



MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

UPDATED

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EXECUTIVE DIRECTOR

Enrique A. Zuniga

November 13, 2023

In accordance with [Sections 18-25 of Chapter 30A of the Massachusetts General Laws](#), and [Chapter 20 of the Acts of 2021](#), as amended by [Chapter 22 of the Acts of 2022](#), by [Chapter 107 of the Acts of 2022](#), and by [Chapter 2 of the Acts of 2023](#), 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 #44

November 16, 2023

8:30 a.m.

Remote Participation via [Zoom](#)

Meeting ID: 990 1821 7176

- 1) Call to Order
- 2) Certificate of Appreciation Former Commissioner Clementina Chery
- 3) Executive Director Report – Enrique Zuniga
 - a. School Resource Officer Certification
 - b. Disciplinary Records Update
 - c. Future Certification Policy Matters
- 4) Legal Update – General Counsel Randall Ravitz
 - a. Process for Relinquishing Certification or Removing Information from Public Database
 - b. Officer Physical and Psychological Fitness
 - c. Maintaining, Reporting & Auditing Law Enforcement Records - Update
- 5) Matters not anticipated by the Chair at the time of posting
- 6) Executive Session in accordance with the following:

MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

- M.G.L. c. 30A, § 21(a)(1), in anticipation of discussion regarding “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), in anticipation of discussion regarding 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, 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 prior Executive Sessions.
- a. Review of requests to revoke suspension imposed under M.G.L. c. 6E § 9(a)(1) for the following case:
- i) Case No. 23-016-SU (SU-2023-05-05-001)
- b. Division of Standards request for approval to conduct Preliminary Inquiries in the following cases:
- i) PI-2023-11-16-001
 - ii) PI-2023-11-16-002
 - iii) PI-2023-11-16-003
- c. Approval of commencement of adjudicatory proceedings for the following cases:
- i) PI-2023-09-07-002
 - ii) PI-2023-01-12-002
- d. Approval of the minutes of the Executive Sessions of 10/24/23

2.



ON THIS 16TH DAY OF NOVEMBER 2023, THE

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

PROUDLY PRESENTS THIS CERTIFICATE OF APPRECIATION TO

★ CLEMENTINA M. CHÉRY ★

IN GRATEFUL APPRECIATION FOR HER DISTINGUISHED SERVICE TO THE PEACE OFFICER STANDARDS AND TRAINING COMMISSION AND THE COMMONWEALTH OF MASSACHUSETTS. AS A FOUNDING MEMBER OF THE POST COMMISSION, COMMISSIONER CHÉRY WAS INSTRUMENTAL IN THE IMPLEMENTATION OF THE MULTIFACETED POLICE REFORM LAW WHILE SIMULTANEOUSLY GUIDING THE FORMATION OF A NEW PUBLIC AGENCY.

A PERSON OF CHARACTER AND INTEGRITY, COMMISSIONER CHÉRY BROUGHT HER COMMITMENT TO JUSTICE AND FAIRNESS FOR ALL TO THE POST COMMISSION. POST EXTENDS ITS HEARTFELT GRATITUDE FOR COMMISSIONER CHÉRY'S CONTRIBUTIONS, CONSUMMATE PROFESSIONALISM AND ADMIRABLE DEDICATION TO PUBLIC SERVICE.

Margaret R. Hinkle, Chair

Enrique A. Zuniga, Executive Director

POST COMMISSION

3.



Executive Director Report

November 16, 2023



Agenda

1. School Resource Officer Certification
2. Disciplinary Records Update
3. Future Certification Policy Matters

Certification Update



School Resource Officer (SRO) Certification

- Chapter 6E requires that a School Resource Officer meet certain additional criteria and be certified as an SRO by POST
- Prior to SRO Certification, officers must be certified as a LEO by POST
- POST collaborated with MPTC in the formulation and deployment of the SRO application and certification
- SRO certification is governed by 555 CMR 10.00 “Specialized Certification for School Resource Officers”

Certification Update



SRO Certification

- A certified Police Officer is required to attend SRO annual training provided by the MPTC. This training is offered twice per year
- In addition, the Officer is required to fill out an SRO application form and the SRO attestation form (and make certain representations about their role)
 - ✓ Attestation form and application form are available on POST website
- An individual Officer may seek SRO certification, and/or the Chief of Police may seek an SRO certification on their behalf

Certification Update



SRO Certification

- POST began certifying SRO candidates in October of this year
- SRO Certification will be issued to coincide with LEO Certification

SRO Certification Figures	Total #'s
Individuals who Completed 11/2/23 Training	427
Number of Individual Officers Certified as an SRO (A-Z)	89
Number of Agencies with at least one SRO *	56
Pending Applications for SRO Certification	33

* 20 departments have more than one SRO

Disciplinary Records Update



Upcoming Release

- Approximately 946 records (1,330 allegations) will be shared with agencies for final verification and update
- Anticipate to send to Chiefs by November 30
- Asking for turnaround time by December 31

Future Certification Policy Matters



1. Second Round of Re-Certification

- POST began certifying academy graduates on December 1, 2021. These classes will need to be recertified by December 1, 2024
- Some officers graduated prior to December 1, 2021 but after July 1, 2021, so they had to be certified by POST (this includes ~ 176 individuals)
- Second round of recertification will begin as early as July 1, 2024

