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ADVANCE SHEET HEADNOTE  
December 23, 2024

2024 CO 78

**No. 23SC420, *Gazette v. Bourgerie*—Open Records—Compliance with Disclosure Requests—Public Records Access—Statutory Interpretation.**

This case requires the supreme court to determine whether a division of the court of appeals erred in concluding that records journalists requested from the Colorado Peace Officers Standards and Training Board (“POST”) regarding peace officer demographics, certification, and decertification constitute “criminal justice records” and thus are governed by the Colorado Criminal Justice Records Act (“CCJRA”), §§ 24-72-301 to -309, C.R.S. (2024).

After examining the Colorado Open Records Act (“CORA”), §§ 24-72-200.1 to -205.5, C.R.S. (2024), and the CCJRA, as well as POST’s enabling legislation and testimony before the district court, the supreme court affirms the judgment of the court of appeals, albeit on slightly different grounds. Specifically, the court concludes that POST qualifies as a criminal justice agency—and that the CCJRA governs the requested records—because POST performs activities “directly relating to the detection or investigation of crime.” § 24-72-302(3).

The Supreme Court of the State of Colorado  
2 East 14th Avenue • Denver, Colorado 80203

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2024 CO 78

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Supreme Court Case No. 23SC420  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 21CA1880

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**Petitioners:**

The Gazette; Christopher N. Osher, reporter for The Gazette; and the Invisible  
Institute,

v.

**Respondent:**

Erik Bourgerie, in his official capacity as the Director of the Colorado Peace  
Officer Standards and Training Board.

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**Judgment Affirmed**

*en banc*

December 23, 2024

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**Attorneys for Petitioners:**

ZwillGen PLLC

Madeline Rana

*Washington, District of Columbia*

Rachael Johnson

*Denver, Colorado*

Katie Townsend

Lin Weeks

*Washington, District of Columbia*

**Attorneys for Respondent:**

Philip J. Weiser, Attorney General

Brittany Limes Zehner, Assistant Solicitor General

Tara Buchalter, Assistant Attorney General

Kerry Colburn, Assistant Attorney General

*Denver, Colorado*

**JUSTICE BERKENKOTTER** delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ, JUSTICE BOATRIGHT, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE HART,** and **JUSTICE SAMOUR** joined.

JUSTICE BERKENKOTTER delivered the Opinion of the Court.

¶1 The Invisible Institute, Christopher N. Osher, and The Gazette (collectively “petitioners”) filed an application in the Denver District Court seeking an order to show cause after the custodian of records for the Colorado Peace Officers Standards and Training Board (“POST”) partially denied their requests for records regarding peace officer demographics, certification, and decertification. Petitioners argued that the records were subject to mandatory disclosure under the Colorado Open Records Act (“CORA”), §§ 24-72-200.1 to -205.5, C.R.S. (2024). POST countered that the requests were for criminal justice records and thus governed by the Colorado Criminal Justice Records Act (“CCJRA”), §§ 24-72-301 to -309, C.R.S. (2024), not CORA. As a result, they asserted, the custodian had the discretion to decide whether to disclose the records after balancing the public and private interests in the requests.

¶2 The district court agreed with POST. It concluded that POST constituted a “[c]riminal justice agency” as that term is defined in section 24-72-302(3), C.R.S. (2024), and that the requested records were criminal justice records. This meant, the court reasoned, that the CCJRA, not CORA, governed petitioners’ records requests and that their production was not mandatory. Instead, the custodian had the discretion to decide whether to disclose the records. The court reached this conclusion after determining that POST performed two activities that qualified it

as a criminal justice agency under the definition set forth in the CCJRA: (1) it facilitated and collected criminal background checks on officers seeking certification and kept the background checks in a database; and (2) it engaged in “activity directly relating to the detection or investigation of crime.” § 24-72-302(3). After finding that the custodian of records considered the appropriate factors under the CCJRA, the district court held that the custodian did not abuse her discretion in partially denying the petitioners’ records requests based on her concerns that the production of the requested records could compromise the safety of undercover officers and the viability of ongoing investigations.

