Minnesota Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200
Saint Paul, MN 55104-3825
(651) 643-3060
www.post.state.mn.us

BOARD MEETING AGENDA
Thursday April 21, 2022
10:00 am

Due to ongoing COVID-related restrictions for state meetings and CDC guidelines, this meeting will be held online. A link to observe the meeting will be on the POST website prior to the meeting. A recording will be available on the POST website after the meeting.

1. Call to Order
2. Forum* Those interested in participating in the forum must sign up in advance. Please email shari.mitchell@state.mn.us no later than 4:00 pm on Wednesday April 20th. Time will be allocated depending on the number of requests.
3. Approval of the Agenda **ACTION**
4. Approval of the January 27, 2022 Board Meeting Minutes (Attachment) **ACTION**
5. CI Policy Approval **ACTION**
6. Recertification of Professional Peace Officer Education (PPOE) Schools (Attachment) **ACTION**
7. Variance - Minneapolis College (Attachment) **ACTION**
8. Variance - Teah Neepaye (Attachment) **ACTION**
9. Discussion and Approval of Proposed Rules (Attachment) **ACTION**
10. Executive Director's report
11. Licensure Matters (closed to the public) Attachment(s) sent separately
12. Adjournment

*Individuals may address the Board about any item not contained on the regular agenda. A maximum of 15 minutes is allotted for the Forum. The Board will take no official action on items discussed at the Forum, with the exception of referral to the Executive Director or Staff for a future report.

MINNESOTA BOARD OF PEACE OFFICERS
STANDARDS AND TRAINING

BOARD MEETING
Post Board Office
Electronic Meeting via Microsoft Teams
January 27, 2022

Members Present

Kelly McCarthy, Chair
Andrew Evans
Jennifer Foster
Tanya Gladney
Luke Hennen
Justin Page
Nigel Perrote
Sara Rice
Liz Richards
Shelly Schaefer
Pilar Stier
Rebecca Swanson
Justin Terrell
Troy Wolberson
Jim Yang
Jason Bennett

Staff Present
Erik Misselt
Michael Meehan
Rebecca Gaspard
Angie Rohow
Michael Monsrud
Andrew Burth
Shari Mitchell
Peggy Strand

Counsel Present
David Cullen, A.G. Office
Jamal Zayed
Michael Freeman (HCA)

Members Absent
Jay DeCoux

Others Present
Invitation to listen to the live meeting was listed on the website.

Michelle Gross
Trent Schoenborn

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Call to Order: Chair McCarthy called the meeting to order on January 27, 2022 at 10:05 am.

Forum: Per instructions on the posted agenda, there were three individuals that requested to speak during the forum.
Chair McCarthy began the forum stating that she never wants people to feel like they are not being heard. Wanted to remind that numerous calls and emails were received regarding the potential license sanction against the Hennepin County Sheriff. As a matter of practice, anytime we become aware of an arrest or conviction of a licensee for an offense that falls under the Board's jurisdiction staff will initiate an action. In the case of a conviction we obtain all relevant court documents, pleadings, etc and bring the matter before the Complaint Investigation Committee for a hearing. The facts of the case are presented to the Complaint Committee and they make a recommendation as far as licensing sanctions. If licensing sanctions are recommended by the CIC the final license sanction is presented to the full Board for approval and closed session. If the full Board approves the discipline it is considered final and is imposed on the licensee. Once the final order is signed and the discipline is administered the sanction becomes public. At no time is the process public until. Just to be clear there will be no discussion or information shared at this meeting regarding an investigation, a non-investigation, a hearing or proceeding addressing licensing sanctions that can be considered against any licensee. Chair McCarthy then asked Mr. Misselt to begin the public forum.

Mr. Misselt indicated there were two people present to speak.

Ms. Gross, President of CUAPB and Mr. Schoenborn supported the board taking licensing sanctions against Sheriff Hutchinson.

Chair McCarthy read two emails from the public; Christine Wittman who did not support sanctions against Sheriff Hutchinson and Pete Gamade who did support such sanctions.

Approval of the Agenda: Chair McCarthy looked for a motion to approve the agenda.

- MOTION: Mr. Hennen made a motion to approve the agenda. Mr. Perrote seconded the motion. The motion passed unanimously.

Approval of the October 28, 2021 Board Meeting Minutes: Chair McCarthy looked for a motion to approve the minutes from December 16, 2021.

- **MOTION:** Mr. Yang made a motion to approve the minutes. Mr. Perrote seconded the motion. The motion passed unanimously.

Training Committee Report: Ms. Gladney spoke on behalf of the Training Committee that there are two action items that can be just one motion.

Action Item 1: The Training Committee recommends the POST Board renew the certification of the following 27 post-secondary schools.

1. Bemidji State University
2. Central Lakes College
3. Century Community & Tech College
4. Concordia University – St. Paul
5. Fond du Lac Tribal & Community College
6. Hamline University
7. Hibbing Community College
8. Inver Hills Community College
9. Leech Lake Tribal College
10. Metropolitan State University
11. Minnesota State University, Mankato
12. Minnesota State University, Moorhead
13. MN State Community & Tech College
14. MN West Community & Tech College
15. Northland Community &Tech College
16. Rasmussen College
17. Ridgewater College
18. Riverland Community College
19. Rochester Community &Tech College
20. Saint Mary's University of Minnesota
21. Southwest MN State University
22. St. Cloud State University
23. University of Minnesota - Crookston
24. University of Northwestern, St.Paul
25. University of St. Thomas
26. Vermilion Community College
27. Winona State University

Action 2: The Training Committee recommends the POST Board allow the certification of Minneapolis Community and Technical College to expire once the students currently in the program are able to complete the program on a "teach-out" plan approved by the MN State system office. This program will not accept new students.

- **MOTION:** Ms. Gladney made a motion for the POST Board to approve the 27 post-secondary law enforcement program and to allow for Minneapolis Community and Technical College program to expire at end of this Spring semester. Swanson seconded motion. The motion passed unanimously.

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Recommendation to Prioritize Certain Rule Amendments: Mr. Terrell recommended the board adopt the standards of conduct, the minimum qualifications, the model polices and the sections of the rules and the things that connect those rules and other rules that are impacted by those changes and to prioritize through the administrative rules process. Mr. Terrell asked if Ms. Gaspard had anything to add. Ms. Gaspard said the rules from both committees are close to being done, but are not quite ready to be presented to the Board which would happen later this Spring. The Board will then review the language and adopt or make changes. He noted by adopting this recommendation today Ms. Gaspard would seek to get a Revisor's copy that could take two weeks to a month. The Board would then be presented with that Revisor's copy to review and approve to then send to the governor's office. He indicated there is still more work to be done and that an amendment to the rules has already been filed.

Discussion then ensued.

- **MOTION:** Mr. Terrell made a motion to the Board to approve the recommendation from the Rules Committee to prioritize certain rule amendments to include; minimum qualifications, standards of conduct, model policies and other rulecitations that apply to those rules. Ms. Schaefer seconded the motion. The motion passed unanimously.

Executive Director's report: Mr. Misselt spoke on the following topics:

- Looking for Chair on the Pursuit Policy Committee is needed, and to contact him or Chair McCarthy if interested.

- **IT Projects:**
  - Contractor has been hired to evaluate Sales Force and make recommendations for cleaning it up and any enhancements that might be needed. This was recommended by the Sales Force representative as we have been moving on more IT items towards a paperless, more online system.

  - Working on a public facing database that is modeled after the nursing public database. This will allow the public to search and obtain public data only, not private or confidential data on any licensee within the state. Goal to have completed by the end of the legislative session that starts on January 31, 2022.

  - Testing and delivery for the exam contract has been executed. The company PSI is doing the testing and development. They are now moving into test delivery.

- **Staffing announcements**:
  - Testing Coordinator, Dan Vujovich, is retiring in February and will be looking to fill this position.
  - New Standards Coordinator will be starting on Wednesday.
  - OASI position hoping to fill soon.
  - Data Manager Awaiting an HR audit assessment before the position can be posted.

- **Legislative session:** Starts January 31, 2022. He and Ms. Gaspard are following house bill HF2724. He noted he has some concerns on parts of it that will directly impact the POST and will likely be testifying on the initial hearings for this particular piece of legislation next week in front of the Public Safety Committee.

- **Public data:** Mr. Misselt has written a piece of legislation that will allow police agencies to share personnel data with the Board. Even though there are agencies that would like to cooperate with the investigations that the Board is doing they feel they are unable and are receiving advice from counsel that they are unable to share. Other boards have similar statutes that allow for the data to be shared between the regulatory board and agencies.

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He has written this in consultation with the Board counsel, AG office and also is in the process of speaking with stakeholders to get their take on it. Will be looking for sponsors for this particular piece of legislation.

Variance Request – Simeon Evuiroro (attachment) ACTION

- **MOTION:** Chair McCarthy made a motion that the Board approve Simeon's request for a discretionary variance of Minnesota Rule 6700.0100 Subdivision 20 and grant this variance because application of the rule would result in a hardship. Chair McCarthy said it would be consistent with public interest, not negatively impact the legal or economic rights of others and ensure the protection of public health safety and the environment. The motion was to grant the variance until he is licensed. Ms. Foster seconded the motion. The motion passed unanimously.

Variance Request – Seth Patrin (attachment) ACTION

- **MOTION:** Ms. Shaefer made a motion to deny Seth's request for a variance MN Rule 6700.0501, Subpart 7 because the application of the rule would not result in a hardship or injustice. It would not be consistent with public interest and would negatively impact the legal or economic rights of others. Motion was seconded by Ms. Swanson. Mr. Terrell abstained. The motion passed.

Adjournment

- **MOTION:** Chair McCarthy made a motion to adjourn. Ms. Gladney seconded motion. Adjourned via unanimous vote at 11:47am.

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STATE OF MINNESOTA
OFFICE MEMORANDUM

MINNESOTA BOARD OF PEACE
OFFICER STANDARDS AND TRAINING
1600 University Avenue, Suite 200
St. Paul, MN 55104-3825

DATE: April 7th, 2022

TO: Board Members of the Minnesota Board of Peace Officer Standards and Training

FROM: Andrew Burth, Continuing Education Coordinator

SUBJECT:

On December 16, 2021, members of the Minnesota Board of Peace Officer Standards and Training voted to adopt the POST Board Confidential Informants model policy. The model policy was adopted with the understanding that further revision was necessary due to additions and modifications requested by the National Alliance on Mental Illness (NAMI) and MN Teen and Adult challenge.

Over the course of several months, meetings were held with representatives from NAMI, MN Teen and Adult Challenge, Ramsey County Mental Health Services, the Minnesota Bureau of Criminal Apprehension, the Minnesota Police Chiefs Association, the Minnesota Sheriff's Association, the Minnesota Police and Peace Officers Association, the Minnesota County Attorney's Association and the Office of Justice Programs. The collaborative effort by the representatives of these entities resulted in the following modifications and additions to the Confidential Informants model policy:

- Inclusion of person-centered language.
- Exclusion of persons receiving partial-hospitalization treatment from utilization as confidential informants.
- Replaced "advocate" with "mental health professional or other appropriate medical professional."
- Exclusion of juveniles under the guardianship of the State from utilization as confidential informants.
- Addition of a provision that requires a screening, administered by the overseeing agent, to a confidential informant preceding or following every buy or sale of controlled substances. The screening must, at minimum assess the confidential informant's personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.

The POST Board model policy on Confidential Informants was finalized in March, 2022 and is presented to the Board for approval.

CONFIDENTIAL INFORMANTS MODEL POLICY
MN STAT 626.8476

I. POLICY

It is the policy of the ***(law enforcement agency)*** to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

II. DEFINITIONS

A. Confidential Informant (CI): A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;

1. seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and
2. is able, by reason of the person's familiarity or close association with suspected criminals, to:
    i. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
    ii. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
    iii. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.

B. Controlled Buy: means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.

C. Controlled Sale: means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.

D. Mental Harm: means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.

E. Target Offender: means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.

F. Confidential Informant File*:* means a file maintained to document all information that pertains to a confidential informant.

G. Unreliable Informant File: means a file containing information pertaining to an individual who has failed at following an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.

H. Compelling Public Interest*:* means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

I. Overseeing agent*:* means the officer primarily responsible for supervision and management of a confidential informant.

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III. PROCEDURES

A. Initial Suitability Determination

An initial suitability screening must be conducted on any individual being considered for a role as a CI. This screening includes the following steps:

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
    a. Age, sex, and residence
    b. Employment status or occupation
    c. Affiliation with legitimate businesses and illegal or suspicious enterprises
    d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
    e. Relationship with the target of an investigation
    f. Motivation in providing information or assistance
    g. Risk of adversely affecting an existing or future investigation
    h. Extent to which provided information can be corroborated
    i. Prior record as a witness
    j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
    k. Risk to the public or as a flight risk
    l. Consultation with the individual's probation, parole, or supervised release agent, if any
    m. Consideration and documentation of the individual's diagnosis of mental illness, substance ~~abuse~~ <u>use disorder, traumatic brain injury</u>, or disability; and consideration and documentation of the individual's history of mental illness, substance ~~abuse~~ <u>use disorder, traumatic brain injury</u> or disability
    n. Relationship to anyone in law enforcement
    o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
    p. Prior or current service as a CI with this or another law enforcement organization
2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
    a. is receiving in-patient treatment, ~~out-patient~~, <u>or partial-hospitalization treatment</u> administered by a licensed service provider for <u>a</u> substance ~~abuse~~ <u>use disorder</u>; or
    b. is participating in a treatment-based drug court program or treatment court; *except that*
    c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.

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4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
5. Any prospective or current CI who is known to ~~be a~~ abuse substances ~~abuser~~, or is at risk for abusing substances ~~abuse~~, should be provided referral to prevention or treatment services.
6. Any prospective or current CI that ~~that is an addict in recovery or possesses a physical or mental infirmity or other physical, mental, or emotional~~ dysfunction has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred ~~to an~~ advocate for assessment by a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a–p, and III.A.3-6, where applicable. A suitability screening must be conducted on a reactivated CI regardless of the length of inactivity.
8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been used for 6 months or more.

B. Special CI Approval Requirements

Certain individuals who are being considered for use as a CI require special review and approval. In all instances, the agency's chief executive or their designee and the office of the prosecutor or county attorney should be consulted prior to the use of these individuals as CIs. These individuals include the following:

1. Juveniles
    a. Use of a juvenile under the age of 18 for participating in a controlled buy or sale of a controlled substance or contraband may be undertaken only with the written authorization of the individual's parent(s) or guardian(s), except that the juvenile informant may provide confidential information.
    b. Authorization for such use should be granted only when a compelling public interest can be demonstrated, *except that*
    c. Juveniles under the guardianship of the State may not be used as a CI.
2. Individuals obligated by legal privilege of confidentiality.
3. Government officials.

C. General Guidelines for Overseeing CIs

General guidelines for overseeing CIs are as follows:

1. CIs must be treated as assets of the agency, not the individual overseeing agent.

2. No promises or guarantees of preferential treatment within the criminal justice system will be made to any informant without prior approval from the prosecuting authority.
3. CIs must not be used without authorization of the agency through procedures identified in this policy.
4. CIs must not be used to gather information purely of a political nature or for other information-gathering efforts that are not connected with a criminal investigation.
5. Under no circumstances must an informant be allowed access to restricted areas or investigators' work areas within a law enforcement agency.
6. All CIs must sign and abide by the provisions of the agency's CI agreement.
7. Any physical or mental ~~infirmity or other physical, mental or emotional~~ dysfunction illness that impairs the CI's ability to knowingly contract or otherwise protect the informant's self-interest must be taken into consideration before the CI signs the agreement.
8. The CI's overseeing agent must discuss each of the provisions of the agreement with the CI, with particular emphasis on the following:
    a. CIs may voluntarily initiate deactivation, whereupon the protocols outlined in section E of this policy must be followed.
    b. CIs are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon while performing activities as a CI.
    c. CIs found engaging in any illegal activity beyond what is authorized by the agency and conducted while under the supervision of an overseeing agent, will be subject to prosecution.
    d. CIs are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and implications of such actions must be explained to each CI.
    e. CIs are prohibited from engaging in self-initiated information or intelligence gathering without agency direction and approval. The CI must not take any actions in furtherance of an investigation without receiving specific instruction(s) from the overseeing agent or agency.
    f. Every reasonable effort will be taken to ensure the confidentiality of the CI but, upon judicial order, he or she may be required to testify in open court.
    g. CIs may be directed to wear a listening and recording device.
    h. CIs must be required to submit to a search before and after a controlled purchase.
    i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.
9. CI activity outside jurisdictional boundaries:
    a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.

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b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.

10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.

11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.

12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.

13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.

14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.

15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.

