



# MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

August 12, 2024

## CHAIR

Margaret R. Hinkle

## COMMISSIONERS

Lester Baker

Hanya H. Bluestone

Lawrence Calderone

Eddy Chrispin

Deborah Hall

Marsha V. Kazarosian

Charlene D. Luma

Rev. Clyde D. Talley

## EXECUTIVE DIRECTOR

Enrique A. Zuniga

In accordance with [M.G.L. c. 30A, §§ 18-25](#), and [St. 2021, c. 20](#), as amended by [St. 2022, c. 22](#), by [St. 2022, c. 107](#), and by [St. 2023, c. 2](#), notice is hereby given of a meeting of the Peace Officer Standards and Training Commission. The meeting will take place as noted below.

## NOTICE OF MEETING AND AGENDA

### Public Meeting #53

August 15, 2024

8:30 a.m.

Remote Participation via [Zoom](#)

Meeting ID: 983 3762 8920

- 1) Call to Order
- 2) Approval of minutes
  - a. July 18, 2024
- 3) Executive Director Report – Enrique A. Zuniga
- 4) Election of the Treasurer & Secretary
- 5) Legal Update – Randall E. Ravitz and Annie E. Lee
  - a. 555 CMR 12.00: Maintenance, Reporting, and Audits of Law Enforcement Records and Information
  - b. Agency Certification Initiative
  - c. Policy on the Use of Force
- 6) Policy Discussion – LaRonica K. Lightfoot
  - a. Policy Prohibiting Unauthorized Possession of Weapons in Commission Offices and Designated Facilities
  - b. Policy for Appointment of Hearing Officers
  - c. Policy for Appointment of Single Commissioners
- 7) Matters not anticipated by the Chair at the time of posting
- 8) Executive Session in accordance with the following:

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[mass.gov/orgs/post-commission](https://mass.gov/orgs/post-commission)

## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

- M.G.L. c. 30A, § 21(a)(1), to discuss “the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, . . . or individual”;
  - M.G.L. c. 30A, § 21(a)(5), to discuss the investigation of charges of criminal misconduct;
  - M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 6E, § 8(c)(2), and to the extent they may be applicable, M.G.L. c. 6, §§ 168 and 178, to discuss the initiation of preliminary inquiries and initial staff review related to the same, and regarding certain criminal offender record information;
  - M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 30A, §§ 22(f) and (g), to discuss and approve the minutes of prior Executive Sessions; and
  - M.G.L. c. 30A, § 21(a)(3), to discuss strategy with respect to litigation, as an open meeting may have a detrimental effect on the litigating position of the POST Commission.
- a. Reports of Preliminary Inquiry in the following cases:
- i) PI-2023-07-13-001
  - ii) PI-2023-11-16-001
  - iii) PI-2023-12-19-003
- b. Division of Standards request for approval to conduct Preliminary Inquiries in the following cases:
- i) PI-2024-047
  - ii) PI-2024-048
  - iii) PI-2024-049
  - iv) PI-2024-050
  - v) PI-2024-051
  - vi) PI-2024-052
  - vii) PI-2024-053
  - viii) PI-2024-054
- c. Approval of the minutes of the Executive Session of July 18, 2024
- d. Discussion of *Scott Hovsepian, et al. v. Massachusetts Peace Officer Standards and Training Commission*, Case No. 2284CV00906 in the Suffolk County Superior Court

## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

*Note that M.G.L. c. 66, § 6A(d) provides that “[a]n electronically produced document submitted to an agency . . . for use in deliberations by a public body shall be provided in an electronic format at the time of submission.”*

2a.

**MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION**  
**Public Meeting Minutes**  
**July 18, 2024**  
**10:00 a.m.**

**Documents Distributed in Advance of Meeting**

- June 20, 2024, Public Meeting Minutes
- Executive Director Report, including:
  - PowerPoint presentation
  - July 2, 2024 press release by the Municipal Police Training Committee (MPTC) entitled “Milestone Achieved”
  - July 15, 2024 memorandum from the Executive Director on the subject of “Continuing disclosure of records of officers who resign in lieu of discipline”
  - July 18, 2024 memorandum from the Finance & Administration Division providing an “FY24 Q4/Year-End Update”

**In Attendance**

- Commission Chair Margaret R. Hinkle
- Commissioner Lester Baker
- Commissioner Hanya H. Bluestone
- Commissioner Lawrence Calderone
- Commissioner Eddy Chrispin
- Commissioner Deborah Hall
- Commissioner Marsha V. Kazarosian
- Commissioner Charlene D. Luma
- Commissioner Clyde Talley

**1. Call to Order**

- The meeting began at about 8:35 a.m. The recording started in the middle of the vote on the minutes.
- Chair Hinkle took a roll call of the Commissioners present. The roll call proceeded as follows:
  - Commissioner Baker – Present
  - Commissioner Bluestone – Present
  - Commissioner Calderone – Present
  - Commissioner Chrispin – Present
  - Commissioner Hall – Present
  - Commissioner Kazarosian – Present
  - Commissioner Luma – Present
- Commissioner Talley was not present during the roll call. He joined after the Commissioners voted on the minutes.

**2. Approval of Minutes**

- The Commissioners voted to approve the June 20, 2024, public meeting minutes as follows:
  - Commissioner Baker – Yes
  - Commissioner Calderone – Yes
  - Commissioner Hall – Yes
  - Commissioner Kazarosian – Yes

- Commissioner Luma – Yes
- Chair Hinkle – Yes
- The minutes were approved.
- 3. **Executive Director Report – Enrique A. Zuniga**
- Executive Director Zuniga welcomed Commissioner Chrispin to his first public meeting, stating as follows.
  - Commissioner Chrispin was appointed to the Commission by Attorney General Campbell at the beginning of last month.
  - Although Commissioner Chrispin was unable to attend the June meeting, he was onboarded and briefed about the Commission.
  - When he was appointed, Commissioner Chrispin was the superintendent of the Boston Police Department.
  - Commissioner Chrispin was unfortunately demoted to the rank of sergeant detective because of his appointment to the Commission.
  - A statement was released requesting that Boston Police Commissioner Cox reconsider that decision.
  - Commissioner Chrispin is a 25-year veteran of the Boston Police Department.
  - He served in various roles, including patrolman spokesperson in the Media Relations Unit, staff instructor at the police academy, supervisor in some of the busiest districts, and deputy superintendent for the Bureau of Professional Development.
  - He is also a member of the MPTC.
- Executive Director Zuniga next discussed the Healey Administration’s announcement that Bob Ferullo, Executive Director of the MPTC, will be retiring at the end of the month, stating as follows.
  - All of Bob’s work with POST is appreciated.
  - Bob was an unequivocal champion of police reform and has been a true partner of the Commission.
  - The interim director for the MPTC will be Jeff Farnsworth, a former chief of the Hampden PD.
  - He was a former president of the Massachusetts Chiefs of Police Association and is currently a Senior Police Advisor for the Executive Office of Public Safety and Security (EOPSS).
- Executive Director Zuniga then shared a PowerPoint presentation, which started with an update on the Bridge Academy. He explained as follows.
  - Chapter 253 of the Acts of 2020 required all officers to successfully complete a basic training program approved by the MPTC.
  - At that time, there were about 3,500 reserve and part-time officers that had never attended basic academy training (800-hour training).
  - EOPSS and the MPTC proposed a one-time opportunity for reserve officers to attend a “Bridge Academy,” which entailed 200 hours of training and a 2,400-hour work requirement.
  - The Bridge Academy was only offered to reserve or part-time officers with prior work experience.
  - The academy was offered to reserve officers only for the year in which their statutory certification was set to expire according to their last name.

- The curriculum included training on defensive tactics, firearms, emergency vehicle operation, understanding of the new law, and de-escalation techniques.
- June 30 marked the completion of the third and final Bridge Academy class.
- A press release from EOPSS was included in the Commissioners' meeting packet.
- The training program enabled 1,400 officers to be fully certified.
- There were 300 officers who were conditionally certified and are working towards completing the 2,400-hour work requirement.
- The MPTC estimated that there were initially 3,500 individuals with police powers that had never attended basic training.
- This means that about 1,800, or about 51% of individuals, left the force because of the additional training requirements.
- The Bridge Academy was offered at no cost to officers.
- Departments could also apply for grants to defray some costs for attendance.
- All officers who graduated from the Bridge Academy and are fully certified are to be congratulated.
- The MPTC also deserves congratulations for achieving another milestone.
- Executive Director Zuniga also provided an update on certification efforts for officers with last names beginning with Q – Z, stating:
  - There are 389 agencies with one or more officers with a last name beginning with Q – Z that submitted certification information.
  - POST has nearly processed all of that information.
  - Over the past few weeks, the Division of Police Certification has been confirming that the 49 agencies that did not submit information did not have any officers with last names beginning with Q – Z.
  - One agency requested and was granted an extension to submit certification information.
  - The Division processed applications in real time and sent certification notices in early July.
  - The expected certification requests for officers with last names Q – Z was 4,121.
  - The Commission processed 3,897, and 224 are pending.
  - The following are preliminary certification figures:
    - Certified Officers: 3,490
    - Certified School Resource Officers (SROs): 22
    - Conditionally Certified: 260
    - Not Certified/Further Review/Suspended: 11
    - Not Certified-On Leave: 114
    - Subtotal: 3,897
    - Processing/Pending: 224
    - Expected Total: 4,121
  - Individuals who are “Not Certified-On Leave” have 90 days to complete certification requirements and submit their information to POST.
  - The following are statewide metrics for sworn officers currently at a police department (excluding 623 individuals who resigned or retired after July 1, 2021):
    - Certified Officers: 19,235
    - Certified SROs (including those Conditionally Certified): 397
    - Conditionally Certified Officers: 486

- Not Certified/Further Review/Not Certified-On Leave: 342
  - Suspended: 28 (which excludes 27 individuals whose certification is suspended, but are no longer working at a police department)
  - Not Processed (individuals who may not be in scope and/or have not yet received a certification number): 311
- In the coming weeks, POST will begin uploading statewide reports onto the website as part of the effort to maintain a publicly searchable database.
- Commissioner Bluestone asked if Executive Director Zuniga had a sense of the numbers of officers prior to the enactment of police reform in Massachusetts and how current numbers compare.
- Executive Director Zuniga replied that:
  - He did not have a good sense of that figure.
  - When POST first started, the MPTC estimated there were about 24,000-25,000 officers.
  - The Secretary of Public Safety and Security reported that that in general the number of officers today is lower than historical numbers.
- Commissioner Bluestone asked if POST knew the nature of the group of officers that chose to not complete the Bridge Academy.
- Executive Director Zuniga said many of the individuals were part-time or seasonal and decided not to go ahead with the additional requirements.
- Executive Director Zuniga then presented a flowchart that outlined the process for submitting complaints and reports through the portal.
  - The chart showed there are multiple interactions between agencies and POST in the portal.
  - He explained that POST also reviews records at least 3 times before publishing it on the website.
- Executive Director Zuniga next provided an update on the 2023 catch-up project for complaints submitted between January 31, 2023, and March 2024, stating as follows.
  - There were about 590 complaints submitted between that period.
  - Of those complaints or cases, 489 have been closed.
  - A portion of the closed cases will be published to the website.
  - The following agencies have complaints or reports that are past due:
    - Boston PD: 42
    - Massachusetts State Police: 11
    - Wareham PD: 5
    - Brandeis University PD: 4
    - Lawrence PD: 4
    - Salem State University PD: 3
    - Tyngsborough PD: 3
    - Foxborough PD: 2
    - Massachusetts Environmental Police: 2
    - Palmer PD: 2
    - Agencies with 1 case: 24
- Commissioner Talley asked what the repercussions are for agencies that do not make progress on their backlog of cases.



