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Officer Misconduct Allegation Policy and Procedure

Purpose: To establish a procedure for the uniform receipt and investigation of allegations of misconduct by Montana public safety officers, to protect citizens from misconduct by public safety officers, and to protect public safety officers who conduct themselves appropriately.

Classification: All allegations of misconduct are subject to Montana and Federal Right to Know and Right to Privacy laws. Information regarding allegations of misconduct will be released under the direction of legal counsel. No information regarding pending allegations is to be released to Council members, except those members who participate in the Case Status Committee, until such release is allowed by the Montana Administrative Procedures Act (MAPA).

If an officer who is accused of misconduct retains an attorney at any time during this procedure, communications regarding the allegations will be directed to the officer's attorney unless a release signed by both the officer and the officer's attorney is received.

Making an Allegation:

1. An employing agency may make an allegation directly to the executive director or designee. All other allegations must be made to the employing agency first either by the complainant or POST, unless the executive director determines that it would be inappropriate to do so.
2. Allegations which are not made by the employing agency will initially be communicated to the employing agency unless the executive director determines that it would be inappropriate to do so. The executive director or designee will request a written response to the allegation from the employing agency.

If an allegation is received from an employing agency, the executive director may, at his discretion, proceed to sending Letter 1 to the officer prior to consultation with the Case Status Committee. If the officer is not certified and is not working as a public safety officer, the director may send a letter closing the matter and informing the officer that an investigation will be open if the officer becomes employed as a public safety officer again.

3. Upon receipt of the employing agency's allegation or response to the allegation, the allegation will be placed on the agenda to be presented to the Case Status Committee at the next committee meeting. The Case Status Committee members will be provided copies of the allegation and agency response, if any. The Case Status Committee will make a recommendation to the executive director regarding how to proceed with the allegation. They may recommend the executive director request

more information, close the file, or move forward to Letter 1, or other recommendations as each case may warrant. If the executive director sends a Letter 1 or a closure letter to an officer prior to consultation with the Case Status Committee, the allegation and Letter 1 or the closure letter will be presented to the Case Status Committee at the next committee meeting.

4. If more information is requested, the executive director or designee will request and obtain available information and provide it to the committee at its next meeting. If a case is closed, the executive director will contact the complainant in writing and in a timely manner and inform the complainant of that decision. If the complainant is not an employing authority, the executive director will copy the employing authority and the officer with the information sent to the complainant.
5. If Letter 1 is to be sent, the allegation will be assigned a case number by POST staff and Letter 1 will be sent by the executive director in a timely manner. Letter 1 will include a description of the allegations against the officer, citation to the specific ARMs that the officer may have violated, a request for a release of personnel information and form, a voluntary surrender form and instructions regarding surrender, and will give the officer thirty-five days from the date of the letter in which to respond. The officer may request an extension of time in writing, which will be granted or denied at the executive director's discretion. All letters to the officer (1 through 3 and Notice of Agency Action) will be copied to the employing agency and/or former employing agency if the officer no longer works there.
6. If the officer does not respond to Letter 1, the executive director will send a letter with a Notice of Agency Action to the officer. The officer's certificate(s) will be revoked. The officer will be provided thirty days from the date of the Notice to request a hearing.
7. If the officer does respond to Letter 1, POST staff will begin investigating the allegations. The officer's response and results of the investigation will be disseminated to the Case Status Committee for review prior to the next committee meeting. The Case Status Committee will make a recommendation to close the case, make an offer of a stipulated sanction, or further investigate officer. If the case will be closed, a letter advising the officer of that will be sent, and the executive director will call or write a separate letter to the employing agency reflecting the decision. If further investigation is recommended, the director will continue to keep the committee apprised of the investigation during committee meetings until the investigation is complete. Once an investigation is complete, the committee will make a recommendation regarding what an offered stipulated sanction should be. The executive director will then send Letter 2 to the officer containing an offer. The officer will be given thirty-five days to respond by either accepting the offer, rejecting it and making a counteroffer, or rejecting it with no counteroffer.

8. If the officer responds to Letter 2, that response will be provided to the Case Status Committee for review prior to the next committee meeting. If the officer accepts the offer, the committee will be informed. If the officer makes a counteroffer, the committee will make a recommendation about whether to accept the counteroffer or not. If the officer simply rejects the offer, the committee will make a recommendation as to what sanction should be applied with Letter 3. If a counteroffer is accepted, a stipulation will be sent to the officer. If it is not, the committee will make a recommendation as to what sanction should be applied with Letter 3.
9. If a Letter 3 is to be sent, the executive director will hire a hearing examiner and prepare Letter 3 and a Notice of Agency Action with the assistance of staff and legal counsel. Letter 3 and the Notice of Agency Action will inform the officer that he or she has thirty days to request a hearing. The original Notice of Agency Action will be sent to the hearing examiner for filing, along with a copy of Letter 3. A copy of Letter 3 and the Notice of Agency Action will be sent to the employing agency. The original letter and a copy of the Notice of Agency Action will be sent to the officer. The thirty days will run from the date upon which the Notice of Agency Action is signed by the executive director. Any sanction applied in the Notice of Agency Action will begin upon the executive director's signature.

The executive director or designee may present any allegation to the Case Status Committee at any time during the complaint procedure.

Upon receipt of the officer's request for hearing, MAPA and the ARMs will govern further procedure.

