

**MEETING MINUTES  
MONTANA POST COUNCIL  
MARCH 9, 2016  
POST CONFERENCE ROOM  
HELENA, MT**

**PRESENT**

Tony Harbaugh ~ Chairman ~ by phone  
Laurel Bulson  
Jim Cashell ~ by phone ~ joined the meeting at 10:00a.m.  
Bill Dial ~ by phone  
Lewis Matthews ~ by phone  
Kevin Olson ~ by phone  
Ryan Oster ~ by phone  
Tia Robbin ~ by phone  
Jim Thomas  
Gina Dahl ~ by phone

**NOT PRESENT**

Kimberly Burdick  
Jesse Slaughter  
John Strandell

**STAFF PRESENT**

Perry Johnson ~ Executive Director  
Mary Ann Keune ~ Administrative Assistant  
Katrina Bolger ~ Paralegal/Investigator ~ by phone

**LEGAL COUNSEL PRESENT**

Sarah Clerget  
Chris Tweeten ~ by phone

**GUESTS**

Rich Friedel ~ Billings ~ by phone  
Curt Stinson ~ Helena Police Department  
Truman Tolson ~ Missoula Police Department ~ by phone  
Rick Musson ~ Laurel Police Department ~ by phone  
Duncan Hedges ~ Prairie County Sheriff ~ by phone  
Jess Edwards ~ Blackfeet Law Enforcement Chief  
Mike Johnson ~ Jefferson County Undersheriff ~ by phone  
Cindy & Chuck Leggate ~ by phone

**WELCOME**

Meeting called to order by Tony Harbaugh, Chairman, at 9:00 a.m.

Perry Johnson called roll.

Bill Dial made a motion and Laurel Bulson seconded to approve the minutes of the December 2, 2015 meeting. Gina Dahl mentioned that her name was left off the minutes from the December meeting. Mary Ann Keune reported that she would fix the

minutes to reflect Gina Dahl was present by phone. Motion carried, all members voting in favor.

### **PUBLIC COMMENT/GUEST ISSUES**

Tony Harbaugh asked Perry Johnson if he would address the Public Comment part of the meeting. Perry Johnson explained that Chris Tweeten would be visiting with the Council about the protocol for the meetings.

Perry Johnson said that the Public Comment time is for the guests who have dialed in and the people who are in the room to address the Council and bring up any issues that they would like the Council to have information on. The guests can also present information to the Council for future agenda items. He explained that Public Comment is intended just for the public to comment and isn't the time for the Council to take any action or for the Council to enter into any kind of debate or discussion. They can ask for clarification on any information that is provided but it is not a time to make decisions or take any action.

Tony Harbaugh asked for public comments.

Rich Fridel said he would like to follow up on what he proposed to the Council about private certification. He also said there are people who are still operating against the policies of POST and it's becoming an issue in Yellowstone County. He would like some help on what to address with that issue. They would like to get the other issues before the legislature to resolve some of this. He wondered if there is anything more they need to provide for the options for the issues they are facing with pretrial services. He understands the position of POST on misdemeanor probation and agrees with POST's position. Rich Friedel is concerned about the people who are operating around the state with arrest powers he doesn't believe they legally have.

Perry Johnson said he and Rich Friedel can have that conversation in regards to what the questions may be. He also shared that Sarah Clerget and Chris Tweeten have been quite specific in the memos that have been generated from both of them. The Council has also been very active with responding to those issues. Perry Johnson suggested Rich Friedel call him and have a conversation. Rich Friedel was given Perry Johnson's phone number and said he would call him.

Truman Tolson mentioned that he would like to be able to access his agency's POST transcripts. He also asked Perry Johnson if he would be participating in the Training Coordinators class on March 30 & 31. Perry Johnson said he is intending on being at the training.

Tony Harbaugh asked if Perry Johnson would be giving an update on the "Sugar" database later in the meeting that would speak to Truman Tolson's desire to access the training records. Perry Johnson said there would be some information later in the meeting.

Duncan Hedges said he is going to be in Helena March 24 and would like to talk to someone about reserves. Perry Johnson said he thought he would be around and asked Duncan Hedges to email him the date so he can get it on his calendar.

