



Claire McCaskill

Missouri State Auditor

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February 2005

## PUBLIC SAFETY

# Peace Officer Standards and Training Program

(Licensing, Training,  
and Complaint  
Investigation Aspects)



Office Of The  
State Auditor Of Missouri  
Claire McCaskill

February 2005

**The following problems were discovered as a result of an audit conducted by our office of the Department of Public Safety, Police Officer Standards and Training program.**

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*The Peace Officer Standards and Training (POST) program was established in 1978. The Department of Public Safety manages the POST program as established by state law and by the rules and regulations of Missouri's Peace Officer Standards and Training Commission as specified in Chapter 590, RSMo. The department is responsible for licensing and regulating peace officers, continuing education providers, training instructors, and training centers; establishing a classification system for licenses; establishing minimum standards for peace officers and for admittance into basic training; and developing the Missouri Peace Officer License Exam. As of June 30, 2004, there were approximately 650 law enforcement agencies and about 18,000 licensed peace officers.*

Various tests conducted during the audit noted at least 75 of the 645 (12 percent) law enforcement agencies had not complied with one or more of the following state laws related to the Peace Officer Standards and Training Program (POST):

- Section 590.070, RSMo Cumulative Supp. 2003, requires the chief executive officer (CEO) of local law enforcement agencies to notify the director of the Department of Public Safety for the POST within 30 days of the hire or termination of commissioned officers. Audit tests showed this is not being done on a consistent basis.
- Section 590.070, RSMo Cumulative Supp. 2003, also requires CEOs to notify POST whenever they have reasonable grounds to believe an officer commissioned by their agency is subject to discipline, and within 30 days after an officer departs under investigation. Our tests also found that this notification requirement was not consistently followed.
- Program officials have taken only limited action regarding local law enforcement agencies' violations of statutes and have not developed written policies regarding action to be taken when agencies do not comply with state law.
- Program officials did not adequately ensure that commissioned officers complied with the continuing education requirements established by Section 590.030.5 (1), RSMo Cumulative Supp. 2003.

(over)

YELLOW SHEET

Our audit also found that program officials do not perform periodic criminal history background checks on active peace officers. Therefore, POST is not aware of some criminal activity that occurred after the officers' initial application for training.

We requested the Missouri State Highway Patrol (MSHP) perform criminal background searches for approximately 18,000 peace officers currently licensed and eligible to work as a peace officer. The MSHP identified a total of 480 open and closed criminal offenses on their records for these officers. We eliminated offenses that were more than 10 years old, those with dropped charges, and those officers who were acquitted, resulting in 92 open and closed criminal offenses to be reviewed. As of September 24, 2004, POST was not aware of 9 of 49 open offense crimes and 13 of 43 closed offense crimes.

State law prevents POST program officials from revealing employment history to prospective law enforcement agency employers. To help ensure local law enforcement agencies access to previous peace officer employment, POST officials should be allowed to inform prospective employers of past employment.

Annually, POST sends out a listing to all local enforcement agencies showing the officers working for that agency according to POST records. The CEO of each agency is supposed to verify that the list is correct, make any necessary changes, and return the listing to POST. However, as of February 2004, we found that 203 of 645 (31 percent) CEOs had not returned the May 2003 listing. In addition, 67 CEOs had not returned the affirmation listing for at least 4 years.

POST personnel initiate investigations when they learn of alleged actions of peace officers that could lead to discipline. POST personnel learn of these actions through phone calls from private citizens and law enforcement officials, through media reports, and through departure forms submitted by law enforcement agencies. Our review of procedures and management systems to track complaint investigations noted the following concerns:

- POST personnel do not document the receipt of some complaints.
- POST does not categorize complaints by degree of severity and has not established timeframes regarding initial complaint follow-up and investigation completion.
- POST's system to manage and track the status of complaints is inadequate.
- Some investigations are not initiated and/or completed in a timely manner. In our review of 25 cases that resulted in discipline, we noted that the average time for the initiation of an investigation was 32 days, and the average time for investigation completion was about one year.
- POST does not have written guidelines regarding discipline.

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DEPARTMENT OF PUBLIC SAFETY  
 PEACE OFFICER STANDARDS AND TRAINING PROGRAM  
 (LICENSING, TRAINING, AND COMPLAINT INVESTIGATION ASPECTS)

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STATE AUDITOR'S REPORT



**CLAIRE C. McCASKILL**  
**Missouri State Auditor**

Honorable Matt Blunt, Governor  
and  
Members of the General Assembly  
and  
Charles R. Jackson, Director  
Department of Public Safety  
and  
Gary F. Toelke, Chairman  
Peace Officer Standards and Training Commission  
Jefferson City, MO 65102

We have audited the licensing, training, and complaint investigation aspects of the Peace Officer Standards and Training Program (POST) administered by the Department of Public Safety. The scope of this audit included, but was not necessarily limited to, the years ended June 30, 2004, 2003, and 2002. The objectives of this audit were to:

1. Determine whether currently employed peace officers have criminal records; have had their license revoked in another state; or do not have a current license issued by the POST.
2. Review and evaluate compliance with certain statutory requirements regarding the POST, including the investigation and processing of complaints against peace officers.
3. Evaluate the effectiveness of certain internal controls and practices relating to the regulation of peace officers.

Our methodology to accomplish these objectives included reviewing minutes of meetings, written policies, financial records, and other pertinent documents; interviewing various personnel of the Department of Public Safety, as well as certain external parties; and inspecting relevant records and reports.

In addition, we obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. We also performed tests of certain controls to obtain evidence regarding the effectiveness of their design and operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, or violations of legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in the audit of the program.

The accompanying Management Advisory Report presents our findings arising from our audit of the licensing, training, and complaint investigation aspects of the Peace Officer Standards and Training Program.



