



## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

January 9, 2023

### CHAIR

Margaret R. Hinkle

### COMMISSIONERS

Hanya H. Bluestone

Lawrence Calderone

Clementina Chéry

Larry E. Ellison

Marsha V. Kazarosian

Charlene D. Luma

Kimberly P. West

Michael Wynn

### EXECUTIVE DIRECTOR

Enrique A. Zuniga

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](#), and by [Chapter 107 of the Acts of 2022](#), 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 #32**

**January 12, 2023**

**8:30 a.m.**

**Remote Participation via [Zoom](#)**

**Meeting ID: 923 7353 5537**

- 1) Call to Order
- 2) Executive Director Report – Enrique Zuniga
  - a. Suspensions
- 3) Regulations Update – General Counsel Randall Ravitz
  - a. Proposed regulations on Databases and Dissemination of Information (555 CMR 8.00)
  - b. Proposed regulations re: Regulatory Action and Advisory Opinions (555 CMR 11.00)
- 4) General Counsel Update – General Counsel Ravitz
  - a. Process for lifting suspensions
- 5) Finance Update – CFAO Eric Rebello-Pradas
  - a. FY23 2<sup>nd</sup> Quarter Update
  - b. FY24 Budget and Organizational Chart
- 6) Matters not anticipated by the Chair at the time of posting
- 7) Executive Session in accordance with the following:

100 Cambridge Street, 14th Floor  
Boston, Massachusetts 02114

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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)(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. Division of Standards request approval of conducting Preliminary Inquiries in the following cases:
- i) PI-2023-01-12-001
  - ii) PI-2023-01-12-002
  - iii) PI-2023-01-12-003
  - iv) PI-2023-01-12-004
- b. Approval of the minutes of the Executive Session of 11/22/22
- c. Approval of the minutes of the Executive Session of 12/13/22

3a.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

555 CMR 8.00: DATABASES AND DISSEMINATION OF INFORMATION

Section

- 8.01: Authority
- 8.02: Scope
- 8.03: Definitions
- 8.04: Submission of Information by Agencies
- 8.05: Division Databases
- 8.06: Public Database
- 8.07: Maintenance of Databases and Electronic Recordkeeping Systems Generally
- 8.08: Objections Concerning Data
- 8.09: Receipt and Referral of Records Requests
- 8.10: Responses to Records Requests
- 8.11: Privileged Information
- 8.12: Compulsory Legal Process

8.01: Authority

- (1) The Massachusetts Peace Officer Standards and Training Commission promulgates 555 CMR 8.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 4(j), and 801 CMR 3.01(2).

8.02: Scope

- (1) 555 CMR 8.00 applies to:
  - (a) Databases that the Commission must maintain pursuant to M.G.L. c. 6E, §§ 4(h), 4(j), 8(e), and 13(a);
  - (b) Other databases and electronic recordkeeping systems maintained by the Commission; and
  - (c) Commission responses to requests for records served upon it pursuant to M.G.L. c. 66, § 10.
- (2) 555 CMR 8.00 does not apply to any of the following:
  - (a) A response by the Commission to compulsory legal process, except as provided in 555 CMR 8.13;
  - (b) A response by the Commission to a court order relative to the disclosure of information;
  - (c) An inquiry or request concerning personal data, made on behalf of the individual to whom the personal data refers, under M.G.L. c. 66A, §§ 2(g) or 2(i); or
  - (d) The Commission's treatment of evidence that it knows to be relevant to a pending criminal case or exculpatory as to any criminal case.
- (3) With respect to matters to which 555 CMR 8.00 applies, it is intended to supersede 801 CMR 3.00.
- (4) Nothing in 555 CMR 8.00 is intended to:
  - (a) Foreclose the Commission's invocation of any provision, privilege, or doctrine, regardless of whether it is cited in 555 CMR 8.00;
  - (b) Establish a standard of care or create any independent private right, remedy, or cause of action on the part of any person or entity on account of any action the Commission takes or fails to take; or
  - (c) Otherwise waive any power, right, privilege, protection, or immunity that may be available to the Commission.
- (5) Neither 555 CMR 8.00, nor the Commission's provision of any information through a public database or in response to a records request, is intended to:
  - (a) Create an attorney-client relationship, a principal-agent relationship, or a confidential relationship with any person or entity;
  - (b) Make the Commission a part of the prosecution team, the defense team, or the litigation team of any other party in relation to any criminal or civil action or controversy;
  - (c) Impose upon the Commission any duty or obligation of any other entity or person; or
  - (d) Otherwise surrender the Commission's independence.

8.03: Definitions

- (1) 555 CMR 8.00 incorporates all definitions set forth in 555 CMR 2.02, except those definitions of terms that are defined in 555 CMR 8.03(2).
- (2) For the purposes of 555 CMR 8.00, the following terms have the following meanings, unless the context requires otherwise:

Certification. Certification or recertification of a law enforcement officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4.

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

Compulsory Legal Process. A demand that is issued by or through a federal or state court or party to litigation, including any demand made by summons, subpoena, discovery request, or judicial order.

Conclusion. The point at which the Commission has rendered its ultimate decision or action on a matter, no proceeding regarding the matter is pending before any court or agency, and no opportunity for further review in the normal course by any court or agency remains.

Deadly Force. “Deadly force” as that term is defined in M.G.L. c. 6E, § 1.

Decertification. A revocation of certification made by the Commission pursuant to M.G.L. c. 6E, § 10—an action distinct from a denial, a nonrenewal, or an expiration of certification.

Division of Police Certification. The Division of Police Certification of the Commission established pursuant to M.G.L. c. 6E, § 4(a)(1).

Division of Police Standards. The Division of Police Standards of the Commission established pursuant to M.G.L. c. 6E, § 8(a).

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.

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

Personal Data. “Personal data” as that term is defined in M.G.L. c. 66A, § 1.

RAO. The Commission Records Access Officer designated pursuant to M.G.L. c. 66 and 950 CMR 32.00, or that person’s designee for relevant purposes.

Record, Information, and Data. Any form of record, document, written material, or data, regardless of whether it constitutes a “public record” as that term is defined in M.G.L. c. 4, § 7, cl. 26 or “personal data” as that term is defined in M.G.L. c. 66A.

Records Request. A request for Commission records made pursuant to, and in conformance with, M.G.L. c. 66, § 10.

Requester. Any person or entity that tenders a records request to the Commission.

Untruthful. “Untruthful” as that term is defined in M.G.L. c. 6E, § 1.

Vote of the Commissioners. A vote sufficient to satisfy the requirements of M.G.L. c. 6E, § 2(e).

8.04: Submission of Information by Agencies

- (1) When an agency supplies information concerning an officer to the Commission, the agency:
  - (a) Must notify the officer that it has done so in accordance with any other provision of 555 CMR that requires notification; or
  - (b) In the absence of any such provision, must notify the officer that it has done so within ten calendar days, unless such notification would compromise an ongoing investigation or the security of any person or entity, or would be precluded by federal or Massachusetts law.

8.05: Division Databases

- (1) The Division of Police Certification, in consultation with the Division of Police Standards, shall establish, by a date adopted by a vote of the Commissioners, and thereafter shall maintain, a database containing records for each certified law enforcement officer, including, but not limited to:
  - (a) The date of initial certification;
  - (b) The date of any recertification;
  - (c) The records of completion of all training and all in-service trainings, including the dates and locations of said trainings, as provided by the MPTC and the Department of State Police;
  - (d) The date of any written reprimand and the reason for said reprimand;
  - (e) The date of any suspension and the reason for said suspension;
  - (f) The date of any arrest and the charge or charges leading to said arrest;
  - (g) The date of, and reason for, any internal affairs complaint;
  - (h) The outcome of an internal affairs investigation based on an internal affairs complaint;
  - (i) The date of any criminal conviction and crime for said conviction;
  - (j) 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;
  - (k) 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;
  - (l) The date of decertification, if any, and the reason for said decertification;
  - (m) Any other information as may be required by the Commission; and
  - (n) Any other information expressly required by M.G.L. 6E, § 4(h).
- (2) The Division of Police Standards shall establish, by a date adopted by a vote of the Commissioners, and thereafter shall maintain, a database containing information related to the following for each officer serving on or after July 1, 2021:
  - (a) The officer's receipt of complaints, including, but not limited to:
    1. The officer's appointing agency;
    2. The date of the alleged incident and the date of the complaint;
    3. A description of circumstances of the conduct that is the subject of the complaint; and
    4. Whether the complaint alleges that the officer's conduct:
      - a. Was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
      - b. Was unprofessional;
      - c. Involved excessive, prohibited or deadly force; or
      - d. Resulted in serious bodily injury or death;
  - (b) Allegations that the officer was untruthful;
  - (c) The officer's failure to follow Commission training requirements;
  - (d) The officer's decertification by the Commission;
  - (e) Agency-imposed discipline of the officer;
  - (f) The officer's termination for cause;
  - (g) Any other information the Commission deems necessary or relevant; and
  - (h) Any other information expressly required by M.G.L. 6E, § 8(e).