Allegation Policy and Procedure Attachment A

Section 1 – Guidelines for Certification Sanctions

1. Sanction of officer certification may take one or more of the following forms:
 - a. Revocation of all certifications as defined in ARM 23.13.102(22).
 - i. POST may revoke only advanced certifications of an officer, leaving a basic certification intact, such that the officer may continue working.
 - b. Denial of certification. Denial of an officer's application for basic certification due to the officer's misconduct is equivalent to a revocation of the basic certification of an officer.
 - c. Suspension as defined in ARM 23.13.102(26).
 - i. POST may suspend only advanced certifications of an officer, leaving a basic certification intact, such that the officer may continue working.
 - ii. Suspension of any or all certificates may be based upon conditions similar to those outlines in 1.d. below.
 - iii. POST may suspend certification on an emergency basis pursuant to ARM 23.13.706. Such emergency suspension will be utilized sparingly and only in the most egregious of cases and only upon concurrence of the chair of the case status committee or the committee chair's designee.
 - d. Probation. Probation will be based upon conditions. The conditions of probation may include, but need not be limited to any of the following:
 - i. A requirement that the officer self-report any violation of Montana law, POST rules, POST policies, or any violation of additional probation conditions;
 - ii. A requirement that the officer's employing authority report any violation by the officer of Montana law, POST rules, POST policies, or any violation of additional probation conditions;
 - iii. Suspension of an officer's ability to apply for additional certifications;
 - iv. Suspension of a POST-certified instructor's ability to provide POST-approved training;
 - v. A requirement that the officer remain at a specific agency;
 - vi. Requirements for training;
 - vii. Requirements for treatment;

- viii. If the probation is part of a stipulated agreement between POST and the officer, the officer must agree that he will not engage in the contested case process contained in MAPA;
 - ix. A requirement that the officer produce documentation of any training or treatment upon which probation has been conditioned; or
 - x. A requirement that the officer petition to the case status committee or POST for removal from probation.
- 2. The following factors may be considered in determining an appropriate sanction:
 - a. The gravity and nature of the ethical responsibility violated, including whether the responsibility is owed to the public, to the legal system, or to the profession;
 - b. The officer's mental state, if appropriate;
 - c. The length of time since the conduct occurred;
 - d. The actual or potential injury to the public, the legal system or to the profession;
 - e. Any aggravating or mitigating factors;
 - f. The existence of prior offenses;
 - g. Sanctions imposed on other officers based upon similar conduct;
 - h. The employing authority's recommendation;
 - i. The officer's response to the allegations and any ongoing reaction to the allegations including the officer's interactions with POST during the course of its investigation; or
 - j. Any additional information which tends to influence the officer's ability to perform the functions of a public safety officer with the highest standards of honesty, integrity, justice and morality.
- 3. Except in cases of an officer's wanton disregard for such violations, POST will not proceed with investigation or sanction of allegations which do not include an ethical violation or a failure to meet the minimum standards for appointment or certification. Such allegations need not be reported to POST by the employing authority unless a Notice of Termination is required to be submitted. Such allegations may include:
 - a. Issues of insufficient training which may be remedied by the employing authority;
 - b. Policy violations which do not include violations of the public safety officer's code of ethics or the employing authority's ethics policies;
 - c. Violations of standard operating procedures which do not include any ethical violations, and which may be remedied through the criminal justice system. Such violations include, but may not be limited to: search warrant

deficiencies, lack of probable cause or particularized suspicion, or other investigative deficiencies; or

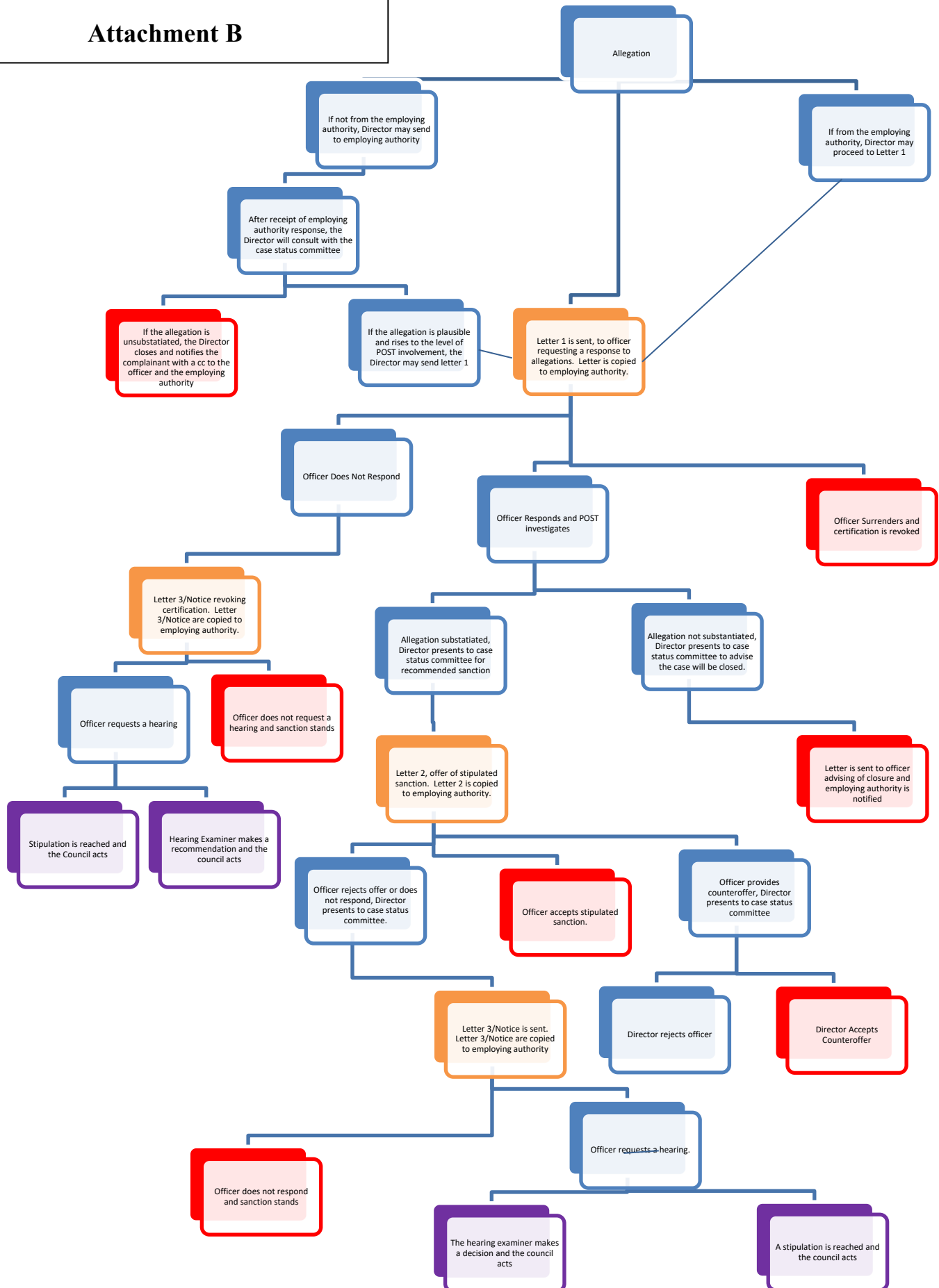
- d. Failure to complete an employing authority's probationary period for any issue which does not include a violation of the public safety officer code of ethics. This may include, but is not limited to: failure of firearms qualifications, failure of the Montana Physical Abilities Test, or an officer's general unsuitability for the chosen field or agency.

