

MONTANA
Public Safety Officer Standards and Training Council
Special and Regular Meeting Agendas May 4 & 5, 2011
Sacajawea Inn
Three Forks, MT

Thursday May 5, 2011 Regular Meeting

I. 8:30 Call Meeting to Order

II. Introductions

Council Members Present: Winnie Ore-Chair, Steve Barry, Ray Murray, Harold Hanser, Dennis McCave, Bob McCarthy, Mike Anderson, Greg Watson, James Smith, John Schaffer, Lewis Matthew

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

Council Members Absent: Tony Harbaugh, Georgette Hogan-Boggio

Staff Members Absent: Deborah Butler

Guests: Kevin Olson-MLEA, E.J. Clark-Belgrade PD, Dennis Hengel-Manhattan PD, Troy Kechley-Think Dog, Warren Heibert-Chaplain with Gallatin County SO

III. Approval of Minutes from the February 14, 2011 conference call meeting

Mike Anderson would like the paragraph on page 5 revised as follows:

Mike has been spending time on HB230, a bill that would move Montana Board of Crime Control (MBCC) from Department of Justice (DOJ) to Department of Corrections (DOC); eliminating some of the staff, take some funding and move them to the same floor of offices as DOC. Mike and the board (MBCC) are opposed to this bill.

Dennis McCave moved to approve the minutes as amended
Bob McCarthy seconded
Motion carried

IV. 8:45 Old Business

a. Complaint File update

Wayne commented that in 2011 complaints are averaging one per week with the majority being filed by the agency.

Clay stated there are still 28 cases still open from 2010.

Steve asked how many of those 43 active cases will be going to a hearing, or will be closed soon.

Wayne stated those numbers were largely due to one agency with approximately 17 open files. Some of these cases may go to criminal, some may not.

Wayne stated he received a letter from an attorney out of Polson who is trying to file counter complaints against the investigators.

Winnie asked how many are going to a hearings officer.

Wayne explained there had been one case that picked up their certified mail but refused to do anything so this will be forwarded for a hearing and about another 6 that may need to be forwarded.

Wayne commented that we might need to have more meetings than we currently have scheduled, so we have a more frequent opportunity to discuss cases.

Clay commented that this would move cases quicker so we can get the integrity report updated.

Wayne stated Montana is one of the few states that keep case results a secret. Utah posts their information (name, agency, address, what exactly happened & outcome) publically once action had been taken. Arizona is required with their open meeting laws that any officer talked about is listed.

Dennis commented that there should be a time line for the process of completing the cases.

Winnie explained POST is going to bring someone in to talk to us about these concerns. When there are criminal investigations going on, how does the council work parallel to that process at an administrative level. Winnie also mentioned there will be a policy written around these timelines.

Winnie explained again; the administrative rules state we do not have to go to a hearings officer for some complaints. When notice has been given, and there is no response we do not have to go a hearings officer.

Wayne commented that he sends out certified mail which many return since we do not have access to CJIN for last known address.

Steve asked if there were any requirements to provide updated addresses or any employment information that we have in rule.. Steve commented that we don't put much obligation on the certified individual so there should be some type of self reporting in maintaining current addresses.

Winnie stated this should be put in ARM.

Wayne asked the council members that they pass information around the field that POST needs to get more detailed information upon receiving termination forms.

No formal action taken.

b. Standard Field Sobriety Test (SFST) Working Group update

Wayne stated Erin Inman was to attend the meeting so he explained that NHTSA is coming to do an audit on the state to acquire more data, so things are on hold but it's been moving in great strides.

c. Resolution 11-01 Annual Training Requirement

Clay explained that he worked with Tony (Sheriffs) and Jim (Chiefs) in a survey by providing letters to sheriffs and chiefs around the state asking opinions on annual training requirements.

Jim commented that out of 60 letters sent out to chiefs, 11 responded with 9 supporting, and 2 against the annual training requirement. The majority stated 30-40 hours annually would be acceptable.

Winnie asked what the hold back was for the 2 again the annual training.

Jim explained that one was an airport police department with 7 sworn officers who work full time shift and doesn't have time to send them to training. The other agency had budget concerns. Jim advised that in service training is free.

Wayne explained that the in-service training will be up to the agencies discretion. The only difference POST will notice is just the receipt of an 'annual' training roster listing the officers and whether or not they completed the required training hours.