Future Certification Policy Matters



1. Second Round of Re-Certification (continued)

- Officers with last names A-H will be required to be re-certified on July 1, 2025
- Chapter 6E assumes procedures every three years, yet also affords POST broad discretion
- Process for recertification need not be the same as initial certification
- Initial recertification was governed by 555 CMR 7.00. Regulations may need to be updated

Future Certification Policy Matters



2. Certification of Agencies

- Chapter 6E § 5 states that all law enforcement agencies shall be certified by the Commission
- In consultation with MPTC, establish minimum certification standards for LEA's including policies:
 - i. Use of Force and Use of Force Reporting
 - ii. Officer Code of Conduct
 - iii. Officer Response Procedures
 - iv. Criminal Investigation Procedures
 - v. Juvenile Operations
 - vi. Internal Affairs & Officer Complaint Investigation Procedures
 - vii. Detainee Transportation
 - viii. Collection & Preservation of Evidence

Future Certification Policy Matters



3. Completion of Psychological and Physical Evaluation

- Section 4 § f (1) of Chapter 6E requires the successful completion of a psychological and physical evaluation. This was a requirement of the initial certification
- Section 4 § 13(i) states that when recertifying applicants “...the Commission certify that the applicant for recertification continues to satisfy the requirements of subsection (f)”
- More discussion later in this meeting

Future Certification Policy Matters



Addressing these policy matters will require research, consultation and deliberation

- Previous work and expertise within agencies
- Required consultation with MPTC
- Multiple stakeholders
- Broad discretion means different ways to approach
- Broad mandate merits incremental (on-going) approach

Future Certification Policy Matters



Consider Formation of Subcommittee(s)

- Direct input from other stakeholders (i.e., MPTC, Chiefs Association, etc.)
- May include one or more Commissioners and other members (external stakeholders and POST staff)
- Would be staffed and supported by POST staff
- Subject to Open Meeting Law
- Propose to come back next meeting with recommendations



Massachusetts Peace Officer Standards & Training
POSTC-comments@mass.gov
www.mass.gov/orgs/post-commission
617-701-8401

3a.



SCHOOL RESOURCE OFFICER (SRO) CERTIFICATION TO BE COMPLETED BY THE SPONSORING DEPARTMENT

As outlined in 555 CMR 10.00, individuals working as a School Resource Officer must be certified as such. This application must be submitted by police departments seeking to certify an SRO.

555 CMR 10.00: SPECIALIZED CERTIFICATION FOR SCHOOL RESOURCE OFFICERS

10.03:

School Resource Officer or SRO is an individual who is either:

(a) A duly sworn municipal police officer with all necessary training and up-to-date certificates, including special SRO certification as required by M.G.L. c. 6E, § 3(b); or

(b) An officer appointed by the chief of police who is specially charged with performing all the following duties:

1. Providing law enforcement;
2. Promoting school safety and security services to elementary and secondary public schools; and
3. Maintaining a positive school climate for all students, families, and staff.

10.04:

SRO Certification Requirement

(1) An individual must possess an SRO certification that has not been suspended or restricted in order for:

(a) The individual, an agency, or an officer to represent that the individual is an SRO; or

(b) The individual to serve as an officer appointed by the chief of police who is specially charged with performing all the following duties:

1. Providing law enforcement;
2. Promoting school safety and security services to elementary and secondary public schools; and
3. Maintaining a positive school climate for all students, families, and staff.

For more information, see: [555 CMR 10.00 \(mass.gov\)](https://www.mass.gov/info-details/555-cmr-10.00).

Officer Information

Officer Name *

First Name

Last Name

Acadis MPTC User ID *

POST Certification Number *

Officers must have a POST Certification before they can be certified as an SRO. If this officer is not certified, please contact POST at POSTCertification@mass.gov

Email *

A copy of this form will be emailed to the officer upon submission. This email address may be used for correspondence related to the certification process.

Department Information

Department*

None

Begin typing to see list

Department Point of Contact (POC)*

First Name

Last Name

POC Email Address*

A copy of this form will be emailed to the POC upon submission. This email address may be used for correspondence related to the certification process.

POC Phone Number*

Head of the Officer's Collective Bargaining Unit (CBU)

First Name

Last Name

CBU Email Address

If provided, a copy of this form will be emailed to the CBU upon submission. This email address may be used for correspondence related to the certification process.

SRO Questionnaire

The Chief or their designee should review these questions with the officer to ensure they are answered fully.

Has this officer completed SRO training as required by the MPTC pursuant to M.G.L. c. 6, § 116H?*

Yes No

Is this officer current with all other in-service training or retraining as required by the MPTC or by the Commission? *

Yes No

List each position in law enforcement in which this officer has served, including the dates of service: *

Have any complaints been filed concerning this officer's conduct while serving in law enforcement? *

Yes No

Has this officer been disciplined while serving in law enforcement?

*

Yes No

Has this officer passed a background check that is consistent with the provisions concerning background checks for current or prospective school personnel (see M.G.L. c. 71, § 38R and 603 CMR 51.00)? *

Yes No

[M.G.L. c. 71, § 38R](#)
[603 CMR 51.00](#)

[General Law - Part I, Title XII, Chapter 71, Section 37P:](#)

In assigning a school resource officer, the chief of police shall assign an officer that the chief believes would strive to foster an optimal learning environment and educational community that promotes a strong partnership between school and police personnel. The chief of police shall give preference to candidates who demonstrate the requisite personality and character to work effectively with children, youth and educators in a school environment with a

demonstrated ability to work successfully with a population that has a similar racial and ethnic background as those prevalent in the student body, and who have received specialized training relating to working with adolescents and children, including cognitive development, de-escalation tactics, as defined in [section 1 of chapter 6E](#) and alternatives to arrest and diversion strategies. The appointment shall not be based solely on seniority. The performance of a school resource officer shall be reviewed annually by the superintendent and the chief of police.