Section 2 – Period of Limitation

1. Except as provided in 2. below, POST will not proceed with investigation of any allegation of misconduct when the alleged misconduct occurred more than 5 years prior to POST's receipt of the allegation.
2. Exceptions to 1. could include, but may not be limited to the following:
 - a. Any felony conviction;
 - i. Dismissal of a conviction following a guilty finding shall not constitute a bar to sanction of an officer's certification for the conviction.
 - b. An ongoing pattern of conduct which began more than 5 years prior to POST's receipt of the allegation;
 - c. Failure to meet any of the minimum standards for appointment or certification found in ARMs 23.13.201 or 23.13.205;
 - d. Failure of a peace officer to meet any of the minimum standards for appointment found in 7-32-303, MCA;
 - e. Falsification of information which resulted in the appointment or certification of an officer when the officer would not have otherwise been appointed or certified absent the officer's falsification;
 - f. Falsification of information during any legally authorized investigation;
 - g. Conduct involving unlawful physical violence or unlawful sexual conduct whether the officer received a criminal conviction or not;
 - h. Any sexual conduct which occurs while the officer is on duty or which the officer facilitates with public safety agency property; or
 - i. Any other conduct which is so egregious in nature that POST's failure to take action could undermine the public's confidence in the integrity of the profession.

Allegation Policy and Procedure

Attachment B



Policy and Procedure for Determination of Qualifications for POST Certification

Policy: POST will issue certificates to public safety officers upon notice to POST of an officers' qualification for certificates.

Section 1 Procedure for Determining Qualifications for the POST Basic Certificate

1. POST will issue basic certificates pursuant to ARM 23.13.206. Issuance will be based upon an officer's completion of the appropriate basic requirements. When POST is notified of an officer's fulfillment of the requirements, POST will issue the certificates within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the Notice of Appointment which the employing authority sends to POST.
 - a. POST will create a system to identify officers' time in service which allows POST to issue basic certificates in a timely manner.
3. POST will determine whether the basic requirements have been met based upon:
 - a. Confirmation from the Montana Law Enforcement Academy (MLEA), that the officer successfully completed the appropriate basic course;
 - b. In the case of a Probation and Parole Officer, confirmation from the Department of Corrections that the officer successfully completed the Probation and Parole basic course;
 - c. In the case of reserve officers, the officer's and agency administrator's submission of the Notice of Qualifications for Reserve Certificate and Application for Award of Reserve Certificate form which has been approved by the council; or
 - d. Confirmation from MLEA that the officer successfully completed the appropriate equivalency course.
 - i. Equivalency is available to peace officers and Detention/Corrections officers and POST must approve an officer for equivalency prior to an officer's attendance, if the officer wishes to meet the basic training qualification by attending equivalency in lieu of a full basic course.
 - ii. POST will approve or deny requests for equivalency based upon the procedures outlined in Sections 1.1 or 1.2.

Section 1.1 Procedure for Determining Qualifications for Peace Officer Equivalency

1. POST will consider only requests for equivalency for peace officers which are submitted to POST by an employing authority.
2. An employing authority may make an equivalency request to POST for a peace officer on a Basic Equivalency form or on the agency's letterhead. The request for equivalency must provide a minimum of the following information:
 - a. The date and location of the officer's basic course;
 - b. The agency from whom the officer has received certification and the date on which the officer was certified; and
 - c. A notarized release of information which has been signed by the officer. The release of information which the officer signed for the employment background may be sufficient. POST staff has an equivalency release of information available to employing authorities which may be provided upon request.
3. Upon receipt of a request for equivalency for a peace officer, POST staff will determine whether the officer has been appointed. No officer will be approved for equivalency if:
 - a. The employing authority has not submitted a Notice of Appointment to POST; or
 - b. The employing authority has not informed POST of an offer of employment which is conditioned in whole or in part upon POST's approval for the officer to attend equivalency.
4. After confirmation of an officer's appointment status, POST staff will contact the appropriate entity/ies to investigate the training and certification status of the officer which may include, but is not limited to:
 - a. The officer's prior employers
 - b. The officer's prior certifying agency/ies
 - c. The officer's current employer
5. POST staff will check the National Decertification Index to determine whether the officer's certification has been sanctioned.
6. POST staff may request any additional documentation concerning training, discipline, or certification sanction which POST deems reasonable to determine the officer's qualification.

