



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

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dojmt.gov/post

August 25, 2021

Dear Mr. Dial:

As the Bureau Chief of the Public Safety Officer Standards and Training (POST) Bureau, I have become aware of allegations of misconduct concerning you. These allegations have been discovered independently by POST in the course of its investigation, and this letter is being sent as a Director-initiated complaint pursuant to ARM 23.13.703(6). The allegations of misconduct, if true, may constitute grounds for sanction, suspension or revocation of your POST certification. Such sanction, suspension or revocation may affect your employability as a public safety officer in the state of Montana or elsewhere. All public safety officers must be certified by POST, pursuant to Administrative Rule of Montana (ARM) 23.13.201(1).

It is the POST Bureau's understanding that you are not currently represented by counsel regarding this matter. If this is incorrect, please inform the POST Bureau.

The allegations made against you are:

- I. City of Whitefish Police Chief Bill Dial engaged in, condoned, and/or failed to disclose to appropriate authorities, acts of corruption, in violation of ARM § 23.13.203(3)(±), by:
 - A. Conspiring with Matt Marshall and City of Whitefish Assistant Chief of Police Bridger Kelch to entrap a subordinate and fellow officer Patrolman Shane Erickson into committing an apparent ethical violation involving a civilian to exploit leverage over that civilian.
 - i. Sometime in August or September of 2018, Shane Erickson informed Chief Dial he had been invited to go on an elk hunt which would be paid for by a civilian, "G." The elk hunt has been valued at approximately \$15,000. According to notes from a September 5, 2018, draft memorandum which was in Erickson's personnel file, Chief Dial informed Erickson that it was not against policy for him to attend the hunt.

11. Prior to Erickson leaving for the planned hunt, on September 4, 2018, Matt Marshall and Chief Dial exchanged the following text messages after having a meeting at Matt Marshall's home. The messages indicate both Marshall and Chief Dial believed Erickson's acceptance of the trip would be an ethical violation, but they agreed not to advise Erickson to induce Erickson to accept the gift. As a longtime member of the POST Council, Chief Dial was well versed in POST's bribery standards and its burden of proof. Once Erickson accepted the gift, both Marshall and Chief Dial believed they could accuse G of bribing an officer, Erickson.

Marshall: It just dawned on me if you spill the beans to Shane before the hunting trip he won't go. For what it's worth I'd slow roll a bit and not do anything to spook him before the trip. If you are just trying to unscrew Shane and not send the grim reaper for him I have an idea. It's just how I would handle him and of course my opinion means nothing in this scenario because it's your world and I'm just living in it. It really comes down to what you guys want to do for an end result.

Chief Dial: I don't plan on telling him unless I am instructed to by City Mgr and Attorney.
If you look at the statute 2-2-104. We will have to show that he didn't do his job because of the things G has done for him. Preponderance would be sufficient. By PIST Arm's [sic So in original should be POST.] he cannot accept gifts. Need to take our time and not fuck this up.
Thanks for having confidence in Bridger and me.

111. Shortly after 8:00 p.m. on September 12, 2018, Matt Marshall sent the following text message to Chief Dial, who was in Helena for a Montana Board of Crime Control meeting:

Marshall: Are you going to give me a break and take a deep breath and let Shane go on this trip Friday? I'd offer you a year of free golf but that might be bribery. If you let him go that's going to help the overall cause.

- B. Volunteering to drop a speeding ticket which Chief Dial issued to a friend of Matt Marshall's as a favor to Matt Marshall.

1. In March of 2018, Matt Marshall had some friends visiting him in Whitefish. The friends are husband and wife and will be referred to as CL (husband) and HL (wife).
11. On March 31, 2018, Marshall and Dial exchanged the following text messages:

Marshall: You just popped [HL] for speed?

Marshall followed up with the following:

I just chewed her ass out for you again. She and her husband [CL] are here to hang out with us for their spring break and for me to do some training with her husband while he's getting ready for a fight. He's a famous UFC fighter and is going to karate chop her when he finds out she got a ticket here. She said Bill Dial gave her the ticket and I had to fight off laughing when I said he's the Chief.
Haha

Chief Dial responded that HL was going 75 in a 45 and that was "a little much." Then Chief Dial sent the following messages, unprompted:

Chief Dial: You want me to make the ticket go away? I will if u ask

Marshall responded that he agreed the driver's speed was "a bit much." Marshall then stated that he would, "feel like a shit head asking you to drop a ticket."