Jess Edwards stated that his Tribal Council is interested in Blackfeet Law Enforcement taking over the Coroner duties for the county. He is interested in talking to someone about that. Perry Johnson offered to talk to Jess about where to look in the statutes for that information.

## **OLD BUSINESS**

Chris Tweeten updated the Council about the Lake County lawsuit against POST and Fish Wildlife and Parks. He explained that the case is in discovery at this point. He doesn't expect any action on the case until after the discovery period. He explained the options that may occur in the case.

Chris Tweeten shared that he contacted the Attorney General's Office and asked how much longer they think it will take to hear back on the requested opinion. A staff member reported that the MOU between DOJ and DOC regarding investigators working in the corrections system would be declined by the Attorney General on the grounds that they didn't believe it is appropriate for the Attorney General to issue a formal AG's opinion with respect to the Attorney General's own power. Chris Tweeten said he had further discussions about it with them and he is waiting for further word from the AG's office with respect to whether they are inclined to reconsider the recommendation or not.

Chris Tweeten also reported that the other opinion concerning POST's waiver powers is in draft form right now. He reported that the form has been circulated to the Chief Deputy, Alan Joscelyn, for review. The draft will either be moved forward to the Attorney General to review or recirculated and sent back for maintenance recommended by the Chief Deputy. He does think that they are inclined to issue an opinion before too long.

Perry Johnson asked Sarah Clerget if she had anything to add. She did not.

Tony Harbaugh asked if hearing the oral arguments on the Justin Stokes' revocation needed to be moved to another point in the meeting. Perry Johnson commented that a quorum was present. He did suggest that the Council move ahead to new business and come back to oral arguments at 10:00a.m.

## **NEW BUSINESS:**

### **Conduct in Meetings**

Chris Tweeten gave a presentation about the proper conduct in meetings. He explained that in 1972 when a new Constitution was adopted the Constitutional Convention provided for a constitutional right of participation on the part of the public which had not existed previously in Montana as a matter of constitutional rights. The Constitution provided that the public has a right to expect participation rights that are provided by the legislature. The legislation determines what the full content of the constitutional right to participate is. There are open meeting laws, with particular statutes dealing with how public meetings are supposed to be conducted.

One of those statutes which was enacted about 10 years ago created a requirement that at every public meeting the agenda included an item allowing for public comment on any matter under the jurisdiction of the organization that's holding the meeting. Prior to the amendment of that statute the common practice was to hold public comment on anything that was listed on the agenda then move on to other business. With the statutory amendment, any citizen who has any issue with respect to anything that POST does whether it's on the agenda for the meeting or not, must be given the right to comment on that subject for the benefit of the Council. It's improper for an agency to conduct a public meeting then try to take action that's not on the agenda but raised for the first time during public comment.

There is an agenda requirement in the statute that is intended to provide notice to the public of everything that the agency intends to take action on during the upcoming meeting. That implies that the public has a right to notice in advance of the time that the agency takes action. If a member of the public has interest in a certain subject but doesn't see it listed on the agenda they may choose not to attend that meeting and then if it comes up in public comment and the agency decides to act on it anyway, that person's right to participate on that issue will have been infringed. It's never appropriate to take action or debate on a matter that is brought up for the first time in public comment. There may be emergency situations that may create an exception to that. The general rule has to be that if someone brings something up in public comment the Council can ask questions but it would be inappropriate to discuss it and try to fix the problem at that meeting without the matter having been listed on the agenda.

Chris Tweeten suggested that the rule of thumb should be that what people bring up in public comment should be listened to by the Council and the Council ask questions to be sure the issue is fully understood and then defer any discussion or action on that matter. Let staff try to work it out between that meeting and the next meeting and if it becomes a matter that the Council needs to act on, it can be listed on the agenda for a future meeting. Then the public's right to notice of the agenda and right to participate in the decision will be protected and the comment or interest in getting some relief from POST can be handled in an appropriate way through the agenda process.

Jim Thomas asked if the Council has been taking actions on the public comment in the past. Chris Tweeten doesn't recall any and didn't know if Perry Johnson knew of some and that was why he wanted it placed on the agenda.

