



Idaho Peace Officer Standards and Training Policies and Operating Procedures

Section # 6	Office Of Professional Responsibility	Origination Date: 3 Feb 2011
Procedure # 3	Subject: Contract Investigators	
Reference:	Idaho Code	19-5109.(3)
	IDAPA Rule	11.11.01.091.03 through .05
	ISP Policy	N/A
	IPOST Policy	6.1
Commentary:	<p>POST administrative investigations are very sensitive actions conducted by the Idaho Peace Officer Standards and Training Council and Idaho Division of Peace Officer Standards and Training. Primarily, POST administrative investigations are conducted to determine whether allegations of violations of the POST Code of Conduct or Code of Ethics by certified peace officers or dispatchers are valid or invalid. Additionally, administrative investigations may be initiated regarding background information required for self-sponsored students, POST academies, or other certification purposes as determined by the POST Division Administrator or POST Council. The investigations are sensitive because they involve peace officers and other law enforcement personnel, personnel reputations, law enforcement and correctional agencies, community reputations, and the potential for civil or criminal liability.</p> <p>POST administrative investigations are conducted by part-time and contract personnel, and must strive to maintain the confidence of the POST Council, POST Division Administrator, and more importantly the 143 or more criminal justice enforcement and penal agencies within the criminal justice system of the State of Idaho. The investigations are subject to influence public confidence in state government, and the fairness, impartiality, and professionalism of the investigations must be displayed at all times. It is extremely important that the investigations demonstrate the state's commitment and respect of all parties involved in providing information or evidence, or the collateral affects the investigations may have upon otherwise innocent parties associated by circumstances or personal relationships to such investigations. For these reasons and more, the following policy and procedures have been established; to protect the innocent and provide the expected due process, as required by law.</p> <p>The following is effective immediately:</p>	



Policy:	It is the policy of the Idaho Division of Peace Officer Standards and Training (POST) to have contract investigators to conduct POST administrative investigations.
Purpose:	The purpose of this policy is to clearly state the official position of the Idaho Division of Peace Officer Standards and Training (POST) with regard to the contracting of services for POST administrative investigation, the scope of authority of contract investigators, and investigation procedures and confidentiality requirements of contract investigators.
Definitions:	<p>“Audio-visual training material” PowerPoint Presentations, Internet presentations, compact disks (CDs), video tapes, digital tapes, audio tapes, films, slides, pictures or similar media. Does not include classroom hand-out material.</p> <p>“Public agency” an agency that employs law enforcement officers and peace officers who hold POST patrol officer, detention officer, dispatcher, corrections, parole and probation officer, juvenile detention officer, juvenile corrections officer , juvenile probation officer, or misdemeanor probation officer certifications.</p>
Procedure: R.A.C.I. <ul style="list-style-type: none"> • OPR Manager • Investigator Contractors 	<ol style="list-style-type: none"> 1. POST investigations shall only be conducted by POST staff or POST contract investigators. 2. POST contract investigators will be supervised through the Office of Professional Responsibility, and shall be utilized for administrative investigations regarding violations of the Peace Officer Code of Conduct and Code of Ethics, or other investigative needs as directed by the POST Division Administrator. 3. Individuals considered for contract investigator positions shall be of good moral character and have extensive knowledge and experience as criminal or administrative case investigators. 4. Individuals selected and contracted to conduct POST administrative investigations are not sworn peace officers of the Idaho State Police, and receive their official authority to conduct investigations from the Division Administrator for Peace Officer Standards and Training. 5. Individuals considered for contract investigator shall agree to all conditions outlined in the POST Investigator contract and, as such, shall be held to all contract performance provisions, and confidentiality provisions of the contract investigator procedures and as outlined in the contract. Failure to adhere to contract performance and confidentiality provisions, and confidentiality procedures herein, shall lead to civil monetary penalties against the contractor by the division.



6. Contracts for POST investigators shall be executed on a fiscal year basis, and in accordance with the procedures of the Idaho State Police. Contracts executed within the fiscal year shall not exceed June 30th of that fiscal year.
7. Performance of Investigations:
 - a. Investigations shall be conducted in a complete and professional manner.
 - b. If the subject(s) of the administrative investigation is currently employed by a public agency, the agency administrator of the public agency shall be notified by the Manager of the Office of Professional Responsibility when a case has been initiated against the agency's officer.
 - c. The agency administrator of the public agency shall be notified by the Manager of the Office of Professional Responsibility when a case has been initiated against the agency's officer(s), prior to the contract investigator's action in the matter;
 - (1) The investigator shall make his/her introduction to the agency administrator, advise the agency administrator of the nature and scope of the investigation, and advise the agency administrator when the investigation is concluded.
 - (2) If the agency administrator seeks information gathered from the POST administrative investigation prior to the investigation's completion, or when the investigation is completed, the investigator shall advised the agency administrator to contact the Manager of the Office of Professional Responsibility for such information.
 - d. The subject of the investigation shall be treated fairly, respectfully, and afforded all Constitutional rights during the administrative investigation.
 - e. All interviews shall be conducted, recorded and documented in a fair and impartial manner.
 - (1) All interviews with the subject of the investigation shall be recorded; questioning shall be conducted after the administration of an administrative (Garrity) warning and an oath of truthful testimony;



