



CHAIR

Margaret R. Hinkle

COMMISSIONERS

Hanya H. Bluestone
Lawrence Calderone
Clementina Chéry
Larry Ellison
Marsha V. Kazarosian
Charlene Luma
Kimberly West
Michael Wynn

**EXECUTIVE
DIRECTOR**

Enrique Zuniga

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

March 11, 2022

In accordance with Sections 18-25 of Chapter 30A of the Massachusetts General Laws and [An Act Extending Certain COVID-19 Measures Adopting During the State of Emergency](#), notice is hereby given of a meeting of the Peace Officer Standards and Training Commission. The meeting will take place as noted below.

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

March 16, 2022

8:30 AM

Public Meeting #17

Remote Participation via [Zoom](#)

Meeting ID: 944 1227 2881

PUBLIC MEETING AGENDA

1. Call to Order
2. Approval of Minutes
 - a. February 15, 2022
 - b. January 14, 2022 Executive Session – Delegation of Authority to Approve
3. Executive Director Report – Enrique Zuniga
 - a. Personnel Update
 - i. Director of Certification Appointment – Steven Smith
 - b. Administrative & Staffing Update
4. Delegation of Hiring Authority – General Counsel Ravitz
5. Complaint Submission Form – Senior Certification Specialist Joyce
6. Final plan for officer re-certifications (officers with last name A-H) – Executive Director Zuniga
 - a. Attestation Form (Part 1) – Draft
 - b. In Service Training
 - c. Timeframe
7. Discussion Regarding M.G.L. Chapter 123, s. 12(a) and 12(e) – Commissioner Hanya Bluestone



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PEACE OFFICER STANDARDS AND TRAINING COMMISSION

8. Discussion of In Scope Out of Scope Agencies – General Counsel Ravitz
9. Public comment
10. Matters not anticipated by the Chair at the time of posting

2a.

RPEACE OFFICER STANDARDS & TRAINING COMMISSION

February 15, 2022

11:00 AM

**Peace Officer Standards and Training Commission
Remote Participation**

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Draft Meeting Minutes of January 14, 2022
- Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed)
- Construction of Scope of Chapter 6E of the Massachusetts General Laws (Proposed)
- Authorization of Conditional Recertification for Certain Law Enforcement Officers Who Are Unable to Complete In-Service or Supplemental Training Due to Documented Hardship (Proposed)

In Attendance:

- Chair Margaret R. Hinkle
- Commissioner Hanya Bluestone
- Commissioner Lawrence Calderone
- Commissioner Clementina M. Chéry
- Commissioner Larry Ellison
- Commissioner Marsha V. Kazarosian
- Commissioner Charlene D. Luma
- Commissioner Kimberly P. West
- Commissioner Michael Wynn

1. Call to Order

- The Chair recognized a quorum.

2. Approval of Minutes

- Commissioner Kazarosian made an oral amendment to the draft minutes. 337 agencies have submitted their disciplinary records to the Commission.
- Commissioner Bluestone moved to approve the minutes from the January 14, 2022 meeting, as amended.
- Commissioner Wynn seconded the motion.
- The Commission unanimously approved the minutes from the January 14, 2022 meeting as amended.

3. Executive Director Report

a. Administrative update

- The Commission now has office space at 100 Cambridge Street in Boston. The Commission will employ a “hybrid” work model.
- Exececqest

- Executive Director Zuniga introduced Brian Cooper, a senior certification specialist. Mr. Cooper will work with Ms. Joyce on certification and complaint matters.
 - The Commission is in various stages of the hiring process for the positions of Chief Financial Officer, Solutions Architect, Business Analyst, Director of Certification, Director of Standards, Director of Communications, and Product Manager. The Commission continues to develop postings for additional positions.
 - Requests for Responses for Case Management are due on February 16. The Commission expects it will be a competitive RFR process, and anticipates selecting a response by March 31.
 - The Commission continues to gather and analyze disciplinary records and complaints.
 - The Commission is in the process of finalizing a web-based form for complaints, and will begin a beta test soon. Executive Director Zuniga anticipates presenting that form for approval to the Commission at its next meeting.
 - The Commission is designing a workflow that will allow agencies to update a prior submission to aid in the Commission's review.
 - To date, the Commission has received disciplinary records from 402 agencies. 11 agencies are still within their extension period. 7 agencies may be dropped from the list for a variety of reasons, including falling outside the scope of certification by the Commission. Twenty-six agencies have not submitted their disciplinary records and the Commission has reached out to them.
 - The Commission continues to receive and review complaints submitted to the Commission.
- b. Certifications process update (academy candidates & SSPOs) – Gina Joyce, Senior Certification Specialist
- The Commission anticipates that on February 18, it will have certified 175 new police officers. These certifications represent 45 different law enforcement agencies and 6 SSPOs.
 - Ms. Joyce reviewed the SSPO certification process, as proposed and approved at the Commission's last meeting. She stated that process has been going smoothly, and thanked the State Police and the Municipal Police Training Committee for their assistance.
 - There are currently 11 police academies in session or slated to begin soon, with approximately 388 cadets who are expected to graduate before July 1. Ms. Joyce continues to work with Bob Ferullo of the MPTC to ensure that all academies are aware of certification requirements.
4. Plan for Officer Re-certifications (officers with last name A-H) – General Counsel Ravitz
- Before presenting the Plan for Officer Re-certifications, General Counsel Ravitz thanked those in the Commission and outside for their contributions to developing the plan.

- General Counsel Ravitz then reviewed the Plan for Officer Re-Certification, as outlined in “Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed).”
- General Counsel Ravitz reviewed additions made to the plan since it was provided to the Commissioners. Those additions include:
 - Upon a report from an employing agency regarding recertification, the Commission will exercise its authority and discretion to determine the appropriate action to be taken.
 - The background check requirement has been changed to clarify that information comes to the Commission in different ways, and to include certification disqualifications that appear in statute.
 - Additions to moral character and fitness requirement do not alter the intent of the requirement, but again clarify the requirement consistent with statute.
- Commissioner Ellison asked if these standards would apply for the entirety of an officer’s career. Commissioner Ravitz clarified that this plan is meant to apply to officers that were automatically certified by statute and are now coming up for recertification, in particular the first class of officers with last names starting with A-H. The plan applies to the subsequent two classes, in order to keep those classes on par with the first class. However, after those three classes have been certified, it is up to the Commission to decide whether or how to adjust recertification standards.
- Commissioner Ellison asked General Counsel Ravitz to clarify how officers can meet the physical fitness requirement. General Counsel Ravitz clarified that an officer would satisfy the requirement if they satisfied it previously; satisfaction of the physical fitness requirement would only come into question if an officer’s agency reports such a concern. But even if such a concern is raised, the agency is required to develop a plan to help the officer meet physical fitness requirements. Commissioner Ellison then asked how such a plan complies with HIPAA. General Counsel Ravitz explained that such a plan would be developed on an individual level and through a collaborative process so potential HIPAA issues, or any other issues, would have to be addressed on a case-by-case basis.
- Commissioner Bluestone asked how the Commission could ascertain that an officer had passed psychological and physical fitness requirements at the academy, and whether the psychological exam was conducted by a qualified evaluator. General Counsel Ravitz suggested the Commission include psychological and physical fitness as an element on an attestation form. General Counsel Ravitz agreed with Commissioner Bluestone’s concern regarding the qualifications of evaluators who conducted past psychological evaluations.
- Commissioner Bluestone also raised whether an evaluation should be conducted, prior to developing a remediation plan. General Ravitz expressed his agreement and said he would consider the suggestion.
- Commissioner Wynn expressed his agreement with Commissioner Bluestone regarding the qualifications of psychological evaluators who previously conducted such evaluations.