John Schaffer stated he too has communicated with the field and his return comments were in favor of every two years training requirements instead of annual. He heard anywhere from 40-60 hours every two years.

Steve asked what the schedule was for compliance audits after the initial audit.

Clay explained that the plan was to get the agencies to self report but found that the agencies don't do this. Clay thought every couple years he'd be traveling the state.

Dennis stated he likes the idea of spreading the required training over two years. This might help with the smaller agencies meet the requirements.

Steve asked if there would be any harm in requiring Ethics Training.

Wayne explained that we should start this process with a requirement of hours, and then move to a 'phase II' moving toward a requirement of specific topics.

Winnie felt that if we start mandating topic matter, then we would have to look at position specific topics.

Wayne read the draft resolution 11-01 for annual training requirements.

Greg asked what the council was looking for when requesting training records from agencies ie. Date, hours, instructor etc.

Clay stated that if the agency memorialized that it took place and who attended should be suffice.

Jim stated there are two representatives attending the meeting so he suggested they put in their inputs.

Chief E.J. Clark (guest) stated he would personally like to see more ethical training having a certain percentage within the annual requirement.

Kevin Olson (guest) stated that if a topic is specified, then there will have to be a 'venue' produced for it. So he feels there should be a broad scope of training.

John stated within the next two years the council will be collecting data regarding the specific training to help guide their ideas. John agrees with Kevin and feels we should start small.

Winnie commented that in a resolution we could write that no more than a certain percentage of the in-service training may be in any one discipline.

Troy Kechley (guest) feels it would be beneficial to have resources outside of law enforcement since there are civilian training opportunities and instructors available (such as him). Troy suggested having a list or recourse on the website agencies can access; possibly with the availability a trainer can travel to the agency. This might also help those smaller agencies.

Wayne commented that agencies in other states vary from 0 hours, to 8 hrs annually in Arizona, to 40 hours annually in Utah, and in North Dakota is 60+ hrs every two years.

Mike commented on the word “achievability” in the draft resolution and has concern that we are putting out a resolution that is mandated when it says ‘required’. Mike asked if this is achievable by the council. Who is going to audit the departments, who is going to check the training, what’s the penalty if they don’t meet the training.

Wayne commented that the law under 7-32-303 says they must meet the standards set by this council or they don’t have the ability to do their job.

Clay explained that it’s a progressive disciplinary process.

Jim commented that if we put something in writing it would restrict the council’s ability to work in different directions with agencies.

Wayne reviewed the ARM 23.13.201: The Minimum Standards for the Appointment and Continued Employment of Public Safety Officers. Public Safety officers must meet the applicable employment education and certification standards as prescribe the MCA, in addition to standards set forth in MCA that all public safety officers *shall*....

Wayne stated we go from resolution, then policy if necessary, then ARM if it needs to be there; but still have a process ahead of us. It would need to go state wide and get feedback from agencies as the ARM process requires. Once this ARM is in place, it would be amended adding in the authority for the council to require whatever we expect of agencies.

Dennis feels there is a problem by not having a policy. But it’s too soon to dictate what fields of discipline they should be training in. There will be agencies that won’t or can’t provide the training so not to jump into a disciplinary action when it’s not an officer’s fault.

Mike stated that he agrees with Dennis and the program; however he is concerned with the term “‘requiring’ this to be done” when the council doesn’t even have the man power to get done what we need to get done. How/when are we going to audit this?

Wayne explained that he and Clay are prepared for the annual audit to follow through with the required training.

Kevin agrees with Dennis and feels that there should be a dual sanction for not only the officer, but also the chief, as it is ultimately the chief’s responsibility.

Winnie stated we do not to make any decision with this but by next conference call would like everyone to come back with comments of their own agency and from the field as we continue to work on this.

Dennis stated that the council's biggest problem at this point is that there is no policy to govern how this process is supposed to work.

Wayne will work on a draft policy in regard to this resolution and will work on the ARM update change ready by the next POST Council meeting (June conference call).

No formal action taken.

d. Resolution 11-02 Definition for Reserve Officer and Part-time Peace Officer Status

Wayne explained that State law states there is a Reserve Officer status but State law does *not* define what a reserve is; so what does it really mean to be an active reserve. The council could address this by redefining the terms of what it means to be a reserve.

Wayne also commented that another issue is part-time officer status. Nowhere in law does it say a minimum requirement of hours an officer must work.

