

**Public Safety Officer Standards and Training Council  
Meeting Agenda August 16, 2012  
Jorgensen's basement meeting room  
1714 11th Avenue, Helena, MT.**

**Thursday August 16, 2012 Regular Meeting**

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

**II. Introductions**

**Council Members Present:** Winnie Ore-Chair, Steve Barry, Georgette Boggio, Lewis Matthews, Dennis McCave, John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith

**Staff Members Present:** Wayne Ternes – Executive Director, Clay Coker, Tana Meuer, Chris Tweeten-Legal Council

**Council Members Absent:** Harold Hanser, Bob McCarthy, Ray Murray, Alex Betz

**Guests:** Frank DeFanzo, Chief-Sidney PD, Jim Smith-MSPOA, Mark Muir-Missoula PD & MACOP, Perry Johnson, Undersheriff – Ravalli CO Sheriff's Office & Board member of MSPOA, Mark Murphy– MACOP & MPPA, Kevin Olson-MLEA, Andrea Lower-Pre-Trial Gallatin CO Court Services, Bill Todd-Gallatin CO Court Services, others not mentioned

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

Steve Barry mentioned Page 9, correct spelling to senator 'Shakley's' name. John Schaffer also asked to have the spelling of his name.

**Dennis McCave motioned to approved minutes with corrections as noted  
Mike Anderson seconded  
Motion carried**

**IV. 8:45 Old Business**

**1. Confirmation of April 12, 2012, meeting minutes questioned by Dennis McCave**

Winnie stated Dennis had questioned whether or not Wayne had apprised the council in the April 12<sup>th</sup> meeting that he would be going to the Law & Justice Interim Committee. Winnie advised the council that the minutes do reflect Dennis' concern. (The recording is available for anyone to check)

Wayne gave the approximate time stamp of the recorded comment as of approximately 5:56:20.

## **2. Complaint Policy – Revision to policy to include reference to ex-parte communication**

Winnie referenced the flow chart for ex-parte and would like a motion to amend the policy to include ex-parte communication, then change the complaint policy.

John Schaffer commented that based on feedback received from the meeting held August 15<sup>th</sup>, this policy *has* to get done.

Winnie asked the council for a motion so Wayne and she can move forward with this.

Georgette stated she is comfortable with the 2<sup>nd</sup> format but there would be some potential issues that she would like to talk about based on the meeting held Aug. 15<sup>th</sup> and would like to create an ARMs change and develop a 3 person screening committee.

Chris Tweeten explained that supreme courts commission on practice, which is the group responsible for disciplinary action against attorneys, does exactly that. They have a screening panel and the membership of the screening panel rotates monthly. Three members of the commission become the screening panel and allegations are run through this panel, then the members of the panel don't sit in judgment on the allegations in which they have screened. The remaining members of the commission are then responsible for processing the allegations.

Steve asked how many members total are on the committee.

Chris Tweeten thought 10-12 members on the committee.

Dennis stated we shouldn't wait until the ARMs are changed before we do this, we should form a screening panel right away.

Chris commented that the screening panel has a clear advantage separating the prosecutorial function from the judicatory function. Chris doesn't think the process being followed now does not necessarily violates due process rights for officers who's certificates are under consideration.

John asked if it is possible to get a screening panel in place before an ARM change.

Chris commented that it's possible to adopt an emergency rule which is a fast tracking of an administrative rule where you put the rule in place then have the hearing later. Chris feels this should be an administrative rule rather than a policy.

Georgette commented that it is obvious there is a large lack of trust toward the council and feels adopting the flow chart (provided by Legal Counsel – Sarah

Hart) would be an easy thing to do at this point. Aside the ARMs, Georgette would like to look at the other pieces to a potential screening panel; which would need more time.

Winnie stated that Sarah needs to make sure we get permission for today, is the MAPA process that is not currently spelled out in the current policy about the four case letters.

Winnie also commented on the importance of the panel having some ability to revolve, because of the multiple disciplines. (Dispatchers, Detention, Probation, Prison, Law Enforcement)

Wayne reminded the council how important it is that we have all the positions on this council filled, and active.

Tony asked if we could ask counsel (Chris Tweeten) to generate a rough draft outlining the creation of the subcommittee. Tony feels some type of base line would at least initiate discussion.

Jim Smith felt the importance to move forward with the complaint policy flow chart, and look at the screening panel separately.