- Commissioner Ellison suggested that officers be allowed to request independent evaluations, in addition to department evaluations. Executive Director Zuniga took Commissioner Ellison’s suggestion into consideration
 - Executive Director Zuniga previewed the next anticipated steps for finalizing this plan in the next few weeks.
5. Discussion of In Scope/Out of Scope Agencies – General Counsel Ravitz
- General Counsel Ravitz reviewed “Construction of Scope of Chapter 6E of the Massachusetts General Laws (Proposed),” which is meant to answer the question of the range of individuals subject to Chapter 6E.
 - Executive Director Zuniga suggested the Commission vote to approve the construction, although it was not identified as a topic for voting, due to the volume of questions the MPTC has received on this issue and the upcoming June 30 deadline.
 - Commissioners Ellison and Wynn agreed with Executive Director Zuniga’s suggestion.
 - Mr. Povich identified questions from the public regarding the scope of Chapter 6E, and General Counsel Ravitz responded, clarifying that Chapter 6E extends to officers with the full range of police powers.
 - The Chair asked for a motion to adopt the proposed Construction of Scope of Chapter 6E of the Massachusetts General Law. Commissioners West and Kazarosian so moved. Commissioners Ellison, Bluestone, and Chery seconded the motion. The Commission unanimously voted to adopt the proposed Construction of Scope of Chapter 6E of the Massachusetts General Law.
6. Policy regarding officers unable to complete in-service or supplemental training due to exceptional circumstances – General Counsel Ravitz
- General Counsel Ravitz reviewed “Authorization of Conditional Recertification for Certain Law Enforcement Officers Who Are Unable to Complete In-Service or Supplemental Training Due to Documented Hardship (Proposed).”
 - Commissioner Luma suggested the policy include officers who take paternal leave. General Counsel Ravitz agreed.
 - Commissioner Bluestone suggested the policy include officers who take adoption leave. General Ravitz agreed.
 - Executive Director Zuniga suggested the Commission vote to approve the Authorization of Conditional Recertification, though the Commission could vote on it at a later meeting.
 - Mr. Povich identified a question from the public regarding officers on leave who are able to undertake administrative duties. Executive Director Zuniga clarified that those officers would not necessarily be decertified. Those officers could be exempted from academy or training requirements based on the showing of good cause.
 - The Chair asked for a motion to approve the proposed Conditional Recertification for Certain Law Enforcement Officers Who Are Unable to Complete In-Service or Supplemental Training Due to Documented Hardship. Commissioner West so moved. Commissioner Kazarosian seconded the motion. The Commission unanimously voted to approve the proposed Conditional Recertification for

Certain Law Enforcement Officers Who Are Unable to Complete In-Service or Supplemental Training Due to Documented Hardship.

7. Public comment

- Two members of the public raised a question regarding the standards for recertification.
 - General Counsel Ravitz clarified that Reserve Officers who have completed the bridge academy have undertaken medical certification prior to admission to the bridge academy. If that certification was met, then those officers will be deemed to have satisfied physical and psychological requirements for certification.
 - General Counsel Ravitz also clarified that the physical fitness requirement is whatever was sufficient when the officer was admitted to the academy.
- A member of the public asked a question about firearms training for specific situations. Executive Director Zuniga proposed addressing the question offline.
- Commissioner Ellison raised a question about officers who transfer between agencies and institutions. Executive Director clarified that officers who transfer between agencies and institutions are subject to the standard recertification cycle so long as the transfer is not deemed a break in service by the MPTC.
- Mr. Povich and Ms. Lee confirmed that a public hearing regarding the Phase I regulations is proposed for March 23. Executive Director Zuniga added that the Commission has already begin receiving public comments.

8. Matters not anticipated by the Chair at the time of posting

- There were no new matters and the Commission adjourned.

4.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**POLICY REGARDING APPOINTMENT OF COMMISSION OFFICERS
AND HIRING OF OTHER COMMISSION EMPLOYEES
(Proposed)**

The Peace Officer Standards and Training Commission hereby adopts this policy concerning the appointment of Commission officers and the hiring of other Commission employees.

I. KEY STATUTORY PROVISIONS

M.G.L. c. 6E, § 2

(e) Seven commissioners shall constitute a quorum and the affirmative vote of a majority of commissioners present and voting shall be required for an action of the commission. . . .

(g) The commission shall appoint an executive director, who shall not be a member of the commission. The executive director shall serve at the pleasure of the commission, shall receive such salary as may be determined by the commission, and shall devote full time and attention to the duties of the office. The executive director shall be a person with skill and experience in management, shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing the provisions of law relative to the commission and to each administrative unit thereof. The executive director may, subject to the approval of the commission, employ other employees, consultants, agents and advisors, including legal counsel, and shall attend meetings of the commission. . . .

(h) The executive director may, subject to the approval of the commission, appoint such persons as the executive director shall consider necessary to perform the functions of the commission

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to: . . .

(10) appoint officers and approve employees to be hired by the executive director;

(11) establish and amend a plan of organization that it considers expedient;

(12) execute all instruments necessary or convenient for accomplishing the purposes of this [M.G.L. c. 6E];

(13) enter into agreements or other transactions with a person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with its powers and duties under this [M.G.L. c. 6E]; . . .

(15) apply for and accept subventions, grants, loans, advances and contributions of money, property, labor or other things of value from any source, to be held, used and applied for its purposes;

M.G.L. c. 6E, § 4

(a)(1) There shall be within the commission a division of police certification. . . . The head of the division shall be the certification director, who shall be appointed by the commission.

II. POLICY

The Commissioners resolve as follows.

- A.** The Commissioners grant approval for the Executive Director to hire employees to fill the following positions, without further authorization or ratification by the Commissioners:
1. Certification Specialist within the Division of Police Certification;
 2. Senior Certification Specialist within the Division of Police Certification;
 3. Auditor/Analyst within the Division of Police Standards;
 4. Senior Auditor within the Division of Police Standards;
 5. Product Manager within the Information Technology Unit;
 6. Business Analyst within the Information Technology Unit;
 7. Solutions Architect within the Information Technology Unit;
 8. Human Resources Manager; and
 9. Budget/Accounts Payable Manager.
- B.** The approval granted in Section II.A includes authorization to take associated steps, including, but not limited to the following: developing procedures for recruitment and hiring; posting job announcements; screening and interviewing candidates; causing reference and background checks to be conducted; negotiating and determining compensation, benefits, and terms and conditions of employment; and utilizing the assistance of others.
- C.** The Executive Director is further authorized to enter into any contracts, agreements, instruments, transactions, or arrangements with other governmental entities that provide for the Commission to utilize the services of the personnel of such entities as: employees, whether full-time, part-time, borrowed, loaned, or otherwise; contractors; consultants; advisors; interns; or agents.

- D.** The Executive Director shall strive to hire, or otherwise secure the services of, individuals who, at a minimum, appear:
- 1.** To appreciate, and be able to positively advance, the mission and work of the Commission;
 - 2.** To possess one or more relevant forms of experience, and be qualified to perform the duties that will be entrusted to them;
 - 3.** Likely to conduct themselves in compliance with all applicable sources of law, and otherwise ethically;
 - 4.** Committed to justice and fairness;
 - 5.** Trustworthy, reliable, dedicated, and likely to contribute positively to a team; and
 - 6.** Appreciative of the benefits of diversity and inclusion, and respectful of others, regardless of their backgrounds or positions.
- E.** In hiring employees, securing services, and taking associated steps, the Executive Director and other Commission personnel shall comply with all applicable sources of law, and with Commission goals and policies, which goals and policies may be adopted or modified by the Commission at any time.
- F.** The Commissioners hereby ratify the appointment of all Commission officers, and the hiring or retention of all Commission employees, contractors, consultants, advisors, and agents, made prior to the adoption of this Policy.
- G.** During any period of time when the Division of Police Certification is without a Director, the Executive Director shall be deemed the Acting Director of such division.
- H.** At any time, for good cause, the Chair may suspend the authorization granted in Sections II.A and II.B. Upon suspending such authorization, the Chair shall place the question of whether the authorization shall remain suspended on the agenda for the next meeting of the Commissioners.
- I.** At any time, in their discretion, the Commissioners may withdraw, revise, suspend, or reinstate any provision of this Policy, or any grant or denial of authority provided for herein, through an action taken pursuant to M.G.L. c. 6E, § 2(e), where such action is not barred by law.

5.

MEMORANDUM

TO: CHAIR MARGARET HINKLE
COMMISSIONER HANYA BLUESTONE
COMMISSIONER LAWRENCE CALDERONE
COMMISSIONER CLEMENTINA CHERY
COMMISSIONER LARRY ELLISON
COMMISSIONER MARSHA KAZAROSIAN
COMMISSIONER CHARLENE LUMA
COMMISSIONER KIMBERLY WEST
COMMISSIONER MICHAEL WYNN

FROM: GINA JOYCE

SUBJECT: MISCONDUCT COMPLAINT FORM

DATE: MARCH 11, 2022

CC: COMMISSION PACKET MARCH 16, 2022, MEETING

This memo provides a description of the online POSTC Misconduct Complaint Form and the anticipated plan to introduce the form to the law enforcement community. The Misconduct Complaint Form will be used by law enforcement agencies to forward complaints and internal investigation reports to the POST Commission and will allow for standardized intake of complaints, notifications of internal investigations, investigative reports, and dispositions.

