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12  
13 **SUPERIOR COURT OF CALIFORNIA**  
14  
15 **IN AND FOR THE COUNTY OF YOLO**

16 ELECTRONIC FRONTIER FOUNDATION, )  
17 )  
18 Petitioner, )  
19 )  
20 v. )  
21 )  
22 CALIFORNIA COMMISSION ON PEACE )  
23 OFFICER STANDARDS AND TRAINING, )  
24 )  
25 Respondent. )  
26 )  
27 )  
28 )

Case No.: \_\_\_\_\_

**VERIFIED PETITION FOR WRIT OF  
MANDATE ORDERING COMPLIANCE  
WITH THE CALIFORNIA PUBLIC  
RECORDS ACT**

[Gov. Code §§ 6250, *et seq.*; Code Civ. Proc.  
§§ 1085, *et seq.*]

Judge:  
Department:

1 **INTRODUCTION**

2 1. By this petition and pursuant to Code of Civil Procedure §§ 1085, *et seq.* and  
3 Government Code §§ 6250, *et seq.*, Petitioner Electronic Frontier Foundation (“EFF”) seeks a writ of  
4 mandate to enforce the California Public Records Act (“PRA”) and Article I, section 3(b) of the  
5 California Constitution.

6 2. In September and October 2020, EFF submitted PRA requests to Respondent State of  
7 California Commission on Peace Officer Standards and Training (“POST”) for records relating to  
8 trainings developed by the California Peace Officers Association (“CPOA”). In responding to EFF’s  
9 requests, POST heavily redacted responsive records on the basis that CPOA had claimed a copyright  
10 interest in the records’ contents.

11 3. Private copyright interests do not exempt records from disclosure under the PRA, and  
12 POST has violated its legal duties by refusing to produce the unredacted records. EFF therefore asks this  
13 Court for a writ of mandate ordering POST to comply with the PRA and provide the requested records  
14 in full.

15 **PARTIES**

16 4. Petitioner EFF is a not-for-profit corporation established under the laws of the  
17 Commonwealth of Massachusetts, with offices in San Francisco, California. EFF is a donor-supported  
18 membership organization that works to inform policymakers and the general public about civil liberties  
19 issues related to technology and to defend those civil liberties through litigation and advocacy. In  
20 support of its mission, EFF uses public records requests to obtain and disseminate information  
21 concerning the activities of state agencies. EFF also supported the passage of SB 978, California Penal  
22 Code § 13650, which requires POST and local law enforcement agencies to “conspicuously post on their  
23 Internet Web sites all current standards, policies, practices, operating procedures, and education and  
24 training materials that would otherwise be available to the public if a request was made pursuant to the  
25 California Public Records Act.”

26 5. Respondent POST is a state agency within the meaning of Government Code § 6252(f).  
27 POST was established by the California legislature to set minimum selection and training standards for  
28

1 California law enforcement. Over six hundred law enforcement agencies have voluntarily agreed to  
2 abide by the standards established by POST.

3 **JURISDICTION AND VENUE**

4 6. This Court has jurisdiction under Government Code §§ 6258 and 6259, Code of Civil  
5 Procedure §§ 1060 and 1085, and Article VI, section 10 of the California Constitution.

6 7. Venue is proper in this Court under Government Code § 6259 as the records in question  
7 are situated in the County of Yolo, in the city of West Sacramento.

8 **ACCESS TO PUBLIC RECORDS UNDER CALIFORNIA LAW**

9 8. The California Public Records Act creates a presumptive public right of access to records  
10 that are prepared, owned, used, or retained by any public agency. All such records must be made  
11 available for inspection and copying upon request, unless they qualify for one of the PRA’s enumerated  
12 exemptions. Gov. Code §§ 6253(a)–(b), 6252(e).

13 9. In enacting the PRA, the legislature found that “access to information concerning the  
14 conduct of the people’s business is a fundamental and necessary right of every person in this state.”  
15 Gov. Code § 6250.

16 10. Under the PRA, “[a] state or local agency may not allow another party to control the  
17 disclosure of information that is otherwise subject to disclosure.” Gov. Code § 6253.3.

18 11. “Whenever it is made to appear by verified petition to the superior court of the county  
19 where the records or some part thereof are situated that certain public records are being improperly  
20 withheld from a member of the public, the court shall order the officer or person charged with  
21 withholding the records to disclose the public record or show cause why the officer or person should not  
22 do so.” Gov. Code § 6259(a). The government has the burden to justify non-disclosure of any record  
23 with specific evidence. “The court shall decide the case after examining the record in camera, [if  
24 permitted by the Evidence Code], papers filed by the parties and any oral argument and additional  
25 evidence as the court may allow.” *Id.* If the court finds that the government has not met its burden of  
26 justifying a failure to disclose, it shall order the public official to make the record public. *Id.* § 6259(b).

1 12. The California Constitution provides an additional, independent right of access to  
2 government records. “The people have the right of access to information concerning the conduct of the  
3 people’s business, and, therefore, the meetings of public bodies and the writings of public officials and  
4 agencies shall be open to public scrutiny.” Cal. Const., Art. I, § 3(b)(1). This provision was adopted by  
5 the voters in 2004 because, as the ballot argument supporting the measure put it, Californians asking  
6 questions of their government increasingly found “that answers are hard to get.”<sup>1</sup> The creation of a  
7 constitutional right of access was intended to reverse that trend.

8 13. In September 2018, California further expanded the right to access government records  
9 by enacting Senate Bill 978, California Penal Code § 13650 (“SB 978”).

10 14. SB 978 mandates that, as of January 2020, “the Commission on Peace Officer Standards  
11 and Training and each local law enforcement agency shall conspicuously post on their Internet Web  
12 sites all current standards, policies, practices, operating procedures, and education and training materials  
13 that would otherwise be available to the public if a request was made pursuant to the California Public  
14 Records Act.” Cal. Penal Code § 13650.

15 15. In enacting SB 978, the legislature recognized that “making regulations of law  
16 enforcement agencies easily accessible to the public helps educate the public about law enforcement  
17 policies, practices, and procedures, increases communication and community trust, and enhances  
18 transparency, while saving costs and labor associated with responding to individual requests for this  
19 information.” SB 978 § I(d).

## 20 **FACTUAL ALLEGATIONS**

### 21 **September 24, 2020 PRA Request**

22 16. On June 25, 2020, Petitioner EFF sent a letter to Respondent POST demanding that  
23 POST correct certain failures to comply with SB 978. The deficiencies identified in that letter included,  
24 among other things, POST’s failure to post on its website training materials related to police use of  
25 force. The letter noted that, in place of those training materials, POST had uploaded documents stating  
26 \_\_\_\_\_

27 <sup>1</sup> *Voter Information Guide for 2004, General Election*, UC Hastings Scholarship Repository: Cal. Ballot  
28 Propositions and Initiatives at 14,  
[https://repository.uhastings.edu/cgi/viewcontent.cgi?article=2236&context=ca\\_ballot\\_props](https://repository.uhastings.edu/cgi/viewcontent.cgi?article=2236&context=ca_ballot_props).

1 that the creators of the training modules had invoked copyright protections. A copy of this letter is  
2 attached as Exhibit A.

3 17. In a July 29, 2020 letter, POST replied to that request, informing EFF that it would not be  
4 posting the use of force training to its website, and explaining that the creator of those materials, the  
5 California Peace Officers Association (“CPOA”), “is a private entity that has exercised a copyright  
6 claim and requested that POST refrain from publishing its intellectual property on a public website.”  
7 POST stated it would honor that request “[i]n compliance with federal copyright law.” A copy of this  
8 letter is attached as Exhibit B.

9 18. On September 24, 2020, EFF submitted a formal PRA request to POST, seeking the same  
10 materials previously sought: “use of force training, including training materials themselves as well as  
11 any course outlines or course certifications.” A copy of this letter is attached as Exhibit C.

12 19. All of the records requested in Exhibit C fall within the definition of public records set  
13 forth in the PRA. *See* Gov. Code § 6252(e).

14 20. On October 7, 2020, POST responded to EFF’s PRA request. POST provided copies of  
15 certain documents with high-level information about the use of force training and its administration. The  
16 only substantive document provided was a heavily redacted copy of the use of force training’s Expanded  
17 Course Outline (“ECO”). Only the section titles of the ECO remained unredacted. Copies of these  
18 documents are attached as Exhibit D.

19 21. By this same letter, POST stated that it had redacted the rest of the ECO “based upon a  
20 claim of copyright protection” by the CPOA, citing to the PRA, Gov. Code § 6254(k), as well as the  
21 federal copyright statute, 17 U.S.C. § 101. POST offered to permit EFF to review the unredacted ECO at  
22 its headquarters in West Sacramento, “under the supervision of a representative of POST and/or CPOA,  
23 subject however, to your agreement that you shall not remove or copy the unredacted material.” POST  
24 included with its letter an unsigned Acknowledgement and Agreement that would require EFF to  
25 endorse POST’s position that copying the ECO would be in violation of federal copyright law, and to  
26 vow not to remove or copy the material. A copy of POST’s letter and the included Acknowledgement  
27 are attached as Exhibit E.  
28

1           22.     On November 10, 2020, EFF sent a letter to POST asserting its right to receive an  
2 unredacted copy of the use of force ECO. A copy of this letter is attached as Exhibit F.

3           23.     EFF’s letter explained that federal copyright law does not prohibit disclosure of records,  
4 as required to qualify for the PRA exemption that POST cited to justify its redactions, Gov. Code  
5 § 6254(k). That exemption applies only to laws that are direct prohibitions on disclosure of  
6 information—typically rooted in privacy, confidentiality, or safety concerns. The Copyright Act is not  
7 such a law and in fact expressly excludes information and ideas from copyright protection. 17 U.S.C.  
8 § 102(b).