- Executive Director Zuniga said that the agency name is published on the website as non-compliant, adding that a failure to report information to POST could also result in an administrative suspension.
- Executive Director Zuniga also provided an update on the disciplinary record database, explaining:
  - 555 CMR 8.06(4)(b)(13) says information concerning an individual who is no longer serving as an officer who last received certification more than three years earlier shall not be part of the public database unless the individual has been decertified.
  - The number of individuals with at least one disciplinary record who are not certified by POST totaled 205.
  - Those who resigned prior to discipline totaled 60.
  - POST will continue to include individuals who resigned to avoid discipline for five years after their separation.

**4. Finance and Administrative Update – Chief Financial and Administrative Officer (CFAO) Eric Rebello-Pradas**

- CFAO Rebello-Pradas reported that preliminary numbers for the fourth quarter were included in the packet, and that final numbers will be reported in September after the accounts payable period closes.
- He provided a brief hiring update, stating as follows.
  - There had been no new hires since June.
  - Shaun Martinez was promoted to Deputy Director of the Division of Police Standards.
  - There were pending offers for the Enforcement Counsel, Counsel, and Paralegal positions.

**5. Website Update – Cynthia A. Campbell, Director of Communications and Community Engagement**

- Director Campbell provided an update on the new POST website, stating as follows.
  - It will have a lot of new features and will allow content to be uploaded much faster.
  - There will also be better search capabilities for news and events.
  - The website will feature real-time analytics that update officer status.
  - All the content on the current website has been moved over to the new website.
  - The website will feature direct links to file a public complaint, view disciplinary records, and check the officer status and certification list.
  - All decisions and orders will appear in the news and announcements section.
  - They can be filtered by category, and events can be added to one's calendar directly from the website.
- Commissioner Talley asked how often the information on the website will be refreshed.
- Director Campbell said it will be updated every day as often as it needs to be, adding that information will get posted to the website almost instantaneously.
- Commissioner Bluestone suggested changing some photos to create a tone of inclusion of different types of officers and members of the community.
- Commissioner Luma agreed with Commissioner Bluestone and wanted to make sure that POST recognizes the public use of the website and resources.

- Chair Hinkle thanked Director Campbell and her team for their great work on the website.
6. **Legal Update – Randall E. Ravitz, General Counsel**
- General Counsel Ravitz discussed the presentation given at the previous Commission Meeting by Counsel Annie E. Lee regarding the agency certification initiative.
  - He stated that the initiative would involve developing standards to certify law enforcement agencies pursuant to a provision of the statute that requires the Commission to do so.
  - Counsel Lee then discussed the steps she had taken since the previous meeting to further the initiative.
  - She began the discussion by addressing the Commissioners’ suggestion of hearing from stakeholders on which additional standards it should set, reporting as follows:
    - Since the last meeting, letters were sent to a variety of stakeholders.
    - These stakeholders included law enforcement executives from the heads of all agencies in the Commonwealth, law enforcement unions, a number of government executives and legislators, and organizations such as Strategies for Youth.
    - These stakeholders have been given a deadline of August 9<sup>th</sup> at 5 p.m. to provide their feedback, although the deadline is flexible as it is an ongoing process.
    - A summary of the feedback will be provided at the next meeting in August.
  - Executive Director Zuniga addressed a recent comment from Commissioner Talley regarding the failure to report certain items to POST.
    - He stated that there will be two additional processes involving the agency certification initiative and the regulations on auditing and maintenance of records, which will hopefully allow the Commission to ensure that there is compliance with the reporting requirements.
  - The Chair thanked Counsel Lee for her hard work.
  - She then requested that Executive Director Zuniga share with the public how they can communicate with the POST Commission.
  - Executive Director Zuniga stated that the old website contains useful information as well as ways to contact the Commission, such as by email and phone.
7. **Matters Not Anticipated by the Chair at the Time of Posting**
- The Chair indicated that she did not believe there were any matters not anticipated at the time of the posting of the meeting notice.
8. **Executive Session**
- The Chair raised the issue of moving into executive session in accordance with M.G.L. c. 30A, § 21(a)(5), in anticipation of discussion regarding the investigation of charges of criminal misconduct; under M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 6E, § (8)(c)(2), and to the extent they may be applicable, M.G.L. c. 6, §§ 168 and 178, in anticipation of discussion regarding the initiation of preliminary inquiries and initial staff review related to the same, and regarding certain criminal offender record information; and M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 30A, § 22(f) and (g), in anticipation of discussion and approval of the minutes of the prior executive session.
  - The Chair stated that:
    - The Commissioners will be considering reports of preliminary inquiries in 6 cases.

- They will be considering requests from the Division of Police Standards to approve voluntary decertification agreements or suspension agreements in 2 instances, and requests from the Division to approve preliminary inquiries in 5 cases.
- They will also be hearing a motion to approve the minutes of the executive session of the June 20<sup>th</sup> meeting.
- The Chair informed members of the public that the Commission would not reconvene its public meeting after the executive session.
- There was a motion to enter executive session by Commissioner Kazarosian, seconded by Commissioner Luma.
- The Chair took a roll call vote on the motion. The Commissioners voted as follows.
  - Commissioner Baker – Yes
  - Commissioner Bluestone – Yes
  - Commissioner Calderone – Yes
  - Commissioner Chrispin - Yes
  - Commissioner Hall – Yes
  - Commissioner Kazarosian – Yes
  - Commissioner Luma – Yes
  - Commissioner Talley – Yes
  - Chair Hinkle – Yes
- The motion unanimously carried.
- The Chair informed members of the public that the Commission would not reconvene its public meeting after the executive session.
- The Chair thanked the public, and the public meeting was adjourned at 9:29 a.m.

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# Executive Director Report

August 15, 2024



# Agenda

1. Certification Numbers
2. Disciplinary Records Update
3. Finance & Administrative Update
4. Website Rollout & New Functionality

# Certification Numbers

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## Division of Certification Continues to Reconcile Records

- Individuals certified by statute, whose certification has expired (June 30, 2024)
- Certification team confirming whether they are active, or retired-working-details (in which case they need to be certified)
- Will continue to publish officers with expired certification

# Certification Update

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## Statewide Metrics (All Officers)

POST continues to update certification status at the state level

<b>Sworn Officers currently at a Police Department *</b>	<b>8/12/24</b>
Certified	20,080
Certified / SRO	440
Conditionally Certified	454
Conditionally Certified SRO	11
Subtotal	20,895

\* May include officers who retired in good standing since they were last certified



# Certification Update

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## Statewide Metrics

Other Officers and Individuals in POST Records	8/12/24
Not Certified	281
Further Review	2
Not Certified – On Leave	317
Suspended	56
Administratively Suspended	4
Expired **	79
Decertified	23

# Disciplinary Records Update

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## Historical Disciplinary Records

- Evidence certain agencies did not re-submit disciplinary records but should have done so
- POST analyzed 1,080 historical records originally submitted
- ~ 150 records from 46 agencies originally submitted records of a suspension, termination, resignation and/or non-minor matter
- Some of those records may need to be published (as per regulations)
- POST conducting analysis of original submission and reaching out to agencies with requirement to resubmit

# Finance & Administrative Update

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## Hiring Update

- Welcome Recent Hires
  - Gerry Cahill – Counsel
  - Penny Walker – Paralegal
- Promotion
  - Alia Spring – Communications & Media Relations Manager
- Pending Offers:
  - 4th Enforcement Counsel
  - 3rd Counsel

# Finance & Administration Update

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## Annual Budget Cycle

- Fiscal Year 24 (period ending 6/30/24): Finalize Spending & Reconciliation
- Fiscal Year 25 (period ending 6/30/25): Forecast In progress
- FY25 is \$8.75 million
- FY25 Spending Plans: Early October

# Administrative Update

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## Rollout of New Website

- New URL [www.mapostcommission.gov](http://www.mapostcommission.gov)
- Prior URL's will re-direct to new pages
- Easier to upload and update information
- Ability to do real-time analytics and incorporate feedback
- New functionality to search individual names, agencies and certification status categories



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Massachusetts Peace Officer Standards & Training  
POSTC-comments@mass.gov  
[www.mass.gov/orgs/post-commission](http://www.mass.gov/orgs/post-commission)  
617-701-8401

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5a.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

555 CMR 12.00: MAINTENANCE, REPORTING, AND AUDITS OF LAW ENFORCEMENT RECORDS AND INFORMATION

Section

- 12.01: Authority
- 12.02: Scope
- 12.03: Definitions
- 12.04: Agency Creation and Maintenance of Records
- 12.05: Agency Reporting of Information
- 12.06: Agency Liaison to Commission
- 12.07: Officer Maintenance and Reporting of Information
- 12.08: Procedures for Audits
- 12.09: Areas of Examination in Audits
- 12.10: Verification of Information
- 12.11: Sufficiency of Notice
- 12.12: Enforcement and Disciplinary Action

Overview:

- In green are brief summaries of comments received from members of the public, along with parenthetical notations of the identities of the commenters. The summaries represent a good faith effort to succinctly capture commenters' recommendations, but they do not reflect all the reasoning provided by commenters and they may be imperfect. Fuller explanations of commenters' views may be found in their comment letters.
- While the Commission appreciated receiving comments that were supportive of provisions in the draft regulations as well as broader observations and policy views, the summaries below generally focus on suggestions for changes. However, under 12.07(1)(a), one supportive comment was summarized in order to show that the comments on a particular issue were not unanimous.
- Two comments were not summarized, as it was not clear which provisions they were referencing.
- This document generally does not include summaries of comments regarding recordkeeping, reporting, and auditing that were submitted to the Commission as responses to its request for comments on the agency certification initiative, mistakenly or otherwise.
- The summaries are generally not followed by responses from the Commission staff. However, in a few cases, there are italicized notes paraphrasing statutes or regulations that may have a bearing on the issue raised.

12.01: Authority

- (1) The Commission promulgates 555 CMR 12.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 8(d).