16. <u>Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.</u>

    a. <u>At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.</u>

    b. <u>Overseeing agents must document:</u>

        i. <u>the screening,</u>

        ii. <u>any referral to services provided to, or requested by, the CI, and</u>

        iii. <u>any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.</u>

    c. <u>No part of this subsection supersedes MN Stat. 253B.05, sub.2.</u>

17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.

18. Overseeing agents must:

    a. evaluate and document the criminal history and propensity for violence of target offenders; and

    b. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.

19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.

20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.
21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

D. Establishment of an Informant File System

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
    a. Name, aliases, and date of birth
    b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
    c. Emergency contact information
    d. Name of the officer initiating use of the informant and any subsequent overseeing agents
    e. Photograph and criminal history record
    f. Current home address and telephone number(s)
    g. Residential addresses in the last five years
    h. Current employer, position, address, and telephone number
    i. Social media accounts
    j. Marital status and number of children
    k. Vehicles owned and their registration numbers
    l. Places frequented
    m. Gang affiliations or other organizational affiliations
    n. Briefs of information provided by the CI and the CI's subsequent reliability
    o. Special skills and hobbies
    p. Special areas of criminal expertise or knowledge
    q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.

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6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.

7. CI File Review
    a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
    b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
    c. Officers must not remove, copy, or disseminate information from the CI file.
    d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
    e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
    f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

E. Deactivation of Confidential Informants

A CI deactivation procedure must be established as follows:

1. The overseeing agent must complete a deactivation form that includes, at minimum, the following:
    a. The name of the agency.
    b. The name of the CI.
    c. The control number of the CI, where applicable.
    d. The date of deactivation.
    e. The reason for deactivation.
    f. A notification that contractual agreements regarding monetary re-numeration, criminal justice assistance, or other considerations, specified or not, are terminated.
    g. A notification that the agency will provide and assist the CI with referral to health services for assistance with any substance abuse disorder and/or physical, mental, or emotional health concerns, as requested or accepted by the CI.
    h. A signature by the CI or documentation indicating the reason(s) why the CI was unable or unwilling to sign the form.
    i. A signature by the overseeing agent.
2. All reasonable efforts must be taken to maintain the safety and anonymity of the CI after deactivation.

F. Monetary Payments

Monetary payments must be managed as follows:

1. All monetary compensation paid to CIs must be commensurate with the value of the information or assistance provided to the agency.
2. All CI payments must be approved in advance by the officer in charge of confidential funds.
3. Officers must provide accounting of monies received and documentation for confidential funds expended. Any documentation of monies paid or received should not contain the true identity of the informant but should use the CI's control number.
4. Two officers must be present when making payments or providing funds to CIs.
5. The appropriate individual, as designated by the agency's chief executive, must ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with agency policy.
6. If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments must be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency and consistent with provision III.F.1. of this policy.
7. Written records of receipts are retained, or justification for the exception is documented when a written receipt is not available.

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Minnesota Board of Peace Officer Standards and Training

1600 University Avenue
Suite 200
St. Paul, MN 55104-3825

Agenda Item:

To: Minnesota POST Board

From: Staff

Subject: Recertification of Professional Peace Officer Education (PPOE) Schools

Date: April 21, 2022

1. ACTION REQUESTED:

Staff recommends the POST Board renew the certification of the following three post-secondary schools.

1) Alexandria Technical and Community College (ATCC)
2) Hennepin Technical College (HTC)
3) Minneapolis Community and Technical College (MCTC)

2. BACKGROUND:

In January of 2022, the Minnesota POST Board renewed the certification of 27 of the 30 postsecondary schools certified by the Board to provide the professional peace officer education. Evaluation of the remaining three schools were not complete at that time.

The evaluations of the last three schools are now complete. After detailed reviewed of the applications and supporting documentation staff recommends recertification of these schools.

3. EFFECTS OF THIS ACTION:

If the board moves to approve the recommendation, the certification of these schools will be renewed until 2025 or, in the case of Minneapolis Community and Technical College, until the end of the teach-out plan. Certificates of renewal will be sent to the school's peace officer education program coordinator.

MINNESOTA BOARD OF
PEACE OFFICER STANDARDS AND TRAINING (POST Board)
1600 UNIVERSITY AVENUE, SUITE 200
SAINT PAUL, MINNESOTA 55104-3825

(651) 643-3060
FAX: (651) 643-3072
www.post.state.mn.us

Request for a Variance of a Minnesota Rule

A person or entity may petition the POST Board for a variance from a board-adopted Rule as applied to the particular circumstances of the petition per Minn. Stat. 14.055.

To request a variance complete this form and submit it to the POST Board along with the supporting documentation by mail or fax, or by email to Postboard.agency.docs@state.mn.us.

Petitioner (person or e Minneapolis College

Petitioner Contact N Gail O'Kane, Vice Presiden of Academic Affairs

Street Address: 1501 Hennepin Ave
City, State, Zip Code: Minneapolis, M 55403
Email address: gail.okane@minneapolis.edu
Phone: 612-659-6299

Variance Request

1. Cite the Minn. Rule that is the subject of the request: MN Rules 6700.0300 Subp. 6D
2. Briefly and clearly describe the specific variance from Rule being requested. *Do not included details here.*
   Subsitute degree requirement and years of experience with a criminal justice agency
3. State the period of time for which the variance is requested: Spring 2022 - Spring 2026

Details - Along with this form submit your answers to the following questions. List the question # with the response.

	Submitted with Form? Yes	No	Don't Know/Not Applic.
1. What are the reasons and circumstances that make this request necessary? Include why the petitioner cannot comply with the Rule as stated, and what alternate equivalent measures the petitioner will follow to comply with the intent of the rule.	X		
2. Does this request involve other Minn. Rules? If so, cite the other Rules.		X	
3. Has the POST Board taken action related to this variance request before? If so explain.		X	
4. Do you know of past POST Board action taken in cases similar to this request? If so, explain what you know about these past cases and actions.			X
5. Do you know of any person or entity that would be adversely affected if the POST Board granted this variance request? If so, explain.		X	

Affirmation and signature:
I affirm that the information submitted within this application is true and correct and, that I have read and understand the Tennessen Warning on page 2 of this form. Note: The warning applies to individuals but not organizations.

Gail O'Kane — 3/16/22 — Gail O'Kane, Vice President, Academic Affairs
Signature **Date** **Printed Name/title**

Tennessen Warning

I understand this variance request to the Minnesota Peace Officers Standards and Training Board ("Board") will be discussed at a public board meeting. I acknowledge that the Board may discuss any of my pertinent licensing history, as well as any of the information within, during the public Board meeting. I understand that under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, some data in this request and in relevant Board records may be classified as private data and would not normally be accessible to the public. I hereby authorize the Board to discuss this request and any corresponding materials, records, or data within any license application(s) or other Board records, and any issues related to this request at the Board meeting. The purpose of this authorization is to provide information to assist the Board's review of the request. This authorization expires one year after the date provided below. I understand that I can withdraw this authorization at any time by notifying the Board in writing before the one year period expires, but the withdrawal will not be retroactive. I understand that I am not legally required to sign this form and am doing so on my own accord. However, I also understand that if I restrict the release of certain information, the Board will not discuss my variance request. I understand that if my request pertains to a licensure application, the application will be approved or denied based solely on the application and information submitted within. I agree that I will not bring any legal claim or action against the Board alleging a violation of the Minnesota Government Data Practices Act or the Minnesota Open Meeting Law.

Minneapolis College Variance Request:

We would like to request a variance to Minnesota Rules Chapter 6700.0300 Subp 6 D. and 6700.0100 Subp. 10. These rules include provisions that outline the educational and experience requirements of a PPOE coordinator. We would like to request that the Academic Dean who oversees the Law Enforcement program at our college serve as the PPOE coordinator from now through the end of the PPOE program teach-out. Dean Ann Deiman-Thornton is a full-time, year-round employee of Minneapolis College. She holds a Master of Arts in English. Additionally, she is near completion of her Doctorate of Education: Leadership, as she has successfully completed all required coursework for the degree and is now in the process of writing her doctoral dissertation. Dean Deiman-Thornton also served as the Education Director at Stillwater Correctional Facility from 2018-2020. Additionally, Dean Deiman-Thornton oversaw a federally approved Second Chance Pell program with the Department of Corrections for four years during her time as an academic dean at Inver Hills Community College. We believe Dean Deiman-Thornton is well positioned to serve as the PPOE coordinator for the duration of the PPOE program teach-out.

Reasons and Circumstances for this Request

Currently, Minneapolis College's PPOE coordinator is a full-time Law Enforcement faculty member. However, during the teach-out period, there will not be enough PPOE classes to maintain him as a college employee at a full-time workload. To keep a faculty member employed full-time, per the Minnesota State college faculty contract, we would need 16 credits worth of teaching load for him. However, in Fall 2022, we will only be offering 10 credits of Law Enforcement courses, and in subsequent semesters of the teach-out process, we will no longer be offering any Law Enforcement courses at Minneapolis College -- our remaining Law Enforcement associate degree students will either be taking PPOE courses at Hennepin Technical College or general education courses at our college, in accordance with the program teach-out plan, which has now been approved by the Minnesota State system office and our

Institutional accrediting body, the Higher Learning Commission.

Variance Standards

We believe that this request meets the standards for rule variances outlined in Minnesota Statue 14.055, for the following reasons.

- **Application of the current rules to Minneapolis College would result in hardship** in that beginning on May 13, the end of the current semester, Minneapolis College will no longer have the ability to provide enough workload to maintain a full-time employee who fully meets the statutory requirements during the teach-out program, for the reasons cited above.
- **The proposed variance from the rule would be consistent with public interest.** This variance would allow us to ensure that during the program's teach-out period, the duties of a coordinator and the needs of students are being attended to by the academic dean who has oversight of the degree program. That individual is a highly qualified, full-time employee with (1) knowledge of POST Board requirements, (2) the skills, education and experience required to maintain the college's PPOE certification, and (3) direct access to her supervisor, the vice president of the college, who oversees all accredited programs at the college, and to the college president.
- T**he variance would not prejudice the legal or economic rights of any person or entity.**

MINNESOTA BOARD OF
PEACE OFFICER STANDARDS AND TRAINING (POST Board)
1600 UNIVERSITY AVENUE, SUITE 200
SAINT PAUL, MINNESOTA 55104-3825

(651) 643-3060
FAX: (651) 643-3072
www.post.state.mn.us

Request for a Variance of a Minnesota Rule

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To request a variance complete this form and submit it to the POST Board along with the supporting documentation by mail or fax, or by email to Postboard.agency.docs@state.mn.us.

Petitioner (person or entity): Teah Wettee Neepaye

Petitioner Contact Name: Teah Wettee Neepaye

Street Address: *redacted* Email address: *redacted*

City, State, Zip Code: St. Paul, MN, 55106 Phone:

Variance Request

1. Cite the Minn. Rule that is the subject of the request: 6700.0100 Sub Division 20
2. Briefly and clearly describe the specific variance from Rule being requested. *Do not included details here.*
   My degree from West Africa (Liberia) is not excepted under current rule.
3. State the period of time for which the variance is requested: Until I'm License.

Details - Along with this form submit your answers to the following questions. List the question # with the response.

	Submitted with Form? Yes	No	Don't Know/Not Applic.
1. What are the reasons and circumstances that make this request necessary? Include why the petitioner cannot comply with the Rule as stated, and what alternate equivalent measures the petitioner will follow to comply with the intent of the rule.	☐	☐	*
2. Does this request involve other Minn. Rules? If so, cite the other Rules.	☐	☐	*
3. Has the POST Board taken action related to this variance request before? If so explain.	☐	*	☐
4. Do you know of past POST Board action taken in cases similar to this request? If so, explain what you know about these past cases and actions.	☐	☐	*
5. Do you know of any person or entity that would be adversely affected if the POST Board granted this variance request? If so, explain.	☐	*	☐

Affirmation and signature:
I affirm that the information submitted within this application is true and correct and, that I have read and understand the Tennessen Warning on page 2 of this form. Note: The warning applies to individuals but not organizations.

Teah W. Neepaye	02/27/2022	Teah Wettee Neepaye
Signature	**Date**	**Printed Name/title**

Tennessen Warning

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P.O. Box 514070 Milwaukee, WI 53203 USA
414.289.3400 ECE.org

COURSE BY COURSE EVALUATION REPORT

Name: Teah Wettee NEEPAYE
Date of Birth: 22 April 1976

Reference: A07610
Report Date: 4 October 2019

Purpose: Employment
Evaluation report based on original and/or authenticated educational documents.

U.S. Equivalent Summary

Bachelor degree, major area of study: Criminal Justice, minor in Sociology

U.S. Equivalence: Bachelor degree, major area of study: Criminal Justice, minor in Sociology
Grade Average: 3.31
Credential: Bachelor of Arts in Criminal Justice
Institution: African Methodist Episcopal Zion University
Institution Status: Equivalent of U.S. regional academic accreditation
Country: Liberia
Date: 2009
Admission Requirement: U.S. equivalent of a high school diploma

Courses	U.S. Credits	U.S. Grades
Freshman English I	3.00	A
Freshman Mathematics	3.00	B
Christian Living	2.00	A
Introduction to Law Enforcement	3.00	A
French I	3.00	A
ROTC	1.00	A
Physical Education	1.00	A
Biological Science	3.00	B
Introduction to Social Science	3.00	B
Freshman English II	3.00	A
Mathematics	3.00	A
Christian Ethics	2.00	A
Introduction to Criminal Justice	3.00	B

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ECE® evaluation reports identify the U.S. equivalents of foreign educational credentials. Evaluation reports are prepared by our qualified professional staff, supported by a library of more than 35,000 publications dealing with international and comparative education and more than 350,000 sample educational credentials.

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GRADES

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Grade	Points	Description
A	4	Excellent
B	3	Very good
C	2	Average
D	1	Below average
F	0	Failure

Grades not included in the grade average		
Absent	-	Absent from course or exam
Ex	-	Exempt
I	-	Incomplete
IP	-	In progress
P	-	Pass on a pass/fail basis
S	-	Satisfactory completion of academic work where actual grades were not reported or where the grade was "S" on a satisfactory/unsatisfactory basis
Tr	-	Transfer credit granted
W	-	Withdrawn

Grade averages are calculated by dividing the total number of grade points earned by the total number of credits attempted. See example below.

8 credits with A (x 4) = 32 points
8 credits with B (x 3) = 24 points
5 credits with C (x 2) = 10 points
6 credits with D (x 1) = 6 points
Total 27 credits and 72 points

Divide points by credits to calculate grade average: 72 ÷ 27 = 2.67

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Courses	U.S. Credits	U.S. Grades
ROTC	1.00	A
Physical Education	1.00	A
French	3.00	A
Liberian Society	3.00	B
Introduction to Psychology	3.00	B
Biological Science	3.00	B
Philosophy	3.00	B
Sophomore English	3.00	A
French	3.00	A
Introduction to Criminology	3.00	B
Principles of Sociology	3.00	A
ROTC	1.00	B
Sophomore English	3.00	B
French	3.00	A
Introduction to Corrections	3.00	A
Methods of Reasoning & Ethics	3.00	B
Elective	3.00	B
ROTC	1.00	A
Correctional Counseling *(4)*	3.00	B
Criminal Investigation *(4)*	3.00	B
Law II *(4)*	3.00	B
Social Institution	3.00	A
Marriage & Family	3.00	B
Elective Abnormal Psychology	3.00	B
Juvenile Delinquency *(4)*	3.00	A
Drug Abuse *(4)*	3.00	B
Law II *(4)*	3.00	C
Urban Sociology *(4)*	3.00	B
Race & Ethics Relation *(4)*	3.00	C
Criminalistics *(4)*	3.00	B
Comparative Criminal Justice & Sociology *(4)*	3.00	B

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F	0	Failure

Grades not included in the grade average		
Absent	-	Absent from course or exam
Ex	-	Exempt
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Courses	U.S. Credits	U.S. Grades
Police Administration *(4)*	3.00	B
Social Theory *(4)*	3.00	B
Research Methodology *(4)*	3.00	B
Private Security Administration *(4)*	3.00	B
Internship *(4)*	3.00	B
Social Issues *(4)*	3.00	B
Total semester hours of undergraduate credit:	136.00	

(4) Upper level course

- End of Report -

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Introduction to Proposed Rules Agenda Item

Both the Advisory Committee on POST Board Rules Overhaul and the POST Board's Rules Committee met multiple times in the past year to develop and discuss the proposed rules, which are contained in the edited Revisor's draft R-04641. This is not a final Revisor's draft which will be obtained when the Board approves the final language for the draft.

The Advisory Committee reached a consensus recommendation approving the proposed rules with the exceptions of five areas where consensus to approve or disapprove was not reached. The Committee's Report to the Board, included in these materials, identifies the 5 areas and provides explanation of the issues preventing some committee members from approving the proposed rule or the language in the proposed rules. The report also identifies the numbers of members supporting and dissenting in each of the 5 areas where consensus could not be reached.