¶3 On appeal, a division of the court of appeals affirmed on slightly different grounds. The division concluded that POST is a criminal justice agency as defined by section 24-72-302(3) because POST collects and stores arrest and criminal records information when it revokes a peace officer’s certification. *Gazette v. Bourgerie*, 2023 COA 37, ¶ 18, 533 P.3d 597, 601.

¶4 After examining CORA and the CCJRA, as well as POST’s enabling legislation and the testimony before the district court, we affirm the judgment of the court of appeals, but on grounds that mirror part of the district court’s reasoning. Specifically, we conclude that POST qualifies as a criminal justice agency—and that the CCJRA thus governs the records requested by the

petitioners – because POST performs activities “directly relating to the detection or investigation of crime.” § 24-72-302(3).

## **I. Facts and Procedural History**

¶5 The General Assembly enacted the Peace Officers Standards and Training Act in 1992, codifying uniform training and certification procedures for Colorado peace officers. §§ 24-31-301 to -320, C.R.S. (2024). Among other responsibilities, POST (1) approves and evaluates peace officer training programs and academies; (2) establishes standards for training programs and procedures for the certification of peace officers; (3) certifies qualified applicants; and (4) withholds, suspends, or revokes certification from unqualified applicants. § 24-31-303(1)(a)–(f), C.R.S. (2024). As part of its statutory duties, POST also maintains a database containing the records of over 50,000 peace officers, documenting the certification and training processes of all active, inactive, and reserve peace officers attached to over 300 law enforcement agencies across Colorado. The database contains personal information about peace officers, including their social security numbers, home addresses, home and cell phone numbers, and emergency contact information.

¶6 In August 2019, a nonprofit journalistic production company called the Invisible Institute requested POST’s records regarding “all officers who have been certified by the state,” including the following information:

- a. First name[;]
- b. Middle name or initial[;]

- c. Last name[;]
- d. Badge/star number[;]
- e. Employee number[;]
- f. Date of certification[;]
- g. Date of decertification (if applicable)[;]
- h. Department[;]
- i. Rank[;]
- j. Gender[;]
- k. Race[;]
- l. Year of birth[;]
- m. Date of separation from department if applicable[;]
- n. Reason for separation (e.g., termination, resignation, retirement), if applicable[; and]
- o. Unique identifier, certification number, badge, and/or employee number.

*Gazette*, ¶ 5, 533 P.3d at 599 (alterations in original). The Invisible Institute requested POST’s “public records” under CORA, which mandates that public records must be disclosed when requested, subject to certain exceptions. *See* § 24-72-202(6)(a)(I), C.R.S. (2024) (defining “public records”); § 24-72-201, C.R.S. (2024) (declaring that “the public policy of this state [is] that all public records shall be open for inspection”).

¶7 POST’s custodian of records responded that the request was governed by the CCJRA and that she was, in the exercise of her discretion, partially granting and partially denying the request. The custodian provided information on all officers decertified since 2000 in the form of a link to a POST website that contains that information. But the custodian determined that the other records were criminal justice records and denied the remainder of the request, explaining that

the production of such records could “compromise the safety of undercover officers and the viability of ongoing investigations.” *Gazette*, ¶ 41, 533 P.3d at 605.

¶8 In June 2020, Osher, a reporter with *The Gazette*, submitted a request for records of “[t]he POST database tracking certification, training, and personnel changes of law enforcement officers in Colorado; [and] any POST database tracking decertification of law enforcement officers in Colorado.” *Id.* at ¶ 7, 533 P.3d at 600 (alterations in original). POST’s custodian of records responded that Osher’s request was governed by the CCJRA and that she was, in the exercise of her discretion, partially granting and partially denying the request. The custodian directed Osher to the same public website to which she had referred the Invisible Institute and denied the remainder of his request, citing similar concerns for peace officer safety and the viability of ongoing investigations.

¶9 Osher asked for reconsideration, asserting that POST was not a criminal justice agency and that his request was governed by CORA, but the custodian declined to reconsider. The custodian did, however, describe her practice of confirming the status of an individual officer’s certification only after the requester obtained the officer’s name from another source. By responding this way, the custodian explained, POST was unlikely to reveal names of undercover officers and jeopardize their safety in response to open records requests. Thus, if Osher



provided a specific name, the custodian would confirm the status of the officer's certification.