In an effort to standardize complaint submissions, EOTSS has been working with POSTC to develop an interim solution for intake and data management through Jira. Jira software is a work management tool allowing customized fields to collect information in a consistent and searchable format. This will be essential during the recertification process and will allow POSTC to query the system for records and review officer disciplinary data, if any. The EOTSS team has created the Misconduct Complaint Form based on information supplied by POSTC with input from law enforcement representatives. The online form will capture the details required for the commission to readily identify the most serious complaints as well as collect statistical reporting data.

The plan for implementation of the new online complaint process is described as follows:

- 1) Communicate to law enforcement agencies the transition from emailed complaint submissions to online misconduct complaint form submissions through Jira.
- 2) Provide group virtual training dates for designated agency end-users, including uploading online recorded video training to the POSTC website and providing a training guide.
- 3) Have a “help desk” available for during specific time periods for assistance.
- 4) Establish a date where all complaint submissions must be provided through Jira and emailed submissions will no longer be an acceptable format.

The introduction of the online form is expected to occur during the week of April 4, 2022.

Attachment:

Misconduct Complaint Form



Misconduct Complaint Form (Massachusetts Peace Officer Standards and Training)

Complaints and incidents related to minor matters, including discourtesy and basic work rule violations such as tardiness, inattention to detail, equipment violations, grooming violations or comparable infractions need not be submitted to POST. All others should be filed.

*Fields below marked with * are required. Sections marked with grey boxes are optional but should be filled in if relevant/if that information is available.*

Date of complaint (MM/DD/YYYY) * ___/___/___

Where did this originate? * Public complaint
 Internal incident

I. Complainant information *(only fill out this section if this is a public complaint)*

First name _____ Middle name _____ Last name _____ Suffix _____
Email _____ Phone number _____ - _____ - _____

II. Officer reported in complaint

First name * _____ Last name * _____ Date of birth (MM/DD/YYYY) * ___/___/___
ID number * _____

Race:

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White
- Preferred not to answer

Ethnicity:

- Hispanic, Latino, or Spanish origin
- Not Hispanic, Latino, or Spanish origin
- Preferred not to answer

Sex:

- Male
- Female
- Non-binary
- Preferred not to answer

Gender identity:

- Male
- Female
- Trans male
- Trans female
- Genderqueer / Gender non-binary

Not listed

Preferred not to answer

III. Incident description

Date of incident (MM/DD/YYYY)* ___/___/___

Location of incident* _____

Narrative* _____

III.a. Misconduct alleged

The complaint alleges*

Bias

Excessive, prohibited, or deadly force

Resulted in serious bodily injury or death

Unprofessionalism

Other (explain) _____

Subcategories of bias:

Race

Ethnicity

Sex

Gender identity

Sexual orientation

Subcategories of unprofessionalism:

Policy or procedure violations /

conformance to laws

Conduct unbecoming

Untruthfulness

- Religion
 - Mental or physical disability
 - Immigration status
 - Socioeconomic or professional level
 - Other (explain) _____
-

IV. Victim information

Number of victims _____

Victim identifying information *(provide name, date of birth, and contact information if available)*

Victim descriptions *(if the above information is unavailable, provide other identifying information)*

Race:

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White
- Preferred not to answer

Ethnicity:

- Hispanic, Latino, or Spanish origin
- Not Hispanic, Latino, or Spanish origin
- Preferred not to answer

Sex:

- Male
- Female
- Non-binary
- Preferred not to answer

Gender identity:

- Male
- Female
- Trans male
- Trans female
- Genderqueer / Gender non-binary

Not listed

Preferred not to answer

V. Witness information

Number of witnesses _____

Witness identifying information (*provide name, date of birth, and contact information if available*)

Witness descriptions (*if the above information is unavailable, provide other identifying information*)

6.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**REQUIREMENTS AND PLAN FOR RECERTIFICATION
OF CERTAIN LAW ENFORCEMENT OFFICERS**

(Proposed)

The Peace Officer Standards and Training Commission hereby adopts this plan for recertifying, as law enforcement officers, those individuals who were automatically certified for a limited time through An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth, St. 2020, c. 253, § 102. Under the Act, such certifications will expire: on July 1, 2022 for officers with last names beginning with letters A through H; on July 1, 2023 for officers with last names beginning with letters I through P; and on July 1, 2024 for officers with last names beginning with letters Q through Z.~~the certification of each such officer is set to expire on either July 1, 2022, July 1, 2023, or July 1, 2024, depending upon the first letter of the officer's last name. See St. 2020, c. 253, § 102(d).Id.~~ The Act further provides that the Commission may “not issue a certificate to an applicant who” “does not meet [certain] minimum standards,” and it may “not recertify any person as a law enforcement officer unless ~~the~~ commission[it] certifies that the applicant for recertification continues to satisfy ~~the [such]~~ requirements ~~of [M.G.L. c. 6E, § 4(f)].~~” M.G.L. c. 6E, § 4(i), added by St. 2020, c. 253, § 30. This plan provides a mechanism for determining whether officers continue to satisfy such requirements, and for renewing their certifications where appropriate. It applies only to officers who were automatically certified under the Act and are coming before the Commission for recertification for the first time.

I. KEY STATUTORY PROVISIONS

M.G.L. c. 6, § 116

...
The [Municipal Police Training Committee (“MPTC”)] and the division of police certification established in [M.G.L. c. 6E, § 4] shall jointly establish minimum certification standards for all officers, pursuant to [M.G.L. c. 6E, § 4].

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

...
(2) establish, jointly with the [MPTC] established in [M.G.L. c. 6, § 116], minimum officer certification standards pursuant to [M.G.L. c. 6E, § 4];

(3) certify qualified applicants;

(4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable;

...

(6) establish, in consultation with the [MPTC] established in [M.G.L. c. 6, § 116], minimum agency certification standards pursuant to [M.G.L. c. 6E, § 5];

(7) certify qualified agencies;

(8) withhold, suspend or revoke certification of agencies;

(9) conduct audits and investigations pursuant to [M.G.L. c. 6E, § 8];

...

(21) demand access to and inspect, examine, photocopy and audit all papers, books and records of any law enforcement agency;

...

(23) restrict, suspend or revoke certifications issued under [M.G.L. c. 6E]; [and]

...

(28) adopt, amend or repeal regulations in accordance with [M.G.L. c. 30A] for the implementation, administration and enforcement of [M.G.L. c. 6E], including, but not limited to, regulations:

...

(ii) determining whether an applicant has met the standards for certification; [and]

...

(iv) establishing a physical and psychological fitness evaluation pursuant to [M.G.L. c. 6E, § 4] that measures said fitness to ensure officers are able to perform essential job duties

....

M.G.L. c. 6E, § 4

(a)(1) There shall be within the commission a division of police certification. The purpose of the division of police certification shall be to establish uniform policies and standards for the certification of all law enforcement officers, subject to the approval of the commission. The head of the division shall be the certification director, who shall be appointed by the commission.

...

(f)(1) The division of police certification and the [MPTC] established in [M.G.L. c. 6, § 116] shall jointly establish minimum certification standards for all officers that shall include, but not be limited to:

- (i) attaining the age of 21;
- (ii) successful completion of a high school education or equivalent, as determined by the commission;
- (iii) successful completion of the basic training program approved by the [MPTC];
- (iv) successful completion of a physical and psychological fitness evaluation approved by the commission;
- (v) successful completion of a state and national background check, including, but not limited to, fingerprinting and a full employment history; provided, that if the applicant has been previously employed in law enforcement in any state or United States territory or by the federal government, the applicant's full employment record, including complaints and discipline, shall be evaluated in the background check;
- (vi) passage of an examination approved by the commission;
- (vii) possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the commission;
- (viii) successful completion of an oral interview administered by the commission; and
- (ix) being of good moral character and fit for employment in law enforcement, as determined by the commission.

[(f)](2) The commission shall not issue a certificate to an applicant who:

- (i) does not meet the minimum standards enumerated in [M.G.L. c. 6E, § 4(f)(1)] or the regulations of the commission;
- (ii) has been convicted of a felony or whose name is listed in the national decertification index or the database of decertified law enforcement officers maintained by the commission pursuant to [M.G.L. c. 6E, § 13(a)(i)]; or
- (iii) while previously employed in law enforcement in any state or United States territory or by the federal government, would have had their

certification revoked by the commission if employed by an agency in the commonwealth.

[(f)](3) The commission may issue a certificate to a qualified applicant consistent with the provisions of this [M.G.L. c. 6E]. The commission shall determine the form and manner of issuance of a certification. A certification shall expire 3 years after the date of issuance.

[f](4) An officer shall remain in compliance with the requirements of [M.G.L. c. 6E] and all rules and regulations promulgated by the commission for the duration of their employment as an officer.