Discussion held. No action taken.

V. 10:00 Guest Issues

a. MLEA Report – Kevin Olson

Kevin expressed that the academy would welcome Troy Kechley's training but with the training and time crunch in their LEO Basic, it's currently not feasible.

Kevin explained the campus improvements are pretty much done; just in time to start the next project for improvements to the exterior to the dorms and attics (insulation)

2011 Legislature selected the academy as 1 of 4 state projects for maintenance monies. Some of this will be delegated to do Fire suppressant systems in Spruce, Aspen and Maple.

Kevin stated the academy met the 6% reduction as has everyone. And still have vacancy savings.

The fuel prices are hurting the budget during the PVOC training. These costs will probably be rising by about 75% which needs to be absorbed.

Kevin stated the academy's Detention/Correction program manager Tracy Napier has accepted a position with the Montana State Prison.

This position was eliminated from the Department of Corrections budget. The funding for the position was restored and transferred to Department of Justice, just not the FTE so the academy is working on an MOU to continue working with DOC on this position.

Law Enforcement Basic program is continuing to work toward accreditation with the university.

ASCRC committee which consists of UofM faculty and student senate representatives who look at new programs. Out of three colleges applying for the program, the College of Technology blessed the academy's curriculum giving it a certificate and possibly up to a 2 year associate degree, and willing to give it an approved 32 hour credits. But what Kevin found out was it was 32 'Technology' credits. Kevin explained that 32 Technology credits. Technology credits are not transferable to upper level degrees. Kevin explained that 32 technology credits only equate to 10 credits applicable toward an undergraduates masters program.

Kevin feels they don't mesh well with institutions of higher education because they are based on lecture and lab *or* clinical; when the academy teaches a combination of both.

The University of Montana needs more time so they will be meeting again in September. Now, it looks as though instead of issuing 32 Technology credit hours, they will allow 18 University credits.

No action taken

Kevin also expressed that he submitted documentation to Wayne stating he has currently suspended the privileges of a Chief of Police to enroll an officer into the academy. The officer from this city must now be enrolled by the Mayor.

b. Canine Training – Troy Kechley “Think Dog”

Troy handed out an outline for canine training: Management of Aggressive Canines for Patrol – Basic “Dog 101”.

Troy designed this 4 hour course in addition to a 6 hour course for SWAT/SRT teams and would like this training introduced and trained at the academy.

Troy also handed out an outline for a 3 day Animal Control Training. Troy spoke with animal control officers in multiple states and found these states have no basic program for animal control.

Troy would like the council to adopt this program for instruction.

Wayne explained that animal control officers are not under the law as public safety officers. But asked how we can get this information out to the field.

Winnie stated the awareness is present, but the time and sources are difficult.

No action taken

c. Public Questions/Concern

Warren Heibert, Chaplain with Gallatin County Sheriff's Office stated they are hosting an 8 hour POST training called "Pain Behind the Badge" which is being offered for free so everyone can get involved in this training. There are many seats available and would like to reach 120 attendees so he is trying to get word out.

VI. 10:30 Financial Report

Wayne stated he had held back from the budget about \$20,000 for hearings. But we have not used this so he stated that any council member interested in attending the Big Sky Conference would be covered by the POST budget.

But overall, financially we are doing well this year. We will be holding back 30% of our unspent operating expense.

VII. 10:45 New Business

a. Director's report

1. Complaint Files – update

Discussion on the complaints and cases were previously discussed during the executive session.

- i. new complaints being made-15 (2011)**
- ii. cases to be closed-28 (2010), 15 (2011)**
- iii. cases pending hearings-28 (pending for various reasons)**

2. Compliance Officer Report

i. Slide show of agencies

Did not get to slide show presentation

3. Misdemeanor Probation training requirements

Wayne stated Misdemeanor Probation officers do fall under POST as per law 44.4.401 under a 'catch-all' category.

In the past, they meet the training standards set by the council by attending P&P Basic.

Additionally, Wayne explained the problem lies in the law where the counties can contract with private contractors for those services.

So the agencies are contracting with Misdemeanor Probation Officers but since they are 'private', not 'public' they really shouldn't receive their training at the academy..

Winnie expressed that P&P Basic is not comparable to the training they need so they need to find alternative options; however, the statute stays "as set by us" so we must approve it.