9           24.     EFF’s letter further explained that, even if § 6254(k) did extend to copyright law in some  
10 circumstances, the CPOA had granted POST an implied license to distribute its work pursuant to the  
11 PRA. CPOA voluntarily provided POST with the ECO with knowledge of POST’s obligations under the  
12 PRA. Those obligations include complying with the PRA’s prohibition on “allow[ing] another party to  
13 control the disclosure of information that is otherwise subject to disclosure,” which is inconsistent with  
14 permitting private parties to invoke copyright in order to stop POST from disclosing records. Gov. Code  
15 § 6253.3.

16           25.     Finally, EFF’s letter explained that copying and distributing the unredacted records to  
17 fulfill EFF’s PRA request would in any case be fair use and therefore authorized by copyright law. 17  
18 U.S.C. § 107. First, the purpose of POST’s use—to comply with the CPRA’s transparency  
19 requirements—would be a non-commercial, transformative use in service of the public interest. Second,  
20 the ECO is a primarily factual work, subject to thinnest copyright protection. Third, sharing the  
21 complete, unredacted ECO is necessary to achieve meaningful transparency and educate the public.  
22 Fourth, POST’s use of the ECO would not harm the market for CPOA’s training materials.

23           26.     On November 24, 2020, the California Department of Justice, representing POST, sent a  
24 letter again denying EFF the full ECO without redaction or restriction, on the ground that “POST is not  
25 required to put itself at risk of violating CPOA’s copyright.” A copy of this letter is attached as Exhibit  
26 G.

1 **October 20, 2020 PRA Request**

2 27. On October 20, 2020, EFF submitted a second PRA request to POST, seeking “all current  
3 standards, policies, practices, operating procedures, and education and training materials” related to 18  
4 specific training courses authored by CPOA, including a course on the Public Records Act. A copy of  
5 this letter is attached as Exhibit H.

6 28. All of the records requested in Exhibit H fall within the definition of public records set  
7 forth in the PRA. *See* Gov. Code § 6252(e).

8 29. On October 23, 2020, POST responded to EFF’s PRA request and released certain  
9 responsive records. However, POST again heavily redacted copies of responsive ECOs on the basis of  
10 copyright claims by CPOA, leaving only the section titles unredacted. The redacted ECOs are attached  
11 as Exhibit I.

12 30. POST again offered to permit EFF to review the unredacted ECOs at POST headquarters  
13 in West Sacramento, “under the supervision of POST and/or CPOA, subject, however, to your  
14 agreement that you shall not remove or copy the unredacted material.” POST again included with its  
15 letter an unsigned Acknowledgement and Agreement that would require EFF to endorse POST’s  
16 position that copying the ECOs would be in violation of federal copyright law, and to vow not to remove  
17 or copy the material. A copy of POST’s letter and the included Acknowledgement are attached as  
18 Exhibit J.

19 **FIRST CAUSE OF ACTION**

20 **Violation of the California Public Records Act and**  
21 **Article I, § 3(b) of the California Constitution**

22 31. EFF repeats the allegations set forth above as if fully set forth herein.

23 32. The PRA requires full disclosure of the requested records.

24 33. Respondent’s refusal to release records on the basis of CPOA’s invocation of federal  
25 copyright interests violates the PRA and Article I, § 3 of the California Constitution.

26 **PRAYER FOR RELIEF**

27 EFF therefore requests the following relief:

- 28 1. A writ of mandate directing Respondent POST to provide EFF with unredacted ECO

1 records except to the extent that the Court determines that portions of the ECOs may lawfully be  
2 withheld on other grounds;

3           2. An award of attorneys' fees and costs under Government Code § 6259 and any other  
4 applicable statutes or basis; and

5           3. All such other and further relief as the Court deems proper and just.  
6

7 Dated: May 20, 2021

Respectfully submitted,

8  
9 By: /s/ Cara Gagliano  
10 Naomi Gilens (SBN 315813)  
11 Cara Gagliano (SBN 308639)  
12 Corynne McSherry (SBN 221504)  
13 Kit Walsh (SBN 303598)  
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*Attorneys for Petitioner*  
*Electronic Frontier Foundation*



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**VERIFICATION**

I, Cara Gagliano, hereby declare as follows:

I am a staff attorney at the Electronic Frontier Foundation. I have read the above petition and know its contents. The facts alleged in paragraphs 2, 16–18, 20–27, and 29–30 are within my personal knowledge, and I know these facts to be true. As to the remainder of the petition, I am informed and believe that the matters therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: May 20, 2021



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Cara Gagliano

# Exhibit A



**VIA EMAIL AND POSTAL SERVICE**

June 25, 2020

Commission on Peace Officer Standards and Training  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605

**Re: POST Violations of SB 978**

Dear California Commission on Peace Officer Standards and Training (POST),

On behalf of the Electronic Frontier Foundation (EFF), we write to inform you that POST has failed to comply with the requirements of SB 978, which was signed into law by Governor Jerry Brown on September 30, 2018. This law requires POST and local law enforcement agencies to “conspicuously post on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act” commencing January 1, 2020.<sup>1</sup>

EFF is an international non-profit organization based in San Francisco that advocates for civil liberties as technology advances in our society. Our mission includes ensuring transparency regarding police practices such as surveillance. We have previously reached out to POST to raise concerns about inadequate training materials for automated license plate readers (ALPRs) that were outdated and did not reflect changes to state law.<sup>2</sup>

EFF supported SB 978 because it would allow the public to understand the operations of law enforcement agencies, without the need for filing hundreds of individual California Public Records Act (CPRA) requests throughout the state. Although POST has created an open data portal for its education and training materials, an inspection by EFF has found a number of deficiencies that undermine both the spirit and the letter of the law.

First, we specifically identified problems with the ALPR and facial recognition training modules, as well as the California Peace Officers Association’s use of force training. These modules would otherwise be available to the public if they were requested through the CPRA. In fact, EFF obtained a full, unredacted copy of the POST-certified ALPR

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<sup>1</sup> Cal. Penal Code § 13650.

<sup>2</sup> Dave Maass & Saira Hussain, *EFF Calls on California to End Vendor-Driven ALPR Training*, Electronic Frontier Foundation, (Aug. 19, 2019), <https://www.eff.org/deeplinks/2019/08/eff-calls-california-end-vendor-driven-alpr-training>.

training, which included both participant notes and presentation slides, through a CPRA request last year.<sup>3</sup>

In place of the ALPR, facial recognition technology, and use of force training modules, POST has uploaded documents stating that the modules' creators have invoked copyright protections.<sup>4</sup> These creators—private companies certified by POST to provide education and training programs—may have done so in response to a POST bulletin dated September 24, 2019, which stated that copyrighted education and training materials are exempt from disclosure under the CPRA.<sup>5</sup>

However, the CPRA does not include a broad-based copyright exception. The CPRA has carved out a narrow copyright exemption only for computer software developed by a state or local agency. That exemption does not apply to education and training materials.<sup>6</sup> California courts have specifically held that the CPRA's software exemption "provides no statutory authority for asserting any other copyright interest."<sup>7</sup>

The public has the right to know how peace officers are trained—and for good reason. Officers' use of force causes bodily harm and, in some cases, death. ALPR and facial recognition technology amass vast amounts of data about California residents. Both technologies have triggered legislative action on the state and local level,<sup>8</sup> and it is important for the public to examine whether the training reflects new and evolving law. In fact, a 2020 report by the California State Auditor's Office found that three out of four

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<sup>3</sup> Copy provided to EFF available at <https://www.documentcloud.org/documents/6228660-PRA-LPR-Redacted.html>.

<sup>4</sup> These documents can be downloaded from POST's open data hub, and are also available at <https://www.documentcloud.org/public/search/projectid:50009-POST-SB-978-Redactions>.

<sup>5</sup> Comm'n on Police Officer Standards & Training, ACTION REQUIRED: Senate Bill 978 Requires Publication of All Non-Exempt Education and Training Materials, Including Presenter Course Content, on POST's Website by January 1, 2020, at 1 (Sept. 24, 2019), [https://post.ca.gov/Portals/0/post\\_docs/bulletin/2019-29.pdf](https://post.ca.gov/Portals/0/post_docs/bulletin/2019-29.pdf).

<sup>6</sup> Cal. Gov. Code § 6254.9.

<sup>7</sup> *County of Santa Clara v. Superior Court*, 170 Cal. App. 4th 1301, 1334 (2009).

<sup>8</sup> See, e.g., Cassidy Johncox, *Michigan Senate Passes Bill Requiring Implicit Bias, De-escalation Police Training Amid National Unrest*, Click On Detroit (June 4, 2020), <https://www.clickondetroit.com/news/local/2020/06/04/michigan-legislature-passes-bill-requiring-implicit-bias-de-escalation-police-training-amid-national-unrest/>; Matthew Guariglia, *Victory! Berkeley City Council Unanimously Votes to Ban Face Recognition*, Electronic Frontier Foundation (Oct. 16, 2019), <https://www.eff.org/deeplinks/2019/10/victory-berkeley-city-council-unanimously-votes-ban-face-recognition> (identifying Berkeley, Oakland, and San Francisco as California cities that have banned government use of facial recognition technology); Matthew Guariglia, *Victory! California Governor Signs A.B. 1215*, Electronic Frontier Foundation (Oct. 9, 2019), <https://www.eff.org/deeplinks/2019/10/victory-california-governor-signs-ab-1215> (describing statewide moratorium in California on use of facial recognition on mobile law enforcement devices); Electronic Frontier Foundation, *Automated License Plate Readers (ALPRs)*, <https://www.eff.org/pages/automated-license-plate-readers-alpr> (describing California law placing limitations around law enforcement use of ALPRs).

agencies it audited did not ensure that ALPR users are adequately trained. “Without sufficient training, there is little assurance that ALPR users know and understand agency ALPR policies, including recent changes, or are aware of the limits on how they may use ALPR data,” the auditor wrote.<sup>9</sup>

As the statutes and case law have made clear, the public’s right to know does not give way when private companies claim that their content is copyrighted.