Dial then sent the following response:

Chief Dial: If she and he are your friends I have no problem dropping it just tell them not to make it public

111. Later, Dial indicated it was "Done."
- iv. Later on the same date, CL sent Marshall a text, thanking Marshall for getting HL out of her ticket.
- v. Despite his efforts, Dial's efforts to "make the ticket go away," appear to have been unsuccessful due to city court procedural hurdles Chief Dial could not overcome. On November 23, 2018, Dial sent Marshall a text,

indicating that he would send Marshall "that Warrant after I workout." Dial later did send Marshall a text with a picture of a document attached and stated:

Chief Dial: Hi Matt I wanted to email this to you, but our system is down for maintenance. So I took a screenshot of it. I thought this was taken care of but obviously it's not. The only way it can be taken care of is by a personal appearance bond is currently \$5000. I apologize but one of the clerks who has since been fired screwed this up and the judge is demanding a personal appearance please let me know if I can do anything else I'll try have a good time"

v1. On November 24, 2018, Dial sent Marshall a text message asking, "What should I tell the judge Monday when I talk to him about [HL]?"

- C. In his capacity as Chief of Police and the agency's ranking officer, advising Whitefish police officer Chris Duke his job would be in jeopardy should Duke make any derogatory statements against Matt Marshall, Duke's former employer, or expose Duke's suspicions regarding the truth of Matt Marshall's background.
- i. On July 16, 2018, Dial hired Chris Duke, a former employee of Matt Marshall's.
 11. On July 18, 2018, Matt Marshall informed Chief Dial that an officer at another agency was making derogatory comments about Matt Marshall. Chief Dial stated that Chris Duke was alleged to have been involved in the other officer's comments. Dial sent Matt Marshall a text as follows:

Chief Dial: Without acting like I knew anything, I told Duke that I had heard a bunch of shit was going on about his "former employer" and that I had complete confidence and respect for you and that you had been good to your former employees. I also reminded him that he now works for me and I would not stand for any disruption between my agency and your company. I added that he now works for me and that I hope he wasn't involved. He said he was staying out of it and that there was nothing productive to be involved. He seemed genuine. But who knows?

- II. City of Whitefish Police Chief Bill Dial willfully falsified information in conjunction with official duties, in violation of ARM §§ 23.13.703(3)(a) and 23.13.203(3)(g), by providing false information in separate inquiries to the City of Whitefish, the Public Safety Officers Standards and Training Council (POST), the FBI, the Montana Department of Justice Division of Criminal Investigations (DCI), and the FBI Criminal

Justice Information Network (managers of the nationwide Criminal Justice Information Services) during each agency's legally authorized investigation of Chief Dial's conduct.

- A. Chief Dial gave false information to the City of Whitefish in an October 25, 2018, memorandum regarding the conduct of former officer Shane Erickson. Chief Dial perpetuated his falsehoods during the City of Whitefish's investigation of Chief Dial's statements in the memorandum.
 - i. In his memorandum to the City of Whitefish regarding Erickson's discharge, POST identified a number of false or misleading statements which Chief Dial allegedly made. On August 4, 2020, POST sent a letter to the City of Whitefish requesting that the City investigate each allegedly false statement.
 11. During the City of Whitefish's investigation regarding what Chief Dial told Erickson about the elk hunt, Chief Dial stated, "I have absolute recollection of talking to Shane Erickson outside of his office near the file room, where Erickson informed me that he intended to accept a gift of a hunting trip from [G]. I also vividly recall telling Erickson that accepting the hunt would be inappropriate." "I told him it was inappropriate, and I do not have a duty to prohibit someone from accepting a gift once I have told them it is inappropriate to do so." As noted *supra*, working in tandem with Matt Marshall, Chief Dial deliberately failed to advise Shane Erickson of the apparent ethical violation to assure that Officer Erickson would accept the hunt and expose himself and the granter, G, to charges of bribing an officer.
- B. Chief Dial gave false information to POST when he provided the same October 25, 2018, memorandum regarding the conduct of former officer Erickson.
 - i. Because Chief Dial provided the same October 25, 2018, memorandum regarding Erickson to POST, and because he provided false information to the City in response to the allegations against him from POST, Chief Dial has provided false information to POST.
- C. Chief Dial gave false information to the FBI when he denied blind copying Matt Marshall on an email concerning Whitefish Officer Chris Duke's private housing and personnel matters.
 - i. Chief Dial was interviewed by the FBI in January of 2019. Chief Dial's interview was conducted in connection to a criminal investigation by the FBI.
 11. Chief Dial gave false information to the FBI when he denied that he copied Matt Marshall on the above-described email to Chris Duke. Not until the FBI warned Chief Dial about the criminal implications of lying to