**Jim Smith motioned to accept and adopt the multicolored flow chart and put into place immediately.**

Steve commented on the process when the director would notify the employing agency of a complaint. If the complaint was filed against the chief or sheriff, we need to be clear who the director notifies in these cases.

Jim stated that if a complaint was lodged against a chief of police, the next contact would be the Mayor. If the complaint was against the sheriff, the county commissioner should need to be contacted.

Georgette commented that some county attorneys would say they are technically the top law enforcement official.

Perry Johnson stated that Georgette is correct when she stated that if a complaint was filed against a sheriff, the next level would be the county attorney.

Wayne commented that in the last year there had probably been about 3 allegations received on sheriffs, and two of them actually came from Division of Criminal Investigations (DCI).

Winnie stated we need an amendment to the motion.

**Jim Smith amends his motion to adopt the multicolored flow chart; and if the complaint is made against a chief or sheriff, the mayor or county attorney, or attorney general would be the contact.**

**John Schaffer asked if we could just state that: ‘the director notifies the employing agency’s supervising agency’.**

**Jim Smith stated he is good with this verbiage.**

Mark Muir asked at what point in the flow chart is there going to be an investigative number assigned the case. Mark suggests that this specific step should be added to the flow chart.

Wayne explained that the practice is that every complaint that comes into the office was assigned a number. A flow chart was presented to the council and upon review, there was a comment that some of the complaints should not have been on there. Currently they are assigned a number after finding there is more substantiating information to it and needs looking in to.

Wayne also commented that by ARM, that decision does come from within this office.

Georgette stated that we can look at this down the road as this is a great discussion but feels we should make the adoption of the flow chart a concrete adoption at this point.

Steve suggested changing the amendment to state ‘Director notifies supervising authority’.

**Jim Smith amends his amendment to Steve Barry’s verbiage.**

Lewis Matthews agrees with this because they do not have any jurisdiction over the tribes.

**Wayne suggested the motion to state “the notification is of the supervising authority and a case number will be assigned to it upon allegation received.**

**Jim Smith amended his motion to repeat Wayne’s revised verbiage.**

Chris advised the council to go with this flow chart as the interim policy, then as we consider the language for a possible ARM change, we need to use the written document as the starting point.

**Steve Barry seconded**

Chris Tweeten felt where the term ‘agency’ is used in reference to the ‘employing agency’, should be scratched out and replaced with the term ‘supervising authority’ in its place. Chris stated this should reflect the current amendments.

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair  
Winnie Ore, Steve Barry, Georgette Boggio, Lewis Matthews, Dennis  
McCave**

**Motion carried**

**Absent: Harold Hanser, Ray Murray, Bob McCarthy**

**3. Resolution: 09-003 A Resolution Requiring the Automatic Certificate  
Suspension for Officers Facing Felony Charges**

Steve stated; which reflects items 3, 4, 5 and 6, that based on comments made yesterday, in regards to the amendments, Steve feels we do not move forward on any of the following resolutions until we review our business plan and focus on the goals we have established etc. As we need to work on the trust factor.

Wayne commented that until we can get to some type of mandatory reporting, we wouldn't even know if a person had a felony charge.

Mike Anderson agrees with Steve and feels we should table it for now.

Tony agrees as well.

Georgette stated that she offered to take over the chair position on the Policy committee and try to prioritize policies and help draft a plan how to deal with each of the priorities.

**Mike Anderson made a motion that items, 3,4,5 and 6 be tabled.  
Tony Harbaugh seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Winnie Ore,  
Steve Barry, Georgette Boggio, Lewis Matthews, Dennis McCave**

**Absent: Harold Hanser, Ray Murray, Bob McCarthy**

**Motion carried unanimously to table the resolutions that are still in draft.**

Frank DeFanzo stated that resolution 09-003 asked how this process was handled before. And stated that the term 'automatic' suspension is a concern to him.

Frank also commented on 11-005 and suggested to the council to consider a list of particular misdemeanors that would fall into this resolution.

**4. Resolution 11-02 Define Reserve, Part-time and Full-time designations of  
public safety officers means.**

This resolution was unanimously tabled.

5. **Resolution 11-03 Mandatory reporting to POST of any criminal activity by a public safety officer.**

This resolution was unanimously tabled.

6. **Resolution 11-05 Professional Standards for Montana Public Safety Officers.**

This resolution was unanimously tabled.