Bill Dial commented that he brought it up at the last meeting. He shared that the laws are very clear that unless something is on the agenda the Council shouldn't discuss something during public comment because other members of the public wouldn't have the opportunity to respond to it. He cautions that the Council has to be very careful about it.

Chris Tweeten has examples of agencies who have done this type of thing and have been in trouble for it.

Perry Johnson shared that the reason this is an agenda item was at the last meeting there was quite a bit of discussion during public comment by Council members and Perry Johnson. He feels like many times it takes a very involved conversation to fully

understand a subject and a decision can be made. Public comment isn't the time to have those discussions.

### **Director's Report**

#### **Upcoming Events**

Perry Johnson directed the Council to page 44 in their meeting materials. He shared that it is an invitation for the Director to attend a meeting in Washington DC with all the POST Directors in the United States to talk about some of the strategies that were proposed and documented in the 21<sup>st</sup> Century Law Enforcement report to the President. Perry Johnson is set to travel on Sunday, March 20, meet on March 21 and return on March 22. There are no travel or per diem cost to POST except for Perry Johnson's time.

Duncan Hedges asked what position Mike Becar is for the group. Perry Johnson answered that Mike Becar is the Director for the national group.

Perry Johnson directed the Council to page 47 in the meeting materials. He reminded the Council that 2 years ago he told the Council he wasn't ready to go to Florida for the IADLEST Conference. Last year he attended the IADLEST Conference in San Antonio, TX. He and Glen Stinar both attended and it was a great convention. This year's convention is being held in Grand Rapids, Michigan. There will be a cost for POST involved in this convention but he knows there is money in the budget to handle the cost.

Perry Johnson reported that the Montana Coroners' Association will hold a conference May 1-3, 2016 in Bozeman. They will have 16 hours of death investigation training that should meet the requirements for the ongoing training for Coroners and Deputy Coroners in Montana. Their Board Meeting is to be held Friday night and Perry Johnson will be attending that. He reminded the Council that POST and the Coroner's Association had disconnected for a while. He said he feels like it's a good relationship now and they put on a good training.

Tony Harbaugh told the Council that the Association just reached out with registration and program announcements out to the members. Perry Johnson said he would push the information out when he gets it.

### **Coroner Training**

Perry Johnson directed the Council to page 56 in the meeting materials. He explained that it is a 40 hour online Death Investigation course that was presented to Perry Johnson by Roger McLean and Theresa White from the U of M, the school of extended learning. They are asking the Council to consider this 1 semester course as an equivalency course for the Basic Coroner Investigation School that is held annually by Bob Rosipal and Bob Edwards from Cascade County Sheriff's Office.

Perry Johnson reached out to Bob Rosipal and asked him to review the packet. On page 59 is Bob Rosipal's response. He did however, say that a person may be overwhelmed with the amount of information presented and was a little concerned about the lack of scenario based learning that is present in the Coroner Basic held at the MLEA. Bob

Rosipal commented that it helps put a practical application to the information presented in the class room. Perry Johnson pointed out that over a semester's time at a person's own speed, submitting the case work and taking a final exam has a lot of value to those agencies in the outlying areas who have a difficult time breaking a coroner loose for a week of training at the MLEA.

Perry Johnson placed it on the agenda to see what the Council would think about POST accepting it as an equivalency to the Coroners' Basic. Tony Harbaugh agreed that it will provide an option for some agencies. Jim Thomas pointed out that he would rather see too much information verses not enough in a training.

Perry Johnson shared that the Coroner's have had an ongoing education requirement of 16 hours every 2 years additionally. He does see the value in the scenario training but an officer gets more information in the online training so it's a sort of swap for the Council to consider.

Bill Dial made a motion and Jim Thomas seconded to accept the online training as an equivalent basic training for Coroners.

Motion carried, all members voting in favor.

Perry Johnson directed the Council to page 62 in the meeting materials. He said the U of M is proposing a 16 hour Death Investigation training that they would submit to POST as continuing education for the Coroners. They intended to hold the training in June but Perry Johnson explained to them MSPOA meets in June so they may want to reconsider the date. They are thinking about moving the training to August. After looking at the materials Perry Johnson feels like it is a good training. This training would be in addition to the 2 current continuing education opportunities already available.