...

(i) Each certified law enforcement officer shall apply for renewal of certification prior to its date of expiration as prescribed by the commission. The commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)].

.....

M.G.L. c. 6E, § 5

...

(b) The division of police certification in consultation with the [MPTC] established in [M.G.L. c. 6, § 116], and subject to the approval of the commission, shall establish minimum certification standards for all law enforcement agencies that shall include, but shall not be limited to, the establishment and implementation of agency policies regarding:

- (i) use of force and reporting of use of force;
- (ii) officer code of conduct;
- (iii) officer response procedures;
- (iv) criminal investigation procedures;
- (v) juvenile operations;
- (vi) internal affairs and officer complaint investigation procedures;
- (vii) detainee transportation; and
- (viii) collection and preservation of evidence.

(c) An agency shall remain in compliance with the requirements of this [M.G.L. c. 6E] and all rules and regulations promulgated by the commission.

M.G.L. c. 6E, § 9

...

(b) The commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission; provided, however, that the commission may promulgate reasonable exemptions to this subsection, including, but not limited to, exemptions for: (1) injury or physical disability; (2) a leave of absence; or (3) other documented hardship. The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

St. 2020, c. 253, § 102

(a) Notwithstanding [M.G.L. c. 6E, § 4], a law enforcement officer, as defined in [M.G.L. c. 6E, § 1], who has completed an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22] on or before the effective date of this section[, July 1, 2021,] and is appointed as a law enforcement officer as of the effective date of this section, shall be certified as of the effective date of this section. Notwithstanding [M.G.L. c. 6E, § 4] or the preceding sentence, a law enforcement officer, as defined in [M.G.L. c. 6E, § 1], who has completed an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22C] on or before December 1, 2021, and is appointed as a law enforcement officer as of December 1, 2021, shall be certified as of the effective date of this section. No officer who is certified pursuant to this section shall be required to complete or repeat a basic training program if such officer previously completed a basic training program provided or approved by the [MPTC] or its predecessor, the criminal justice training council or received previous basic training that the [MPTC] deems equivalent to Massachusetts training standards.

(b) All law enforcement officers who have completed a reserve training program on or before the effective date of this section shall be certified as of the effective date of this section. Prior to the expiration of that certification, the officer shall complete additional training as required by the [MPTC].

...

(d) The certification of a law enforcement officer who has graduated from an academy or training program certified by the [MPTC] or the training programs prescribed by said [M.G.L. c. 22C] who is certified as a result of this section and whose last names begin with: (i) A to H, inclusive, shall expire 1 year after the effective date of this section; (ii) I to P, inclusive, shall expire 2 years after the effective date of this section; and (iii) Q to Z, inclusive, shall expire 3 years after the effective date of this section.

II. STATEMENT OF POLICIES AND PRINCIPLES

The Commission declares as follows.

1. The Commission is committed to acting in accordance with the letter and spirit of An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth, St. 2020, c. 253, and satisfying the expectations of the Massachusetts Legislature.
2. Chapter 6E of the General Laws reflects certain competing goals that need to be balanced and harmonized. The first is ensuring that the Commission has the authority to develop, with input from others where appropriate, comprehensive standards that will ensure that officers are fit for duty. See M.G.L. 6, § 116; c. 6E, §§ 3(a), 4. The second is having a very large number of officers certified in a short amount of time. See 2020, c. 253, § 102. The third is achieving consistency and uniformity in the standards applied to law enforcement officers. See M.G.L. c. 6E, §§ 4(a)(1), 4(f)(1); cf. M.G.L. c. 6E, § 3(a)(28)(iii) (similar, as to disciplinary regulations). The fourth is evaluating officers on an individualized basis. See M.G.L. c. 6E, §§ 3(a), 4.
3. Section 4(f)(1) of Chapter 6E sets forth “minimum certification standards.” The Commission is not statutorily *required* to certify an officer who meets those minimum standards in M.G.L. c. 6E, § 4(f)(1); that is, the statute does not grant an officer who satisfies those standards an *entitlement* to certification. See M.G.L. c. 6E, § 4. Moreover, additional standards may be set by the Commission and the MPTC acting jointly. See M.G.L. c. 6, § 116; c. 6E, §§ 3(a)(2), (f)(1). Or, they may be set by the Commission alone. See M.G.L. c. 6E, §§ 3(a), 4(a)(1).
4. An appropriate additional standard is one that requires completion of all required in-service training in order for an officer to be recertified without any limitation, condition, restriction, or suspension. That will help ensure that officers satisfy their training obligations, and enhance the skills and knowledge of those who protect the populace.
- 4.5. Neither the requirements for certification, nor a decision not to recertify, is intended to be punitive in nature.
- 5.6. Rather, such requirements and decisions are intended to ensure that members of our communities are protected and treated properly, to help each law enforcement agency maintain a corps of qualified officers, to further the interests and welfare of individual officers, and to generally promote the public interest.
- 6.7. Where an officer’s failure to satisfy a standard does not necessitate that the officer be removed from the ranks of law enforcement, it is preferable that the officer receive assistance so that the officer may reach a level of fitness for service.

- ~~7.8.~~ Declining to recertify an officer whose certification has expired is materially different from decertifying an officer—that is, revoking the officer’s certification. M.G.L. c. 6E, §§ 1, 3(a), 4(i), 10. Thus, the mere fact that an officer has not been recertified would not expose the officer to the various consequences of decertification. See M.G.L. c. 6E, §§ 4(d), (f)(2), 4(h), 8(e), 10(g), 11, 13(a), 13(b), 16.
- ~~8.9.~~ While it might not be practicable to conduct extensive, individualized evaluations of each officer, based on a series of criteria, within the time provided by St. 2020, c. 253, § 102(d), the Commission can and should be informed about officers as to whom agencies have developed significant concerns.
10. At the same time, where those concerns relate to whether an officer is “of good moral character and fit for employment in law enforcement,” M.G.L. c. 6E, § 4(f)(1)(ix), and thus involve subjective assessments, it is important to ensure that the agency’s concerns are substantiated, that the officer has an opportunity to respond, and that the positions of both are given due consideration.
- ~~9.11.~~ Officers have not been provided with extensive notice of the need for recertification, as St. 2020, c. 253 was enacted on December 31, 2020. And those whose certifications are set to expire on July 1, 2022 will not have had a great deal of notice as to any standards adopted by the Commission before their expiration date arrives.
- ~~10.12.~~ Some officers may understandably face challenges in achieving a certain level of fitness, and it may require significant time and effort for them to do so.
- ~~11.13.~~ While the Legislature’s design of a staggered certification system through St. 2020, c. 253, § 102 was understandable and beneficial in certain ways, it would be inequitable to require some officers to achieve a certain level of fitness by July 1, 2022 while allowing other officers until July 1, 2024 in which to do so.
- ~~12.14.~~ The Commission is dedicated to continuing to raise the level of fitness and professionalism among officers over time.
- ~~13.15.~~ The above goal will be best achieved through a careful process that incorporates input from the MPTC, law enforcement officers, other stakeholders, experts, and members of the public, and that accounts for considerations such as the terms of collective bargaining agreements.
- ~~14.16.~~ The process of continuing to develop standards will benefit from the gathering of information regarding the practices and experiences of individual agencies.
- ~~15.17.~~ Requiring agencies to contribute in certain ways to the development of standards, and to the implementation of the recertification process, will enable the Commission to utilize their expertise, will enable agencies to tailor plans based on their own needs, and will promote efficiency through the division of labor.

~~16.18.~~ In order to be most effective, the Commission aims to adopt a plan that will provide for flexibility, and it reserves the ability to exercise the full range of the broad powers granted to it by law.

III. RECERTIFICATION PLAN AND STANDARDS

The Commission adopts the following plan for recertifying officers.