7. **POST Council Business Plan 2011-2012 Update**

Wayne referred to **goal #1** on the Business Plan hand-out, which determines staff and committee fiscal and staffing needs. In the office, we have identified the need for extra staff. This was relayed to the 2009 legislature. During this time, the budget was increased from \$3,500 (budget from 2007) to just over \$90,000/year to cover expenses for hearings, office maintenance, equipment etc. Our operating dollars are okay, but the struggle for this year again is the need to request staff.

Wayne was informed that POST was left out of the process and not even on the meeting agenda to make this request for EPP.

Wayne's question to the council is where do we go with the next step.

Georgette commented that it looks as though some action had already taken place by asking for additional staff.

Wayne stated that we gained an attorney.

Steve Barry commented that the POST business plan includes a significant communication piece; part of this is the relationship built with stakeholders by which these particular goals are accomplished. Steve stated he is not sure what happened in EPP, but feels a part of Wayne's job profile is significantly addressing the budgeting aspect of POST. Steve feels we are way behind the ball being left out of this process and is extremely difficult for him (Steve) to recognize that there wasn't an identified plan to address those needs that were at least forwarded to Central Services Div. (CSD) of Justice to let them know we are here.

Wayne explained that he had asked and was told we were left out of this, and wanted to bring it back to the council to see if it was worth going forward with those.

Georgette commented that visually she would like to see an outline of how Wayne would envision the staff to ultimately look and what the duties would be to match those and the statutory obligation that goes with that.

Wayne stated that he was waiting for this meeting to get guidance from the council to get something sent to CSD.

Steve asked Wayne who told him this.

Wayne explained he was told by Candi Mullenbach from DCI, who is somewhat unfamiliar with this process. Wayne has requested communication several time from CSD but was referred back to Candi through DCI.

Winnie asked Wayne how soon he could provide the council with a breakdown of what we need so we can get it submitted within this window of a time frame.

Wayne said he'd email it out tomorrow (Friday).

Mike asked why the council didn't have any documentation of this knowing there was a limited window to get this submitted by.

Discussion held.

## **Goal #2**

Wayne explained that we are still using the old database and are still aiming to have a new database. We have currently been through 5 programmers. We are not on the top of the priority list.

Steve commented that this would be one of those areas we should propose contracting an external developer to get the database updated.

Wayne stated that Arizona would provide us with their software and allow their POST programmer to help us with ours but we are up against costs; being from half our annual budget to exceeding our annual budget.

Steve feels since this is priority #2 on our goal list, feels we make a request to get this put in place.

John said he is hearing from the field that the database isn't up to date.

Wayne explained that during a 4 year period from January 1, 2009 to present (2012), there is approximately 2900 courses entered into the database by Tana and with annual 'temp' support.

The same report ran from January 1, 2003-December 2006 has approximately the same number of course entered by 9 (part time) people.

John stated that maybe we should look at how this could become more automated.

Discussion held.

Winnie commented on **Goal #3** and stated there is no way we can hire a curriculum specialist and this goal should be adjusted.

Steve stated that this is a core function of POST, and feels we need to hire someone to do this job. We need to have the vision, process, and plan developed to get there.

Dennis stated that we are talking about a curriculum that is already there. Dennis thinks if we partner with the Academy we would already have curriculum developers available.

Discussion held.

Jim Smith commented that we do not have the money to hire a specialist, and if we did, what area of specialty would we hire for. We would wind up with multiple specialist, so we should just continue with the process we have as the academy provides the council with their lesson plans.

Georgette stated she had to leave the meeting.

Winnie stated that she is hearing that we need to modify this and look at an approval process and removing the part mentioning of securing resources to hire staff curriculum specialist. So it's a review process to approve training courses, curricula and trainers.

**Dennis McCave motioned to modify item #3 on the action plan from hiring a staff curriculum specialist to expanding the role of the curriculum committee.**

**Jim Smith seconded**

**Steve Barry stated that he still feels that the staff needs to facilitate more of this rather than the subcommittee.**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Absent: Georgette Boggio, Harold Hanser, Robert McCarthy, Ray Murray**

**Motion carried**

**8. AG Opinion on the question concerning the 1 year service prior to attending Basic Training. (review) 3:00:45**

Wayne stated this opinion is to help eliminate ongoing employment from agency to agency without attending the basic training.