### **Old Business (continued)**

#### **Oral Arguments of Justin Stokes' Revocation**

Chris Tweeten acted as the Hearing Examiner for the Justin Stokes hearing. He asked if Mr. Stokes was present in person or by telephone. It was determined that Mr. Stokes was not present in either capacity.

Chris Tweeten shared that the process in place provides for an opportunity for appeal to the entire Council when a disciplinary action is imposed by the Executive Director. He explained that Mr. Stokes was dually notified of the opportunity to seek that review by the Council and to Chris Tweeten's knowledge that had not occurred.

Chris Tweeten asked Perry Johnson to confirm that no one in Helena has received a request for a hearing. Sarah Clerget stated that POST hadn't received a request but feels like the Council needs to take action on the proposed findings and conclusions. Chris Tweeten agreed but stated he was trying, for the record, to establish what had taken place. Sarah Clerget then stated that he did invoke his right to a hearing back in the beginning of the contested case process.

Chris Tweeten stated that wasn't his point. He wanted to know if Mr. Stokes had asked for a hearing in front of the Council and if it had been done in a timely manner. He also said for the record, it is his understanding that no request had been made by Mr. Stokes for a hearing in front of the entire Council.

Chris Tweeten asked Sarah Clerget to present the case for the entire Council and then the Council is able to engage in discussion and ask questions of Sarah Clerget if they need too. That would set the stage for a motion to confirm the sanctions that have been recommended for Mr. Stokes.

Sarah Clerget, contested case counsel for POST, identified herself. She advised that she represents POST, Perry Johnson and the Contested Case Committee through the contested case process.

Sarah Clerget directed the Council to page 30 in the meeting materials. She stated that the documents were the proposed findings and conclusions from the hearing examiner, Mr. Murphy. These proposed findings and conclusions were based not on a hearing but on a summary judgment motion that POST submitted to Mr. Murphy. Mr. Murphy has proposed that the Council grant that summary judgment motion. That would mean that there wouldn't be an actual hearing. There hasn't ever been an actual hearing, it's all based on a documentary record that POST submitted to Mr. Murphy.

The POST Status Subcommittee and Perry Johnson have determined that Mr. Stokes violated 4 subsections of the ARM 23.13.702. The subsections are (a), willful falsification, (g), willful violation of the code of ethics, (h), conduct which significantly undermines public confidence, and (k), acts that are so improper or harmful to the reputations for public confidence in the profession. (Shortened version as indicated by Sarah Clerget.)

Sarah Clerget also explained that Mr. Stokes violated 2 subsections of his code of ethics which says that he will not engage in acts of corruption, bribery or commit criminal activity and that at all times he will ensure that his character is admirable.

The facts are:

**False Reporting:** Mr. Stokes was an officer for the Glacier County Sheriff's Office and has been an officer since 2000. He is not currently an officer. With a notice from POST his certificates were revoked and are currently revoked.

Mr. Stokes made a report to the Conrad Police Department in 2008 saying that his estranged wife hit him in the back and on the neck, pulled him down and he bit his lip. All this happened while he was holding his daughter. He stated in his statement that that incident put him in fear and caused him injury. The next day, he signed another statement stating that it was all a misunderstanding and that there was no harm threatened and no injury. Chief Dent said in a supplemental report that the issue is now, false reporting made by Stokes.

**The hearing examiner found on page 4 (33), paragraph 14, that Stokes was dishonest with the Conrad Police Department about the events of November 16, 2008.**

**Testimony:** This had to do with the testimony that Mr. Stokes gave about the original false report. It is a sort of a lie on top of a lie. Mr. Stokes testified in court, under oath, during a hearing in 2011 that he had read and reviewed that supplemental report by Chief Dent that said the issue was now false reporting. He answered questions about it and he confirmed that Chief Dent had considered going after him for false reporting. Mr. Stokes testified that he had signed the second statement because his attorney had advised him to. The judge essentially said that he knew that attorney and it was hard for him to imagine, in fact couldn't imagine that the attorney had advised that. The judge said in the hearing that it leads him to believe that the veracity and entirety of Mr. Stokes testimony is in question.

