Frequently Asked Questions MN POST
Misconduct Database

1. Is there a statute that mandates the specific violations that must be reported?

The categories that were selected for data collection were based on the language in MSS 626.8457 that allows the Board to make the decision about what to collect:

“(data)...that the board determines is necessary to:

(1) evaluate the effectiveness of statutorily required training;
(2) assist the Ensuring Police Excellence and Improving Community Relations Advisory Council in accomplishing the council's duties; and
(3) allow for the board, the Ensuring Police Excellence and Improving Community Relations Advisory Council, and the board's complaint investigation committee to identify patterns of behavior that suggest an officer is in crisis or is likely to violate a board-mandated model policy”

2. What MUST be reported?

A. To determine what the level (Threshold) a complaint must reach to be reported to the POST Board, use the following criteria:

   a. Misconduct - Conduct by a licensed peace officer which if true, would constitute a violation of the Standards of Conduct or a violation of a mandatory policy.

   b. Preliminary Inquiry/Assessment – The process that occurs at complaint intake to assess jurisdiction and whether further action is warranted.

   c. Official Allegation – An official allegation is a complaint received, regardless of in what manner, which goes beyond preliminary inquiry/assessment and leads to investigation of the allegation. An official allegation is one that can’t be dismissed on its face and clearly requires further action. An Official Allegation is also one that falls under the violations of standards of conduct (Minn. Rules 6700.1600) or POST mandatory model policies (See what TYPE of allegation must be reported below).

   d. Investigation – An investigation is considered to be any actions, beyond preliminary inquiry/assessment, that are taken to establish the particular facts, corroborate accounts, etc. of an official allegation.
i. This does not mean only complaints that are assigned to Internal Affairs (IA) or given an IA designation. Some agencies may complete an investigation and make a finding without assigning it to IA or classifying it as an IA investigation. Others assign all investigated complaints an IA classification. The key point is whether or not the agency completes an investigation as defined above.

Examples:

- Complainant states Officer X went through a red light without lights/siren and provides a squad ID number. Receiving supervisor does preliminary inquiry or is immediately aware that the particular squad number belongs to another jurisdiction, whom she then notifies. **This preliminary inquiry/assessment is NOT considered investigation for reporting purposes.** This is not an official allegation and would not be reported.

- Complainant states Officer X went through a red light without lights/siren and provides a squad ID number. Receiving supervisor verifies it belongs to the agency (preliminary inquiry). Supervisor contacts the officer, pulls up squad video, views CAD screens for the time period and determines the officer was running code to an emergency call, or silent alarm response and followed proper procedures going through the light. **This is Investigation.** As a result, this is an official allegation that would be reported and then, in this case, cleared as “exonerated” or “within policy”, etc.

B. To determine what **TYPES** of complaints must be reported to the POST Board, use the following criteria:

a. Based on input from the stakeholders, POST chose to collect data about:

i. the existing Standards of Conduct from Minn. Rules 6700.1600 (which most agencies already notify us about in a timely manner), and;

ii. POST mandatory policy violations to inform future decisions about policies and training.

Examples (Reported):

- Conviction for receiving stolen property – Must be reported (standards of conduct violation).
- Internal investigation of sexual harassment – Must be reported upon receipt and then updated within 30 days of the final disposition (standards of conduct violation).
- Use of force review team determines unreasonable or deadly force was used when not authorized – Must be reported regardless of whether or not criminal charges were brought (standards of conduct violation and mandatory policy violation)

Examples (not reported):

- A citizen calls and is upset that your agency is enforcing traffic law on a freeway. (no alleged mandatory policy violation).
- A citizen calls your agency and says that an officer was “rude” and
just wants them talked to. (issue handled informally, no investigation).

- A citizen calls and is upset that they received a citation as a result of a traffic crash. (Discretionary procedural issue, no mandated policy violation)

3. **IF** the complainant won’t or can’t complete a statement, physically sign a complaint, does it need to be reported?

It depends. If it does not meet the criteria defined above, then NO.

If the complaint meets the criteria of an official allegation as identified above, it must be reported regardless of:

- How the complaint is received;
- Whether or not the complainant is willing or able to complete and sign a written statement;
- Whether or not the agency intends to conduct an **internal** investigation (see definition of investigation above).

Based on input from the stakeholders, POST chose to collect data about the existing Standards of Conduct from Minn. Rules 6700.1600 (which most agencies already notify us about in a timely manner) and also data about mandatory policy violations to inform future decisions about policies and training.