12.02: Scope

- (1) 555 CMR 12.00 governs:
  - (a) The creation and maintenance of records by agencies and officers;
  - (b) The reporting of information by agencies and officers; and
  - (c) The auditing of agencies and officers by or on behalf of the Commission, pursuant to M.G.L. c. 6E, § 8(d) or otherwise.
- (2) Nothing in 555 CMR 12.00 is intended to:
  - (a) Limit any obligations that law enforcement agencies and officers otherwise have under M.G.L. c. 6E, 555 CMR, or another source of authority; or any practices that are consistent with generally accepted law enforcement or human resources standards;
  - (b) Limit the ability of the Commission to initiate an audit at any time and for any reason;
  - (c) Establish a standard of care or create any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection on the part of any other person or entity, except as expressly provided; or



- (d) Otherwise waive or limit any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission.
- (3) Nothing in 555 CMR 12.00 is intended to require an agency or officer to furnish any item that is protected by a privilege against disclosure recognized by law and held by that agency or officer.

12.03: Definitions

(1) 555 CMR 12.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 12.03(2).

(2) For the purposes of 555 CMR 12.00, the following terms have the following meanings, unless the context requires otherwise:

Agency. A law enforcement agency as defined in M.G.L. c. 6E, § 1.

Audit. An audit of agency or officer records conducted by or on behalf of the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and/or 8(d), or otherwise.

Body or Person of Authority. An officer's appointing authority or employer; the highest-ranking officer in the law enforcement agency; the Civil Service Commission; any arbitrator or other third-party neutral with decision-making power; and any court.

Certification. The certification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, either as an initial certification or a recertification, and regardless of whether it is subject to any condition, limitation, restriction, or suspension.

Commission. The Massachusetts Peace Officer Standards and Training Commission established pursuant to M.G.L. c. 6E, § 2, including its Commissioners and its staff.

Complaint. A complaint as defined in 555 CMR 1.01(1).

Constable. An individual who is elected or appointed as a constable pursuant to M.G.L. c. 41, §§ 1, 91, or 91A.

Compulsory Legal Process. A summons, subpoena, judicial order, administrative agency order, or civil investigative demand.

Executive Director. The Executive Director of the Commission appointed pursuant to M.G.L. c. 6E, § 2(g), or that person's designee for relevant purposes.

Include (or Including). Include (or including) without limitation.

Maintain. With respect to a record, to preserve all parts of the record, including those that are not easily visible, and to store it in a manner that will enable it to be easily retrieved.

Member. An officer, employee, or independent contractor.

MPTC. The Municipal Police Training Committee within the Executive Office of Public Safety and Security established pursuant to M.G.L. c. 6, § 116.

Officer. A law enforcement officer as defined in M.G.L. c. 6E, § 1, or an individual who possesses an officer certification.

Officer Certification. A certification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, regardless of whether it is subject to any condition, limitation, restriction, or suspension.

Official. Authorized or approved by a proper authority.

Policy. Any policy, rule, regulation, protocol, standard, guideline, operating procedures, other procedure, decree, directive, mandate, manual, handbook, guide, advisory, form of guidance, plan, mission statement or comparable statement, organizational chart, or memorandum of understanding that is duly approved by appropriate personnel and issued in writing.

Recertification. A type of certification involving a renewal of a previously granted certification.

Record. Any form of record, book, paper, document, written material, data, or information, regardless of whether it is a type of record referenced in M.G.L. c. 6E, § 8(d), and regardless of whether it is a “public record” under M.G.L. c. 4, § 7, cl. 26.

SRO. A school resource officer as defined in 555 CMR 10.03(2).

SRO Certification. An initial specialized certification of an individual as a school resource officer pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b), regardless of whether it is subject to any condition, limitation, restriction, or suspension.

Suspension. When referring to an officer certification or an SRO certification, a suspension of the certification, including an administrative suspension, pursuant to M.G.L. c. 6E, §§ 3, 9, and/or 10.

#### 12.04: Agency Creation and Maintenance of Records

(1) For each officer that an agency employs, the agency shall create and maintain the following records, with the officer identified by name, and if practicable, shall place an original or a copy of each record within the relevant officer’s personnel file:

- 12.04(1): Strike the provision regarding the placement of records in personnel files, and instead require the creation of a separate and distinct POST Personnel File, to avoid requiring any steps that may differ from the requirements in statutes or collective bargaining agreements concerning personnel files, and to avoid creating unduly large files. (Massachusetts Coalition of Police)
- 12.04(1): Strike the provision regarding the placement of records in personnel files, at least with respect to certain specified records, and perhaps provide for certain types to be kept separate from others. (Massachusetts Chiefs of Police Association).
- 12.04(1): Strike the provision regarding the placement of records in personnel files, at least with respect to the records listed in (d), and instead provide for such records to be segregated in a disciplinary file. (Committee for Public Counsel Services (CPCS))

(a) A record reflecting each of the following forms of personnel information:

1. The date of hiring;
2. The date of any separation from employment and the nature of any separation, including suspension, resignation, retirement or termination;
3. The reason for any separation from employment, including whether the separation was based on misconduct or whether the separation occurred while the appointing agency was conducting

an investigation of the officer for a violation of an appointing agency's rules, policies, or procedures or for other misconduct or improper action;

- 12.04(1)(a)(3): Provide for greater standardization and clarity with respect to department reports regarding officers' reasons for leaving (e.g., whether it was to avoid discipline). (Rep. Christine Barber)

4. The date and nature of any leave time taken;
5. Any professional award, achievement, or commendation;
6. An email address that the Commission may use to correspond with the officer; and
7. The name and an email address of the head of the officer's collective bargaining unit, if any;

(b) A record reflecting each of the following matters, with respect to officer certification:

1. Information generated by any background check;
2. Information resulting from any physical or psychological evaluation;
3. A summary of any interview;
  - 12.04(1)(b)(3): Consider providing more specificity as to the types of interviews to be included. (Massachusetts Association for Professional Law Enforcement (MAPLE))
  - 12.04(1)(b)(3): Exempt letters of counseling, in light of how they are used and in order to avoid discouraging their use as a method of mentoring and coaching. (Massachusetts Association for Professional Law Enforcement (MAPLE))
  - 12.04(1)(b)(3): "Exempting letters of counseling, or some simple notes to a personnel file by a supervisor might be a good idea. Even expungement after a period of time may be wise. But, it is critical to not defang or render the Mass. POST commission weak, and unable to improve policing in Massachusetts." (Jack Lu).
    - *Note: Based on the introductory language in 12.04(1)(b), the summaries of interviews are confined to those "with respect to officer certification."*
4. Each response to any questionnaire question;
5. Any agency determination of whether an individual possesses good moral character and fitness for employment in law enforcement;
6. Any other determination of whether an individual satisfies a qualification for certification;
7. Any letter of reference or endorsement;
8. An officer's satisfaction or failure to satisfy the conditions attached to any conditional certification; and
9. Any other information required by statute, regulation, or Commission policy related to certification;

(c) The following with respect to any SRO certification or service:

1. A record reflecting each of the matters listed in 555 CMR 12.04(1)(b);
2. Each memorandum of understanding, as defined in 555 CMR 10.03(2), that is required by law;
3. Each set of operating procedures, as defined in 555 CMR 10.03(2), that is required by law; and
  - 12.04(1)(c)(3): Consider revising this provision, as department policies can be voluminous, making the requirement cumbersome. (Massachusetts Association for Professional Law Enforcement (MAPLE))
    - *Note: Based on the introductory language in 12.04(1)(c), the terms of 12.04(1)(c)(3), and the definition of "operating procedures" in 555 CMR*

*10.03(2), the operating procedures are confined to those that “provide guidance to SROs about daily operations, policies and procedures” and are required by law (such as M.G.L. c. 71, § 37P).*

- 12.04(1)(c)(3): Consider requiring a record of whether the officer received training on the policy at issue. (Massachusetts Association for Professional Law Enforcement (MAPLE))
4. A record reflecting the officer’s places and dates of assignment as an SRO;
- (d) A record reflecting each type of complaint against, investigation of, and discipline of the officer, including any and each:
1. Complaint against the officer;
  2. Investigation of the officer by an internal affairs unit, an internal review board, a civilian oversight board, or a comparable body;
    - 12.04(1)(d)(1), (d)(2): Consider requiring a record of the disposition of each complaint, perhaps using the traditional dispositions of “sustained,” “not sustained,” “unfounded,” and “exonerated.” (Massachusetts Association for Professional Law Enforcement (MAPLE))
    - 12.04(1)(d)(1), (d)(2): Give departments the discretion to expunge all un-sustained and unfounded complaints after a period of time, such as three years. (Massachusetts Association for Professional Law Enforcement (MAPLE))
    - 12.04(1)(d)(1), (d)(2): Establish a standard of proof for sustaining complaints, such as “preponderance of the evidence” or “clear and convincing.” (Massachusetts Association for Professional Law Enforcement (MAPLE))
      - *Note: These regulations are currently confined to the subjects listed in 12.02(1).*
    - 12.04(1)(d)(1), (d)(2): Consider rejecting the view that “complaints alone should be a factor in considering the suitability of officers for certification.” (Massachusetts Association for Professional Law Enforcement (MAPLE))
      - *Note: These regulations are currently confined to the subjects listed in 12.02(1).*
  3. Discipline imposed on the officer, including any last chance agreement or separation agreement;
  4. Arrest of the officer;
  5. Criminal prosecution against the officer;
  6. Civil action against the officer that is related to the officer’s service in law enforcement;
  7. Investigation or inquest arising from a fatality involving the officer;
  8. Civil Service Commission proceeding involving any allegation that the officer engaged in misconduct;
  9. Written reprimand of the officer;
  10. Suspension of the officer’s employment or order that the officer take a leave from employment;
  11. Determination by a prosecutor’s office’s that the officer has engaged in, or has been accused of, misconduct that warrants not calling the officer as a witness in court or that must be disclosed to defendants; and
    - 12.04(1)(d)(11): Strike this requirement, as prosecutors’ offices have inconsistent standards. (Frank Frederickson, Massachusetts Fraternal Order of Police)

- 12.04(1)(d)(11): Strike this requirement, as there are reasons to be concerned about prosecutors’ determinations and their maintenance of files on officers. Instead, “District Attorneys should file complaints directly to the POST Commission, if they have issues with the credibility of an officer.” (Massachusetts Association for Professional Law Enforcement (MAPLE))
- 12.04(1)(d)(11): Reconsider the Commission’s “use of prosecutorial determinations with regard to evaluating police officer suitability,” as there are reasons to be concerned about prosecutors’ determinations. (Massachusetts Association for Professional Law Enforcement (MAPLE))
  - *Note: These regulations are currently confined to the subjects listed in 12.02(1).*

12. Complaint, investigation, or disciplinary matter vacated or resolved in favor of the officer;

- 12.04(1)(d): Add to this list any complaint of evidence mismanagement, lack of candor, or other misconduct that impairs the integrity of the judicial process. (Committee for Public Counsel Services (CPCS))
  - *Note: In light of the definitions of “complaint” and “including” in 555 CMR 12.03(2), the introductory language of 12.04(1) and 12.04(1)(d), and the specific language in 12.04(1)(d)(1), the regulations provide for the creation and maintenance of a record of any and each “complaint,” as that term is defined in 555 CMR 1.01(1), against an officer. Also, 12.04(3)(b) provides for the maintenance of each record that pertains to a complaint against an officer.*

(e) A record reflecting all in-service training and retraining that the officer completed, the officer’s failure to complete any required in-service training or required retraining, and any mitigating factor or other explanation offered by the officer for any such failure;

- 12.04(1)(e): Require the recording and filing of actual scores on examinations and firearms qualifications when mitigation is involved. (Massachusetts Association for Professional Law Enforcement (MAPLE))

(f) The following records concerning uses of force, crowd control, injuries, and deaths:

1. All records, including all policies, procedures, forms, reports, statements, plans, communications, and notifications, that are required to be created pursuant to 555 CMR 6.00: *Use of Force by Law Enforcement Officers* or any Commission policy;
2. A record reflecting each serious bodily injury and officer-involved injury or death, as those terms are defined in 555 CMR 6.03, regardless of whether the injury or death was suffered by an officer or a member of the public; and
3. A record reflecting the full content of each report submitted to the National Use of Force Data Collection database maintained by the Federal Bureau of Investigation; and

(g) All other records, or categories of records, designated by the Commission.