In a different testimony in a different matter on a different day in 2013 Stokes was asked about Chief Dent's report saying he was now being considered for false reporting. Mr. Stokes testified that he didn't know about it and had no idea that Chief Dent was considering him for false reporting. When he was interviewed by POST he stated that he had never seen the report by Chief Dent and reiterated that he had never seen it in a signed letter to POST.

**The hearing examiner found on that point on page 5 (34), paragraph 29, that Stokes had lied on the stand, on duty and to POST regarding whether or not he had seen a copy of his false report and Chief Dent's supplemental reports saying that he was being considered for false reporting.**

**EOB ~ Explanation of Benefits for an insurance issue and Mr. Stokes' diagnosis:**

In court on an unrelated matter an EOB was introduced that said Stokes had an episodic mood disorder. There was a lot of testimony and talk about that during the court hearing. Stokes said in response to POST's inquiries about that that he was never diagnosed with an episodic mood disorder and he provided an EOB to POST to show that he was never diagnosed with that. POST found out later that the EOB provided to POST by Stokes was not the same EOB as was introduced in evidence. POST found that out because they got the original EOB.

**The hearing examiner found on that point on page 6(35), paragraph 36, that Stokes provided a different EOB to POST then what was introduced at the hearing in order to willfully mislead POST.**

**Tax Returns:** In a hearing in May of 2014 Stokes testified in a child custody and child support case where money was a particular issue in the hearing. Stokes testified under oath that he had filed his 2013 tax returns. The judge specifically asked Stokes very particular questions about the 2013 tax returns. The judge even called a recess so Stokes could go get the 2013 tax returns that he said he filed and bring them back to the court. Stokes said that he couldn't find them. In an interview less than a month later in 2014 with POST, Stokes admitted that he had never filed his 2013 tax returns. When he was confronted with his prior court testimony by POST, he said he only meant that he had filed an extension. In another hearing in December of 2014, Stokes filed his 2013 tax return with the court but redacted the date of his signature so the court couldn't see when he signed his tax returns, meaning when he filed them.



POST got a tax return directly from the IRS and it showed Stokes didn't file his tax return until October 13, 2014 which is 5 months after he had testified in court, under oath, that he had filed them.

**The hearing examiner found on that point on page 8 (37), paragraph 50, that Stokes lied under oath about filing his tax return, lied to POST about it and continued the deception to the court by filing a redacted tax return.**

**POST Proceeding in front of the Hearing Examiner:** When POST requested a hearing from the hearing examiner they did it in writing, and Mr. Stokes said during that request, that he hadn't received letters from POST. He said that POST had never responded to his requests. POST had certified mail receipts where those letters had been delivered to Stokes and signed for. In addition, Stokes said at various times, that he was going to show up and present 42 witnesses. In fact, Stokes never appeared after the initial scheduling conference. He didn't respond to POST's discovery request or to the motion for summary judgment. He didn't respond at all after the initial request for a hearing and the scheduling conference.

**The hearing examiner found on that point on page 9 (38), paragraph 57, that Stokes lied to this tribunal, meaning the hearing examiner, regarding correspondence with POST.**

Sarah Clerget reported that the conclusion to all of that is on page 12 (41), under the findings. The hearing examiner said, **"The undisputed evidence shows that Mr. Stokes has lied, repeatedly, and often under oath. POST has provided documentary evidence in the form of court transcripts, an interview transcript, police reports, United States Postal Service records, IRS documents, affidavits, and Mr. Stokes' own written statements to POST; all of which show a pattern of dishonesty."**

Sarah Clerget shared that not even counting all the individual lies in each category, there is at least 5 different categories of lying. POST has filed for summary judgment, the hearing examiner has proposed that the POST Council accept and grant that summary judgment in favor of POST. Sarah Clerget asked the Council to adopt the hearing examiners findings and conclusions, grant the summary judgment in favor of POST and vacate the hearing.

Kevin Olson made a motion and Bill Dial seconded to adopt the proposed findings and fact of conclusion of law with the correction on page 14 (43) with the mistake of 2016 should be 2015.

Motion carried, all members able to vote voting in favor.

Perry Johnson called role to be sure there was a quorum voting.