- (3) The Commission may combine the databases prescribed by 555 CMR 8.05(1) and (2) within a single database.

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 have served as officers at any point since July 1, 2021 and:

- (a) Who are certified or conditionally certified;
- (b) Whose certifications are pending, restricted, limited, or suspended; or
- (c) Who have been decertified or not recertified.

(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::

(a) These forms of information for each officer identified in 555 CMR 8.06(1), to the extent that the information is possessed by the Commission:

- 1. The officer's first name and surname;
- 2. The officer's current certification status in Massachusetts;
- 3. The dates on which the officer was first certified and was most recently certified in Massachusetts;
- 4. All of the officer's employing law enforcement agencies in Massachusetts and elsewhere, and the dates of the officer's employment with such agencies;
- 5. Commendations received by the officer in connection with the officer's service in law enforcement;
- 6. The date of, and reason for, any decertification by the Commission or by a comparable body in any other jurisdiction;
- 7. The beginning date and end date of, and the reason for, any suspension of certification by the Commission;
- 8. As to any retraining order issued by the Commission, the date of the order, the reason for the order, the type of retraining ordered, and any date of completion of the retraining ordered;
- 9. A copy of each final opinion, decision, order, set of findings, and vote issued by the Commission pursuant to M.G.L. c. 6E, § 10 in connection with any proceedings concerning the officer, accessible in a commonly available electronic format;
- 10. A summary of the officer's disciplinary record, based on information provided by agencies that have employed the officer,- which shall list:
  - a. Complaints against the officer;
  - b. The final disposition of each listed complaint; and
  - c. The nature of any discipline imposed as a result of each listed complaint; and
- 11. Information concerning any decision that reversed or vacated an action regarding the officer, or that exculpated the officer for any reason in relation to a particular matter, where such action or matter is referenced in the database.

(b) To the extent reasonably feasible, aggregations of, or ways for public users to aggregate, available information regarding the following:

- 1. Decisions by the Commission and comparable bodies in other jurisdictions to decertify officers;
- 2. Decisions by the Commission to suspend the certification of officers;
- 3. Decisions by the Commission to order the retraining of officers;
- 4. Officers who have served in a particular department; and
- 5. The total number of complaints reportable to the Commission pursuant to 555 CMR 1.00.

(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:

- 1. Records relating to a preliminary inquiry or initial staff review used to

determine whether to initiate an inquiry that are confidential under M.G.L. c. 6E, § 8(c)(2), or 555 CMR 1.03 or 1.07(2);

2. Other information related to disciplinary proceedings that is confidential under 555 CMR 1.01(2)(d), 1.09(6)(c), or 1.10(4)(a);
  3. Identifying or contact information that is generally non-public and non-disclosable under M.G.L. c. 66, §§ 10B and 15;
  4. Criminal offender record information that cannot be communicated under M.G.L. c. 6, §§ 168 or 178, 803 CMR 2.00, or 803 CMR 7.00; and criminal history record information that cannot be disseminated under 803 CMR 7.00;
  5. Sealed or expunged records that are non-public and confidential or are unavailable for inspection under M.G.L. c. 276, §§ 100L, 100O, or 100Q;
  6. Juvenile delinquency records that must be withheld under M.G.L. c. 119, § 60A, or juvenile criminal records that cannot be communicated under M.G.L. c. 6, §§ 168 and 178.
  7. Police-log entries pertaining to arrests of juveniles that are non-public and non-disclosable under M.G.L. c. 41, § 98F;
  8. Police-log entries pertaining to handicapped individuals that are non-public and non-disclosable under M.G.L. c. 41, § 98F;
  9. Police-log entries pertaining to alleged domestic violence or sex offenses that are non-public and non-disclosable under M.G.L. c. 41, § 98F;
  10. These records, to the extent that they are not public reports and generally must be maintained by police departments in a manner that shall assure their confidentiality under M.G.L. c. 51, § 97D:
    - a. Reports of rape and sexual assault or attempts to commit such offenses;
    - b. Reports of abuse perpetrated by family or household members, as defined in M.G.L. c. 209A, § 1; and
    - c. Communications between police officers and victims of such offenses or abuse;
  11. Information in court and police records that identifies alleged victims of sex offenses or trafficking and is non-public, must be withheld, and cannot be published, disseminated, or disclosed under M.G.L. c. 265, § 24C;
  12. Identifying, contact, employment, or educational information of victims of crimes or domestic violence or members of their families that is non-public and non-disclosable under M.G.L. c. 66, §§ 10B and 15;
  13. Contact, employment, or educational information of victims, members of their families, or witnesses that is confidential and non-disclosable under M.G.L. c. 258B, §§ 3(h) and 3(w);
  14. Identifying, contact, employment, or educational information of family-planning personnel or members of their families that is non-public and non-disclosable under M.G.L. c. 66, §§ 10B and 15;
  15. Personal data that is non-accessible under M.G.L. c. 66A and M.G.L. c. 214, § 3B;
  16. Forms of “personal information” referenced in M.G.L. c. 93H, § 1, other than the names of individuals;
  17. Data that the Commission is precluded from disclosing pursuant to a court order;
  18. Information the disclosure of which would violate a person’s right against unreasonable, substantial, or serious interference with privacy under M.G.L. c. 214, § 1B;
  19. Information concerning any complaint that was not resolved against the officer, unless the Commission determines that the resolution reached was unwarranted; and
  20. Any other information that is non-disclosable under federal or Massachusetts law.
- (b) The following additional forms of information:
1. These forms, the revelation of which could potentially impact officer health or safety, including by facilitating attempts to coerce officers or exploit any individual vulnerabilities:
    - a. Information relating to a member of an officer’s family, except where such family member is an officer and any relation between the two officers is not revealed;



- b. Information concerning an officer's personal finances that is not otherwise publicly available;
  - c. Information that could readily be used to facilitate identity theft or breaches of data security, including, but not limited to, an officer's date of birth, passwords, and entry codes;
  - d. Information concerning an officer's medical or psychological condition;
  - e. Any assessment of whether an officer possesses good moral character or fitness for employment in law enforcement under M.G.L. c. 6E, § 4(f)(1)(ix) that was made:
    - 1. By a person or entity other than the Commission or its personnel; and
    - 2. Pursuant to 555 CMR 7.05 or 7.06(9) or otherwise in response to a request by the Commission in connection with a certification process;
  - f. Information concerning an officer's conduct as a juvenile;
  - g. Information concerning any firearm, or firearms license or permit, that an officer currently possesses in a personal capacity;
  - h. Law enforcement information, including information concerning the following subjects, if disclosure could compromise law enforcement or security measures:
    - 1. Undercover operations;
    - 2. Confidential informants;
    - 3. Clandestine surveillance;
    - 4. Secretive investigative techniques;
    - 5. Passwords and codes;
    - 6. The details of security being provided to a person or place; or
    - 7. Subjects of comparable sensitivity.
  - i. Information concerning a disciplinary matter before the Commission that has not reached a conclusion; and
  - j. Any other information that could readily be used in an attempt to coerce action or inaction, or exploit individual vulnerabilities, of an officer.
- 2. Agency records that are within the scope of those being audited by the Commission pursuant to M.G.L. c. 6E, §§ 3(a)(9), 3(a)(21), and 8(d);
  - 3. Records associated with Commission meetings that may be withheld under M.G.L. c. 30A, § 22;
  - 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);
  - 6. Information that is protected by a privilege against disclosure recognized by law and is held by the Commission;
  - 7. Information that is protected by a privilege against disclosure recognized by law and is held by a person or entity other than the Commission;
  - 8. Data that is non-disclosable under any formal agreement or memorandum of understanding between the Commission and any other federal, state, local, or tribal governmental entity, including, but not limited to, any Commonwealth of Massachusetts Data Sharing Memorandum of Understanding, any Data Use License Agreement between the Commission and another governmental entity, and any Massachusetts Criminal Justice Information System (CJIS) User Agreement;
  - 9. Information that a court has expunged, placed under seal, impounded, or relieved the Commission of having to disclose;
  - 10. Information the confidentiality of which is the subject of dispute in litigation or an administrative proceeding;
  - 11. Any document, record, or petition generated by the Witness Protection Board or by a prosecuting officer and related to witness protection services that is non-public and non-disclosable under 501 CMR 10.14; and
  - 12. Information that otherwise does not constitute a public record under M.G.L. c. 4, § 7, cl. 26.