7. If an equivalency request is made to POST prior to October 1, 2019, and the officer's prior basic academy hours are not at least equivalent to the current MLEA peace officer basic, equivalency will not be granted.
8. If a request for equivalency is made after October 1, 2019, and the officer's basic academy course hours are not at least equivalent to the current MLEA peace officer basic course, POST may examine the officer's experience and ongoing training to determine training equivalency.
 - a. POST will first examine all of the officer's training and determine if the officer's ongoing training would meet or exceed the number of hours taught at the current MLEA peace officer basic. If an officer's ongoing training is used to determine equivalency, the officer may not receive credit hours toward other certificates from the hours used.
 - i. Example: An officer attended a 200-hour basic course and has 300 hours of ongoing training which would, in combination with the basic, be equivalent to the 480-hour MLEA peace officer basic course. Only 20 hours of the officer's ongoing training may be applied to other certificates:

$$\begin{array}{r}
 200 \text{ hours} - \text{basic} \\
 + 300 \text{ hours} - \text{ongoing training} \\
 \hline
 500 \text{ hours} - \text{total training} \\
 \\
 500 \text{ hours} - \text{total training} \\
 - 480 \text{ hours} - \text{MLEA basic} \\
 \hline
 20 \text{ hours} - \text{training that may be used toward further} \\
 \text{certificates}
 \end{array}$$
 - ii. POST will not use the officer's prior ongoing training courses for basic equivalency which may qualify an officer for other certificates (i.e., instructor development or management courses) without the consent of the officer and the employing authority.
 - b. If an officer does not have sufficient ongoing training or there is not sufficient documentation of ongoing training to determine that the officer's training is equivalent, POST will then examine the officer's years of experience to determine whether the experience would be equivalent to receiving an MLEA basic. POST will use the following formula to determine basic training based upon years of service: 1 year of service = 40 hours of training.

- i. Example: An officer attended a 200-hour basic course and has 7 years of experience. The years of service are equivalent to 280 hours of training.

$$\begin{array}{r} 7 \text{ years} \\ \times 40 \text{ hours} \\ \hline 280 \text{ hours} - \text{years of service} \end{array}$$

$$\begin{array}{r} 200 \text{ hours} - \text{basic} \\ + 280 \text{ hours} - \text{years of service} \\ \hline 480 \text{ hours} - \text{total training} \end{array}$$

- ii. If an officer's years of service are such that the above formula would exceed the required basic hours, the officer may not use the additional years of service as equivalent to ongoing training for the purpose of receiving additional certificates.
 - iii. If an officer's years of service are used to meet the training requirement for equivalency, the officer may still use those years of service toward other certificates.
9. Upon approval of the equivalency request, POST will send the approval letter to the employing authority and copy the officer. The appropriate MLEA application will be attached to that letter with instructions on how the officer may gain acceptance to the equivalency course. If the request is denied, POST will send a letter to the employing authority with a copy to the officer which will include instructions concerning how the officer may challenge the denial.

Section 1.2 Procedure for Determining Qualifications for Detention/Correction Officer Equivalency

1. POST will consider only requests for equivalency for detention/correction officers which are submitted to POST by an employing authority.
2. An employing authority may make an equivalency request to POST for a detention/correction on a Basic Equivalency form or on the agency's letterhead. The request for equivalency must provide a minimum of the following information:
 - a. The date and location of the officer's basic course;
 - b. The agency from whom the officer has received certification and the date on which the officer was certified; and

- c. A notarized release of information which has been signed by the officer. The release of information which the officer signed for the employment background may be sufficient. POST staff has an equivalency release of information available to employing authorities which may be provided upon request.
- 3. Upon receipt of a request for equivalency for a detention/correction, POST staff will determine whether the officer has been appointed. No officer will be approved for equivalency if:
 - a. The employing authority has not submitted a Notice of Appointment to POST; or
 - b. The employing authority has not informed POST of an offer of employment which is conditioned in whole or in part upon POST's approval for the officer to attend equivalency.
- 4. After confirmation of an officer's appointment status, POST staff will contact the appropriate entity/ies to investigate the training and certification status of the officer which may include, but is not limited to:
 - a. The officer's prior employers
 - b. The officer's prior certifying agency/ies
 - c. The officer's current employer
- 5. POST staff will check the National Decertification Index to determine whether the officer's certification has been sanctioned.
- 6. POST staff may request any additional documentation concerning training, discipline, or certification sanction which POST deems reasonable to determine the officer's qualification.
- 7. If the officer's basic academy course hours are not at least equivalent to the current MLEA detention/correction basic course, POST may examine the officer's experience and ongoing training to determine training equivalency. A detention/correction officer who has previously met the minimum training requirements for peace officers or probation & parole officers may be approved for CDOB equivalency.
 - a. POST will first examine all of the officer's training and determine if the officer's ongoing training would meet or exceed the number of hours taught at the current MLEA detention/correction basic. If an officer's ongoing training is used to determine equivalency, the officer may not receive credit hours toward other certificates from the hours used.