Laurel Bulson – unable to vote

Jim Cashell

Gina Dahl

Bill Dial

Tony Harbaugh – unable to vote

Kevin Olson

Ryan Oster

Tia Robbin  
Jim Thomas  
Lewis Matthews

A quorum was present for the vote.

### New Business (continued)

#### Coroner Training

Perry Johnson directed the members to page 70 in the meeting materials. Jim Cashell left the meeting due to illness.

Perry Johnson told the members that a Deputy Coroner for Lewis and Clark County submitted this curriculum. This is a college level course that is conducted at St. Louis University and is a 40 hour course. The cost for the class is around \$1,000.00. Mickey Nelson is asking the POST Council to consider this an equivalency for the basic coroner's course. Perry Johnson related that he has talked to people who have gone to this course and according to them it's an excellent training. He thinks that the course would be equivalent to the 40 hour basic coroner class that is offered now at the MLEA.

Bill Dial made a motion and Jim Thomas seconded to approve the 40 hour curriculum from St. Louis University as an equivalent basic coroner course. Motion carried, all members voting in favor.

#### Eyewitness Identification

Perry Johnson directed the members to page 89 in the meeting materials. He reported that the letter from the POST office went out in February about an Eyewitness Identification training that was conducted at the MLEA in January and in Billings the next day.

Perry Johnson reported that through that training and outreach 114 officers were trained in Montana to the best science Eyewitness Identification. Part of the whole outreach and effort was a result of the Interim Law and Justice Committee that engaged the Innocence Project with this discussion in regards to best sciences and eyewitness discussion. Perry Johnson endorsed this because he believes it is just good business to make sure Montana is doing things right. He felt like the results were incredible with tremendous comments back from many of the participants.

Perry Johnson also shared that there was push back from some of the agencies who don't really endorse what the Innocence Project does all the time. He doesn't think that it's important to endorse them, but that the agencies are using the best science. He said within the next week or so he will run a survey to ask the agencies if they have adopted an Eyewitness Identification policy.

Duncan Hedges shared that he wasn't able to attend the training but he sent his undersheriff who had a lot of good things to say about it. He had to order a photo lineup from MATIC after the training but it was still the same format as before.

Duncan Hedges wondered if anyone from MATIC attended the training to make the changes on the photo lineup. Perry Johnson said they did send someone and he would be reaching out to them about the lineup. Duncan Hedges thinks that it should be changed.

### **Working Retiree Limitations**

Perry Johnson reminded the members that at the last meeting there was a discussion about people who were retired and how they can keep their certification. He reached out to PERS. He told them he was retired from the Sheriff's Office and asked if he could still work. They said that he could and he could find the information on their website. He printed out the information and said it could be found on pages 91 and 92 in the meeting materials.

Perry Johnson let everyone know that Laurel Bulson has a retirement date of June 25, 2016 from the Lewis and Clark Sheriff's Office. The next meeting will be her last meeting as a Council member.

### **Budget Report**

Perry Johnson asked the group to turn to page 93 to look at the budget report. He feels like the budget is in very good shape with plenty of money for the legal and operating expenditures. He thinks there is a possibility that there will be some money to roll over but there are a couple of contested cases that are looming.

### **POST Council and Committee Meetings/Legislative Update**

Perry Johnson shared that several meetings ago there was discussion on the frequency of the POST Council meetings. He would like to see the subject on the agenda for the next Council meeting. The reason he placed it on the agenda today was to get the members to think about it. He thinks that face to face meetings create better business in the meetings. He thinks input gets lost on the phone meetings. He would like the members to think about it for the next face to face meeting which is June 1.

Perry Johnson also mentioned that he would like to have the ARM Committee and the Business Plan Committee meet on the afternoon before the next Council meeting to discuss what the legislative package and the ARM updates would look like. Those two committees would have an opportunity to meet with each other and have a product to present to the full Council.

Laurel Bulson asked Perry Johnson if he was still planning to meet with the 2 officers from her agency who would like to make suggestions about the ARMs. Perry Johnson said he would see if they wanted to join the ARM committee and have input to the full Council.

