



Board of Peace Officer Standards and Training

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To: Interested Legislators
From: Executive Director Erik Misselt
Date: December 2022
Re: Background regarding POST Board request for a bill amending Minnesota Statute 626.87

The POST Board requests a change to Minn. Stat. 626.87 to allow law enforcement agencies to share criminal history background check data with the Minnesota Board of Peace Officer Standards and Training (POST) for the purpose of determining an applicant's eligibility for licensing.

Under current Minnesota Statute and due to Federal Bureau of Investigation rules and federal statutes, local agencies are prohibited from sharing criminal history data with the POST board because it is not considered a criminal justice or law enforcement agency. Agencies obtain this information from federal databases broadly referred to as the Criminal Justice Information System (CJIS). Law enforcement agencies are permitted to access this information for very specific reasons such as employment and criminal investigation. However, there are strict conditions placed on this data regarding whom the data may be shared with and under what conditions.

Under POST Board rule, agencies are required to notify the board when they become aware of a disqualification for licensure as a peace officer during a background investigation. There are ways in which the agency would be allowed to notify the board, such as self-disclosure by the applicant. However, the most common method of discovery is through the review of CJIS data obtained during a background investigation. Currently, this data cannot be shared with the POST board.

The BCA has been in communication with the FBI regarding this data sharing issue on behalf of POST as well as other Minnesota licensing boards. They have worked with POST to develop the requested statutory language. Based on federal requirements, this language is very specific and modification in any significant manner is not advised.

In order to protect the integrity of our peace officer licensing system and the safety of the public, the board is expected to ensure that individuals who have engaged in disqualifying conduct are not issued peace officer licenses. In order to meet this important responsibility, the board relies upon the ability of our law enforcement partners to conduct thorough vetting of candidates and most importantly, their ability to report their findings to the board. Without this data-sharing authority, there is the possibility that an unqualified candidate will be able to simply apply to another agency upon rejection from the first. If the second agency fails to complete a proper records check, the individual could become licensed without POST every knowing of the disqualifying conduct. I am aware of at least once case where this has happened.

As the final gatekeeper for peace officer licensure, the POST board must have the authority to receive critical decision-making data to go along with the responsibility of ensuring the integrity of Minnesota's peace officer licensing system.