The Board's Rules Committee reviewed the Advisory Committee's Report, and recommends the approval of the proposed rules draft included in these materials.

A Board-approved rules draft will be published so that stakeholders may review the draft, comment on the proposed rules, and suggest any changes. The Board will review all input from stakeholders and announce any subsequent modifications to the draft based on input from stakeholders. An Administrative Law Judge will review the final proposed rules and issue a report to the Board.

Documents for review:

Projected Timeline for Rules Promulgation

Advisory Committee Report to the POST Board

Proposed Rules Draft 4641

Draft Board Resolution to Approve Proposed Rules

Projected Timeline for Rules Promulgation – April 2022

Revisor's Draft 4641

Note: timeline is approximate as other agencies may impact timing

SPRING 2022

1. Draft rules approved by Board via adopted resolution.
2. SONAR completed – projected late April/early May
3. SONAR - Board approved or delegated authority.
4. FINAL Revisor's draft obtained
5. Rule package goes to Governor for approval (estimated 3 weeks)

SUMMER 2022

6. Hearing scheduled for fall 2022.
7. Rule package goes to OAH (possibly July) for 5 day process review/approval of notices and additional notice plan.
8. Publish notice in State Register (about 3 weeks following OAH approval of notices, possibly August) email notice with links to proposed rules and SONAR to licensees and stakeholders.
9. 30+ day Comment period, review and respond to stakeholder comments; draft including any changes to proposed rules. Board approved.

FALL 2022

10. Hearing held. POST announces any changes to proposed rules. Hearing will likely be via WebEx, pending ALJ approval.
11. Board approved or delegated post-hearing response to testimony and comments from hearing submitted to ALJ and publicly posted (5 or 20 days post-hearing)
12. Board approved or delegated 5 day rebuttal to stakeholder post-hearing responses submitted to ALJ and posted.
13. Administrative Law Judge reviews rules, sonar, hearing record, etc. and issues report to Board (possibly November).
14. Board reviews and acts on ALJ report.

WINTER 2023

15. Approved rules get published (possibly January), effective 5 days after publication.

Advisory Committee on POST Board Rules Overhaul
RD4641Report to Board April 2022

Introduction

In August, 2020, the Board published a Request for Comments as a first step in the process of updating and amending Minnesota Rules Chapter 6700, which addresses the standards and training of peace officers. The published notice announced the Board's intent to establish an Advisory Committee under Minnesota Statutes 14.101 Subd. 2. to aid the Board in developing and amending rules. The Board also invited applicants to apply for appointment to the Advisory Committee by sending information to law enforcement associations and labor organizations, peace officer education programs, community organizations, state councils, police advisory committees, and others.

In October, 2020, the Board appointed 20 individuals to the committee, representing a diverse group of community members, organizations, academic programs and law enforcement officers. The Advisory Committee Charter is found in Appendix A.

Appointments included both new and experienced law enforcement officers (sheriff, chief, retired LEO's, patrol officer) from agencies of all sizes in both metro and rural areas. Professors, representatives of professional peace officer education programs, lawyers, mental health professionals, the general public, and the BIPOC and LGBTQAI communities are also represented among committee members. Additional representation from community organizations includes the NAACP, League of Minnesota Cities, NAMI MN, and Communities United Against Police Brutality (CUAPB). A complete list of members and biographical information can be found in Appendix B.

Advisory Committee Work

Beginning in October, 2020, the committee met regularly, with 3 meetings in 2020, 13 meetings in 2021 and 5 meetings in 2022 as of April 1, 2022.

The committee's work on Background Investigations, Psychological Screenings, Minimum Selection Standards, and Standards of Conduct formed the basis for much of the proposed rule amendments.

While the board is proceeding with rule promulgation on those topics, the committee's work continues on rule sections related to complaints, continuing education, professional peace officers education, reciprocity and military licensing, license renewal and other topics.

Advisory Committee Recommendation

Through discussion, the committee sought to reach consensus on the draft provisions. The committee recommends adoption of the rule amendments reflected in draft (V13 as reviewed by the committee on February 15, 2022) with the following exceptions where consensus was not reached.

Exceptions to Consensus Approval of Proposed Rules

1. Minimum Selection Standards: Citizenship

6700.0600 Minimum Selection Standards, Subpart 1. The applicant must:

A. be a citizen of the United States or eligible to work in the United States under federal requirements;

7 Members Approving Rule Language: Bicking, Lee, Butay, Gross, Nelson, Edel, Degroff- Gunter

Support Rationale: We support the language as written for the following reasons:

- Some departments would like to be able to hire Dreamers and others who are eligible to work in the United States, but who are not yet US Citizens. This language opens that possibility to expand the candidate pool.
- We prefer the more general language of "Eligible to Work in the United States Under Federal Requirements" rather than citing a specific immigration status. By using less specific language, the rule will not need to be updated whenever the federal government changes the names of various immigration statuses.
- There is nothing to prevent a department from having a citizenship requirement if they choose.

13 Members Opposing Rule Language: Do, Litsey, Paulson, Stille, Truesdale, Soyka, Suomala Folkerds, Enevoldsen, Fahning, Bolt, Cemensky, Serier, Sethuraju

Dissent Rationale:

A. Should the MN POST Board Change the Citizenship Requirements for Licensure? The below MN statute and rule addresses the current citizenship requirements of peace officers:

- The statute reads that the POST board must set a rule regarding citizenship 626.843 Subd. 1 (11).
- The POST rule that implements that statute as requiring US citizenship is at 6700.0700(1)(A).

The MN POST Board Rules Advisory "Committee" was recently asked to discuss a proposed rule change that would expand those eligible to be licensed as police officer from those that are a "citizen of the United States" to those that are "Lawful Permanent Residents (LPR)" and/or those that are "Authorized to Work in the United States".

This memorandum is intended to provide legal and historical background relevant to the issue. It is not intended to be an exhaustive list of legal authority, precedent, or current operations of other state licensing schemes. Rather, the information and conclusions contained in this memorandum should be used by the Committee and MN POST Board for further analysis and evaluation of citizenship/ residency requirements before a final rule change decision is reached.

B. Background

Under the Supreme Court case Foley v. Connelie a citizenship requirement for police officers is constitutional, because under the political doctrine function police officers are non-elected officials who are tasked with executing the law.

Historically, police departments across the nation have included a U.S. citizenship as a requirement to become a police officer. Over the past few years, several states have allowed those individuals who have been granted a lawful permanent residency status to become police officers. Other states have attempted to include those residents who have been granted an "Authorized to Work in the United States" status, although those decisions have run into problems and concerns as included within this memorandum.

Thirty-seven states require police officers to be U.S. Citizens. The law enforcement community defines lawful permanent residents as green card holders. The United States Citizenship and Immigration Services assess whether a prospective lawful permanent resident will be a threat to public health, public safety, and national security through rigorous background checks.

Employment with a Federal Law Enforcement Agency does require the applicant to be a US Citizen or U.S. National. While the Immigration Reform and Control Act (IRCA) of 1986 establishes that discrimination on the basis of an individual's "citizenship status" is generally unlawful, a broad exception to the prohibition permits citizenship requirements for many government positions and private-sector positions where the employer interfaces with federal, state, or local governments. The exception permits the longstanding practice of passing laws that favor or mandate citizenship in public- sector positions across all levels of government. Accordingly, most law enforcement agencies currently require hires to be U.S. citizens.

Approximately thirteen states allow for **Permanent Residents** to serve as police officers. Additional restrictions may include the requirement that permanent residents have applied for citizenship and, in California for example, expect to be naturalized within a set amount of time. The laws of Tennessee and Maryland also allow for noncitizen military veterans who were honorably discharged to serve in local and state law enforcement. *See The Tennessean* and *see Maryland Code*. One recent example that may be informative is the state of New Hampshire which is currently considered lifting the citizen requirement for police applicants in order to allow green card holders or those with permanent residency status to become police officers. The New Hampshire Police Standards and Training Council empaneled a special committee to consider revising the rule although it appears no final decision has been reached.

The change is being contemplated at a time when police forces are struggling to fill open positions and reflect the state's changing demographics. The police standards officials researched the citizenship requirements in nearly every state and found a "hodgepodge", citing concerns with the legality of non-citizens taking an oath and the difficulty of completing a background investigation on someone that has been in the U.S. for only a few years. Additionally, there are concerns as to whether a person should be granted authority as a police officer to take away the freedom of a citizen when that person is not a citizen. *See Police1*

C. Permanent Residency Status vs. Authorized to Work in the United States

Lawful Permanent Residency Status

This residency status includes green card holders (I-551 or I-151 card) who have obtained their permanent residency status (resident alien status). A Green Card holder (permanent resident) is someone who has been granted authorization to live and work in the United States on a permanent basis. Permanent residents continue to hold citizenship of another country. Permanent residents have made a long-term commitment to the United States and have undergone extensive background checks.

Permanent residents may use their green card to prove employment eligibility and apply for a social security card. Permanent residents are not allowed to vote in the federal elections although may vote in local elections where United States citizenship is not required. Permanent residents must file U.S. income tax returns as a resident. After a certain length of time – five years in most cases, permanent residents may apply to become a U.S. citizen through a process called naturalization. A lawful permanent resident may not work in some jobs that require a U.S. citizen due to security concerns.

Authorized to Work in the United States

This residency status includes those residents who are "authorized to work" in the U.S. but are **not permanent residents nor U.S. Citizens** (I-765 or I-766 EAD card). Those authorized to work in the U.S. file a petition for either a temporary or permanent worker visa to obtain an immigration status that allows them to work only in certain occupations.

If a non-citizen or non-permanent resident wishes to work in the United States, they have to obtain work authorization. This is a document in the form of a card that allows a non-citizen or someone who isn't a permanent resident to legally obtain a job in the United States. The card is also known as EAD, which is short for an employment authorization document. It will be available for one year, and when it expires, it has to be renewed. It gives an individual temporary legal status and is neither a permanent resident nor U.S. citizenship status. The United States Citizenship and Immigration Services (USCIS) is tasked with determining what level of scrutiny an application will undergo.

There are also several categories of non-citizen immigrants who may not be eligible for police officer licensure, but this area of law is very complicated, and it is impossible to anticipate the specific facts of each situation. For example, there are certain categories of immigrants, like those with employment authorization under the Deferred Action for Childhood Arrivals (DACA) program or other individuals who may lack lawful status in the United States to be eligible for police officer licensure.
See Seattle Times. *See* 8 U.S.C. § 1621(a) and (c), 8 U.S.C. § 1641

D. Reasons to Allow Non-Citizen Officers that Are Lawful Permanent Residents (LPR)

Allowing Non-Citizen Officers Will Mitigate the Recruitment Challenge

There are long-standing concerns about the difficulty of generally recruiting applicants to police departments, and these concerns are only exacerbated with respect to qualified female and ethnically diverse candidates. In the wake of high-profile cases of abuse of power, recruitment has only gotten more difficult—particularly in the BIPOC community. This is at a time when there are a growing number of officers retiring, significant competition from both the military and private security, and a younger generations' expectation that they will move between locations and careers more often than previous generations. Proponents argue that allowing **permanent residents** would increase the recruitment pools and therefore ease this shortage of officers.[1]

Improved Relationship with Immigrant Communities

The Law Enforcement Immigrant Task Force, which advocates to **allow lawful permanent residents to serve in law enforcement** argue that while officers have a unique and powerful role in their communities, there is no real reason why a **lawful permanent resident** would not fulfill that role, especially as it would allow officers a valuable link to the immigrant communities they protect. It would likely increase the number of multilingual officers, allowing agencies to better serve communities with limited English.[2]

Removing the Requirement Would Not Result in Instability

Proponent's further point out that hiring **lawful permanent residents** would be subject to the same requirements as any other officer and becoming a police officer is not trivial. Just removing the barrier to entry wouldn't ensure a flood of lawful permanent residents wanting to become officers.[3]

E. Reasons for Keeping the Citizenship Requirement

IADLEST remains committed to continuing a citizenship requirement as part of their minimum

1 https://leitf.org/wp-content/uploads/2017/06/LPR-6.14.17.pdf
2 https://leitf.org/wp-content/uploads/2017/06/LPR-6.14.17.pdf
3 https://leitf.org/wp-content/uploads/2017/06/LPR-6.14.17.pdf

standards to be a police officer. IADLEST argues that "officers are expected to enforce the laws and constitution of the United States and are among the few persons who can deprive a U.S. citizen of their freedom. This power should be vested in officers that are loyal citizens, committed to support the laws of the United States and of the state and locality of their employment. In addition, by being a citizen, an officer will be more familiar with the rights afforded to all citizens."[4] The 2020 IADLEST Minnesota POST Audit appears to support the MN citizenship requirement in comparing the State of MN to the states of Kansas, Florida, Arizona, Oregon, and Pennsylvania (all of whom currently require U.S. citizenship). See the 2020 IADLEST Minnesota POST Audit.

2.0.6 Citizenship - IADLEST Model Standards

State law or commission regulation should require all sworn police and corrections officers to be U.S. citizens. In order to encourage the cultural diversity which has enriched our nation over the years, foreign nationals who are becoming citizens should be encouraged to consider law enforcement careers if they can be employed by criminal justice agencies without exercising arrest powers until obtaining full citizenship.

Commentary *Police officers are expected to enforce the laws and constitution of the United States and are among the few persons who can deprive a U.S. citizen of their freedom. This power should be vested in officers that are loyal citizens, committed to support the laws of the United States and of the state and locality of their employment. In addition, by being a citizen, an officer will be more familiar with the rights afforded to all citizens.*

F. How to Involve Lawful Permanent Residents (LPR) in Minnesota Policing

Suggested approaches:

1. Remove the citizenship requirement and allow **permanent residents** due to the reasons outlined in D as well as the restrictions on dual citizenship of some countries (see G below).
2. Limit non-citizen officers to those who have served in the military and have completed the military naturalization process (see Section H).
3. Allow non-citizens to serve as Auxiliary, Reserve or Community Police.

4 https://www.iadlest.org/our-services/model-standards#_Toc31025315

4. Allow non-citizens to enter police academies and/or the Minnesota's Professional Peace Officer Education (PPOE) program and require them to have a pending citizenship application on file with the federal government, and then help them to complete the naturalizations process to become permanent residents or U.S. citizens.

G. Countries that Do Not Allow Dual Citizenship with the US

Andorra; Austria; Azerbaijan; Burma; Bahrain; Botswana; Brunei; Chile; China; Ecuador; Estonia; Fiji; India; Indonesia; Iran; Japan; Kazakhstan; Kiribati; Korea; Kuwait; Latvia; Lithuania; Malaysia; Mauritius; Myanmar; Netherlands; Nepal; Norway; Papua New Guinea; Peru; Romania; Singapore; Slovakia; Solomon Islands; United Arab Emirates (UAE); Venezuela; Zimbabwe;

H. Citizenship Requirements to be in the U.S. Military

For comparison, many law enforcement agencies across the United States have looked at the citizenship requirements of the U.S. Military for their own law enforcement agencies. The U.S. Military requires that applicants be **U.S. Citizens or Legal Permanent Residents** (people who have valid alien registration form, I-551 or green card, from the US Immigration and Citizenship services). Properly documented non-citizens may enlist from Guam, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, the Marshall Islands and Palau, although opportunities are limited. The U.S. Military does offer a fast track to U.S. Citizenship thru **military naturalization** (N-400) that many foreign-born citizens do utilize. This naturalization process is only available to military members that have served the United States with honor after one year of military service.

I. Allowance to Carry a Firearm

One final issue to keep in mind is that under Minnesota state law 624.714, Sub. 2 only citizens or permanent residents are eligible to carry a firearm. Other states, including Washington and Colorado have run into this barrier when attempting to hire DACA recipients as police officers. Under Colorado state law, the state requires U.S. citizenship to carry a firearm (MN currently requires citizenship or permanent resident status). DACA recipients cannot be hired as law enforcement officers in Washington state because of a similar law that says that a person must be a U.S. citizen to carry a firearm. See Seattle Times and Washington State Legislature RCW 41.12.070 and WAC 139-07-020.

In most states, law enforcement officers are exempt from concealed weapons laws although this is again complicated as many states restrict the carrying of a firearm to citizens or permanent residents. The Law Enforcement Officers Safety Act (LEOSA) does appear to federally extend concealed weapons privileges to active-duty law enforcement officers nationwide.

Under United States Code, title 18, section 922(g)(8) or (9), it is unlawful for a person to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce who being an alien **(B)** except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)). This federal statutory language appears to further complicate the issue of allowing those immigrants who are only "authorized to work" in the United States from possessing or carrying a firearm as a police officer, which is another factor to consider.