Steve commented that this is one of those issues, when we talk about communication that will go out. Steve is certain we will be getting some

feedback on this in terms of some officers in the field that may currently be in this situation.

Dennis asked for clarification that if someone leaves their initial hiring agency prior their 1 year of service then goes to work somewhere else, once that 12 month period is up (from the initial hiring agency) then their time for the rest of their life is over.

Winnie reminded everyone that this emerged because of a county that had an officer that worked for them, then deployed, then returned well past their 1 year and this agency thought the their time picked up where it stopped.

Discussion held. No action taken.

## **9. POST Legislative Issues:**

Georgette commented that when she brought this forward to the Attorneys Association they expressed great concern with this and how it would dove-tail with other ongoing investigations.

Chris Tweenten stated the deadline for introducing a bill doesn't come until January and said they don't really need to be introduced until whatever time it takes to get them passed before the transmittal deadline which is the end of February.

Chris stated there is a process in which bills can be introduced at the request of the Law & Justice Interim committee and this is the deadline facing us right now (2<sup>nd</sup> week of Sept.). So the question before the council right now is whether we want to give them any bills to work on or whether we want to find a sponsor who is willing to drop them in.

Winnie asked Mike to speak about the motion to seek an interim study.

Mike commented that some of these had been moved by the council to go to a study committee but Mike wasn't too sure if he was in favor of this because a study committee takes 2 ½ years. Mike didn't feel that he and Steve came up with anything that controversial that would warrant an interim study committee but feels we can either find a sponsor or continue to study them and bring them up in the 2015 session.

Winnie clarified the two issues we want to move forward with and they are the use of a licensed psychologist and the basic training.

Discussion held.

Mark (guest speaker) would like to ask the council that in their deliberation to the Law & Justice Interim committee to be aware of anything that may have a fiscal note.

Winnie stated that one of the things Sarah had conveyed back to the committee is that we were not interested in fast tracking at all. So Winnie finds this frustrating to learn we are back on the agenda despite the statement presented back to them that we were not giving them any bills at this time.

**Steve Barry motioned that we do not fast track any of the considered legislation. The two bills we are considering, we will continue to consider through the opportunities and further discussions that we have available to us prior to filing deadlines.**

**Tony Harbaugh seconded**

Mike asked Steve to identify the two bills.

Steve stated the two bills are the mandatory basic certification issue and the clarification of the licensed psychologist.

John clarified that we want to make clear that we are not moving those forward in addition to the two Steve just added.

Chris Tweeten commented that Senator Shakley would be very unhappy if no one from the council showed up at the LJIC and to think long and hard before deciding not to send anyone.

Winnie recommended that Chris attend the LJIC as well.

Steve Barry stated that he feels Chris would represent the council well, but feels it should be Wayne's responsibility as Executive Director to do this type of work for us.

**Clarification:**

**Steve Barry motioned that we will not be forwarding the two prior motions that dealt with criminal justice authority and peace officer status and that we do not intend to fast track the two legislative issues currently open for consideration dealing with licensed psychologist and with mandatory issuance of basic certificate but will use a more collaborative process to vet those before we introduce them.**

**Tony Harbaugh seconded**

**Roll call vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair  
Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Absent: Harold Hanser, Bob McCarthy, Ray Murray, Georgette Boggio**

**Motion carried**

**a. Potential Legislation on Criminal Justice Agency Status**

Previously motioned to not forward

## **b. Investigative Authority**

Previously motioned to not forward

V. 10:00 – 10:15 Break

10:15 **Guest Issues 1:56:33**

### **1. Steve Ette – Misdemeanor Probation Officer Basic Training**

Andrea Lower with Misdemeanor Probation discussed Pre-Trial services. She is here today to make mention and a suggestion for developing a special training tract specific for Pre-Trial Services. Under Statute they fall under Dept. of Corrections (DOC) Probation and Parole standards and training. They are not DOC employees, they are a county agency. Andrea wanted to bring this to the council to explain the gap they sit in.

Discussion held.

Wayne stated that this is an issue under 44-4-401 (i) any other person required by law to meet the qualification or training standards established by the council.

No action taken.

### **2. Kevin Olson – General MLEA Update - University of Montana – LE Basic Accreditation 2:40:05**

Kevin stated that over the last few months they have fallen behind in submitting curriculum to the council as scheduled. Kevin provided a handout showing the courses already provided and what is remaining.

