



Commission on Peace Officer Standards and Training

860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
<https://post.ca.gov/>

Notice of Availability of 15-Day Addition of Document to Rulemaking File

Addition of Document to the Rulemaking file Amending Commission Regulation 1005(a) Minimum Standards for Training for District Attorney Investigators

March 28, 2022

Pursuant to the requirements of Government Code section 11346.8(d), 11346.9(a)(1) and 11347.1, POST is providing notice that a document which the agency has relied upon in adopting the proposed regulations has been added to the rulemaking file and is available for public inspection and comment. The original notice of proposed regulatory action for this topic was published on July 30, 2021; all related documents are available at the address identified below or <https://www.post.ca.gov/regulatory-actions>.

The document added to the rulemaking file is the Addendum-Initial Statement of Reasons. This document is available for public inspection at POST's office located at 860 Stillwater Road, Suite 100, West Sacramento, CA from March 28, 2022, through April 11, 2022. POST will accept written comments regarding the Addendum-Initial Statement of Reasons from March 28, 2022, through April 11, 2022. Submit all written comments to Kirk Bunch at kirk.bunch@post.ca.gov or via U.S. Mail to:

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All written comments received by **April 11, 2022**, which pertain to the Addendum-Initial Statement of Reasons will be reviewed, responded to, and included as part of the rulemaking file.

ADDENDUM- INITIAL STATEMENT OF REASONS
Amend Commission Regulation 1005(a) Minimum Standards for Training for District Attorney Investigators

At the June 2, 2021, meeting, the Commission approved proposed amendments to Commission Regulation 1005(a) Minimum Standards for Training specific to District Attorney Investigators (DAIs.)

Further review of the content revealed additional justification and further information on the alternatives considered was necessary to ensure the purpose and necessity for the change are clear.

Justification for Proposed Revisions

At the October 20, 2020, Commission meeting during the public comment period, an individual identified inconsistencies within Commission Regulation 1005 related to the training requirements for DAIs. In addition to the identification of the inconsistency, POST has received numerous inquiries to allow individuals who qualify for California law enforcement investigators positions to become DAIs. The Regular Basic Course (RBC) is designed for "general law enforcement" and includes training on topics that include traffic enforcement, patrol techniques, and handling of "calls for service" incidents. The Specialized Investigators Basic Course (SIBC) is designed for "investigators" and includes specific training in investigative topics such as presentation of evidence, case management and sources of information, surveillance, computers, and computer crimes, etc. In review of Commission Regulation 1005, POST determined that a change to the Minimum Standards for Training specific to DAI positions is necessary to correct the inconsistency, as DAIs do not meet the POST defined criteria of "general law enforcement". General law enforcement duties are defined in Commission Regulation 1001 as follows:

"General law enforcement duties" are duties which include the investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, and performing any enforcement action on the full range of law violations.

Currently, Commission Regulation 1005(a) requires the completion of the RBC for DAIs, which excludes those individuals who have completed the SIBC from being appointed as DAIs. Under the current regulation, DAIs are treated differently from all other investigators who have, or qualify for, SIBC completion and who are restricted from applying for these positions.

Commission Regulation 1005(a) requires a Minimum Entry-Level Training Standards, Basic Course Requirement: *"Every peace officer, except Reserve Levels II and III, those peace officers listed in subsections 1005(a), [peace officers whose primary duties are investigative], 1005(a)(4)[coroners or deputy coroners], and 1005(a)(7) [jail deputies], shall complete the Regular Basic Course before being assigned duties which include the exercise of peace officer powers. Requirements for the Regular Basic Course are set forth in Commission Procedure D-1-3."*

POST staff proposed updating Commission Regulation 1005(a) to allow completion of the RBC or SIBC to meet the training requirements for DAIs. This change will provide a District Attorney's Office the ability to hire individuals who have completed the SIBC or the RBC and will result in regulatory consistency for POST investigative positions. As is the case with all other non-general law enforcement investigative agencies, the proposed change does not implement a requirement that District Attorney Offices hire individuals who have completed SIBC.

The proposed regulation change to Commission Regulation 1005(a) is necessary to correct the existing requirement in order to provide individuals who have completed either the RBC or the

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SIBC, and who possess investigative training and experience, a pathway to becoming employed as DAIs or Inspectors.

The POST Commission forms a balanced group of city and county administrators, law enforcement professionals, educators, and public members. The Governor appoints 15 of the Commissioners, with the advice and consent of the Senate, for three-year overlapping terms. The Speaker of the Assembly and the Senate Pro Tempore also each appoint one Commissioner. The Attorney General is an ex-officio member and serves as the 18th POST Commissioner. The Commissioners have a vast experience in law enforcement and legislative trends that are currently facing the state. Most Commissioners possess expert knowledge in the areas of law enforcement, District Attorney Office hiring practices, government, community involvement, law enforcement training, and of establishing policies and procedures which align with statutory policy or other provisions of the law.