¶10 Two months later, Osher submitted a second request for POST records, this time specifically requesting records reflecting when “any person is appointed or separated as a certified peace officer, as per [POST] Rules 10, 11, and 12.” *Id.* at ¶ 8, 533 P.3d at 600 (alteration in original). Again, the custodian indicated that the requested records were governed by the CCJRA, exercised her discretion, and partially granted and partially denied the request. The custodian informed Osher that, between January 1, 2020, and the date of the response, there were 983 appointments and 1,005 separations entered into the POST database. The custodian denied the remainder of the request, citing similar concerns regarding potential harm to ongoing investigations and the safety of peace officers.

¶11 Shortly thereafter, the Invisible Institute and Osher, on behalf of The Gazette, initiated the case now before us by applying to the Denver District Court under CORA for an order to show cause why the records they requested should not be made available for inspection. *See* § 24-72-204(5)(a), C.R.S. (2024) (defining the process, under CORA, for how a person denied the right to inspect a public record may apply to the district court for an order directing the custodian to show cause).

¶12 The district court bifurcated the proceeding, first holding an evidentiary hearing to consider whether CORA applied to the records requests, as the petitioners argued, or whether the CCJRA applied, as POST asserted. That determination, the court concluded, turned on whether the records requested were criminal justice records. See § 24-72-202(6)(b)(I); *Harris v. Denver Post Corp.*, 123 P.3d 1166, 1170 (Colo. 2005). Under section 24-72-302(4) of the CCJRA, “[c]riminal justice records” means

all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are *made, maintained, or kept by any criminal justice agency* in the state for use in the exercise of functions required or authorized by law or administrative rule . . . .

(Emphasis added.) Thus, the question of whether the requested POST records were criminal justice records also depended on whether POST was a criminal justice agency.

¶13 To answer that question, the court turned to the CCJRA, which defines a “[c]riminal justice agency” as one that performs

any activity directly relating to the detection or investigation of crime; the apprehension, pretrial release, posttrial release, prosecution, correctional supervision, rehabilitation, evaluation, or treatment of accused persons or criminal offenders; or criminal identification activities or the collection, storage, or dissemination of arrest and criminal records information.

§ 24-72-302(3). After hearing testimony from POST Director Erik Bourgerie, the district court first concluded that POST was a criminal justice agency because it

“facilitate[s] and collect[s] criminal background checks on officers that are seeking certification and they keep them in the database.”

¶14 The court also reasoned that POST was a criminal justice agency because it engages in “activity directly relating to the detection or investigation of crime.” More specifically, the court found that POST “investigate[s] whether a[n] officer, presumably certified, has lied with respect to the certification application or once certified, whether that officer has run afoul of the certification requirements, including whether the officer has committed a felony or a . . . qualified misdemeanor.” This type of investigation, the court observed, “us[es] the very same techniques that were used when Mr. Bourgerie was a Sheriff’s Deputy in Summit County.” The court acknowledged that “the statute is not a model of clarity” and that it seems “the main function of POST is a public facing function.” Even so, the court emphasized that there is no mathematical qualifier in the statute, so POST’s engaging in “any activity, however minimal” qualified the organization as a criminal justice agency. And because POST constituted a criminal justice agency, the court held that the CCJRA, not CORA, governed the petitioners’ records requests.

¶15 The district court then held a second evidentiary hearing to determine if the custodian of records had complied with the disclosure requirements of the CCJRA. At that hearing, the custodian testified about the factors that she considered in

partially granting and partially denying the records requests. She explained that, while she recognized the significant public interest in records concerning police accountability, she did not produce the entire POST database due to significant safety concerns about releasing private information regarding peace officers, the potential to jeopardize ongoing undercover investigations, and the technical and practical challenges associated with redacting and producing the requested records. Following the hearing, the district court denied the order to show cause, concluding that the custodian had considered the appropriate factors under the CCJRA and had not abused her discretion.

