



**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

**Ensuring Police Excellence and Improving Community Relations Advisory
Council**

**MEETING AGENDA - AMENDED
1600 University Avenue, Suite 200
Saint Paul, Minnesota
February 19, 2021
1:00 p.m.**

This meeting will be held online due to COVID-19 emergency, a link to observe the meeting will be on the POST website prior to the meeting.

1. Call to Order
2. Approval of the Agenda **ACTION**
3. Review of draft values/indicators of success list (Attachment)
4. Presentation: Standards of Conduct: Angie Rohow (Attachment)
5. Benchmark Database update: Angie Rohow
6. Discussion around Actionable items: Nick Muhammad (Attachments)
7. Electing a Permanent Chair for the Council: Nicki Engel
8. Discussion regarding Just Action Coalition: Biiftuu Adam (Attachment)
9. Round table
10. Adjournment

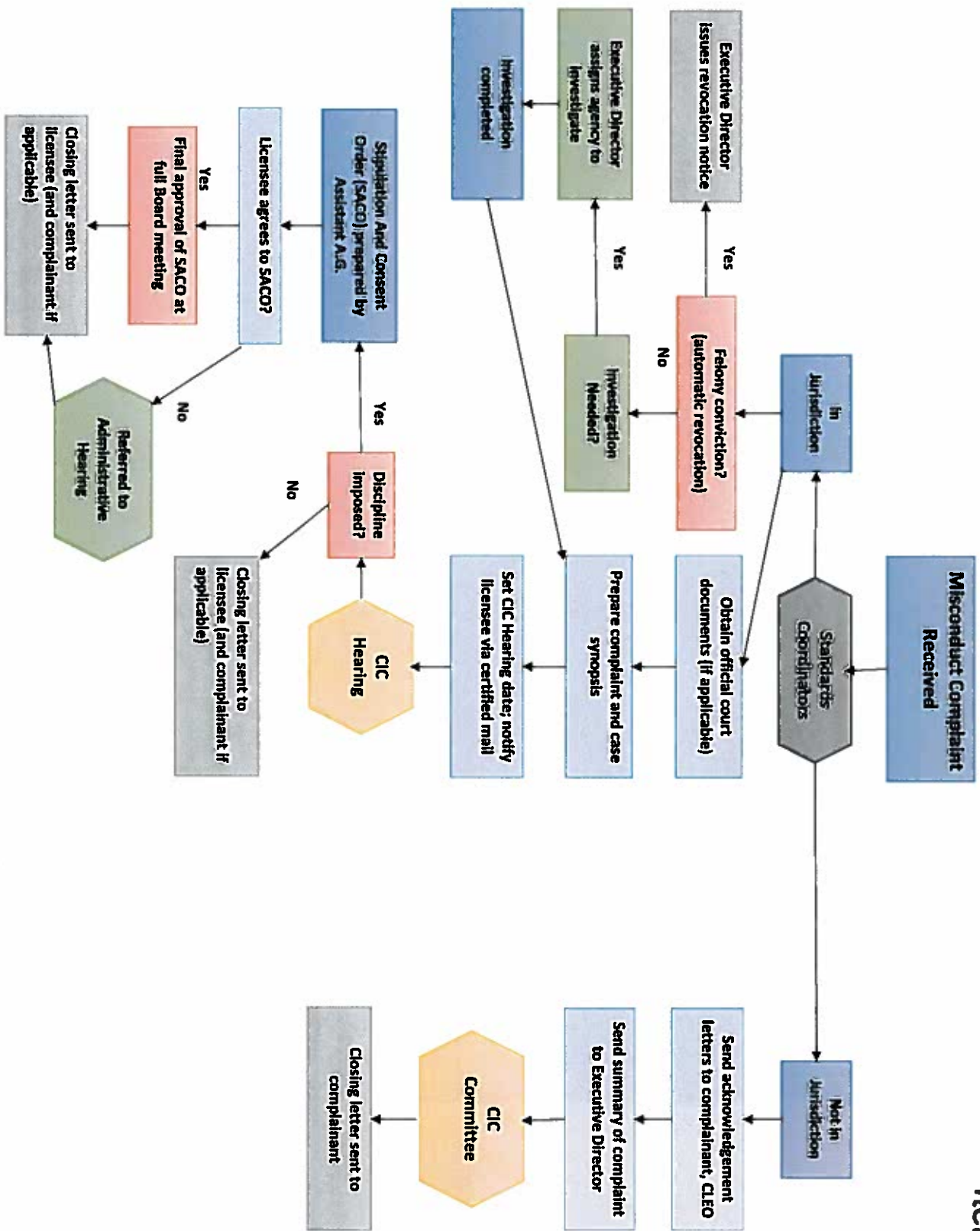
Values:

- Decisions and ideas based on data
- Ideas and initiatives driven by different stakeholders and their different perspectives
- Open and honest discussion about the issues (not revisiting talking points)
- Collaboration to improve the profession and the relationship between the profession and the community across the state
- Training focused

Indicators of success:

- Substantial, systemic change
- Recommendations have impact, cannot be ignored
- Clear relationship is established with the POST Board
- Council is recommending specific, actionable steps to the POST Board

Agenda Item 4





Council for Minnesotans of African Heritage
658 Cedar Street, Suite G57
St. Paul MN 55155

February 13, 2021

Erik Misselt
Executive Director
Minnesota Board of Peace Officer Standards and Training
1600 University Ave., Suite 200
St. Paul, MN 55104-3825

Dear Mr. Misselt and POST Board Members,

Last summer, we witnessed what occurs when there are inadequate accountability measures in place to protect the First Amendment rights of persons and groups to free speech and public assembly. We witnessed rogue actors, including law enforcement officials, respond to public assemblies by impeding the right to assemble. We saw police officers attack demonstrators, journalists, and onlookers with pepper spray, rubber bullets, and tear gas. We experienced how far bad actors will go when unchecked and unaccountable. This year we cannot continue to make the same mistakes.

Our coalition of community partners calls on the POST Board to act immediately to protect the First Amendment rights of protestors and bystanders in preparation for the trial of Derek Chauvin. A critical first step for securing such protections is for the POST Board to pass a measure that requires that officers follow their existing First Amendment policies regarding public assembly response or be subject to discipline, up to and including loss of their license to serve. Please see Rep. Carlos Mariani's proposed amendment to H.F. 445 as an example of policy language related to this rule change.

The adoption of a First Amendment standard for public assembly response aligns with the constitutional duties of local law enforcement. Law enforcement departments have the dual responsibility to preserve public safety and protect civil liberty, including the constitutional rights of those gathered to demonstrate. Community activists have faced regular violations of department policies without local discipline for decades. The POST Board's authority over the rules and standards for peace officer licensure provides an opportunity to create an effective instrument for First Amendment protection.

A First Amendment standard for public assembly response would help law enforcement leadership address key challenges the state faces in its police reform efforts. Chiefs, sheriffs, and other law enforcement leaders have argued that local disciplinary appeals processes make it difficult to remove problem officers. A First Amendment standard would provide a needed remedy for our broken discipline appeals processes, and we are hopeful that law enforcement leadership will partner with us at the POST Board to pass this measure.

Lastly and very importantly, a First Amendment standard reflects the core Minnesota value in free speech and public safety for all. Minnesotans want to protect the civil liberties of all, including those of persons and groups with whom they disagree. The proposed First Amendment standard would protect folks across the political spectrum: from Black Lives Matter protestors in Moorhead, to 'Stop the Steal' protestors at the Capitol, to 'Stop Line 3' water protectors in the North, to Blue Lives Matter counter-protestors who are likely to appear at the Chauvin Trial.

Minnesotans of every race, place, and creed deserve to exist with dignity and respect. We cannot continue to allow police officers to act with impunity against the people they took an oath to serve and protect. The proposed change would make following the First Amendment a requirement for being a police officer. We know that this moment calls for this change.

Sincerely,

**Linda Sloan
Executive Director
Council for Minnesotans of African Heritage**

**Nick Muhammad
Executive Director
Black Civic Network**

**Angela Rose Myers
President
Minneapolis NAACP**

**Lars Negstad
Policy Director
ISAI AH**

**Brian Fullman
Lead Organizer
Barbershops & Black Congregation Cooperative**

CC:

Governor Tim Walz and Lt. Governor Peggy Flanagan

POCI Caucus and United Black Legislative Caucus

POST Board's Advisory Council

**First Amendment Standard for Public Assembly Response
Example of Proposed Rule Language**

The following exemplifies policy language that establishes a First Amendment standard for public assembly response. We are requesting that the Ensuring Policy Excellence and Improving Community Relations Advisory Council (1) hears a proposal for a First Amendment standard at its upcoming meeting and (2) passes forward the First Amendment standard with recommendation to the full POST Board to pass into rule under the authority given to it in Minn Stat. § 626.843 Subd. 1(6).

Section 2 of the A6 Amendment to H.F. 445

Model policy required:

By December 15, 2021, the board, in consultation with the legislative councils of color, the American Civil Liberties Union, community organizations that lead direct action campaigns, the Minnesota Chiefs of Police Association, the Minnesota Sheriffs' Association, the Minnesota Police and Peace Officers Association, and other interested parties, must develop a comprehensive model policy on responding to public assemblies. The policy must be based on best practices in public gathering management drawn from both domestic and international sources. The board must distribute the model policy to all chief law enforcement officers.