J. Conclusion and Supporting Language Change

Currently, Minnesota Administrative Rule 6700.0700, Subpart 1 (A), states that "the applicant shall be a citizen of the United States", before being appointed to the position of peace officer.

We support opportunities to recruit and hire qualified peace officers from a diverse pool of candidates who reflect the communities they serve. We further support expanding the candidate pool to include a broad range of individuals who are authorized to serve under state and federal law. However, there are many issues and practicalities created by adding "authorized to work in the United States" to

the minimum selection standards of the revised rule. We encourage careful evaluation and further analysis before recommending the currently proposed rule language. We further encourage additional research beyond the information and background provided in this memorandum to help guide the Committee and the MN POST Board on this important and multifaceted issue.

This committee does support a language change to the current rule as included below that would add candidates who have obtained lawful permanent residency (LPR) status, which should result in an increase of those eligible for peace officer licensure and add to a community's success on many levels in the future.

6700.0600 Minimum Selection Standards, Subpart 1. The applicant must:

A. be a citizen of the United States or ~~eligible to work in the United States under federal requirements;~~ or obtained a lawful permanent residency (LPR) status in the United States.

2. Minimum Selection Standards: Minimum Age

6700.0600 Minimum Selection Standards, Subpart 1. The applicant must:

M. be at least 18 years old.

15 Members Approving Rule Language: Soyka, Suomala Folkerds, Enevoldsen, Fahning, Bicking, Litsey,Lee, Gross, Stille, Edel, Bolt, Cemensky, Nelson, Serier, Do

5 Members Opposing Rule Language: Butay, Truesdale, Paulson, Degroff-Gunter, Sethuraju

Dissent Rationale: We are opposed to the minimum age requirement of 18 for developmental and life experience reasons. Neuropsychology has long shown that the fontal cortex does not fully develop in adolescents until at least the age of 25. A 2016 fact sheet from the American Academy of Adolescent and Child Psychiatry states:

> "Based on the stage of their brain development, adolescents are more likely to act on impulse, misread or misinterpret social cues and emotions, get into accidents of all kinds, get involved in fights, (and) engage in dangerous or risky behavior. Adolescents are less likely to think before they act, pause to consider the consequences of their actions, (and) change their dangerous or inappropriate behaviors"

The positive skills listed above are *essential* for safe policing in our communities. Even the difference between an 18-year-old and a 21-year-old in terms of life experience is significant. It is difficult to imagine a teenager who may have never lived independently responding to situations like domestic violence, mental health crises, or traumatic experiences. The impact of trauma on the job is another reason to delay patrol officers until the age of 21, which arguably would lead to a stronger and more sustainable workforce in the future.

We have heard the legitimate concerns that delaying the age to 21 may cause difficulty building an already struggling workforce. Teenagers may be lost to other professions if they are ready to be licensed but have to wait years before being employed. To retain young prospective officers, it seems reasonable that the profession could create a track and find alternative roles for candidates to gain essential experience before interacting with the community on the level of patrol officer.

Finally, the majority of states in the U.S. require applicants to be 21 to be licensed. We were able to research rules and statutes in 44 states and found 27 of those states had an age requirement of 21 and3 states required applicants to be 19 or 20.[5] Additionally, the National Conference of State Legislators has kept a database of professional licensing requirements around the nation and many other professions in different states have older age requirements than 18 including bus drivers, massage therapists, social workers, private detectives, EMTs, truck drivers, electricians, general contractors, teacher's assistants, unarmed security guards, home inspectors and the list goes on. Just in Minnesota children's residential staff, funeral service directors, and nursing home administrators must be 21, and land surveyors must be 25. The most important point is that none of those professions have legal authority to use deadly force.

[5] Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New

3. Standards of Conduct: White Supremacist, Hate and Extremist Groups, Criminal Gang

6700.1600 Standards of Conduct. Subpart 1. It is a violation of standards of conduct to:

H 1. Undermine or jeopardize public trust in law enforcement, establish a Brady-Giglio impairment, or disrupt the cohesive operation of law enforcement by supporting, advocating, or participating in the activities of a white supremacist, hate or extremist group; or criminal gang that:

- *a) promotes derogatory or harmful actions against others based on a person's perceived race, color, creed, religion, national origin, disability, sex, sexual orientation, gender identity, public assistance status or any protected class as defined in Minnesota Statutes, or federal law;*
- *b) promotes the use of threats, force, violence, or criminal activity:*
  - *i. to attempt to deprive or deprive a person or persons of civil rights under the Minnesota or United States Constitution; or*
  - *ii. to further goals that are political, religious, discriminatory, or ideological in nature; or*
- *c) promotes seditious activities, threats or violence against local, state or U.S. Government.*

10 Members Approving Rule Language: *Litsey, Bicking, Lee, Butay, Gross, Edel, Truesdale, Serier, Degroff, Sethuraju*

10 Members Opposing Rule Language: *Enevoldsen, Bolt, Nelson, Paulson, Stille, Soyka, Cemensky, Do,Fahning, Suomala Folkerds*

Dissent Rationale: We would like to clarify that none of the committee members who oppose this rule language as presented endorse or advocate that peace officers should be active, engaged members who carry out harmful activities for any identified hate group. We do advocate for addressing bias and hate in the profession. We are concerned about the broad inclusive language and how the changing definitions of those groups could cause unintentional violations of this rule by a peace officer.

Although there has been 1st Amendment freedom of association concerns regarding the rights of public employees, there are several United States Supreme Court cases that have addressed these concerns and the legal rule is that there needs to be a balance between the employee's free association interest against the government's interest in the effective operation of its office.

Mexico, Ohio, Oklahoma, Oregon, South Dakota, Utah require applicants to be 21 to begin POST training. Alabama'sage requirement is 19 and New York and North Carolina are 20.

We specifically object to the broad language and activities that are identified in Rule 6700.1600 Subpart 1, H.1 that does not demonstrate active engagement in harmful activities. Specifically, we object to the following language:

> *6700.1600, subpart 1, H.3….disrupt the cohesive operation of law enforcement by* ***supporting, advocating, or participating in the activities*** *of a* ***white supremacist****, hate or extremist group, or criminal gang*

The terms support, advocate or participate are very broad and can include activities that do not directly tie to any activities that are considered derogatory or harmful.

- A peace officer may attend an event or activity where ideologies are shared that could be considered derogatory or discriminatory in nature without taking further action. Technically, as this rule is written, a peace officer could be sanctioned by the POST board for being at that event. Since the identification of groups are fluid depending on the current ideology, actions, and political climate, groups that are identified as hate or extremist groups, as well as gangs, fluctuates.
- Support and advocating can be as broad as liking a Social Media post, even though a peace officer has not taken any further material action to promote an organizations mission.
- White Supremacist is a very narrow group, we feel hate and extremist groups cover white supremacist groups.

Suggested wording:… *disrupt the cohesive operation of law enforcement by* ~~***supporting, advocating, or participating in the activities*** *of a* ***white supremacist****,*~~ *actively engaging in material support or direct action in conduct that the officer knows or reasonably should know is to carry out harmful and/or derogatory activities of any* ~~*a white supremacist,*~~ *hate or extremist group, or criminal gang that:*

4. Standards of Conduct: Support, Advocate or Participate

6700.1600 Standards of Conduct. Subpart 1. It is a violation of standards of conduct to:

H3. For the purposes of this item, "supporting, advocating or participating" means:

a) *dissemination of extremist material;*
b) *cyber or social media posts, chats, forums, and other forms of promotion of the group's activities or ideology;*
c) *display or use of insignia, colors, tattoos, hand signs, slogans, or codes;*
d) *financial contributions;*
e) *physical or cyber presence in the group's events; or*
f) *other conduct that could reasonably be considered support, advocacy, or participation*

8 Members Approving Rule Language: Bicking, Lee, Butay, Edel, Gross, Truesdale, Paulson, Sethuraju

13 Members Opposing Rule Language: Litsey, Enevoldsen, Fahning, Nelson, Soyka, Stille, Suomala Folkerds, Bolt, Cemensky, Serier, Degroff, Do

Dissent Rationale: We would like to clarify that none of the committee members who oppose this rule language as presented endorse or advocate that peace officers should be active, engaged members who carry out harmful activities for any identified hate group. We do advocate for addressing bias and hate in the profession. We are concerned about the broad inclusive language and how the changing definitions of those groups could cause unintentional violations of this rule by a peace officer.

Although there has been 1st Amendment freedom of association concerns regarding the rights of public employees, there are several United States Supreme Court cases that have addressed these concerns and the legal rule is that there needs to be a balance between the employee's free association interest against the government's interest in the effective operation of its office.

We specifically object to the broad language and activities that are identified in Rule 6700.1600, Subpart 1, H.3. that does not demonstrate active engagement in harmful activities. Specifically, we object to the following language:

6700.1600, Subpart 1, H. 3. : *For the purposes of this clause, "support, advocate or participate" means:*
H3. For the purposes of this item, "supporting, advocating or participating" means:

a) *dissemination of extremist material;*

- This is a very broad definition and the identification of what is extremist material can vary and fluctuate depending on the person and political climate.

b) *cyber or social media posts, chats, forums, and other forms of promotion of the group's activities or ideology;*

- Very broad and could include activities that do nothing to support, participate, or advocate for the group.

c) *display or use of insignia, colors, tattoos, hand signs, slogans, or codes;*

- Again, a little broad and can include things not related specifically to participating or supporting. Remember, the thin blue line has been used by some extremist and hate organizations as well as used in law enforcement to memorialize fallen officers.

d) *financial contributions;*

- Broad again, this needs to be narrowed down. This could include membership fees in organizations without supporting activities. For example, Hamas is both a recognized terrorist organization and also a recognized political party in Palestine. If someone donated to the political party to help with relief aid, according to the way this rule is written, it would be supporting an extremist organization.

e) *physical or cyber presence in the group's events; or*

- The terms that are highlighted above are broad and do not indicate active engagement in harmful activities. Until there is a common definition of extremist material, this material could cover anything and will be a changing definition.
- Cyber or social media interactions are a very broad category and as written, even liking a social media post would be a possible violation of the standards of conduct.
- Physical or cyber presence in the group's events again is broad and does not necessarily indicate active, engaged support.

f) *other conduct that could reasonably be considered support, advocacy, or participation*

- We believe this broad catchall should not be included at all, conduct needs to be clearly defined.

Suggested wording:

H3. For the purposes of this item, "supporting, advocating or participating" means that an officer should know, or reasonably know, means:

a) *dissemination of extremist material that promotes the use of threats, force, violence, or criminal activity;*

b) *cyber or social media posts, chats, forums, and other forms of promotion of the use of threats, force, violence, or criminal activity to further the group's activities or ideology;*

c) *display or use of insignia, colors, tattoos, hand signs, slogans, or codes that an officer should know, or reasonably know promotes the use of threats, force, violence, or criminal activity to further the group's activities or ideology ;*

d) *financial contributions to promote, support, publicize, or advocate the use of threats, force, violence, or criminal activity. ;*

e) *Direct action and/or engagement in activities that promote the use of threats, force, violence, or criminal activity at physical and/or cyber ~~presence in the~~ group's events; or*

f) ~~*other conduct that could reasonably be considered support, advocacy, or participation*~~

We advocate for the complete removal of Letter F. There does not need to be a broad catchall clause, if any of the activities fall outside of A-E, then they need to be addressed directly under a different section.

5. Required Policy: Public Assembly/First Amendment Activity Policy

6700.XXXX Required Agency Policies. Subpart 1

14 Members Approving Rule Language: Bicking, Enevoldsen, Butay, Gross, Nelson, Edel, Paulson, Suomala Folkerds, Lee, Degroff-Gunter, Serier, Do, Sethuraju, Truesdale

6 Members Opposing Rule Language: Stille, Fahning, Bolt, Litsey, Cemensky, Soyka, Enevoldsen

Dissent Rationale:

This memorandum is intended to provide background and other relevant information to encourage the MN POST Board and its Rules Committee to reconsider its position on this matter. It is not an exhaustive list of relevant legal authority or policy arguments.

A. Background - Authority of MN Board of Peace Officers Standards and Training

The current authority of the MN Board of Peace Officer Standards and Training is outlined in Minnesota Rule 6700.0200 with statutory authority under MSS 626.843. This rule states that the Board of Peace Officer Standards and Training, which operates pursuant to Minnesota Statutes, is authorized to adopt rules and standards relating to the selection, training, and licensing of peace officers and part-time peace officers in Minnesota.

6700.0200 STATUTORY AUTHORITY.

The Board of Peace Officer Standards and Training, which operates pursuant to Minnesota Statutes, sections 626.84 to 626.863, is authorized to adopt rules and standards relating to the selection, training, and licensing of peace officers and part-time peace officers in Minnesota. The following rules are adopted pursuant to Minnesota Statutes, sections 214.12, 626.843, and 626.863.
Statutory Authority: MSS 626.843 - Rules, Standards; Executive Director

Under Minn. Stat. Section 626.843, the POST Board also has the authority to adopt rules related to certification of educational programs for peace officer education, minimum physical and mental health standards, standards of conduct, citizenship requirements, and "Such other matters as may be necessary to stay consistent with sections 626.84 to 626.863." *See* Minn. Stat. Section 626.843 Subd. 1(1)-(13). The POST Board also has the authority to "perform such other acts as may be necessary or appropriate to carry out the powers and duties of the board." Minn. Stat. Section 626.843 Subd. 3(4).

Currently, the administrative rule related to standards of conduct for licensed peace officers allow political subdivisions to maintain broad discretion to set their own, internal standards for officer conduct. *See* Minn. Admin. Rule Section 6700.1500. The administrative rules adopted in Chapter 6700 relate specifically to licensing, standards of conduct, and disciplinary actions. POST Board rules are primarily focused on the administrative practices of licensing (educational standards, license renewal, reporting obligations) and not on individual decision-making and conduct by officers in the field.

A proposed rule must be related to the POST Board's core purpose. In the rule making process a proposed rule will be rejected by the presiding judge if the rule is not rationally related to the agency's objective or the record does not demonstrate the need for or reasonableness of the rule; or if the rule exceeds, conflicts with, does not comply with, or grants the agency discretion beyond what is allowed by, its enabling statute or other applicable law. *See* Minnesota Administrative Rule 1400.2100

B. Past Practice - Required Agency Policies

As guidance to MN law enforcement agencies, the MN POST Board has historically posted the statutorily required model policies on their website, inclusive of 17 statutorily mandated policies.

Recently, the MN POST Board added a "suggested best practices policy"#8 adopted by the Board July22, 2021, "Public Assembly/First Amendment Activity Model Policy". It is currently not a statutorily mandated policy.

Additionally, as outlined in the 2020 IADLEST Minnesota POST Audit, regarding the MN POST Board's jurisdiction over agency operations, the IADLES Audit team found that "Statute requires certain statewide model policies. Agencies must certify that they have adopted a written policy in compliance with the model policy provided by POST Board." Minn. Stat. Chapter 626, which governs peace officers, has several sections specifically related to officer conduct. *See* Minn. Stat. Section 626.8469 (requiring in-service training for crisis intervention, conflict resolution, and implicit bias training); Minn. Stat. Section 626.8434 (prohibiting "warrior-style" training). However, Chapter 626 includes statutory back-up for model policies that the POST board has adopted. *See* Minn. Stat. Section 626.8433 (requiring the POST board to adopt a model policy related to eyewitness identification policies, and that each state and local law enforcement agency adopt a policy "Substantially similar" to the model policy). As such, the only instance of a state-wide, mandated POST policy is one that was enumerated in statute instructing the POST Board to adopt a model policy "in consultation with stakeholders". There is not currently a similar statute related to public assembly/first amendment activity.

The complete list of the **statutorily required policies** are outlined in the In-Service Training, Policy and Reporting section of the Law Enforcement Administrator's Manual for Peace Officer Hiring and Licensing prepared by the Minnesota Board of Peace Officer Standards and Training (November 2018).Additionally, the newly proposed additional requirements for the chief law enforcement officer as outlined in Subpart 2: Chief Law Enforcement Officer, are requirements that have previously been outlined in statute and not rule. For example, see Minn. Stat. Section 626.8433.

The statutorily required model policies, including a newly created "suggested best practices guide" are outlined below as currently posted on the MN POST Board website:

Legislature and Local Control

It is questionable whether the MN POST Board has a rule authority to create and mandate law enforcement policies that are not required in statute. In the past, the mandated policies have been approved by the Minnesota legislature as included in the statutes as outlined in section C. See also AGO Board Manual 2020.

There have been numerous examples numerous examples of proposed legislation that has been debated in the MN legislature, including recent legislation in 2017 - 2021. See below link as an example.