¶16 In a published opinion, a division of the court of appeals unanimously affirmed the district court, albeit on slightly different grounds. *Gazette*, ¶ 18, 533 P.3d at 601. The division concluded that POST was a criminal justice agency because POST collects and stores arrest and criminal records information when it revokes a peace officer's certification, which is one of its express statutory duties. *Id.* at ¶¶ 18-19, 533 P.3d at 601. In the division's view, because the district court found Director Bourgerie's testimony credible and petitioners "presented no countervailing evidence" suggesting that POST does not collect and store arrest and criminal records information during the revocation process, POST fit squarely within the plain language of section 24-72-302(3). *Gazette*, ¶¶ 20-21, 533 P.3d at 601-02.

¶17 The division also rejected the petitioners' contention that POST is not a criminal justice agency because many of its duties are unrelated to the activities described in section 24-72-302(3). *Gazette*, ¶ 22, 533 P.3d at 602. Like the district court, the division noted that the General Assembly deemed "any" activity directly related to the conduct described in the statute sufficient to qualify an organization as a criminal justice agency.

¶18 POST advanced other reasons before the division as to why it should be considered a criminal justice agency under section 24-72-302(3), including its work (1) collecting and storing criminal background information when it certifies officers; and (2) investigating whether an officer has run afoul of their certification requirements, such as whether the officer has committed a felony or a qualified misdemeanor. The division recognized that the district court grounded its ruling on these two bases but determined that it need not decide whether those rationales were sufficient since POST's collection and storage of arrest and criminal records information during its revocation process "qualifies it as a criminal justice agency." *Gazette*, ¶ 23, 533 P.3d at 602.

¶19 Petitioners appealed to this court for certiorari review, and we granted the petition.<sup>1</sup>

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<sup>1</sup> We granted certiorari to review the following issues:

## II. Analysis

¶20 This case requires us to determine whether the division erred as a matter of law when it concluded that POST is a criminal justice agency as defined in the CCJRA. § 24-72-302(3). We begin by explaining the standard of review and our rules of statutory interpretation. Then, we examine both CORA and the CCJRA in greater detail and pause to consider POST’s enabling statutes before addressing whether POST is a criminal justice agency such that the custodian of records had the discretion to permit or deny inspection of records sought by the petitioners.

¶21 Applying the relevant statutes and caselaw, we affirm the division’s holding that POST qualifies as a criminal justice agency as defined in section 24-72-302(3). However, we reach this conclusion on different grounds, instead embracing part of the rationale expressed by the district court and holding that POST is a criminal justice agency because it engages in “activity directly relating to the detection or investigation of crime.” § 24-72-302(3).

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1. Whether the Colorado Court of Appeals erred as a matter of law when it concluded that POST is a “criminal justice agency” as defined in § 24-72-302(3), C.R.S. (2023).
  2. Whether the Colorado Open Records Act, §§ 24-72-200.1 to -205.5, C.R.S. (2023) (“CORA”), and not the Colorado Criminal Justice Records Act, §§ 24-72-301 to -309, C.R.S. (2023) (“CCJRA”), governs the disclosure of records Petitioners requested from Colorado Peace Officer Standards and Training (“POST”).

## A. Standard of Review

¶22 This court has long distinguished between questions of law, which we review de novo, and questions of fact, which trigger deference to the trial court's judgment. *People v. Madrid*, 2023 CO 12, ¶ 37, 526 P.3d 185, 194. We review de novo questions of law concerning the correct construction and application of CORA and the CCJRA. *Harris*, 123 P.3d at 1170. In doing so, our duty is to effectuate the General Assembly's intent by giving all the words of the statutes their intended meaning, harmonizing potentially conflicting provisions, and resolving conflicts and ambiguities in a way that implements the legislature's purpose. *Id.* We have repeatedly held that if the statutory language is clear and unambiguous, courts need not look further, and "the statute should be construed as written, giving full effect to the words chosen, as it is presumed that the General Assembly meant what it clearly said." *State v. Nieto*, 993 P.2d 493, 500 (Colo. 2000).