Claire McCaskill  
State Auditor

September 24, 2004 (fieldwork completion date)

The following auditors participated in the preparation of this report:

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MANAGEMENT ADVISORY REPORT -  
STATE AUDITOR'S FINDINGS



DEPARTMENT OF PUBLIC SAFETY  
PEACE OFFICER STANDARDS AND TRAINING PROGRAM  
(LICENSING, TRAINING, AND COMPLAINT INVESTIGATION ASPECTS)  
MANAGEMENT ADVISORY REPORT –  
STATE AUDITOR'S FINDINGS

<b>1. Statutory Compliance</b>
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A. Various tests conducted during the audit noted at least 75 of the 645 (12 percent) law enforcement agencies had not complied with one or more of the following state laws related to the Peace Officer Standards and Training Program (POST):

1. Section 590.070, RSMo Cumulative Supp. 2003, requires the chief executive officer (CEO) of local law enforcement agencies to notify the director of the Department of Public Safety for the POST within 30 days of the hire or termination of commissioned officers. This is not being done on a consistent basis.

We reviewed wage and employment information filed with the state for officers with 5 or more jobs during the three years ended December 31, 2003, officers with more than one full time job as of February 2004, officers who had not worked in 5 or more years, and officers working at agencies that had not complied with POST requests for annual employment information. We selected 325 officers from this population and determined 94 had either been hired or terminated between September 2001 and December 2003. We found that POST records were not current for 21 of these 94 officers because POST had not received one or more employment change forms. In seven cases, POST had no record of the officers being hired at the agency, including one officer who had worked at an agency for nearly one year. In 17 other cases, POST records showed officers employed by agencies even though their employment had terminated, including one officer who had left employment nearly 3½ years earlier.

We also reviewed hire and termination reports received by POST for all officers with 5 or more jobs during the three years ended December 31, 2003. We found that program officials did not receive notification forms timely in 58 of 238 (24 percent) cases reviewed. These notification forms were received from 31 days to almost 2½ years after the officer's hire or termination date.

2. Section 590.070, RSMo Cumulative Supp. 2003, also requires CEOs to notify POST whenever they have reasonable grounds to believe an officer commissioned by their agency is subject to discipline, and within 30 days

after an officer departs under investigation. Our tests also found that this notification requirement was not consistently followed.

We reviewed 25 of 57 cases that resulted in discipline during the period September 2001 through December 2003. In 6 of 16 (33 percent) cases involving terminated officers, POST was notified by the agency after 30 days had passed. In 7 of 18 (39 percent) cases involving officers employed at the time of the incident, POST found out about the disciplinary situation from an outside source, such as the media or an anonymous phone call. In one case, an officer resigned while under investigation for embezzling funds; however, the notification to POST stated that the officer resigned for personal reasons. As a result, the POST investigation that led to the revocation of this officer's license was delayed by 4½ months. In another case, an officer resigned while under investigation for assault; however, the notification to POST stated that the officer resigned for personal reasons. This delayed, by over a year, the POST investigation that led to 3 years probation for the officer.

Without accurate and timely notification of hires and departures, program officials cannot ensure that employed officers hold a valid peace officer license and cannot initiate disciplinary investigations if necessary.

- B. Program officials have taken only limited action regarding local law enforcement agencies' violations of statutes. POST sent a letter to one agency expressing the director's concern that the agency had failed to notify POST of a disciplinary situation. After we brought the above violations to POST officials' attention, they sent form letters to address some of these issues. However, POST officials have not developed a written policy for agencies that continue to violate statutes.

State law provides program officials with multiple methods for encouraging CEOs to comply with state law. Anyone purposely violating Chapter 590 commits a class B misdemeanor, according to Section 590.195.2, RSMo Cumulative Supp. 2003, and his or her peace officer license can be subject to discipline, per Section 590.080.1 (6), RSMo Cumulative Supp. 2003. POST officials were unaware of instances where CEO licenses were disciplined or where CEOs were referred for prosecution for failing to provide accurate information. Additionally, according to Section 590.195.3, RSMo Cumulative Supp. 2003, any law enforcement agency that is in violation of any provision of Chapter 590 shall not be eligible to receive state or federal funds for any law enforcement purpose. However, in 2002 about \$198,000 was distributed to 22 noncompliant agencies as part of the POST fund distribution (15.6 percent of funds distributed), and in 2003 about \$129,000 was distributed to 19 noncompliant agencies as part of the POST fund distribution (10.1 percent of funds distributed).

- C. Program officials did not adequately ensure that commissioned officers complied with the continuing education requirements required by Section 590.030.5 (1), RSMo Cumulative Supp. 2003.

Once every three years, POST personnel send continuing education affirmations to all law enforcement agencies with a listing of officers shown in POST records as employed by that agency. The affirmation states that the agency CEO should ensure that officers included on the list have met all continuing education requirements. POST personnel do not require agencies to maintain proof that the officers received the required education, and POST does not audit this information to ensure that it is accurate. Additionally, POST officials do not require individuals who are on disciplinary probation to submit proof that all continuing education is completed.

To ensure that active officers meet continuing education requirements, POST should require law enforcement agencies to retain related documentation and periodically verify requirements have been met on a test basis.

- D. Program officials did not ensure state laws regarding criminal history background checks were complied with.

Section 590.060.3, RSMo Cumulative Supp. 2003, requires training centers to complete Missouri and Federal Bureau of Investigation criminal history background checks on all persons entering the training program. This statute also requires the report of criminal history to be forwarded to the director of the Department of Public Safety. However, 5 of 19 (26 percent) training centers do not forward the background checks to POST. Instead, POST allows these training centers to send in reports only if they find a problem during the background check.