Legislative Efforts to Silence Dissent: The Rise and Fall of Minnesota's Anti-Protest Bill

The unilateral process of mandated policies by the MN POST Board through rule making should not be permitted as it should be reserved for the MN legislature and local governing bodies. The addition of the suggested best practices policy on public assembly/first amendment activity as a mandated policy is an example of this practice that should not be permitted. The MN POST Board should only be requiring policies that have been approved by the MN legislature. To create a rule that requires a mandated policy on any subject matter that has been debated in the legislature or any governing body circumvents the legislative process.

The development and implementation of non-statutorily required model policies needs to be reserved for the state, county, and city law enforcement agencies and is rooted in local control to determine how best to respond to the ever changing needs of a citizenry. Local governments must have the authority and flexibility to meet the challenges of governing and providing citizens with public services, including the required law enforcement policies for their jurisdictions.

The increasingly complex and costly requirements necessary for cities to provide services to their citizens would benefit from a strong partnership between federal, state, and local governments. This partnership should be based upon a shared vision for Minnesota and should allow individual communities to tailor that vision to the unique needs of their citizens without mandates and policy restrictions imposed by state and federal policy makers.

The state should recognize that local governments, of all sizes, are often the first to identify problems and inventive solutions to solve them and should encourage further innovation by increasing local control. The state should not enact initiatives that erode the fundamental principle of local control in cities across Minnesota.

Conclusion

There is no clear authority granted to the MN POST Board to mandate non-statutorily required law enforcement policies by rule and such authority is not explicitly included in statutorily defined authority under MSS 626.843. The process of statewide mandates involving law enforcement policies needs to be reserved for the MN legislature. Local governing bodies must also continue to have authority to develop and implement individual policies in the best interest of their communities and in regard to availability of law enforcement and other resources.

APPENDIX A

Minnesota Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200
St. Paul, MN 55104-3825
(651) 643-3060 • Fax (651) 643-3072
www.post.state.mn.us

Advisory Committee on POST Board Rules Overhaul
CHARTER

This document discusses the Advisory Committee's role, responsibilities, and provides a summary of the rulemaking process.

The Rulemaking Process, Documents, and Time Line.
The rulemaking process is governed by Minnesota Statutes, chapter 14, and Minnesota Rules, chapter 1400. This short summary describes the main parts of the process, important documents, and time line for developing and adopting rules. If you have questions about the process, ask Rebecca Gaspard at 651-201-7781 or rebecca.w.gaspard@state.mn.us.

- **Request for Comments.** The Request for Comments begins the formal rulemaking process. For this project, we published the Request in the August 3, 2020 *State Register* and e-mailed it to our rulemaking mailing list.
- **Proposed Rules.** We are beginning the process of revising MN Rules chapter 6700. During the next 12 months or so, we expect a draft of the rule changes will be developed with input from the Advisory Committee, the Board's Rules Committee, and the Board. The Revisor of Statutes will review the rules draft and edit, as necessary, for form and style. The proposed rules must be consistent with the authority granted to the Board in statute (Minnesota Statutes, chapter 626).
- **Statement of Need and Reasonableness.** The POST Board must justify that each proposed rule requirement is needed and reasonable. "Needed" means that there are problems or a legislative directive that requires us to adopt or amend rules. "Reasonable" means that a proposed requirement is a reasonable solution to a problem. The Board's explanation of why each proposed rule change is needed and reasonable is stated in the Statement of Need and Reasonableness (SONAR).
- **Notice of Intent to Adopt Rules.** When we have finished writing the proposed rule changes, received the Governor's approval and the approval of the Revisor's Office, we will publish a Notice of Intent to Adopt Rules in the *State Register*. We will also publish the proposed rules. In addition, we will mail both the Notice and proposed rules to everyone on the Board's rulemaking list, all licensees, interested persons and to certain legislative committees.
- **30 Day Comment Period.** After the Notice of Intent to Adopt Rules is published, there is a 30 day comment period, during which persons can submit written comments on the proposed rules. Persons can also request a hearing on the rules during the 30 day comment period.
- **Rules Hearing.** If there are 25 hearing requests, the POST Board must hold a hearing on the rules in front of an Administrative Law Judge (ALJ). We are expecting there will be a hearing.
- **Review by Administrative Law Judge.** Whether there is a hearing or not, an ALJ reviews the proposed rules, the SONAR, all the comments received about the proposed rules, the Board's response to those comments, and other documents. The Board may change the proposed rules after considering comments received. The ALJ will approve the rules if the Board has statutory authority for the rules, has shown the rules to be needed and reasonable, has given proper

notice of the proposed rules, and has complied with all other rulemaking requirements.

- **Governor Veto.** After the rules are approved by the judge, and adopted by the Board, the Governor has 14 days to review them. The Governor may veto the rule amendments or let them become effective.
- **Notice of Adoption.** After the Governor's review period, the Board will publish a Notice of Adoption in the *State Register*.
- **Effective Date.** The amendments to the rules become effective five working days after the Notice of Adoption is published, unless the new rules provide a later effective date.
- **Time Line.** This process of drafting revisions to the rules is open-ended, although we hope to complete the rules draft by late 2021. Once the rules draft is approved by the Board and the Governor's office, the Notice of Intent to Adopt Rules is published. It can take another 3-6 months after that before the rules can be adopted.

The Role of the Advisory Committee.

- **Advice, not voting.** The role of the Advisory Committee is to advise the Board on the development of these rules. The Advisory Committee does not have voting authority on what will go in the rules; the Board makes any final decisions. The Advisory Committee does, however, have the power of persuasion and the power that comes from having the information needed to make these rules workable.
- **Represent your interest group.** Each of you likely represents an interest group in one way or another, be it community activists, social justice organizations, advocacy groups, licensed peace officers, cities and counties, law enforcement agencies, and so on. We encourage you to maintain communication with others who share your interests.
- **Consensus.** Our goal is to achieve consensus on as many issues as possible. Even where there is disagreement on some issues, we hope to make the rules as workable as possible for those who have to comply with them.
- **Reasonable comments and suggestions.** We will carefully consider all comments and suggestions about the rules. You will have the most success persuading the Board with your comments and suggestions if you give the reasons behind your thinking, along the same lines as how the Board has to justify the need for and reasonableness of everything in the rules.
- **Advisory Committee Report to the Board.** When the draft of rules is completed, the Advisory Committee will issue a report to the Board, identifying issues and recommendations where there is consensus among committee members.

Regulatory Analysis. Minnesota Statutes, section 14.131, lists eight factors that an agency must analyze when it adopts or amends rules. We will look to you for advice and information as we analyze these factors.

> **From Minnesota Statutes, section 14.131.** The SONAR "must include the following to the extent the agency, through reasonable effort, can ascertain this information:
> **(1)** a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
> **(2)** the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
> **(3)** a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;
> **(4)** a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;
> **(5)** the probable costs of complying with the proposed rule, including the portion of the total

costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;
(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;
(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference; and
(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

Cost to Small Businesses and Small Cities. Minnesota Statutes, section 14.127, requires the agency to determine whether, in order to comply with proposed rules during the first year after they become effective, any small business or small city would have to spend over $25,000. A small business is defined as a business (either for profit or nonprofit) with less than 50 full-time employees. A small city is defined as a city with less than ten full-time employees. We will look to you for information about the cost of compliance for small businesses and cities.

Performance-Based Rules.

- Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the Board's regulatory objectives and maximum flexibility for the regulated party and the Board in meeting those goals.
- The Board will look to you for advice and information on how we can make the rules work better for you, while still meeting our goals for these rules.
- Are there any special situations that we should consider in developing the rules?
- Are there any ways to reduce the burdens of the rules?
- Do you have any other insights on how to improve the rules?

Additional Notice.

- When the Board publishes the proposed rules and the Notice of Intent to Adopt Rules, we also have to "provide additional notification to persons or classes of persons who might be affected by the proposed rule or must explain why these efforts were not made."
- The Board will look to you to help us identify all interested persons and to come up with ways to let them know about the rules. This includes both likely supporters and opponents of the rules.

Local Government Impact

- The Board has to evaluate the fiscal impact and benefits of proposed rules on local governments. As part of this, the Board has to consult with the Department of Minnesota Management and Budget (MMB).
- In addition to consulting with MMB, the Board will look to you to help us identify the fiscal impact and benefits of the proposed rules on local governments, including law enforcement agencies.

Biographical Statements of Advisory Committee on POST Board Rules Overhaul

Bicking, David
Dave Bicking has been a Board member of Communities United Against Police Brutality (CUAPB) since 2012. He specializes in obtaining and analyzing data and other research on police policy, training, and accountability. With other CUAPB leadership, Dave has met bi-monthly with Minneapolis Chief Arradondo to advocate for improved policies, training, and discipline, as well as to share information. Dave served on the POST Board Continuing Education Working Group in 2018. He has also served on the Minneapolis PD Early Intervention System Working Group and on the Legislative Task Force on Body Worn Cameras.
Dave was an appointed volunteer on the Minneapolis Civilian Review Authority from 2008 to 2010, and chaired its Policy Committee. Since then, he has attended nearly every meeting of the CRA and its successor, the Police Conduct Oversight Commission, bringing information and advocacy to those bodies.
He ran (unsuccessfully) for Minneapolis City Council in 2005 and 2009 on a platform of police accountability. Through those campaigns and in his outreach work since, he has spoken with many hundreds of community members about their encounters with police officers. Since his Council campaigns, Dave has continued to engage regularly with the Minneapolis City Council to advocate for reform.

Bolt, Bill
Bill Bolt is the Chief of Police with the Minneota Police Department. Chief Bolt has over 22 years of policing experience with 17 years in police leadership. Added to this, Chief Bolt has over 24 years of experience as an EMT (EMR/EMT instructor) as well as working for an ambulance service and 3 years as a fireman. Chief Bolt has been involved in the hiring, training, and mentoring of police officers for 17 years along with policy writing. Chief Bolt also is a recognized instructor by the Minnesota POST Board for Use of Force and Firearms training. In addition to being part of this committee, he has also participated in the DPS advisory group for best practice response to the changes in the deadly force law, a previous POST board advisory group regarding Use of Force, and is currently on an advisory group with the Minnesota Chiefs of Police Association working to establish best practices for mental health/crisis response.
Chief Bolt's desire to participate in this group was to ensure that any changes or additions to the rules are reasonable and that they can be implemented at the street level and by all agencies in Minnesota. "Change for the sake of change is never a good idea and statewide change based upon a crisis reaction to a particular event or agency is dangerous to officers and the community whom they serve. For real change to occur implementation must be a primary consideration along with reasonable and tangible results. We need to be viewing all changes through the eyes of those tasked with implementing the changes as well as those who will be living with the consequences (community members) of the change."

Butay, Elliot
Elliot Butay is the Criminal Justice Coordinator at NAMI Minnesota (National Alliance on Mental Illness) and advocates for best practices in the criminal legal system for youth and adults living with mental illnesses. Elliot conducts research, coordinates with community stakeholders, and educates policy makers to promote policy changes. They have a BA in music and a background working in faith communities and engaging leaders through community organizing. They have served on the Minnesota State Taskforce on Law Enforcement Education Reform and have advocated for several years at the Minnesota Legislature to increase standards for mental health training for law enforcement and

increase access to mental health crisis teams through Travis' Law. Their passion for building a transformative justice system arises from their lived experience and family members living with mental illnesses, and the stories of all those who have suffered harm in the system.

Cemensky, Jean

Jean Cemensky is a Commander for the Minnesota State Patrol with 27 years of work experience as a peace officer in Minnesota. She previously worked in training with the federally funded Police Corps program, the State Patrol Academy and the Minnesota State Patrol's Law Enforcement Training Opportunity (LETO) program. She also worked as a district field supervisor and supervisor for the agency's Commercial Vehicle section. She holds a Master's Degree in Police Leadership from Concordia University.

Degroff-Gunter, Gwen

Gwendolyn DeGroff-Gunter is a retired Minneapolis Police Lieutenant. She served the citizens of Minneapolis for twenty years in a variety of positions including Public Housing Narcotics Officer, School Resource Officer, Juvenile Investigator, Child Abuse Investigator, Domestic Assault Investigator, and Commander of the Family Violence Unit. She has a BS in Psychologywith an emphasis on Child Psychology, from the University of Illinois at Chicago. During her 20year police career, Gwen worked extensively with Hennepin County Child Protection, Ramsey County Child Protection, Hennepin County Attorney's Office, and various other law enforcement agencies. She has also worked closely with many community groups as such The Kingfield Neighborhood, Jordan Area Community Council, Minneapolis Urban League, TheLink, The Bridge for Run Away Youth and Twin Cities Pride.

Gwen retired from the police department in 2012 and began working at Avenues for Homeless Youth and YouthLink, where she was able to utilize her skill set to interact directly with youth in need. In these new roles she assisted youth with creating résumés, finding and securing housing, completing work applications and helping youth navigate their respective county social service networks. In 2015 Gwen began working for the Metro Transit Police Department as a civilian Juvenile Outreach Coordinator. She worked with community-based organizations to provide youth with vital information regarding their safety on trains and buses and how to navigate police encounters. Gwen retired from Transit in 2020 and began her career as a SeniorLaw Enforcement Advisor for International Criminal Investigative Training Assistance Program (ICITAP) for the US Department of Justice, Nepal Mission. She will be traveling to Nepal to assist their law enforcement personnel with reorganization.

Do, Vincent

Vincent has been a police officer since September 2020 and is currently serving with the Winnebago Police Department located in rural south-central Minnesota. Prior to entering law enforcement, he worked full time in healthcare security at Allina Health, primarily at Abbott Northwestern Hospital, for several years. During his time at Allina Health, he observed and was a part of many interactions between those in crisis, law enforcement, and healthcare professionals and saw the need for more mental health resources for not only the community but also for law enforcement. He also witnessed firsthand the destruction of the community during the height of civil unrest in Minneapolis. It was a very painful and sobering experience that played a hand in why he wanted to be a part of this Advisory Committee.
He has a Bachelor of Arts Degree from the University of St. Thomas and a Minnesota Law Enforcement Skills Certificate from Alexandria Technical and Community College.
As a part of the POST Board Rules Advisory committee, he brings his perspective as the son of Vietnamese immigrants, a rural police officer just starting his career, and as an advocate for better mental health resources and training.

Edel, Sara

Sara Edel is a faculty member in criminal justice and law enforcement at Century College. She is also the Professional Peace Officer Education (PPOE) Coordinator at Century College.

She previously served as a licensed MN Peace Officer for 26 years, where she worked as a Special Agent at the MN Bureau of Criminal Apprehension from 1997 to 2010, a Deputy Sheriff at Ramsey County Sheriff's Office from 1984 to 1997, and a Police Officer for Preston Police Department in 1984.
She has previous teaching experience as a Visiting Lecturer at Hamline University in 2019 and 2020, as an adjunct faculty at University of St. Thomas in 2019, and as a Community Faculty at Metropolitan State University from 1995 to 2019.
Her education includes a Ph.D. In Criminal Justice from the University of North Dakota in 2018, a M.A. in Human Resource Management with a Training and Development Certificate from University of St. Thomas in 1994, and a B.A from St. Could State University in 1983.

Enesvoldsen, Craig
Craig is the Police Chief of Brooklyn Park, a very diverse city in the NW metro area, with a population of roughly 80,000. He has served that community for over 31 years and has served in numerous capacities, becoming the chief in 2013. Two of the departments' primary missions are the reduction of crime and diversification of their workforce. Overall crime in Brooklyn Park was at an all-time low at the end of 2021 although they did experience a spike in violent crime, much like many communities across the country. Through their cadet program and enhanced hiring practices, the department has nearly doubled their diversity in staff in the past ten years.

Fahning, Mark
Mark Fahning - retired. Minnesota State Patrol 28 years (5 years Minneapolis station 23 years Mankato station). I was a Background Investigator, Field Training Officer, Instructor in technology at the State Patrol Academy and statewide updates, Commercial Vehicle Inspector, Staff Officer at two recruit classes, Legislative Trooper at two legislative sessions. River Falls (WI) Police Department 6 years, St. Croix County Sheriff's Office (part-time) Deputy 4 years. Licensed in Wisconsin 1993, Minnesota 1990. Minnesota Post Board Member, April 2009 to June 2020.

Gross, Michelle
Michelle Gross has been involved in police accountability work for 34 years and is founder and president of Communities United Against Police Brutality, an all-volunteer Minnesota non-profit. She is a retired health care manager and educator, now working as a paralegal.

Lee, Elisabeth
Elisabeth Samson Lee is a citizen representative on the rules advisory group. She has firsthand experience with the POST Board complaints process and has consistently advocated for greater transparency and accountability since she was sexually assaulted by a colleague while working in a Minnesota sheriff's office. Lee is focused on standards of conduct, disciplinary action, and improving the complaint process itself to ensure better and more just outcomes for all Minnesotans.