(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) For purposes of determining whether a matter is ongoing, as that question relates to the applicability of exemptions under M.G.L. c 4, § 7, cl. 26 or other provisions or doctrines, Commission personnel may treat the following guidelines as instructive, to the extent that they do not conflict with any governing source of law.

(a) A certification matter should be deemed subject to Commission oversight, and ongoing, beginning upon the earliest of the following:

1. The Commission's receipt of an application for certification on behalf of an officer, including one made pursuant to M.G.L. c. 6E, § 4, M.G.L. c. 30A, § 13, or 555 CMR 7.03; or

2. An agency's receipt from an officer of an application for certification or any materials required for the agency to complete an application for certification on the officer's behalf.

(b) A certification matter should be deemed no longer ongoing upon the conclusion of the matter.

(c) A disciplinary matter should be deemed subject to Commission oversight, and ongoing, beginning upon the earliest of the following:

1. The Commission's receipt of a complaint or information warranting a determination of whether to initiate a preliminary inquiry under M.G.L. c. 6E, § 8; or

2. An agency's receipt of a complaint that must or will be reported to the Commission under 555 CMR 1.01.

(d) A disciplinary matter should be deemed no longer ongoing upon the earliest of the following:

1. The conclusion of the matter;

2. The point at which all entities that the Commission knows to have been investigating the matter have decided not to pursue any associated disciplinary or legal action; or

3. An officer's communication to the Commission of a decision not to challenge any disciplinary action.

(7) 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(4) or (5) 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.

#### 8.07: Maintenance of Databases and Electronic Recordkeeping Systems Generally

(1) When designing or acquiring an electronic record keeping system or database, the Commission's RAO and its Chief Technology Officer shall consult with each other, and with the Commission's Executive Director, its Chief Financial and Administrative Officer, or the Massachusetts Executive Office of Technology Services and Security to ensure, to the extent feasible, that the system or database is capable of providing data in a commonly available electronic, machine readable format.

(2) Any database designs or acquisitions shall allow for, to the extent feasible, information storage and retrieval methods that permit the segregation and retrieval of public records and redacting of exempt information in order to provide maximum public access.

(3) The Commission shall not enter into any contract for the storage of electronic records that:

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- (a) Prevents or unduly restricts the RAO from providing public records in accordance with M.G.L. c. 66;
- (b) Relieves the Commission of its obligations under M.G.L. c. 66A or any governing regulations promulgated thereunder; or
- (c) Omits provisions that are necessary to ensure compliance with M.G.L. c. 66A or any governing regulations promulgated thereunder.

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 thirty 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.

8.09: Receipt and Referral of Records Requests

- (1) The Commission may decline to accept records requests by telephone, pursuant to 950 CMR 32.06(1)(a).
- (2) If the MPTC is, by agreement, responsible for responding to a records request received by the Commission, the RAO shall refer the request to the MPTC, and ask the MPTC to respond to the request as a Commission designee in accordance with such agreement, M.G.L. c. 66, § 10(a), and 950 CMR 32.06(2)(a).

#### 8.10: Responses to Records Requests

- (1) A records request shall be processed in accordance with M.G.L. c. 66 and 950 CMR 32.00.
- (2) If a record includes information identified in 555 CMR 8.06(5)(a), such information shall not be disclosed.
- (3) If a record includes information identified in 555 CMR 8.06(4)(b), taking into account the provisions of 555 CMR 8.06(7), such information shall not be disclosed, unless:
  - (a) Disclosure is required under M.G.L. c. 66, § 10, M.G.L. c. 66A, § 2, or any other source of federal or Massachusetts law; or
  - (b) Disclosure:
    1. Is not prohibited by federal or Massachusetts law;
    2. Will not jeopardize any law enforcement efforts or the security of any person or entity; and
      - a. Will be made to the person or entity who is the subject of the information;
      - b. Will be made to a law enforcement agency or a criminal justice agency in Massachusetts or elsewhere;
      - c. Is warranted by public interests that are substantially greater than any interests in non-disclosure; or
      - d. Has previously been made in litigation publicly by the officer at issue or the Commission.
- (4) In response to any records request that does not address the requester's eligibility for a waiver of fees under M.G.L. c. 66, § 10(c)(v) and 950 CMR 32.07(2)(k), the Commission may seek information from the requester regarding the purpose of the records request, in accordance with M.G.L. c. 66, § 10(d)(viii) and 950 CMR 32.06(2)(h).
- (5) If a requester requests a public record that is available through the public database prescribed by 555 CMR 8.06, and that database is appropriately indexed and searchable, the RAO shall, to the extent feasible, furnish the record by providing reasonable assistance in locating it on the website, pursuant to M.G.L. c. 66, § 6A(d), 950 CMR 32.04(5), and 950 CMR 32.07(2)(a).
- (6) If a requester requests a public record that is available through the public database prescribed by 555 CMR 8.06, or that is substantially similar in content to a record that is available through that database, in circumstances other than those described in 555 CMR 8.10(5):
  - (a) The RAO shall direct the requester to the database; and
  - (b) If the Commission must furnish the record, the Commission shall, except in extraordinary circumstances, charge the maximum fee permitted by law, notwithstanding the provisions of M.G.L. c. 66, § 10(c)(v) and 950 CMR 32.07(2)(k).
- (7) If a requester requests a public record that is available on a public website pursuant to M.G.L. c. 66, § 19(b), M.G.L. c. 7, § 14C, 555 CMR 8.06, or any other appropriately indexed and searchable public website, other than the public database prescribed by 555 CMR 8.06, the RAO shall, to the extent feasible, furnish the record by providing reasonable assistance in locating it on the public website, pursuant to M.G.L. c. 66, § 6A(d), 950 CMR 32.04(5), and 950 CMR 32.07(2)(a).
- (8) Where the Commission has decided to charge a fee for the provision of records in response to a request:

- (a) The requester shall not be obligated to pay any fee without having agreed to do so;
- (b) The Commission may decline to continue assembling or reviewing potentially responsive documents before the full fee has been paid; and
- (c) The Commission may decline to provide documents before the full fee has been paid.

8.11: Privileged Information

- (1) Where information is protected by a privilege against disclosure recognized by law:
  - (a) If the Commission is the holder of the privilege, the privilege may be waived only through a vote of the Commissioners; and
  - (b) If a person or entity other than the Commission is the holder of the privilege and the Commission is aware of the protection provided by the privilege, the Commission shall not disclose the information without first taking the following steps, unless the law requires otherwise:
    - 1. Notifying the holder regarding the records request; and
    - 2. Making reasonable efforts to give the holder the opportunity to protect the information.

8.12: Compulsory Legal Process

- (1) Except as provided in 555 CMR 8.12(2) or (3), when any person or entity seeks personal data maintained by the Commission through compulsory legal process, the Commission:
  - (a) Shall notify the individual to whom the personal data refers in reasonable time that the individual may seek to have the process quashed; and
  - (b) If appearing or filing any paper in court related to the process, shall notify the court of the requirement of M.G.L. c. 66A, § 2(k).
- (2) The Commission need not provide the notification described in 555 CMR 8.12(1) if a court orders otherwise upon a finding that notice to the individual to whom the personal data refers would probably so prejudice the administration of justice that good cause exists to delay or dispense with such notice.
- (3) If the MPTC is, by agreement, responsible for responding to compulsory legal process received by the Commission, the Commission shall refer the process to the MPTC, and ask the MPTC to respond to the process, or provide reasonable assistance to the Commission in responding to the process, in accordance with such agreement.

REGULATORY AUTHORITY

555 CMR 8.00: M.G.L. c. 6E, §§ 3(a) and 4(j), and 801 CMR 3.01(2).





555 CMR 8.00: DATABASES AND DISSEMINATION OF INFORMATION

Section

- 8.01: Authority
- 8.02: Scope
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- 8.12: Compulsory Legal Process

8.01: Authority

- (1) The Massachusetts Peace Officer Standards and Training Commission promulgates 555 CMR 8.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 4(j), and 801 CMR 3.01(2).