A. General Provisions

1. In order to be recertified without limitation, condition, restriction, or suspension, an officer must satisfy all standards under Sections III.B and III.C below. See M.G.L. c. 6E, §§ 3(a), 4.
2. The Commission hereby “certifies that,” where the standards set forth in this Section III.B below are met, an individual officer “continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)].” M.G.L. c. 6E, § 4(i).
3. In all cases, the Commission reserves the ability to exercise its power to “deny an application or limit, condition, restrict, revoke or suspend a certification.” M.G.L. c. 6E, § 3(a).
4. –And, uUnless the Commission exercises its power to “deny an application or limit, condition, restrict, revoke or suspend a certification,” M.G.L. c. 6E, § 3(a), the power referenced in Section III.A.3 directly above, an officer who satisfies the standards of Sections III.A and III.B below the individual may be recertified as a law enforcement officer. See M.G.L. c. 6E, §§ 3(a), 4, 9(b), 10(d).
5. In any instance where an employing agency makes a report to the Commission pursuant to this Pplan, the Commission will exercise its authority and discretion to determine the action to be taken. See M.G.L. c. 6E, §§ 3(a), 4, 9(b), 10(d).
6. The Commission further authorizes the Executive Director or the Executive Director’s designee to develop a form attestation as to any standard requiring an attestation, and to take all other administrative steps necessary to implement this Plan. See M.G.L. c. 6E, §§ 2(g), 2(h), 3(a), 4.
7. At any time, in its discretion, the Commission may withdraw, revise, suspend, or reinstate any provision of this Plan, or any recertification, status, or action effected hereunder. See M.G.L. c. 6E, §§ 3(a), 4.

B. Certification Requirements of M.G.L. c. 6E, § 4(f)

1. Standard (i): “attaining the age of 21”

a. This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

2. Standard (ii): “successful completion of a high school education or equivalent, as determined by the commission”

a. This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

3. Standard (iii): “successful completion of the basic training program approved by the [MPTC]”

a. This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

4. Standard (iv): “successful completion of a physical and psychological fitness evaluation approved by the commission”

a. Until July 1, 2024, this standard will be deemed satisfied where the officer successfully completed a physical and psychological fitness evaluation that the MPTC found acceptable in approving the officer’s admission to or graduation from “an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22C],” St. 2020, c. 253, § 102.

b. If an employing agency head concludes that an officer is not “able to perform essential job duties,” M.G.L. c. 6E, § 3(a)(28)(iv), the employing agency head must make a written report regarding that conclusion to the Commission. See M.G.L. c. 6E, § 3(a).

c. For these purposes, “essential job duties” means the actual, and primary or dominant, duties of a law enforcement officer who holds the specific position in which the individual serves. Cf. St. 2020, c. 253, § 51 (inserting M.G.L. c. 22C, § 10A, which provides in part that “[t]he [State Police cadet] qualifying examination shall fairly test the applicant’s knowledge, skills and abilities that can be fairly and reliably measured and that are actually required to perform the primary or dominant duties of the position of state police cadet”), § 108(c) (charging new commission with, inter alia, “study[ing] the feasibility and benefits of establishing” “a statewide law enforcement officer cadet program,” and “proposed standards, including form, method and subject matter, for a

qualifying examination which shall fairly test the applicant's knowledge, skill and abilities that can be fairly and reliably measured and that are actually required to perform the primary or dominant duties of a law enforcement cadet").

d. Where such a report is made, unless the Commission otherwise directs, the employing agency will be required to develop a plan with the goal of enabling the officer "to perform essential job duties," M.G.L. c. 6E, § 3(a)(28)(iv), which plan shall be treated as a form of in-service training, subject to the provisions of M.G.L. c. 6E, § 9(b). See M.G.L. c. 6E, § 3(a).

e. Any such plan shall be designed and implemented with the goal of assisting the officer in attaining the requisite level of fitness, and shall not have punitive elements.

f. The Commission will continue developing an evaluation of physical and psychological fitness, through the formal promulgation of sections of the Code of Massachusetts Regulations or otherwise.

g. The Commission, in consultation with the MPTC, will also explore the development of standards for agency certification that require certain measures relative to the physical and psychological fitness of officers. See M.G.L. c. 6E, §§ 3(a), 5(b), 5(c).

h. Agencies are not precluded from developing their own standards or training requirements separate from the certification process.

i. The Executive Director shall be authorized to require agencies to provide the Commission with information concerning their current and past practices with respect to physical or psychological evaluations. See M.G.L. c. 6E, §§ 3(a), 5(b), 5(c).

5. Standard (v): "successful completion of a state and national background check . . ."

a. This standard will be deemed satisfied if all of the following criteria are met.

i. The employing agency attests that such background check of the type described in M.G.L. c. 6E, § 4(f)(1)(v) was successfully completed at any point in time before the expiration of the officer's certification.

ii. The employing agency has provided all information regarding the officer’s discipline that the Commission required it to submit, prior to the expiration of the officer’s certification. See St. 2020, c. 253, § 99.

iii. The employing agency attests to certain key facts regarding the officer’s background including that:

(A) The officer has not been “been convicted of a felony,” M.G.L. c. 6E, § 4(f)(2)(ii);

(B) The officer’s “name is [not] listed in the national decertification index or [any] database of decertified law enforcement officers maintained by the commission pursuant to [M.G.L. c. 6E, § 13(a)(i)],” M.G.L. c. 6E, § 4(f)(2)(ii); and

(C) After conducting due diligence, mindful of the terms of M.G.L. c. 6E, the attester has not concluded that, if the officer was “previously employed in law enforcement in any state or United States territory or by the federal government,” the officer “would have had their certification revoked by the commission if employed by an agency in the commonwealth,” M.G.L. c. 6E, § 4(f)(2)(iii); see also M.G.L. c. 6E, § 10(a).

iv. The Commission does not discern any basis, within information it has received, for finding the standard unmet.

6. Standard (vi): “passage of an examination approved by the commission”

a. This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

7. Standard (vii): “possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the commission”

a. This standard will be deemed satisfied if the officer’s employing agency or the MPTC submits an attestation stating that the officer currently possesses such certificates or the equivalent.

8. Standard (viii): “successful completion of an oral interview administered by the commission”

- a. The Commission shall develop a reasonable set of questions to be asked, or topics to be discussed, with each officer.
- b. Each employing agency shall develop a system to ensure that a supervisor conducts an interview covering such questions or topics with each officer.
- c. Each employing agency head shall arrange for him/herself to be interviewed in the same manner by an appropriate appointing authority.
- d. Each employing agency head and appointing authority shall make a written report to the Commission where an interview raises significant questions about whether an officer fails to satisfy any standard for recertification.
- e. Where no such report is made, this standard will be deemed satisfied.
- f. The Commission reserves the ability to further refine such interviews in the future, through the formal promulgation of sections of the Code of Massachusetts Regulations or otherwise. See M.G.L. c. 6E, §§ 3(a), 4.
- g. Agencies are not precluded from asking additional questions, or conducting additional interviews or evaluations, separate from the certification process.

9. Standard (ix): “being of good moral character and fit for employment in law enforcement, as determined by the commission”

- a. In an assessment of “good moral character,” it is appropriate to take into account whether an officer presently exhibits morality, integrity, candor, forthrightness, trustworthiness, attention to duty, self-restraint, and an appreciation of the distinctions between right and wrong in the conduct of people toward each other.
- b. Each employing agency head and appointing authority shall make a written report to the Commission where, for any reason, it does not attest that an officer is ~~has significant concerns about an officer’s~~ “of moral character and fit~~ness~~ for employment in law enforcement,” M.G.L. c. 6E, § 4(f)(1)(ix), or it has significant concerns about the officer’s character and fitness.

- c. Any such written report must be substantiated with an explanation for the agency's declining to make such an attestation, or its possession of concerns. The report must be sufficient to permit the Commission to understand and evaluate the basis for the agency's action and conclusions.
- d. Where such a report is submitted to the Commission, the officer at issue will be given an adequate opportunity to respond. Both the report and the response will be given due consideration, in accordance with protocols adopted by the Commission or by the Executive Director.
- e. Where no such report is made, and the employing agency attests that the officer currently possesses "good moral character and fitness for employment in law enforcement," M.G.L. c. 6E, § 4(f)(1)(ix), this standard will be deemed satisfied.

C. In-service Training Requirements

- 1. In order to receive a recertification free of any limitation, condition, restriction, or suspension, an officer must have completed, in advance of the expiration of the officer's initial certification, all in-service training that the officer was required to complete by that point.
- 2. The Commission adopts the standard that appears in Section III.C.1 directly above pursuant to M.G.L. c. 6E, §§ 3(a) and 4(a)(1). That standard is separate from, and additional to, those that must be satisfied for certification and recertification under M.G.L. c. 6E, §§ 3(a)(2), 4(f), and 4(i).
- 3. For purposes of this Plan, the additional training mandated by St. 2020, c. 253, § 102(b) should be understood to constitute a form of in-service training.
- 4. Except in circumstances as to which Section III.D below applies, where the standard in Section III.C.1 above is not satisfied, the Executive Director, or the Executive Director's designee, shall determine whether the officer's recertification shall be limited, conditioned, restricted, or denied, and the nature of any conditions, limitations, or restrictions. See M.G.L. c. 6E, §§ 2(g), 2(h), 3(a), 4(a)(1), 9(b).
- 5. Nothing herein shall be construed to preclude the Commission's ordering retraining for an officer where warranted. See M.G.L. c. 6E, §§ 3(a), 10(d)-(f).