Kevin discussed the course classifications and how they are considering freeing up some time to back fill with other training. They would like to eliminate CPR and First Aid.

In the future they would like to make a pre requisite to show their CPR and First Aid cards and if they don't have it yet, get the training achieved before leaving the academy through possibly St. Pete's or local fire department during the evenings or weekends.

Kevin then stated that if this becomes a requirement as independent study, then we should accredit it.

Winnie suggested to Kevin that when he communicates with the University that he uses the terminology to 'blended learning' approach or 'mandatory study/competency' rather than 'independent study' as this has somewhat of a bad reputation.

Kevin gave update on academy staffing and upgrades around campus. Kevin and staff visited and met staff with the Missoula College. This will permit students who come to the Law Enforcement Academy to co-enroll with the Missoula College to receive in the upwards of 18 college credits for the participation of the 12 week officer course. This credit will work toward a generic Associate of Art degree which doesn't have an emphasis placed on it yet, but as the university system evolves, there are some exciting things coming down the road. The technical term is an Associates of Arts Degree with a Pathway to Fundamentals of Police Science.

Also Kevin covered their budgetary issues, and will be going to legislature to ask for some general fund appropriation to offset some of these deficits.

**3. Scott Stephenson, Utah POST Director. Explanation of why Utah moved to the system they use when dealing with Officer Misconduct.**

Scott was unable to attend.

**4. Guest Issues 2:17:05**

Raeann Forseth, Department of Corrections (DOC), is present on behalf of herself and some private companies she is representing in the state of Montana, and is requesting the council to review and approve a curriculum for a 40 hour POST accredited safety training for private misdemeanor probation & parole officers.

Raeann stated upon review of the POST statute, they found that these officers do meet the standards in regards to probation and parole certification, but are not currently able to attend the Law Enforcement Academy so an alternative option became available for her to provide that training.

Raeann provided this 40 hour training Aug. 6<sup>th</sup> – 10<sup>th</sup> for Alternatives Incorporated and Compliance Monitoring Services and would like to submit this to POST for curriculum review and approval.

Winnie commented that both of the companies are private so we don't have any purview.

Winnie also reminded the council that Kevin Olson has authority over all the basic trainings.

Discussion held.

Dennis asked if he was to obtain the curriculum from Rae to allow Chris Tweeten to review and validate it, then determine whether or not we are responsible for this course.

Chris Tweeten asked Kevin Olson if he (Academy) has any legal counsel through the AGs office he could speak with.

Kevin explained this has been an ongoing debate with Steve Barry and feel they are on the same page. Kevin commends Rae and Andrea for the work they are doing with these evolving disciplines and encourages them. Kevin stated he believes Raeann is asking if POST would certify the curriculum and for public employees provide a certificate, and for private employees they get nothing.

Winnie suggested that this should not state “Basic training”, but maybe ‘introduction’ so this does not get convoluted with the statute that says the academy is responsible for basic trainings.

Kevin explained there is another fallacy out there that the academy is the sole proprietorship of all basic trainings.

Dennis will have met with Kevin and by the October meeting should have a response from legal.

Steve expressed concern with taking on private training and taking on more liability.

Discussion held.

Jim smith commented that there is already precedence with the pre-service going through the basic training but they also pay their own tuition and the academy trains them, but we do not certify them until after they’ve been hired.

Winnie clarified that Rae was looking for approval for two things; one, to receive POST accreditation for completing her training Aug. 6<sup>th</sup> and to certify her training to private companies.

Raeann will get her curriculum to Dennis.

Kevin explained that Rae will not be allowed to have the training for private entities on campus.

Kevin explained that pre-service candidates have a thorough background, whereas he would have no knowledge of the background of private entities which raises great concern.

## **VI. 11:00 Financial Report**

Wayne stated the last fiscal year; he mentioned that he was holding back some funds in order to cover hearings.

Wayne stated he would provide the SABHRS report to the council, but in the past he had received conflicting messages whether or not they wanted it.

Winnie commented that this is the issue if Wayne is told the council doesn’t want it one meeting and they do want it the next meeting.

Mike felt it would be nice to reference the SABHRS report when talking about the budget.

Dennis stated paper copies wouldn't be necessary, but electronic records would be nice.