8.02: Scope

- (1) 555 CMR 8.00 applies to:
  - (a) Databases that the Commission must maintain pursuant to M.G.L. c. 6E, §§ 4(h), 4(j), 8(e), and 13(a);
  - (b) Other databases and electronic recordkeeping systems maintained by the Commission; and
  - (c) Commission responses to requests for records served upon it pursuant to M.G.L. c. 66, § 10.
- (2) 555 CMR 8.00 does not apply to any of the following:
  - (a) A response by the Commission to compulsory legal process, except as provided in 555 CMR 8.1312;
  - (b) A response by the Commission to a court order relative to the disclosure of information;
  - (c) An inquiry or request concerning personal data, made on behalf of the individual to whom the personal data refers, under M.G.L. c. 66A, §§ 2(g) or 2(i); or
  - (d) The Commission's treatment of evidence that it knows to be relevant to a pending criminal case or exculpatory as to any criminal case.
- (3) With respect to matters to which 555 CMR 8.00 applies, it is intended to supersede 801 CMR 3.00.
- (4) Nothing in 555 CMR 8.00 is intended to:
  - (a) Foreclose the Commission's invocation of any provision, privilege, or doctrine, regardless of whether it is cited in 555 CMR 8.00;
  - (b) Establish a standard of care or create any independent private right, remedy, or cause of action on the part of any person or entity on account of any action the Commission takes or fails to take; or
  - (c) Otherwise waive any power, right, privilege, protection, or immunity that may be available to the Commission.
- (5) Neither 555 CMR 8.00, nor the Commission's provision of any information through a public database or in response to a records request ~~for records~~, is intended to:
  - (a) Create an attorney-client relationship, a principal-agent relationship, or a confidential relationship with any person or entity;
  - (b) Make the Commission a part of the prosecution team, the defense team, or the litigation team of any other party in relation to any criminal or civil action or controversy;
  - (c) Impose upon the Commission any duty or obligation of any other entity or person; or



- (d) Otherwise surrender the Commission's independence.

8.03: Definitions

- (1) 555 CMR 8.00 incorporates all definitions set forth in 555 CMR 2.02, except those definitions of terms that are defined in 555 CMR 8.03(2).
- (2) For the purposes of 555 CMR 8.00, the following terms have the following meanings, unless the context requires otherwise:

Certification. Certification or recertification of a law enforcement officer pursuant to ~~under~~ M.G.L. c. 6E, §§ 3(a) and 4.

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

Compulsory Legal Process. A demand that is issued by or through a federal or state court or party to litigation, including any demand made by summons, subpoena, discovery request, or judicial order.

Conclusion. The point at which the Commission has rendered its ultimate decision or action on a matter, no proceeding regarding the matter is pending before any court or agency, and no opportunity for further review in the normal course by any court or agency remains.

Deadly Force. "Deadly force" as that term is defined in M.G.L. c. 6E, § 1.

Decertification. A revocation of certification made by the Commission pursuant to M.G.L. c. 6E, § 10, ~~an action distinct from a denial, a nonrenewal, or an expiration of certification.~~

Division of Police Certification. The Division of Police Certification of the Commission established pursuant to M.G.L. c. 6E, § 4(a)(1).

Division of Police Standards. The Division of Police Standards of the Commission established pursuant to M.G.L. c. 6E, § 8(a).

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.

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

Personal Data. "Personal data" as that term is defined in ~~under~~ M.G.L. c. 66A, § 1, including any information concerning an individual which, because of name, identifying number, mark or description can be readily associated with a particular individual, provided that such information is not contained in a public record, as defined in M.G.L. c. 4, § 7, cl. 26, and is not intelligence information, evaluative information, or criminal offender record information, as defined in M.G.L. c. 6, § 167.

~~Records Access Officer and~~ RAO. The ~~Commission Records Access Officer designated pursuant to individual designated by the Commission to perform the duties of records access officer described in~~ M.G.L. c. 66 and 950 CMR 32.00, or that person's designee for relevant purposes.

Record, Information, and Data. Any form of record, document, written material, or data, regardless of whether it constitutes a "public record" as that term is defined in ~~under~~ M.G.L. c. 4, § 7, cl. 26 or "personal data" as that term is defined in ~~under~~ M.G.L. c. 66A.

Records Request. A request for Commission records made pursuant to, and in conformance with, M.G.L. c. 66, § 10.

Requester. Any person or entity that tenders a records request to the Commission.

Untruthful. “Untruthful” as that term is defined in M.G.L. c. 6E, § 1.

Vote of the Commissioners. A vote sufficient to satisfy the requirements of M.G.L. c. 6E, § 2(e).

#### 8.04: Submission of Information by Agencies

- (1) When an agency supplies information concerning an officer to the Commission, the agency:
  - (a) Must notify the officer that it has done so in accordance with any other provision of 555 CMR that requires notification; or
  - (b) In the absence of any such provision, must notify the officer that it has done so within ~~tend seven~~ calendar days, unless such notification would compromise an ongoing investigation or the security of any person or entity, or would be precluded by federal or Massachusetts law.

#### 8.05: Division Databases

- (1) The Division of Police Certification, in consultation with the Division of Police Standards, shall establish, by a date adopted by a vote of the Commissioners, and thereafter shall maintain, a database containing records for each certified law enforcement officer, including, but not limited to:
  - (a) The date of initial certification;
  - (b) The date of any recertification;
  - (c) The records of completion of all training and all in-service trainings, including the dates and locations of said trainings, as provided by the MPTC and the Department of State Police;
  - (d) The date of any written reprimand and the reason for said reprimand;
  - (e) The date of any suspension and the reason for said suspension;
  - (f) The date of any arrest and the charge or charges leading to said arrest;
  - (g) The date of, and reason for, any internal affairs complaint;
  - (h) The outcome of an internal affairs investigation based on an internal affairs complaint;
  - (i) The date of any criminal conviction and crime for said conviction;
  - (j) 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;
  - (k) 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;
  - (l) The date of decertification, if any, and the reason for said decertification;
  - (m) Any other information as may be required by the Commission; and
  - (n) Any other information expressly required by M.G.L. 6E, § 4(h).
- (2) The Division of Police Standards shall establish, by a date adopted by a vote of the Commissioners, and thereafter shall maintain, a database containing information related to the following for each officer serving on or after July 1, 2021:
  - (a) The officer’s receipt of complaints, including, but not limited to:
    1. The officer’s appointing agency;
    2. The date of the alleged incident and the date of the complaint;
    3. A description of circumstances of the conduct that is the subject of the complaint; and
    4. Whether the complaint alleges that the officer’s conduct:
      - a. Was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;

- ~~b. Was unprofessional;~~
- ~~c. Involved excessive, prohibited or deadly force; or~~
- ~~d. Resulted in serious bodily injury or death;~~
- ~~(b) Allegations that the officer was untruthful;~~
- ~~(c) The officer's failure to follow Commission training requirements;~~
- ~~(d) The officer's decertification by the Commission;~~
- ~~(e) Agency-imposed discipline of the officer;~~
- ~~(f) The officer's termination for cause;~~
- ~~(g) Any other information the Commission deems necessary or relevant; and~~
- ~~(h) Any other information expressly required by M.G.L. 6E, § 8(e).~~

~~(3) The Commission may combine the databases prescribed by 555 CMR 8.05(1) and (2) within a single database.~~

~~8.06:05: 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 officers-individuals who have served as officers at any point since July 1, 2021 and:~~

- ~~(a) Who who-are certified or conditionally certified;~~
- ~~(b) Whose officers-whose-certifications are pending, restricted, limited, or suspended; or and~~
- ~~(c) Who officers-who-have been decertified or not recertified.~~

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

~~(3) In determining what information to include in the public database, the Commission shall consider the health and safety of officers, in accordance with M.G.L. c. 6E, § 4(j).~~

~~(4)(3) Except as provided in 555 CMR 8.06(4)05(5) or (6), the public database shall make the following available to the general public: provide the following forms of information, to the extent that such forms of information are possessed by the Commission, in accordance with guidelines established by a vote of the Commissioners, or, if no such guidelines are established, in accordance with guidelines established by the Commission's Executive Director:~~

~~(a) These forms of information for each officer identified in 555 CMR 8.06(1), to the extent that the information is possessed by the Commission For each active-officer:~~

1. The officer's first name and surname;
2. The officer's current certification status in Massachusetts;
3. The dates on which the officer was first certified and was most recently certified in Massachusetts;
4. All of the officer's employing law enforcement agencies in Massachusetts and elsewhere, and the dates of the officer's employment with such agencies;
5. Commendations received by the officer in connection with the officer's service in law enforcement;
6. The date of, and reason for, any decertification by the Commission or by a comparable body in any other jurisdiction;
7. The beginning date and end date of, and the reason for, any suspension of certification by the Commission;
8. As to any retraining order issued by the Commission, the date of the order, the reason for the order, the type of retraining ordered, and any date of completion of the retraining ordered;
9. A copy of each final opinion, decision, order, set of findings, and vote issued by the Commission pursuant to M.G.L. c. 6E, § 10 in connection with any proceedings concerning the officer, accessible in a commonly available electronic format;
10. A summary of the officer's disciplinary record, based on information provided by agencies that have employed the officer, ~~excluding un-sustained or unfounded complaints~~ which shall list:
  - a. ~~Complaints against the officer;~~

b. The final disposition of each listed complaint; and

c. The nature of any discipline imposed as a result of each listed complaint; and

11. Information concerning any decision that reversed or vacated an action ~~regarding adverse to~~ the officer, or that ~~exculpated/exonerated~~ the officer for any reason in relation to a particular matter, where such action or matter is referenced in the database.