a federal agent, and until an FBI agent confronted Chief Dial with the email and text messages related to the email that Chief Dial finally admitted that he had, in fact, copied Matt Marshall on the email.

- D. Chief Dial gave false information to DCI when he denied providing confidential information to Matt Marshall.
- i. In July of 2019 and February of 2020, DCI interviewed Chief Dial regarding allegations of official misconduct against Chief Dial. Part of the investigation centered around whether Chief Dial provided information regarding the Shane Erickson investigation, and/or a Whitefish Police Department investigation regarding an alleged misdemeanor prostitution charge involving a civilian.
11. Based upon text message records between Chief Dial and Matt Marshall in December of 2018, Dial was assisting Matt Marshall with attempting to get a criminal case report from a law enforcement agency in California, and updating Matt Marshall as to the status of that report, while at the same time, Det. Schuch with Whitefish Police Department wrote in an investigative report in the alleged prostitution matter that Det. Schuch was trying to get the same report at the same time. Additionally, Marshall was sharing information with an associate regarding the prostitution and Erickson investigations while the investigations were ongoing.
- m. During the prostitution investigation, an attorney sent a complaint to Det. Schuch, indicating his belief that a crucial email in the prostitution investigation was forged and that Matt Marshall was the culprit. Det. Schuch placed this criminal forgery allegation against Matt Marshall with the prostitution investigation. Later, Chief Dial contacted Marshall and left him a voice message informing Matt Marshall that Whitefish Police Department had received an allegation Matt Marshall had forged an email collected as part of the prostitution investigation. Matt Marshall sent Chief Dial a text messages thanking Chief Dial for the "heads up." On December 14, 2018, Matt Marshall asked for the documents containing the allegations, and Chief Dial indicated he would provide them when he returned from hunting. On December 17, 2018, Chief Dial text Matt Marshall that "I have those reports you asked about."
 - 1v. During his July 2019 interview with DCI, Chief Dial indicated that he and Assistant Chief of Police Bridger Kelch were the only people in the police department who had information regarding the Erickson/prostitution matters. Chief Dial denied sharing any information about ongoing investigations with Matt Marshall.
 - v. DCI interviewed Chief Dial a second time in February of 2020. Even after being confronted with a transcript of his voice mail about the forgery

allegations, Chief Dial denied providing any confidential information to Matt Marshall.

- E. Chief Dial lied to CJIN when he denied that Matt Marshall, a civilian with no POST certification or Montana law enforcement credentials, had an access card and/or unescorted access to the Whitefish Police Department.
 - i. On February 21, 2019, CJIN contacted Chief Dial via letter regarding Matt Marshall's access to the Whitefish Police Department.
- 11. In June of 2018, Chief Dial had Matt Marshall sit in his place at meetings with city officials.
- m. In July of 2018, Matt Marshall contacted Chief Dial and offered to "surrender my pass card into you [*sic*] department and turn in my police radio." Chief Dial responded that Matt Marshall did not need to return the items.
- lv. In September of 2018, Matt Marshall indicated his "PD radio" was "tits up." Chief Dial offered his own radio to Matt Marshall for Matt Marshall's use.
- v. A few days later in September of 2018, at approximately 9:00 p.m., Matt Marshall sent Chief Dial a text message indicating that Matt Marshall would "use my access card to your PD and put these radios inside for Bridger." Matt Marshall later informed Chief Dial that "none of my access cards work," and Chief Dial informed Matt Marshall that he would "get it straightened out."
- vi. On March 17, 2019, CJIN Services Program Manager Jennifer Viets sent a letter to Chief Dial. Ms. Viets' letter followed her receipt of Chief Dial's response to CJIN's inquiry of allegations Matt Marshall had unescorted access to the facility and access to CJIN. It is evident Chief Dial denied those allegations because Ms. Viets' reply expressed she was "pleased to hear Whitefish Police Volunteer Matt Marshall was always escorted while visiting the Whitefish Police Department's secure facility," and that Chief Dial "indicated no CJIN information was disseminated to Mr. Marshall."