Litsey, Bryan
My tenure as a police officer in Minnesota spanned nearly 37 years. The majority of this time was spent with the South Lake Minnetonka Police Department, where I advanced through the ranks to serve as Chief of Police and Emergency Management Director for my last 16 years with the Department. During this time, I also taught several courses at Minnesota State University, Mankato as an adjunct professor in the Law Enforcement Program and served on the Chanhassen City Council.
Upon retiring my badge on November 30, 2014, I took a few days of leisure before starting a new full-time adventure with Metropolitan State University on December 3, 2014. I am currently part of the resident faculty in the Law Enforcement Program. My current duties include teaching and advising assignments as Assistant Professor; serving as Director of Professional Peace Officer Education and Training; and overseeing the Law Enforcement Licensing Certificate Program.

My academic pursuits include a Bachelor of Science degree in Criminal Justice from Bemidji State University and a Master of Arts degree in Public Safety Education and Administration from the University of St. Thomas. I also had the good fortune to attend the F.B.I. National Academy in Quantico, Virginia. This has been supplemented by hundreds of hours of in-service training covering a variety of criminal justice topics.

I continue to maintain my Peace Officer License in Minnesota and stay connected to the profession through such organizations as the Minnesota Chiefs of Police Association and the Minnesota Board of Peace Officer Standards and Training. I also remain in touch with my law enforcement colleagues which helps keep me in the loop on current issues and emerging trends in law enforcement.

Nelson, Pat

Pat Nelson is a Professor in the Department of Criminal Justice at Minnesota State University, Mankato. She has a BS in Law Enforcement and a Masters in Public and Non-Profit Administration from Metro State University (MN), and a PhD in Public Policy and Administration from Walden University (MN). She has served as the Department Chair and Law Enforcement Program Director. Her research interests include peace officer communications, de-escalation, social networks, terrorism, and anti-radicalism strategies.

Prior to joining MSU Mankato, she served as an officer and sergeant for the Minneapolis (MN) Police Department for 17 years.

Paulson, Theresa

Theresa R. Paulson is a child protection defense and criminal defense attorney in Saint Paul, Minnesota. She has represented parents in Child Protection matters as Court Appointed counsel in Ramsey County, Minnesota for the last four years. Ms. Paulson works in private practice as a criminal defense attorney in matters ranging from misdemeanor to felony cases, including representing water protectors in Cass, Aitkin, and Hubbard Counties during 2021.

Ms. Paulson also represents victims of domestic violence in Order for Protection Cases, and represented victims of sexual assault and human trafficking for Civil Society from 2016 -2018. As part of her criminal practice, she has apprenticed for a Municipal Prosecutor.

Ms. Paulson has served as the President of the 19th District Bar Association from 2016-2019, and President of the Washington County Bar Association in 2019. Prior to starting her practice, Ms. Paulson served as a member of the End Revenge Porn Now Legislative Task Force in 2016, volunteered as a Judge for MSBA Mock Trials, worked as a Guardian Ad Litem in Stillwater, Minnesota, and served as law clerk in Ramsey County Criminal and Juvenile Courts. During Law School, Ms. Paulson clerked for a prosecutor's office, the Public Defenders Office, and externed for a District Court Judge in Washington County, Minnesota.

Prior to becoming an attorney, Ms. Paulson worked as a 911 Operator and Police Dispatcher for the Saint Paul Police Department/Ramsey County Emergency Communications Center from 2005 - 2015. While employed there, Ms. Paulson organized and led a group to build the RCECC's first website, and served as a Member for the Saint Paul Police Commendations Review Board from 2006 - 2009.

Serier, Jack

Jack Serier is the Training Commander for the Saint Paul Police Department and past Sheriff of Ramsey County with 30 years' experience as a peace officer in Minnesota. He holds a doctoral degree in Leadership, Policy, and Administration and has taught in professional development and higher education for over 20 years.

Sethuraju, Raj

dr. raj
he/him/they
recovering criminologist

associate professor, Metropolitan State University
raj is a recovering criminologist, alcoholic, and survivor of sexual abuse, with over 20 years of community-based activism as a researcher and educator. Inspired by our youth's resilience and the men in our prison systems, he trains school staff, probation agents, community members, and justice personnel on restorative practices, trauma and healing, value-centered leadership, community building, and unpacking implicit biases. He believes in raising consciousness utilizing the restorative circle process. In his latest work, raj explores our justice system's depths and creates a framework in which knowledge, critical consciousness, and heart become the root of our practices.
https://zoom.us/rec/play/xAeqqRXhsbkqyLWxqoJG85drXxlCFl7xV9WZ-gGClWp0B4Zf-pc4yNdDpkkTpfCgX_MpGyRmoKrDrixm.fBESfJCFzUdVJvW3 (raj moderated a panel on healing and racial justice work)
https://www.youtube.com/watch?v=QC6Z2IwQuSs (overcoming childhood trauma)
https://www.newsy.com/stories/minnesota-s-police-oversight-board-in-transition/
https://vimeo.com/533787348 (environmental and racial justice)
https://www.facebook.com/watch/live/?v=4267053966662462&ref=watch_permalink (peace conference panel)
https://drive.google.com/file/d/1bnOUj9HYcCTUGkBlAcYGSM7BWFHhB_Rv/view **(MLK keynote at Lewis and Clark College, 2021)**
https://www.youtube.com/watch?v=d5FIkKvcYJw **(implicit bias)**
https://www.youtube.com/watch?v=n9FlWon3Hkc (race ambassador award)
https://www.youtube.com/watch?v=d5PfNoB5Z7g (TEDxUMN)
https://video.tpt.org/video/aftermath-of-thurman-blevins-shooting-31124/ (TPT show)
https://www.mnchiefs.org/metro-state-walk-in-someone-elses-shoes (healing)
https://cmrsmn.org/session/exploring-restorative-justice-with-raj/ (training flyer)
https://www.mprnews.org/story/2018/05/29/racial-bias (MPR)
https://www.stpaul.gov/DocumentCenter/View/81444.pdf (training volunteers for ACLU)
https://mcpa.memberclicks.net/assets/documents/WEBSITE/3.5%20minutes.pdf (police training)
https://mnipl.org/2020/01/tickets-now-live-for-climate-justice-night-2020/
https://metrocatalyst.wordpress.com/tag/awards/
https://www.facebook.com/hellepanke/videos/324880185208810 (interview by German socialist media)

Soyka, Steve
NAME: Steve Soyka
TITLE: Sheriff, Stearns County, MN
EXPERIENCE: Employed in Law Enforcement for the past 30 years. Employed by 2 different Sheriff Office's during that time. Held several positions within these agencies including patrol, narcotics investigator, SWAT team commander, detective/medical examiner, Violent Offender Task Force, Sergeant and elected to Stearns County Sheriff in Jan. 2019.
COMMUNITY INVOLVEMENT: As Sheriff, entered into a Community Policing agreement between the Sheriff Office and several members of church, civic and community based groups within the minority communities of Stearns County. Formed a Community-Sheriff Engagement Team that conducts and holds several public related events each year.
COMMUNITY ORGANIZATIONS: Board Member of Whitney Senior Center (regional Senior Center) Member of local Lions club, Fraternal Order of Police Lodge, Volunteer at both. As such, work numerous events related to these organizations such as Fish Frys, meat raffles, Special Olympics polar plunge and torch run, city events and representation.
-B.A. degree in Criminal Justice from St. Cloud State University
-Graduate of the 116th class of the National Sheriff Institute
-Graduate of Bureau of Criminal Apprehension Supervision and Management Program
-Graduate of Bureau of Criminal Apprehension Senior Management Program

Stille, Tracy
Tracy Stille is the Public Safety Project Coordinator with the League of Minnesota Cities Insurance Trust (LMCIT) in St. Paul, MN. He has worked for over 40 years in Minnesota public safety and risk management - as a public safety specialist with the League and as a police officer with several cities in Minnesota, most recently as a police captain with the City of Maple Grove in Hennepin County.
He holds a bachelor's degree in law enforcement from Mankato State University and a master's degree in criminal justice from St. Cloud State University, where he has also taught as an adjunct professor of criminal justice. He is also a graduate of the School of Police Staff and Command thru Northwestern University and is a certified emergency manager in Minnesota.

Suomala Folkerds, Aaron
Rev. Dr. Aaron Suomala Folkerds works full time as an Assistant Professor of Graduate Counseling at Minnesota State University-Moorhead and is a part-time wellness coordinator with the Moorhead Police Department. He has a B.A. in psychology from the University of MN-Morris (2000), an M.Div. degree from The Lutheran School of Theology at Chicago (2007), an MS degree in Mental Health Counseling from Minnesota State University-Mankato (2012) and an Ed.D. in Counselor Education and Supervision also from Minnesota State University-Mankato (2019). He studied theology at a seminary in Brazil for a year, trained as a hospital chaplain on the south side of Chicago and is a Nationally Registered Emergency Medical Technician (NREMT). He is also an ordained Lutheran pastor in the ELCA and a Licensed Marriage and Family Therapist (LMFT) in the state of MN.

Truesdale-Moore, Sherrise
Dr. Sherrise Truesdale-Moore is a professor of criminal justice and teaches primarily in the corrections program at Minnesota State University, Mankato. She holds a PhD from Howard University with a concentration in criminology and urban sociology, a Masters' in criminal justice from Coppin State University, and two Bachelor of Science Degrees – in paralegal studies from Steven University and in Marketing from Hampton University. She has over 29 years of professional criminal justice and legal experience, including the professorate in higher education, supervision over federally funded Maryland correctional vocational program for adjudicated youth, United State Attorney's Office, and criminological, legal, and legislative research. Her research interests include re-entry issues, race, cultural competency, and criminal justice education. Dr. Truesdale-Moore teaches juvenile delinquency, correctional counseling, and cultural competency in corrections and is a master trainer for the Youth Level Service inventory 2.0. She conducts cultural competency and YLS 2.0 trainings both in Minnesota and nationally. Not only has Dr. Truesdale-Moore been a member of the MSU, Mankato for 18 years, she has taught on every level of education – in 4-year university, community college, and in secondary education. She is a member of the Academy for Criminal Justice Education, American Society of Criminology, Minnesota Corrections Association, and is a board member for the Blue Earth County Community Corrections.

Peace Officer Standards and Training Board

Proposed Permanent Rules Relating to Education and Licensing of Peace Officers

6700.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the terms in this part have the meanings given them, unless another intention clearly appears.

Subp. 2. **Agency.** "Agency" has the meaning given it in Minnesota Statutes, section 626.84, subdivision 1, paragraph (f).

Subp. 3. **Appointing authority.** "Appointing authority" means the public official, board, commission, or other person or group of persons responsible for the initial appointment and continued tenure of persons employed by the agency as peace officers and part-time peace officers.

Subp. 4. **Appointment.** "Appointment" means the official declaration provided by the agency to the POST Board which indicates that the agency has engaged the services of a peace officer or part-time peace officer beginning on a specified date.

Subp. 5. [Repealed, 14 SR 12]

Subp. 5a. **Professional peace officer education.** "Professional peace officer education" means:

A. a postsecondary degree that includes instruction as specified in part 6700.0300, subpart 1; or

B. a postsecondary certificate that includes instruction as specified in part 6700.0300, subpart 1, and is awarded by a certified school to individuals who already possess a postsecondary degree.

Subp. 6. **Board or POST Board.** "Board" or "POST Board" means the Board of Peace Officer Standards and Training.

Subp. 7. **Certification.** "Certification" means official acknowledgment by the board that a school meets all of the criteria listed in parts 6700.0300 and 6700.0400 to offer professional peace officer education or the academic component or clinical skills component of the professional peace officer education.

Subp. 8. **Chief law enforcement officer.** "Chief law enforcement officer" means the designated head and the highest ranking board-licensed peace officer within an agency.

Subp. 9. [Repealed, 14 SR 12]

Subp. 9a. **Conviction.** "Conviction" means that a person has been charged with a crime and the person was found guilty of that crime, regardless of length of or imposition or execution of any sentence received, any deferred finding of guilt or imposition of sentence by the court, any continuance for dismissal granted by the court, or any expungement of the offense records or conviction.

Subp. 10. **Coordinator.** "Coordinator" means a person who is employed full-time by a certified school, and designated by a certified school, to manage the day-to-day activities of the professional peace officer education program.

Subp. 11. **Eligible to be licensed.** "Eligible to be licensed" means the status of an individual who has passed the peace officer licensing examination or the reciprocity examination, but who has not yet secured employment as a peace officer.

Subp. 12. **Executive director.** "Executive director" means executive director of the board.

Subp. 12a. **Felony.** "Felony" means a crime punishable by more than one year in prison.

Subp. 13. [Repealed, 18 SR 1961]

Subp. 14. [Repealed, L 2005 c 10 art 1 s 82]

Subp. 15. **Guest lecturer.** "Guest lecturer" means a person who is invited by the instructor to teach occasionally in a school or a board-approved course in continuing education.

Subp. 16. **Inactive licensed officer.** "Inactive licensed officer" means an individual who holds a currently valid peace officer license issued by the board, but who is not currently employed by an agency.

Subp. 17. **Instructor.** "Instructor" means a person who is recognized as being qualified to teach in a school or board-approved continuing education course.

Subp. 18. **Part-time peace officer.** "Part-time peace officer" has the meaning given it in Minnesota Statutes, section 626.84, subdivision 1, paragraph (d).

Subp. 19. **Peace officer.** "Peace officer" has the meaning given it in Minnesota Statutes, section 626.84, subdivision 1, paragraph (c).

Subp. 20. **School.** "School" means a postsecondary institution which is accredited by one of the six regional accrediting associations and authorized to award academic degrees including, but not limited to, Associate of Arts (A.A.) degrees, Associate of Science (A.S.) degrees, Bachelor of Arts (B.A.) degrees, and Bachelor of Science (B.S.) degrees.

Subp. 21. [Repealed, 18 SR 1961]

Subp. 22. **Postsecondary degree.** "Postsecondary degree" means an academic degree awarded by a school.

Subp. 23. **Postsecondary certificate.** "Postsecondary certificate" means a nonacademic title awarded by a school that shows completion of a specific course of study.

Subp. 24. **Certified school.** "Certified school" means a school that has been given certification.

Subp. 25. **Classroom discrimination.** "Classroom discrimination" means oral, written, graphic, or physical conduct directed against any person or group of persons because of their race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, disability, or veteran's status that has the purpose or reasonably foreseeable effect of demeaning or intimidating that person or group of persons.

Subp. 26. **Discriminatory conduct.** "Discriminatory conduct" means a pattern of conduct or a single egregious act that evidences knowing and intentional discrimination based on the perception of a person's race, color, creed, religion, national origin, disability, sex, sexual orientation, gender identity, or public assistance or any other protected class as defined in Minnesota statutes or federal law; and would lead an objectively reasonable person to conclude that the individual may not perform the duties of a peace officer in a fair and impartial manner.

Subp. X. Seasonal Position: "Seasonal Position" means a position which is necessary due to recurring seasonal fluctuations in staffing needs and does not exceed 16 weeks in duration.

Subp. X. Temporary Position: "Temporary position" means a short term of employment with a designated end date of six months or less that may not exceed 300 hours in a year.

6700.0601 EXAMINATION STANDARDS.

Subpart 1. **Grounds for denial.** Violations of the following standards shall be grounds to deny an applicant to take an examination or to deny or revoke eligibility for a license:

A. making any false material statement to the board;

B. communicating with any other person in any way during an examination, except with the express permission of the monitor;

C. referring to books or any study material during the examination, except with the express permission of the monitor;

D. obstructing a board investigation;

E. without board authorization, possessing a copy of any of the board's examinations;

F. aiding another person to violate items A to E; or

G. ~~having been convicted of any crime listed as a disqualification from appointment to the position of~~ failing to meet the minimum selection standards for licensure as a peace officer under part 6700.0700~~, subpart 1, item F~~.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

6700.0670 BACKGROUND INVESTIGATION.

Subpart 1. **Applicants.**

A. Each applicant for employment as a peace officer must provide a personal history statement with the application. The statement must include:

(1) background information on the topics addressed in subpart 2;

(2) a list of current and former names or aliases used by the applicant;

(3) a complete list of all law enforcement agencies the applicant has applied to in the previous six years;

(4) a signed declaration attesting that all of the information the applicant has provided during the background investigation and in the personal history statement is true and correct to the best of the applicant's knowledge;

(5) a signed release allowing background investigation information to be shared with the board and with other law enforcement agencies on request; and

(6) any additional information the applicant wishes to include.

B. Each applicant must consent to, disclose, and facilitate a review of social media accounts, platforms, and groups in which the applicant has participated to the extent permitted by law. An applicant is not required to provide login information.

6.1 C. Each applicant who is currently or previously licensed as a peace officer must
6.2 authorize the release to the employing agency and board of the officer's personnel files,
6.3 including disciplinary, termination, civil or criminal investigation, and other records or
6.4 information that are directly related to licensure.

