

**MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION**  
**Certification Policy Subcommittee Meeting Minutes**  
**October 1, 2024**  
**10:00 a.m.**  
**By Zoom and in person**

**Documents Distributed in Advance of Meeting**

- Minutes from September 10, 2024 Subcommittee Meeting
- Proposed Regulatory Amendment - Character and Fitness, revised version with redlining and sources
- Memo - Re: Character and Fitness, revised version
- 555 CMR 7:00: Recertification, revised version with comments and notes
- 555 CMR 7:00: Recertification, redlined version with comments and notes
- Massachusetts Coalition of Police Letter with Commentary on the Draft Recertification Regulations
- American Civil Liberties Union of Massachusetts, Inc. Letter with Commentary on the Draft Recertification Regulations
- Sample Agency Questionnaire

**In Attendance**

- Commissioner Lawrence Calderone, Subcommittee Chair
- Commissioner Hanya H. Bluestone (Virtual)
- Commissioner Marsha V. Kazarosian
- Executive Director Enrique A. Zuniga
- General Counsel Randall E. Ravitz
- Deputy General Counsel Pauline Nguyen
- Director of Certification Steven R. Smith
- Outside Counsel Lon F. Povich

**1. Call to Order**

- At 10:09 a.m., Chair Calderone welcomed the public to the Commission’s seventh Subcommittee meeting and called the meeting to order.

**2. Approval of September 10, 2024 Minutes**

- Chair Calderone stated that he “put a motion on to approve the minutes of the last meeting with [his] two counterparts,” and asked “if somebody [would] give [him] a second.”
- Commissioner Kazarosian had a change to the minutes and stated that “it says Chair Calderone asked for a motion to approve the minutes. I think what you did was similar to what you did now, which was move that the minutes be approved, and then a second to the motion.”
- Commissioner Kazarosian then moved to approve the minutes with that change.
- Chair Calderone asked whether Commissioner Bluestone was ok with the suggested change. Commissioner Bluestone stated that she was.

**3. Draft Plan for Recertification – Executive Director Enrique A. Zuniga, General Counsel Randall E. Ravitz, Deputy General Counsel Pauline Nguyen**

- Executive Director Zuniga stated that the purpose of the meeting was to continue the conversation on the topic of good moral character and fitness for employment as a law

enforcement officer.

- He explained that the packet before the Subcommittee contained multiple versions of the same document to show the progression of changes over time.
- He then turned the floor over to General Counsel Ravitz.
- General Counsel Ravitz shared a PowerPoint presentation and discussed the changes that had been made to the draft of 555 CMR 7.00 since the previous version was circulated. He stated as follows:
  - Revisions were made mirroring those made to 555 CMR 12.00, which were based on public comments and presented to the full Commission on September 19.
  - The definition used by the Commission for “appointing authority” was changed.
  - Changes were made to the performance review section based on the comments that were received.
  - One suggested change relating to the oral interview requirement was not incorporated, as the statute requires successful completion of an oral interview administered by the Commission.
- General Counsel Ravitz highlighted a comment suggesting that most recertification requirements should be satisfied only once in an officer’s career.
- In response, he explained that the legislature provided that the Commission shall not recertify any person as a law enforcement officer unless the Commission certifies that the applicant for recertification continues to satisfy the requirements in subsection f in M.G.L. c. 6E, § 4.
- Additionally, the Commission retains statutory authority to require periodic evaluations, such as fitness and wellness checks, to ensure officers meet standards throughout their careers.
- He next offered reasons to conclude that the legislature did not intend to create a presumption that certain requirements are satisfied.
- General Counsel Ravitz then turned the floor over to Deputy General Counsel Nguyen.
- Deputy General Counsel Nguyen then shared a PowerPoint presentation and began her discussion on officer character and fitness.
- She introduced the first policy decision being brought before the Subcommittee, which was whether to make consideration of the listed standards mandatory when an officer’s character and fitness is evaluated.
- Deputy General Counsel Nguyen then asked whether there were questions or comments.
- Commissioner Kazarosian stated that she agreed with the revision.
- Commissioner Bluestone expressed concern that they may be leaving something out or not thinking of something that could be relevant.
- She proposed that there be some combination of the “shall” language with a modification that allows for the evaluator to explain why there were additional factors taken into consideration.
- Chair Calderone asked Deputy General Counsel Nguyen whether they could modify it to reflect what both Commissioners felt was best.
- Deputy General Counsel Nguyen stated that that could be done and suggested that language similar to what was recommended by Commissioner Bluestone be added to the standards.
- Specifically, she recommended that language be added to express that, in certain

circumstances, other criteria could be considered, and that there needed to be an explanation provided in those instances.