To ensure required criminal history background checks have been performed and unsatisfactory applicants are removed from the training program, POST officials should receive and verify the results of all applicant criminal history screenings.

**WE RECOMMEND** POST program officials:

- A&B. Develop written policies regarding actions to be taken when local law enforcement agencies do not comply with state law, and consistently apply these policies when local law enforcement noncompliance occurs.
- C. Perform random audits on continuing education completed by peace officers and require individuals on disciplinary probation to submit documentation when completing continuing education.
- D. Ensure that criminal background checks performed on officer candidates are received, evaluated, and retained.

## AUDITEE'S RESPONSE

- A. *We agree that without timely notification of hires and departures, the POST Program cannot ensure that employed officers hold a valid peace officer license and we cannot initiate disciplinary investigations.*

*Since the POST Program has only one investigator handling nearly one hundred active complaints, we have no option but to rely upon the completed investigations of local law authorities to determine if a peace officer's license is subject to discipline. We do not have the personnel or resources to conduct field investigations. If we learn that a licensed peace officer, including the CEO of an agency, has committed a criminal offense, we make every effort to notify the appropriate local or federal authorities and gather all available information to proceed with discipline of the individual's peace officer license.*

- B. *We have since developed a policy to track, notify and potentially discipline the CEO of those law enforcement agencies that fail to submit notification of hires and departures in a timely manner. Suspension of grants and withholding of funds by the Department of Public Safety is an option of the Director of the Department of Public Safety as well. This practice has been in place for many months and we are in the process of putting this practice into a written policy.*

*Estimated date to develop written policy to describe current practice: February 1, 2005.*

- C. *We have no statutory authority to require law enforcement agencies to maintain proof that their employees obtained their required continuing education. If we have reason to believe that a licensed peace officer did not obtain their continuing education, we can require the licensed individual to provide proof of their compliance.*

*If licensed individuals are on probation or suspension for failure to obtain their mandatory continuing education training, this office requires the individual to submit proof that all continuing education training has been completed before discipline is lifted. This is not the case for individuals that are suspended or on probation for other violations of Section 590.080.1, RSMo, such as criminal offenses. These violations are unrelated to the continuing education requirement and compliance for these individuals is determined through employing agency continuing education affirmations.*

*As for random audits of continuing education records, the POST Program is currently understaffed and has had three positions eliminated from the POST Program over the past three years, including a Program Specialist position to oversee the continuing education process. Unless additional resources are allocated to the POST Program, it would be difficult to fulfill this recommendation.*

- D. *The state of Missouri has nineteen licensed basic law enforcement training centers. At the time of the audit, those training centers affiliated with law enforcement agencies, such as the Missouri State Highway Patrol Academy, were simply required to report they*

*had reviewed the criminal history record of their applicants and were to disclose any and all criminal offenses to the POST Program. This procedure has since been changed. This office now reviews and retains the criminal history record, as maintained by the Missouri State Highway Patrol and the Federal Bureau of Investigation, of every peace officer applicant.*

*Estimated date of implementation: Currently effective.*

**2.**

**Program Enhancements**

- A. Program officials do not perform periodic criminal history background checks on active peace officers. Therefore, POST is not aware of some criminal activity that occurred after the officers' initial application for training.

We requested the Missouri State Highway Patrol (MSHP) perform criminal background searches for approximately 18,000 peace officers currently licensed and eligible to work as a peace officer. The MSHP identified a total of 480 open and closed criminal offenses on their records for these officers. We eliminated offenses that were more than 10 years old, those with dropped charges, and those officers who were acquitted, resulting in 92 open and closed criminal offenses to be reviewed. Open records include arrest records for 30 days following arrest unless charges are not filed, arrest record for which charges have been filed, cases with a court disposition of guilty, and cases with a suspended imposition of sentence during the probationary period. Closed records include arrest records after 30 days following arrest with no charges filed, charges that were dismissed, cases where defendant was found not guilty, and cases with a suspended imposition of sentence after probation is complete.

We were not given unlimited access to closed criminal offenses. Therefore, we reviewed POST records for open offenses and asked POST officials to review records for closed offenses. As of September 24, 2004, POST was not aware of 9 of 49 (19 percent) open offense crimes and 13 of 43 (31 percent) closed offense crimes. Officers had been found guilty of 14 of 22 (64 percent) of the offenses, and charges were pending in 8 of 22 (36 percent) of the criminal offenses. These crimes were committed by 18 licensed officers. The crimes POST was not aware of included, among others, twelve driving while intoxicated offenses, two unlawful use of a weapon offenses, 1 kidnapping offense, and 1 stealing offense.

MSHP officials indicated some states are currently utilizing technology to flag criminal charges against peace officers as they are received. However, MSHP officials indicated this technology is not utilized in Missouri due to lack of funding.

- B. Prior to August 2001, Section 590.135.2, RSMo 2000, allowed the director to discipline a peace officer for "gross misconduct indicating inability to function as

a peace officer." The current statute, Section 590.080.1, RSMo Cumulative Supp. 2003, does not allow discipline for misconduct unless the misconduct occurred while the officer was on duty or was a criminal act.

We noted an instance where August 2001 revisions to state law would prevent POST program officials from disciplining a peace officer. During the summer of 2000, an officer met 16 and 17-year-old girls while on duty. The officer later (while not on duty) engaged in inappropriate contact with the 17-year-old girl who lived and attended high school within the municipality that employed him. In addition, the officer was present when a fellow officer, who was on duty at the time, engaged in inappropriate contact with the 16-year-old girl. Program officials revoked the above officers' licenses under the prior statute. However, POST program officials believe that if the above case were considered under current state law, the officer with the 17-year-old would not be subject to discipline because he was not on duty and it was not a criminal act.