Moreover, POST has failed to comply with SB 978’s requirements that it conspicuously publish *all* current education and training materials that would otherwise be available to the public through a CPRA request. Instead, POST has only uploaded brief outlines to its open data portal, in place of the full education and training materials.<sup>10</sup> These outlines lack detailed descriptions of their course curriculums. Indeed, all of the materials that POST has uploaded about peace officers’ use of force trainings are outlines. Many of those outlines mention presentation slides, but POST frequently excludes those slides from the uploaded materials.<sup>11</sup> With police use of force currently a hotly debated issue throughout the state and nation, it is all the more concerning that POST is unlawfully hiding this material.

In light of these concerns, we demand that POST fully comply with SB 978 by uploading the full education and training materials for all modules, including modules regarding ALPR, facial recognition, and use of force.

Please advise us of your position on POST’s SB-978 violations by July 10, 2020. You may contact us via email at [dm@eff.org](mailto:dm@eff.org) and [naomi@eff.org](mailto:naomi@eff.org) and by phone at 415-436-9333 x151.

Sincerely,

Dave Maass  
Senior Investigative Researcher

Naomi Gilens  
Frank Stanton Fellow

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<sup>9</sup> Cal. State Auditor, Automated License Plate Readers: To Better Protect Individuals’ Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects (Feb. 13, 2020), <https://www.auditor.ca.gov/pdfs/reports/2019-118.pdf>.

<sup>10</sup> Consider, for example, the four- to six-page outlines that POST has uploaded for its “Stress Problem Solving,” “Active Shooters/Violent Intruders,” “Computer Crime Investigation,” “Critical Incident and Stress Management,” “Unmanned Aircraft Systems,” “Police Sniper/Observer Tactics,” and “Special Weapons and Tactics” modules.

<sup>11</sup> Consider, for example, the outlines POST has uploaded for its “Evidence and Property Function Management” “Community Engagement/Building Trust,” “Court and Contemporary Holding, and “Stress Management” modules.

# Exhibit B

COMMISSION ON  
**PEACE OFFICER STANDARDS AND TRAINING**

July 29, 2020



**GAVIN NEWSOM**  
GOVERNOR

**XAVIER BECERRA**  
ATTORNEY GENERAL

Dave Maass  
Senior Investigative Researcher  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, CA 94109  
email: dm@eff.org

Dear Mr. Maass:

Thank you for your letter expressing concern regarding POST's compliance with Senate Bill (SB) 978. In your letter, you raised several issues. First, you suggested that the invocation of copyright protection by various third-party presenters – such as a claim made with respect to automated license plate reader training – was unlawful. Specifically, you suggested that the California Public Records Act (Government Code 6250 et. seq.) only permits such an exemption for certain computer software, and that no other copyright objection was appropriate. Second, you suggested that POST is improperly withholding certain detailed training materials from public posting in lieu of “brief outlines” which are posted instead.

POST appreciates your concerns, and has researched the matters you raised. I will respond to both of these issues in turn.

As to your first concern, POST certifies courses by private and public presenters. Courts have held that under California law, a state entity may hold a copyright only when expressly authorized by statute. (*County of Santa Clara v. Superior Court*, supra, 170 Cal.App.4th at 1334-1336.) To the extent that a certified course was developed by a private presenter that has invoked a copyright claim, however, POST must respect that claim. The California Public Records Act (CPRA) exempts from disclosure “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law.” (Gov. Code § 6254, subd. (k).) One of the disclosure exemptions incorporated into the CPRA is the copyright protection provided by federal copyright law. (See, e.g., 17 U.S.C. § 101 et seq.) Were POST to publish such materials after a copyright privilege has been invoked, it would expose POST to the risk of litigation. For that reason, POST has withheld course outlines from private presenters that have notified POST that they claim copyright protection.

However, after receipt of your letter, POST conducted a secondary review of the Automated License Plate Reader (ALPR) and other training courses that you specifically referenced. The ALPR course is developed and presented by a private entity. However, in reviewing the claim of copyright protection for this course, POST determined that the course was in fact certified through the State Threat Assessment Center (STAS), which is a consortium of local, state and federal law enforcement agencies. Although STAS made a request of POST to protect the intellectual property of the materials developed by this third party, POST has notified STAS that it does not believe STAS has a statutory basis to invoke such a claim. Therefore, POST has notified STAS that absent any other legal justification for withholding the expanded course outlines (ECOs) from public disclosure pursuant to SB 978, the STAS

ECOs in the POST Certified Course Catalog (including but not limited to the ALPR materials) will be published on the POST public facing website. However, to the extent that POST determines that any STAS course materials, if disclosed, would pose a risk to officer safety or public safety due to the sensitive and confidential nature of the content (e.g. “law enforcement sensitive” material), POST will continue to withhold such information. (Gov. Code § 6255.)

With respect to use of force training conducted by the California Peace Officers Association (CPOA), the CPOA is a private entity that has exercised a copyright claim and requested that POST refrain from publishing its intellectual property on a public website. In compliance with federal copyright law, POST must continue to honor that request.

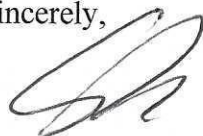
In your correspondence you also expressed a concern over a perception that POST is withholding training material, e.g. presentation slides and handout materials, and is only publishing outlines. We believe you may misapprehend POST’s role and the materials in its possession.

With the exception of a handful of courses exclusively taught by POST, POST staff reviews and certifies only the ECOs presented for certification by public and private presenters. POST staff do not review, approve, or certify any of the supporting presenter-specific course training material (e.g. presentation slides, handout materials, or audio-visual content.) For that reason, the supporting content you reference is neither entered into or housed in the POST Electronic Database Interchange (EDI) nor otherwise contained in the certification packages POST receives. Since POST does not possess these materials, it is not in a position to publish them. Accordingly, POST has complied with SB 978 with respect to publishing training materials, as the ECOs constitute the training materials in POST’s possession.

Should you desire the additional training content that is outside of the POST certification process, you will need to independently reach out to each individual presenter. For regulatory reference you may access 11 CCR § 1052 (a) (3), which specifies the content needed for a certification package.

POST intends to comply with the requirements of SB 978, and ensure transparency of government operations, while still protecting public safety by redacting content that is law enforcement sensitive. Should you have further public records requests please send them to the POST CPRA mailbox at [cpra@post.ca.gov](mailto:cpra@post.ca.gov). For questions regarding this correspondence I may be reached at (916) 227-2807 or [scott.loggins@post.ca.gov](mailto:scott.loggins@post.ca.gov)

Sincerely,



SCOTT LOGGINS  
Assistant Executive Director  
Standards and Development Division



# Exhibit C



September 24, 2020

Commission on Peace Officer Standards and Training  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605

**RE: California Public Records Act Request**

Dear Public Records Officer,

This letter serves as a formal request for records under the California Public Records Act by the Electronic Frontier Foundation (“EFF”). EFF seeks records related to the California Peace Officers Association’s use of force training, including training materials themselves as well as any course outlines or course certifications.

EFF previously requested that you post this material to your website, by letter of June 25, 2020. By response letter of July 29, 2020, your agency declined to do so. We now formally seek access to this material through the California Public Records Act.

We ask that you please respond to this request within 10 days either by providing all the requested records, stating when the records will be made available, or by providing a written response setting forth the legal authority on which you rely in withholding or redacting any records. If your agency invokes an extension, please specify the need for the extension. Because EFF is a nonprofit organization that makes all information it receives through California Public Records Act and Freedom of Information Act requests available to the public, we ask that you waive any fees.

We request that responsive electronic records be provided electronically in their native format, if possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality possible, to avoid copying costs. Should you be unable to avoid incurring copying costs, EFF will reimburse you for the direct costs of copying these records (if you elect to charge for copying) plus postage. If you anticipate that these costs will exceed \$25.00, or that the time needed to copy the records will delay their release, please contact me so that I can decide which documents I wish to have copied. Otherwise, please copy and send them as soon as possible, and we will promptly pay the required costs.

Thank you for your consideration of this request. If you have any questions or concerns, please do not hesitate to contact me at [naomi@eff.org](mailto:naomi@eff.org).

Sincerely,

Naomi Gilens  
Electronic Frontier Foundation

# Exhibit D

# Course Report

<b>Course:</b> 9100-21179-20	<b>Plan</b>	<b>Max Enroll</b>	<b>Max Rmb Hours:</b> 16
USE OF FORCE/LIABILITY/LITIGATION	<b>VI</b>	30	<b>Certified Hours:</b> 16
CAT K 09 USE OF FORCE/LIABILITY/LITIGATION			
<b>Phone:</b> (916) 520-2245	<b>Max Presn</b>	<b>Non-Reimbursable Tuition:</b>	<b>Status</b>
	10	<b>Offsite:</b> \$0.00	Active

**Presenter No. :** 9100

CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA)

555 CAPITOL MALL, SUITE 1495

SACRAMENTO 95814

**Region:** 03

**Original Certification Date:** 01/19/2016

**Course Description:**

The Legal Implications of Use of Force reviews recent court cases covering use of force, utilizes video to fully understand use of force situations and walks you through a Use of Force incident from field training to the courtroom. You will learn: -The necessity of contact drills both in the street and in the courtroom. -How to navigate the civil and criminal trail process. -The process of a use of force investigation in a custody setting. -Proper responses for both management and officers after a major incident. - How to testify about a use of force encounter. -How to write about a use of force encounter. -How to analyze your defensive tactics for effectiveness, -and much more...