¶23 Additionally, we must defer to a trial court's findings of fact if those findings are supported by competent evidence in the record. *People v. Pitts*, 13 P.3d 1218, 1221 (Colo. 2000). It is the function of the trial court and not the reviewing court to weigh the evidence and determine the credibility of the witnesses. *People v. Mendoza-Balderama*, 981 P.2d 150, 158 (Colo. 1999). Thus, we will not substitute our own judgment for that of the trial court unless the trial court's findings are clearly erroneous or not supported by the record. *Pitts*, 13 P.3d at 1221.

## B. CORA and the CCJRA

¶24 CORA mandates that “[a]ll public records shall be open for inspection,” subject to exceptions not at issue here. § 24-72-203(1)(a), C.R.S. (2024). Although CORA defines “public records” quite broadly, it expressly excludes criminal justice records from that definition. § 24-72-202(6)(b)(I). Consequently, when requested records fall within the definition of criminal justice records under the CCJRA, CORA is not applicable. *Harris*, 123 P.3d at 1170. That is, it is not CORA, but rather the CCJRA, that governs the disclosure of criminal justice records made, maintained, or kept by a criminal justice agency. § 24-72-301(2), C.R.S. (2024).

¶25 The CCJRA differentiates between two categories of records: (1) records of official action; and (2) all other criminal justice records. *See* § 24-72-302(4), (7). Each is governed by its own “regimen[] of public access.” *Freedom Colo. Info., Inc. v. El Paso Cnty. Sheriff’s Dep’t*, 196 P.3d 892, 898 (Colo. 2008) (quoting *People v. Thompson*, 181 P.3d 1143, 1145 (Colo. 2008)). Section 24-72-302(7) defines “official action” as

an arrest; indictment; charging by information; disposition; pretrial or posttrial release from custody; judicial determination of mental or physical condition; decision to grant, order, or terminate probation, parole, or participation in correctional or rehabilitative programs; and any decision to formally discipline, reclassify, or relocate any person under criminal sentence.

While section 24-72-302(4) defines “[c]riminal justice records” as



*all* books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by *any criminal justice agency* in the state for use in the exercise of functions required or authorized by law or administrative rule . . . .

(Emphases added.)

¶26 And recall that the question of whether an agency qualifies as a “[c]riminal justice agency” is governed by section 24-72-302(3), which provides:

any agency of the state . . . that performs any activity directly relating to the detection or investigation of crime; the apprehension, pretrial release, posttrial release, prosecution, correctional supervision, rehabilitation, evaluation, or treatment of accused persons or criminal offenders; or criminal identification activities or the collection, storage, or dissemination of arrest and criminal records information.

¶27 Public access to these two types of records is treated differently under the CCJRA. Records of official action “shall be open for inspection by any person at reasonable times, except as provided in [the CCJRA] or as otherwise provided by law.” § 24-72-303(1), C.R.S. (2024). In contrast, inspection of criminal justice records is subject to the custodian’s exercise of sound discretion. § 24-72-304(1), C.R.S. (2024); *see also Thompson*, 181 P.3d at 1145–46 (concluding that grand jury indictments are records of official action); *Harris*, 123 P.3d at 1171 (concluding that recordings seized from private homes by virtue of search warrants and for purposes of criminal investigation are not records of official action under the CCJRA but instead are criminal justice records, which are subject to the custodian’s exercise of sound discretion); *Off. of State Ct. Adm’r v. Background Info. Servs., Inc.*,

994 P.2d 420, 427 & n.6 (Colo. 1999) (noting that “the General Assembly has clearly made certain portions of criminal case files available to the public, has reserved to the official custodian discretion as to other portions of criminal case files, and has barred the release of other portions” such as the names of sexual assault victims).

¶28 In creating a class of criminal justice records, the inspection of which is subject to the custodian’s exercise of sound discretion, “the General Assembly intended the custodian to engage in balancing the public and private interests in the inspection request.” *Freedom Colo. Info., Inc.*, 196 P.3d at 898–99. In exercising her discretion, the custodian must consider pertinent factors, which include:

the privacy interests of individuals who may be impacted by a decision to allow inspection; the agency’s interest in keeping confidential information confidential; the agency’s interest in pursuing ongoing investigations without compromising them; the public purpose to be served in allowing inspection; and any other pertinent consideration relevant to the circumstances of the particular request.