- 12.04(1)(g): “Eliminate.” (Frank Frederickson, Massachusetts Fraternal Order of Police)

(2) For each individual that is appointed or elected to serve as a constable within an agency’s area of jurisdiction, the agency shall create and maintain the following records, with the constable identified by name, and if practicable, shall place an original or a copy of each record within an individual file for the constable:

- (a) A record reflecting an address, telephone number, and email address for the constable; and
- (b) A record reflecting the beginning and end dates of the constable’s term or terms of appointment or election.
  - 12.04(2): Consider striking this subsection, as constables do not work for law enforcement agencies and so these records should instead be maintained by the municipality. (Massachusetts Chiefs of Police Association)
  - 12.04(2): Consider striking this subsection, as “[c]onstable language has no place in this CMR.” (Frank Frederickson, Massachusetts Fraternal Order of Police)

(3) Each agency shall additionally maintain the following records, and if practicable, shall place an original or a copy of each record within the relevant officer’s personnel file:

- (a) Each set of fingerprints of an agency member that the agency has obtained;
- (b) Each record pertaining to a type of complaint against, investigation of, or discipline of an agency officer, including each type listed in 555 CMR 12.04(1)(d);
  - 12.04(3)(b): Consider striking this provision, as it appears to be a restatement of a previous section. (Massachusetts Association for Professional Law Enforcement (MAPLE))
    - *Note: 12.04(1)(d)(1) provides for the creation and maintenance of a record of each complaint, investigation, or form of discipline, while 12.04(3)(b) provides for the maintenance of each record that pertains to a complaint, investigation, or form of discipline.*
- (c) Each agency policy, as defined in 555 CMR 12.03;
- (d) Each official communication by the agency to its personnel regarding its policies and applicable regulatory requirements;
- (e) Each final and official annual report or periodic report for the agency or one of its units;
  - 12.04(3)(e): Strike any requirement that these records be placed in individual personnel files, as they are pertain to the overall department, making such a requirement cumbersome. (Massachusetts Association for Professional Law Enforcement (MAPLE))
- (f) Each final and official description of the duties, powers, or functions of the agency, or one of its units or members;
- (g) Each contract to which the agency is a party;
  - 12.04(3)(g): Strike any requirement that these records be placed in individual personnel files, as they are pertain to departmental business and administration, though they “should be available to the Commission.” (Massachusetts Association for Professional Law Enforcement (MAPLE))
  - 12.04(3)(g): Consider striking this provision, as it may “go[] beyond the scope of POST.” (Frank Frederickson, Massachusetts Fraternal Order of Police)
- (h) With respect to any audit, analysis, or evaluation of the agency’s records, finances, budget, personnel, resources, performance, compliance with legal requirements, satisfaction of accreditation or other standards, by any internal or external auditor, analyst, evaluator, consultant, or accreditor:
  1. Each record exchanged between the agency and the auditor, analyst, evaluator, consultant, or accreditor; and
    - 12.04(3)(h)(1): Strike this provision, out of concern about it being too cumbersome, and replace it with one providing for an inventory of the records examined that is signed by the auditor and department representative. (Massachusetts Association for Professional Law Enforcement (MAPLE))

2. Each final report resulting from the audit, analysis, or evaluation; and
  - 12.04(3)(h): Consider striking this subsection, as it may “go[] beyond the scope of POST.” (Frank Frederickson, Massachusetts Fraternal Order of Police)
- (i) Any other records, or categories of records, designated by the Commission.
- (4) The Commission may require an agency to:
  - (a) Employ certain terminology, incorporating Commission-prescribed definitions, regarding the disposition of complaints or other matters; and
    - 12.04(4)(a): Require the creation of “universal reporting categories to prevent vague or differing levels of information across departments,” and “create[e] one standard for sharing investigations or discipline for any actions by [a] department” (e.g., not listing a disciplinary action as “other”). (Rep. Christine Barber)
  - (b) Employ certain recordkeeping practices.
    - 12.04(4)(b): Require agencies to permit appropriate prosecutors to review disciplinary files so that they can fulfill their obligations under the doctrine emanating from Brady v. Maryland. (Committee for Public Counsel Services (CPCS))
- (5) Each agency head shall ensure that the agency complies with M.G.L. c. 149, § 52C.
- (6) Each agency head shall take adequate steps to ensure accuracy in representations made within agency records.
  - 12.04: State that the regulations do not supersede existing Massachusetts Records Retention Schedules. (Massachusetts Chiefs of Police Association)
  - 12.04: State that the regulations do not require the re-creation of records that were lawfully destroyed previously. (Massachusetts Chiefs of Police Association)

12.05: Agency Reporting of Information

- (1) Each agency shall report to the Commission regarding the following, without request, pursuant to 555 CMR 1.01 if that regulation is applicable, or otherwise immediately:
  - (a) The satisfaction of conditions associated with an agency officer’s conditional officer certification or conditional SRO certification;
  - (b) Each placement of an agency officer’s name, or change of an agency officer’s status or listing, on the National Decertification Index maintained by the International Association of Directors of Law Enforcement Standards and Training;
  - (c) The arrest of any agency officer or other agency member, lodging of any criminal charge against such an individual, or disposition of any criminal charge against such an individual;
    - 12.05(1)(c): Strike “other agency member.” (Frank Frederickson, Massachusetts Fraternal Order of Police)
  - (d) The assertion and disposition of any claim against any agency officer or other agency member in a civil action that relates to the member’s service in law enforcement;
  - (e) The completion of in-service training required of an agency officer whose officer certification or SRO certification has been administratively suspended pursuant to M.G.L. c. 6E, §§ 3 and/or 9;
  - (f) The satisfaction of conditions required of an agency officer whose officer certification or SRO certification has been suspended, restricted, or limited pursuant to M.G.L. c. 6E, §§ 3, 9, and/or 10;
  - (g) The completion of retraining required of an agency officer pursuant to M.G.L. c. 6E, §§ 3 and/or 10(d); and

- (h) Each material change in any circumstances, condition, or matter that provided the foundation for:
1. Any agency recommendation that the Commission suspend or revoke an individual's officer certification or SRO certification;
  2. Any agency recommendation that the Commission order an officer to undergo retraining;
  3. Any action by the Commission or any part of the Commission to pursue a suspension or revocation of the officer certification or SRO certification of an agency officer; or
  4. Any order that an agency officer undergo retraining;
- (i) Any change in:
- ~~(1e)~~ Contact information for the officer that has been provided to the Commission;
  - ~~(2d)~~ The officer's place of employment;
  - ~~(3e)~~ The officer's work status, including on-leave status; or
    - 12.05(1)(i)~~(3e)~~: Clarify this provision to avoid any misinterpretation as to "whether this includes vacation, sick days, bereavement days, etc." (Massachusetts Chiefs of Police Association)
  - ~~(4f)~~ The name of, or contact information for, the head of the officer's collective bargaining unit, if any.
- (2) Each agency shall additionally provide the following to the Commission, in accordance with Commission instructions:
- (a) Records of completion of training by officers;
  - (b) Records concerning individuals elected or appointed to serve as constables within the agency's area of jurisdiction; and
  - (c) Any other records, or categories of records, designated by the Commission.
- (3) Each agency shall ensure accuracy in all representations it makes to the Commission.

12.06: Agency Liaison to Commission

- (1) Each agency shall designate one or more of its members to serve as a liaison to the Commission with respect to all areas in which information is exchanged between the agency and the Commission.
- (2) A liaison shall be responsible for taking the following steps, in accordance with Commission instructions:
- (a) Providing the Commission with an email address that may be used for correspondence with the Commission;
  - (b) Regularly monitoring the mailbox associated with the email address provided;
  - (c) Ensuring that the agency makes required reports, and transmissions of information, to the Commission;
  - (d) Receiving information from the Commission;
  - (e) Ensuring that Commission policies, notices, and communications are transmitted to appropriate agency members;
  - (f) Ensuring accuracy in all agency representations to the Commission; and
  - (g) Any other steps required by the Commission or the agency.

12.07: Officer Maintenance and Reporting of Information

- (1) Each officer shall:
- (a) Maintain all records listed in 555 CMR 12.04(1) that relate to, and come into the possession of, the officer;
    - 12.07(1)(a): Strike this requirement, on the idea that such record maintenance is traditionally the employer's responsibility; out of concerns about overreaching, the time and burden that would be required, and the risk of discipline; and as "it is unclear if an officer satisfies the requirement by



passively keeping electronic copies on the servers of the employer, or if the officer should be expected to print or maintain such records on a non-Agency device.”