**Perishable Skills:** None

**Course Comments:**

Course Presentation							Roster			Perishable Skills				
Pres.	Start	End	Received	Location	Hours	Tuition	Received	Processed	Attendees	FIRE ARM	DRV TNG	ARST CTL	TAC COM	INT COM

## Course Administration Information

Course: **USE OF FORCE/LIABILITY/LITIGATION - 21179**

Presenter: **CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) (9100)**

### POST CONSULTANT REVIEW

Current Attachment Status:	No Change
Certification Start Date:	7/1/2020
Effective Date:	7/1/2020
Certification End Date:	06/30/2021
Does this course qualify for CPT?	Yes
Does this course qualify for duplicate training?	Yes
If yes, what should the frequency be?	Unlimited
Has the course been approved by POST as an ICI course (TPS Consultant pre-approved)?	No
Does the course have a contract?	No
If yes, what is the contract number?	

### Certification

Certification Type: Certification II [More Info](#)

### Course Information

Course title:	USE OF FORCE/LIABILITY/LITIGATION
Course number:	21179
Course hours:	16
Secondary course title:	
Course description:	The Legal Implications of Use of Force reviews recent court cases covering use of force, utilizes video to fully understand use of force situations and walks you through a Use of Force incident from field training to the courtroom. You will learn: -The necessity of contact drills both in the street and in the courtroom. -How to navigate the civil and criminal trial process. -The process of a use of force investigation in a custody setting. -Proper responses for both management and officers after a major incident. -How to testify about a use of force encounter. -How to write about a use of force encounter. -How to analyze your defensive tactics for effectiveness, -and much more...
Fiscal year:	2020
Is this course a variable format course?:	No
Participating agencies & target audience:	City, County, State, and Federal law enforcement personnel involved in the following use of force items: applying force, investigating force, policy writing, supervising or managing law enforcement personnel. Additionally, City/County Managers, Attorneys and Risk Managers will benefit from this course.
Is this course specifically job related for dispatchers?:	No
Do you wish to publish this course in the catalog?:	Yes

### Mandated Information

Do you want to request perishable skills approval?:	No
If yes, choose one or more perishable skills categories:	
Does this course meet a legislative mandate?:	No
If yes, list legislative mandate(s):	
Does this course meet a POST regulation training mandate?:	No
If yes, list POST regulation(s):	

### Course Information Details

Does this course require standardized curriculum?:	No
--	----

Does this course revisit content from prior core course(s)?: (i.e. refresher course)	No
Is this an update course? : (i.e. material changes over time)	No
Does this course require a safety policy?: (e.g. Arrest and Control, Defensive Tactics, Firearms, etc.)	No
Are there subventions or college financial support?:	No
Does this course require prerequisite(s)?: (e.g. basic course)	No
If yes, list prerequisites:	
Does this course have enrollment restrictions?:	No
If yes, list enrollment restrictions:	
Project(s) description (if required):	
Is there a college affiliation?:	No
If yes, enter the college name:	
Semester/quarter indicator:	
No. of units granted:	

**Presentation Information**

Maximum enrollment for each presentation:	30
Maximum no. of presentations per year:	10
Maximum annual trainees:	300
Estimated annual trainees:	180
Indicate course on-site/off-site presentations:	- Offsite

- Course address(es):
- 30100 AGOURA ROAD, AGOURA HILLS, CA, 91301
  - 1550 OAK STREET, ALAMEDA, CA, 94501
  - 101 SOUTH FIRST STREET, ALHAMBRA, CA, 91801
  - 700 CONVENTION WAY, ANAHEIM, CA, 92802
  - SHERATON-1015 W. BALL ROAD, ANAHEIM, CA, 92802
  - 300 L STREET, ANTIOCH, CA, 94509
  - 1350 NORRIS ROAD, BAKERSFIELD, CA, 93308
  - 200 EAST L STREET, BENICIA, CA, 94510
  - 2560 ORION WAY, CARLSBAD, CA, 92010
  - 5750 ORION STREET, CARLSBAD, CA, 92010
  - 1ST & NORMAL STREETS, CHICO, CA, 95929
  - 14250 PEYTON DRIVE, CHINO HILLS, CA, 91709
  - 6237 FOUNTAIN SQUARE DRIVE, CITRUS HEIGHTS, CA, 95621
  - 1050 BURNETT AVENUE, CONCORD, CA
  - 100 CIVIC CENTER WAY, EL CAJON, CA, 92020
  - 8400 LAGUNA PALMS WAY, ELK GROVE, CA, 95758
  - 1163 N. CENTRE CITY PARKWAY, ESCONDIDO, CA, 92026
  - 1000 WEBSTER STREET, FAIRFIELD, CA, 94533
  - 46 NATOMA STREET, FOLSOM, CA, 95630
  - 2000 STEVENSON BLVD., FREMONT, CA, 94537
  - 1101 EAST UNIVERSITY AVENUE, FRESNO, CA, 93741
  - 100 PLAZA ALICANTE, GARDEN GROVE, CA
  - 100 W. GLENOAKS BLVD., GLENDALE, CA, 91201
  - CITY HALL, 633 EAST BROADWAY, GLENDALE, CA
  - 6767 HOLLISTER AVENUE, GOLETA, CA, 93117
  - 325 MALL DRIVE, HANFORD, CA, 93230
  - 450 NORTH GREENFIELD AVENUE, HANFORD, CA, 93230
  - 450 NORTH GREENFIELD AVENUE, HANFORD, CA, 93230
  - 25555 HESPERIAN BLVD., HAYWARD, CA, 94545
  - 2000 MAIN STREET, HUNTINGTON BEACH, CA, 92648
  - 1 CIVIC CENTER PLAZA, IRVINE, CA, 92623
  - 4324 DOUGLAS DRIVE, LONG BEACH, CA
  - 2409 DEAN STREET, MC CLELLAN, CA, 95652
  - MODESTO CENTRE PLAZA-10TH & K, MODESTO, CA, 95354
  - 1539 FIRST STREET, NAPA, CA, 94559
  - 870 SANTA BARBARA DRIVE, NEWPORT BEACH, CA, 92660
  - 870 SANTA BARBARA DRIVE, NEWPORT BEACH, CA, 92660
  - 900 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA
  - 1001 BROADWAY, OAKLAND, CA, 94607
  - 2000 CONVENTION CENTER WAY, ONTARIO, CA
  - 2500 S. ARCHIBALD AVE, ONTARIO, CA, 91761
  - 3001 STURGIS ROAD, OXNARD, CA, 93030
  - 200 S. CIVIC DRIVE, PALM SPRINGS, CA, 92262
  - 625 EL CAMINO REAL, PALO ALTO, CA
  - 330 FAIR LANE, PLACERVILLE, CA, 95667
  - 2897 KILGORE ROAD, RANCHO CORDOVA, CA, 95670
  - 777 CYPRESS AVENUE, REDDING, CA
  - 350 CONVENTION CENTER WAY, REDWOOD CITY, CA, 94063
  - 259 N. WILMA AVENUE, RIPON, CA, 95366
  - 500 CITY CENTER DRIVE, ROHNERT PARK, CA, 94928

Course Certification - POST EDI

- 1051 JUNCTION BLVD., ROSEVILLE, CA, 95678
- 1401 ARDEN WAY, SACRAMENTO, CA, 95815
- 1455 RESPONSE ROAD, SUITE 190, SACRAMENTO, CA, 95815
- 2001 POINT WEST WAY DOUBLETREE, SACRAMENTO, CA, 95815
- 300 RICHARDS BLVD., SACRAMENTO, CA, 95811
- 555 CAPITOL MALL, SUITE 1495, SACRAMENTO, CA, 95814
- 600 BERCUT DRIVE, SUITE A, SACRAMENTO, CA, 95814
- 710 NORTH "D" STREET, SAN BERNARDINO, CA, 92401
- 400 W. BROADWAY, SAN DIEGO, CA, 92101
- SAN FRANCISCO INTNAT'L AIRPORT, SAN FRANCISCO, CA, 94128
- 1355 4TH STREET, SAN JOSE, CA, 95112
- 70 WEST HEDDING ST., 3RD FL., SAN JOSE, CA, 95110
- 901 EAST 14TH STREET, SAN LEANDRO, CA, 94577
- 2207 BRIDGEPOINTE PKWY, SAN MATEO, CA, 94404
- 101 MCINNES PRKWY, EMBASSY STS, SAN RAFAEL, CA, 94903
- 1600 LOS GAMOS DRIVE, SAN RAFAEL, CA, 94903
- MARIN CO. CIVIC CENTER, SAN RAFAEL, CA, 94903
- 4949 GREAT AMERICA PARKWAY, SANTA CLARA, CA
- 5200 SOQUEL AVENUE, SANTA CRUZ, CA, 95062
- 2200 SANTA ROSA AVENUE, SANTA ROSA, CA
- 22 E. WEBER, STOCKTON, CA
- 700 ALL AMERICA WAY, SUNNYVALE, CA, 94086
- 195 RUSSELL AVENUE, SUSANVILLE, CA, 96130
- 705-145 US-395, SUSANVILLE, CA, 96130
- 1000 HENSLEY CREEK ROAD, UKIAH, CA, 95482
- 2055 HARBOR BOULEVARD, VENTURA, CA, 93001
- 1666 NORTH MAIN STREET, WALNUT CREEK, CA, 94596
- 275 MAIN STREET, WATSONVILLE, CA, 95076
- 3500 REED AVENUE, WEST SACRAMENTO, CA, 95605
- 2060 CAMPUS DRIVE, YREKA, CA, 96097

Number and size of classroom facilities:	Facility will be able to hold 30 students
Presentation methods (indicate all techniques used):	<ul style="list-style-type: none"> <li>- Lecture</li> <li>- Exercises</li> <li>- Other .....:</li> </ul> Video review and analysis
Training aids:	PowerPoint, Video Analysis, Case Law review and analysis
Methods of assessing learning goals and objectives (indicate all methods used):	<ul style="list-style-type: none"> <li>- Exercise/Activities</li> <li>- Other:</li> </ul> Video analysis and review of current court case

**Financial Information**

Reimbursement Plan (choose one): - Plan VI - Travel and per diem, training presentation costs reimbursement

» [Plans Information](#)