The professional experience and relevant expertise of the POST Commissioners is as follows: Elected District Attorney – 31 years as a prosecutor, including 11 years as the District Attorney; Educator – 33 years as a Police Officer, including five years as a Chief of Police; Special Agent, Department of Justice – 40 years of general law enforcement and investigator experience; Elected Sheriff – 31 years of law enforcement experience, including seven years as the Sheriff; Police Sergeant/Law Enforcement Instructor – 26 years of law enforcement experience, including 15 years as a Police Sergeant; Police Sergeant – 21 years of law enforcement experience, including 15 years as a Police Sergeant; Elected Sheriff – 52 years of law enforcement experience, including 25 years as the Sheriff; Public Member – 35 years of experience in the public sector, including service as a Fire Chief and City Manager in three large cities; Public Member – 33 years as a public safety staff member for the California State Legislature; Elected Sheriff – 36 years of law enforcement experience, including nine years as the Sheriff; Public Member – Reverend, President of the San Jose/Silicon Valley National Association for the Advancement of Colored People (NAACP), and served on both the Independent Police Auditor Committee (Past) San Jose Police Department Community Advisory Board (2012) and Santa Clara County Court Community Leadership & Liaison Program; and a Police Sergeant – 23 years of law enforcement experience, including 14 years as a Police Sergeant.

The authority to adopt and amend minimum training standards is derived from Penal Code section 13510(a)(2) which states:

"The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments."

Consideration of Alternatives

The Commission determined that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective, and

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less burdensome to affected private persons that the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of the law.

The Commission was presented and considered the following alternative: Develop a bridge course for SIBC individuals to satisfy the RBC requirements. POST staff identified several issues and/or concerns with this alternative. Some of the concerns included the cost associated with the presentation of the course, the lack of presenter interest in presenting the course, as well as the ongoing demand for course presentation on a yearly basis. Only one presenter within the state voiced any interest in exploring the presentation of the bridge course. POST previously explored this option in 2012 and determined probable failure due to the differences in course content and issues related to the sequencing of instruction and testing. The findings of the 2012 bridge course analysis were presented to the Commission on February 23, 2012. Because of the considerable hurdles identified in both 2012 and 2021, POST staff began reviewing other options that may prove more feasible. In review of Commission Regulation 1005, POST determined that a change to the Minimum Standards for Training specific to DAI positions would be more appropriate for the situation, as DAIs do not meet the POST defined criteria of "general law enforcement".

The SIBC (investigator) course is a mandated minimum of 591 hours and includes a total of 80 hours of training that is not included in the RBC; 16 hours of surveillance; 16 hours of administrative procedures; 32 hours of case management in sources of information; and 16 hours of computers and computer crimes. The above-mentioned subject topics are only presented in the SIBC (investigator) course. These 80 hours are specific to investigators and not necessarily applicable to entry-level police officers. The RBC (general law enforcement) course is 664 hours of training and includes a total of 132 hours of training that is not included in the SIBC; vehicle operations – 40 hours, patrol techniques – 12 hours, vehicle pullovers – 14 hours, handling disputes/crowd control – 8 hours, traffic collisions investigations – 12 hours, custody – 2 hours, and lifetime fitness – 44 hours. Those mentioned topics are specific to "general law enforcement officers" as defined in existing regulations.

An additional concern which has been raised, aside from basic training, is the qualifications and law enforcement experience of individuals who become DAIs. Qualification and law enforcement experience requirements for peace officers are established by individual departments, not by POST. More specifically, POST sets minimum training requirements, and the proposed change to Commission Regulation 1005(a) will not affect or change the ability for law enforcement agency discretion to set their own qualification and experience requirements. Furthermore, as was raised during meetings of the Commission by members of the public, POST staff, and POST Commissioners, the existing basic training standard for DIAs is inconsistent with all other investigator positions and eliminates a certain population of individuals who have completed basic investigator instruction.

The proposed change to Commission Regulation 1005(a) will not affect nor eliminate individuals from consideration who have completed the RBC, nor will the proposed change eliminate statewide DAI positions. Basic training in the SIBC aligns with the DAI position. The DAI position was reviewed in 1983 by POST. The comprehensive study was completed related to the job functions of DA investigators compared to that of a police officer or deputy sheriff (General Law Enforcement Officer) working patrol. The study identified the significant distinctions between the two classifications and the important differences in their daily job functions. The study did not reveal or suggest that DA investigators perform the same or similar functions of "general law enforcement." All other current investigative positions in the POST program, i.e., those peace officer positions which do not meet the POST requirements of "general law enforcement," must meet the minimum

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basic training requirement of the RBC or SIBC. Therefore, permitting appointing authorities at District Attorney's Office's discretion to appoint graduates from either RBC or SIBC basic training promotes consistency with all other POST investigative positions across California.