Perry Johnson reminded the Council that he has enlisted the help of Kirsten Madsen to review some of the statutes and the interactions they have with the ARMs. He felt like things are moving forward in a productive way. He hoped by the next time the Council meets in June there will be a draft submitted by the Business Plan Committee.

### Certificates Awarded

Perry Johnson directed the members to page 94 in the meeting materials. He reported that the staff issued 214 certificates. He also reported that 1,062 certificates were awarded in 2015.

### Equivalency

Perry Johnson reminded the Council that back in September the Council delegated the authority to Perry Johnson to grant Equivalency to officers. He shared that the office is now processing the EQ requests as they are received so the agencies are able to get the officers into an EQ class. There were 14 equivalency requests granted.

### Extensions

Perry Johnson stated that he granted 8 extensions requests.

### Case Files

Perry Johnson directed the members to page 100 in the meeting materials. There are 2 cases that are currently being contested. He said that the hearing examiner for 1 of the cases will be Jeff Sherlock and the other contested case will have a hearing examiner from the Department of Labor and Industry.

### Office Updates

#### **Sugar CRM**

Sugar CRM is the database that POST purchased a year ago in June. Part of the transition into that database is moving the data from the old database into the new database. POST brought in a temp at the first of the year to help clean up the data so when it is moved the data will be current. Perry Johnson said we are still very pleased with Justin Stolp who is the project manager.

Perry Johnson shared that part of the discussion the staff has had with Justin Stolp is what is going to be available to the public. At this point if anyone contacts POST we have to provide the training records for the person making the request. If an officer wants their training records they have to know their login and password. That is a subject the staff and Council are trying to figure out. There is concern by some of the members that if anyone and everyone has access to a training record of an officer they may be able to figure out who may be a soft target.

Kevin Olson agrees that the records are for the most part in the public domain. He feels like agencies and officers should be notified beforehand when a request has been made. He thinks that would give the agency or officer time to seek legal intervention to restrict or outright deny access to the document based upon a legitimate finding. He asked Sarah Clerget and Chris Tweeten to weigh in on the subject.

Sarah Clerget likes what Kevin Olson said about they will be released unless a court or some other legitimate interest intervenes. She believes the training records are public and need to continue to be public. She does recognize that there may be instances when it may be a problem. She thinks the onus needs to be on the officer or the agency to raise that question with POST or with a finder of fact, such as a court.

Chris Tweeten agrees with what Sarah Clerget said. He doesn't think that the right to individual privacy outweighs the public's right to know in respect to these training records. He said it is hard to predict what a court would say but it's more likely than not that these officers are public employees and the training is paid for by public dollars so the court would rule that the records are accessible to the public.

Kevin Olson pointed out that across the nation as well as in the state there are cases where the officers are being targeted and stalked. He asked Truman Tolson to speak up about the female officer who was being stalked in Missoula. He wondered if the other female had had access to the officer's records, how would that have played into the situation. Kevin Olson is asking for a window of delay for notification to the officer and agency to give them an opportunity to seek some judicial remedy one way or another.

Truman Tolson agreed with what Kevin Olson had to say. He reported that the person who was stalking Stacy Lear was convicted and is serving some time. He is concerned about the undercover drug guys and thinks there should be a policy about the release of records. He spoke about other incidences and agrees on a notification of some sort before they are released.

Chris Tweeten thinks that the protection of the identity of an undercover officer which is intimately connected to their safety in the work that they are doing tips the scale in favor of not disclosing information about those officers that might tip off the public that they are acting in an undercover capacity. To a certain extent Chris Tweeten thinks that the policy has to provide for on a case by case consideration of the situation.

Tony Harbaugh asked if this should go before a committee. Perry Johnson would like to work with Chris Tweeten and Sarah Clerget on a recommendation to bring to the next meeting. He said that the way it appears to him is the information will have to be vetted through POST before it can go out the door. The issue here is there are lots of requests that come to POST and the follow up is going to be tough for the staff to carry out.

Tony Harbaugh asked that a draft be put together and pushed out before the next meeting in order to have time to review.

Perry Johnson shared that he approved 382 trainings last year. He thinks that the stakeholders are understanding the process and realize they can host a training and are doing so.