**General Information**

Course coordinator name:	Alexandra Macaluso
Course coordinator telephone:	(916) 263- 0541 Ext.
Email:	amacaluso@cpoa.org

## Course Hourly Distribution Schedule

Course: USE OF FORCE/LIABILITY/LITIGATION - 21179

Presenter: CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) (9100)

### POST Consultant Review

Current Attachment Status: **No Change**

### Course Hourly Distribution Schedule Summary

Total Hours Per Course Presentation: **16**

Total Number of Days of Class: **2**

Days Per Week: **2**

Instructors (selected on hourly/total): **1/1**

### View Hourly Distribution Schedule

#### Day 1

Start	End	Subject	Instructor
0800	0900	Introduction	DEMURJIAN, DAVID
0900	1000	The Ethics of Force	DEMURJIAN, DAVID
1000	1100	Ethical Leadership	DEMURJIAN, DAVID
1100	1200	World Examples of Ethical Leadership	DEMURJIAN, DAVID
1200	1300	Lunch	
1300	1500	The Law of Force	DEMURJIAN, DAVID
1500	1600	State law on Use of Force	DEMURJIAN, DAVID
1600	1700	Comparing Federal Laws with State Laws and Policy	DEMURJIAN, DAVID

#### Day 2

Start	End	Subject	Instructor
0800	0930	The Flowchart of Force	DEMURJIAN, DAVID
0930	1030	Federal Investigations into Police Agencies	DEMURJIAN, DAVID
1030	1130	Defense Tactics and Compliance with the law	DEMURJIAN, DAVID
1130	1200	Review of General Disciplines for Defense Tactics	DEMURJIAN, DAVID
1200	1300	Lunch	
1300	1400	Writing about Use of Force	DEMURJIAN, DAVID
1400	1500	Testifying about Force	DEMURJIAN, DAVID
1500	1600	Dressing for Success for your Force case	DEMURJIAN, DAVID
1600	1700	Conclusion: Question & Answer	DEMURJIAN, DAVID



# THE LEGAL IMPLICATIONS OF USE OF FORCE

## *Expanded Outline*

- I. INTRODUCTION  
[Redacted]
- II. THE ETHICS OF FORCE  
[Redacted]
- III. ETHICAL LEADERSHIP  
[Redacted]
- IV. WORLD EXAMPLES OF ETHICAL LEADERSHIP  
[Redacted]
- V. THE LAW OF FORCE  
[Redacted]
- VI. STATE LAW ON USE OF FORCE  
[Redacted]
- VII. COMPARING FEDERAL LAWS WITH STATE LAWS AND YOUR AGENCY POLICY.  
[Redacted]
- VIII. THE FLOWCHART OF FORCE  
[Redacted]
- IX. FEDERAL INVESTIGATIONS INTO POLICE AGENCIES  
[Redacted]
- X. DEFENSIVE TACTICS AND COMPLIANCE WITH THE LAW  
[Redacted]
- XI. REVIEW OF GENERAL DISCIPLINES FOR DEFENSIVE TACTICS  
[Redacted]
- XII. WRITING ABOUT USE OF FORCE: Going back to the basics: THE ELEMENTS OF STYLE:  
[Redacted]
- XIII. TESTIFYING ABOUT FORCE  
[Redacted]
- XIV. DRESSING FOR SUCCESS FOR YOUR FORCE CASE  
[Redacted]
- XV. CONCLUSION: QUESTIONS & ANSWERS  
[Redacted]

# Exhibit E

COMMISSION ON  
**PEACE OFFICER STANDARDS AND TRAINING**

October 7, 2020

Naomi Gilens  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, CA 94109

Dear Ms. Gilens,

This letter is in response to your formal request for records under the California Public Records Act, wherein you seek records related to the “California Peace Officers Association’s use of force training, including training materials themselves as well as any course outlines or course certifications.”

The records you requested are attached. POST has redacted certain portions of the Expanded Course Outline (ECO) pursuant to Government Code Section 6254, subd. (k) and 17 U.S.C. Section 101 et. seq. based upon a claim of copyright protection as to those materials by the California Peace Officers Association (CPOA). POST will permit you to review the unredacted ECO at POST headquarters in West Sacramento, under the supervision of a representative of POST and/or CPOA, subject however, to your agreement that you shall not remove or copy the unredacted material.

As to training materials themselves, POST does not have any such responsive records. Should you desire the additional training content that is outside of the POST certification process, you will need to independently reach out to CPOA for those training materials. For regulatory reference you may access 11 CCR Section 1052(a)(3), which specifies the content needed for a course certification package.

Should you wish to accept our offer to view the specified CPOA ECO at our office in West Sacramento, please execute and return to us the acknowledgement and agreement set forth below and contact POST staff at [CPRA@post.ca.gov](mailto:CPRA@post.ca.gov).

For specific questions regarding this correspondence, I may be reached at (916) 227-2807 or [scott.loggins@post.ca.gov](mailto:scott.loggins@post.ca.gov).

Sincerely,



Scott Loggins  
Assistant Executive Director  
Standards and Development Division  
Commission on POST

cc: California Peace Officers Association



**GAVIN NEWSOM**  
GOVERNOR

**XAVIER BECERRA**  
ATTORNEY GENERAL

## Acknowledgement and Agreement

Electronic Frontier Foundation ("EFF") acknowledges the California Peace Officers Association has asserted that it holds a copyright to its expanded course outlines, including its advance course outline for its use of force training, and that copying of that material is prohibited under federal copyright law. EFF understands that it will be granted access to view that material at POST's office, but that it may not remove or copy the material, and hereby agrees to those terms. I further confirm that I am authorized to execute this acknowledgement and agreement on behalf of EFF.

Electronic Frontier Foundation

by \_\_\_\_\_  
Naomi Gilens

Date \_\_\_\_\_

# Exhibit F



November 10, 2020

Scott Loggins  
Assistant Executive Director, Standards and Development Division  
Commission on Peace Officer Standards and Training  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605  
scott.loggins@post.ca.gov

**RE: California Public Records Act Request – Commission on Peace Officer Standards and Training**

Dear Mr. Loggins:

We write regarding POST's incomplete and unsatisfactory response, dated October 16, 2020, to EFF's September 24, 2020 request for the California Peace Officers Association's (CPOA) use of force training materials under the California Public Records Act. POST provided CPOA's Expanded Course Outline only in redacted form, stating that EFF could view the unredacted version only during a supervised visit to POST's West Sacramento headquarters. EFF is entitled to receive complete, unredacted copies of these records, which are public records for which the CPRA provides a presumptive right of access. Gov. Code §§ 6252(e), 6253.

**A. Federal Copyright Law Does Not Prohibit Disclosure.**

POST incorrectly relies on Gov. Code § 6254(k) and 17 U.S.C. § 101, asserting that a claim of copyright protection by CPOA required POST to redact the course outline. Federal copyright law does not prohibit disclosure of these records.

Exemption (k) by its plain language applies only to laws that are prohibitions on *disclosure*. Copyright law is not a disclosure prohibition; it only restricts certain activities that fall within an owner's enumerated exclusive rights, such as reproduction and distribution. Gov. Code §§ 6276.01-6276.48, which catalog state laws that incorporate qualifying disclosure prohibitions or exemptions, illustrate the intended scope of § 6254(k). *See* Gov. Code §§ 6275-6276. The exemptions from disclosure listed in those sections are rooted in privacy, confidentiality, or safety concerns, and include such information as identifying personal data, attorney-client communications, and terrorism vulnerability assessments. Copyright, by contrast, is not a body of law concerned with disclosure, and it does not fall into the category of laws contemplated by § 6254(k).

**B. CPOA Granted POST An Implied License To Distribute CPOA's Materials In Compliance With The CPRA.**

Even if federal copyright law did prohibit disclosure, providing an unredacted copy of the course outline would not infringe any copyright held by CPOA because

CPOA has granted POST an implied license to distribute its work in accordance with POST's statutory public records obligations.

An implied license is granted when a person or entity requests the creation of a work, the creator makes that work and delivers it to the requestor, and the creator intends that the requestor copy and distribute the work. *Asset Mktg. Sys., Inc. v. Gagnon*, 542 F.3d 748, 754-55 (9th Cir. 2008). The relevant intent is the creator's objective—not subjective—intent at the time of the creation and delivery of the work, as manifested by the creator's conduct. *Id.* at 756. The CPRA's guarantee of access to government records puts third parties on notice that their materials will be subject to disclosure under that law. Additionally, POST has a notice on its website that reads, "All information collected at this site becomes a public record that may be subject to inspection and copying by the public, unless an exemption applies." By voluntarily submitting material to POST through its website<sup>1</sup> with the knowledge that those materials are subject to the state's public records act, CPOA therefore granted the agency an implied license.

Further, under Gov. Code § 6253.3, "[a] state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to [the CPRA]." POST, however, has asserted that it will disclose copyrighted materials pursuant to its public records obligations unless private, copyright-holding parties, such as CPOA, object to that disclosure. *See* POST Bulletin No. 2019-29, Sept. 24, 2019, [https://post.ca.gov/Portals/0/post\\_docs/bulletin/2019-29.pdf](https://post.ca.gov/Portals/0/post_docs/bulletin/2019-29.pdf). POST itself, therefore, appears to assume that it has an implied license to disclose copyrighted materials, at least in the absence of explicit objection by the copyright-holder. Moreover, POST's delegation of authority to private parties to make disclosure decisions runs directly counter to the requirements of Gov. Code § 6253.3.

### **C. Distributing Copyrighted Material Pursuant To Public Records Laws Is Protected Fair Use And Does Not Violate Copyright Law.**

Even assuming that the records were subject to copyright, and even absent an implied public license, any copying or distribution of these records for the purpose of responding to a public records request would be fair use. Fair uses are specifically authorized by copyright law. 17 U.S.C. § 107. *Lenz v. Universal*, 801 F.3d 1126 (2015). Because the government's distribution of CPOA's use of force training materials pursuant to the CPRA would constitute fair use, that distribution would not be subject to any copyright infringement claims by CPOA.