4. **Does this reporting requirement impact how my agency handles internal discipline?**

No. This is a reporting requirement only. Your IA policy, collective bargaining agreement, Peace Officer Discipline Procedures Act (MSS 626.89), etc. determine that process and are not impacted by this data collection.

5. **Which mandatory policy version should we use for reference regarding violations? POST’s model version or my agency’s version?**

You should report violations of your agency’s version of the mandated policies. You are holding the officers accountable to your agency’s standards.

**Example:**

- Your agency’s policy is more restrictive than POST’s mandated model policy – Must be reported even if the provision violated is not in POST’s model policy but is in yours.

Agencies have the ability to report their particular policy as exceeding the corresponding POST model policy, indicating they hold their officers to a higher standard than that required by POST.

6. **What does “real time” mean?**

Real time means as soon as the agency receives the allegation. For example, when a supervisor receives an allegation that fits the appropriate criteria, they should relay that information to the CLEO or delegate as soon as they can so the agency can meet the requirement.
7. Will this data be shared with the Ensuring Policing Excellence and Improving Community Relations Advisory Council?

ONLY summary data and related statistics will be shared with the Advisory Council and only for the purposes identified in MSS. 626.8457 as identified above. This data is separate and distinct from information that POST may obtain as a part of a POST investigation which is then submitted to the Board’s Complaint Investigation Committee (CIC) for possible action. The CIC is the POST Board committee that has delegated authority to investigate possible violations of licensure that may result in licensing sanctions. The advisory council plays no role in that process.

8. Are departments required to report at the time an allegation is received by the department, or are departments only required to report the allegations within 30 days of the disposition of the case?

Agencies are required to report the allegation at the time it is received, then update the status within 30 days of the final disposition.

Example:
- Citizen files a complaint with your agency that alleges a violation of a standard of conduct or mandatory policy – Must be reported upon receipt and final disposition reported upon completion of agency investigation.

9. Are departments required to report policy violations or other allegations that we find on our own through administrative procedures, e.g. not generated by a citizen complaint?

Yes, you must report any allegations of misconduct whether they are discovered internally or externally. If it meets the criteria of an official allegation and a standards of conduct or mandatory policy violation, it must be sent in.

Example:
- Citizen files a complaint with your agency that alleges a violation of a standard of conduct or mandatory policy, but makes only a verbal complaint (will not write a statement) – This must be reported upon receipt and final disposition reported upon completion of agency investigation.
- A supervisor discovers possible misconduct while reviewing body camera video – Must be reported when discovered and final discipline reported upon completion of agency investigation.

10. Are agencies required to report misconduct complaints/allegations if it was received BEFORE July 1, 2021?

No, Minn. Stat. 626.8457 requires reporting beginning July 1, 2021.

Example:
- An officer was arrested off-duty for DWI on April 5, 2021 and the case is pending – This is not required to be reported by the CLEO
under this statute because it happened prior to July 1, 2021.

- HOWEVER:
  - The licensee is required to report this by rule 6700.1610 to both the CLEO AND the POST Board.
  - Upon conviction for the DWI, it must be reported to the Board, regardless of what other independent action is taken by the agency, e.g. suspension, demotion, etc.
  - If the actual incident occurred before July 1, 2021 but the agency (CLEO) was first notified/became aware of the allegation after July 1, 2021, it must be reported.

11. Data practice-related questions:

- Will private or confidential data entered into the system remain classified that way in the POST database?
  - Yes. Any data submitted to POST for the new POST database from an agency/CLEO, retains its classification. For example, if the required reporting data submitted to POST is classified as personnel, confidential, private, etc. it retains that classification.

- Who can request/have access to data on individuals that is in the database?
  - Data that is classified as public under MSS 13.41 or MSS 13.43, is available to anyone who asks for it.
  - Agency CLEO is authorized to receive private data under MSS 13.41 (licensing data) when conducting employment background investigations pursuant to MSS 626.87. This is the information that CLEOs receive currently when they notify POST of their intent to background a peace officer candidate. The release of this licensing data does not require a signed release.
  - If an Agency CLEO seeks other private, personnel or confidential data that may be in the database, a signed written release from the subject of the background investigation is required.
  - Individual licensees may request and access private data on themselves, but not on other individuals, e.g. complainants, witnesses, etc.

- What would POST be required to give out in a Data Practices request?
  - Only public data.