D. Authorization of Conditional Recertification for Certain Law Enforcement Officers Who Are Unable to Complete In-service or Supplemental Training Due to Documented Hardship

1. Where an individual is unable to satisfy the in-service training requirements referenced in Section III.C above due to certain documented hardship, the individual may be conditionally recertified as a law enforcement officer and receive a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b). See M.G.L. c. 6E, §§ 3(a), 4, 9(b).
2. An individual will be eligible for such a conditional recertification and temporary exemption if:
 - a. The individual was automatically certified as a law enforcement officer pursuant to St. 2020, c. 253, § 102;
 - b. The individual applies to the officer's employing agency for such a conditional recertification and temporary exemption;
 - c. The individual provides documentation to the employing agency that sufficiently establishes that the individual is unable to complete required in-service training due to a circumstance listed in Subsection III.D.4, below;
 - d. The individual otherwise meets all qualifications for recertification; and
 - e. The individual's employing agency certifies that the individual meets the criteria for a conditional recertification and temporary exemption described herein. See M.G.L. c. 6E, §§ 3(a), 4, 9(b).
3. Such a recertification and temporary exemption will be subject to the following conditions:
 - a. The individual must complete the required training before the expiration of an extension afforded under Subsection III.D.4 below; and
 - b. The officer's employing agency may decide to limit the powers and duties of the officer while that officer's recertification remains conditional, based on an exercise of sound discretion that takes into account, at a minimum, the officer's experience and qualifications, the needs of the agency and the communities that it serves, and the safety and interests of the public. See M.G.L. c. 6E, §§ 3(a), 4, 5(c), 9(b).

4. Extensions of time may be afforded according to the following terms, based on a proposal by the MPTC:
 - a. Military leave: 90 days after the military leave ends;
 - b. Injured-on-duty leave under M.G.L. c. 41, § 111F: 90 days after the injury leave ends;
 - c. Workers' compensation leave: 90 days after the workers' compensation leave ends;
 - d. Chemotherapy/radiation treatment: 90 days after the medical leave related to chemotherapy/radiation treatment ends;
 - e. Parental leave, including pregnancy, maternity, paternity, and adoption leave: 90 days after the leave ends;
 - f. Family and Medical Leave Act leave / Paid Family and Medical Leave: 90 days after the leave ends; and
 - g. Emergency exigencies approved by majority vote of the Commission: 90 days or such other period as the Commission in its discretion decides.
 - h. Any extension that has not ended by five years after the original deadline shall lapse and application for reinstatement shall be required.
5. Where an individual fails to satisfy all training requirements before the expiration of an extension, the previously granted temporary exemption will end, and the individual will be subject to the provisions of M.G.L. c. 6E, § 9(b), with the date on which the extension expired being treated as the "deadline imposed by the commission" to "complete in-service training requirements of the commission."
6. If the conditional status of an individual's recertification, and an individual's temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b), are based solely on the individual's inability to satisfy a training requirement described herein, such status and exemption shall automatically end upon the individual's completion of the required training. See M.G.L. c. 6E, §§ 3(a), 4, 9(b).

6a.

Peace Officer Standards and Training Commission

Agency Official's Attestation Regarding Law Enforcement Officer Recertification

Recertification Packet: Part 1

I. General Instructions for Agency Head

To be recertified as a law enforcement officer by the Peace Officer Standards and Training (POST) Commission in accordance with Chapter 6E of the Massachusetts General Laws, an officer must meet certain specified standards. The POST Commission thus asks that you provide this attestation form to the individual within your Agency who has been charged with evaluating the officer to ensure the criteria set forth in the statute has been met. That individual should ensure that the officer has answered certain questions on a written application, review the answers and take other steps necessary to diligently complete a thorough examination of whether the officer continues to possess the requisite character and fitness for duty. After completing those steps, the Evaluator should execute the attestation below.

Ultimately, the determination as to an officer's character and fitness for employment as a law enforcement officer should be based on the totality of the information obtained, to include a review of the officer's personnel file and disciplinary records, if applicable. As such, the Agency Head must attest that the officer does possess such character and fitness and continues to maintain departmental standards and meet all requirements set forth in M.G.L. Chapter 6E. Attestations made without proper evaluation may be reported to the POST Commission and considered a complaint against the Evaluator and/or Agency Head that is subject to investigation and possible sanction by the Commission. Intentionally providing misleading or false information may result in decertification of the Evaluator and/or Agency Head.

II. Officer and Evaluator

Please provide the following information.

Officer Name: _____
Last First MI

Date of Birth: _____ ID #: _____

Agency: _____

Evaluator Name: _____

Date: _____

III. Agency Attestation

Instructions: Please check the following boxes if the answer to the question is "yes". If you do not attest to the specific criteria, DO NOT check the box. This will not automatically be cause for decertification of the officer, it will prompt further review by the POST Commission. In some cases,

this may result in a provisional certification requiring action within a specified time period by the officer or allowing the commission to conduct further review. (Refer to pages 4-5 for detailed instructions relative to each question.)

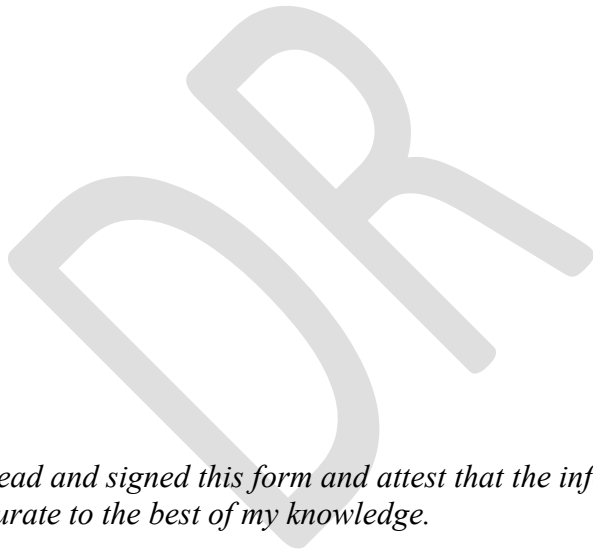
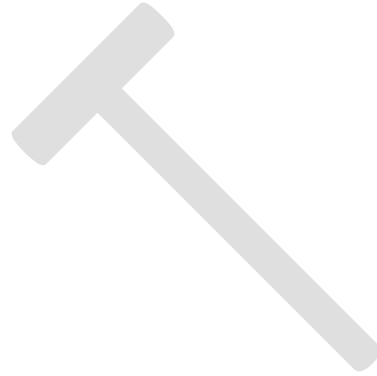
I, the above-named Evaluator, a member of the above-named Agency, on the date listed above, under the pains and penalties of perjury, have reviewed the information provided by the above Officer, as well as all records held by this Agency pertaining to the Officer and hereby attest to the below:

1. The Officer has obtained a high school education or equivalent.
2. The Officer has successfully completed a basic training program approved by the Municipal Police Training Committee (MPTC) **OR** the Officer has received an exemption from MPTC **OR** the Officer has completed the MPTC Bridge academy **AND** has met the 2,400 hour work experience requirement.
3. The Officer has passed an exam during basic training (to include exams administered by MPTC or MPTC authorized academies, Massachusetts State Police and Boston Police Departments).
4. The Officer is current with the last fiscal year (FY 2022) annual in-service training requirements to include 24 hours of specified training by MPTC and 16 hours of elective training courses.
5. The Officer has successfully completed, either prior to being hired by this Agency or during employment by this Agency, a physical fitness or medical evaluation, and psychological evaluation.
6. The Officer has successfully completed, either prior to being hired by this Agency or during employment by this Agency, a state and national background check, including, but not limited to, fingerprinting and a full employment history check, and if previously employed in law enforcement, an evaluation of complaints and disciplinary records.
7. Pursuant to M.G.L. c. 6E sec. 4(f)(1)(viii), (f)(2)(i), this Agency has conducted an oral interview of the Officer either prior to hiring or during his employment and the interview contained, at a minimum, legal matters (including those involving crime or physical abuse), social media and affiliations (including conduct suggestive of bias), and substance use and other conduct (including substance abuse and violence) and there were no significant concerns identified.
8. The Officer is in possession of current first aid and cardiopulmonary resuscitation certificates or equivalent.
9. The Officer has been provided the POST Commission Recertification Questionnaire to be completed and all responses will be reviewed by this Agency. Responses found to be inconsistent with records held by this Agency will be reported to the POST Commission.
10. The Officer has never been convicted of a felony in any jurisdiction and is not listed on the national decertification index.
11. The Officer, if previously employed in law enforcement in any state or United States territory or by the federal government, would not have had their certification revoked by the Massachusetts POST Commission if employed by an agency in the commonwealth.