Kevin Olson spoke about the possibility of charging for the cost of filling the records request. Chris Tweeten responded that recouping the costs for the right to know requests haven't been thoroughly tested in Montana. There will be a test case sooner or

later where the courts will decide if it's constitutional for a state agency to charge. Chris Tweeten has created a draft policy for POST in respect to the right to know records request that line up with the 2015 amendments that have been adopted towards statute. He really doesn't want POST to be the test case. He feels like it will be a hard case to litigate, be costly, take a tremendous amount of time and there is a good chance POST would lose.

Bill Dial stated that they were faced with the same issue in Whitefish. The former City Attorney researched and decided that reasonable fees could be charged for the staff's time and shipping costs. They have had that process in place for about 5 years without any pushback.

Perry Johnson reminded the Council that the staff has a hard time processing what has to be processed now. The discussion about the added processes takes people. To process the cost of the processes takes people too. He pointed out that Mary Ann Keune acts as the Administrative Officer as well as the Administrative Assistant and there just isn't the staff to process cash.

Perry Johnson said that part of the discussion at the next Council meeting will be what the members want POST to look like. What do the members envision the primary responsibilities to be and where do they want to go with that.

Mary Ann Keune shared that along with the 386 trainings that Perry Johnson approved there were about 1000 other trainings that individuals submit that have to go through the same process for approval. There are also 22,000 records in the database that have to be cleaned up. There is a temporary staff working on the cleanup for the database. She pointed out that the staff is stretched thin.

Perry Johnson is hoping the Business Plan Committee will be able to look at all this and be involved in the draft that comes back to the Council at the next meeting.

### **Reserve Officers**

Perry Johnson reported that within a week of the last meeting Rick Musson submitted his Reserve Officer curriculum to POST. Rick Musson's curriculum is about 150 hours of training. Perry Johnson intends to give the MLEA staff the curriculum to vet against the training requirements they gave POST earlier.

### **Death Investigation Training**

Perry Johnson shared that he feels like the Council is doing the right thing by annually sponsoring a death investigation training in December. He asked if the Council wants to continue sponsoring the training. Tony Harbaugh said that as a coroner himself he sees the value to it. With the turnout and the numbers being trained in person, he supports keeping it in place.

### **Coroner Basic Class**

Perry Johnson told the Council that Bob Edwards, Sheriff from Cascade County and Bob Rosipal have been conducting the training for the last 4 years. All POST does for them is make copies and they line up the training presenters. He pointed out that they are great partners for the Council.

**COMMITTEE REPORTS:**

**ARM Committee:** ~ Bill Dial ~ Nothing new

**Coroner Committee:** ~ Jim Cashell ~ No report

**Case Status Committee** ~ John Strandell ~ Perry Johnson told the Council that at the next meeting there will be a report on the committee. They do a tremendous amount of work. He reported that at the last Case Status Committee meeting there were 454 pages of documents to review.

**Curriculum Committee:** ~ Jim Thomas ~ Nothing new

**Business Plan/Policy Committee:** ~ Kimberly Burdick ~ Perry Johnson stated he is hoping to have the committee meet face to face and work out a product to present to the whole Council especially in regards to ARMs and a Legislative package. He is going to be presenting to the Interim Law and Justice Committee. He also would like to share with POST's shareholders so they are aware of what the legislative package is going to look like.

Perry Johnson shared that there are a lot of balls in the air and the POST is gaining momentum. He warns that it will be very intense in the next year with lots to do.

Perry Johnson shared that his wife is having medical issues and he will be absent from time to time while they are trying to deal with the situation. Tony Harbaugh commented that everyone would keep them in their thoughts and prayers.

Bill Dial told Perry Johnson that he will be praying for them. He shared that Perry Johnson and him have been talking about the role of the staff. He thinks it is important for the Council to be thinking just what the role of the staff is. He questioned whether POST should be the receptacle for all the training records or should that be the responsibility of the agencies. He also knows that the staff that is here wasn't hired to be experts in training curriculum. Another option might be for the MLEA to look at the certified curriculum. He wants the Council to be thinking of ways to get some of the work load off of the staff.

Jim Thomas made a motion and Laurel Bulson seconded to adjourn the meeting.

Submitted by  
Mary Ann Keune  
MAK  
5/16/16