555 CMR 10.05

The Division shall [...] Require the officer to agree that, when acting as an SRO, the officer will not: serve as a school disciplinarian, an enforcer of school regulations or in place of licensed school psychologists, psychiatrists or counselors; or use police powers to address traditional school discipline issues, including non-violent disruptive behavior

The officer must complete the [SRO Attestation Form](#) (<https://www.mass.gov/doc/school-resource-officer-attestation-form/download>) affirming the above, and the completed form should be uploaded to the Officer Attestation field below.

I believe this officer would strive to foster an optimal learning environment and educational community that promotes a strong partnership between school and police personnel.*

Initial to acknowledge

When acting as an SRO, this officer will not:

- a) serve as a school disciplinarian, an enforcer of school regulations or in place of licensed school psychologists, psychiatrists or counselors; or
- b) use police powers to address traditional school discipline issues, including non-violent disruptive behavior.*

Initial to acknowledge

The Chief or their designee shall promulgate these restrictions to SROs under their jurisdiction.

If this officer has been designated to serve in a particular school or school system, please provide the school/school system:

Any additional information relevant to the officer's application for SRO Certification:

I hereby swear or affirm under penalties of perjury that the information provided herein is true and complete.*

[\[clear\]](#)

Use your mouse or finger to draw your signature above

Printed Name: *

Today's Date *

Nov	07	2023
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Attachments

Officer Attestation *

Choose File Remove File No File Chosen

[Officer Attestation Form](#)

File upload

Choose File

Remove File

No File Chosen

If applicable, attach any other document(s) that should be reviewed as part of this application.

SUBMIT FORM



PEACE OFFICER STANDARDS AND TRAINING COMMISSION

84 State St 2nd Floor, Boston, MA 02109

SCHOOL RESOURCE OFFICER (SRO) ATTESTATION

To be completed by the officer seeking certification, and uploaded by the Chief or their designee along with the full [application](#).

Name: _____

Employing Agency: _____

MPTC User ID: _____

Certification Number: _____

I, _____, am seeking certification as a School Resource Officer. I understand that:
(Initial each item)

_____ When acting as an SRO, I will not serve as a school disciplinarian, an enforcer of school regulations or in place of licensed school psychologists, psychiatrists, or counselors.

_____ When acting as an SRO, I will not use police powers to address traditional school discipline issues, including non-violent disruptive behavior.

_____ My performance as a school resource officer shall be reviewed annually by the superintendent and the chief of police.

_____ I agree to comply with all regulations and policies governing the conduct and responsibilities of an SRO, including but not limited to:

M.G.L. c. 71, § 37P (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37P>)

The Memorandum of Understanding (MOU) adopted by the superintendent and the Chief of Police.

Operating policies and procedures established by the Chief of Police.

Please provide any additional information that may be relevant to your SRO application in the field below.

I hereby swear or affirm under penalties of perjury that the information provided herein is true and complete.

Signature

Date

4a.



PROPOSED POLICY ON REMOVAL OF CERTAIN INFORMATION FROM THE COMMISSION'S PUBLIC DATABASE

Randall E. Ravitz, General Counsel
November 2023



REVIEW OF DISCUSSIONS

- The Commission's database regulations essentially provide that officers who are no longer serving will see their information removed from the public database at the end of their certification period.
- This prompted questions about whether officers can have their information, particularly information on complaints and disciplinary matters, removed earlier if they relinquish their certification.

555 CMR 8.06(4)(b)13.



- The last draft policy would have allowed for a trade-off: relinquishment of certification in return for removal of information from the database.
- It relied in part on a provision of the regulations stating that “the public database shall not make available to members of the general public” “[i]nformation concerning a complaint or disciplinary matter that the Commission, by vote of the Commissioners, has decided not to make available to members of the general public,” except where special access is allowed.

555 CMR 8.06(4)(b)12.



- It also would have allowed for relinquishment for other reasons, including as a way of settling a disciplinary matter.
- But it added a qualification stating that the person could still face disciplinary action if the Commission discovers evidence of misconduct while the officer was serving.



- But that raised other questions about matters such as the process for pursuing action against one whose certification has been relinquished.
- So, this revised policy does not provide for relinquishment of certification, but just a process for a former or departing officer to obtain removal of information from the public database.
- It doesn't foreclose relinquishments, but leaves that subject to be addressed, if at all, when it's presented.



THE REVISED, PROPOSED POLICY

- Section A still provides definitions.
- Sections B and C provide for the Executive Director to develop an Application form and allow an officer to request relief by submitting one.
- Section D states that an Application form shall inform the applicant that:



- For the Application to be considered, the applicant must:
 - Not have been decertified;
 - Provide details on arrests, prosecutions, civil actions, and disciplinary proceedings in the past year; and any entry in the National Decertification Index;
 - State that the applicant is no longer an officer or will resign; and
 - Attest to the information under the pains and penalties of perjury;



- The Commission may invite public comments on the Application; and
- The provision of inaccurate information in the Application may constitute grounds for discipline.