To ensure public safety is maximized, POST officials should pursue legislative changes that allow disciplinary action for instances of misconduct that occur when a peace officer is not on duty.

- C. State law prevents POST program officials from revealing employment history to prospective law enforcement agency employers. Section 590.180.2, RSMo Cumulative Supp. 2003, states that POST can release the name, licensure status, and commissioning agency as open records, and can release to law enforcement agencies the final determination of cause for discipline. However, POST cannot release information regarding previous employment or termination.

During our audit, we noted the following examples where disclosure of this additional information might aid local law enforcement hiring decisions:

- An officer worked for 9 law enforcement agencies in 6 years. Length of service at each agency ranged from 20 days to over 3 years. This officer left one job due to lack of skills and was involuntarily terminated from another because he discredited the agency, was unable to effectively write required reports, and his honesty was questionable. This officer continues to work as a peace officer.
- An officer worked for 17 law enforcement agencies in 10 years. Length of service at each agency ranged from 17 days to 1 year. This officer was accused of sexual harassment at one job and has been involuntarily terminated from at least 4 other jobs for reasons such as behavioral problems and retaining city property. This officer continues to work as a peace officer.

To help ensure local law enforcement agencies access to previous peace officer employment, POST officials should be allowed to inform prospective employers of past employment.

- D. Annually, POST sends out a listing to all local law enforcement agencies showing the officers working for that agency according to POST records. The CEO of each agency is supposed to verify that the list is correct, make any necessary changes, and return the listing to POST. This allows POST to verify the accuracy of their records each year. However, at the time of our fieldwork in February 2004, we found that 203 of 645 (31 percent) CEOs had not returned the May 2003 affirmation. Of this number, 67 (10 percent) CEOs had not returned an affirmation for at least 4 years. As of February 2004, POST had not taken any systematic steps to follow up on reports not returned. We were informed by POST officials that the return rate for the May 2004 affirmation had significantly improved over the May 2003 results.

Without current employment records POST officials cannot ensure that hire and departure forms have been submitted, employed officers have valid licenses, and continuing education requirements have been met.

- E. POST officials are not effectively using the information contained in their officer database to manage the POST program. Information in this database could be used to prepare reports that would allow POST officials to look for problems. For example, by identifying officers with frequent turnover, POST officials might locate discipline problems; by identifying officers working more than one full time job, POST officials might locate hire/termination forms that had not been submitted; and by identifying officers in the database with multiple social security numbers, POST officials could verify and correct their data. The POST officer database is an important tool for the POST program and should be used effectively to improve program performance.

POST officials should develop and utilize periodic management reports to help monitor law enforcement agencies' compliance with state laws related to the POST program.

**WE RECOMMEND** POST program officials:

- A. Follow-up on criminal record information supplied by the Missouri State Highway Patrol and begin performing periodic background checks on active peace officers.
- B. Seek legislative changes allowing for discipline in more situations.
- C. Seek legislative changes allowing POST to reveal previous employment information to prospective local law enforcement employers.

- D. Ensure that annual officer listings are returned by local agency CEOs.
- E. Use the information contained in the officer database to better manage the program.

### **AUDITEE'S RESPONSE**

- A. *You are correct in that the POST Program does not perform periodic criminal history background checks on active peace officers. We agree that periodic criminal history checks should be completed, but we will need additional staff members to fulfill this recommendation. If completed on a regular basis, the Missouri State Highway Patrol's Criminal Records Division may need additional staff members to accommodate an additional 18,000 criminal history record requests.*

*Prior to August 28, 2001, the CEO of a law enforcement agency was not mandated to report peace officer violations to the Director of the Department of Public Safety. Pursuant to the passage of House Bill 80, and specifically section 590.070.1(3), RSMo, the CEO of a law enforcement agency is now required to report when they have "reasonable grounds" to believe that an officer commissioned by their agency is subject to discipline by the Director of the Department of Public Safety. We believe that this will reduce the number of offenses that are unknown to this office. We believe that these unknown offenses will be further reduced with the passage of Senate Bill 1211 in 2004, and specifically section 590.118.2, RSMo, which requires "any law enforcement agency with information showing a peace officer's unfitness for licensure..." to report such information to this office. However, for either of these statutes to be effective, we will need additional investigators and support staff assigned to the POST Program. The problem with periodically checking the criminal history records of active peace officers is that the results are only valid for the moment the review is completed and become invalid just as quickly. Which means that to be effective, criminal history checks would need to be completed on more than just a periodic basis. In speaking with the captain responsible for the oversight of the Missouri Highway Patrol's Criminal History Records Division, it was learned that the Patrol is proposing an update to their Automated Fingerprint Identification System (AFIS) in fiscal year 2007, which will allow them to notify this office if a licensed peace officer is arrested for any criminal offense. The estimated cost for the AFIS update is \$3 million.*

- B. *We agree that this language should be modified to include non-criminal off-duty conduct that could be classified as "gross misconduct indicating inability to function as a peace officer." This language was in the original draft of the proposed legislation, but was modified as a compromise with a Missouri law enforcement organization that refused to support the passage of the bill in its previous form. Without the support of this organization, House Bill 80 would not have been passed in 2001 and the value of the passage of the bill outweighed the value of this specific language. It should be noted that the Director of the Department of Public Safety retains the authority to discipline a peace officer's license for off-duty offenses that are criminal in nature. The example provided*



*in the audit report is a rare occurrence and we cannot recall a similar violation in the previous five years that was not criminal in nature.*

*Estimated date of implementation: Unknown, legislative proposals must be presented to the Governor.*

- C. *We agree that Chapter 590, RSMo, should be changed to permit this office to inform law enforcement agencies of a prospective employee's former employers.*