Fair use depends on four factors, considered in light of the purposes of copyright and the public interest. The first factor looks to the purpose and character of the use, and generally looks to whether the new use is transformative and whether it is commercial.

---

<sup>1</sup> *See* <https://post.ca.gov/course-submission-form>.

When a new use “communicates something new and different from the original or expands its utility,” this serves “copyright’s overall objective of contributing to public knowledge,” and its nature is transformative and likely fair. *Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1165 (9th Cir. 2007). Here, the government’s purpose would be to comply with the CPRA’s transparency requirements, a non-commercial use that is also entirely distinct from the CPOA’s original purpose, which is to train officers in the use of force. The first factor favors fair use.

The second factor looks to the nature of the work. Under this factor, “the more informational or functional the plaintiff’s work, the broader should be the scope of the fair use defense.” *Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 531 (9th Cir. 2008). CPOA’s training materials are purely informational and functional, and as such, POST is afforded wide latitude in using them to further transparency and public awareness. The second factor favors fair use.

The third factor considers the amount and substantiality of the portion of the work that is used, in light of the user’s purpose. “[T]his factor will not weigh against an alleged infringer, even when he copies the whole work, if he takes no more than is necessary for his intended use.” *Seltzer v. Green Day, Inc.*, 725 F.3d 1170, 1178 (9th Cir. 2013). Because the CPRA requires disclosure of the records in full, and full disclosure is necessary to achieve meaningful transparency, the third factor favors fair use.

Finally, the fourth factor considers whether the new use supplants the “normal market for a copyrighted work.” *Harper & Row v. Nation Enters.*, 471 U.S. 539, 566-568 (1985). Where the use serves a “different market function” than the original use, that cuts in favor of fair use. *Seltzer*, 725 F.3d at 1179. Because the disclosure of the use of force outline is not for any commercial purpose and will not have any effect on POST’s further contracting for use of the training materials, this factor also cuts in favor of disclosure.

More generally, disclosure serves copyright’s purpose because copyright laws in this country are meant to strike a balance between encouraging the creation of new and original works, and encouraging socially constructive applications and uses of old works. The Copyright Act makes clear that these new, fair uses are “not an infringement of copyright.” 17 U.S.C. § 107. Disclosure in this case would promote government transparency, furthering scrutiny of and trust in our public institutions. This is wholly in line with the intent of the legislature that passed the CPRA, as well as the precedent case law.

Because federal copyright law does not prohibit either disclosure or copying of the requested records, we urge POST to reconsider its position and provide EFF with an unredacted copy of CPOA’s course outline. If it does not, we are prepared to file a lawsuit to enforce our rights under the CPRA. We request your substantive response by November 25.



EFF Letter to POST  
November 10, 2020  
Page 4 of 4

If you have questions or would like to discuss the matters raised in this letter, please do not hesitate to contact me at [naomi@eff.org](mailto:naomi@eff.org).

Sincerely,

A handwritten signature in black ink that reads "Naomi Gilens". The signature is written in a cursive, flowing style.

Naomi Gilens  
Electronic Frontier Foundation

# Exhibit G

**XAVIER BECERRA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

Public: (415) 510-4400  
Telephone: (415) 510-3834  
Facsimile: (415) 703-1234  
E-Mail: Sharon.OGrady@doj.ca.gov

November 24, 2020

Naomi Gilens  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, CA 94109

RE: EFF's Public Records Act Request

Dear Ms. Gilens:

My office represents the Commission on Peace Officer Standards and Training (POST). This letter responds to yours of November 10, 2020 regarding POST's response to EFF's request for use of force materials, specifically training provided by the California Peace Officer Association (CPOA). POST fully complied with EFF's request, except as to the Expanded Course Outline (ECO), which was provided in redacted form together with an offer to permit EFF to view the ECO in full at POST headquarters. Thus, the sole remaining issue is whether POST is obligated to provide the full ECO without any restriction, notwithstanding CPOA's invocation of a federally protected copyright in the materials. We believe that EFF's position on that question is unsound.

EFF's initial argument is that copyright law does not prohibit disclosure under the Public Records Act. The Copyright Act prohibits copying, however. (See, e.g., *Hustler Magazine, Inc. v. Moral Majority* (9th Cir. 1986) 796 F.d 1148, 1151.) Providing EFF with a copy of the document, therefore, would violate CPOA's copyright. In such circumstances, EFF has no right to the full ECO without restriction. (Gov. Code, § 6254, subd. (k) [incorporating exemptions and prohibitions on disclosure established by other laws].)

We understand that EFF's position is that, under Senate Bill 978, POST is required to post the unredacted documents on POST's website. See California Agency Blocks Police Use of Force and Surveillance Training, <https://www.eff.org/deeplinks/2020/06/california-agency-blocks-release-police-use-force-and-surveillance-training>. Posting a copyrighted work on the internet is copying, and doing so without authorization constitutes copyright infringement. (See, e.g., *Columbia Pictures Industries, Inc. v Fung* (9th Cir. 2013) 710 F.3d 1020, 1034.) Therefore, posting is not required by Senate Bill 978, which only requires posting of materials to POST's website to the extent those materials would have to be produced under the Public Records Act.

Moreover, any objection that EFF might have is met by the fact that POST has offered to *disclose* the complete and unredacted document copy to EFF, provided EFF agrees not to remove or copy the material. That satisfies POST's obligations under the California Public Records Act.

(See, e.g., *California Sch. Employees Assn v. Sunnyvale Elementary Sch. Dist.* (1971) 36 Cal.App.3d 46, 65 [holding that agency disclosure on condition that the recipient agree not to publish or sell it complies with the CPRA].) In short, POST's approach appropriately balances the concerns for disclosure with the rights protected by federal law.

Second, we do not agree with you that CPOA granted POST an implied license to reproduce and distribute the copyrighted materials. It appears that EFF misunderstands how POST works. As your letter concedes, under Ninth Circuit law, an implied license requires three elements:

- (1) a person, i.e., the licensee, requests creation of the work;
- (2) the creator, i.e., the licensor, makes that particular work and delivers it to the licensee who requested it, and
- (3) the creator intends that the requestor copy and distribute his work.

(*Asset Marketing Systems, Inc., v. Gagnon* (9th Cir. 2008) 542 F.3d 748, 754-755, formatting added.) POST simply provides a certification process for persons seeking to hold classes certified by POST. Persons or entities wishing to be POST-certified provide course outlines to POST solely for review to determine whether the proposed course should be certified, not with the intent that POST copy or distribute the material. Moreover, typically, in the context of an implied license, the creator is hired or paid for the work. (See, e.g., *Evergreen Safety Council v. RSA Network Inc.* (9th Cir. 2012) 697 F.3d 1221, 1222.) Persons submitting materials for certification are not hired or paid by POST. Moreover, even if POST could be deemed to have an implied license for the purpose of review, it does not follow that POST has a license to post the material to its web site or allow others to copy it.

Nor is it correct that CPOA, or any POST-certified presenter, submits materials with the expectation that those materials will be disclosed in violation of the presenters' copyrights. Indeed, they have the contrary expectation: here, CPOA has expressly notified POST that it asserts a copyright interest in the ECO, and objects to its materials being published. The materials are not collected on POST's website, but in any event the website notice specifically notes that exempted materials are not subject to inspection and copying.

In order to assure a consistent supply of qualified presenters to train the over 96,000 law enforcement employees that are required to receive on-going training, POST must rely on the willingness of private presenters, who use their own intellectual capital and efforts to design training courses for delivery to law enforcement. If that intellectual effort and capital were to become immediately available for reproduction and distribution by other trainers, who could then capitalize on the effort and industry of their competitors, it would hurt the market for CPOA courses and discourage entities such as CPOA from designing and presenting such courses, which would be to the detriment of law enforcement and the citizens of California that rely on those officers.

Finally, we do not agree that the distribution to EFF of the copyrighted materials would be a “fair use.” The fair use doctrine is a fact-intensive inquiry as to which the person seeking to use the materials has the burden of proof. Here, the factors bearing on fair use weigh heavily against a finding of fair use. EFF seeks to make the entire work public, which, as noted above, could enable one of CPOA’s competitors to use the material, impacting both the market for and value of the work. And, generally, copying of an entire work is not fair use. *See Worldwide Church of God v. Phila. Church of God* (9th Cir. 2000) 227 F.3d 1110, 1117-1120. *Selzer v. Green Day, Inc.* (9th Cir. 2013) 725 F.3d 1170, which you cite, is inapposite. There a rock band used an artist’s illustration, which was already widely disseminated, including being “plastered on walls as street art. *Id.* at 1173-1174. The band did not simply copy the work, which EFF seeks, but transformed it from a simple illustration to one of many components of a music video, and the copyright holder testified that the alleged infringing use did not affect the value of his copyrighted illustration. *Id.* at 1173-1174, 1176-1179.

Even if there were a colorable claim of implied license or fair use, which is not the case, POST is not required to put itself at risk of violating CPOA’s copyright. The CPRA contains an exception for undue burden. Government Code section 6255 states that an agency may justify withholding records where “on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” In weighing the benefits and burdens of disclosure, an agency can consider expense. (*State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1188.) Requiring POST to allow EFF to copy and publish CPOA copyrighted materials would put it at significant risk of liability for copyright infringement, and would constitute an undue burden that outweighs the public interest in allowing EFF to copy the material. (See Rutter Group, California Practice Guide: Administrative Law, Ch. 29-F, ¶ 29:180 [stating that “[a]bsent a determination by counsel that copying a portion [of a copyrighted work] would be fair use under the circumstances, the agency would be justified in declining the [PRA] request”].) Instead, the Practice Guide suggests allowing the public records requester to inspect the material, which we have done.