6.5 D. Each applicant who is currently or previously licensed as a peace officer must
6.6 disclose any conduct that resulted or may result in an impeachment disclosure or
6.7 Brady-Giglio impairment.

6.8 Subp. 2. **Requirements for background investigation.**

6.9 A. Before employing an unlicensed or licensed applicant in a peace officer position,
6.10 the law enforcement agency must complete a background investigation on the applicant,
6.11 except as stated in item B. The
6.12 background investigation must be completed no earlier than six months prior to the agency's
6.13 offer of employment to an applicant. The background investigation may not be conducted
6.14 by the chief law enforcement officer or by anyone involved in selection of applicants for
6.15 peace officer positions and must comply with Minnesota Statutes, section 363A.08,
6.16 subdivision 4, paragraph (a), clause (1). Nothing in this chapter precludes an agency from
6.17 performing a more stringent background check. A background investigation must address
6.18 the following elements:

6.19 (1) United States citizenship status or verification that the applicant is eligible
6.20 to work in the United States under federal requirements;

6.21 (2) criminal history and arrests identified by means of electronic data transfer,
6.22 criminal records, histories, and warrant information through current state and federal systems
6.23 such as the Minnesota Crime Information System and the National Instant Criminal
6.24 Background Check System;

7.1 (3) Minnesota Department of Public Safety, Division of Driver and Vehicle
7.2 Services records and other states' driving records as applicable;

7.3 (4) drug and alcohol use;

7.4 (5) behavior indicative of discriminatory conduct as defined in part 6700.0100;

7.5 (6) education verification;

7.6 (7) employment history;

7.7 (8) military history verification;

7.8 (9) personal and professional references, such as friends, associates, family
7.9 members, and neighbors;

7.10 (10) personal interview. Personal interviews may occur before, during, and
7.11 after the investigation and may be used to discuss, among other topics, any arrest or
7.12 conviction records and any discrepancies or concerns raised in the investigation;

7.13 (11) residential history;

7.14 (12) records checks, such as open sources or social media, and financial
7.15 information, as permitted by law; and

7.16 (13) inquiry to the local prosecuting authority and law enforcement agency
7.17 in any jurisdiction in which the applicant has served as a peace officer as to whether the
7.18 applicant has any potential impeachment disclosure or Brady-Giglio impairment.

7.19 B. An agency
7.20 may choose to limit the scope of the background investigation to a criminal history check
7.21 and a driving records check when:

7.22 (1) the position being filled is for a seasonal or temporary position; and

8.1 (2) the applicant remains currently employed in Minnesota as a peace officer
8.2 by a different agency as verified in writing by the current employing agency.

8.3 C. Results of the background investigation must be retained by the law enforcement
8.4 agency for the duration of any resulting employment. If the applicant is not employed by
8.5 the agency, the background investigation must be retained for six years or as required by
8.6 the agency's retention schedule, whichever is longer.

8.7 Subp. 3. **Chief law enforcement officer.**

8.8 A. The chief law enforcement officer must notify the board as soon as possible
8.9 but no later than ten days after the date that:

8.10 (1) a background investigation is initiated, giving the applicant's full name,
8.11 date of birth, and peace officer license number, if applicable; and

8.12 (2) a background investigation identifies:

8.13 (a) a disqualifying offense under the minimum selection standards in
8.14 part 6700.0700, giving the specific offense or offenses; or

8.15 (b) for a licensed peace officer, a violation of standards of conduct under
8.16 this chapter.

8.17 B. When an applicant who is a currently licensed peace officer is identified through
8.18 a background investigation as having a disqualifying offense, the board must notify the law
8.19 enforcement agency employing that officer.

8.20 **6700.0675 PSYCHOLOGICAL SCREENING.**

8.21 A. A pre-employment psychological screening of an applicant for a peace officer
8.22 position must be conducted after a conditional job offer by a law enforcement agency and
8.23 must be conducted only by a psychologist licensed in Minnesota or the state in which the
8.24 psychologist practices. The screening must include:

9.1 (1) a written psychological test battery relevant to the responsibilities of a
9.2 peace officer and the pre-employment psychological screening criteria established by the
9.3 law enforcement agency;

9.4 (2) an in-person or virtual interview conducted by the psychologist;

9.5 (3) to the extent possible as determined by the psychologist, an evaluation
9.6 of a predisposition on the part of the applicant to engage in discriminatory conduct as defined
9.7 in part 6700.0100; and

9.8 (4) a written report provided by the psychologist in the manner requested by
9.9 the law enforcement agency that addresses the psychological demands of a peace officer's
9.10 responsibilities and an evaluation of any emotional or mental condition that might adversely
9.11 affect the performance of the duties as a peace officer.

9.12 B. The psychological screening must conform to the standards of the Americans
9.13 with Disabilities Act.

9.14 C. Psychological screenings older than one year are no longer valid for the purpose
9.15 of satisfying the pre-employment psychological screening requirement.

9.16 D. The psychologist's written report on the psychological screening must be
9.17 retained by the agency for the duration of any resulting employment. If the applicant is not
9.18 employed by the agency, the report must be retained for six years or as required by the
9.19 agency's retention schedule, whichever is longer.

9.20 E. An agency may choose not to complete a psychological screening of the
9.21 applicant when:

9.22 (1) the position being filled is for a seasonal or temporary position; and

9.23 (2) the applicant remains currently employed in Minnesota as a peace officer
9.24 by a different agency as verified in writing by the current employing agency.

6700.0700 MINIMUM SELECTION STANDARDS.

Subpart 1. **~~Selection standards~~ Applicants not yet licensed.** ~~A person eligible to be licensed shall meet the following minimum selection standards before being appointed to the position of peace officer. The appointing authority may affirm that the applicant has already completed certain of these standards, but the affirmation must be documented pursuant to subpart 2.~~ An applicant accepted by the board as eligible to be licensed or a peace officer currently licensed in Minnesota may apply for a peace officer position with a law enforcement agency. Prior to employment, the law enforcement agency must establish and document that the following minimum selection standards are met by the applicant. The applicant must:

A. ~~The applicant shall~~ be a citizen of the United States~~.~~ or eligible to work in the United States under federal requirements;

B. ~~The applicant shall~~ possess a valid Minnesota driver's license~~;~~ or ~~in case of residency therein~~, when residing in another state, a valid driver's license from ~~another~~ that state~~; or eligibility to obtain either license.~~;

C. ~~The applicant shall complete a comprehensive written application.~~ submit to a psychological screening that meets the requirements of part 6700.0675:

D. ~~The applicant shall submit to~~ provide a complete personal history using a form provided by the law enforcement agency and submit to a thorough background ~~search, including searches by local, state, and federal agencies, to disclose the existence of any criminal record or conduct which would adversely affect the performance by the applicant of peace officer duties.~~ investigation conducted by the agency that meets the requirements of part 6700.0670.

~~E. The applicant must not be required to register as a predatory offender under Minnesota Statutes, section 243.166 or 243.167.~~

~~F.~~ E. ~~No applicant may be appointed to the position of peace officer who has~~ not been convicted of:

~~(1) of a felony in this state or in any other state or federal jurisdiction;~~

~~(2)~~ (1) ~~of any~~ a felony in Minnesota or an offense in ~~any other state or federal~~ another jurisdiction ~~which~~ that would have been a felony if committed in Minnesota;

~~(3) under Minnesota Statutes, section 609.224, 609.2242, 609.231, 609.2325, 609.233, 609.2335, 609.234, 609.324, 609.465, 609.466, 609.52, or 609.72, subdivision 3; or convicted under any state or federal narcotics or controlled substance law irrespective of any proceeding under Minnesota Statutes, section 152.18, or any similar law of another state or federal law; or~~

~~(4) of any of the crimes listed in this item in another state or federal jurisdiction, or under a local ordinance that would be a conviction if committed in Minnesota.~~

(2) any of the following nonfelony offenses or the equivalent in another jurisdiction:

(a) gross misdemeanor assault in the fifth degree under Minnesota Statutes, section 609.224;

(b) bias crimes, including assaults motivated by bias under Minnesota Statutes, section 609.2231, subdivision 4, and criminal damage to property under Minnesota Statutes, section 609.595, subdivision 2, paragraph (b);

(c) domestic assault under Minnesota Statutes, section 609.2242;

(d) violation of a domestic abuse no contact order under Minnesota Statutes, section 629.75, subdivision 2;

(e) violation of an order for protection under Minnesota Statutes, section 518B.01, subdivision 14;

12.1 (f) harassment or stalking under Minnesota Statutes, section 609.749;

12.2 (g) violation of a harassment restraining order under Minnesota Statutes,
12.3 section 609.748, subdivision 6;

12.4 (h) sexual extortion under Minnesota Statutes, section 609.3458;

12.5 (i) any offense that would require the applicant to be registered as a
12.6 predatory offender under Minnesota Statutes, section 243.166 or 243.167;

12.7 (j) criminal sexual conduct under Minnesota Statutes, sections 609.341
12.8 to 609.3451;

12.9 (k) indecent exposure under Minnesota Statutes, section 617.23;

12.10 (l) criminal sexual conduct in the fifth degree under Minnesota Statutes,
12.11 section 609.3451;

12.12 (m) any mistreatment of a vulnerable adult, including under Minnesota
12.13 Statutes, sections 609.2231; 609.231; 609.2325; 609.233; 609.2335; 609.234; and 609.72,
12.14 subdivision 3;

12.15 (n) patrons of prostitution under Minnesota Statutes, section 609.324,
12.16 subdivision 2;

12.17 (o) making false claims for profit to a public body or officer under
12.18 Minnesota Statutes, section 609.465;

12.19 (p) attempting medical assistance fraud under Minnesota Statutes, section
12.20 609.466;

12.21 (q) theft under Minnesota Statutes, section 609.52, except that
12.22 misdemeanor theft of movable property valued at $500 or less is not an automatic
12.23 disqualification;

(r) interference with an emergency call under Minnesota Statutes, section 609.78, subdivision 2, clause (1);

(s) nonconsensual dissemination of private sexual images under Minnesota Statutes, section 617.261;

(t) interference with privacy under Minnesota Statutes, section 609.746;

(u) malicious punishment of a child under Minnesota Statutes, section 609.377;

(v) mistreating animals under Minnesota Statutes, section 343.21;

(w) misconduct of a public officer or public employee under Minnesota Statutes, section 609.43; and

(x) narcotics or controlled substance law, excluding any nonfelony marijuana offenses;

F. not be listed on the National Decertification Index or have had a law enforcement license, certification, or authorization to serve as a law enforcement officer in any jurisdiction revoked or rescinded;

G. be free of any indication of discriminatory conduct that would cause a reasonable person to call into question the applicant's ability to impartially serve and protect members of protected groups consistent with the Minnesota Human Rights Act, Minnesota Statutes, chapter 363A, and federal law;

H. have no record or indication of participation or support of an extremist or hate group;

~~G.~~ I. ~~The applicant shall~~ be fingerprinted ~~for the purpose of disclosure of any felony convictions Fingerprint cards shall~~, and the fingerprints must be forwarded by the agency to ~~the appropriate divisions of~~ the Bureau of Criminal Apprehension and the Federal

Bureau of Investigation. ~~.~~ The results of the fingerprint check must be maintained in the background investigation report. ~~The chief law enforcement officer shall immediately notify the board if a previous felony conviction is discovered.~~;

~~H.~~ J. ~~A licensed physician or surgeon shall make a thorough medical examination of the applicant to determine that the applicant is~~ be free from any physical condition ~~which~~ that might adversely affect the performance of peace officer duties~~.~~, as established through an exam by a licensed medical professional;

~~I.~~ K. ~~An evaluation, including an oral interview, shall be made by a licensed psychologist to determine that the applicant is free from any emotional or mental condition which might adversely affect the performance of peace officer duties.~~ have passed a psychological screening that was conducted under part 6700.0675.

~~J. The applicant shall pass a job-related examination of the applicant's physical strength and agility to demonstrate the possession of physical skills necessary to the accomplishment of the duties and functions of a peace officer.~~

~~K. The applicant shall successfully complete an oral examination conducted by or for the agency to demonstrate the possession of communication skills necessary to the accomplishment of the duties and functions of a peace officer.~~

L. have undergone training equivalent to an emergency medical responder or higher, or to be completed within the first six months of employment; and

M. be at least 18 years old.

Subp. 2. **Documentation.** The chief law enforcement officer ~~shall maintain~~ must ensure that documentation necessary to show ~~completion of~~ compliance with subpart 1~~. The chief law enforcement officer is not required to obtain documentation for subpart 1, item J, if the applicant completed part 6700.0500, subpart 3~~ is retained by the law enforcement agency for the duration of any resulting employment. If the applicant is not employed by the agency, the background investigation must be retained for six years or as required by

the agency's retention schedule, whichever is longer. The documentation is subject to periodic review by the board, and ~~shall~~ must be made available to the board at its request.

Subp. 3. [Repealed, 18 SR 1961]

Subp. 4. **More rigid standards.** ~~An appointing authority~~ A law enforcement agency may require an applicant to meet more rigid standards than those prescribed in this part.

6700.1600 ~~VIOLATION OF~~ STANDARDS OF CONDUCT.

Subpart 1. **Standards.** ~~Violation of any of the following standards of conduct by a licensee constitutes grounds for disciplinary action:~~ A licensed peace officer is subject to discipline up to and including license revocation under part 6700.1710 when the board finds that the officer has violated one or more of the standards of conduct. It is a violation of standards of conduct to:

~~A. engaging in conduct prohibited by, or listed as, grounds for disciplinary action in this chapter, Minnesota Statutes, chapter 214, or sections 626.84 to 626.90, or engaging in conduct which violates any statute enforced by the board;~~

~~B. obtaining a license from the board by fraud or cheating, or attempting to subvert the examination process;~~

~~C. being convicted of a felony or gross misdemeanor in this state, or in any other state or federal jurisdiction of an offense that would constitute a felony or gross misdemeanor if committed in Minnesota including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or no contest;~~

~~D. having been the subject of revocation, suspension, or surrender of a peace officer license or certificate in resolution of a complaint or other adverse action relating to licensing or certification in another jurisdiction;~~

~~E. failing to report the revocation, suspension, or surrender of a license or certificate in resolution of a complaint, or other disciplinary or adverse action taken against a licensee in this or another jurisdiction, or having been refused a license or certificate by any other jurisdiction;~~

~~F. being convicted of a state or federal narcotics or controlled substance law irrespective of any proceedings under Minnesota Statutes, section 152.18, or any similar law of another state or federal law;~~

~~G. being adjudicated by a court of competent jurisdiction, within or without the state, as incapacitated, lacking the capacity to serve as a peace officer, chemically dependent, mentally ill and dangerous to the public, or as having a psychopathic personality, or required to register as a predatory offender under Minnesota Statutes, section 243.166 or 243.167;~~

~~H. violating any order issued by the board;~~

~~I. practicing outside the scope of Minnesota Statutes, section 626.863;~~

~~J. making an intentional false statement or misrepresentation to the board;~~

~~K. engaging in sexual penetration or contact without consent, as defined in Minnesota Statutes, section 609.341, or engaging in conduct that violates Minnesota Statutes, section 617.23. Sexual contact does not include contact that is part of standard police procedure such as search and arrest;~~

~~L. being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea of a violation of Minnesota Statutes, sections 169A.27; 518B.01, subdivision 14; 609.224; 609.2242; 609.23; 609.231; 609.342; 609.343; 609.344; 609.345; 609.3451; 609.43; 609.465; 609.466; 609.52; 609.53; 609.748, subdivision 6; or 626.557;~~

~~M. failing to cooperate with an investigation of the board as required by part 6700.1610, subpart 4;~~

~~N. engaging in sexual harassment, as defined by Minnesota Statutes, section 363A.03, subdivision 43;~~

~~O. using deadly force when not authorized by Minnesota Statutes, section 609.066; or~~

~~P. being convicted of solicitation, inducement, or promotion of prostitution in violation of Minnesota Statutes, section 609.322, or any conviction under Minnesota Statutes, section 609.324, or being convicted of similar offenses in another state or federal jurisdiction.~~

A. engage in:

(1) conduct that would bar licensure under the minimum selection standards identified in part 6700.0700, subpart 1, item E regardless of whether or not the conduct results in criminal charges;

(2) theft, prostitution, or controlled substance offenses;

(3) conduct identified as a gross misdemeanor in Minnesota;

(4) sexual harassment, as defined by Minnesota Statutes, section 363A.03, subdivision 43;

(5) obstructing legal process;

(6) fleeing by means other than a vehicle;

(7) carrying a pistol while under the influence;

(8) driving while impaired or under the influence;

B. falsify or knowingly provide false information to the board, a law enforcement agency, or a court; or other conduct that may lead to an impeachment disclosure or Brady-Giglio impairment;