*Estimated date of implementation: Unknown, legislative proposals must be presented to the Governor.*

- D. *We have the authority to license peace officers, not law enforcement agencies. We have no authority to force the CEO of a law enforcement agency to return this affirmation. This affirmation was a tool developed by the POST Program several years ago as a mechanism to ensure that our commissioning records were accurate. For the 614 employment affirmations sent out in June 2004, we have received a response from all but 29 agencies. We are in the process of re-contacting these 29 agencies in an effort to obtain all 2004 affirmations.*

- E. *The POST Program shares the services of two Information Technology (IT) personnel. These individuals also support all remaining personnel within the Director's Office of the Department of Public Safety and Missouri Capitol Police, which amounts to around 70-75 end users. On June 26, 2003, the POST Program submitted a request to the IT personnel to modify the POST database in an effort to reduce the amount of paperwork maintained in-house by the POST Program and to reduce the workload of the POST Licensing Section. Because of their workload, it was estimated they could not begin this project until after January 1, 2004. Because of a loss of one member of the IT staff, which has just recently been replaced, the estimated date of completion is now sometime after January 1, 2005. To fulfill this recommendation, additional IT personnel will need to be allocated to the POST Program.*

<b>3. Complaint Investigations</b>
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POST personnel initiate investigations when they learn of alleged actions of peace officers that could lead to discipline. POST personnel learn of these actions through phone calls from private citizens and law enforcement officials, through media reports, and through departure forms submitted by law enforcement agencies. Our review of procedures and management systems to track complaint investigations noted the following concerns:

- A. POST personnel do not document the receipt of some complaints. In addition, no tracking number is assigned to each complaint received. Instead, POST personnel only log complaints that they believe may result in disciplinary action. Because documentation of some complaints is not retained, these complaints are not

subject to management oversight to verify these complaints were properly handled. Also because tracking numbers are not assigned to complaints, there is less assurance appropriate action has been taken for each complaint.

To provide accountability for complaints and to ensure all complaints are appropriately investigated, the receipt of all must be documented.

- B. POST does not categorize complaints by degree of severity and has not established timeframes regarding initial complaint follow-up and investigation completion. Other state agencies have established procedures for prioritizing complaints relating to issues such as elderly abuse and child abuse and neglect complaints. For example, the Department of Health and Senior Services, Section for Long-Term Care Regulation uses the following complaint description as well as timeframes for conducting elderly abuse complaints in nursing homes:

- Priority A: Actual harm – Conduct on-site visit within 24 hours.
- Priority B: Potential for serious harm exists – Conduct the on-site visit within 10 working days.
- Priority C: Actual minimum harm occurred or the potential exists – Conduct the on-site visit within 30 calendar days.
- Priority D: No harm is reported or potentially exists but there is the potential for a regulatory violation – Conduct the on-site visit within 60 calendar days.

To ensure resources are effectively allocated and high priority complaints are addressed in a timely manner, POST should establish appropriate priority descriptions and timeframes.

- C. POST's system to manage and track the status of complaints is inadequate. POST currently does not produce periodic standardized reports informing management of the status and timeliness of complaint investigations. In Kansas, POST prepares a report showing investigative activity for multiple years. This report shows the number of investigations initiated each year, the status of each of these investigations, the disposition of the investigations, and other information. We also viewed Florida's standard reports showing the number of cases presented to the commission; the status of open cases, the breakdown of disciplinary cases by disposition, and percent of officers disciplined. Other reports POST could produce and use include aging of investigations and a listing of complaints that have not met timeframes by severity code.

An effective system to manage and track complaint investigations is necessary to ensure complaints are properly investigated and resolved.

- D. Some investigations are not initiated and/or completed in a timely manner. In our review of 25 cases that resulted in discipline, we noted that the average time for the initiation of an investigation was 32 days, and the average time for

investigation completion was about one year. We noted one investigation where POST learned on May 20, 2003, that an agency terminated an officer due to a possible theft. However, POST did not begin an investigation of this individual until December 5, 2003, more than 6 months after POST became aware of the incident.

During the time an investigation is underway, an officer could continue to work as a commissioned peace officer, and POST cannot inform law enforcement agencies of the investigation. Delaying the initiation of a complaint investigation increases the difficulty in determining whether an incident or violation actually occurred. Delaying the investigation completion increases the risk that inappropriate individuals are allowed to continue serving as peace officers.

- E. POST does not have written guidelines regarding discipline. Currently, once the Administrative Hearing Commission decides that a case is subject to discipline, the DPS director has complete discretion over the type of discipline administered. The Florida Department of Law Enforcement includes in their rules disciplinary guidelines and range of penalties as well as aggravating and mitigating circumstances. However, these guidelines are suggestions; discipline may fall outside the guidelines in a particular case. The Oregon Department of Public Safety Standards and Training has a written list of mandatory disqualifiers that will always result in revocation.

Written guidelines would help ensure disciplinary actions are consistent.

**WE RECOMMEND** POST program officials:

- A. Assign individual tracking numbers and log all complaints received in the complaint tracking system.
- B. Categorize complaints by degree of severity and establish timeframes for initial complaint follow-up and completion.
- C&D. Develop standardized management reports to help ensure complaint investigations are initiated and completed in a timely manner.
- E. Adopt written guidelines to ensure disciplinary actions are consistently determined.