(Massachusetts Coalition of Police)

- 12.07(1)(a): Revise this provision out of concerns about vagueness, burdens, and lack of clarity as to its scope and intent. (Massachusetts Chiefs of Police Association)
- 12.07(1)(a): Continue to “impose separate and independent responsibilities on both the individual officer and the broader agency to keep records *and* to report them to POST.” (Committee for Public Counsel Services (CPCS))

(b) Provide the following to the officer’s employing agency, or if the officer has no employing agency, to the Commission, in accordance with any Commission instructions:

1. An email address that the Commission may use to correspond with the officer;
2. The name and an email address of the head of the officer’s collective bargaining unit, if any;
  - 12.07(1)(b)(2): Consider striking this provision, as “[i]nformation regarding collective bargaining contacts and union membership appears to be beyond the scope of the POST statute,” making the provision unnecessary. (Massachusetts Association for Professional Law Enforcement (MAPLE))
    - *Note: M.G.L. c. 6E, § 8(c)(s) provides that “[t]he division of police standards shall notify any law enforcement officer who is the subject of [a] preliminary inquiry, the head of their collective bargaining unit and the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.” Commission regulations affirm that officers will receive such a benefit in that context and others. See 555 CMR 1.01(2)(c)(2), 1.04, 1.08(3), 1.10(4)(e)(2)(a), 7.05(2)(c), 7.07(1), 9.10(3)(c), 10.06(6)(c).*
3. Any change in:
  - a. Contact information for the officer that has been provided to the Commission;
  - b. The officer’s place of employment;
  - c. The officer’s work status, including on-leave status; or
  - d. The name of, or contact information for, the head of the officer’s collective bargaining unit, if any;
4. A report of each matter listed in 555 CMR 12.05(1) that relates to the officer, immediately and without request; and
  - 12.07(1)(b)(4): “Same as above [sic].” (Massachusetts Association for Professional Law Enforcement (MAPLE))
5. Records of completion of training;

(c) Regularly monitor the mailbox associated with the email address that is provided pursuant to 555 CMR 12.07(1)(b)1. for messages from the Commission;

(d) Ensure accuracy in all representations made:

1. Within records related to the individual’s service as an officer;
2. To any body or person of authority; and
  - 12.07(1)(d)(2): Clarify whether this provision “refer[s] only to statements made in an official capacity as an officer.” (Massachusetts Chiefs of Police Association)

- 12.07(1)(d)(2): Clarify the term “body or person of authority.” (Massachusetts Chiefs of Police Association)
  - *Note: The term “body or person of authority” is defined in Section 12.03(2).*
- 3. To the Commission; and
- (e) Take any other steps required by the Commission.
  - 12.07(1): This subsection “[n]eeds to be carefully reviewed line by line to see to there is authority and if labor rights are being dismissed” and out of concern about overbreadth. (Frank Frederickson, Massachusetts Fraternal Order of Police)

12.08: Procedures for Audits

- (1) The Commission may, at any time, conduct, or cause to be conducted, an audit of the records referenced in M.G.L. c. 6E, § 8(d) or other records of an agency or an officer.
- 12.08(1): Provide a mechanism for whistleblowers and members of the public to request that a certain practice in an agency be audited. (Committee for Public Counsel Services (CPCS))
  - 12.08(1): Eliminate the requirement that officers submit to audits, for the reasons stated under 12.07(1)(a). (Massachusetts Coalition of Police)
  - 12.08(1): Consider striking or revising the provision allowing the Commission to initiate an audit at any time, as opposed to being “triggered by a complaint or other notice of non-compliance,” out of concerns about overreaching and unnecessary disruptions. (Massachusetts Chiefs of Police Association)
    - *Note: This phrase “at any time” was derived from the language in M.G.L. c. 6E, § 8(d) providing that the Commission’s “rules and regulations establishing an audit procedure” “shall not limit the ability of the division of police standards to initiate an audit at any time and for any reason.”*
- (2) Steps that may be taken in a Commission audit include the following, where not precluded by law:
- (a) Requiring an agency auditee to:
1. Identify one or more members who have sufficient authority to ensure that required actions are taken and recommendations will be evaluated;
  2. Identify one or more members who will be available to take administrative steps that may be required as part of the audit;
  3. Direct agency personnel to comply with the audit;
  4. Provide any auditor with sufficient access to the agency head;
  5. Provide any auditor with sufficient access to agency records;
  6. Provide any auditor with materials or information that sufficiently explain the structure and operation of the agency’s electronic and non-electronic recordkeeping systems;
  7. Provide any auditor with appropriate administrative and technical assistance;
  8. Provide records in a designated electronic or non-electronic format;
  9. Cooperate in developing and implementing an audit plan;
  10. Ensure that appropriate personnel complete training necessary for the audit to be effective;
  11. Provide written or unwritten responses to recommendations by an auditor;
  12. Create or contribute to creating, and follow, a plan for future action, based on the audit;
  13. Inform other government officials or members of the public of certain findings made by Commission auditors, to the extent appropriate; and

14. Take certain steps following the audit’s conclusion, including filing reports with the Commission or complying with one or more subsequent audits;
  - (b) Requiring a member of an agency auditee to:
    1. Participate in a recorded or an unrecorded interview; and
    2. Complete a questionnaire or self-assessment;
  - (c) Requiring an officer auditee to:
    1. Cooperate in developing and implementing an audit plan;
    2. Provide any auditor with sufficient access to records of the auditee;
    3. Participate in a recorded or an unrecorded interview;
    4. Complete a questionnaire or self-assessment;
    5. Provide written responses to recommendations by an auditor;
    6. Create or contribute to creating, and follow, a plan for future action, based on the audit; and
    7. Take steps following the conclusion of the audit, including filing reports with the Commission or complying with one or more subsequent audits;
  - (d) Reviewing any records referenced in 555 CMR 12.04 or other records;
  - (e) Obtaining relevant information from individuals and entities other than the auditee;
  - (f) Developing a plan for the auditee to follow, or a set of recommendations for the auditee, based on the audit;
  - (g) Informing other government officials or members of the public of certain findings made by Commission auditors, to the extent appropriate;
  - (h) Executing a confidentiality agreement, or otherwise maintaining confidentiality, with respect to the auditee’s records and/or aspects of the audit, to the extent confidentiality is not precluded by law;
  - (i) Publicizing progress, achievements, and commendable practices by agencies and officers, and offering information on such matters in informing others in law enforcement about best practices; and
  - (j) Taking any other step that is consistent with the Commission’s authority, or with generally accepted government auditing standards.
  
- (3) Commission auditors may include individuals who are not Commission employees, but are retained by the Commission and subject to Commission oversight.
  - 12.08(3): Clarify “why non-employees would be used.” (Massachusetts Chiefs of Police Association)
  - 12.08(3): Clarify “what qualifications [non-employees] must possess to ensure the integrity and confidentiality of audits.” (Massachusetts Chiefs of Police Association)
  
- (4) The Commission may also direct an agency to conduct an internal audit according to Commission guidelines.
  - 12.08(4): Consider striking or revising this provision, so as not to “allow the delegation of POST authority to other agencies.” (Massachusetts Association for Professional Law Enforcement (MAPLE))
    - *Note: Based on the definition of “agency” in 12.03(2) and the use of “internal” in 12.08(4), this subsection only provides for the Commission to direct a law enforcement agency to audit itself.*

12.09: Areas of Examination in Audits

- (1) In conducting an audit, the Commission may examine any areas related to the Commission’s statutory charge, including:
  - (a) Agency or officer functioning, generally or with respect to a particular matter, in the following areas:
    1. Recordkeeping or reporting of information, within the agency, to the Commission, and to other entities;

2. Compliance with directives, sources of authority, policies, and standards related to law enforcement and agency management, including:
  - a. M.G.L. c. 6E;
  - b. 555 CMR;
  - c. Commission policies;
  - d. Commission certification conditions, restrictions, and limitations;
  - e. Commission-issued compulsory legal process;
  - f. Other Commission directives;
  - g. M.G.L. c. 6, §§ 167 through 178B;
  - h. Other statutes and regulations;
  - i. Court judgments, consent decrees, orders, or rules;
  - j. Decisions by other authorities;
  - k. Other compulsory legal process;
  - l. Agency policies; and
  - m. Generally accepted law enforcement standards;
    - 12.09(1)(a)(2)(m): Clearly define “generally accepted law enforcement standards.” (Massachusetts Chiefs of Police Association)
  
3. The adequacy of investigations and determinations, including:
  - a. The adequacy of background investigations concerning active and prospective agency members;
  - b. The adequacy of other investigations and analysis;
  - c. The accuracy and completeness of reports and factual recitations;
  - d. The adequacy of notifications to affected individuals;
  - e. The appropriateness of interview procedures;
  - f. The prevalence and adequacy of recordings and transcriptions;
  - g. The reliability of factfinding;
  - h. The appropriateness of the time devoted to processes;
  - i. The fairness of processes, and how they compare to those in comparable cases;
  - j. The sufficiency of documentation generated;
  - k. The honoring of individual rights; and
  - l. The equity and justness of results, and how they compare to those in comparable cases;
    - 12.09(1)(a)(3): Establish clear, objective standards to guide these evaluations (regarding, e.g., “adequacy,” “completeness,” and “appropriateness”). (Massachusetts Chiefs of Police Association)
  
4. Internal and external communication, including:
  - a. The communication of Commission and agency policies, and required notifications, to agency personnel;
  - b. The treatment of information that one agency member has reported to another;
  - c. Other communication and interaction with agency personnel;
  - d. Communication and interaction with the Commission and other agencies; and
  - e. Communication and interaction with complainants, victims, witnesses, and other members of the public; and
    - 12.09(1)(a)(4)(e): Specify qualifications for auditors and ensure the confidentiality of reviewed records, including adherence to any requirements of the Massachusetts Department of Criminal Justice Information Services (DCJIS), out of concerns about jeopardizing ongoing investigations. (Massachusetts Chiefs of Police Association)

5. Other aspects of performance, including the sufficiency, fairness, equity, justness, soundness, timeliness, efficiency, and effectiveness of policies and activity; and
  - (b) Substantive information that may warrant analysis or aid the Commission in developing or recommending policies or informing the public.
- (2) A Commission audit may focus on subjects that are referenced in M.G.L. c. 6E, § 8(d) or are otherwise related to the Commission’s statutory charge, including:
- (a) Officer certification;
  - (b) SRO certification, activity, memoranda of understanding, and operating standards;
  - (c) Agency certification, including standards concerning:
    1. Use of force and reporting of use of force;
    2. Officer code of conduct;
    3. Officer response procedures;
    4. Criminal investigation procedures;
    5. Juvenile operations;
    6. Internal affairs and officer complaint investigation procedures;
    7. Detainee transportation; and
    8. Collection and preservation of evidence;
  - (d) Complaints, investigations, disciplinary matters, and misconduct involving officers, including conduct involving improper:
    1. Racial profiling or other forms of bias;
    2. Violence or dangerousness;
    3. Dishonesty;
    4. Nonintervention;
    5. Harassment, intimidation, or retaliation;
    6. Unlawfulness or obstruction of justice; or
    7. Unprofessionalism;
  - (e) In-service training and retraining;
  - (f) Uses of force, crowd control, injuries, and deaths;
  - (g) The law concerning:
    1. The handling of evidence that may be exculpatory or otherwise relevant with respect to a criminal matter;
    2. Civil rights;
    3. Other aspects of criminal procedure;
    4. Labor and employment; and
    5. Public records, criminal record information, disclosure, and fair information practices;
  - (h) Other law enforcement activity;
  - (i) Patterns on the part of single individuals, multiple individuals within an agency, or multiple individuals in different agencies; and
  - (j) Any other area relevant to the development of public policy or another matter of public interest.

- 12.09: “[F]ocus on clearly establishing and communicating the standards and criteria by which departments will be evaluated and . . . provide the department with any necessary training” before auditing agencies. (Massachusetts Chiefs of Police Association).