- i. Example: An officer attended a 100-hour basic course and has 100 hours of ongoing training which would, in combination with the basic, be equivalent to the 160-hour MLEA detention/correction officer basic course. Only 40 hours of the officer's ongoing training may be applied to other certificates:

$$\begin{array}{r} 100 \text{ hours} - \text{basic} \\ + 100 \text{ hours} - \text{ongoing training} \\ \hline 200 \text{ hours} - \text{total training} \end{array}$$

$$\begin{array}{r} 200 \text{ hours} - \text{total training} \\ - 160 \text{ hours} - \text{MLEA basic} \\ \hline 40 \text{ hours} - \text{training that may be used toward further} \\ \text{certificates} \end{array}$$

- ii. POST will not use the officer's prior ongoing training courses for basic equivalency which may qualify an officer for other certificates (i.e., instructor development or management courses) without the consent of the officer and the employing authority.
- b. If an officer does not have sufficient ongoing training or there is not sufficient documentation of ongoing training to determine that the officer's training is equivalent, POST will then examine the officer's years of experience to determine whether the experience would be equivalent to receiving an MLEA basic. POST will use the following formula to determine basic training based upon years of service: 1 year of service = 40 hours of training.
- i. Example an officer attended a 100-hour basic course and has 2 years of experience. The years of service are equivalent to 80 hours of training.

$$\begin{array}{r} 2 \text{ years} \\ \times 40 \text{ hours} \\ \hline 80 \text{ hours} - \text{years of service} \end{array}$$

$$\begin{array}{r} 100 \text{ hours} - \text{basic} \\ + 80 \text{ hours} - \text{years of service} \\ \hline 180 \text{ hours} - \text{total training} \end{array}$$

- ii. If an officer's years of service are such that the above formula would exceed the required basic hours, the officer may not use the additional years of service as equivalent to ongoing training for the purpose of receiving additional certificates.
 - iii. If an officer's years of service are used to meet the training requirement for equivalency, the officer may still use those years of service toward other certificates.
- 8. Upon approval of the equivalency request, POST will send the approval letter to the employing authority and copy the officer. The letter will provide instructions on how the officer may gain acceptance to the equivalency course. If the request is denied, POST will send a letter to the employing authority with a copy to the officer which will include instructions concerning how the officer may challenge the denial.

Section 2 Procedure for Determining Qualifications for Intermediate and Advanced Certificates

1. POST will issue intermediate and advanced certificates pursuant to ARMs 23.13.207 and 23.13.208. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for intermediate and advanced certificates, POST will issue the certificates within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the Notices of Appointment which the employing authorities send to POST, except as provided in 2.b.
 - a. All time in service must be discipline-specific. For example, an officer who was employed as a Probation and Parole officer for 2 years may not use those 2 years of service toward a detention/correction intermediate or advanced certificate.
 - b. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for that time in service upon providing documentation of that time in service to POST with the officer's certificate application. Such documentation may include:
 - i. A POST transcript from another state
 - ii. An inservice training record from the officer's non-Montana employing authority/ies
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.

- c. In the case of intermediate certificates, the officer must have been working a minimum of one year with the officer's current employing authority. POST will review its appointment records to determine if this requirement has been met.
- 3. POST will review its certification records to determine if the officer has the required certificate/s to qualify for additional certification/s. For example, an officer must have the discipline-specific basic certificate in order to qualify for an intermediate certificate.
- 4. POST will review its training records and the officer's inservice records, if provided, to determine if the officer has the required hours for certification.
 - a. Training credit hours are not discipline-specific. For example, if a peace officer was previously employed as a detention/correction officer and received 100 POST training credit hours during the officer's detention/correction employment, the peace officer may use those 100 hours toward a peace officer intermediate certificate.
 - i. No training credit will be granted for any college courses which were not submitted for approval prior to December 22, 2018.
 - ii. No training credit will be granted for any military training which was not submitted for approval prior to December 22, 2018, except for military training received when the officer was working as a public safety officer as defined in 44-4-401, MCA.
 - iii. No training credit will be granted for any basic training.
 - iv. No training credit will be granted for any training received when the officer was not employed as a public safety officer, as defined in 44-4-401, MCA, except as provided in 4.b.
 - b. If an officer applied for POST credit hours for college courses or military training prior to December 22, 2018, and the credit was granted by POST, up to 25% of the required hours may be applied from that credit. For example, if a peace officer applies for an intermediate certificate which requires 200 hours of POST Training Credit, POST may apply up to 50 college or military credit hours toward the 200-hour requirement.
 - c. If an officer attaches an inservice training record to the application, up to 15% of the required hours may be applied from that record. For example, if a detention/correction officer applies for an intermediate certificate which requires 144 hours of POST Training Credit, POST may apply up to 21.6 inservice training hours toward the 144-hour requirement.
 - i. Acceptable documentation of inservice training may include an excel spreadsheet which includes at least the dates of the training, the length of the training, and the type of training the officer

received, an agency transcript, or any other list which provides the information required for POST to identify the training received. The acceptability of inservice documentation will be determined on a case-by-case basis.

- d. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit hours toward certificates upon providing documentation of training which would meet POST's requirements in ARMs 23.13.301 and 23.13.302. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A training record from the officer's non-Montana employing authority/ies
 - 1. When submitting a training record from an employing authority, the officer must indicate which training would meet POST requirements in ARMs 23.13.301 and 23.13.302
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.

Section 3 Procedure for Determining Qualifications for Instructor Certificates

- 1. POST will issue instructor certificates pursuant to ARM 23.13.212. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for instructor certification, POST will issue the certificate within a timeframe which POST determines is reasonable.
- 2. POST will determine whether the time in service requirement has been met based upon the Notices of Appointment which the employing authorities send to POST, except as provided in 2.b.
 - a. Time in service is not discipline-specific. For example, a detention/correction officer who was employed as a Probation and Parole officer for 6 months may use those 6 months of service toward an instructor certificate.
 - b. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for that time in service upon providing documentation of that time in service to POST with the officer's certificate application. Such documentation may include:
 - i. A POST transcript from another state