(b) To the extent reasonably feasible, aggregations of, or ways for public users to aggregate, available information regarding the following:

1. Decisions by the Commission and comparable bodies in other jurisdictions to decertify officers;
2. Decisions by the Commission to suspend the certification of officers;
3. Decisions by the Commission to order the retraining of officers;
4. Officers who have served in a particular department; and
5. The total number of complaints reportable to the Commission pursuant to 555 CMR 1.00.

(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~~The public database shall not include any of the following forms of information:

1. ~~Records Information~~ relating to a preliminary inquiry, or initial staff review used to determine whether to initiate an inquiry, that are is confidential under M.G.L. c. 6E, § 8(c)(2), or 555 CMR 1.03 or 1.07(2);

2. Other information related to disciplinary proceedings that is confidential under 555 CMR 1.01(2)(d), 1.09(6)(c), or 1.10(4)(a);

3. ~~Identifying or Personal~~ contact information ~~of public employees or members of their families~~ that is generally non-public and non-disclosable under M.G.L. c. 66, §§ 10B and 15;

4. Criminal offender record information, ~~criminal history information, or criminal history record information~~ that cannot be communicated under M.G.L. c. 6, §§ 168 or 178, 803 CMR ~~2.002-19(1)~~, or 803 CMR ~~7.007-10 through 7.14~~; and criminal history record information that cannot be disseminated under 803 CMR 7.00;

5. Sealed or expunged records that are non-public and confidential or are unavailable for inspection under M.G.L. c. 276, §§ 100L, 100O, or 100Q;

6. Juvenile delinquency records that must be withheld under M.G.L. c. 119, § 60A, or juvenile criminal records that cannot be communicated under M.G.L. c. 6, §§ 168 and 178.

7. Police-log ~~entries information~~ pertaining to arrests of juveniles that is-are non-public and non-disclosable under M.G.L. c. 41, § 98F;

8. Police-log ~~entries information~~ pertaining to handicapped individuals that is-are non-public and non-disclosable under M.G.L. c. 41, § 98F;

9. Police-log ~~entries information~~ pertaining to alleged domestic violence or sex offenses that is-are non-public and non-disclosable under M.G.L. c. 41, § 98F;

10. These records, to the extent that they are not public reports and generally must be maintained by police departments in a manner that shall assure their confidentiality under M.G.L. c. 51, § 97D:

a. Reports of rape and sexual assault or attempts to commit such offenses;

b. Reports of abuse perpetrated by family or household members, as defined in M.G.L. c. 209A, § 1; and

c. Communications between police officers and victims of such offenses or abuse;~~Reports of domestic violence or sex offenses, and associated communications, that are not public reports and are to be treated by police departments as confidential under M.G.L. c. 41, § 97D;~~

~~10.11.~~ Information in court and police records that identifies alleged victims of sex offenses or trafficking and is non-disclosable non-public, must be withheld, and cannot be published, disseminated, or disclosed under M.G.L. c. 265, § 24C;

~~11.12.~~ Identifying, Personal contact, employment, or educational information

- of victims of crimes or domestic violence, or members of their families, that is non-public and non-disclosable under M.G.L. c. 66, §§ 10B and 15;
- ~~12.13.~~ Personal eContact, employment, or educational information of victims, members of their families, or witnesses that is confidential and non-disclosable under M.G.L. c. 258B, §§ 3(h) and 3(w);
- ~~13.14.~~ Identifying, Personal-contact, employment, or educational information of family-planning personnel or members of their families that is non-public and non-disclosable under M.G.L. c. 66, §§ 10B and 15;
- ~~14.15.~~ Personal data that is non-accessible under M.G.L. c. 66A and M.G.L. c. 214, § 3B;
- ~~15.16.~~ Forms of “personal information” referenced in M.G.L. c. 93H, § 1, other than the names of individuals;
- ~~16.17.~~ Data that the Commission is precluded from disclosing pursuant to a court order;
- 18. Information the disclosure of which would violate a person’s right against may constitute an unreasonable, substantial, or serious interference with a person’s privacy under M.G.L. c. 214, § 1B;
- ~~17.19.~~ Information concerning any complaint that was not resolved against the officer, unless the Commission determines that the resolution reached was unwarranted; and
- ~~18.20.~~ Any other information that is non-disclosable under federal or Massachusetts law.

(b) ~~The following additional forms of information~~~~The public database also shall not include:~~

1. ~~These forms~~The following forms of information, the revelation of which could potentially impact officer health or safety, including by facilitating attempts to coerce officers or exploit any individual vulnerabilities:
  - a. Information relating to a member of an officer’s family, except where such family member is an officer and any relation between the two officers is not revealed;
  - b. Information concerning an officer’s personal finances that is not otherwise publicly available;
  - c. Information that could readily be used to facilitate identity theft or breaches of data security, including, but not limited to, an officer’s date of birth, passwords, and entry codes;
  - d. Information concerning an officer’s medical or psychological condition;
  - ~~e.~~ Any assessment ~~Assessments~~ of whether an officer possesses good moral character or fitness for employment in law enforcement under M.G.L. c. 6E, § 4(f)(1)(ix); that was made:
    1. By a person or entity other than the Commission or its personnel; and
    2. Pursuant ~~pursuant~~ to 555 CMR 7.05 or 7.06(9) or otherwise in response to a request by the Commission in connection with a certification process;
  - ~~e.f.~~ Information concerning an officer’s conduct as a juvenile;
  - ~~f.g.~~ Information concerning any firearm, or firearms license or permit, that an officer currently possesses in a personal capacity;
  - ~~g.h.~~ Law enforcement information, including information concerning the following subjects, if disclosure could compromise law enforcement or security measures:
    1. Undercover operations;
    2. Confidential informants;
    3. Clandestine surveillance;
    4. Secretive investigative techniques;
    5. Passwords and codes;
    6. The details of security being provided to a person or place; or
    7. Subjects of comparable sensitivity.
  - ~~h.i.~~ Information concerning a disciplinary matter before the Commission that has not reached a conclusion; and
  - ~~i.j.~~ Any other information that could readily be used in an attempt

- to coerce action or inaction, or exploit individual vulnerabilities, of an officer.
2. Agency records that are within the scope of those being audited ~~data that is subject to an ongoing audit~~ by the Commission pursuant to M.G.L. c. 6E, §§ 3(a)(9), 3(a)(21), and 8(d);
  3. Records associated with Commission meetings that may be withheld under M.G.L. c. 30A, § 22;
  4. Information ~~Personal data~~ that an individual has the ability to have corrected, ~~or amended, or removed pursuant to~~ under M.G.L. c. 66A, § 2(j) or 555 CMR 8.0807;
  5. Information ~~in a personnel record that an employee has the right to have corrected or expunged~~ that shall not be disclosed pursuant to 555 CMR 8.08(10) M.G.L. c. 149, § 52C;
  6. Information that is protected by a privilege against disclosure recognized by law and is ~~subject to a privilege~~ held by the Commission;
  7. Information that is protected by a privilege against disclosure recognized by law and is ~~subject to a privilege~~ held by a person or entity other than the Commission;
  8. Data that is non-disclosable under any formal agreement or memorandum of understanding between the Commission and any other federal, state, local, or tribal governmental entity~~unit of the government of the Commonwealth~~, including, but not limited to, any Commonwealth of Massachusetts Data Sharing Memorandum of Understanding, ~~and~~ any Data Use License Agreement between the Commission and ~~the MPTC~~another governmental entity, and any Massachusetts Criminal Justice Information System (CJIS) User Agreement;
  9. Information that a court has expunged, placed under seal, impounded, or relieved the Commission of having to disclose;
  10. Information the confidentiality of which is the subject of dispute in litigation or an administrative proceeding;~~and~~
  11. Any document, record, or petition generated by the Witness Protection Board or by a prosecuting officer and related to witness protection services that is non-public and non-disclosable under 501 CMR 10.14; and
  12. Information that otherwise does not constitute a public record under M.G.L. c. 4, § 7, cl. 26.