- Section E adds that the Application form shall also inform the applicant that, if the Commissioners vote to grant the relief:
 - The applicant will be given the opportunity to withdraw the Application upon learning of any attached conditions;
 - [Once the decision becomes effective,] the Commission will make information on complaints and discipline unavailable in the public database;



○Such information still:

- Will be included in the Commission's internal databases;
- May be made available to those with special access; and
- May be provided in response to other legal requests; and
- May be disseminated by a vote of the Commissioners.



- Section F provides that the Executive Director or a designee:

- Shall circulate the Application among the Commission's divisions;

- Shall review information on the applicant in:

- Arrest, criminal, civil, and disciplinary records;
- The National Decertification Index; and
- Commission databases; and



- May invite public comments on the Application; and
- Shall, if the Application is sufficient, ask the Commission to vote on:
 - Whether to allow the requested relief; and
 - Whether to attach any conditions upon giving the applicant notice of them and an opportunity to withdraw the Application.
- **Section G** states that the Commissioners reserve the ability to rescind or amend the Policy.



Thank you.



PROPOSED POLICY ON VOLUNTARY RELINQUISHMENT OF CERTIFICATION

Randall E. Ravitz, General Counsel
October 2023



REASONS TO CONSIDER SUCH A POLICY

- The Commission's regulations on databases and dissemination of information provide:
 - “[T]he public database shall not make available to members of the general public” “[i]nformation concerning any individual who is no longer serving as an officer and who last received a certification more than three years earlier, but who has not been decertified,”
 - “Except” that “[t]he public database may be designed to allow particular individuals to access certain forms of information” that ordinarily would be excluded “to the extent that the Commission is not precluded by law from” doing so.

555 CMR 8.06(4)(b)13. (citing 8.05).



- The regulations balance these considerations:
 - On one hand, one who leaves law enforcement has become a private citizen;
 - But, on the other hand:
 - If that person received a certification within the last three years, they still possess it and could use to seek a new law enforcement position; and
 - Some members of the public might still be interested in such a person's record.



- But, as discussed in the last Commission meeting, some may prefer to relinquish the ability to return to law enforcement in the future in return for having their disciplinary information removed from the general public database sooner.
- Also, even apart from any issues involving the publication of disciplinary information, the Commission may want to allow for a relinquishment of certification as a way of resolving certain disciplinary or certification matters.
- These factors warrant consideration of a voluntary relinquishment policy that allows for the removal of database information where appropriate, without necessarily requiring it in all cases.



AUTHORITY ALLOWING FOR VOLUNTARY RELINQUISHMENT

- The Commission’s governing statute provides:
 - “The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to” “limit, condition, restrict, revoke or suspend a certification” and “enter into agreements or other transactions with a person.”
- The Commission has reserved the ability to exercise those powers regarding certifications in its regulations on certification.

M.G.L. c. 6E, § 3(a); 555 CMR 7.09, 9.01, 9.12(3).



AUTHORITY ALLOWING FOR EARLIER REMOVAL OF DISCIPLINARY INFORMATION

- The Commission’s regulations on databases and dissemination of information provide:
 - “[T]he public database shall not make available to members of the general public” “[i]nformation concerning a complaint or disciplinary matter that the Commission, by vote of the Commissioners, has decided not to make available to members of the general public,”
 - Again, with the exception that special access may be allowed.

555 CMR 8.06(4)(b)12. (citing 8.05).



AUTHORITY ALLOWING FOR LESS-FORMAL RESOLUTIONS OF ADJUDICATORY MATTERS

- Commission adjudicatory proceedings are subject to the Administrative Procedure Act, as made clear in the Commission’s governing statute, its regulations, and the Act itself.
- The Administrative Procedure Act provides:
 - “In conducting adjudicatory proceedings,” “agencies shall afford all parties an opportunity for full and fair hearing,” but, “[u]nless otherwise provided by any law, agencies may” “make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement, consent order or default” or “limit the issues to be heard or vary the procedures prescribed by [M.G.L. c. 30A, § 11], if the parties agree to such limitation or variation.”

M.G.L. c. 6E, §§ 3(a)(24), (28), 10(f); M.G.L. c. 30A, §§ 1, 10-14; 555 CMR 1.09(6), 1.10(4), 7.10(2), 9.11(2).



THE PROPOSED POLICY

- **Section A** provides definitions to prevent confusion.
- **Section B** indicates that one can apply to the Commission to voluntarily relinquish a certification.
- **Section C** states that an Application form shall:
 - Outline the benefits to an applicant:
 - The Commission may decide to remove the person's disciplinary information from the general public database; and
 - The Commission will afford the person the opportunity to withdraw the Application upon learning of any conditions that the Commission would attach; and



- Explain the sacrifices and limitations, which are consistent with existing authority:
 - The person will be unable to:
 - Be an officer for an agency,
 - Execute arrests, or
 - Exercise police powers;
 - The person's disciplinary information still:
 - Will be included in the Commission's internal databases,
 - May be made available to certain individuals in a database, and
 - May be provided in response to other requests as appropriate; and
 - The Commission can still pursue disciplinary action based on the person's conduct while serving.



- Section D provides that an Application form shall also require the applicant to provide:
 - Information on criminal, civil, and disciplinary matters;
 - Express acknowledgements of the sacrifices; and
 - A signature under the pains and penalties of perjury.