12.10: Verification of Information

- (1) The Commission, where not otherwise precluded by law, may require any agency or officer to furnish a statement, including one under the pains and penalties of perjury, addressing one or more of the following:
  - (a) Whether certain information in a record is accurate;
  - (b) Whether a record is authentic;
  - (c) Whether a record is a true and accurate copy of another;
  - (d) The contents or disposition of an original record;
  - (e) The circumstances surrounding the making of the record or similar records;

- (f) Efforts made to locate a record;
- (g) How records are kept and maintained; and
- (h) Whether a record has certain characteristics that may have relevance to its authenticity or evidentiary admissibility.
- 12.10(1): Consider the impact of jurisprudence regarding compelled interviews. (Massachusetts Chiefs of Police Association)
  - *Note: Section 12.02(3) provides, “Nothing in 555 CMR 12.00 is intended to require an agency or officer to furnish any item that is protected by a privilege against disclosure recognized by law and held by that agency or officer.”*

12.11: Sufficiency of Notice

Notice by the Commission to an agency, an officer, or the head of a collective bargaining unit, in implementing any aspect of M.G.L. c. 6E, 555 CMR, or a Commission policy, shall be sufficient if provided using an email address or other address that was furnished to the Commission, by or on behalf of the addressee or officer at issue, for such purpose.

12.12: Enforcement and Disciplinary Action

(1) The Commission may take disciplinary action against an agency or an officer, pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 5(c), 8, 9, 10, and/or 12, provided other applicable provisions of M.G.L. c. 6E and 555 CMR are satisfied, based on the following:

- (a) A failure to comply with 555 CMR 12.00, or with a Commission audit or directive thereunder;
  - 12.12(1)(a): Provide for any disciplinary action to be predicated upon proof of willfulness or negligence with regard to compliance (e.g., “repeated letters requesting compliance, personal contact, final warnings to the Chief etc.”), as opposed to strict liability, out of concerns about the consequences to individuals. (Massachusetts Association for Professional Law Enforcement (MAPLE))
- (b) A failure to be accurate in any recordkeeping or any representations to the Commission;
- (c) Harassment, intimidation, or retaliation against any individual for taking any step, or interference with one’s taking of any step, that is required by M.G.L. c. 6E, 555 CMR, the Commission, or a Commission audit; or
- (d) Evidence of misconduct that is uncovered through a Commission audit.

(2) The Commission may, by a vote taken in accordance with M.G.L. c. 6E, § 2(e), levy and collect assessments, fees, and fines, and impose penalties and sanctions against an agency or an officer, pursuant to M.G.L. c. 6E, § 3(a), based on a ground listed in 555 CMR 12.12(1)(a) through (d).

- 12.12(2): Limit and add specificity to this provision, such as by “address[ing] what kind of assessments, fees, and fines are permitted,” in part to avoid giving the Commission “unbridled discretion to assess sanctions.” (Massachusetts Chiefs of Police Association)
  - *Note: M.G.L. c. 6E, § 3(a) provides in part that “[t]he commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to: . . . (4) . . . fine a person certified for any cause that the commission deems reasonable; . . . [and] (22) levy and collect assessments, fees and fines and impose penalties and sanctions for a violation of this chapter or any regulations promulgated by the commission.” Also, 12.12(2) refers to assessments, fees, fines, penalties, and sanctions based only on one of the four grounds listed under 12.12(1).*

(3) The Commission may refer information that it obtains through an audit to an appropriate government office for possible criminal or civil enforcement action, pursuant to M.G.L. c. 6E, §§ 3(a) and/or 8(c)(2).

- 12.00 Generally: “[C]onsider the financial and logistical impacts on law enforcement agencies,” such as the need for “significant additional resources, including personnel and technology,” as well as the lack of “necessary funding and infrastructure” in many agencies, especially smaller ones. (Massachusetts Chiefs of Police Association)
- 12.00 Generally: Take “a more balanced approach that minimizes administrative burdens while achieving the intended objectives of transparency and accountability,” in light of the potential for “considerable administrative burden” and the “diver[sion of] critical resources from essential policing activities, potentially affecting public safety and operational efficiency.” (Massachusetts Chiefs of Police Association)
- 12.00 Generally: Include “robust data privacy and security measures,” out of concerns about “the privacy and security of sensitive law enforcement records,” and the risk of “unauthorized access and breaches.” (Massachusetts Chiefs of Police Association)

REGULATORY AUTHORITY

555 CMR 12.00: M.G.L. c. 6E, §§ 3(a), 8(d).

5b.



555 CMR 13.00: LAW ENFORCEMENT AGENCY CERTIFICATION STANDARDS

Section

- 13.01: Purpose and Scope
- 13.02: Definitions
- 13.03: Standards
- 13.04: Compliance
- 13.05: Assessment
- 13.06: Maintaining Compliance
- 13.07: Re-Assessment
- 13.08: Waiver
- 13.09: Enforcement and Disciplinary Action
- 13.10: Severability

13.01: Definitions

As used in 555 CMR 13.00, the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

Agency. A Law Enforcement Agency as defined in M.G.L. c. 6E, § 1.

De-escalation. The process of slowing down, stabilizing, and reducing the intensity of an incident to avoid or mitigate the need to use force and to avoid or reduce threats, gain the voluntary compliance of the member of the public involved in the incident, and safely resolve the incident without further jeopardizing the safety of any member of the public witness to or involved in the incident.

De-escalation Tactics. De-escalation Tactics as defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03. The use of force is not a de-escalation tactic.

Incident. An encounter, interaction, event, or occurrence between an officer and a member of the public.

Officer. A Law Enforcement Officer as defined in M.G.L. c. 6E, § 1.

13.03: Standards

All agencies shall develop and implement written policies on the following topics that meet or exceed the following standards:

- (1) Use of force. An agency's use of force policy shall:
  - (a) Emphasize the dignified and respectful treatment of all members of the public witness to and involved in an incident;

## Agency Certification Standards – Draft Use of Force and Reporting Standards

- (b) Instruct officers to implement their agency’s use of force policy and sub-policies in a manner that is fair and unbiased;
- (c) Include a sub-policy concerning de-escalation that:
  - 1. Instructs officers to focus on de-escalation throughout an incident;
  - 2. Instructs officers on the use of various de-escalation tactics, including:
    - a. Actively and empathetically listening;
    - b. Explaining what the officer is doing and why;
    - c. Remaining calm;
    - d. Exhibiting patience;
    - e. Waiting;
    - f. Verbal communication;
    - g. Non-verbal communication;
    - h. Creating physical distance between the officer and a member of the public;
    - i. Placing barriers or using existing structures to provide a shield or other protection between the officer and a member of the public;
    - j. Requesting and using additional support and resources; and
    - k. Utilizing critical thinking skills to pivot to other de-escalation tactics in response to changing dynamics.
  - 3. Instructs officers to utilize de-escalation tactics at all available and appropriate opportunities, including before initially arriving at a scene, before using force, and before escalating the use of force;
  - 4. Instructs officers on the importance of situational awareness; and
  - 5. Instructs officers, when time and circumstances reasonably permit, to:

Agency Certification Standards – Draft Use of Force and Reporting Standards

- a. Consider whether a member of the public’s fear-based reaction or lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including:
  - i. Mental illness;
  - ii. Developmental disability;
  - iii. Medical condition;
  - iv. Physical limitation;
  - v. Language and cultural barriers;
  - vi. Emotional, personal, or trauma-based crisis;
  - vii. Fear, panic, or acute anxiety;
  - viii. Drug or alcohol interaction;
  - ix. The legacy of policing on vulnerable populations; and
  - x. The agency’s history with the public.
- b. Employ developmentally appropriate, trauma informed de-escalation tactics including:
  - i. Using a calm and natural demeanor;
  - ii. Avoiding threatening language; and
  - iii. Other tactics consistent with the Commission’s guidance entitled *Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to the Use of Force for Minor Children*.
- (d) Emphasize de-escalation in accordance with the standards specified in 555 CMR 13.03(1)(c);
- (e) Authorize the use of force only when:
  1. All available and appropriate de-escalation tactics have been attempted and failed or are not feasible based on the totality of the

Agency Certification Standards – Draft Use of Force and Reporting Standards

circumstances; and (M.G.L. c. 6E, § 14(a); CMR 6.04(1) and 6.05(1))

2. No reasonably effective, safe, and feasible alternative appears to exist.
- (f) Set forth comprehensive and specific requirements governing the use of non-deadly force that meet or exceed the requirements specified in 555 CMR 6.04;
  - (g) Set forth comprehensive and specific requirements governing the use of deadly force that meet or exceed the requirements specified in 555 CMR 6.05;
  - (h) For each device available to an officer for the application of force, including firearms and less lethal substances and devices, include a sub-policy concerning the use of that device that:
    1. Sets forth comprehensive and specific requirements governing the use, including the drawing, pointing, or discharging, of the device; and
    2. Instructs officers to consider their surroundings and potential risks to members of the public, to the extent reasonable, before using the device.
  - (i) Include a sub-policy concerning the use of force during mass demonstrations and for the purposes of crowd management that sets forth comprehensive and specific requirements that meet or exceed the requirements specified in 555 CMR 6.08;
  - (j) Instruct officers to immediately de-escalate force when resistance decreases;
  - (k) Instruct officers to immediately stop using force when the member of the public with whom the officer is engaging with stops resisting, the threat has been overcome, or the member of the public with whom the officer is engaging with is secured or in custody;
  - (l) Prohibit officers from using tactics designed to escalate the level of force necessary to resolve an incident;
  - (m) Prohibit officers from using excessive force;
  - (n) Instruct officers present and observing another officer using or attempting to use force beyond that which is necessary or objectively reasonable

Agency Certification Standards – Draft Use of Force and Reporting Standards

based on the totality of the circumstances to intervene in accordance with the requirements specified in 555 CMR 6.06;

- (o) Instruct officers to promptly provide an appropriate medical response to, or otherwise promptly procure appropriate medical assistance for, members of the public when safe and tactically feasible in accordance with the requirements specified in 555 CMR 6.04(4) and 6.05(7);
  - (p) Instruct officers to conduct post-incident de-briefings regarding de-escalation efforts or the use of force;
  - (q) Instruct supervisors to routinely conduct de-escalation reviews to identify officer behaviors that successfully prevented force and accompanying injuries;
  - (r) Instruct supervisors to routinely conduct use-of-force reviews to identify officer behaviors that, if altered, could have prevented force and accompanying injuries; and
  - (s) Ensure that all officers are trained in use of force in accordance with all applicable training requirements.
- (2) Reporting of use of force. An agency's use of force reporting policy shall:
- (a) Instruct officers to report use of force incidents in accordance with the procedures and requirements specified in 555 CMR 6.07, 6.08(4), and 6.09; ([IACP](#))
  - (b) Instruct officers who observe another officer using force beyond that which is necessary or objectively reasonable based on the totality of the circumstances to report the incident in accordance with the procedures and requirements specified in 555 CMR 6.07(4);
  - (c) Instruct members of the public on how they may file a complaint concerning a use of force incident;
  - (d) Set forth comprehensive and specific procedures and requirements governing the timely investigation, analysis, and resolution of use of force incidents, which shall include provisions addressing:
    - 1. The collection, preservation, and use of evidence, consistent with the requirements specified in 555 CMR 13.03(8); and
    - 2. The appropriate administration of discipline.

