

SPAM ADVISORY: POST Law Enforcement Officer re certification questionnaire

- POST issued 8 questions to facilitate a process for Law Enforcement Officer recertification in the Commonwealth. POST instructs as follows:
 - *Each Officer must answer the questions below and then participate in any related discussions required by a superior officer.*
 - *If you have a good faith belief that you cannot answer a question completely and accurately without waiving a privilege, protection, or right recognized by law, you may state that belief in lieu of answering.*
 - *Any answer that you do provide must be complete and accurate.*
 - *If you intentionally make any false statements, or intentionally omit any pertinent information other than as provided above, your application for recertification will be disqualified, reported to the POST Commission, and considered a complaint subject to investigation and possible sanction by the Commission.*
 - *No form of information that is provided will automatically lead to a denial of certification, but certain responses may prompt further review by the POST Commission.*
- POST Provided additional FAQs. Please review them prior to responding to POST's questionnaire.

SPAM Provides Additional Advisements to Our Members. These advisements are drawn from our conversations with the Department, POST and the advice of SPAM's General Counsel. If you would like to speak to an attorney about responding to POST's questions, please sign-up as directed in the accompanying SPAM-O-GRAM.

- You must consider and answer each question truthfully as it pertains specifically to YOU, your experiences and conduct.
- A "good faith belief" means having a basis in fact or credible information.
- "Intentional" [as referenced above regarding *intentional false statements, or intentional omissions of pertinent information*] means done deliberately, not accidentally or otherwise without intentionality.
- You must answer the questionnaire and discuss your responses with the Interviewing Officer.
- If you cannot answer a question simply "yes" or "no", you need not try to turn your answer into a "yes" or "no". In fact, it may be that neither "yes" nor "no" is a true answer. Where appropriate, include qualifiers to make an answer truthful.
- If any answer is the subject of an applicable privilege, note that a privilege applies to the particular answer, but do not provide any detail that would constitute a waiver of the privilege.
- Questions:
 - 1. Are you current in all tax payments? This includes federal and state taxes as well as property and excise taxes. (Note: if you are subject to and in compliance with a payment plan established by the federal or state government, you may answer "yes" to this question.) If no, please explain. ___ YES ___ NO
 - In considering whether you are "current", consider what tax obligations you have received notice as being due or overdue.

- If you have any overdue tax bills now, you may be able to become current prior responding to this question, which would permit you to respond “yes”.
 - It is our conclusion that lawful extension means that you are “current” and may answer “yes”.
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.

- 2. Have you ever received a license or permit to possess or carry a firearm, of any type? If so, for each such license or permit, please indicate the issuing jurisdiction or official; indicate whether any such license or permit has ever been revoked or suspended; and if it has been revoked or suspended, provide details. ___ YES ___ NO
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.

- 3. Have you ever been a defendant in a civil suit in which it was alleged that you acted violently or abusively, or utilized excessive force, towards another person? If so, please provide details as to each such suit. ___ YES ___ NO
 - Note this question is asking specifically about any *civil (not criminal)* court litigation.
 - We advise including the identifying information for the case, including parties, docket number and court. Any further information may be privileged.
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.

- 4. Have you ever been the subject of a restraining order or any other court order that restricted, or imposed consequences based on, your conduct? Have you ever been found in violation of either? If so, please give the details regarding each order, including the time frame in which it was issued and the identity of the court that issued it. ___ YES ___ NO
 - This could include Restraining Order under c. 209A; Criminal Harassment Order under c. 258E; No Trespass Order or other specific conditions ordered to you by a Judge as the terms of release to a pending criminal charge.
 - A violation may only be found by a judge.
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.

- 5. Have you ever been subjected to disciplinary action, consisting of a suspension of more than 5 days with or without pay, OR where bias or excessive force was found by investigation, in connection with any employment, including employment by your current law enforcement agency? If yes, please give details as to each such incident and the nature of the disciplinary action taken. ___ YES ___ NO
 ___ No, not suspended for more than 5 days ___ Yes, suspended for more than 5 days ___ No, not disciplined for bias/excessive force ___ Yes, disciplined for bias/excessive force ___ To my knowledge, all disciplinary records, if any, have been submitted to POST
 - If you were suspended and later cleared of wrongdoing, we encourage you to say so.
 - If you were suspended for non-compliance with the vaccine mandate, but later came into compliance after a suspension, explain the circumstances and that the discipline was rescinded, if that was true in your case.
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.