**AUDITEE'S RESPONSE**

- A. *Because of the volume of trivial complaints received by this office and since there is only one investigator and no longer any support staff employed in the POST Program's Investigative Section, we do not have adequate personnel to track and log complaints upon which we do not have the authority to take action. The Program Specialist responsible for receiving all complaints and then assigning them to the investigator was*

*one of the three positions eliminated from the POST Program. If we were required to track and log all non-violation complaints, it would create a much greater backlog of pending cases.*

- B. We agree and a written policy will be developed to address the priority placed on peace officer complaints. However, until additional investigators are allocated to the POST Program, it will be impossible to fully implement such a policy, especially any type of timeline.*

*Estimated date to develop written policy: February 1, 2005.*

- C. We have an adequate tracking system in place and we are able to generate some reports on an as-needed basis. It is difficult to determine the value of generating these reports on a regular basis until additional resources are allocated to investigating peace officer complaints.*

*Estimated date to modify current tracking database to have the ability to prepare "standardized management reports" with existing IT personnel: March 1, 2005.*

- D. You indicated the average time to complete an investigation was about one year. What is not taken into consideration is the fact that we have no control over many factors that delay our completion of an investigation. For example, we will initiate an investigation of a licensed peace officer as soon as we learn that they are charged with a criminal offense. We have been advised by the Office of the Attorney General not to forward our files to them for a complaint to be filed in the Administrative Hearing Commission until the criminal charges have been disposed of. Unfortunately, it often takes many months or even years for the completion of a criminal case. Once we have gathered all available information, including certified copies of the investigative reports and court records, we typically have the investigation completed and to the Office of the Attorney General within two weeks. Once the complaint is filed with the Administrative Hearing Commission (AHC), we have no control over the time that it takes the AHC to conduct a hearing and render a decision. This often takes many months; sometimes over a year. Once we are provided with the AHC's Findings of Fact and Conclusions of Law, we conduct a Director's Hearing within thirty days, as mandated by statute. As you can see, many of these processes are very slow and this office has absolutely no control over many of them.*

*As for this office taking six months to initiate an investigation of a peace officer terminated for allegedly committing the offense of misdemeanor theft, the complaint was received by way of a departure report form and at the time of the officer's departure we had no record of the fact the individual held a peace officer commission with another law enforcement agency. The POST Program attempts to investigate crimes against persons before crimes against property, we attempt to investigate felony offenses before misdemeanors, and we attempt to investigate actively commissioned officers before those who are unemployed and without police powers. Therefore, a misdemeanor property crime committed by an unemployed peace officer would not be considered a high priority*

*investigation. As stated before, with an active caseload of nearly one hundred cases and only one investigator, it is sometimes difficult to initiate all non-violent misdemeanor investigations in a timely manner.*

- E. *Initially, the idea of standardizing discipline for various offenses seems appropriate. However, after considering the fact that similar charges may be completely different due to mitigating or aggravating circumstances, a set standard for discipline would be inappropriate. The Missouri Legislature has entrusted the Director of the Department of Public Safety with the authority to consider all relevant factors when determining the appropriate discipline to impose upon a peace officer's license. This office does not believe it is appropriate to implement a policy, guideline, or administrative rule that in any way restricts the Director's discretionary authority and the actions of the Missouri Legislature.*

#### **4. Licensing Procedures and Entrance Standards**

- A. A survey conducted by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) found that in 19 states, POST programs have, in addition to regulating peace officers, also adopted different standards for state and/or local correctional officers. Currently in Missouri, there is no certification process for corrections officers.

The Missouri Department of Corrections (DOC) is planning to begin a voluntary certification process for corrections officers. Although state law established the Corrections Officer Certification Commission under the DOC, many of the computer programs and processes established by POST should relate to the certification of corrections officers. As a result, costs savings may result by avoiding duplication of effort by the DPS and DOC coordinating efforts in certifying peace and correctional officers.

- B. Section 590.060.1, RSMo Cumulative Supp. 2003, requires the POST Commission to establish minimum standards for training instructors and training centers. Currently, these standards do not require training centers to ensure recruits meet a physical ability standard before they graduate. According to our research, at least 40 other states require officers to obtain a doctor's statement stating that the individual is able to perform the necessary physical activity and/or require officers to reach minimum performance levels on a physical fitness test. In October 2000, a committee appointed by the POST commission determined that POST should require a physical standard. However, four years have passed since the committee made this recommendation, and POST officials have not yet established a physical fitness standard. Although POST does not require a certain level of fitness prior to licensing, 11 of 19 training centers and some law enforcement agencies do require fitness tests prior to hiring. Two other centers require only the doctor's statement, and six do not require either.

Physical fitness enhances job performance, minimizes risk that officers will use excessive force, and minimizes known health risks associated with the job.

- C. POST does not require new recruits attending training centers to pass a drug test. According to our research, at least 8 other states require a drug test prior to becoming a peace officer.

Drug tests help ensure that recruits are capable of performing essential job functions competently and safely.

- D. IADLEST provides a database for use by member states to determine if other states have decertified an individual. Missouri provides information to this database on revoked officers, but does not access this database when considering new officers. As a result, it would be possible for someone decertified by another state's POST program to enter an academy in Missouri and become certified without POST's knowledge.

- E. A recently enacted state law (House Bill 600 of the 92nd General Assembly) requires certain governmental entities that issue various professional licenses to obtain verification from the Missouri Department of Revenue that their licensees' have filed state income tax returns in the three previous years. These agencies issue approximately 50 different types of professional licenses and are not allowed to issue licenses to those individuals who have not properly filed state tax returns. However, peace officer licenses are not subject to this law. It appears reasonable that peace officer licenses should also be subject to state income tax compliance provisions.

**WE RECOMMEND** POST program officials:

- A. Communicate with DOC officials to avoid duplication of effort in certifying their respective officers.
- B&C. Ask the POST Commission to consider requiring physical fitness and drug testing before licensing officers.
- D. Take steps, including accessing the IADLEST database, to ensure that officers decertified in other states do not become peace officers in Missouri without POST officials being aware of the prior decertification.
- E. Consider pursuing legislation that would require individuals to file and pay state taxes before receiving a peace officer license.