- Section E provides that the Executive Director or a designee shall:
 - Circulate the Application among the Commission's divisions;
 - Review information on the applicant in:
 - Criminal, civil, and disciplinary records;
 - The National Decertification Index; and
 - Commission databases; and
 - If the Application is sufficient, ask the Commission to vote on:
 - Allowing the voluntary relinquishment; and
 - Imposing conditions upon giving the applicant notice of them and an opportunity to withdraw the Application.
- Section F states that the Commissioners reserve the ability to rescind or amend the Policy.



ARGUMENTS FOR SUCH A POLICY

- An individual should have the ability to separate from the law enforcement system.
- Those who are now private citizens should be able to avoid seeing sensitive information about them publicized.
- Those who were automatically certified under the 2020 act did not seek certification or know what the database would look like when they first became certified.



ARGUMENTS AGAINST SUCH A POLICY

- A former officer's record could still be relevant to a criminal case or to an employer who is considering the person for a non-officer position.
- Former officers' records could still be of interest to those evaluating individual agencies, looking for patterns, developing public policies, or conducting other forms of research.
- Those automatically certified under the 2020 act were on notice through the act that there would be some public database; they had between the act's enactment on December 31, 2020 and its effective date of July 1, 2021 to leave the system; and most have applied for recertification.



Thank you.



Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

POLICY ON REMOVAL OF CERTAIN INFORMATION FROM THE COMMISSION'S PUBLIC DATABASE

(Proposed)

The Massachusetts Peace Officer Standards and Training Commission hereby adopts this Policy regarding the removal of information on disciplinary matters and complaints concerning former or departing officers from the public database maintained by the Commission pursuant to 555 CMR 8.06.

I. TERMS OF POLICY

- A. For purposes of this Policy:
1. The term "Commission" refers to the Massachusetts Peace Officer Standards and Training Commission established under M.G.L. c. 6E, § 2 as an agency, including its Commissioners and its staff;
 2. The term "Commissioners" refers to the Commissioners of the Commission appointed pursuant to M.G.L. c. 6E, § 2(a), collectively;
 3. The term "Executive Director" refers to the Executive Director of the Commission appointed pursuant to M.G.L. c. 6E, § 2(g), or that person's designee for relevant purposes; and
 4. The terms "law enforcement agency" and "law enforcement officer" have the meanings ascribed to those terms in M.G.L. c. 6E, § 1.
- B. The Executive Director shall develop an Application form that may be used by an individual who has served as, or has been certified as, a law enforcement officer to request that the Commission remove information concerning complaints and disciplinary matters against the individual from the public database maintained by the Commission pursuant to 555 CMR 8.06.
- C. An individual may apply for such relief by submitting a completed Application form to the Executive Director.
- D. The Application form shall inform the applicant that:
1. In order for the Application to be considered, the applicant must:
 - a. Not have been decertified pursuant to M.G.L. c. 6E, § 10;
 - b. Provide details regarding each arrest of the applicant, and criminal prosecution, civil action, and disciplinary proceeding brought

- against the applicant in any jurisdiction in the preceding year;
 - c. Provide details regarding any entry in the National Decertification Index involving the individual;
 - d. Expressly state that the applicant is no longer appointed or employed as a law enforcement officer by a law enforcement agency, or that the applicant will resign from any such position before any decision granting the Application becomes effective; and
 - e. Attest to the veracity of all information in the Application under the pains and penalties of perjury;
 - 2. The Commission may invite comments on the Application from members of the public; and
 - 3. The provision of inaccurate information in the Application may constitute grounds for disciplinary action pursuant to M.G.L. c. 6E, § 3(a), 4(f)(4), 8, 9, and/or 10.
- E. The Application form shall further inform the applicant that, if the Commissioners vote pursuant to M.G.L. c. 6E, § 2(e) to allow the requested relief:
- 1. The Commissioners will give the applicant notice of any conditions that would be attached to such relief and will provide the applicant with an opportunity to withdraw the Application before the decision granting the Application with conditions becomes effective;
 - 2. The Commission will, pursuant to M.G.L. c. 6E, § 3(a) and 555 CMR 8.06(4)(b)12., make information concerning complaints and disciplinary matters against the applicant unavailable to members of the general public in the public database maintained by the Commission pursuant to 555 CMR 8.06;
 - 3. Information concerning complaints and disciplinary matters against the applicant, even if made unavailable to the general public in the public database established by the Commission in accordance with 555 CMR 8.06:
 - a. May still be made accessible to particular individuals to the extent not precluded by law, pursuant to 555 CMR 8.06(5);
 - b. Will still be maintained in one or more “Division Databases” established in accordance with 555 CMR 8.05, if otherwise warranted under that regulation; and
 - c. May still be disseminated:
 - i. In response to a public records request pursuant to M.G.L. c. 66, § 10;
 - ii. In response to a request pursuant to the Fair Information Practices Act, M.G.L. c. 66A;
 - iii. In response to compulsory legal process;
 - iv. Pursuant to any other requirement of law; and
 - v. By a vote of the Commissioners pursuant to M.G.L. c. 6E, § 2(e).
-

- F. Upon receiving an Application, the Executive Director:
1. Shall provide a copy of the Application to all Commission divisions and afford each division a reasonable time within which to inform the Executive Director of any issues related to the Application;
 2. Shall review the following:
 - a. Available records relating to any arrests, criminal prosecutions, civil actions, and disciplinary proceedings involving the applicant;
 - b. Any information regarding the applicant within the National Decertification Index; and
 - c. Any information regarding the applicant within Commission databases;
 3. May invite comments on the Application from members of the public; and
 4. Shall, if the Application satisfies all the requirements in Section I.D above:
 - a. Provide the Application, along with any other appropriate information and recommendations, to the Commissioners; and
 - b. Ask the Commission Chair to place the following issues on the agenda of an upcoming meeting of the Commissioners:
 - i. Whether to approve the requested relief; and
 - ii. Whether to attach conditions to any such approval upon giving the applicant notice of those conditions and an opportunity to withdraw the Application before the decision granting the Application with conditions becomes effective.
- G. The Commission reserves the ability to rescind or amend this Policy at any time.