12. If the Officer has any disciplinary records with a finding of sustained, those summary records have already been submitted to the POST Commission.

13. If the Officer is currently the subject of an open internal investigation, the information has already been submitted to the POST Commission and updates are being provided as required.

If any of the above boxes are not checked to indicate an affirmative response, please provide an explanation below. If multiple boxes are not checked, number accordingly and provide documentation, if applicable.



I have read and signed this form and attest that the information provided herein is true and accurate to the best of my knowledge.

Evaluator Signature: _____
(e-signature acceptable)

I attest that, to the best of my knowledge, the above-named Officer is of good moral character and fit for employment in law enforcement and I recommend this Officer for recertification by the POST Commission.

Signature of Agency Head or Appointing Authority: _____
(e-signature acceptable)

Instructions for Attestation Questions

Question 1:

No submission of proof is required at this time by POSTC, but documentation should be maintained on file with the department. Check to indicate verification that the officer has obtained a high school degree or equivalent.

Question 2:

Check if the officer has successfully completed an MPTC (or Criminal Justice Training Council) operated/approved full-time police academy or the equivalent.

Check if the officer has completed an MPTC-approved Bridge Academy AND has completed the 2,400 hours of law enforcement work experience.

Check if the officer has received an exemption from any requirement above by the MPTC.

If the officer has completed the Bridge Academy but has not completed the work experience hours, the officer must remain working in a part-time “reserve officer” capacity until completion. Upon completion, a “new hire” POSTC Certification Packet available on the MA POST Commission website under “Certification Documents” should be filed with the commission for full certification.

Question 3:

Check to indicate the officer has passed an exam “approved” by POSTC. For purposes of this recertification, this refers to any exam passed as a requirement to successfully complete basic training.

Question 4:

Check to indicate the officer has successfully completed the fiscal year 2022 annual training to include 24 hours of MPTC-mandated training and 16 hours of training selected by the agency or officer.

POSTC may audit departments to verify annual in-service training compliance of any officer, not only those with last names ending in A-H. Law enforcement agencies are required to ensure all officers fulfill annual requirements prior to the end of each fiscal year, not only upon recertification.

Question 5:

Check if the officer has completed a physical fitness or medical fitness evaluation AND a psychological evaluation by your department or if you have documented completion of either through the hiring or employment process of another department.

Question 6:

Check if the officer has successfully completed a background check by your department including state and national checks, fingerprinting, employment history, and a review of any disciplinary records if previously employed by another law enforcement agency.

Question 7:

Check if an oral interview was administered to the officer as part of the hiring process or during employment with your department to include discussion of any legal matters, issues surrounding social media and group affiliations, substance use and conduct AND there were no concerns identified to indicate the officer was not fit for employment as a police officer.

Question 8:

Check if the officer is up to date with CPR and first aid training/certificates (copies to be maintained on file with the department).

Question 9:

Check if the officer has been provided the questionnaire administered by POSTC. When completed by the officer, the department head or designee must review and discuss responses with the officer. If inconsistencies are noted, they must be brought to the attention of POSTC.

The answers to the questionnaires are not required to be submitted to POSTC but must be maintained by the department and provided to POSTC upon request.

Question 10:

Check to indicate the officer has never been convicted of a felony and is not listed on the NDI.

If you do not have a member conducting checks through the NDI, application for access may be made through IADLEST.org. Select "NDI" and "Request Access to the NDI".

Question 11:

Check if your department has conducted its due diligence to ensure that the officer, if employed by any law enforcement agency outside of Massachusetts, did not meet any criteria for revocation by POSTC if employed by a law enforcement agency in Massachusetts.

Question 12:

If the officer has had an internal investigation conducted with a finding of sustained, those records must be submitted to POSTC. Check to indicate that the officer either a) does not have any such disciplinary records or b) the officer does have such records, but the records have been forwarded to POSTC.

If the officer has such record(s) on file, but the records have not been forwarded to POSTC, do not check the box. Include the report and findings as an attachment to this filing with POSTC.

Question 13:

If the officer has an open complaint or open internal investigation, check to indicate that the information has been provided to POSTC.

If the officer has an open complaint/investigation, but the records have not been forwarded to POSTC, do not check the box, and include the complaint as an attachment to this filing with POSTC.

Section IV of the questionnaire allows explanations as to reasons why boxes are not checked. The following are examples:

- If a reserve officer has not completed the Bridge Academy or met the work experience requirement, box 2 would not be checked; explain circumstances and anticipated date of completion in this section.
- If a candidate has not yet completed a fulltime basic training academy class, but is attending or enrolled, box 2 would not be checked; provide anticipated date of graduation and academy class, if known.
- If an officer is on administrative leave or personal leave due to military obligations, injury, etc., and the officer is unable to complete annual in-service requirements, do not check box 4; if an officer, under the same circumstances was not provided the questionnaire supplied by POSTC, do not check box 9; provide an explanation of circumstances in Section IV.

Note: *As stated in Section III, if an evaluator is unable to attest to some of the above and check all of the boxes, it does not automatically disqualify the officer from certification.*

6с.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

PRELIMINARY MILESTONE SCHEDULE FOR RECERTIFICATION OF CERTAIN LAW ENFORCEMENT OFFICERS (A-H) (Proposed)

1. Proposed plan approved by POST Commission March 16, 2022

2. Additional Documentation for Recertification Final
 - a. Attestation Recertification Form Final (Part 1) 03/16/22
 - b. Re-certification questionnaire/oral interview (Part 2) 04/22 (proposed)
 - c. Attestation materials final (Part 1 & 2 and instructions) 04/22 (proposed)

3. Communications to Chiefs & Appointing Authorities (“Chiefs”) 04/22 – 05/22 (proposed)
 - a. Distribute attestation materials (Part 1 & Part 2 Instructions) to Chiefs
 - b. Questions and clarifications to POST 04/22 – 06/22

4. Attestations due to POST 05/01/22 – 06/30/22
 - a. Data Platform (Snowflake) Part 1 Attestations TBD
 - b. Data Platform Part 2 Questionnaires TBD

5. POST Processing Attestations/Re-Certification #'s TBD or Beginning 07/22

6. Process for Exceptions
 - a. Plan for processing exceptions 04/22 – 05/22
 - b. Standard for Completeness 05/22
 - c. Review of Exceptions After 07/22

7.

Statement Regarding M.G.L. Chapter 123, s. 12(a) and 12(e)
Draft 3/2/2022
Commissioner Hanya H. Bluestone

In the Commonwealth of Massachusetts, Section 12 of Chapter 123 of the Massachusetts General Laws governs the admission of a person to a general or psychiatric hospital for psychiatric evaluation and a determination of the person's need for inpatient psychiatric treatment. Sections 12(a) and 12(e) identify the conditions under which a person believed to have a mental illness may be brought against their will to a hospital or court for evaluation.

Pursuant to Section 12(a), following an examination, certain appropriately qualified and licensed mental health professionals "may restrain or authorize the restraint of [a] person," or in an emergency when such a mental health professional is not available, a police officer may "restrain [a] person," when there is "reason to believe that a failure to hospitalize such person would create a likelihood of serious harm by reason of mental illness."

Pursuant to Section 12(e), if any person makes an "application to a district court justice or a justice of the juvenile court department for a 3-day commitment to a facility of a person with a mental illness if the failure to confine such person would cause a likelihood of serious harm," following a hearing, said justice "may issue a warrant for the apprehension and appearance before the court of the alleged person with a mental illness if in the court's judgment the condition or conduct of such person makes such action necessary or proper."

The Peace Officer Standards and Training Commission co-promulgated 550 CMR 6.00, which regulates the use of non-deadly or deadly force by law enforcement officers. The Commission has since received comments and questions regarding situations in which the involuntary restraint, apprehension and transport of a person, in effecting a hospitalization pursuant to either s. 12(a) or 12(e), requires law enforcement officers to use non-deadly force or deadly force to "effect the lawful . . . detention" of a person or "prevent imminent harm to a person." 550 CMR 6.04, 6.05. In response, the Commission issues this statement regarding such situations.