- (i) If the subject of the investigation admits to the alleged conduct and the conduct is in violation of POST's Code of Conduct and/or Code of Ethics, the investigator will seek a consent agreement (stipulation) with the subject, voluntarily revoking the subject's peace officer certifications;
 - (ii) If the subject signs a consent agreement (stipulation) voluntarily revoking his/her peace officer certifications, the administrative investigation shall conclude without further action.
 - (iii) If the subject fails to sign the consent agreement (stipulation), the administrative investigation shall continue until sufficient evidence is gathered to bring the investigation to a conclusion.
 - (iv) The investigator should notify the Manager of the Office of Professional Responsibility if the subject admits to the alleged misconduct, but refuses to enter into a consent agreement (stipulation) in the matter.
- (2) All interviews with witnesses or others having relevant information to the case shall be recorded and under an oath of truthful testimony. If requested or the investigator believes it necessary, a witness may be offered an administrative warning;
- (3) Should an individual with knowledge or material witness acknowledge reluctance to, or deny, the investigator's interview, the investigator shall provide an administrative subpoena for the individual's or material witnesses' interview cooperation;
- (4) Investigators shall gather all available relevant documentation from agencies or other individuals as necessary to provide a complete investigation;
 - (i) Public agencies shall be provided an Administrative subpoena for relevant documents and records in their possession.
- (5) Documentation of the investigation shall be clear, concise and complete. Reports shall be in chronological order, all parties to the investigation shall be listed with contact information for future needs.

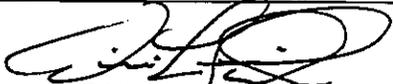


8. Confidentiality procedures and provisions of administrative investigations include:
- a. All information obtained by a POST contract investigator during any POST administrative investigation is considered to be confidential in nature, and the sole property of Idaho Peace Officer Standards and Training.
 - b. Contract investigators shall turn all information and evidence obtained through the performance of the investigation over to the Manager of the Office of Professional Responsibility at the conclusion of the investigation.
 - c. Information or evidence obtained during POST administrative investigations shall not be discussed with any person other than responsible POST staff, unless: (1) at the direction or authorization of the Manager of the Office of Professional Responsibility; (2) at the direction or authorization of the POST Division Administrator; or (3) necessary to complete an investigation; (4) at the direction of a lawfully issued subpoena from a court of jurisdiction directing submission of papers, reports, other evidence gathered, or testimony of the contract investigator or other relevant POST staff.
 - d. A subpoena issued for POST administrative investigative information, or for the testimony or deposition of POST staff or contract investigators regarding an administrative investigation, shall be reviewed with POST legal counsel before the requested information or testimony is authorized for release to the directed recipient initiating the subpoena, or for court or hearing testimony.
 - (1) It is the practice of Peace Officer Standards and Training to move to have subpoenas for records or testimony of administrative investigations quashed for lack of relevance and materiality.
 - (2) Exception: a subpoena issued to appeal the administrative decision rendered or ruling by the Division Administrator or Peace Officer Standards and Training (POST) Council.
 - e. Violations of confidentiality procedures or contract provisions:
 - (1) POST staff members who divulged information or evidence obtained during a POST administrative investigation to any person not authorized by the Division Administrator or as defined in these procedures, regarding an active administrative investigation or investigation pending an



administrative recommendation by a POST administrative hearing officer, or a decision or ruling by the Division Administrator or POST Council, shall be subject to discipline.

- (2) POST contract investigators who divulged information or evidence obtained during a POST administrative investigation to any person not authorized by the Division Administrator or defined in these procedures, regarding an active administrative investigation or investigation pending an administrative recommendation by a POST administrative hearing officer, or a decision or ruling by the Division Administrator or POST Council, shall be subject to termination of contract, civil penalties and/or criminal penalties.
- (3) POST contract investigators who divulged information or evidence obtained during a POST administrative investigation, after the completion of POST administrative proceedings, to any person not authorized by the Division Administrator, or as defined in these procedures, or as presented in the public record of the administrative decision or ruling by the Division Director or POST Council, shall be subject to termination of contract, civil penalties and/or criminal penalties.
- (4) POST contract investigators shall not voluntarily discuss the investigative information or evidence gathered from the POST administrative investigation with the subject of the investigation, or with the legal representative of the subject of the investigation, after the conclusion of the administrative investigation, unless a legal subpoena has been served to POST for the testimony of the contract investigator.

Approving Authority	William L. Flink	Official Authority	 Division Administrator	2/3/2011 Date
Revision Dates:			Last Revision:	

