



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 626.8457

The POST Board requests a change to Minn. Stat. 626.8457 to allow county and local authorities to share data with the POST Board when the board has ordered an investigation into peace officer misconduct that falls within the board's jurisdiction.

As was stated in the International Association of Directors of Law Enforcement Standards and Training (IADLEST) audit and codified in current POST rules, the POST Board does not conduct its own investigations into complaints of officer misconduct but does designate law enforcement agencies to conduct investigations on the Board's behalf. As with any investigation, investigators seek to obtain material from agencies to include documents or audio or video recordings to ascertain the facts and ensure a fair and impartial investigation.

In most cases, the agency employing the licensee has already completed an internal investigation, collecting much of the same data that the POST Board needs to determine whether or not a violation that justifies licensing sanctions has occurred.

While the POST Board is not an employer and has different jurisdiction than the licensee's agency, it has an important role to play. In trying to fulfill its obligations as a regulatory body, it has become apparent that other state licensing boards have some statutes and rules that facilitate their ability to carry out their mandate, while the POST Board does not.

One such issue is a data-sharing statute. Other boards have statutes in place that allow local government officials and agencies to share private data with the board of jurisdiction, including data that falls under Minnesota Statute 13.43, personnel data. As an example, the Professional Educator Licensing and Standards Board (PELSB) has Minnesota Statute 112A.20 which requires local boards, directors, superintendents, etc. to provide information from, among other things, investigatory files. In fact, much like POST, PELSB does not do their own investigations but requires the school district to conduct the investigation and then forward the report to PELSB.

As POST has tried to investigate licensee misconduct by ordering investigations that are in its jurisdiction, local government entities and agencies, on advice of counsel, have refused to provide investigatory file information, body-worn camera files, etc. In doing so, they often cite data practices restrictions. This has happened even in cases where the Chief Law Enforcement Officer has reported licensee misconduct, asked for POST Board action and wanted to cooperate with the investigation.

We are asking that this statutory oversight be corrected. Without this statute, the POST Board is relegated to issuing subpoenas, then asking for a court order, which the Board has recently had to do. Or, in the alternative, the POST Board must order a full "new" investigation, to include new interviews, new document review, etc. In either case, the process is significantly delayed. This does not increase confidence in the effectiveness or efficiency of the Board and only increases the time that the licensee in question must wait and wonder about the fate of their license. Nor does it provide a timely resolution to the person or entity filing the complaint.

Here some key points about this amendment to the statute:

- Data is ONLY required when POST has initiated an official investigation, in writing.
- The data will retain its data practices classification once it is received by POST (private stays private).
- The statute provides immunity to any local agency or official that provides this data in good faith.
- ALL investigatory data, regardless of how received, remains private and is only shared with authorized members of the POST Board's Complaint Investigation Committee and Board members (when final discipline is being considered).