- III. City of Whitefish Police Chief Bill Dial willfully violated orders or policies, procedures rules, and/or criminal law which reflects adversely on his honesty, integrity, and/or fitness as an officer or which is prejudicial to the administration of justice, in violation of ARM 23.13.203(3)(±), by allowing an unvetted civilian, having no POST certification or law enforcement credentials, physical access to Whitefish Police Department (WPD), access to information on confidential and ongoing police investigations and access to confidential criminal justice information (CCJI) when he provided Matt Marshall with:
 - A. A key card permitting 24-hour access to WPD building facilities;
 - B. A radio open to WPD police band transmissions;

- C. Ongoing investigation reports and closed case reports containing CCJI generated by WPD and other law enforcement agencies; and
- D. Detailed information pertaining to WPD's investigation of an alleged assault on members of Matt Marshall's family, including the identity of the suspects, their likely whereabouts, and an opportunity to personally confront any suspects arrested.
 - i. After the alleged assault on members of Matt Marshall's family occurred, Matt Marshall sent a text message to Chief Dial seeking access to one of the suspects. Matt Marshall's text to Chief Dial stating he would:

Marshall: like to have him in an interview room for about 15 mins so I can explain to him the error of his ways and gently persuade him to pack his shit and leave."

Chief Dial responded that he was "sure that could be arranged."

- 11. Matt Marshall sought Chief Dial's help so Matt Marshall and his employees could locate the assault suspects on their own. As outlined above, Chief Dial told Matt Marshall that Marshall could get the mugshots of the subjects in this matter from "Bridger," so that Matt Marshall and "the guys" could identify them and "make contact."
- m. On April 6, 2018, Matt Marshall sent Chief Dial a text message confirming that Matt Marshall had received Chief Dial's voicemail confirming an assault suspect had surrendered to Whitefish Police Department. Matt Marshall's text acknowledged Chief Dial's voice message update:

Marshall: about shit head turning himself in. Me and all the boys were out last night hitting all the hot spots you told me about hoping to run into him. If he does turn himself in at your department I'd sure like to have a chat with him and encourage him to relocate out of Whitefish."

Chief Dial agreed to allow Matt Marshall to personally confront a suspect in custody. Chief Dial responded:

Chief Dial That can be arranged, recording off of course.

These allegations may be grounds for sanction, suspension, or revocation of your POST certification under 44-4-403, MCA and six subsections of ARM 23.13.702(2) (2018) as follows:

ARM 23.13.702(2)(a): "willful falsification of any information in conjunction with official duties, or any single occurrence or pattern of lying, perpetuating falsehoods, or dishonesty which may tend to undermine public confidence in the officer, the officer's employing authority, or the profession;"

ARM 23.13.702(2)(g): "neglect of duty or willful violation of orders or policies, procedures, rules, or regulations;"

ARM 23.13.702(2)(h): "willful violation of the code of ethics set forth in ARM 23.13.203;"

ARM 23.13.702(2)(i): "other conduct or a pattern of conduct which tends to significantly undermine public confidence in the profession;"

ARM 23.13.702(2)(1): "acts that are reasonably identified or regarded as so improper or inappropriate that by their nature and in their context are harmful to the employing authority's or officer's reputations, or to the public's confidence in the profession"

The code of ethics to which subsection (h) refers is set forth in ARM 23.13.203(3). The allegations outlined above might fall under several paragraphs of the code of ethics as follows:

ARM 23.13.203(3)(a): "My fundamental responsibility as a public safety officer is to serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure the constitutional rights of all are not abridged;"

ARM 23.13.203(3)(f): "I will not engage in nor will I condone any acts of corruption, bribery, or criminal activity; and will disclose to the appropriate authorities all such acts. I will refuse to accept any gifts, favors, gratuities, or promises that could be interpreted as favor or cause me to refrain from performing my official duties;"

ARM 23.13.203(3)(g): "I will strive to work in unison with all legally authorized agencies and their representatives in the pursuit of justice;"

ARM 23.13.203(3)(i): "I will at all times ensure that my character and conduct is admirable and will not bring discredit to my community, my agency, or my chosen profession."