- She then introduced her second policy question, which was whether to remove from the character and fitness standards a consideration of the law enforcement agency’s mission and values statement.
- Commissioner Bluestone, Chair Calderone, and Commissioner Kazarosian all expressed agreement with the suggested revision.
- Deputy General Counsel Nguyen then introduced the next policy question, which was whether to, in lieu of protocols adopted by the Commission under 555 CMR 7.05(4), insert instances of misconduct that could be considered by the law enforcement agency.
- Commissioner Bluestone expressed support for the decision but asked that the category of age be added as well.
- Deputy General Counsel Nguyen then shared her final proposal for consideration. The proposal was to require law enforcement agencies to provide a written explanation for a positive attestation.
- Commissioner Bluestone was unsure about how she felt about the proposal, and she stated that she would defer to her colleagues.
- Commissioner Kazarosian stated that she agreed that it made sense to have a written report to explain why the officer met the requirements.
- Chair Calderone stated that he was concerned about the administrative burden this may put on certain departments, specifically large departments such as the Boston Police Department.
- Executive Director Zuniga stated that Deputy General Counsel Nguyen suggested that a threshold could be set to reduce the administrative burden.
- Regarding the final policy proposal presented by Deputy General Counsel Nguyen, Commissioner Calderone asked whether it was ok with his fellow Commissioners to “take this section up within the full commission, and not make any changes at this point.”
- Commissioner Kazarosian recognized the point discussed by Executive Director Zuniga and raised a question regarding the reward or benefit of this process, especially for individuals with past issues, suggesting it should not be a recurring requirement but considered in specific cases.
- Commissioner Bluestone agreed with Commissioner Kazarosian. She stated that she was in favor of bringing this to the full Commission, and suggested they focus on whether the benefit of adding this outweighs any extra burden that the departments might assume.
- Chair Calderone then made a motion to move the entire recertification piece forward to the full Commission. Commissioner Kazarosian seconded the motion.
- The Subcommittee voted as follows.
  - Commissioner Bluestone – Yes
  - Commissioner Kazarosian – Yes
  - Chair Calderone – Yes
- The motion was unanimously carried.
- At this point in the meeting, Dennis Galvin, Attorney Nick Adams, and Attorney Patrick Bryant offered comments, which are summarized below.
- Executive Director Zuniga then stated that there was another thing to be discussed regarding a questionnaire to conduct research on the psychological and physical health

resources that are currently available to officers.

- He turned the floor over to Paralegal Smith who shared a PowerPoint presentation.
- While waiting for the presentation, Commissioner Kazarosian asked that they call it a survey rather than a questionnaire. Paralegal Smith stated that that change could be made.
- At this point in the meeting, Dennis Galvin and Frank Fredrickson offered comments, which are summarized below.
- Paralegal Smith began her presentation by providing a timeline on the process of creating the survey. She added that input from various stakeholders was considered when putting the survey together.
- Paralegal Smith then shared the Sample Agency Questionnaire with the Subcommittee.
- She stated that the survey is divided into sections on physical and psychological fitness, covering agency testing requirements, available resources, successful programs, challenges, and policies on officer wellbeing.
- The next steps for the survey include sending the survey to agency heads. Agencies would have a month to submit their responses, and findings would be presented to the Subcommittee after the data had been organized.
- Paralegal Smith thanked the Commissioners and asked if there were any questions.
- Chair Calderone suggested that they bring this to the Full Commission. He also stated that officers should receive this survey as well, as opposed to just chiefs.
- Chair Calderone also suggested that it go to the heads of all the union institutions to let them weigh in as well.
- Paralegal Smith stated that she appreciated the input and that they had discussed possibly having a separate survey to send to officers.
- Executive Director Zuniga stated that he agreed a survey for officers would be helpful but explained that this survey is more of an initial survey to get an idea of which resources would be of help.
- Commissioner Bluestone stated that she agreed on the importance of a separate survey being sent to officers. She also expressed concern regarding the combination of psychological and fitness components.
- Commissioner Bluestone also expressed concerns over having these fitness standards fall under training.
- She explained that she did not believe the initiative should fall under training due to the historic distrust of administration by officers. She pointed out that there is no evidence linking mental health training and education to improved behavioral outcomes.
- Additionally, she noted that it is not a standard of care within the law enforcement field to treat training as a substitute for a wellness program for officers.
- Chair Calderone moved to send the survey out and show the Commission the document when they partake in the recertification discussion. The Subcommittee voted as follows.
  - Commissioner Bluestone – Yes
  - Commissioner Kazarosian – Yes
  - Chair Calderone – Yes
- The motion was unanimously carried.