- 6. In the last five years, have you ever sent or displayed a public communication on social media that you believe could be perceived as biased against anyone based on their actual or perceived race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status, or socioeconomic or professional level, provided you were at least 18 years old at the time? If yes, please provide each such public communication, and details. For these purposes, “communications” include, without limitation, posts, comments, and messages; and “public” communications are those that were made available to three or more people other than you. ___ YES ___ NO
 - We are troubled by the phrase “that you believe could be perceived”. We advise our members that you should only respond “yes” if a “reasonable person could reasonably perceive” a public communication on social media to be biased as defined by the question. Without the limiting concept of reasonableness, this question would be too subjective, and we believe, impossible to meaningfully answer.
 - We advise that political speech, supporting or opposing a candidate, ballot question or an issue of public concern is not the kind of speech that could reasonably be perceived as biased as defined in this question.
 - If you have or had social media accounts to which you no longer have access or access to public communications, you might not be able to refresh your memory or produce such “public communications”. If you cannot possibly access and review public communications you may have transmitted, and you can otherwise say “no”, we advise you to say, “I don’t believe so.”
 - Social media includes the publicly available components of social media platforms such as Facebook, Instagram, LinkedIn and similar services. We

believe that messages sent via direct message features on social media do not fall within the definition of “public communications” and should not be considered when responding to this question.

- We advise you to review your public communications on social media and consider how others could view your communication. If you have a post that you are questioning, err on the side of bringing that forward and explaining it meaningfully.
 - It is our advice that text messages, emails, group chats and the like sent to group threads such as those sent to family members, friends, and colleagues are not “public communications on social media” and therefore do not fall within the ambit of this question and need not be considered.
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.
- 7. Do you currently belong, or have you ever belonged, to any organization that, at the time you belonged, unlawfully discriminated (including by limiting membership) on the basis of actual or perceived race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status, age or socioeconomic or professional level? If so, please provide details regarding each such organization. ___ YES ___ NO
- Consider this for you as an individual. And whether your answer would implicate a waiver of privilege, protection or right recognized by law.
 - We are advising our members not to include information about religious organizations to which you might belong.
 - Many large organizations have a history of unlawful discrimination or are accused of unlawful discrimination. If you do not know whether a former employer, educational institution, government agency, military branch, social organization, or other organization engaged in “unlawful discrimination” at some point while you were a member, say that you don’t know. If it is a true answer that you had no involvement in any “unlawful discrimination” of which you are aware, explain this.
 - The State Police Association of Massachusetts recently filed grievances and a lawsuit based on unlawful religious discrimination by the Department of State Police Against SPAM members. As SPAM members, you are members of the Department of State Police. That said, a true answer based on this is not expected to disqualify anyone.
 - Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.
- 8. Thinking broadly, do you have any knowledge or information, in addition to that specifically addressed in the preceding questions, which may be relevant, directly or indirectly, to your eligibility or fitness to be recertified as a law enforcement officer with this law enforcement agency? This would include, but is

not limited to, knowledge or information concerning your character, temperament, habits, employment, education, criminal records, traffic violations, residence, or otherwise. If so, please provide details. ____YES ____NO

- We believe that our members are the top law enforcement officers in the Commonwealth and absolutely are eligible and fit to be recertified as law enforcement officers.
- If you agree that you are eligible and fit, we are advising our members to answer “yes” and inform the interviewer that you are:
 - Graduate of XX RTT
 - Trooper, Trooper 1st Class, or Sergeant
 - Employed and in good standing with the Department of State Police
 - Proud to serve the people of the Commonwealth of Massachusetts
- Answers to this question may call for privilege communication. We advise you to communicate with your attorney if you believe that a true answer would reveal privileged communications.