I have attached a "Voluntary Surrender of POST Certificate Form" with this letter. If you do not wish to contest the allegations above, and you wish to surrender to revocation of your POST certification, please sign, date, and have the attached form notarized and return it to this office within thirty-five (35) days of the date of this letter, or by **September 29, 2021**.

If you do not wish to surrender, I am giving you the chance to provide an explanation of what happened concerning the above allegations. Please feel free to submit supporting documentation along with your explanation as well as a proposed resolution of this matter. **Please provide a written response to the allegations, along with any supporting documentation you may have or wish me to consider, by September 29, 2021.** You may mail your response to me at the address listed above. If you need additional time, address your written request for additional time to me.

I have also enclosed a release of information for your personnel file. I will need access to this information in order to conduct an investigation into the allegations against you. If you agree to allow POST to have this information, **please sign and return the release with your response to the allegations by September 29, 2021.** After I receive and review your personnel file-along with any information you wish to provide-I hope to be in a better position to discuss any possible sanction of your POST certificate with you. I look forward to hearing from you.

If I have not received as response from you **by September 29, 2021**, I will recommend to the Case Status Committee of the Montana POST Council that your certification be revoked.

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Perry Johnson, Bureau Chief
Montana POST Bureau

Enc.

c: Dana Smith, City Manager
City of Whitefish
418 E. 2nd St.
Whitefish, MT 59937



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Voluntary Surrender of POST Certificates

I, the undersigned, **William Dial**, hereby stipulate and agree to voluntarily surrender all of my POST certificates. I understand that by voluntarily surrendering my POST certificates I am allowing the POST Council and POST Executive Director to fully and permanently revoke my POST certificates. I understand that by so doing I am giving up my right to a contested-case hearing process, appeal, and judicial review available under section 44-4-403, MCA, the Montana Administrative Procedure Act (MAPA) Title 2, chapter 4, part 6, MCA, and POST A.R.M.s. I also understand that surrendering my POST certificates will affect my ability to perform the functions of a public safety officer and/or peace officer in the State of Montana and elsewhere as per 7-32-303(8), MCA. This stipulation and agreement is entered into voluntarily, without coercion of any kind. I have had the opportunity to consult counsel if I choose to do so and I fully understand the terms, conditions, and consequences of this agreement and understand that it is complete and binding.

Dated this _____ day of _____ 2021

William Dial

State of Montana

County of _____

This instrument was signed before me this ____ day of _____
2021, by William Dial.

Signature of Notary Public

(SEAL)



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Release of Personnel Records

I, **William Dial** hereby authorize any representative of the Montana Public Safety Officer Standards and Training Council [POST] bearing this release to obtain any information in your files pertaining to my employment records, including but not limited to the contents of my personnel file. I hereby direct you to release such information upon request of the bearer. I do hereby authorize a full review of and full disclosure of all records, or any part thereof, concerning myself, by and to POST, whether said records are public, private, or confidential nature. The intent of this authorization is to give my consent for full and complete disclosure of my employment records to POST, for the specific purpose of pursuing an investigation into a complaint against me and evaluating my continued certification by POST.

I specifically consent to your release of all public and private information that you may have concerning me, my work record, my background and reputation, my military service records, any information contained in any investigatory files, efficiency ratings, complaints or grievances files by or against me, polygraph examinations, and any internal affairs investigations and discipline, including any files which are deemed to be confidential, and/or sealed. I direct you to release such information upon request of POST regardless of any agreement I may have made with you previously to the contrary.

I understand that I am the subject of a complaint to POST. I understand that POST needs to thoroughly investigate my employment background and personal history to evaluate the complaint and determine my eligibility for continued POST certification. It is in the public's interest that all relevant information concerning my personal and employment history be disclosed to POST.

I understand my rights under Title 5, United States Code, Section 552a, The Privacy Act of 1974, Montana statutes and the Constitution of the State of Montana with regard to access and to disclosure of records, and I waive those rights with the understanding that the information furnished will be used by POST in conjunction with investigation of the complaint against me.

A photocopy or FAX copy of this release form will be valid as an original thereof, even though the said photocopy or FAX copy does not contain an original writing of my signature.

This waiver is valid for a period of one year from the date of my signature.

SIGNATURE

DATE

Printed name