(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.

(5)(6) For purposes of determining whether a matter is ongoing, as that question relates to the applicability of exemptions under M.G.L. c 4, § 7, cl. 26 or other provisions or doctrines, Commission personnel may treat the following guidelines as instructive, to the extent that they do not conflict with any governing source of law ~~shall apply~~.

- (a) A certification matter should be deemed subject to Commission oversight, and ongoing, beginning upon the earliest of the following:
  1. The Commission's receipt of an application for certification on behalf of an officer, including one made pursuant to M.G.L. c. 6E, § 4, M.G.L. c. 30A, § 13, or 555 CMR 7.03; or
  2. An agency's receipt from an officer of an application for certification or any materials required for the agency to complete an application for certification on the officer's behalf.
- (b) A certification matter should be deemed no longer ongoing upon the conclusion of the matter.
- (c) A disciplinary matter should be deemed subject to Commission oversight, and ongoing, beginning upon the earliest of the following:
  1. The Commission's receipt of a complaint or information warranting a determination of whether to initiate a preliminary inquiry under M.G.L. c. 6E, § 8; or
  2. An agency's receipt of a complaint that must or will be reported to the Commission under 555 CMR 1.01.
- (d) A disciplinary matter should be deemed no longer ongoing upon the earliest of the following:

1. The conclusion of the matter;
2. The point at which all entities that the Commission knows to have been investigating the matter have decided not to pursue any associated disciplinary or legal action; or
3. An officer's communication to the Commission of a decision not to challenge any disciplinary action.

~~(7) The Commission may make other determinations concerning the content, the accessibility of information, and the format of the public database as follows: To the extent allowed by law, the Commission may include in the public database, or exclude from the public database, other forms of information not specifically referenced in 555 CMR 8.05(4), (5), or (6), in accordance with guidelines established by a vote of the Commissioners, or, if no such guidelines are established, in accordance with guidelines established by the Commission's Executive Director.~~

- ~~(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(4) or (5) 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.~~

#### 8.0706: Maintenance of Databases and Electronic Recordkeeping Systems Generally

- (1) ~~When designing or acquiring an electronic record keeping system or database, the~~The Commission's RAO and its Chief Technology Officer shall consult with each other, and with the Commission's Executive Director, its Chief Financial and Administrative Officer, or the Massachusetts Executive Office of Technology Services and Security to ensure ~~that, to the extent feasible, that the any electronic recordkeeping~~ system or database ~~that the Commission maintains~~ is capable of providing data in a commonly available electronic, machine readable format.
- (2) ~~To the extent feasible, a~~Any database ~~designs or acquisitions shall should~~ allow for, ~~to the extent feasible,~~ information storage and retrieval methods that permit the segregation and retrieval of public records and redacting of exempt information in order to provide maximum public access.
- (3) The Commission shall not enter into any contract for the storage of electronic records that:
  - (a) Prevents or unduly restricts the RAO from providing public records in accordance with M.G.L. c. 66;
  - (b) Relieves the Commission of its obligations under M.G.L. c. 66A or any governing regulations promulgated thereunder; or
  - (c) Omits provisions that are necessary to ensure compliance with M.G.L. c. 66A or any governing regulations promulgated thereunder.

#### 8.0807: 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 8.0807(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 8.0807(1) is warranted, the Executive Director shall promptly:

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- (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 8.0807(3):
- (a) The Chair may take any further action allowed by law with respect to the petition filed pursuant to 555 CMR 8.0807(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 8.0807(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; ~~and~~
  - (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.
- (76) Within thirty days of receiving a notification pursuant to 555 CMR 8.08(3)(c), (4)(b), 5(a), or 6(b), 8.07(5)(a), a petitioner may file a written request for further review with the Executive Director.
- (87) The Executive Director shall provide any request for further review made pursuant to 555 CMR 8.0807(76) to the Chair promptly upon receiving it.
- (98) The Chair may take any action allowed by law with respect to a request for further review made pursuant to 555 CMR 8.0807(76).
- (109) 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. If the Commission has a good-faith, reasonable belief that a public employee may possess a right to have data in a personnel record that is maintained by an employer corrected or expunged pursuant to M.G.L. c. 149, § 52C, the Commission shall make reasonable efforts to give the employee the opportunity to exercise the right.

8.09:08: Receipt and Referral of Records Requests

- (1) The Commission may decline to accept records requests by telephone, pursuant to 950 CMR 32.06(1)(a).
- (2) If the MPTC is, by agreement, responsible for responding to a records request received by the Commission, the RAO shall refer the request to the MPTC, and ask the MPTC to respond to the request as a Commission designee in accordance with such agreement, M.G.L. c. 66, § 10(a), and 950 CMR 32.06(2)(a). If the Commission receives a records request and determines that the MPTC is the data owner as to all responsive materials, the Commission shall refer the records request to the MPTC and request that the MPTC respond in accordance with any Data Use License Agreement between the Commission the MPTC, and the Commission may presume that the MPTC will assume responsibility for responding.
- ~~(3) If the Commission receives a records request, it may consult with a law enforcement agency to determine if similar requests have been received by the agency.~~



~~(4) — The Commission may establish a policy providing for agencies that receive records requests for documents that are also held by the Commission to be required to provide the Commission with timely notice of the records request, a copy of any response to the records request, and copies of any documents produced.~~

8.10:09: Responses to Records Requests

(1) ~~Except as provided in 555 CMR 8.09(2), (3), or (4), a record requested through a records request shall be provided/processed in accordance with M.G.L. c. 66 and 950 CMR 32.00.~~

(2) ~~If a record includes information identified in 555 CMR 8.06(5)(a)05(5), such information shall not be disclosed.~~

(3) ~~If a record includes information identified in 555 CMR 8.06(4)(b)05(6), taking into account the provisions of 555 CMR 8.0605(7), such information shall not be disclosed, unless:~~

~~(a) Disclosure is required under M.G.L. c. 66, § 10, M.G.L. c. 66A, § 2, or any other source of federal or Massachusetts law; or~~

~~(b) Disclosure:~~

~~1. Is not prohibited by federal or Massachusetts law;~~

~~2. Will not jeopardize any law enforcement efforts or the security of any person or entity; and~~

~~a. Will be made to the person or entity who is the subject of the information;~~

~~b. Will be made to a law enforcement agency or a criminal justice agency in Massachusetts or elsewhere;~~

~~c. Is warranted by public interests that are substantially greater than any interests in non-disclosure; or~~

~~d. Has previously been made in litigation publicly by the officer at issue or the Commission ~~in litigation~~.~~

(4) In response to any records request that does not address the requester’s eligibility for a waiver of fees under M.G.L. c. 66, § 10(c)(v) and 950 CMR 32.07(2)(k), the Commission may seek information from the requester regarding the purpose of the records request, in accordance with M.G.L. c. 66, § 10(d)(viii) and 950 CMR 32.06(2)(h).

~~(4) — If a record constitutes a public record and is made available on a public website pursuant to M.G.L. c. 66, § 19(b), M.G.L. c. 7, § 14C, 555 CMR 8.05, or any other appropriately indexed and searchable public website, the RAO may furnish the record by providing reasonable assistance in locating it on the public website, pursuant to M.G.L. c. 66, § 6A(d).~~

~~(2) — Where a requester requests records that are substantially similar to information available through the public database prescribed by 555 CMR 8.05, the Commission shall direct the requester to the database and, if that does not satisfy the requester, then decline to provide records without payment of the maximum fee permitted by law, notwithstanding the provisions of M.G.L. c. 66, § 10(e)(v) and 950 CMR 32.07(2)(k).~~

~~(5) If a requester requests a public record that is available through the public database prescribed by 555 CMR 8.06, and that database is appropriately indexed and searchable, the RAO shall, to the extent feasible, furnish the record by providing reasonable assistance in locating it on the website, pursuant to M.G.L. c. 66, § 6A(d), 950 CMR 32.04(5), and 950 CMR 32.07(2)(a).~~

~~(6) If a requester requests a public record that is available through the public database prescribed by 555 CMR 8.06, or that is substantially similar in content to a record that is available through that database, in circumstances other than those described in 555 CMR 8.10(5):~~

~~(a) The RAO shall direct the requester to the database; and~~

~~(b) If the Commission must furnish the record, the Commission shall, except in extraordinary circumstances, charge the maximum fee permitted by law,~~

notwithstanding the provisions of M.G.L. c. 66, § 10(c)(v) and 950 CMR 32.07(2)(k).