POST has reasonably balanced the needs of public disclosure against the federally protected copyright interests of CPOA in offering to permit EFF to inspect the materials subject to EFF’s agreement that it will not remove or copy the material. We would encourage EFF to accept that offer instead of filing an unnecessary and unmeritorious lawsuit.

Sincerely,



SHARON L. O'GRADY  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

cc: William Darden

# Exhibit H



October 20, 2020

Commission on POST  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630  
Attention: California Public Records Act Request

[Meagan.Catafi@Post.ca.gov](mailto:Meagan.Catafi@Post.ca.gov)  
[CPRA@post.ca.gov](mailto:CPRA@post.ca.gov)

**VIA EMAIL**

RE: **California Public Records Act Request – CPOA Trainings**

To Whom It May Concern:

This letter constitutes a request under the California Public Records Act (CPRA) by the Electronic Frontier Foundation (EFF) for records related to trainings certified by the California Commission on Peace Officers Standards and Training.

We seek all current standards, policies, practices, operating procedures, and education and training materials related to the following courses:

1. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
ADVANCED TRAINING OFFICER – 00190
2. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
CANINE PROGRAM MANAGEMENT – 24070
3. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
CRISIS INTERVENTION – 20801
4. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
CRISIS INTERVENTION BEHAV HEALTH TRAINING FTO – 20763
5. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
CRITICAL INCID RESP/SUP/MGR – 10342
6. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
INTERNAL AFFAIRS INVESTIGATION – 32100
7. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEADERSHIP DEVELOPMENT COURSE – 43156
8. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEADERSHIP PRIMER FOR COMMANDERS – 10214

9. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEADING THE PROFESSIONAL EMPLOYEE – 43142
10. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEGAL UPDATE – 10370
11. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEGISLATIVE UPDATE – 20010
12. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
OFFICER INVOLVED SHOOTING-SUPV/MGT RESPONSIBILITY –  
10780
13. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
PATROL OPS - FIELD LEADERSHIP – 41610
14. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
PEACE OFFICER BILL OF RIGHTS – 32102
15. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
PITCHESS MOTION UPDATE – 30640
16. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
PUBLIC RECORDS ACT – 10730
17. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
TRAINING CONFERENCE – 28000
18. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
TRANSITIONAL LEADERSHIP – 22530

We ask that you please respond to this request within 10 days either by providing all the requested records or by providing a written response setting forth the legal authority on which you rely in withholding or redacting any document, as well as stating when documents will be made available.

Because EFF is a nonprofit organization that makes all information it receives through CPRA and Freedom of Information Act requests available to the public, we ask that you waive any fees. We also request that any records maintained in electronic format be provided in that same format (such as CSV or XLS file), to avoid copying costs. However, should you be unable to do so, EFF will reimburse you for the direct costs of copying these records (if you elect to charge for copying) plus postage. If you anticipate that these costs will exceed \$25.00, or that the time needed to copy the records will delay their release, please contact me so that I can arrange to inspect the documents or decide which documents I wish to have copied. Otherwise, please copy and send them as soon as possible, and we will promptly pay the required costs.

Thank you for your consideration of this request. If you have any questions or concerns, or if I can provide any clarification that will help identify responsive documents or focus this request, please do not hesitate to contact me at (415) 436-9333 x151 or [dm@eff.org](mailto:dm@eff.org). You may also mail correspondence to the Electronic Frontier Foundation, 815 Eddy. St. San Francisco, CA, 94109.



CPRA Request: POST Trainings  
October 20, 2020  
Page 3 of 3

Sincerely,

A handwritten signature in black ink, appearing to read "D. Maass". The signature is stylized and cursive.

Dave Maass  
Senior Investigative Researcher  
Electronic Frontier Foundation

# Exhibit I

**Advanced Field Training Course  
Expanded Outline**

- I. Introduction  
[Redacted]
- II. Learning Styles  
[Redacted]
- III. Theory Presentation  
[Redacted]
- IV. Administer Kaleidoscope Profile  
[Redacted]
- V. Session Conclusion  
[Redacted]
- VI. Training Dynamics (Demonstrative Training)  
[Redacted]
- VII. Expectations  
[Redacted]
- VIII. The Teaching Model  
[Redacted]
- IX. Session Conclusion  
[Redacted]
- X. Common Hurdles  
[Redacted]
- XI. Field Application Techniques  
[Redacted]
- XII. Course Conclusion  
[Redacted]

# Leadership Primer for Commanders

## Expanded Outline

- I. Introduction  
[Redacted]
- II. Core Concepts  
[Redacted]
- III. Home Work Assignments  
[Redacted]
- IV. Adult Learning Activity  
[Redacted]
- V. Command and Control in Police Organizations  
[Redacted]
- VI. Leading Organizational Partners  
[Redacted]
- VII. Conclusion  
[Redacted]

## Critical Incident Response for Supervisors & Managers Expanded Course Outline

- I. Introduction  
[Redacted]
- II. Core Concepts of Leadership  
[Redacted]
- III. Use of Force  
[Redacted]
- IV. Role of the Supervisor / Manager  
[Redacted]
- V. Critical Incident  
[Redacted]
- VI. Critical Incident  
[Redacted]
- VII. Leading in Crisis  
[Redacted]
- VIII. Decision Making  
[Redacted]
- IX. Tactical Principles  
[Redacted]
- X. Strategies and Objectives  
[Redacted]
- XI. Tactics  
[Redacted]
- XII. Response to Critical Incidents  
[Redacted]
- XIII. Turning Intent into Action  
[Redacted]
- XIV. Case Analysis  
[Redacted]
- XV. Course Conclusion  
[Redacted]

**“LEGAL ISSUES FOR LAW ENFORCEMENT”**

**Introduction and Civil Liability Issues**

**[Redacted]**

**Strip Searches Permitted For All Persons Going Into General Jail Population**

**[Redacted]**

**Contract Attorneys Working For the Public Sector Can Ask For Qualified Immunity**

**[Redacted]**

**Ninth Circuit Says It's OK To Take DNA From Felony Arrestees**

**[Redacted]**

**Qualified Immunity Is Available When Actions Are Objectively Reasonable**

**[Redacted]**

**Names of Officers Involved In An OIS Are Subject to Disclosure Under the CPRA  
(LBPOA v. City of Long Beach)**

**[Redacted]**

**CONCLUSION**

**Public Records Act**  
**CCN: 9100-10730-**  
**Presenter: California Peace Officers' Association (CPOA)**  
**Expanded Course Outline**

- I. Course introduction and overview  
**[Redacted]**
- II. Business and Professions Codes Section 2  
**[Redacted]**
- III. Test and Review  
**[Redacted]**
- IV. Previous Day Review and Questions  
**[Redacted]**
- V. Civil Code  
**[Redacted]**
- VI. Case Studies  
**[Redacted]**
- VII. Test, review and evaluation  
**[Redacted]**

## Officer Involved Shooting Expanded Course Outline

- I. Introduction  
[Redacted]
- II. Legal Aspects  
[Redacted]
- III. Media Relations  
[Redacted]
- IV. Investigative Concepts  
[Redacted]
- V. Psychological Aspects  
[Redacted]
- VI. Course Conclusion  
[Redacted]



**Legislative Update**  
**Presenter: CPOA**  
**Expanded Course Outline**  
**CCN 9100-20010-**

- I. CPOA Presentation  
**[Redacted]**
- II. CHP Presentation  
**[Redacted]**
- III. DOJ Presentation  
**[Redacted]**

# California Peace Officers' Association Crisis Intervention Awareness Expanded Course Outline

- I. **Introduction to CIT**  
**[Redacted]**
- II. **Mental Health Overview**  
**[Redacted]**
- III. **National Alliance on Mental Illness (NAMI) Informational Session/Panel**  
**[Redacted]**
- IV. **Alta California Regional Center**  
**[Redacted]**
- V. **Suicide Assessment & Intervention/ Suicide by Cop**  
**[Redacted]**
- VI. **5150 holds and reporting**  
**[Redacted]**
- VII. **Communication & De-Escalation Techniques**  
**[Redacted]**
- VIII. **PTSD and Veteran Issues**  
**[Redacted]**
- IX. **Officer Safety/Self Care**  
**[Redacted]**

# **Crisis Intervention Training**

## California Police Officers' Association

**I. Introduction**

**[Redacted]**

**II. Course Overview**

**[Redacted]**

**III. Crisis Intervention**

**[Redacted]**

**IV. Crisis Intervention**

**[Redacted]**

**V. Crisis Intervention**

**[Redacted]**

**VI. Crisis Intervention**

**[Redacted]**

**TRANSFORMATIONAL LEADERSHIP  
EXTENDED COURSE OUTLINE (0800-1700)**

- A. History/Background)  
**[Redacted]**
- B. 4 components of TL but let's talk about ourselves first  
**[Redacted]**
- C. 4 Elements of Transformational Leaders  
**[Redacted]**
- D. Intellectual Stimulation  
**[Redacted]**
- E. Inspirational motivation (X, Astro Teller, "Moonshot" technologies that aim to make the world a radically better place)  
**[Redacted]**
- F. Idealized Influence  
**[Redacted]**
- G. Conclusion  
**[Redacted]**

# CPOA Canine Program Management

## CPOA Canine Program Management Expanded Outline

- I. Introduction  
[Redacted]
- II. Needs Assessment  
[Redacted]
- III. Canine Team Standards  
[Redacted]
- IV. Philosophy of Use  
[Redacted]
- V. Canine Selection Overview  
[Redacted]
- VI. Handler Selection  
[Redacted]
- VII. Canine Training  
[Redacted]
- VIII. Canine Unit Management  
[Redacted]
- IX. Agency Awareness of Canine  
[Redacted]
- X. Canine Demonstration & Questions  
[Redacted]
- XI. Pre-Litigation Issues  
[Redacted]
- XII. Canine Program Pitfalls  
[Redacted]
- XIII. Case Law Review  
[Redacted]
- XIV. Post-Incident Issues  
[Redacted]
- XV. Conclusion  
[Redacted]