**AUDITEE'S RESPONSE**

- A. *The former director of the POST Program from 1993 to 2002, is currently employed as a strategic planner for the Missouri Department of Corrections and is overseeing the*

*Department of Corrections' efforts to certify corrections officers. This office does not have the statutory authority to certify state or local corrections officers and we have no intention of proposing such legislation. The certification of state and local correction officers is best suited to the Missouri Department of Corrections. However, this office would be more than willing to assist the Missouri Department of Corrections in its efforts to certify corrections officers, including the sharing of in-house software applications developed to track licensed/certified individuals.*

- B. To obtain a certain class of peace officer license, trainees must complete a minimum of thirty hours of physical fitness training, to include a 1.5 mile run, push-ups and sit-ups. The only thing that has been eliminated is a minimum physical fitness exit standard.*

*For many years, the physical fitness exit standard established by the Missouri POST Commission was based upon the percentile rankings set by the Cooper Institute for Aerobics Research. On July 25, 2000, the POST Commission eliminated the physical fitness exit standard because the Cooper Institute released a report stating that, "Using percentile rankings of the Cooper norms for standards is not defensible. The percentile rankings do not predict the ability to do the job and do not demonstrate criterion validity."*

*The Cooper Institute further determined that the "most defensible" fitness standards are those in which a validation study is performed. However, a validation study is very expensive. Systems Design Group, who completed the Missouri POST Program's job task analysis in 1996, recently reported that a physical fitness validation study for the Missouri POST Program would cost at least \$50,000. Though we agree that a minimum physical fitness exit standard is needed, a defensible standard cannot be developed without additional funding.*

*As for training centers that have set their own physical fitness exit standard, they are permitted to set standards more restrictive than those set by the POST Commission. However, they must be prepared to defend those standards if challenged, including the costs associated with litigation. Some training centers, including the Missouri State Highway Patrol and the Missouri Conservation Commission, have their own physical fitness validation study for their specific job duties, which permits them to set their own standards, which should be defensible if challenged.*

- C. In your report, you indicate that eight out of fifty states require drug testing prior to becoming a peace officer. We agree that illegal drug use by a licensed peace officer is unacceptable behavior and we will review Chapter 590, RSMo, to determine if we have the authority to require an individual to submit to a drug test prior to obtaining a peace officer license. This may require a change to Chapter 590, RSMo.*

*Estimated date of implementation: Unknown. If necessary, legislative proposals must be presented to the Governor.*

D. *In the past, the IADLEST revocation database was not checked prior to issuing a peace officer license because only thirteen of fifty states, including Missouri, voluntarily submitted records to this database. It is now up to fifteen states. Because of limited personnel, it was decided that the criminal history record provided by the Federal Bureau of Investigation (FBI) would serve to identify any out-of-state applicant that might not be eligible for licensure. In considering your recommendation, we agree that on rare occasion there may be an individual who has committed a criminal offense in another state and had their out-of-state peace officer license revoked, and their criminal conviction was not properly reported to the FBI. Therefore, the POST Program will begin checking all applicants in the IADLEST database before it issues any future peace officer licenses.*

*Based upon our conversations with your auditors, it was determined that when they compared the IADLEST database to Missouri's database of 18,000 actively licensed peace officers, none have had a peace officer license revoked by another state.*

*Estimated date of implementation: January 1, 2005.*

E. *We agree that peace officers should be subject to state income tax compliance provisions, especially since the POST Program is solely funded through general revenue sources. However, this may require additional personnel to manage this process, as well.*

*Estimated date of implementation: Unknown, legislative proposals must be presented to the Governor.*

### **AUDITEE'S OVERALL RESPONSE**

*Many of the recommendations are contingent upon the allocation of additional personnel and resources to the POST Program. According to 2000 Sourcebook presented by the International Association of Directors of Law Enforcement Standards and Training, Missouri has budgeted only \$17.51, per licensed and commissioned peace officer in annual administrative expenditures for the POST Program, which ranks 39<sup>th</sup> out of the 42 states that submitted information. This is very low compared to adjoining states like Illinois (\$28.36 per officer), Arkansas (\$138.26 per officer), and Kentucky (\$646.25 per officer). Kansas, Tennessee and Iowa did not report this information. In fact, Missouri's budgeted annual administrative expenditures for the POST Program total only \$286,706, while Kentucky's annual budgeted administrative expenditures total \$5,687,000. Of the 42 states that reported, 17 have annual budgeted administrative expenditures in excess of one million dollars. The largest of which is the California POST Program, which has an annual budgeted administrative expenditure of 10.3 million dollars.*

*Until properly funded, the Missouri POST Program cannot effectively perform its statutory function. Even with our limited resources, the Missouri POST Program has been very effective in its duties. In fact, in the Spring 2001 edition of the St. Louis University Law Journal, Professors Roger L. Goldman and Steven Puro described Missouri's ability to revoke the licenses of peace officers that commit violations as, "A Success Story."*



HISTORY, ORGANIZATION, AND  
STATISTICAL INFORMATION

DEPARTMENT OF PUBLIC SAFETY  
PEACE OFFICER STANDARDS AND TRAINING PROGRAM  
(LICENSING, TRAINING, AND COMPLAINT INVESTIGATION ASPECTS)  
HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

The Department of Public Safety, established by the "Omnibus State Reorganization Act of 1974," is responsible for coordinating statewide law enforcement for the purpose of ensuring a safe environment for Missouri citizens. The department's mission is to provide a safe and secure environment for all individuals, through efficient and effective law enforcement, national defense, disaster preparedness, service to veterans, and education.