## Agency Certification Standards – Draft Use of Force and Reporting Standards

- (e) Provide for the agency to analyze use of force reports and complaints on at least an annual basis to:
  - 1. Identify trends in use of force over time;
  - 2. Identify officers who are involved in a disproportionate share of use of force reports and complaints, for the purposes of intervening and improving the officer's use of force behavior and practices; and
  - 3. Issue an annual summary of use of force reports and complaints, for the purposes of increasing transparency and community trust.
- (f) Provide for the agency to maintain records and evidence concerning use of force and complaints in accordance with the requirements specified in 555 6.07(8) and CMR 12.04(1)(f); and
- (g) Ensure that all officers are trained in use of force reporting in accordance with all applicable training requirements.

6a.

**Commonwealth of Massachusetts**  
**Peace Officer Standards and Training Commission**  
**Policy Prohibiting Unauthorized Possession of Weapons in Commission Offices and Designated Facilities**

No weapons of any kind may be brought into the Commission's offices, or any other locations or facilities designated for Commission business, for any reason, without the express authorization of the Executive Director or the Executive Director's designee. For purposes of this policy, "weapons" includes, but is not limited to, firearms and ammunitions; knives and edged devices; batons, bats, clubs, and other blunt objects; tasers, conducted energy devices, and other electronic control devices; chemical weapons; fireworks, explosive ordnance, and similar devices; tear gas, chemical weapons, and other debilitating sprays; and any other item the Commission, within its discretion, deems dangerous and reasonably likely to present a threat to the safety and security of the building or its occupants. This policy governs all persons (including, but not limited to, law enforcement officers) who are attending or participating in proceedings, meetings, seminars, or other events at the Commission's offices and designated facilities, or who are visiting the offices and designated facilities for any other purpose. This policy does not apply to law enforcement officers serving as Commissioners.

It is the responsibility of persons visiting the Commission's offices or attending Commission proceedings, meetings, seminars, or other events at the Commission's offices and designated facilities to comply with the Commission's policy and store all prohibited weapons safely before arriving at the Commission's offices or events. The Commission does not have the capacity to store weapons and will not arrange for the storage of weapons. Anyone found to possess a weapon in violation of this policy will be directed to remove the weapon from the premises immediately or will be denied admission to the Commission's offices, including to any proceeding, meeting, seminar, or other event.

Effective September 14, 2023.



PROPOSED

**Commonwealth of Massachusetts  
Peace Officer Standards and Training Commission**

**Policy Prohibiting Unauthorized Possession of Weapons in Commission Offices  
and Designated Facilities**

No weapons of any kind may be brought into the Commission's offices, or any other locations or facilities designated for Commission business, for any reason, without the express authorization of the Executive Director or the Executive Director's designee. For purposes of this policy, "weapons" includes, but is not limited to, firearms and ammunitions; knives and edged devices; batons, bats, clubs, and other blunt objects; tasers, conducted energy devices, and other electronic control devices; chemical weapons; fireworks, explosive ordnance, and similar devices; tear gas, chemical weapons, and other debilitating sprays; and any other item the Commission, within its discretion, deems dangerous and reasonably likely to present a threat to the safety and security of the building or its occupants. This policy governs all persons (including, but not limited to, law enforcement officers) who are attending or participating in proceedings, meetings, seminars, or other events at the Commission's offices and designated facilities, or who are visiting the offices and designated facilities for any other purpose. This policy does not apply to law enforcement officers serving as Commissioners.

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6b.



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

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## MEMORANDUM

**TO:** Commissioners of the POST Commission  
**FROM:** LaRonica K. Lightfoot, Deputy General Counsel  
**DATE:** August 15, 2024  
**RE:** Policy for Appointment of Hearing Officers

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This memorandum proposes that the POST Commission adopt a policy granting the Chair of the Commission authority to appoint Hearing Officers in adjudicatory proceedings concerning the denial, revocation, or suspension of certifications. In December 2022, the Commission authorized the Chair to utilize the services of retired Massachusetts judges in adjudicatory proceedings until the Commission voted to establish a policy for selecting a presiding officer.<sup>1</sup> A permanent process is now being proposed for Hearing Officers, which process would go into effect immediately upon a vote by the Commission to pass the measure.<sup>2</sup>

The Commission has benefited from the retired judges' collection, admission, and weighing of the evidence that forms the basis for the factual findings ultimately considered by the Commissioners in final decisions.<sup>3</sup> The retired judges have institutional knowledge of how to conduct adjudicatory proceedings. The full Commission retains the ultimate authority to make an independent final determination of the issues.<sup>4</sup>

### KEY SOURCES OF AUTHORITY

#### 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 this chapter;

...

(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;

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<sup>1</sup> See Minutes, POST Comm'n Meeting, December 13, 2022, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.mass.gov/doc/public-meeting-materials-feb16-2023/download.

<sup>2</sup> The proposed policy is Attachment A.

<sup>3</sup> The job description for the Hearing Officer is Attachment B.

<sup>4</sup> See Bos. Police Superior Officers Fed'n v. City of Bos., 414 Mass. 458, 464 (1993).

- (12) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;
- (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 chapter;
- ...
- (16) provide and pay for advisory services and technical assistance as may be necessary in its judgment to carry out this chapter and fix the compensation of persons providing such services or assistance;
- ...
- (24) conduct adjudicatory proceedings in accordance with chapter 30A;....

**M.G.L. c. 6E, § 9**

- (a)(1) The commission shall immediately suspend the certification of any officer who is arrested, charged or indicted for a felony.
- (2) If, after a preliminary inquiry . . . , the commission concludes by a preponderance of the evidence that a law enforcement officer has engaged in conduct that could constitute a felony and upon a vote to initiate an adjudicatory proceeding of said conduct, the commission shall immediately suspend an officer’s certification.
- (3) The commission may, after a preliminary inquiry . . . , suspend the certification of any officer who is arrested, charged or indicted for a misdemeanor, if the commission determines by a preponderance of the evidence that the crime affects the fitness of the officer to serve as a law enforcement officer.
- (4) The commission may, pending preliminary inquiry . . . , suspend the certification of any officer if the commission determines by a preponderance of the evidence that the suspension is in the best interest of the health, safety or welfare of the public.
- (5) A suspension order of the commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.
- (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.
- (c) The commission shall administratively suspend the certification of an officer with a duty to report information to the commission . . . who fails to report such information. The commission shall reinstate the certificate of an officer suspended pursuant to this subsection upon completion of said report.

**555 CMR 1.10**

- (1) Applicability. The following types of adjudicatory hearings shall be held by the full commission, but may, in the chair’s discretion, be heard in the first instance by a presiding officer selected pursuant to a policy established by the commission:
  - (a) M.G.L. c. 6E, § 10(a) hearings regarding mandatory revocation of an officer’s certification;

- (b) M.G.L. c. 6E, § 10(b) hearings regarding discretionary revocation or suspension of an officer's certification;
- (c) M.G.L. c. 6E, § 10(d) hearings regarding officer retraining; and
- (d) Appeals of a decision by the commission declining to certify or recertify a law enforcement officer pursuant to M.G.L. c. 6E, § 4.

...

(4) **Conduct of Hearings.** Hearings held pursuant to 555 CMR 1.10 shall be adjudicatory proceedings conducted in accordance with M.G.L. c. 30A, §§ 1, 8 and 10 through 14, inclusive. All hearings shall further comply with 801 CMR 1.01: *Formal Rules*, except that the provisions of 801 CMR 1.01(1), (2), (6), (11) and (14) shall not apply and that the following additional rules shall supersede those provided in 801 CMR 1.01: (prescribed by M.G.L. c. 6E, § 10(f)).

#### **555 CMR 7.07**

(3) If the decision [of the division of certification] provides for anything other than full recertification, the notification described in 555 CMR 7.07(1) shall also inform the officer of the ability to seek review by the executive director as provided for in 555 CMR 7.10(1) and a hearing as provided for in 555 CMR 1.10 and 555 CMR 7.10(2).

#### **555 CMR 7.10**

(2) **Opportunity for Hearing.** Following the process described in 555 CMR 7.10(1) [Executive Director Review], an officer may request a hearing before the commission concerning an application for recertification in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

#### **555 CMR 9.11**

(1) An applicant who receives a decision from the Division declining to grant a full certification may seek review by the Executive Director as follows.

- (a) Within 21 days of service by email of the Division's decision, the applicant or an endorsing law enforcement agency may submit a written petition to the Executive Director requesting review of the decision.

...

(2) Following the process described in 555 CMR 9.11(1), an applicant or an endorsing law enforcement agency may request a hearing before the Commission concerning an application in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

#### **555 CMR 10.08**

(1) An applicant that receives a decision from the Division declining to grant a full SRO [School Resource Officer] certification for an individual may seek review by the Executive Director as follows.

- (a) Within 21 days of the Division's service by email of its decision, an applicant may submit a written petition to the Executive Director requesting review of the decision.

...

(2) Following the process described in 555 CMR 10.08(1), an applicant may request and obtain a hearing before the Commission concerning an application for SRO certification in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

## **PROPOSED**

### **POLICY FOR APPOINTMENT OF HEARING OFFICERS**

#### **I. AUTHORIZATION AND EFFECT**

The Commission approves the Chair appointing a Hearing Officer, who has retired as a Massachusetts judge and thus has experience hearing and weighing evidence and drafting orders and decisions, as identified in this Policy and otherwise pursuant to the law. Hearings in matters before the Commission on the effective date of this Policy will be governed by the Policy unless, in a particular matter, the Chair determines that application would be impracticable or unjust.

#### **II. AUTHORITY AND DUTIES OF CHAIR**

The Chair, in performing the duties prescribed by 555 CMR 1.10(1) may –

- (a) Appoint a Hearing Officer, who is a retired Massachusetts judge; and
- (b) Appoint and remove a Hearing Officer, without a Commission vote, in consideration of the needs of the Commission.

#### **III. GENERAL TERMS OF APPOINTMENT**

The Hearing Officer, in exercising all powers and duties conferred or imposed by law –

- (a) Shall comply with the Conflict of Interest Law, M.G.L. c. 268A, and request advice from the Massachusetts State Ethics Commission, when necessary;
- (b) Shall comply with the Financial Disclosure Law, M.G.L. c. 268B, and request advice from the Massachusetts State Ethics Commission, when necessary;
- (c) May attend any programs developed, administered, or recommended by the General Counsel on conducting adjudicatory hearings;
- (d) Shall, in relation to matters assigned to them, conduct hearings and manage the adjudicatory process, including presiding over preliminary proceedings, deciding motions, and evaluating evidence; and coordinate the filing of papers and communicate with the parties through the Hearings Administrator in a timely manner;
- (e) May draft an Initial Decision that sets forth the findings of facts, conclusions of law, and, when warranted, recommended disposition; and
- (f) Shall provide notice of the right to object to any Initial Decision within 30 days of receipt.