Kevin Olson stated from the academy standpoint, somewhere you have to draw the line. They have received calls from hospitals, Helena Housing Authority, etc., who use security, looking for training. The academy does not have the resources, nor do they have authority over them.

No formal action taken.

4. Pre-service hiring requirements

Wayne asked how long after completing the pre-service program through the academy, should the council allow them to go to work, before their training has expires.

Discussion held. No action taken

Winnie stated she would like to carry this to our conference call in June.

5. General Updates for the Council

Wayne stated that he would like us to add back into the Instructor Certificate requirements that the applicant must possess a copy of their discipline specific basic certificate in order to have a POST instructor certificate. This would need to be put in ARM change

Wayne mention the Homeland Security Information Network will be a great resource for us as they are going to allow us to do great things on their website that the state's website does not allow us, or have the ability to do.

Wayne asked the council to look at the law that covers Sheriffs. As of 2007, there is a new definition for public safety officers and peace officers, and by law, sheriffs are peace officers.

The law states “ ‘By public employment’ or ‘person’s officer’”. This means sheriffs are peace officer so the council has the ability to set the standards for them.

Steve asked what our attorney, Deborah Butler, says about this?

Wayne stated Deborah thought this was fine.

Wayne stated an AG’s opinion was requested for clarification of break in service from the same agency according to the requirements in 7.32.303 MCA.

Wayne stated that we are still having our database issues. We have not heard back from IT since December 8th, so we are still standing at square one.

Wayne reminded everyone that opening ceremonies for Special Olympic state games start next week.

No formal action taken.

b. Revocation of Officers with Felony Convictions

1. Jeffrey L. Fowler Ravalli Co SO, 12/20/10

**Dennis McCave moved to revoke Fowler’s certificate
John Schaffer seconded
Motion carried**

2. Shannon Davies, 01/25/11

**Steve Barry moved to revoke Davies Certificate
Greg Watson seconded
Motion carried**

c. Revocation of Officer that surrendered certificate in Court

1. Tracy Boucher MSP, 11/04/2010

**Rob McCarthy moved to accept Boucher’s voluntarily
surrendered certificate
Ray Murray seconded
Motion carried**

12:00 – 1:00 **Lunch Break**

POST meeting resumes - New Business Continues

d. Resolution 11-03 Mandatory reporting of Public Safety Officer Criminal Activity

Wayne explained this resolution is currently in draft, then Mandatory Reporting would be requested to go into ARM.

Discussion held.

Steve has a concern with the word ‘misdemeanor’, so he feels some language would need to be changed.

Winnie commented this will be back on the agenda for next meeting (conference call) in June.

***. Re-Election of Vice Chair**

Winnie expressed that Steve Barry has been Vice Chair for a long time, but still need to put this through a nomination process and vote on it.

Mike Anderson moved to nominate Steve Barry
John Schaffer seconded
Motion carried

e. Approval/Denial of Certification Requests

1. Dave Castle Request

Wayne explained that Dave Castle is the retired sheriff, of Cascade County, looking at his past history of employment and would like to request his certificates for the purpose of family heirloom.

Ray Murray moved to approve the request to issue the certificates Castle was eligible for.
Mike Anderson seconded

Discussion held

Ray Murray withdrew his motion

Mike suggests we don’t drop the motion, but to continue with the vote.

Ray Murray reinstated his motion
Mike Anderson seconded
Ray Murray abstained from the vote.
Motion denied.

John Schaffer motioned to approve the certification list as amended

Mike Anderson seconded

Dennis McCave abstained from the vote

Motion carried

f. Approval/Denial of Extension Requests

No extension for approval

g. Approval/Denial of Equivalency Request

Dennis McCave moved to approve the equivalency request

Lewis Matthews Seconded

Motion carried

h. Meeting dates for 2011

1. October Conference Call

Conference call is scheduled for Monday, October 17, preceding the Montana Board of Crime Control conference scheduled for Oct. 18-21.

Mike Anderson entertained the idea of holding a face to face meeting back to back with MBCC Conference so the whole council can attend.

Wayne felt we should still hold our face to face meeting as scheduled in August, and again in Butte October 17th prior the MBCC conference. December's face to face will stay the same.

Winnie took a show of hands as to who would be interested in the schedule.

Majority showing interest, we will meet face to face October 17th in Butte.

i. Committee Report Questions or Discussions

1. Curriculum Committee – Dennis McCave

Dennis stated he failed to submit his committee report but will send out a progress report to the council prior the next meeting.