House bills 879 and 899 established the Peace Officer Standards and Training (POST) program in 1978. The Department of Public Safety manages the POST program as established by state law and by the rules and regulations of Missouri's Peace Officer Standards and Training Commission as specified in Chapter 590, RSMo. The department is responsible for licensing and regulating peace officers, continuing education providers, training instructors, and training centers; establishing a classification system for licenses; establishing minimum standards for peace officers and for admittance into basic training; and developing the Missouri Peace Officer License Exam. As of June 30, 2004 there were approximately 650 law enforcement agencies and about 18,000 licensed peace officers.

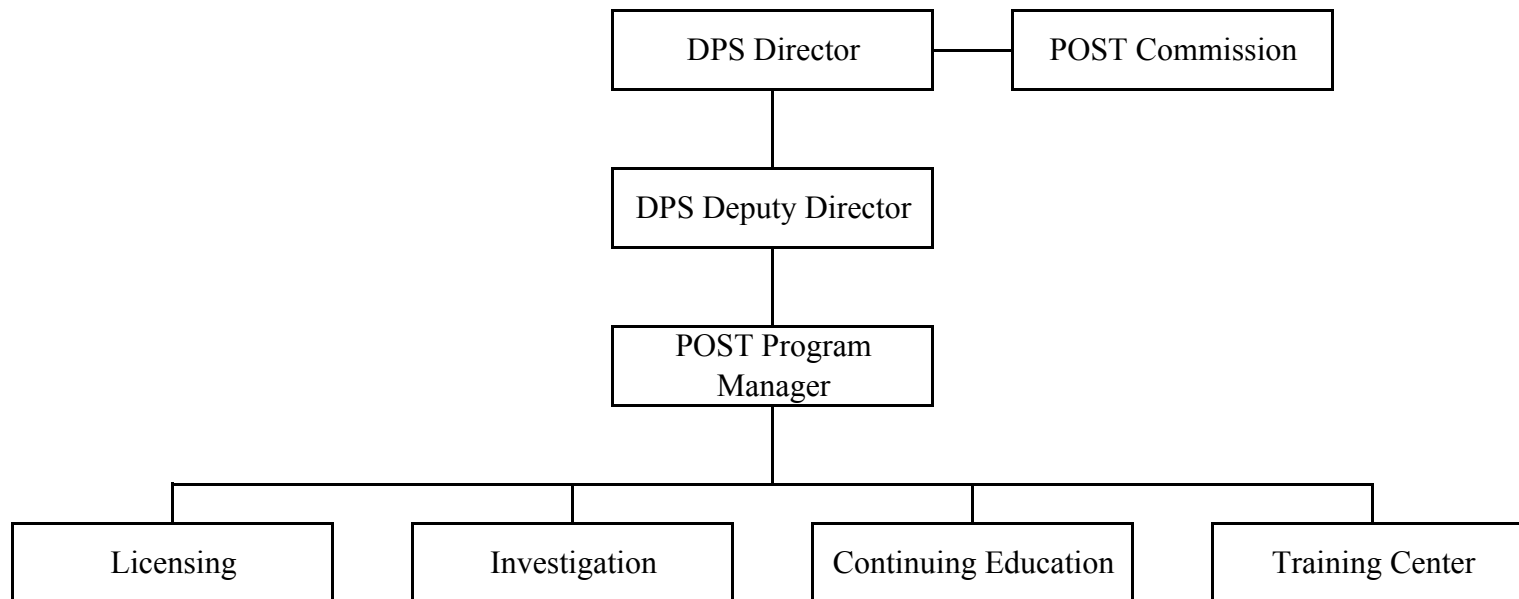
The Peace Officer Standards and Training Commission consists of nine members who are appointed by the Governor with the advice and consent of the Senate. The Commission is responsible for establishing requirements for the basic training and continuing education of peace officers; administering the peace officer standards and training fund; and advising the Director of the Department of Public Safety concerning peace officer standards and training. No board member of the commission shall receive any compensation for the performance of his official duties. At June 30, 2004, one commission position was vacant; the other eight members of the commission were as follows:

<u>Member</u>	<u>Term Expires</u>
Sheriff Gary F. Toelke, Chairman	October 3, 2005
Lt. Londell Jamerson, II	October 3, 2006
Chief Laura R. Webster	October 3, 2005
Chief Richard D. Easley	October 3, 2004
Sheriff Dennis D. Martin	October 3, 2004
Sheriff Richard L. Hill	October 3, 2005
Mark Byington	October 3, 2006
Rev. David P. Ballenger	October 3, 2005

In June 2001, Charles Jackson was appointed Director of the Department of Public Safety and is presently serving in that capacity. Chris Egbert served as the Peace Officer Standards and Training Program Manager from 1993 to August 2002. Doug Shoemaker served as Program Manager from August 2002 to January 2003. Jeremy Spratt, the current Program Manager, has served in that capacity since May 2003.

An organization chart follows.

DEPARTMENT OF PUBLIC SAFETY  
PEACE OFFICER STANDARDS AND TRAINING PROGRAM  
(LICENSING, TRAINING, AND COMPLAINT INVESTIGATION ASPECTS)  
JUNE 30, 2004



Appendix

DEPARTMENT OF PUBLIC SAFETY  
PEACE OFFICER STANDARDS AND TRAINING PROGRAM  
(LICENSING, TRAINING, AND COMPLAINT INVESTIGATION ASPECTS)  
GENERAL REVENUE FUND - STATE  
COMPARATIVE STATEMENT OF DISBURSEMENTS

	Year Ended June 30,		
	<u>2004</u>	<u>2003</u>	<u>2002</u>
Wages	\$ 186,615	188,237	234,048
Equipment and Expense	<u>27,161</u>	<u>17,353</u>	<u>25,636</u>
Total Disbursements	<u>\$ 213,776</u>	<u>205,590</u>	<u>259,684</u>