(7) If a requester requests a public record that is available on a public website pursuant to M.G.L. c. 66, § 19(b), M.G.L. c. 7, § 14C, 555 CMR 8.06, or any other appropriately indexed and searchable public website, other than the public database prescribed by 555 CMR 8.06, the RAO shall, to the extent feasible, furnish the record by providing reasonable assistance in locating it on the public website, pursuant to M.G.L. c. 66, § 6A(d), 950 CMR 32.04(5), and 950 CMR 32.07(2)(a).

(8) Where the Commission has decided to charge a fee for the provision of records in response to a request:

(a) The requester shall not be obligated to pay any fee without having agreed to do so;

(b) The Commission may decline to continue assembling or reviewing potentially responsive documents before the full fee has been paid; and

(c) The Commission may decline to provide documents before the full fee has been paid.

### 8.11:10: Privileged Information

(1) Where information is protected by a privilege against disclosure recognized by law~~Where information that is responsive to a records request is subject to a privilege recognized by law:~~

(a) If the Commission is the holder of the privilege, the privilege may be waived only through a vote of the Commissioners; and

(b) If a person or entity other than the Commission is the holder of the privilege and the Commission is aware of the protection provided by the privilege, the Commission shall not disclose the information without first taking the following steps, unless the law requires otherwise~~If a person or entity other than the Commission is the holder of the privilege, the Commission shall:~~

1. Notifying~~Notify~~ the holder regarding the records request; and

2. Making~~Make~~ reasonable efforts to give the holder the opportunity to protect the information.

### 8.11: Fees for Producing Records

~~(1) In response to any records request that does not address the requester's eligibility for a waiver of fees under M.G.L. c. 66, § 10(e)(v) and 950 CMR 32.07(2)(k), the Commission may seek information from the requester regarding the purpose of the records request, in accordance with M.G.L. c. 66, § 10(d)(viii) and 950 CMR 32.06(2)(h).~~

~~(2) Where a requester requests records that are substantially similar to information available through the public database prescribed by 555 CMR 8.05, the Commission shall direct the requester to the database and, if that does not satisfy the requester, then decline to provide records without payment of the maximum fee permitted by law, notwithstanding the provisions of M.G.L. c. 66, § 10(e)(v) and 950 CMR 32.07(2)(k).~~

~~(3) Where the Commission has determined that records are not to be provided without payment of a fee:~~

~~(a) The requester shall not be obligated to pay any fee without having agreed to do so;~~

~~(b) The Commission may decline to continue assembling or reviewing potentially responsive documents until the full fee has been paid; and~~

~~(c) The Commission shall not provide documents until the full fee has been paid.~~

### 8.12:12: Compulsory Legal Process

(1) Except as provided in 555 CMR 8.12(2) or (3), when~~When~~ any person or entity seeks personal data maintained by the Commission through compulsory legal process, the Commission,~~except as provided in 555 CMR 8.12(2):~~

(a) Shall notify the individual to whom the personal data refers in reasonable time that the individual may seek to have the process quashed; and

(b) If appearing or filing any paper in court related to the process, shall notify the

court of the requirement of M.G.L. c. 66A, § 2(k).

(2) The Commission need not provide the notification described in 555 CMR 8.12(1) if a court orders otherwise upon a finding that notice to the individual to whom the personal data refers would probably so prejudice the administration of justice that good cause exists to delay or dispense with such notice.

~~(2)~~(3) If the MPTC is, by agreement, responsible for responding to compulsory legal process received by the Commission, the Commission shall refer the process to the MPTC, and ask the MPTC to respond to the process, or provide reasonable assistance to the Commission in responding to the process, in accordance with such agreement.

REGULATORY AUTHORITY

555 CMR 8.00: M.G.L. c. 6E, §§ 3(a) and 4(j), and 801 CMR 3.01(2).



3b.

555 CMR 11.00: REGULATORY ACTION AND ADVISORY OPINIONS

Section

- 11.01: Authority
- 11.02: Scope
- 11.03: Definitions
- 11.04: Petition for Regulatory Action or an Advisory Opinion
- 11.05: Processing of a Petition
- 11.06: Regulatory Action
- 11.07: Issuance of an Advisory Opinion
- 11.08: Effect of an Advisory Opinion
- 11.09: Representation by an Attorney at Law

11.01: Authority

- (1) The Commission promulgates 555 CMR 11.00 pursuant to M.G.L. c. 6E, § 3(a), and M.G.L. c. 30A, §§ 4 and 8.

11.02: Scope

- (1) 555 CMR 11.00 governs:
  - (a) The submission, consideration and disposition of a petition requesting regulatory action, pursuant to M.G.L. c. 30A § 4;
  - (b) Regulatory action by the Commission other than in response to a petition, pursuant to M.G.L. c. 6E and c. 30A;
  - (c) The submission, consideration, and disposition of a petition requesting the issuance of an advisory opinion, pursuant to M.G.L. c. 30A, § 8; and
  - (d) The issuance of an advisory opinion by the Commission other than in response to a petition, pursuant to M.G.L. c. 6E, § 3(a).
- (2) Nothing in 555 CMR 11.00 is intended to:
  - (a) Obligate the Commission to take or decline to take any regulatory action, or to issue or decline to issue any advisory opinion;
  - (b) Preclude the Commission from taking regulatory action or issuing an advisory opinion in the absence of a request, or from issuing other types of opinions, answers to questions, or forms of guidance;
  - (c) Create an attorney-client, principal-agent, or confidential relationship between the Commission, any Commissioners, or any member of the Commission's staff and any petitioner, other person, or other entity;
  - (d) 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
  - (e) Otherwise waive any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission.

11.03: Definitions

- (1) 555 CMR 11.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02, except those definitions of terms that are defined in 555 CMR 11.03(2).
- (2) For the purposes of 555 CMR 11.00, the following terms have the following meanings, unless the context requires otherwise:

Advisory Opinion. An advisory ruling with respect to the applicability to any person, property, or state of facts of any statute or regulation enforced or administered by the Commission, under M.G.L. c. 30A, § 8, or any other opinion that relates to the Commission's authority or

responsibilities and is formally issued in writing by the Commission.

Agency. An “agency” as defined in M.G.L. c. 30A, § 1.

Commission. 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.

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.

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

Officer. A “law enforcement officer” as defined in M.G.L. c. 6E, § 1.

Petition. A request for regulatory action or the issuance of an advisory opinion submitted to the Commission.

Petitioner. A person or entity who submits a request for regulatory action or the issuance of an advisory opinion to the Commission.

Regulation. A “regulation” as defined in M.G.L. c. 30A, § 1.

Regulatory Action. The adoption, amendment, or repeal of a regulation.

Vote of the Commissioners. A vote sufficient to satisfy the requirements of M.G.L. c. 6E, § 2(e).

11.04: Petition for Regulatory Action or an Advisory Opinion

- (1) Any person or entity may submit to the Commission a petition requesting the adoption, amendment, or repeal of a regulation, or the issuance of an advisory opinion, concerning a matter related to the Commission’s authority and responsibilities.
- (2) A petitioner should:
  - (a) Submit a written petition containing the following:
    1. The petitioner’s name;
    2. The petitioner’s certification number, if the petitioner has been certified as a law enforcement officer by the Commission;
    3. The name, an address, a telephone number, and an email address of an attorney at law who is representing the petitioner in relation to the matter, if the petitioner is so represented;
    4. An address, a telephone number, and an email address of the petitioner, if the petitioner is not represented by an attorney at law in relation to the matter;
    5. The name of each organization on behalf of which the petitioner is submitting the petition, and any title or role that the petitioner has with each such organization, if the petitioner is submitting the petition on behalf an organization;
    6. A clear indication at the outset of the petition whether the petitioner is requesting regulatory action or the issuance of an advisory opinion;
    7. A precise description of the action being requested;
    8. A clear and concise statement of any facts relevant to the petition, which statement may be relied on by the Commission in rendering any opinion;
    9. Citations to applicable sources of law that could be identified with reasonable effort; and
    10. A listing of any other governmental regulations or advisory opinions concerning the same subject matter that have been issued

or requested and could be identified with reasonable effort;

11. The signature of the petitioner or any attorney at law representing the petitioner in relation to the matter, which shall constitute a certification that the signer has read the petition and that any facts recited therein are true to the best of the signer's belief; and

12. A certificate of service, stating the name and contact information of each person and entity upon which a copy of the petition was served pursuant to 555 CMR 11.04(2)(c);

(b) Submit the petition in an electronic format, by electronic means, and using any form or email address designated for such a purpose on the Commission's website; and

(c) Serve a copy of the petition upon each person and entity that can fairly be deemed to be in a direct, adverse position to the petitioner with respect to the matter.