Agency policies required:

(a) By March 15, 2022, the chief law enforcement officer of every state and local law enforcement agency must establish and enforce a written policy that is identical or substantially similar to the board's model policy described in subdivision 1.

(b) Every state and local law enforcement agency must certify to the board that it has adopted a written policy in compliance with this subdivision.

(c) The board must assist the chief law enforcement officer of each state and local law enforcement agency in developing and implementing policies under this subdivision.

Application:

Each chief law enforcement officer and peace officer must comply with the public assembly response policy adopted by the officer's department pursuant to this section even while working in a joint law enforcement environment or outside of the officer's primary jurisdiction.

Peace officer standards of conduct; public assembly response policy violations:

A peace officer who fails to comply with the officer's department's public assembly response policy is in violation of the peace officer standards of conduct maintained by the Peace Officer Standards and Training Board pursuant to section 626.843, subdivision 1, clause (6). The board must revise the peace officer standards of conduct maintained in rule to incorporate this requirement.

Compliance reviews authorized:

The board has authority to inspect state and local law enforcement agency policies to ensure compliance with subdivision 2. The board may conduct this inspection based upon a complaint it receives about a particular agency or through a random selection process. The board may impose licensing sanctions and seek injunctive relief under section 214.11 for an agency's failure to comply with subdivision 2.

THE JUST ACTION COALITION



The Just Action Coalition Community Accountability of Minnesota Police Policy Proposal

Prepared for: The Minnesota State Peace Officers Standards and Training Board

Prepared by: The Just Action Coalition

January 1, 2021

Proposal number: 1 of 1

THE JUST ACTION COALITION

EXECUTIVE SUMMARY

Goal

The Just Action Coalitions main goal with this proposal is to establish a public searchable statewide data base to coherently measure incidences of officer misconduct that occur with community members. The goal of this data base is to increase transparency between municipal police departments and the communities they serve.

THE JUST ACTION COALITION

Purpose

The Just Action Coalition serves the purpose of elevating the voice of the youth in conversations regarding the safety of our communities and community members. We propose this policy with the intention of turning police oversight into a proactive form of rule making and policy setting. We currently hold the position that the recent incidents that have happened with police come as a result of an oversight process that is not meant to focus on prevention, but rather discipline. We concede that those who commit such an offenses require discipline by the department, however we introduce this proposal with the intention of turning the data collected from these categorical incidences into data that can be recorded and tracked by the Peace officer governing Board. We believe that by implementing the policy proposal that we lay out, municipal departments and state agencies will be able to expand policing oversight, and be able to take the essential steps forward in creating safer and more vibrant communities. The most essential part of this proposal is the community aspect. We believe that communities all throughout the state of Minnesota feel disempowered, helpless, and unheard, when it comes to officer misconduct and abuse of authority. In this proposal, we have the intention of reclaiming the community's voice through citizen complaints. We believe that these complaints, which are already instituted state wide, are not being handled appropriately in accordance with the severity level of the complaint, and are not handled uniformly on all levels of policing and policy - from departments to the POST Board. This proposal serves the purpose of making a more coherent and uniform system of complaints, which will allow the oversight system to take on a proactive role.

Specifics

Policy Criteria

1. Measuring and recording police behaviors

- Officer conduct is defined as the enumerated responsibilities granted to them by the Peace Officers governing body, known as the POST Board, as well as the duties and responsibilities given to them by their local municipal government. Officer misconduct is the violation and/ or blatant disregard for these enumerated responsibilities -
 - The violation of a citizens civil rights and/ or civil liberties
 - The lack of the officer(s) to act under the complete and total lawful scope of their employment
 - Discrimination
 - Race
 - Gender or gender presentation
 - Religion
 - Sexual Orientation
 - Ethnic Orientation
 - Etc.
 - Every time an officers weapon is unholstered, a report must be filled by the officer with the department regarding the person in question
 - The report must include -
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- The gender (if applicable), race/ ethnicity, height, weight, and any other general details that are physically obvious to the officer
 - If multiple people, the officer must include that in the same report
- Why the officer felt that it was necessary to draw his weapon
- Whether or not the person was armed or unarmed, and whether the officer saw the weapon(s) or not
- If compelled to do so, the individual, or individuals, involved in the incident with the officer, will have the opportunity to file a citizen's complaint with the department, which will be required to be posted in the officers file
 - If citizen complaints fall under the three following Red Flag level one categories, and the complaint is substantial, then the complaint shall be sent by the department of origin to the Minnesota state Peace Officers Standards and Training Board (POST Board) for review