*Massachusetts Peace Officer Standards and Training Commission  
Job Description*

Job Title: Hearing Officer

Reports to: The Chair of the Commission or the Chair's Designee

**OVERVIEW OF THE AGENCY AND THE POSITION**

The Massachusetts Peace Officer Standards and Training (POST) Commission is an independent agency that oversees law enforcement departments and officers throughout the Commonwealth. The Commission is charged with the following:

- Establishing certification standards for law enforcement departments and officers;
- Determining whether those standards have been met;
- Developing regulations and policies governing law enforcement;
- Decertifying, suspending, or ordering retraining for officers who commit misconduct or otherwise fail to satisfy requirements;
- Maintaining, analyzing, and disseminating information regarding law enforcement; and
- Conducting investigations, adjudicatory proceedings, and public hearings regarding much of the foregoing.

The Commission is governed by, and enforces, Chapter 6E of the Massachusetts General Laws. Pursuant to that statute, the Commission collaborates with the Commonwealth's Municipal Police Training Committee (MPTC) in several areas of its work.

The POST Commission is looking for an individual to join the POST Commission as a contract Hearing Officer, who will support the Commission's functions. Under the direction of the Chair of the Commission, or the Chair's Designee, the Hearing Officer will work to advance the agency's adjudicatory initiatives and policies.

**ESSENTIAL FUNCTIONS AND RESPONSIBILITIES**

The Hearing Officer will serve as the Presiding Officer for hearings pursuant to 555 CMR 1.00: *Procedural Rules*. The Commission's hearing process provides an opportunity for a law enforcement officer to challenge a recommendation or decision by Commission personnel to deny, suspend, condition, or revoke the officer's certification. In a given case, the Hearing Officer will:

- conduct the hearing,
- monitor and process the documents submitted by the parties,
- preside over any preliminary proceedings,
- evaluate any motions,
- manage the adjudicatory process,

- determine the evidence to be included in the administrative record,
- evaluate the evidence in the case,
- recommend a disposition, and
- write a tentative decision that sets forth the findings of facts and conclusions of law.

All communication with the parties will go through the Hearings Administrator. The Hearing Officer will work with the Hearings Administrator to receive case documents and schedule hearings.

### **REQUIRED EXPERIENCE AND SKILLS**

- Retired from service as a Massachusetts Judge.
- Ability to conduct hearings in the administrative setting.
- Experience drafting orders and decisions.
- Ability to work independently, productively, and creatively in an evolving environment.
- Appreciation for the mission of the POST Commission.
- Appreciation of the value of diversity, equity, and inclusion, and the importance of interacting respectfully and sensitively with people of different backgrounds,
- Proficiency with computers (Word and Zoom); working knowledge of reference and related sources available for legal research, including Westlaw and/or Lexis/Nexis; and willingness to learn state- and POST Commission-specific electronic systems.

### **COMMITMENT TO DIVERSITY**

The Commission is committed to building a diverse staff across its entire agency and at all levels. The Commission is an equal opportunity/affirmative action employer.

It is the policy of the Commission and the Commonwealth of Massachusetts to afford equal employment opportunities to all qualified individuals, without regard to their race, color, ancestry, religion, sex, sexual orientation, national origin, age, physical or mental disability, citizenship status, veteran status, gender identity or expression, or any other characteristic or status that is protected by federal, state, or local law. Females, minorities, veterans, persons with disabilities, and those who believe they have the skills necessary to thrive are strongly encouraged to apply.

Official Title: Hearing Officer

Primary Location: United States-Massachusetts-Boston-84 State Street and remotely.



6c.



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

## MEMORANDUM

**TO:** Commissioners of the POST Commission  
**FROM:** LaRonica K. Lightfoot, Deputy General Counsel  
**DATE:** August 15, 2024  
**RE:** Policy for Appointment of Single Commissioners

This memorandum proposes that the POST Commission adopt a policy granting the Chair of the Commission authority to appoint a Single Commissioner in proceedings involving requests to stay suspensions imposed pursuant to 555 CMR 1.06 (Suspension of Certification Pending Preliminary Inquiry) and 555 CMR 1.08 (Suspensions of Certifications following Arrests, Criminal Charges or Indictments for Felonies, or following Preliminary Inquiries)\*

To date, the Commissioners who have served as Single Commissioners have possessed experience presiding over hearings in their other professional capacities. Matters before Single Commissioners are “adjudicatory proceedings” subject to M.G.L. c. 30A and the associated rules of evidence, burden of proof, procedures and other legal obligations. Thus, it is essential that Commissioners serving in that capacity be provided with guidance beforehand as to the legal substance of their statutory role. Participation in programs, developed or approved by the General Counsel, will acquaint any other Commissioners who wish to serve with the expectations of the role.

In proceedings involving a Single Commissioner’s review of whether to stay a suspension, the authority for the Chair to make the appointment generally resides in 555 CMR 1.09. The written decision of the Single Commissioner is the final decision of that Commissioner.

The Policy would go in effect immediately upon a vote by the Commission to pass the measure.

### KEY SOURCES OF AUTHORITY

#### 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 this chapter;

...

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

---

\* The proposed policy is attached.

- (12) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;
- (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 chapter;
- ...
- (24) conduct adjudicatory proceedings in accordance with chapter 30A;....

**M.G.L. c. 6E, § 9**

- (a)(1) The commission shall immediately suspend the certification of any officer who is arrested, charged or indicted for a felony.
- (2) If, after a preliminary inquiry . . . , the commission concludes by a preponderance of the evidence that a law enforcement officer has engaged in conduct that could constitute a felony and upon a vote to initiate an adjudicatory proceeding of said conduct, the commission shall immediately suspend an officer's certification.
- (3) The commission may, after a preliminary inquiry . . . , suspend the certification of any officer who is arrested, charged or indicted for a misdemeanor, if the commission determines by a preponderance of the evidence that the crime affects the fitness of the officer to serve as a law enforcement officer.
- (4) The commission may, pending preliminary inquiry . . . , suspend the certification of any officer if the commission determines by a preponderance of the evidence that the suspension is in the best interest of the health, safety or welfare of the public.
- (5) A suspension order of the commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.
- (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.
- (c) The commission shall administratively suspend the certification of an officer with a duty to report information to the commission . . . who fails to report such information. The commission shall reinstate the certificate of an officer suspended pursuant to this subsection upon completion of said report.
- (d) A law enforcement officer whose certification is suspended by the commission pursuant to subsection (a), (b) or (c) shall be entitled to a hearing before a commissioner within 15 days....

**555 CMR 1.09**

- (1) An officer whose certification is suspended by the commission pursuant to 555 CMR 1.06 or 1.08 may request a hearing before a single commissioner pursuant to M.G.L. c. 6E, § 9(d) in accordance with 555 CMR 1.09.
- ...
- (4) The executive director shall, immediately upon a receipt of a request for a hearing under 555 CMR 1.09: notify the chair of that request; schedule a hearing not less than five days and not more than 15 days after the effective date of the suspension if the officer has not waived the right to

a hearing in the time frame set forth in M.G.L. c. 6E, § 9(d); and notify the requesting party and the chair of the date thereof....

(5) The single commissioner assigned to conduct a hearing under 555 CMR 1.09 shall be selected pursuant to a policy to be established by the commission.

(6) Hearings held before a single commissioner pursuant to 555 CMR 1.09 shall be adjudicatory proceedings conducted in accordance with M.G.L. c. 30A, §§ 1, 8 and 10 through 14. All hearings shall comply with 555 CMR 1.05, as applicable, and 801 CMR 1.01: *Formal Rules*, except that the provisions of 801 CMR 1.01(1), (2), (6), (11) and (14) shall not apply, and that the following additional rules shall supersede any inconsistent rules provided in 801 CMR 1.01:

(a) Standard of Proof. The single commissioner shall affirm the suspension of the certification of an officer unless the single commissioner determines by a preponderance of the evidence presented to the commission and additional evidence provided by the officer, the suspension is not warranted. If the single commissioner so determines, the single commissioner shall stay the commission's suspension of the officer's certification.

...

(d) Decisions. Upon completion of the hearing, the single commissioner shall render a written decision as promptly as administratively feasible, in accordance with M.G.L. c. 30A, § 11(8). The written decision of the single commissioner shall be the final decision of that single commissioner. The filing of any appeal of a final decision of the single commissioner shall be to the Superior Court....

# PROPOSED

## POLICY FOR APPOINTMENT OF SINGLE COMMISSIONERS

### I. AUTHORIZATION AND EFFECT

The Commission approves the Chair appointing a Single Commissioner, as identified in this Policy and otherwise pursuant to the law. Hearings in matters before the Commission on the effective date of this Policy will be governed by the Policy unless, in a particular matter, the Chair determines that application would be impracticable or unjust.

Appeals to a Single Commissioner are provided when a law enforcement officer's certification is suspended by the Commission pursuant to M.G.L. c. 6E, § 9(a) - (c), which includes suspensions predicated on an officer being charged with a felony and/or a misdemeanor, being subject to a preliminary inquiry, or failing to comply with training or reporting requirements, in certain circumstances. Because such requests for a hearing to a Single Commissioner are "adjudicatory proceedings" subject to M.G.L. c. 30A and the rules of evidence, burden of proof, procedures and other legal obligations as provided therein, it is appropriate that Commissioners serving in that adjudicatory capacity be provided with guidance beforehand as to the legal substance of their statutory role.

### II. AUTHORITY AND DUTIES OF CHAIR

The Chair, in performing the duties prescribed by 555 CMR 1.09(5) may –

- (a) Appoint a Single Commissioner, who is a current Commissioner and meets the requirements in section III, which may include the Chair; and
- (b) Appoint and remove a Single Commissioner, without a Commission vote, in consideration of the needs of the Commission.

### III. GENERAL TERMS OF APPOINTMENT

The Single Commissioner, in exercising all powers and duties conferred or imposed by law –

- (a) May attend a program developed, administered, or recommended by the General Counsel to provide guidance on conducting adjudicatory hearings;
- (b) Shall, prior to appointment, attend programs developed, administered, or recommended by the General Counsel to provide guidance on conducting adjudicatory hearings;
- (c) Shall, in relation to any matter assigned to them, conduct hearings and manage the adjudicatory process, including presiding over proceedings, deciding motions, and evaluating evidence; and coordinate the filing of papers and communicate with the parties through the Hearings Administrator in a timely manner;
- (d) May draft a decision that is final as to that Single Commissioner; and
- (e) Shall provide notice of the right to file an appeal from any final decision to Superior Court in accordance with M.G.L. c. 30A, § 14.