Dennis thanked everyone for attending the committee meeting in addition to Kim Burdick who attended via SKYPE.

Dennis express the big hurdle is LE Basic. Winnie will be meeting Kevin to come up with a strategic plan.

Dennis would like to build some type of library of basics that are current and easy to maintain.

2. Business Plan Committee – Steve Barry

Steve stated some planning was put in place during the meeting Wednesday. They talked a bit about it being a living document that needs annual review. They also talked to Wayne about an annual report base on what the plan entails, in terms of: goals and other achievements. Once this is in place they will have the opportunity for an annual review, to update it as necessary, to report on it and to make sure it continues to be a good guide for what their plan is.

Steve stated he visited with Winnie and they talked about the responsibility of each of them who sit on the committees. They should be reaching out to groups they represent and make sure the council is providing them with information and then listening to what they have for us to hear.

Winnie stated the ‘Draft’ Business Plan was handed out yesterday during the planning meeting where some changes had taken place. Winnie will run this by Steve Barry and Wayne, and then re-distributed to the council members. The Business Plan needs to be finalized at our next meeting.

3. Professionalism & Integrity Committee – John Schaffer

John mentioned he is new to this committee and has some great ideas in store.

Kevin suggested contacting Chief Price from Bozeman PD; as he is a certified Ethics trainer from the WA. State Law Enforcement Academy.

4. Policy Committee – Greg Watson

Greg mentioned they have found a better way for getting policies done. During the Business Planning meeting it was decided to have an intern write policy for the council. Greg would like to get together with Wayne to work out the details.

5. Coroner Committee – Tony Harbaugh

Tony is absent. Wayne mentioned a Coroner's meeting was held in Bozeman recently moving forward with the contractor to assist with the curriculum.

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

~ **Greg Watson** stated he spoke with two other state agencies regarding the employee/employer relations pertaining to Garrity. No other input on this.

The Mega Loads are still in process.

The MHP Lateral Academy is coming up and will consist of about 5 troopers.

~ **Jim Smith** stated he sent out letters to the chiefs and got back 11 responses.

~ **John Schaffer** stated he is also a member to the Executive Board of the Montana Police Protective Assoc. (MPPA) and gets a lot of feedback from this organization. And feels he should solicit their feedback.

Johns sends thanks for welcoming him to the POST council.

~ **Lewis Matthews** doesn't have anything to report, but glad to be aboard the Council.

~ **Steve Barry** mentioned that Department of Corrections is having great success with the Pacific Institute (offender based program).

Steve also mentioned that Tracy Napier has accepted the position with MSP as Security Track Group (STG) Sgt.

DOC is still down about \$15 million down in the budget.

P&P Basic starts next Monday, then the following year the P&P Basic will be the blended model.

~ **Ray Murray** introduced himself as the representative on the Licensing Board for Private Security. The next meeting will be a phone conference held May 18th. The board is funded by the license fees of private investigators and private security people. And the number of applications from people applying for private security jobs are way down. Therefore they don't have much money.

~ **Harold Hanser** had no report.

~ **Dennis McCave** stated that detentions have just completed their first year of jail reviews; receiving very positive responses. Dennis will report on this at the MSPOA meeting.

Dennis also stated the jail in Glasgow was completed and in business.

CDOB is still running smoothly thanks to the good working relationships with the training officers at the academy.

Juvenile Basic might be at a curriculum level since Juvenile detention officers do not have to attend CDOB. This was originally set to up to do their own program getting approved through legislation. But they had a state law set up allowing them to run their own program. After many years, they may be coming back to CDOB so there is only one program.

Sheriff's Institute/MSPOA conference starts Monday June 13th at Big Sky.

~**Bob McCarthy** felt this was a great meeting and welcomes the new members.

~**Mike Anderson** commented that there were personnel issues at the MBCC explaining that both former employees have filed grievances.

MBCC has moved into their new building which is the old State Fund Bldg. They lost about 16% of their budget, which is huge, down 4 FTEs but are in the process of reorganizing. Mike would like to comment on the staff at the MBCC. Over the past couple years they have come through a lot together.

Crime prevention conference is scheduled in butte in October. Things are looking up for the MBCC.

IX. 4:30 Public Comments

No public comments

X. 5:00 Adjourn

**Dennis McCave motioned to adjourn
John Schaffer seconded
Motion carried**

*** 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.