- I. **CONFERENCE PURPOSE**  
[Redacted]
- II. **TOPICS COVERED**  
[Redacted]
- III. **Regulation 1052(e) Statement**  
[Redacted]
- IV. **Re-imagining Public Safety: Prevent Harm and Lead with the Truth**  
[Redacted]
- V. **The Future of Law Enforcement (Keynote)**  
[Redacted]
- VI. **Compassion Fatigue**  
[Redacted]
- VII. **Deployment of Micro-Drones in a Tactical Environment**  
[Redacted]
- VIII. **Use of Force and SB 1421 Standards**  
[Redacted]
- IX. **New Technologies in Policing (Keynote)**  
[Redacted]
- X. **Asher Model- 7 Point Approach to Creating a Culture of Wellness, Turning Tragedy into HOPE**  
[Redacted]
- XI. **Social Recruiting**  
[Redacted]
- XII. **Leadership in Action**  
[Redacted]
- XIII. **Journey from Critical Incident to Resulting Post Traumatic Stress Injury and Ultimate Recovery**  
[Redacted]
- XIV. **Ensuring Public Safety Amidst 'Reform Fatigue'**  
[Redacted]
- XV. **Critical Issues in Law Enforcement Training**  
[Redacted]
- XVI. **Effective Leadership – Role of the Sgt/Lt**  
[Redacted]
- XVII. **Santa Barbara Debris Flow Debrief**  
[Redacted]
- XVIII. **Turing the Curve of Violence**  
[Redacted]
- XIX. **Retirement and Estate Planning for First Responders**  
[Redacted]
- XX. **Reconciliation: Joining Communities and Law Enforcement to Foster Mutual Trust**  
[Redacted]
- XXI. **The Fight After the Fight: An Officer's Story of Survival Before, During, and After a Critical Incident**  
[Redacted]

**Pitchess Motion Update - CCN 9100-**  
**Presenter: CPOA**  
**Expanded Course Outline**

- I. OVERVIEW  
[Redacted]
- II. PITCHESS MOTION REQUIREMENTS  
[Redacted]
- III. SUFFICIENCY OF THE AFFIDAVIT  
[Redacted]
- IV. SCOPE OF DISCOVERY  
[Redacted]
- V. IN CAMERA INSPECT  
[Redacted]
- VI. OPEN COURT FOLLOWING IN CAMERA  
[Redacted]
- VII. SANCTIONS FOR NON-DISCLOSURE  
[Redacted]
- VIII. PRACTICAL TIPS  
[Redacted]
- IX. FEDERAL TREATMENT OF DISCOVERY/BRADY EXCULPATORY MATERIAL  
[Redacted]
- X. PRACTICUM EXERCISE  
[Redacted]

## **Course Outline – Internal Affairs Investigations**

### **I. California Penal Code 832**

**[Redacted]**

### **II. Public Safety Officers Procedural Bill of Rights Act (POBR)**

**[Redacted]**

### **III. Important Cases**

**[Redacted]**

### **IV. Criminal Investigations**

**[Redacted]**

### **V. Drug/Alcohol testing**

**[Redacted]**

### **VI. Civilians employees**

**[Redacted]**

### **VII. Probationary employees**

**[Redacted]**

### **VIII. Intake of personnel complaints**

**[Redacted]**

### **IX. Conducting the internal affairs investigation**

**[Redacted]**

### **X. Interview Involved Officer(s)**

**[Redacted]**

### **XI. Internal affairs flow chart**

**[Redacted]**

### **XII. Writing the report**

**[Redacted]**

### **XIII. Conclusion**

**[Redacted]**

### **XIV. Identifying unknown officers**

**[Redacted]**

### **XV. Biased based policing complaints**

**[Redacted]**

### **XVI. Unlawful search complaints**

**[Redacted]**

### **XVII. Substance abuse (alcohol or drugs) complaints**

**[Redacted]**

### **XVIII. Domestic violence complaints**

**[Redacted]**

### **XIX. Sexual misconduct complaints**

**[Redacted]**

### **XX. Theft complaints**

**[Redacted]**

### **XXI. Common pitfalls of the interview process**

**[Redacted]**



**POBR for Supervisors and Managers**  
**Presenter: CPOA**  
**CCN 9100-32102-**  
**Expanded Course Outline**

- I. Overview AB 301 (Peace Officer Procedural Bill of Rights Act)  
**[Redacted]**
- II. Right of Representation of Choice...and When  
**[Redacted]**
- III. Internal Affairs Investigations  
**[Redacted]**
- IV. Procedural Due Process  
**[Redacted]**
- IV. Procedural Due Process continued  
**[Redacted]**
- V. *Brady v. Maryland (1963)*  
**[Redacted]**

## Patrol Operations – Field Leadership Expanded Course Outline

- I. Introduction  
[Redacted]
- II. 21<sup>st</sup> Century Policing Report  
[Redacted]
- III. Field Leadership
- IV. [Redacted]
- V. Use of Force  
[Redacted]
- VI. Leading your Team  
[Redacted]
- VII. Professional Standards  
[Redacted]
- VIII. Field Operations: Supervision  
[Redacted]
- IX. Officer Involved Shootings  
[Redacted]
- X. Pursuit Management  
[Redacted]
- XI. Course Conclusion  
[Redacted]

# **Leading the Professional Employee**

Candid Conversations Regarding the Nuts & Bolts of Effective Supervision  
Expanded Outline

- I. **Introduction**  
[Redacted]
- II. **Managing Expectations and Outcomes**  
[Redacted]
- III. **DiSC Self-Assessment Profile**  
[Redacted]
- IV. **Core Concepts of Leadership**  
[Redacted]
- V. **DiSC Reflection**  
[Redacted]
- VI. **Nuts and Bolts of Supervision and Management**  
[Redacted]
- VII. **Conclusion**  
[Redacted]

# CPOA Leadership Development Academy

## I. INTRODUCTION

[Redacted]

## II. SESSION 1

[Redacted]

## III. SESSION 2

[Redacted]

## IV. SESSION 3

[Redacted]

## V. SESSION 4

[Redacted]

## VI. SESSION 5

[Redacted]

## VII. SESSION 6

[Redacted]

## VIII. SESSION 7

[Redacted]

## IX. SESSION 8

[Redacted]

## X. SESSION 9

[Redacted]

## XI. SESSION 10

[Redacted]

# Exhibit J

COMMISSION ON

**PEACE OFFICER STANDARDS AND TRAINING**



October 23, 2020

Dave Maass  
Senior Investigative Researcher  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, CA 94109

**GAVIN NEWSOM**  
GOVERNOR

**XAVIER BECERRA**  
ATTORNEY GENERAL

Dear Mr. Maass,

This letter is in response to your formal request for records under the California Public Records Act (CPRA) wherein you seek "all current standards, policies, practices, operating procedures, and education and training materials related to the following courses:"

1. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
ADVANCED TRAINING OFFICER – 00190
2. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 CANINE  
PROGRAM MANAGEMENT – 24070
3. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 CRISIS  
INTERVENTION – 20801
4. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 CRISIS  
INTERVENTION BEHAV HEALTH TRAINING FTO – 20763
5. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 CRITICAL  
INCID RESP/SUP/MGR – 10342
6. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 INTERNAL  
AFFAIRS INVESTIGATION – 32100
7. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEADERSHIP DEVELOPMENT COURSE – 43156
8. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEADERSHIP PRIMER FOR COMMANDERS – 10214
9. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 LEADING  
THE PROFESSIONAL EMPLOYEE – 43142
10. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 LEGAL  
UPDATE – 10370
11. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100  
LEGISLATIVE UPDATE – 20010
12. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) – 9100  
OFFICER INVOLVED SHOOTING-SUPV/MGT RESPONSIBILITY – 10780
13. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 PATROL  
OPS - FIELD LEADERSHIP – 41610
14. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 PEACE  
OFFICER BILL OF RIGHTS – 32102
15. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 PITCHESS  
MOTION UPDATE – 30640

16. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 PUBLIC RECORDS ACT – 10730
17. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 TRAINING CONFERENCE – 28000
18. CALIFORNIA PEACE OFFICERS' ASSOCIATION (CPOA) - 9100 TRANSITIONAL LEADERSHIP – 22530

POST's "standards, policies, practices and operating procedures" for course certifications may be found in CCR § 1052 Requirements for Course Certification through CCR § 1056 Annual Recertification.

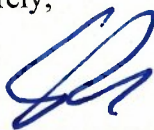
The records you requested are attached. POST has redacted certain portions of the Expanded Course Outlines (ECOs) pursuant to Government Code 6254, subd. (k) and 17 U.S.C. Section 101 et. seq. based upon a claim of copyright protection as to those materials by the California Peace Officers Association (CPOA). POST will permit you to review the unredacted ECOs at POST headquarters in West Sacramento, under the supervision of POST and/or CPOA, subject, however, to your agreement that you shall not remove or copy the unredacted materials.

As to training materials themselves, POST does not have any such responsive records. Should you desire the additional training content that is outside of the POST certification process, you will need to independently reach out to CPOA for those training materials. For regulatory reference you may access 11 CCR Section 1052(a)(3), which specifies the content needed for a course certification package.

Should you wish to accept our offer to view the specified ECOs at our office in West Sacramento, please execute and return to us the acknowledgment and agreement set forth below and contact POST staff at [CPRA@post.ca.gov](mailto:CPRA@post.ca.gov).

For questions regarding this correspondence, I may be reached at (916) 227-2807 or [scott.loggins@post.ca.gov](mailto:scott.loggins@post.ca.gov).

Sincerely,



SCOTT LOGGINS  
Assistant Executive Director  
Standards and Development Division  
sl:pc

cc: California Peace Officers Association

## Acknowledgement and Agreement

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Electronic Frontier Foundation

By \_\_\_\_\_

Date \_\_\_\_\_

Dave Maass