*Id.* at 899. In short, while both CORA and the CCJRA generally favor the broad disclosure of records, the CCJRA allows a custodian of records discretion to deny the disclosure of documents that meet the definition of criminal justice records if the custodian determines that a privacy interest or dangers of adverse

consequences outweigh the public interest.<sup>2</sup> Bearing this framework in mind, we next turn to consider POST's enabling legislation.

### C. POST's Enabling Statutes

¶29 The General Assembly established POST to provide uniform training and certification requirements for Colorado peace officers. §§ 24-31-301 to -320. Peace officers are statutorily empowered to enforce the laws of the state of Colorado while acting within the scope of their authority and in the performance of their duties; the term "law enforcement officer" means a peace officer, unless the context requires otherwise. §§ 16-2.5-101(1), (3), C.R.S. (2024). POST exercises its powers and performs its duties and functions within the Colorado Department of Law. § 24-31-302(2), C.R.S. (2024). The board itself is comprised of twenty-four members, including: (1) the Attorney General, who serves as POST's chair; (2) the special agent in charge of the Denver division of the Federal Bureau of Investigation; (3) the Executive Director of the Colorado Department of Public Safety; (4) six active chiefs of police; (5) six active sheriffs; and (6) three active peace officers. § 24-31-302(3)(a). The Attorney General, POST's director, and

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<sup>2</sup> Note that under section 24-72-304(1), all criminal justice records, at the discretion of the official custodian, may be open for inspection, *except as otherwise provided by law*. The statute goes on to explicitly prohibit the disclosure of certain records that identify victims of sexual assault, child victims, and child witnesses. § 24-72-304(4), (4.5); *see also Background Info. Servs., Inc.*, 994 P.2d at 427 & n.6.

POST's investigator are all peace officers who are statutorily authorized to enforce the laws of the state of Colorado. § 16-2.5-128, C.R.S. (2024); § 16-2.5-130, C.R.S. (2024).

¶30 As noted above, POST performs a multitude of statutorily defined duties. These include approving and revoking peace officer training programs and training academies; establishing procedures for determining whether an applicant has met the standards that have been set; certifying qualified peace officer applicants; withholding, suspending, or revoking certification from unqualified peace officer applicants; and requiring background investigations of each applicant. § 24-31-303(1)(a)-(f). POST is also required by statute to deny or revoke the certification issued to any person convicted of a felony or an enumerated misdemeanor. § 24-31-305(1.5), C.R.S. (2024). It must do so as well if the peace officer certificate holder knowingly makes an untruthful statement concerning a material fact or knowingly omits a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation. § 24-31-305(2.5).

¶31 Additionally, POST's enabling statutes authorize the Attorney General to bring criminal charges against persons who violate or fail to comply with those statutes if the violation is knowing or intentional. § 24-31-307, C.R.S. (2024). And finally, POST's director and investigator are peace officers, while engaged in the

performance of their duties, whose primary authority shall include the enforcement of laws and rules pertaining to the training and certification of peace officers and “shall include the enforcement of all laws of the state of Colorado.” § 16-2.5-130.

#### **D. POST Is a Criminal Justice Agency**

¶32 Petitioners first contend that the division erred as a matter of law by concluding that POST is a criminal justice agency because it “collects and stores arrest and criminal records information when it revokes a peace officer’s certification.” *Gazette*, ¶ 18, 533 P.3d at 601. More specifically, they argue that these routine data-collection-type tasks do not make POST a criminal justice agency. These tasks, they assert, are regularly conducted by many if not all professional licensing boards, including the Board of Mortgage Loan Originators, the State Board of Pharmacy, and the Colorado Dental Board. *See* § 12-10-704(6), C.R.S. (2024); § 12-280-304, C.R.S. (2024); § 12-220-201(1), C.R.S. (2024). The division’s interpretation, the petitioners contend, would make every professional licensing board in the state a criminal justice agency. An interpretation this literal, they continue, would defy legislative intent—and common sense—and lead to absurd results.