#### **4. Public comment**

- Chair Calderone read public comments that were sent via the Zoom Q&A feature:

- **Dennis Galvin, Massachusetts Association of Professional Law Enforcement (MAPLE)** submitted the following comments throughout the meeting:
  - 1) “Be wary of relying on positive attestations from agencies regarding fitness of officers. This fails to take into account the problems of fractionalization within the departments and also the continued tendency of some agencies to insulate members from oversight. I think this should be optional and be determined on a case-by-case basis.”
  - 2) “It would be a preponderous task to require agencies to submit positive attestations for each officer whenever they are up for recertification. Consider the approach taken by the US Office of Personnel Management (OPM), the agency that grants security clearances for the Federal Government. Once a clearance is issued, it can only be challenged by an allegation. The allegations are classified as: (1) financial trustworthiness, (2) issues related to sexual predators, (3) issues with associations, (4) sobriety, and (5) mental fitness. When these issues arise with someone holding a clearance, an investigation must be conducted and finding rendered as the issue, and then the clearance is reviewed.”
- **Frank Fredrickson submitted the following comment:**
  - 1) “The positive attestation does not accomplish anything useful and creates a tremendous burden on departments. Imagine over 18,000 reports?”
- Chair Calderone invited attendees to provide testimony.
  - **Attorney Nick Adams, Massachusetts Coalition of Police**, provided oral testimony. He expressed appreciation for the efforts made to address many of their concerns, particularly regarding the appointing authority, but noted that several issues remained. Attorney Adams raised concerns about the lack of an explicit burden of proof regarding good moral character and fitness, advocating for the “clear and convincing evidence” standard, which had been applied in interim certification issues. He also expressed concern about allowing unsubstantiated allegations to be considered, fearing this could lead to retaliation without a substantial burden of proof. Attorney Adams further echoed the Commissioners’ concerns about the burden of requiring written reports for positive attestation, especially for large and small departments with limited administrative staff. Lastly, he emphasized the importance of considering the diverse abilities of officers in physical and psychological fitness standards, particularly given what he described as a current staffing crisis and varying needs of local police departments.
  - **Attorney Patrick Bryant, Boston Police Superior Officers Federation**, provided oral testimony. He stated that there was a presumption of good moral character, established by the legislation, that should be understood in the context of certifying all current officers. Attorney Bryant argued that, if an officer has no history of misconduct, it is reasonable to assume they have good moral character without needing extensive individual assessments. He expressed concern about the burden of requiring such assessments in large departments such as the Boston Police, where there are over 2,000 officers. Additionally, he noted issues with requiring attestations from individuals far removed from the officers in larger

departments. Lastly, Attorney Bryant questioned the practicality of the 26 factors used to assess moral character and called for consistency in the attestation process between chiefs and officers.

- Commissioner Kazarosian responded to the statements made by Attorney Bryant and questioned the connection between the initial certification of all officers and a presumption of continued certification. She asked if the assumption was that officers who had not engaged in misconduct should always be presumed certified, despite the requirement for ongoing recertification.
- Attorney Bryant responded, stating that his point was that, if an officer had not engaged in misconduct, they should be presumed to have good moral character, and additional written reports for recertification would be unnecessary.
- Commissioner Kazarosian stated that she understood the point.
- Commissioner Bluestone asked whether he was saying that the good moral character standard would be met but for just that recertification cycle.
- Attorney Bryant stated that that was correct.
- Chair Calderone asked about the difference in the attestation form for officers as opposed to chiefs.
- Attorney Bryant stated that the form for chiefs mentioned an attestation, but that it did not require anything to be filled out.
- Chair Calderone stated that he was not aware of that.
- Chair Calderone made a motion to adjourn the meeting. The Subcommittee voted as follows.
  - Commissioner Bluestone – Yes
  - Commissioner Kazarosian – Yes
  - Chair Calderone – Yes
- The motion was unanimously carried, and the meeting was adjourned.