A. Establishing a substantial complaint

- A complaint is to be substantial if it is filled by the individual(s) who was the subject of the interaction with the officer, or if the person filing the complaint was physically present and was witness to the events that the complaint is filled upon

B. The three tiers of community complaints

- Level 1 Red Flag Category Complaint - is a substantial complaint that must be reviewed by the POST Board and requires the department of origin to conduct an internal investigation - which is detailed in the level 2 category complaint description
 - Excessive use of force
 - Improper Dosage
 - Racial bias
 - Socioeconomic bias
 - Physical, mental, and developmental disability bias
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- Gender, Gender Presentation, Sexuality, Perceived Sexuality based bias
 - Sexual exploitation
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- **Level 2, Yellow Flag, Category Complaint** - require an internal investigation that must be completed by the department of origin - with the intention of drawing a punitive conclusion if the citizen complaint is factually supported by the given officer(s) body camera footage
 - An officer lacks to intercede, intervene, and report upon witnessing a partner(s) committing a level 1 offense
 - Abuse of power for personal gain (meeting quotas, efforts to secure promotions, and all other forms of coercion or abuse with the purpose of benefiting the officer(s) not gender or sexuality based)
 - Unlawful search and seizure of property without clear and evident probable cause violating a citizens civil rights
 - Unlawful questioning regarding citizenship
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- **Level 3, Blue Flag, Category Complaint** - these complaints must be recorded on the officers file, but do not require an internal investigation by the department
 - All general complaints that do not fall under a level one or level two category complaint
 - All claims disputed by one or more parties involved in the interaction. Disputed is defined as all claims lacking sufficient evidence.
 - All claims lacking substantive evidence in the form of complete reports? Conclusive body cam footage?
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2. Establishing grounds for review

- If a citizen complaint is filed on the basis of one or more Red Flag category, which are stated above, than the complaint shall be sent, along with the officers file that includes all previous citizen complaints, the officers body cam footage regarding the incident of the complaint, internal department complaints against the officer, as well as the personal officer reports, any other evidence pertaining to the incident, to the POST Board for review
 - The POST Board will serve the purpose of examining these level one complaints/ reports as a means to take a proactive approach to rule making and reform, and to give the Board vital information to include in the annual report to the Minnesota State House of Representatives Committee on Public Safety
 - All level one reports must be included in the annual report done by the POST Board
 - The report must be sent to the committee for review and discussion by the board before the last day the legislature convenes in the month of January
 - When the Board's annual report is released to the Minnesota State House Committee on Public Safety, it shall simultaneously be released to the public
 - The POST Board complaint/ review process will be used to identify trends in specific categories of level one complaints and will be tasked to distinguish whether the trend can be addressed on the agency level or if it has to be addressed by the legislature
 - For example, if the state of Minnesota POST Board receives ten substantiated citizen complaints in the level one category of racial biases, and they are able to identify a common occurrence that officers are using deadly force on African American individuals who are unarmed and are able to identify other instances throughout the
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complaints/ investigations where racial biases played a role in the way the officer handled the situation, they would then be compelled to move forward with implementing a policy, rule, training, or procedure that directly addresses the trend - if that power is not directly given to them in the enumerated powers of the Board, they shall make an official recommendation to the Minnesota House Committee on Public Safety in the annual report

- The POST Board is not responsible for handing down punitive punishments to individual officers, but does have the power to grant or strip an officer from their license as a result

3. Community recognition and revitalization

- Each municipal police department shall release factual reports to the public on an annual basis in coherence with the POST Board's report that is sent to the legislature
 - Each municipal department must hold an annual information session in coherence with the release of the annual trends/ complaint report
 - These informational sessions must be open to the public and must be attended by the municipal Mayor, Police Chief, and other ranking public safety personnel. These annual reports by municipal governments will require an explanation of the reports findings, and must allow at least one hour for open community questioning per 250,000 persons in the municipal boundaries
 - One hour of community questioning is still to be required of municipalities that contain a population of less 250,000 persons
 - If no level one complaints are filed with in a municipal population, the annual information session is to still be required by the department to address trends in all other categorical complaints, that are to be addressed in the annual department report to begin with
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4. Establishing a Public Searchable Data Base

- All complaints along with the officers complete profile are to be registered within this website data base for public and department access. The data base will serve to increase the transparency between law enforcement departments and the communities they serve. Officer profiles will consist of
 - Name
 - Photo of the officer
 - Badge Number
 - Department
 - Branch of Law Enforcement (State Troop, Sheriff, City Police Officer)
 - All verified complaints filled against the officer
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