**Tony Harbaugh motioned to request both a hard copy and an electronic copy of the SABRS report**

**Mike Anderson seconded**

**Roll call vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion carried**

Wayne mentioned that he paid \$25,000 in 'rent' to the MLEA, also assisted with the cost of a class at MLEA. Wayne stated we are starting out the year with a full budget.

Steve commented that he realizes we will see additional cost with the hearings cost and attorney fees, but in terms of managing budgets, we talked about our action plan or the business plan and we have 9 particular goals and not one of them discuss funding MLEA for rent. We have a lot of other issues that we have talked about but no money for. Steve feels the money needs to go to these areas. Steve stated he doesn't see any of this money going toward a contractor for a database or even policy support through contracted services for temp support, etc.

Kevin Olson stated this situation will get worse because the law says Justice has to allocate POST office space, not 'provide' office space. Kevin said he was instructed to start preliminary negotiations soon for a rental agreement.

Wayne commented that this isn't a bad thing for us since we have never really captured the cost of doing business.

## **VII. 11:15 New Business**

### **1. Director's report**

#### **a. Concerns about the office**

- **Phone calls rolling to the Academy**

Wayne shared that what we found is that the issue with the phone is a programming issue. Another option we are looking at is an answering service.

- **Back log of data entry**

Wayne explained that we have brought on temp support.

#### **b. Coroner Committee work**

Wayne stated a number of the coroner committee members came together in Billings spending time reviewing the DACUM study (previously done), piece by piece.

Wayne commented that current state statute says that the Coroner training falls on this council to be provided sometime between the general election in November and the first week of January of each general election year.

Kevin asked for clarification on whether the academy or POST was holding the coroner training.

Wayne stated the POST will hold the training as long as it can still be held on campus.

Dennis commented on not having a lesson plan for this training, and is confused whether we are going to have this class with no lesson plan or curriculum.

Wayne stated that because this is statutorily required for us, he would work with the coroner committee to help spearhead this.

Tony stated that he would be comfortable with Wayne overseeing the coroner meetings that he is not present at but will continue to chair the committee even though he may not be in attendance at times.

Wayne state the committee set a goal to have the initial outline project ready to go late October, early November. The will meet again in September.

Tony thought periodic contact with the group would keep us informed.

**c. Dale Tunnell request**

Wayne stated that Dale Tunnell is the investigative Bureau Chief for the DOC. Dale brought up the question about that 5 year break in service before going back to basic, and wanted to know what the options were to give those folks some other avenue to get their certification back in MT, or become certified without going to the whole basic.

Steve confirmed that Dale Tunnel is an Administrative Investigator and a Bureau Chief. He doesn't require Peace Officer standards so not quite sure why the inquiry.

**d. Request from YCSO Transportation Officer**

Wayne stated that Dave Kennet called to explain that their job is under the Sheriff's office but are going to move under detention.

So Dave wanted to know about detention certification and what is their status on being a transport officer.

Wayne commented that a transport officer doesn't really fit the definition but under the 'open' definition of detention officers; if you have oversight for security reasons, then they do fit. Dave wanted certification, but does the time from the sheriff's office count?

Discussion held. No action taken.

**e. Complaint Files – update**

**i. New complaints being made**

Already discussed during August 15th meeting and during Sarah Harts presence.

**ii. Cases to be closed**

**iii. Cases pending hearings**

12:00 – 1:00 Lunch Break

**VII. 1:00 POST Council Meeting Resumes - New Business Continued:**

**2. Legal Counsel update**

Sarah had provided a flow chart of the Interim allegation Procedure.

Sarah Hart stated that the 20 cases she is working on are very intense and time consuming and this is why they are scheduled for December, January and February.

Sarah stated that she is utilizing Clay's time to gather information for her to help save POST costs from paying for her paralegal's services.

July 3<sup>rd</sup>, Sarah filed a petition in district for an order allowing POST the ability to gather CJI only for 8 of the officers that we have hearings on.

July 5<sup>th</sup>, Judge Sealy granted that petition to gather confidential criminal justice information only as necessary for those 8 officers.

Sarah stated that now that she has the flow chart, she needs more guidance from the council where at what point they'd like her to seek district court orders for CJI and/or personnel records, and/or medical information.

Discussion held. No action taken

John Schaffer suggested that if we are going to be seeking district court orders, there should be communication with the supervisory authority.

**a. Missoula Independent - Freedom of Information**

July 17, 2012, Sarah filed a declaratory judgment action in district court to try and resolve a public records request that POST received from the Missoula Independent.