¶33 POST argues, among other things, that it falls squarely within the definition of a criminal justice agency because it performs activities directly relating to the

detection or investigation of crime. *See* § 24-72-302(3). It asserts that when its director and investigator—both of whom are statutorily authorized to enforce Colorado law—investigate criminal conduct related to an applicant seeking POST certification and refer criminal violations by such applicant to the appropriate prosecuting authority, they are performing activities directly related to the detection and investigation of crime. We agree.

¶34 We conclude that POST satisfies the definition of a criminal justice agency under the CCJRA because it performs activities “directly relating to the detection or investigation of crime.” *Id.* We reach this conclusion for several reasons. First, POST’s enabling legislation explicitly contemplates that its director and investigator are both designated peace officers, meaning they are statutorily authorized to enforce Colorado law. POST’s enabling legislation further authorizes it to enforce laws pertaining to the training and certification of peace officers.

¶35 Consistent with this charge, Director Bourgerie testified before the district court that one of POST’s functions is to conduct criminal investigations into officers and applicants suspected of committing criminal offenses, such as police impersonation and official misconduct. Director Bourgerie additionally testified that he and POST’s investigator have conducted these types of investigations. The district court found this testimony credible and concluded that, during these

criminal investigations, Director Bourgerie utilized the same investigative techniques that he employed as a sheriff's deputy: he interviewed witnesses, collected evidence, and referred matters to the appropriate district attorney's office for prosecution when appropriate.

¶36 Petitioners argue that POST does not fall within the portion of the CCJRA that defines a criminal justice agency to include any agency of the state that performs "any activity directly relating to the detection or investigation of crime." § 24-72-302(3). That portion of the statute, petitioners argue, only encompasses law enforcement agencies like the Colorado Bureau of Investigation and police departments, which are vested with the duty and authority to detect or investigate violations of the Colorado Criminal Code. Petitioners emphasize that POST referrals for criminal prosecutions are rare and claim that any subsequent criminal investigation is undertaken not by POST, but by law enforcement agencies, thus demonstrating that POST is best understood as a regulatory agency rather than a criminal justice agency.

¶37 True, it appears from the record that criminal prosecutions arising out of POST referrals may occur infrequently, but the CCJRA's definition of a criminal justice agency merely requires the agency to perform "any" activity directly related to the detection or investigation of crime. *Id.* Notably, it does not require that activity to be the agency's primary function. Nor, as the district court

emphasized, does the statute include some type of mathematical qualifier that requires a law enforcement or other qualifying agency to spend a certain percentage of its time investigating crimes in order to meet the statute's definition. To accept petitioners' argument, we would have to read the word "any" out of the statute. This we cannot do.

¶38 We are also unmoved by the petitioners' argument that section 24-72-302(3) only encompasses law enforcement agencies like the Colorado Bureau of Investigation and police departments because it disregards a key fact: POST's director and investigator are specifically designated as peace officers. So, like peace officers in police departments throughout Colorado, they are vested with the duty and authority to detect or investigate violations of the Colorado Criminal Code.

¶39 Because evidence in the record supports the district court's finding that POST conducts criminal investigations, we conclude that POST meets the CCJRA's definition of criminal justice agency. *Id.* The division reached this same conclusion, although it did so on other grounds after determining that POST collects and stores criminal records information during its revocation process. We need not determine whether the division's reasoning or POST's additional theory regarding its collection and storage of criminal background check information during its certification process are sufficient because POST's work investigating



crimes like police impersonation alone qualifies it as a criminal justice agency. We decide this case narrowly and cabin our analysis to POST and POST alone, recognizing that the question of whether a governmental entity constitutes a criminal justice agency, as that term is used in the CCJRA, will necessarily turn on the specific functions an entity is required or authorized to perform by law.

### **III. Conclusion**

¶40 For the foregoing reasons, we affirm the judgment of the court of appeals, but on different grounds. Specifically, we conclude that POST qualifies as a criminal justice agency – and that the CCJRA thus governs the records requested by the petitioners – because POST performs activities “directly relating to the detection or investigation of crime.” § 24-72-302(3).