II. KEY SOURCES OF AUTHORITY

M.G.L. c. 6E, § 1

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

“Agency”, a law enforcement agency.

.....

“Chair”, the chair of the commission.

.....

“Commission”, the Massachusetts peace officer standards and training commission established pursuant to section 2.

“Commissioner”, a member of the commission.

.....

“Decertified”, an officer whose certification is revoked by the commission pursuant to section 10.

.....

“Executive director”, the executive director of the commission appointed pursuant to subsection (g) of section 2.

“Law enforcement agency”, (i) a state, county, municipal or district law enforcement

agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department; (ii) a sheriff's department in its performance of police duties and functions; (iii) a public or private college, university or other educational institution or hospital police department; or (iv) a humane society police department in section 57 of chapter 22C.

"Law enforcement officer" or "officer", any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to section 57, section 58 or section 63 of chapter 22C; a special sheriff appointed pursuant to section 4 of chapter 37 performing police duties and functions; a deputy sheriff appointed pursuant to section 3 of said chapter 37 performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve or intermittent police officer.

....

M.G.L. c. 6E, § 2

....

(e) Seven commissioners shall constitute a quorum and the affirmative vote of a majority of commissioners present and voting shall be required for an action of the commission. The commission shall meet monthly and at other times as it shall deem necessary or upon the written request of 4 commissioners or the chair; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations establishing procedures, which may include electronic communications, by which a request to receive notice shall be made and the method by which timely notice may be given.

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:

...

(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;

...

(27) maintain an official internet website for the commission;

....

M.G.L. c. 6E, § 4

(h) The division of police certification, in consultation with the division of police standards, shall create and maintain a database containing records for each certified law enforcement officer, including, but not limited to:

(1) the date of initial certification;

- (2) the date of any recertification;
- (3) the records of completion of all training and all in-service trainings, including the dates and locations of said trainings, as provided by the municipal police training committee established in section 116 of chapter 6, and the department of state police;
- (4) the date of any written reprimand and the reason for said reprimand;
- (5) the date of any suspension and the reason for said suspension;
- (6) the date of any arrest and the charge or charges leading to said arrest;
- (7) the date of, and reason for, any internal affairs complaint;
- (8) the outcome of an internal affairs investigation based on an internal affairs complaint;
- (9) the date of any criminal conviction and crime for said conviction;
- (10) the date of any separation from employment with an agency and the nature of the separation, including, but not limited to, suspension, resignation, retirement or termination;
- (11) the reason for any separation from employment, including, but not limited to, whether the separation was based on misconduct or whether the separation occurred while the appointing agency was conducting an investigation of the certified individual for a violation of an appointing agency's rules, policies, procedures or for other misconduct or improper action;
- (12) the date of decertification, if any, and the reason for said decertification; and
- (13) any other information as may be required by the commission.

...

(j) The commission shall promulgate regulations for the division of police certification to maintain a publicly available and searchable database containing records for law enforcement officers. In promulgating the regulations, the commission shall consider the health and safety of the officers.

M.G.L. c. 6E, § 13

(a) The commission shall maintain a publicly available database of orders issued pursuant to section 10 on the commission's website, including, but not limited to: (i) the names of all decertified officers, the date of decertification, the officer's last appointing agency and the reason for decertification; (ii) the names of all officers who have been suspended, the beginning and end dates of suspension, the officer's appointing agency and the reason for suspension; and (iii) the names of all officers ordered to undergo retraining, the date of the retraining order, the date the retraining was completed, the type of retraining ordered, the officer's appointing agency and the reason for the retraining order.

(b) The commission shall cooperate with the national decertification index and other states and territories to ensure officers who are decertified by the commonwealth are not hired as law enforcement officers in other jurisdictions, including by providing information requested by those entities.

555 CMR 8.06: Public Database

(1) The Commission shall establish, by a date adopted by a vote of the Commissioners,

and thereafter shall maintain, a public database of information concerning individuals who, at any point since July 1, 2021, have served as an officer or have been certified.

(2) The public database must be searchable and accessible to the public through the Commission's official website.

(3) Except as provided in 555 CMR 8.06(4), the public database shall make the following available to the general public, to the extent that the information is possessed by the Commission:

(a) These forms of information for each officer identified in 555 CMR 8.06(1):

...

6. The date of, and reason for, any decertification by the Commission or by a comparable body in any other jurisdiction;

...

10. A summary of the officer's disciplinary record, which may incorporate information provided by law enforcement agencies that have employed the officer, and which shall list:

- a. Complaints against the officer;
- b. The final disposition of each listed complaint;
- c. The nature of any discipline imposed as a result of each listed complaint;
- d. Whether each complaint was submitted anonymously; and
- e. Whether each complaint was submitted under the pains and penalties of perjury.