- ii. An inservice training record from the officer's non-Montana employing authority/ies
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.
- 3. POST will review its certification records to determine if the officer has the required basic certificate and that the status of that certificate meets the requirements of ARM 23.13.212.
- 4. POST will review its training records, to determine if the officer has the required Instructor Development course or its equivalent.
 - a. If an officer attended an instructor development course or its equivalent prior to October 28, 2017, and that course was approved by POST the officer may use that course to qualify for instructor certification.
 - b. If an officer attends a course which the officer believes is equivalent to instructor development, or an instructor development course which has been approved as such by POST after October 28, 2017, the officer and the employing authority must certify that the course met the requirements of ARM 23.13.212(2)(d), such certification is subject to audit pursuant to POST's training audit policy. Courses which may be recognized as equivalent to instructor development include, but may not be limited to:
 - i. DARE
 - ii. SFST Instructor
 - iii. A Bachelor's degree in Education
 - c. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for an instructor development course which meets the requirements of 23.13.212. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A lesson plan from the course which the officer wishes to use to meet the training requirement
 - iii. A training record from the officer's non-Montana employing authority/ies
 - 1. When submitting a training record from an employing authority, the officer must indicate the instructor development course that meets POST requirements in ARMs 23.13.212, 23.13.301 and 23.13.302
 - iv. Other documentation may be approved as sufficient on a case-by-case basis.

Section 4 Procedure for Determining Qualifications for Supervisory Certificates

1. POST will issue supervisory certificates pursuant to ARM 23.13.209. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for supervisory certification, POST will issue the certificate within a timeframe which POST determines is reasonable.
2. POST will determine whether the time in service requirement has been met based upon the application certification by the employing authority.
3. POST will review its certification records to determine if the officer has the required intermediate certificate.
4. POST will review its training records to determine if the officer has the required management course.
 - a. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for management course which meets the requirements of 23.13.209. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A training record from the officer's non-Montana employing authority/ies
 1. When submitting a training record from an employing authority, the officer must indicate the management course that meets POST requirements in ARMs 23.13.209, 23.13.301 and 23.13.302
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.

Section 5 Procedure for Determining Qualifications for Command Certificates

1. POST will issue command certificates pursuant to ARM 23.13.210. Issuance will be based upon an officer's completion of the appropriate training, certification, and time in service requirements. Upon approval of an application for command certification, POST will issue the certificate within a timeframe which POST determines is reasonable.

2. POST will determine whether the time in service requirement has been met based upon the application certification by the employing authority.
3. POST will review its certification records to determine if the officer has the required supervisory certificate.
4. POST will review its training records to determine if the officer has the required training.
 - a. Officers with experience as a public safety officer, as defined in 44-4-401, MCA, in another jurisdiction may receive credit for training which meets the requirements of 23.13.210. POST will not record such training hours on the officer's Montana POST transcript, but will maintain the documentation submitted by the officer. Such documentation may include:
 - i. A POST transcript from another state
 - ii. A training record from the officer's non-Montana employing authority/ies
 1. When submitting a training record from an employing authority, the officer must indicate the training/s that meets POST requirements in ARMs 23.13.210, 23.13.301 and 23.13.302
 - iii. Other documentation may be approved as sufficient on a case-by-case basis.

Section 6 General Provisions for Determining Certification Qualifications

1. As provided in POST ARM 23.13.205 no training hours will be granted for any basic training. This includes but is not limited to out of state, federal, tribal and military basic training.
2. Unless otherwise noted in Montana law, POST policies, or POST ARMs, no training credit will be granted for any training which an officer obtains if the officer is not employed as a public safety officer, as defined in 44-4-401, MCA, at the time the training is received.
3. Upon issuance of any certificate, POST will mail the original certificate to the employing authority of the applicant. It is the responsibility of the employing authority to disseminate the certificate to the appropriate officer upon the employing authority's receipt of the certificate.

Policy and Procedure for Auditing Training Hours

Policy: POST will conduct random audits of officer and/or agency training records in order to ensure compliance with POST ARMs 23.13.201, 23.13.301 and 23.13.302. Should records be lacking, POST will provide officers and agencies an opportunity to remedy the matter.

Procedure for auditing POST-accredited training:

1. During the last full week of every month, POST staff will use a computer program to automatically generate a 6- digit number. The first 6-digit number generated which is the POST ID number of an active public safety officer will determine the officer or training to be audited.
2. The training transcript of the officer will be reviewed, and the most recent POST-accredited training on the transcript will be audited.
3. POST staff will locate the application which corresponds to the training and contact the agency, entity or individual who is required to retain the record pursuant to ARM 23.13.301.
4. The contact will be made in the form of a written letter, which will provide the agency, entity, or individual with 30 days from the date of the letter to provide a copy of the training records which have been retained pursuant to ARM 23.13.301.
5. If POST staff does not receive a response, the training credit hours related to the training may be removed from the officer or officers' training transcript upon written notice to the officer or officers.
6. If POST receives a response which is lacking required information, POST will make written contact with the agency, entity, or individual in the form of a letter. The agency, entity, or individual officer will be given 30 days from the date of the letter to obtain the required documentation and submit a copy to POST.
7. If POST staff does not receive a response, or the response received does not remedy the issue, the training credit hours related to the training may be removed from the officer or officers' training transcript upon written notice to the officer or officers.

Procedure for auditing training required pursuant to ARM 23.13.201

1. During the last full week of every month, POST staff will use a computer program to automatically generate a 6- digit number. The first 6-digit number generated which is the POST ID number of an active public safety officer will determine the officer to be audited.
2. POST staff will contact the officer's employing authority in the form of a written letter, which will provide the employing authority and the officer with 30 days from the date of the letter to submit to POST a copy of the officer's training records which demonstrate the officer received 20 hours of training in the last 2 years, to include an ethics training.
3. If POST receives a response which is lacking required information, POST will make written contact with the agency and officer in the form of a letter. The agency and officer will be given 30 days from the date of the letter to obtain the required documentation and submit a copy to POST.
4. If the officer has not received the required training, or if no response is received, POST will contact the officer and agency in the form of a written letter. The agency and officer will be given 6 months from the date of the letter to obtain and document the required training and submit it to POST. No training obtained during the 6- month period may be used toward the next 2-year training requirement.
5. At the agency's request, POST may provide training material or options for bringing the officer into compliance with ARM 23.13.201.
6. Once the officer has obtained the requisite training, the employing authority will submit a letter to POST, stating that the officer has been brought into compliance. The employing authority will attach a transcript or other written record establishing that the officer's training is in compliance.