Mike Malloy, the lawyer representing Missoula Independent, had sued POST. Sarah has until September 4<sup>th</sup> to decide how to proceed with this.

The main concern for Sarah is attorney's fees.

Discussion held regarding CJI. No action taken.

Tony stated that if we are not working hand in hand with that local administrator of that agency, we have a problem already. If that administrator would like to proceed after a criminal proceeding has not occurred, then we should proceed.

Sarah stated that trouble comes into play if the local agency or county attorney doesn't want to issue out the CJI.

Tony stated this would come back to a screening committee.

Mike commented that the screening board would hopefully include communication with the administrators to see if we want to move ahead. Mike does not feel comfortable giving Sarah a blank check to do court orders all over the place on things we do not know about.

Winnie reminded everyone that Chris started out (2 days ago) believing that we had the authority to have CJI.

**b. Release of Information Policy & Procedure**

**c. Status of Contested Cases**

Sarah Hart had already covered this in previous discussion.

**3. Revocations (none to be considered)**

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

**Mike Anderson motioned to approve the certification list with the 3 duplicate entries corrected**

**John Schaffer Seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair  
Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion carried**

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

No extension requests to consider.

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

~ Mason Moore-Dept. of Transportation

**Dennis McCave motioned to approve Mason Moore for EQ.  
Jim Smith seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion carried**

~ Shawn Smith-Richland County Sheriff's Office

**Mike Anderson motioned to approve Shawn Smith's for EQ.  
Tony Harbaugh seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion Carried**

~ Richmond Swift – Richland County Sheriff's Office

**John Schaffer motioned to approve Richmond Swift for EQ.  
Tony Harbaugh seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion carried**

~ Obadiah Rouse – Bozeman Police Department

**Tony Harbaugh motioned to approve Obadiah Rouse for EQ.  
Mike Anderson seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion Carried**

~ Michael Lenahan – Cascade county Sheriff’s Office

**Mike Anderson motioned to approve Michael Lenahan for EQ  
John Schaffer seconded**

**Roll Call Vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie  
Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion Carried**

~ Shawn Flichman – Gallatin County Sheriff’s Office

**Tony Harbaugh motioned to approve Shawn Flichman for EQ  
Dennis McCave seconded**

**Roll call vote:**

**John Schaffer, Tony Harbaugh, Mike Anderson, Jim Smith, Chair Winnie  
Ore, Steve Barry, Lewis Matthews, Dennis McCave**

**Motion carried**

## **VIII. 2:30 Committees: Reports Questions or Discussions**

### **a. Curriculum Committee – Dennis McCave**

Dennis stated that Chief Smith reviewed the curriculums currently under review and stated they all looked good to move forward on. Dennis state that when he gets this organized with the Curriculum committee, he will be coming with a recommendation, once the gets the approval from the rest of the committee, to pass these and adopt them for POST certification.

Winnie asked Dennis who is looking at the lesson plans to make sure they are cited correctly by referencing the author, the resources, etc.

Dennis stated he relies on the people that are subject matter experts.

Winnie states she wasn’t concerned about those who are reviewing it, but there is some citation of what was used as a reference for the content.

Winnie explained that if there is none there, then the author of the lesson plan holds full responsibility for the content and this is critical for liability purposes, and that the sources are current and any laws that get cited are current.

Dennis state he heard from MSPOA office, which he had been unaware of, that the National Sheriff’s Association (NSA) Center for Public Safety now has a national institute for jail operations. They have 10-12 subject web-based trainings on their site.

Dennis has not researched this yet, but will be contacting NSA to discuss blended learning. Dennis will find out if it's applicable, if we can use it, how do get lined up for it.

Winnie reminded everyone that the NIC site has over 400, most of which apply to sergeants and above, in very interactive web-based training. This is free training.

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

Winnie thought Alex Betz possibly took over the chair position for this committee.

John welcomed Alex to take over the chair position.

Wayne state Alex talked to both Clay and him about putting on a meeting to address the resolution about professional standards, but that meeting has not taken place.

**c. Policy Committee – Alex Betz**

Winnie asked Wayne to let Alex know that Georgette volunteered to chair this committee.

Chief Mark Muir volunteered to assist with this in drafting policies for the committee to look at.

**d. Coroner Committee – Tony Harbaugh**

Discussed earlier in the meeting.