C. cheat or attempt to subvert the examination or licensing process;

17.20 D. regarding use of force:

17.21 (1) fail to intercede when observing another licensee using force beyond that
17.22 which is objectively reasonable as required under Minnesota Statutes, section 626.8474;

18.1 (2) fail to report in writing within 24 hours to the chief law enforcement
18.2 officer any use of force violations by another employee or peace officer as required under
18.3 Minnesota Statutes, section 626.8474; or

18.4 (3) engage in unreasonable or excessive use of force against a person, or the
18.5 illegal use of deadly force;

18.6 E. fail to:

18.7 (1) report crimes of bias or alleged crimes of bias as required under Minnesota
18.8 Statutes, section 626.5531;

18.9 (2) report the licensee's arrest or criminal charge, or any violation of standards
18.10 of conduct to the board and the officer's chief law enforcement officer within ten days;

18.11 (3) cooperate with a board investigation; or

18.12 (4) comply with any other requirement in this chapter or Minnesota statutes
18.13 for peace officers;

18.14 F. misuse a peace officer's authority by:

18.15 (1) the use or attempted use of one's position or authority as a peace officer
18.16 to obtain a benefit, avoid a detriment, or harm another;

18.17 (2) committing misconduct under Minnesota Statutes, section 609.43; or

18.18 (3) maliciously procuring a search warrant; exceeding the officer's authority in executing a search warrant or executing
18.19 it with unnecessary severity under Minnesota Statutes, section 626.22;

18.20 G. engage in on duty or off duty discriminatory conduct based on a perception of
18.21 a person's race, color, creed, religion, national origin, disability, sex, sexual orientation,
18.22 gender identity, public assistance or any other protected class as defined in Minnesota
18.23 statutes, or federal law;

19.1 H. undermine or jeopardize public trust in law enforcement, establish a
19.2 Brady-Giglio impairment, create an appearance of impropriety, or disrupt the cohesive
19.3 operation of law enforcement by supporting, advocating, or participating in any form
19.4 in the activities of a white supremacist; hate or extremist
19.5 group; or criminal gang that:

19.6 (1) promotes derogatory or harmful actions against other persons based on a person's perceived race, color, creed, religion,
19.7 national origin, disability, sex, sexual orientation, gender identity, public assistance status
19.8 or any protected class as defined in Minnesota Statutes, or federal law;

19.9 (2) promotes the use of threats, force, violence, or criminal activity:

a) to deprive or attempt to deprive individuals of their civil rights under the Minnesota or United States Constitution; or
b) to achieve goals that are political, religious, discriminatory, or ideological in nature; or

19.10 (3) promotes seditious activities, threats, or violence against local, state or U.S. Government;
19.11
19.12 I. support, advocate for, or participate in a white supremacist, hate, extremist group or criminal gang under Item H as demonstrated by:

(1) dissemination of extremist material;
(2) engagement in cyber or social media posts, chats,forums, and other forms of promotion of the group's activities or ideology;
(3) display or use of insignia, colors, tattoos, hand signs, slogans, or codes associated with the group;
(4) direct financial or in-kind contributions to the group;
(5) a physical or cyber presence in the group's events; or
(6) other conduct that could reasonably be considered support, advocacy or participation.

J. A violation under Item H or J does not apply when the conduct is sanctioned by the law enforcement agency as part of the officer's official duties.

19.13 K. be the subject of revocation, suspension, or surrender of a peace officer license
19.14 or certificate in resolution of a complaint or other adverse action relating to licensing or
19.15 certification in another jurisdiction;

19.16 L. engage in conduct prohibited by or listed as grounds for disciplinary action in
19.17 this chapter; Minnesota Statutes, 214, or engaging in conduct which violates
19.18 any statute enforced by the board.

20.1 Subp. 2. **Incapacitation.** The license of a peace officer may be suspended or revoked
20.2 by the board when the officer has been adjudicated by a court in any jurisdiction as
20.3 incapacitated, lacking the capacity to serve as a peace officer, chemically dependent, mentally
20.4 ill and dangerous to the public, or as having a psychopathic personality, or required to
20.5 register as a predatory offender under Minnesota Statutes, section 243.166 or 243.167.

21.1 **6700.1610 REPORTING OBLIGATIONS AND COOPERATION.**

21.2 Subpart 1. **Reporting conduct violation.** ~~A~~ An unlicensed person with knowledge
21.3 of conduct constituting grounds for action under Minnesota Statutes, chapter 214, or the
21.4 board's regulatory provisions in part 6700.1600 may report the violation to the board.

21.5 Subp. 2. **Licensee reporting requirement.** A licensee ~~shall~~ must report to the board
21.6 and chief law enforcement officer any action, inaction, or condition of that licensee which
21.7 the licensee reasonably believes would constitute grounds for disciplinary action under any
21.8 of the board's regulatory provisions.

21.9 Subp. 3. **Report submittal requirement.** Reports required by this part must be
21.10 submitted no later than ~~90~~ ten days after learning of the reportable event.

21.11 Subp. 4. **Cooperation by licensee.** A licensee who is the subject of an investigation,
21.12 or who is questioned in connection with an investigation, ~~shall~~ must cooperate fully with
21.13 the investigation. Cooperating includes responding fully and promptly to questions raised
21.14 by or on behalf of the board relating to the subject of the investigation, providing copies of
21.15 records in the licensee's possession relating to matters under investigation, assisting the
21.16 board in its investigation which includes executing releases for records as requested by the
21.17 board, and appearing at conferences or hearings scheduled by the board.

6700.XXXX –Required Agency Policies

Subpart 1: Required Policy. The chief law enforcement officer must ensure that the agency adopts, implements, and enforces the required policies listed in parts A – B.

A. Each agency must adopt, implement, and enforce policies listed below that are based on a board's model policy. An agency may incorporate additional agency specific requirements or more stringent requirements in its adopted policy, but must include the specific provisions of the board's model policy. The board is not responsible for enforcing any agency specific provisions of a required policy.
    1) Use of Force policy;
    2) Eyewitness Identification Procedures policy;
    3) Officer Conduct Complaint Policy;

4) Professional Conduct of Officers Policy;
5) Domestic Abuse Policy;
6) Racial Profiling Policy;
7) Investigation of Sexual Assault Policy;
8) Public Assembly/First Amendment Activity Policy
9) Missing & Endangered Persons Policy;
10) Community Notification of Predatory Offender Policy;
11) Vehicle Pursuit and Emergency Vehicle Operations Policy;
12) Criminal Conduct on School Buses Policy;
13) Lighting Exemption of Law Enforcement Vehicles Policy;
14) Administrative Forfeiture Policy; and
15) Supervision of Part-time Licensed Peace Officers Policy, applicable only if the agency employs an Part-time officer under MN Statute 626.1110;
16) Any other required agency policy as established by the legislature or the board addressing critical public safety and law enforcement procedures.

B. Each agency must adopt and implement a policy as listed below if the agency uses such equipment or devices. The agency policy must include any requirements identified in statute:

1) Automated License Plate Reader Policy, applicable only if plate readers are used by the agency MN Statutes 626.8472;

2) Portable Recording Systems Adoption Policy, applicable only if the agency uses applicable recording systems under MN Statutes 626.8473;

3) Use of Unmanned Aerial Vehicles Policy, applicable only if the agency uses drones or other applicable aerial devices under MN Statutes 626.19; and

Subpart 2: Chief Law Enforcement Officer. The chief law enforcement officer must ensure that:

A. the current version of each required policy is posted on the law enforcement agency's website. If the agency does not have a website, the policy must be posted in the public area of the agency's physical premises;
B. a copy of the current version of each required policy is provided on request by an individual or organization;
C. a copy of the current version of each required policy is provided to each peace officer employed by the agency;
D. each required policy is reviewed at least annually with each officer;
E. the agency's adopted policy is enforced at all levels of the agency;
F. violations of a required policy are reported to the Board; and
G. the policy and training compliance form provided by the board is completed and submitted to the board no later than March 1 of each year .

21.18 **REPEALER.** Minnesota Rules, parts 6700.0601, subparts 2 and 3; 6700.0701; 6700.1400, subpart 3; 6700.1500; 6700.1700, subparts 1, 3, and 4; 6700.2700 through 6700.2704.

Note: Actual text of rules to be repealed is not included in the Revisor's draft but is listed below for board review.

6700.0601 EXAMINATION STANDARDS.

~~Subp. 2. Disciplinary proceedings. Disciplinary hearings under this rule shall be conducted pursuant to Minnesota Statutes, section 214.10, subdivisions 2 to 5; parts 1400.5100 to 1400.8400; the Administrative Procedure Act, Minnesota Statutes, sections 14.001 to 14.69; and the rules of the Office of Administrative Hearings, chapter 1400. The requirement to notify the chief law enforcement officer shall be waived if the person does not currently possess a license.~~

~~Subp. 3. Suspension or revocation of license. If the board receives a complaint which alleges a violation of subpart 1 after the person receives a license, the board shall begin proceedings to suspend or revoke the license.~~

~~6700.0701 NOTIFICATION OF CONVICTION.~~

~~If any background search required by this chapter reveals a conviction of a felony, or the conviction of any crime listed in this chapter, or conviction of a crime which was charged under an ordinance or law of another state but would be a conviction under Minnesota Statutes, section 609.52, if it was charged under state law, the chief law enforcement officer shall immediately notify the board~~. *Note,-requirement moved to 6700.00670 subp 3 and amended.*

6700.1400 INACTIVE STATUS OF PEACE OFFICER LICENSES.

~~**Subp. 3. Selection standards.** An individual who is appointed to a law enforcement position within three years of the date the individual's license was placed on inactive status shall not be required to comply with selection standards outlined in part 6700.0700, subpart 1. An individual who is appointed to a law enforcement position more than three years after the date that individual's license was placed on inactive status shall be required to comply with selection standards as outlined in part 6700.0700, subpart 1 prior to the first day of employment. For compliance with this subpart, previously completed standards are not acceptable. The chief law enforcement officer shall maintain necessary documentation to show compliance with this subpart. The documentation is subject to periodic review by the board and shall be made available upon request by the board.~~

~~6700.1500 STANDARDS OF CONDUCT FOR PEACE OFFICERS.~~

~~**Subpart 1. Statutory authority.** This part is adopted pursuant to Minnesota Statutes, section 626.843, subdivision 1, clause (e); section 626.845, subdivision 1, clause (i); and chapter 214.~~

~~Subp. 2. **Scope.** Nothing in parts 6700.0100 to 6700.1800 shall preclude or prevent any agency, political subdivision, civil service commission, or other appointing authority from publishing and enforcing rules, policies, or procedures which are more comprehensive than those minimum statewide standards set forth hereinafter. The responsibility for enforcing any rules, policies, or procedures which are more comprehensive than the following minimum standards of conduct remains with the promulgating agency, political~~

~~subdivision, commission, or appointing authority.~~

~~**Subp. 3. Purpose.** The board believes that in order for the public to have confidence in the integrity and ability of law enforcement, it is paramount that peace officers demonstrate that they are capable of self-regulation. The board further believes that internal discipline is properly a function of the appointing authority and its political subdivision. These standards of conduct relate to licensure only and violations thereof do not enlarge on a peace officer's civil or criminal liability in any way~~.

~~6700.1700 COMPLAINT COMMITTEE.~~

~~Subpart 1. Definition. For the purpose of this part, "affected parties" means the complainant, the licensee who is subject to the complaint, and the chief law enforcement officer in the agency employing the officer who is a party to the complaint.~~

~~Subp. 2. [Repealed, 26 SR 181~~

~~Subp. 3. Complaint committee membership. The complaint investigation committee shall consist of three board members who shall supervise the processing of the complaint. At least two of these members shall be peace officers. The board chair shall appoint the complaint investigation committee and the chair.~~

~~Subp. 4. Complaint committee quorum. All three committee members must be present to act, and decisions of the committee shall be by majority vote.~~

6700.2700 ~~POLICE PURSUITS~~. ~~The board recognizes the complex and unpredictable factors associated with police pursuits. It is imperative that there be written procedures for these types of serious law enforcement operations. The board has identified the issues which the procedures must consider. Because police pursuits may involve peace officers from other jurisdictions, the board encourages each agency to advise neighboring agencies, or agencies which have concurrent jurisdictions, of its police pursuit policies.~~

~~**6700.2701 ESTABLISHMENT OF POLICE PURSUIT PROCEDURES.** On or before October 1, 1989, the chief law enforcement officer of each agency must establish written procedures to govern the conduct of peace officers from that agency who are in pursuit of a vehicle being operated in violation of Minnesota Statutes, section 609.487. These written procedures must consider the following issues:~~

~~A. circumstances in which a peace officer may initiate a pursuit of a vehicle being operated in violation of Minnesota Statutes, section 609.487;~~

~~B. duties and number of the agency's law enforcement vehicles, displaying red lights and siren, that are permitted to participate in the pursuit of a vehicle operated in violation of Minnesota Statutes, section 609.487;~~

~~C. assignments of the agency's other assisting law enforcement vehicles;~~

~~D. requirements for the operation of the pursuing law enforcement vehicle that is operated as an authorized emergency vehicle as prescribed in Minnesota Statutes, chapter 169;~~

~~E. use and proper application of specific offensive tactics which may be used to terminate a pursuit including, but not limited to, bumping, ramming, blocking, or boxing in the pursued vehicle;~~

~~F. circumstances under which a pursuit is to be terminated;~~

~~G. radio communications procedures during a pursuit;~~

~~H. role and responsibilities of the agency's on-duty supervisors during a pursuit;~~

~~I. application of deadly force as defined by Minnesota Statutes, section 609.066, during the course of a pursuit;~~

~~J. role and responsibilities of the agency's peace officer during intra-jurisdictional and inter-jurisdictional pursuits; and~~

~~K. methods of evaluation of the pursuit. The written procedures must also state how peace officers will provide assistance to a person injured during the course of a pursuit.~~

~~**6700.2702 TRAINING REQUIREMENTS.**~~

~~The chief law enforcement officer of each law enforcement agency shall adopt specific training requirements concerning pursuits based on:~~

~~A. written procedures governing conduct of peace officers who are in pursuit of a vehicle being operated in violation of Minnesota Statutes, section 609.487;~~

~~B. type of agency and geographical location;~~

~~C. training needs of the peace officers within the agency;~~

~~D. overall training needs of the agency; and E. an analysis of the evaluations of previous pursuits.~~

~~**6700.2703 COPIES OF PROCEDURES.**~~

~~**Subpart 1. Police pursuit copies.** Copies of the written procedures governing police pursuits, or any subsequent modifications, must specify the effective date.~~

~~**Subp. 2. Copies available to public.** Copies of current written procedures governing police pursuits must be available to the public on request. Copies of written procedures governing police pursuits and any subsequent modifications of the procedures must be distributed by the chief law enforcement officers to licensees who are employed or appointed by the agency.~~

~~**6700.2704 AFFIRMATION OF COMPLIANCE**. The chief law enforcement officer of each law enforcement agency shall affirm to the board compliance with part 6700.2701 no later than October 15, 1989. The board will supply the compliance form to be used. If any agency begins operation after October 1, 1989, the chief law enforcement officer shall affirm to the board compliance with part 6700.2701 no later than 15 days after the agency begins operation.~~

Minnesota Board of Peace Officer Standards and Training

CERTIFICATE OF THE BOARD OF PEACE OFFICER STANDARDS AND TRAINING; AUTHORIZING RESOLUTION

Proposed Amendment to Rules Governing Peace Officers, *Minnesota Rules*, chapter 6700; Revisor's ID NumberR-04641

I, Kelly McCarthy, certify that I am a member and the Chair of the Board of Peace Officer Standards and Training, a board authorized under the laws of the State of Minnesota; that the following is a true, complete, and correct copy of a resolution that the Board of Peace Officer Standards and Training adopted at a properly convened meeting on April 21, 2022; that a quorum was present; and that a majority of those present voted for the resolution, which has not been rescinded or modified. The Board resolved the following:

1. The Executive Director of the Board of Peace Officer Standards and Training is authorized and directed to sign and to give Notice of Hearing on the proposed rules in the Revisor of Statutes draft, file number R-04641 as approved by the Board and with any non-substantive changes recommended by the Revisor. The Executive Director must give this notice to all persons who have registered their names with the Board for that purpose. The Executive Director must also publish the Notice in the State Register. Furthermore, the Executive Director is authorized and directed to do anything else needed to complete this Notice.

2. The Executive Director of the Board of Peace Officer Standards and Training is authorized and directed to act as the Board's representative at the hearing if a hearing is held, and to do anything else needed to adopt these rules. This includes authority to sign the Order Adopting Rules if there are no modifications to the rules other than modifications approved by the Board.

_____ _____

Date

Kelly McCarthy, Chair
Minnesota Board of Peace Officer Standards and Training