....

(4) Except as provided in 555 CMR 8.06(5), the public database shall not make available to members of the general public:

(a) The following forms of information:

...

(b) The following additional forms of information:

...

- 4. Information that an individual has the ability to have corrected, amended, or removed pursuant to M.G.L. c. 66A, § 2(j) or 555 CMR 8.08;
- 5. Information that shall not be disclosed pursuant to 555 CMR 8.08(10);

...

12. Information concerning a complaint or disciplinary matter that the Commission, by vote of the Commissioners, has decided not to make available to members of the general public;

13. Information concerning any individual who is no longer serving as an officer and who last received a certification more than three years earlier, but who has not been decertified;

(5) The public database may be designed to allow particular individuals to access certain forms of information that are listed in 555 CMR 8.06(4) to the extent that the Commission is not precluded by law from making such information available to those individuals.

(6) The Commission may make other determinations concerning the content, the accessibility of information, and the format of the public database as follows:

(a) Any such determination shall be made in accordance with guidelines

established by a vote of the Commissioners following an opportunity for public input, or, if no such guidelines are established, in accordance with guidelines established by the Commission's Executive Director;

(b) Such a determination may provide for forms of information that are not specifically referenced in 555 CMR 8.06(3) or (4) to be made available, or to be made unavailable, to the general public or to particular individuals;

(c) Any such determination must be consistent with 555 CMR 8.00 and other relevant provisions of law; and

(d) Any such determination must be made with due consideration for the health and safety of officers.

555 CMR 8.08: *Objections Concerning Data*

- (1) An individual who is identified in data maintained by the Commission, or the individual's representative, may raise objections related to the accuracy, completeness, pertinence, timeliness, relevance, or dissemination of the data, or the denial of access to such data by filing a written petition for relief with the Executive Director, in a form prescribed by the Commission, at any time.
- (2) Upon receiving a petition filed pursuant to 555 CMR 8.08(1), the Executive Director shall promptly evaluate the petition, including by obtaining relevant information.
- (3) If the Executive Director determines that the relief requested in a petition filed pursuant to 555 CMR 8.08(1) is warranted, the Executive Director shall promptly:
 - (a) Take appropriate steps to grant such relief, or comparable relief;
 - (b) Make information concerning the action taken available to the Commissioners;
 - (c) Notify the petitioner of the status of the petition.
- (4) After the Executive Director takes the steps prescribed by 555 CMR 8.08(3):
 - (a) The Chair may take any further action allowed by law with respect to the petition filed pursuant to 555 CMR 8.08(1); and
 - (b) The Executive Director shall notify the petitioner regarding any change in the status of the petition.
- (5) If the Executive Director determines that the relief requested in a petition filed pursuant to 555 CMR 8.08(1) is unwarranted, the Executive Director shall:
 - (a) Within a reasonable time, notify the petitioner in writing that such determination was made and that the petitioner shall have the opportunity to submit a statement reflecting the petitioner's position regarding the data;
 - (b) At or around the same time, make information concerning the determination available to the Commissioners; and
 - (c) Cause any such statement to be included with the data and with any subsequent disclosure or dissemination of the data.
- (6) After the Executive Director takes the steps prescribed by 555 CMR 8.08(5):
 - (a) The Chair may take any further action allowed by law with respect to the petition filed pursuant to 555 CMR 8.08(1); and
 - (b) The Executive Director shall notify the petitioner regarding any change in the status of the petition.
- (7) Within 30 days of receiving a notification pursuant to 555 CMR 8.08(3)(c), (4)(b),

5(a), or 6(b), a petitioner may file a written request for further review with the Executive Director.

(8) The Executive Director shall provide any request for further review made pursuant to 555 CMR 8.08(7) to the Chair promptly upon receiving it.

(9) The Chair may take any action allowed by law with respect to a request for further review made pursuant to 555 CMR 8.08(7).

(10) If the Commission has a good-faith, reasonable belief that an employee possesses a right to have information that is contained in a personnel record maintained by an employer corrected or expunged by an employer pursuant to M.G.L. c. 149, § 52C, the Commission shall not disclose such information without first giving the employee the opportunity to exercise the right, unless the law requires otherwise.

4b.



PROPOSED PLAN ON PSYCHOLOGICAL AND PHYSICAL FITNESS STANDARDS

Elizabeth B. Smith, Paralegal/Hearings Administrator

LaRonica K. Lightfoot, Deputy General Counsel

November 2023



PURPOSE

- Establish a process for *evaluating* officer psychological and physical fitness.
- Define *standards* of the evaluation process.
- Ensure any results or information from the evaluation are *non-punitive*.
- Make testing *fair and accessible*, including opportunities for retesting.



AUTHORITY ALLOWING FOR OFFICER PSYCHOLOGICAL AND PHYSICAL FITNESS STANDARDS

- The Commission's governing statute provides:
 - "The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to" "establish a physical and psychological fitness evaluation pursuant to section 4 that measures said fitness to ensure officers are able to perform essential job duties."
- The Commission has reserved the ability to exercise those powers regarding establishing standards related to officer mental and physical fitness.

M.G.L. c. 253, § 108; M.G.L. c. 6E, § 3(a); M.G.L. c. 6E, § 4, 555 CMR 7.00.