Policy and Procedure for Obtaining POST Training Credit Hours

Policy: POST will approve training credit hours on an hour-for-hour basis. When a training has been approved, and when POST receives documentation that a public safety officer has completed the training, POST will enter training hours on the public safety officers' transcripts.

Procedure for Montana Public Safety Agencies

1. Any agency that would like to request POST credit hours may do so by using POST's "Application for POST Credit Hours for a Training." The application may be obtained from POST staff or on POST's website.
2. The agency applying for POST credit hours must provide the following information on the application:
 - a. the course name
 - b. the course location
 - c. the number of course hours
 - d. the course date/s
3. The agency must provide the email address and phone number of the individual responsible to retain documentation of:
 - a. any/all non-public safety officer instructors' biography/ies
 - b. the course agenda
 - c. a lesson plan
 - d. student materials and handouts
 - e. the PowerPoint, if available
4. The agency must certify:
 - a. that the course is over 2 hours in length
 - b. that the course was open and advertised
5. After the course is complete, the agency or entity that requested credit must submit a POST single or multi-day roster to POST.
6. Upon receipt of an application and roster from an agency, POST staff will review the application. If all required information has been provided, and the application is certified, the credit hours will be entered on the officer or officers' transcript.

No credit hours may be requested for non-working lunches. POST credit may only be granted for hours of actual instruction which are supported by the course material retained by the agency.

At any time, on a random basis, POST staff may audit the training records of any agency upon reasonable notice.

Procedure for Non-Criminal Justice Entities

1. Any entity that would like to request POST credit hours may do so by using POST's "Application for POST Credit Hours for a Training." The application may be obtained from POST staff or on POST's website.
2. The entity applying for POST credit hours must provide the following information on the application:
 - a. the course name
 - b. the course location
 - c. the number of course hours
 - d. the course date/s
3. The entity must provide an email address and phone number of the individual responsible to retain documentation of:
 - a. any/all non-public safety officer instructors' biography/ies
 - b. the course agenda
 - c. a lesson plan
 - d. student materials and handouts
 - e. the PowerPoint, if available
4. The entity must certify:
 - a. that the course is over 2 hours in length
 - b. that the course was open and advertised
5. After the course is complete, the entity that requested credit must submit a POST single or multi-day roster to POST.
6. Upon receipt of an application and roster from an entity, POST staff will review the application. If all required information has been provided, and the application is certified, the credit hours will be entered on the officer or officers' transcript.

No credit hours may be requested for non-working lunches. POST credit may only be granted for hours of actual instruction which are supported by the course material retained by the agency.

At any time, on a random basis, POST staff may audit the training records of any entity upon reasonable notice.

Procedure for Individual Public Safety Officers

1. Any individual officer who would like to request POST credit hours which has not been preapproved using the procedures above may do so by using POST's "Application for Individuals Seeking POST Credit Hours for Out-of- State and Other Courses," or for online courses, POST's "Application for Individuals Seeking POST Credit for Online Courses." The applications may be obtained from POST staff or on POST's website.
2. Every officer applying for POST credit hours must provide the following information on the application:
 - a. the officer's full name
 - b. the officer's date of birth
 - c. the name of the agency for which the officer works
 - d. the officer's phone number and email address
 - e. the course name
 - f. the course location
 - g. the number of course hours
 - h. the course date/s
3. The officer or the officer's employing authority must retain documentation of:
 - a. any/all non-public safety officer instructors' biography/ies
 - b. the officer's certificate of completion
 - c. the course agenda
 - d. the lesson plan
 - e. student materials and handouts
 - f. the PowerPoint, if available
4. The officer and the officer's employing authority must certify
 - a. that the course was over 2 hours in length
 - b. that it was open and advertised
 - c. that the officer attended at least 90% of the training
5. Upon receipt of an application from an individual officer, POST staff will review the application. If all required information has been provided, and the application is certified, the credit hours will be entered on the officer's POST transcript.

No credit hours may be requested for non-working lunches. POST credit may only be granted for hours of actual instruction which are supported by the course material retained by the agency.

At any time, on a random basis, POST staff may audit the training records of any officer upon reasonable notice.

Policy and Process for Submission, Response, and Reporting of Public Information Requests

Policy: POST will provide timely responses to all public information requests submitted pursuant to POST's processes. POST will report data on public information requests to the Legislative Finance Committee and to the public pursuant to Montana law. This Policy and Process and the Public Information Request Form will be posted on POST's website, and POST's Administrative Assistant will be listed on the website as the designated contact for public information requests by October 1, 2023. Effective October 1, 2023, the following processes will be followed regarding submission, response, and reporting of requests for public information.

Section 1: Process for Submitting Public Information Requests

1. All public information requests must be submitted by completing and sending POST's Public Information Request Form to POST's Administrative Assistant via mail or email. The following information requests do not need to be submitted pursuant to this process:
 - a. A public safety officer requesting his or her own POST transcript;
 - b. A public safety agency requesting information pursuant to a background release;
 - c. A public safety agency requesting an employee officer's information;
 - d. Any governmental agency requesting information for the purpose of determining an individual's eligibility for professional licensure or certification;
 - e. Discovery requests or other requests made pursuant to pending court action;
 - f. Subpoenas duces tecum; or
 - g. Requests for information from a criminal justice agency when the information is requested for the purpose of conducting a legally authorized investigation.
2. If POST's Administrative Assistant is unavailable, the requester may submit POST's Public Information Request Form to POST's Executive Assistant via mail or email.