**IX. 3:00 Council Member Reports, Questions, and Discussion**

**John Schaffer** – no report

**Tony Harbaugh** – no report

**Mike Anderson** – Board of Crime Control has a new director as of February 21 and she has done a wonderful job. MBCC Crime Prevention Conference is Oct. 23<sup>rd</sup> -25<sup>th</sup> in Billings. Everything else is going well.

**Jim Smith** – no report

**Dennis McCave** – ACLU has been visiting places and seems to be taking a special interest in the jails. He has been behind, but is hoping to get back into action with jail standards and review process so they can start doing some training.

Dennis commented that the legislative committee has been focused on suicide prevention. One of the key elements talked about was the training.

Steve commented that there have been 2 successful suicides in the last 30 days.

**Lewis Matthews** – no report

Wayne stated that one of our goals, and objectives, is how to meet the folks in Tribal agencies; as we have limited contacts for them. Wayne and Clay would like to work with Lewis in traveling to the different tribes that have law enforcement to meet and explain what we do, don't do, what it means to be state certified, etc.

Lewis mentioned he doesn't even know which tribes are BIA anymore.

Steve mentioned that their (DOCs) Tribal Liaison is Merna Kuka and maybe we could start conversation with her.

Tony stated there are monthly meetings held on the eastern side of the state that Lewis may be able to tie into regarding the law enforcement impacted by the Bakken. Those that meet are local, state, tribal, federal and this might be something to make a trip for to get some contacts.

**Steve Barry** – Steve stated that Lisa Hunter is their new Professional Development Bureau Chief, who replaces Curt Swenson, who went over to State Fund.

Current initiative on re-entry will be in Bozeman next week for a corrections leadership meeting on the 21<sup>st</sup>, then the Montana Correctional Association is the 22<sup>nd</sup> and 23<sup>rd</sup> focus being on re-entry.

Steve commented on the P&P basic blended model which had an unexpected snag. They have developed a scenario based training module that they hold as a standard for all the folks in their department. They are trying to get all the instructors and evaluators trained on this model was a lot harder than anticipated. Steve should have a report for the December meeting on what that blended model now looks like in terms of more realistic roll-out as we continue to move forward.

DOC has a new PREA coordinator, Scott Kady, who will be providing some Departmental training.

Steve is going to be retiring at the end of the year (2012), but will still remain with the council until his term is up at the end of this year.

Winnie announced that she is going to resign from the POST Council effective the close of business today.

Winnie has provided the Governor's office with a letter of resignation; which has been accepted. Steve has accepted the vice-chair position for the interim.

**X. 3:30 Public Comments**

Mark Muir, Chief of Police, president of MACOP, has been compelled to step up and make certain that Winnie knows that from himself and his agency, and his organization, that her efforts in leading this council have always been appreciated and will continue into infinity to be noticed and appreciated. Please understand that what has gone on in the last year, he wanted to particularly thank her for making this venue available for hearing the cry and responding to it and making it possible to come forward and spend time with this group and start to move into a direction of more cooperation and rebuilding of trust and so on.

Winnie said the one thing she would ask of the Chief, is that they quit being invisible.

Mark stated that this is a fact that he has relayed to the members over the past few days. Mark also commented that he feels real positive and things are moving in a good direction.

Perry Johnson, Ravalli County Sheriff's Office, MSPOA, says thank you to all of the Council. Perry has been involved in law enforcement for many years and has never met many of the council members but upon meeting Winnie, she also advised him to be involved. Perry feels this law enforcement trust that we have in this group is well represented in the leaders the council saw in the room yesterday. Perry also stated that he recognized the soft words spoken when Georgette characterized this confidence crisis.

Perry feels he heard that the council has embraced the idea of putting together a screening committee, and feel this provides the law enforcement community some evidence that there is going to be some other criteria as it relates to the review of the allegations of the cases. Perry would like to know what the functions of the screening committee will be and what the authority will be as it relates to the process of those cases. Perry said he heard questions about the council's organizational chart as it relates to the inner-office and thinks this would be a healthy positive thing to present to the law enforcement community. Perry showed interest in the policy and procedure for POST and the staff and this too will help work the field through the confidence crisis and help give the staff direction.

Perry thanked the council for their service and what a rewarding opportunity this had been.

- X. 3:45 Executive Session – Personnel Performance Review**
- XI. 4:30 Adjourn**

**\* 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.**