AUTHORITY ALLOWING FOR OFFICER PSYCHOLOGICAL AND PHYSICAL FITNESS STANDARDS (Cont.)

- M.G.L. c. 6E, § 4:
 - (f)(1) The division of police certification and the [MPTC] established in [M.G.L. c. 6, § 116] shall jointly establish minimum certification standards for all officers that shall include, but not be limited to:
 - (iv) successful completion of a physical and psychological fitness evaluation approved by the commission.
- 555 CMR 7.06
 - (4) Successful Completion of a Physical and Psychological Fitness Evaluation.

M.G.L. c. 253, § 108; M.G.L. c. 6E, § 3(a); M.G.L. c. 6E, § 4, 555 CMR 7.06(4).



ROADMAP

- Collect and analyze information from other jurisdictions.
- Create opportunities for public engagement and collaboration.
- Partner with Commission, stakeholders, and other agencies to create a project plan.



POTENTIAL STAKEHOLDERS

Law Enforcement Officers

Mental health professionals

Medical professionals

Agency heads

Collective Bargaining Units

Municipal Police Training Committee (MPTC)

Members of the public



NEXT STEPS



Identify potential challenges at the initial stages of the process.



Communicate with stakeholders and provide opportunities for listening sessions.



Provide periodic status reports to the Commission.



Thank you.

4c.



MAINTAINING,
REPORTING, AND
AUDITING OF
LAW ENFORCEMENT
RECORDS AND
INFORMATION

Randall E. Ravitz, General Counsel
May 2023



What are the Commission's powers and duties regarding auditing of agency records?

- **Chapter 6E, Section 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:”
 - “(9) conduct audits and investigations pursuant to section 8;”
 - “(21) demand access to and inspect, examine, photocopy and audit all papers, books and records of any law enforcement agency;”
 - “(28) adopt, amend or repeal regulations in accordance with chapter 30A for the implementation, administration and enforcement of this chapter, including, but not limited to, [those listed.]”



- **Section 8(d):**

- “The division of police standards may audit all records related to the complaints, investigations and investigative reports of any agency related to complaints of officer misconduct or unprofessionalism, including, but not limited to, personnel records.”
- “The commission shall promulgate rules and regulations establishing an audit procedure;”
- “provided, however, that said rules and regulations shall not limit the ability of the division of police standards to initiate an audit at any time and for any reason.”



What might be the Commission's objectives in developing auditing regulations?

- Expressly authorizing the Division to undertake particular types of auditing activity.
- Allowing flexibility, especially given the language of Sections 3(a) and 8(d), and the Commission's newness
 - In particular, confirming that the Division can audit records beyond those listed in Section 8(d)
- Providing guidance to Commission auditors as to best practices, and a blueprint or checklist of what an audit might entail



- Informing agencies of what to maintain, report, and expect in an audit, and requiring certain forms of cooperation
- Providing a vehicle and a structure for the Commission to:
 - Ensure that agencies are keeping and reporting certain types of information
 - Standardize certain practices regarding records and information
 - Examine not only recordkeeping and reporting by agencies, but also their policies, compliance with various requirements, and handling of matters
 - Establish action plans for agencies and follow-up examinations



What might the Commission require as to agency recordkeeping and reporting?

- Maintaining certain records related to:
 - Basic employment information, particularly forms required to be included in Commission databases
 - Certification
 - Complaints and discipline
 - Uses of force, injuries, and deaths
 - Internal policies
 - *Brady* lists and notices
 - Accreditation
 - Other proceedings, such as prosecutions, civil litigation, arbitration, Civil Service review, collective bargaining
- Ensuring accuracy and correction of errors



- Designating an agency liaison to the Commission
- Transmitting certain information that the Commission is expected to maintain
- Providing email addresses and contact names for the Commission to utilize
- Notifying the Commission regarding matters such as:
 - Events in criminal actions against officers
 - Certain activity in other proceedings, such as decisions, orders, NDI placement
- Updating the Commission regarding matters such as:
 - Changes in officer status
 - Compliance with conditions of certification, suspension, or retraining
 - New developments related to action being pursued by the Commission
- Steps that will enhance the effectiveness of other Commission regulations



What areas might the Commission focus on in developing guidelines for agency recordkeeping and reporting, and for Commission auditing?

- Certification-related matters
- Uses of force, injuries, and deaths
- Misconduct and discipline, including:
 - Criminal and other legal actions against officers
 - Bias-motivated conduct
 - Integrity issues and violations



- School Resource Officer service, and other juvenile matters
- In-service training
- The extent of agency tolerance for intervention and reporting regarding apparent misconduct
- Events in other proceedings
- Patterns, e.g., of racial profiling or unprofessionalism



Who and what might the Commission consult in the process?

- Personnel from different parts of our own agency
- Massachusetts law enforcement officials
- Other Massachusetts offices that audit or investigate
- Generally Accepted Government Auditing Standards, particularly those adopted by the federal government and referenced in Massachusetts statutes*

* U.S. Government Accountability Office, Government Auditing Standards (2018 & 2021 technical update) (the “Yellow Book”), referenced in M.G.L. c. 11, § 12 and M.G.L. c. 161B, § 8



- Other secondary sources on auditing in government, and particularly of law enforcement agencies, as well as their authors
- National organizations and any materials they have
- Records we have obtained from agencies
- Thoughts are invited



THANK YOU