Nothing in Section 12, in Chapter 6E of the General Laws, in Chapter 253 of the Acts of 2020, or in 550 CMR 6.00 states that law enforcement officers are precluded from using "necessary" and "proportionate" force when "de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances" in order to bring an individual against their will to a hospital or court for evaluation pursuant to s. 12(a) or 12(e), assuming other regulatory criteria are satisfied. Moreover, nothing in the statutes or regulations referenced above states that law enforcement officers are relieved of the duty under s. 12(a) or 12(e) to effect a hospitalization of a person believed to have a mental illness when the likelihood of serious harm is to themselves, and not to others.

8.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**CONSTRUCTION OF SCOPE OF CHAPTER 6E OF THE
MASSACHUSETTS GENERAL LAWS**

(Proposed)

The Peace Officer Standards and Training Commission hereby construes certain provisions of M.G.L. c. 6E in the manner described below. The provisions at issue are those that define the range of agencies and officers that are covered by, and subject to the terms of, M.G.L. c. 6E.

I. KEY STATUTORY PROVISIONS

M.G.L. c. 6E, § 1

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Agency”, a law enforcement agency.

...

“Law enforcement agency”, (i) a state, county, municipal or district law enforcement agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department; (ii) a sheriff’s department in its performance of police duties and functions; or (iii) a public or private college, university or other educational institution or hospital police department.

“Law enforcement officer” or “officer”, any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to [M.G.L. c. 22C, § 58, which concerns the Port of Boston Authority] or [M.G.L. c. 22C, § 63, which concerns educational institutions and hospitals]; a special sheriff appointed pursuant to [M.G.L. c. 37, § 4] performing police duties and functions; a deputy sheriff appointed pursuant to [M.G.L. c. 37, § 3] performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve or intermittent police officer.

.....

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(1) act as the primary civil enforcement agency for violations of [M.G.L. c. 6E];

...

(3) certify qualified applicants[]

....

II. CONSTRUCTION OF THE STATUTE

The Commission understands the following terms, as used in M.G.L. c. 6E, to have the meanings outlined below.

“Law enforcement agency”[means:]

- (i) a state, county, municipal or district law enforcement agency, including, but not limited to[the following, ~~meaning that provided that, any agency not listed below nevertheless constitutes a police department or sheriff's department~~the agency is listed below, or the agency principally ~~and~~ performs law enforcement functions that are the same as, or substantially similar to, those performed by the agencies listed below]:
 - [a.] a city, town or district police department,
 - [b.] the office of environmental law enforcement,
 - [c.] the University of Massachusetts police department,
 - [d.] the department of the state police,
 - [e.] the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and
 - [f.] the Massachusetts Bay Transportation Authority police department;
- (ii) a sheriff's department in its performance of police duties and functions[, meaning that it actually performs the full range of police duties and functions, including all types of arrests]; or
- (iii) a public or private college, university or other educational institution or hospital police department.

“Law enforcement officer” or “officer”[means:]

- [i.] any officer of an agency, including the head of the agency;
- [ii.] a special state police officer appointed pursuant to[:]
 - [a.] [M.G.L. c. 22C, § 58, which applies to police for the Massachusetts Port Authority, also known as the Port of Boston Authority] or
 - [b.] [M.G.L. c. 22C, § 63, which applies to police for educational institutions and hospitals];
- [iii.] a special sheriff appointed pursuant to [M.G.L. c. 37, § 4] performing [the full range of] police duties and functions[, including all types of arrests];

- [iv.] a deputy sheriff appointed pursuant to [M.G.L. c. 37, § 3] performing [the full range of] police duties and functions[, including all types of arrests];
- [v.] a constable executing an arrest for any reason[, meaning a constable who can be expected to exercise arrest powers]; or
- [vi.] any other special, reserve or intermittent police officer[, meaning a temporary or part-time officer who has the full range of powers of a police officer, including all powers of arrest, and is among the types of officers listed above].

Additionally, the Commission understands that the Legislature has given it discretion to decide whether to require two other types of officials to be certified as law enforcement officers.

The first type is an employee of the Civil Defense Agency who is serving as a special State Police officer pursuant to M.G.L. c. 22C, § 64. See St. 2020, c. 253, § 64 (amending M.G.L. c. 22C, § 64, and providing that such officers shall “receive *such certification* as the [POST Commission] *shall direct*,” even as they shall “have the same power to make arrests as the state police of any criminal offense committed in or upon lands or structures located in the town of Framingham within the charge of [the agency] director” (emphasis added)).

The second type is an employee of the State Auditor’s Office’s Bureau of Special Investigations who is serving as a special State Police officer pursuant to M.G.L. c. 22C, § 68. See St. 2020, c. 253, § 65 (amending M.G.L. c. 22C, § 68, and providing for the appointment of such officers “who have undergone certification *as required by* the [POST Commission],” even as they “shall have . . . the same powers as state police officers to serve warrants,” though “not . . . the authority to arrest without a warrant” or authorization, by way of that statute, to carry a firearm).

III. APPLICATION OF THE ABOVE CONSTRUCTION OF THE STATUTE

In light of the above construction of the statute, below are lists of individuals who would, and would not, be considered “law enforcement officers” subject to M.G.L. c 6E. Given the range of individuals as to whom questions may be raised, the lists below should not be seen as exclusive.

A. Individuals Subject to the Statute

1. City, town, or district police officers, including department heads.
2. Civil Defense Agency employees serving as special State Police officers under M.G.L. c. 22C, § 64, to the extent that the Commission has exercised its discretion to require their certification pursuant to that statute.
3. Constables who execute arrests.
4. Deputy sheriffs appointed pursuant to M.G.L. c. 37, § 3 who perform the full range of police duties and functions, including all types of arrests.
5. Educational institution special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads.

6. Harbormasters and assistant harbormasters appointed or employed as law enforcement officers by law enforcement agencies.
7. Hospital Police Department special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads.
8. Massachusetts Bay Transportation Authority Police Department officers, including the department head.
9. Massachusetts Port Authority Police Department (Port of Boston Authority Police Department) special State Police officers serving pursuant to M.G.L. c. 22C, § 58, including the department head.
10. Natural resource officers, shellfish constables, and shellfish wardens appointed or employed as law enforcement officers by law enforcement agencies.
11. Office of Environmental Law Enforcement officers, including the office head.
12. Special sheriffs appointed pursuant to M.G.L. c. 37, § 4 who perform the full range of police duties and functions, including all types of arrests.
13. State Auditor's Office Bureau of Special Investigation special State Police officers serving under M.G.L. c. 22C, § 68, to the extent that the Commission has exercised its discretion to require their certification pursuant to that statute.
14. State Police officers, including the Superintendent.
15. University of Massachusetts Police Department officers, including the department head.
16. Other special, reserve, and intermittent police officers who are temporary or part-time officers, have the full range of powers of a police officer, including all powers of arrest, and are among the types of officers listed above.

B. Individuals Not Subject to the Statute

1. Alcoholic Beverages Control Commission special investigators.
2. Constables who do not execute arrests.
3. Court officers.
4. Department of Youth Services officers.
5. Federal officers.
6. Harbormasters and assistant harbormasters not appointed or employed as law enforcement officers by law enforcement agencies.
7. Natural resource officers, shellfish constables, and shellfish wardens not appointed or employed as law enforcement officers by law enforcement agencies.
8. Parole officers.
9. Probation officers.
10. Special State Police officers who derive their powers from a section of M.G.L. c. 22C other than §§ 58 and 63, including:

- a. Civil Defense Agency employees serving under § 64, to the extent that the Commission has not exercised its discretion to require their certification pursuant to that statute.
 - b. Employment and Training Division employees serving under § 66.
 - c. Humane society and association agents serving under § 57.
 - d. Massachusetts Society for Prevention of Cruelty to Children agents serving under § 56.
 - e. Mental health or developmental services department employees serving under § 59.
 - f. Middlesex County Sanatorium employees serving under § 65.
 - g. Public Health Department employees serving under § 60.
 - h. Railroad corporation, railway company, The Boston Terminal Corporation, Railway Express Agency, Inc., or common carrier of passengers by water for hire employees serving under § 51.
 - i. Soldiers' home employees serving under § 62.
 - j. State Auditor's Office Bureau of Special Investigation employees serving under § 68, to the extent that the Commission has not exercised its discretion to require their certification pursuant to that statute.
 - k. State Lottery Commission employees serving under § 67.
11. State and county correctional officers who are not: special sheriffs appointed pursuant to M.G.L. c. 37, § 4 who perform the full range of police duties and functions, including all types of arrests; or deputy sheriffs appointed pursuant to M.G.L. c. 37, § 3 who perform the full range of police duties and functions, including all types of arrests.

IV. RESERVATION OF RIGHTS

The Commission reserves the ability to adopt a revised construction of M.G.L. c. 6E at any time.