Section 2: Process for Responding to Public Information Requests

1. Upon receipt of a POST Public Information Request Form, the Administrative Assistant will record the following information:
 - a. The identity of the requester;
 - b. What information is requested;

- c. The date of the request; and
 - d. Indicate the request is “in progress.”
- 2. Within five business days, the Administrative Assistant will consult with the Director or POST staff to determine which staff member should respond to the request. The Administrative Assistant will then contact the requester to acknowledge receipt of the request, and to inform the requester who will be responding to the request. If this acknowledgement is made by the Administrative Assistant via email, the staff member responsible for responding to the request will be copied.
- 3. Within five business days of the Administrative Assistant’s acknowledgement, the responding staff member will provide one of the following to the requester:
 - a. If the request is for a single, specific, clearly identifiable, and readily available public record, the responding staff member will provide the record; or
 - b. If the request is not for a single, specific, clearly identifiable, and readily available public record, the responding staff member will provide an estimate of the time it will take to provide the information, and any fees that may be charged for fulfilling the request.
 - i. Fees may be charged for any request that exceeds 50 pages of copying, more than one hour of staff time, or more than 30 minutes (.5 hours) of attorney time. See Attachment A.
 - ii. Upon notifying the requester of fees, POST’s time to respond to the request will be suspended until payment is received.
- 4. Upon the requester’s payment of fees, or upon notification of the estimate of time to fulfill the request when no fees are charged, the responding staff member will provide the requested information within 90 days.
- 5. If the Executive Director determines that additional time is necessary to respond to any public information request, the Executive Director or the Director’s designee will inform the requester in writing, explaining the reasons for the additional time required. The responding staff member will be notified of the written explanation and will produce the information within 6 months of acknowledgment or payment.
- 6. If the responding staff member requests additional information or clarification of an information request, the response time will be suspended until the requester has provided the requested information or clarification. If the request for additional information or clarification is denied by the individual requesting the public information, that denial must be made in writing. If, after 30 days of the responding staff members request, the individual requesting public information fails to respond to a request for clarification or additional information, POST may

close the request upon written notice to the person requesting the public information.

7. The POST Administrative Assistant will record a public information request as closed when the public information is produced, when the request is denied, or when the requester is notified of closure pursuant to paragraph 6, above.
8. POST will maintain electronic copies of every public information request and all related correspondence and responses under the applicable record retention policy.

Section 3 Reporting

1. POST will publish, on its website, information regarding the number of public information requests made pursuant to this process and the length of time it took for POST to respond to requests for public information. The information will be updated quarterly and will include:
 - a. Each request for public information received by POST;
 - b. A description of the responses from POST to each request for public information;
 - c. The total number of requests for public information received by POST;
 - d. The identity of each requester;
 - e. The information requested;
 - f. The date of each request;
 - g. The date on which each request was closed;
 - h. The number of hours it took for POST to respond to the request;
 - i. The costs imposed on the requester, if any; and
 - j. Statistics, which could include graphs or charts, regarding the number of public information requests POST has received and the length of time it took for POST to close the request.
2. Beginning July 1, 2024, POST will provide quarterly reports to the Legislative Finance Committee, which will include the above information.

Attachment A

POST Public Records Request Fee Schedule	
Photocopying	
Photocopying Charges, including staff time spent copying or scanning	\$0.35 per page in excess of 50 pages
Staff time to prepare material for production	Actual Cost
If the request is for extraordinarily voluminous material, POST may have copies made by Print and Mail Services	Actual Cost
Electronic Media Copies	
Electronic Media Copies – Staff time for copying electronic files	Actual Cost
Electronic media	Actual Cost
Mainframe and mid-tier processing charges, including processing time, transmission time, and report writing charges	Actual Cost
Email export	\$127.78 per hour
Other State ITSD Services	Actual Cost per rate schedule at http://sitsdservicecatalog.mt.gov/services
Legal Review	
Legal Review and/or Redactions	Actual Cost per hour after .5 hours of Attorney time and/or after 1 hour of staff time
Research and/or analysis whether involving paper or electronic records	Actual Cost per hour after .5 hours of Attorney time and/or after 1 hour of staff time

Attachment B

The POST Council has established the following guidelines for responses to Requests for Public Information made pursuant to this policy:

Request for individual officer's POST Transcript: transcript produced in pdf format, with the officer's personal information removed or redacted (date of birth, photograph, personal contact information, etc.).

Request for POST investigation information: POST staff will coordinate with legal counsel to make a case-by-case determination regarding what information may be produced.

Request for information on a sanctioned officer: The identity of sanctioned officers will be provided absent case-specific privacy or safety concerns that outweigh the public's right to know.

Request for a officer list or other export of information from POST's database: staff may respond with either csv or pdf files as appropriate, except that staff will not release an officer's name, date of birth, contact information, or any other identifying information. Officers may be identified by a randomly generated and deidentified number from POST's database. POST will not release any internal data-entry information.

Request for training information: POST staff will provide a pdf copy of the application for POST training credit. If the request is for training material in POST's possession, POST staff may provide the material in its native format or pdf format as appropriate. POST will not produce information identifying any attendees of a specific training course, such as the attendees' names, email addresses, dates of birth, etc.

Other information requests: POST staff will consult with the Executive Director, and legal counsel where appropriate, regarding other information requests not covered by the above categories, and may present the request to the POST Council for review in appropriate cases where additional direction is needed.