your Agency/Affiliation (if applicable): _____

Your Mailing Address: _____

Your Email: _____ Your Phone Number: _____

How would you like to receive the information you are requesting (check one)?

- ☐ via email in digital format ☐ I would like to come to POST and inspect the information
- ☐ Other _____

Requested Information:

Please describe the information which you are requesting. Be as specific as possible:

Public Reporting of Information Requests:

POST will report all information requests which were made by utilizing this form. POST will also publish the same information on its website at dojmt.gov/post.

Please check the box beside the statement of understanding below, indicating your understanding of the statement:

☐

I understand that POST will report my information request to the Legislative Finance committee and that POST will publish the information on this form, or a copy of the form itself, on POST's public website.

Signature of Requester

Date

POST Use Only

Date of Request: _____

Date of 5-day Acknowledgment: _____

Staff Assigned: _____

Fee Estimate Date: _____

Payment Date: _____

Extension Request/s: _____

Date Fulfilled: _____