(3) The Commission further requests that the petitioner include in the petition:

(a) The text of any regulation or regulatory amendment desired by the petitioner, if the petitioner is requesting regulatory action;

(b) Any arguments against the action requested by the petitioner; and

(c) Names of persons and entities that would be impacted by the action requested by the petitioner, and the form and extent of such impact.

(4) A petitioner may also include in the petition any supporting data, views, or arguments that the petitioner believes to be pertinent.

(5) A petitioner should immediately notify the Commission if, at any point in time, the petitioner or any attorney at law representing the petitioner in relation to the matter becomes aware that any facts recited in a petition are inaccurate or any circumstances referenced in the petition have changed.

(6) Officers and law enforcement agencies are obligated to ensure the accuracy of any information that they submit to the Commission in relation to a petition, or in relation to any other regulatory action or issuance of an advisory opinion by the Commission, pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), and 5(c).

(a) The failure of an officer or a law enforcement agency to comply with 555 CMR 11.04(6) may constitute grounds for disciplinary action, pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 5(c), 8, 9, and/or 10.

#### 11.05: Initial Processing of a Petition

(1) Where a petitioner has taken all steps listed in 555 CMR 11.04(2)(a)-(c):

(a) The Commission staff shall, with reasonable promptness, acknowledge to the petitioner that the petition was received;

(b) The Commission staff shall ensure that the petition is provided to the Chair and the Executive Director;

(c) The Chair may place the subject of the petition on the agenda of a Commission meeting to be held in accordance with M.G.L. c. 6E, § 2(e) and c. 30A; and

(d) If the subject of the petition is placed on the agenda for a public Commission meeting, the Commission shall provide notice to the petitioner of that fact with reasonable promptness, and in no event less than two business days before the meeting.

(2) Where a petitioner has not taken all steps listed in 555 CMR 11.04(2)(a)-(c), the Commission may nevertheless follow the steps listed in 555 CMR 11.05(1) or otherwise consider the petition in accordance with any applicable provisions of law.

(3) The Commission may provide a copy of a petition to any other person or entity, and may utilize any information provided in a petition in any manner, where not precluded from doing so by law.



- (4) The Commission shall maintain a copy of any petition received.
- (5) With respect to any matter involving regulatory action or the issuance of an advisory opinion, or contemplation of the same, whether or not the Commission has received a petition related to the matter:
  - (a) The Commission should take steps to communicate with any other governmental entity that possesses interests, powers, or duties that may be implicated with respect to the matter; and
  - (b) The Commission may:
    - 1. Issue a request for public comment about the matter;
    - 2. Request information or advocacy about the matter from any person or entity; or
    - 3. Ask any person or entity to speak about the matter, or otherwise appear, at a Commission meeting.

11.06: Regulatory Action

- (1) The Commission may take or decline to take any regulatory action, whether or not such action is requested by a petitioner, provided the action is allowed by law.
- (2) In pursuing any regulatory action, the Commission shall proceed in accordance with M.G.L. c. 30A and 950 CMR 20.00: *Preparing and Filing Regulations*.
- (3) If the Commission schedules any public hearing or commences any other public comment process related to proposed regulatory action in response to a petition, the Commission shall provide notice of the public hearing or other public comment process to:
  - (a) The petitioner, or where there are multiple petitioners, to any one of the petitioners; and
  - (b) Each person or entity referenced in any certificate of service that accompanied the petition, unless such a step would be impracticable.
- (4) At any hearing conducted by the Commission with respect to proposed regulatory action, the presiding official:
  - (a) Shall be designated by the Chair;
  - (b) May impose reasonable restrictions on the speaking time or the presentation of testimony or materials; and
  - (c) May adjourn and continue the hearing to a specified time and place upon determining that the initial time allotted for the hearing has proven to be insufficient.
- (5) Following any public hearing or other public comment process concerning proposed regulatory action, the Commission may, by a vote of the Commissioners, approve revisions to the proposed regulatory action, whether or not such revisions were suggested in such a public hearing or other public comment process.
- (6) If the Commission takes any regulatory action in response to a petition, the Commission shall provide notice of the action to:
  - (a) The petitioner, or where there are multiple petitioners, to any one of the petitioners; and
  - (b) Each person or entity referenced in any certificate of service that accompanied the petition, unless such a step would be impracticable.
- (7) If the Commission decides not to take a regulatory action requested by a petitioner:
  - (a) The Commission shall provide notice of the decision to the petitioner with reasonable promptness; and
  - (b) Unless the Commission expressly indicates otherwise, the decision shall not represent an affirmative adoption of a position contrary to the petitioner's, and no weight should be assigned to the decision.

(8) Following the Commission's approval of any regulation, any statement in response to a petition, or any related document, the Commission staff may make revisions to the document that are not substantive and are needed to correct clear errors in names, dates, numbers, citations, quotations, spelling, typography, or formatting.

11.07: Issuance of an Advisory Opinion

- (1) The Commission may issue or decline to issue any advisory opinion, whether or not such action is requested by a petitioner, provided the action is allowed by law.
- (2) The Commission shall issue an advisory opinion only if its issuance and its general substance are approved by a vote of the Commissioners, either before or after the development of a draft advisory opinion.
- (3) Any advisory opinion:
- (a) Shall be in writing;
  - (b) Shall be issued in the name of the Commission;
  - (c) Shall include a statement of reasons supporting any conclusion reached; and
  - (d) May be signed by an individual on behalf of the Commission.
- (4) If the Commission issues an advisory opinion in response to a petition, the Commission:
- (a) Shall provide a copy of the advisory opinion to:
    - 1. The petitioner, or where there are multiple petitioners, to any one of the petitioners; and
    - 2. Each person or entity referenced in any certificate of service that accompanied the petition, unless such a step would be impracticable;
  - (b) Shall afford the petitioner the opportunity to request, within a reasonable and specified period of time, that the Commission omit the petitioner's name from any publicized version of the opinion;
  - (c) Shall honor any timely request made under 555 CMR 11.07(4)(b), unless the Commission decides otherwise by a vote of the Commissioners;
  - (d) Shall maintain a copy of the advisory opinion; and
  - (e) Except as provided in 555 CMR 11.07(4)(c), may publish an advisory opinion on its website or otherwise, where such publication is not precluded by law.
- (5) If the Commission decides not to issue an advisory opinion in response to a petition:
- (a) The Commission shall provide notice to the petitioner of the decision with reasonable promptness; and
  - (b) Unless the Commission expressly indicates otherwise, the decision shall not represent an affirmative adoption of a position contrary to the petitioner's, and no weight should be assigned to the decision.
- (6) Following the Commission's approval of any advisory opinion, any statement in response to a petition, or any related document, the Commission staff may make revisions to the document that are not substantive and are needed to correct clear errors in names, dates, numbers, citations, quotations, spelling, typography, or formatting.

11.08: Effect of an Advisory Opinion

- (1) The Commission's issuance of an advisory opinion shall, in any Commission proceeding, provide a defense to a person or entity that acted in accordance with that opinion, where:
- (a) The circumstances at issue in the Commission proceeding are not materially different than those upon which the advisory opinion was

- based;
  - (b) The person or entity has not acted inconsistently with 555 CMR 11.04(5); and
  - (c) The person or entity has not failed to comply with an obligation under 555 CMR 11.04(6).
- (2) At any time, the Commission may rescind or revise an advisory opinion.
- (a) Where the original advisory opinion was issued in response to a petition, the Commission shall promptly provide notice to the petitioner of any rescission or revision.
- (3) An advisory opinion shall have no force or effect:
- (a) With respect to circumstances that are materially different than those upon which it was based;
  - (b) If it is rescinded;
  - (c) If it is materially revised in relevant part;
  - (d) If it is rendered invalid by a change in law; or
  - (e) If a court issues a binding decision that is inconsistent with it.
- (4) The circumstances described in 555 CMR 11.08(3) shall not invalidate or negate any prior Commission action or decision other than an advisory opinion, unless the Commission or any source of law expressly requires the invalidation or negation of such action or decision.

11.09: Representation by an Attorney at Law

- (1) Any action that 555 CMR 11.00 contemplates being taken by a petitioner may be taken on a petitioner's behalf by an attorney at law representing the petitioner in relation to the matter.
- (2) Where a petitioner, another person, or another entity is represented by an attorney at law in relation to a petition, any communication between the Commission and that petitioner, person, or entity should be made through the attorney, unless the attorney authorizes otherwise in writing.

REGULATORY AUTHORITY

555 CMR 11.00: M.G.L. c. 6E, § 3(a), and M.G.L. c. 30A, §§ 4 and 8.

4a.



## MEMORANDUM

**TO** Commissioners of the POST Commission  
**FROM** Legal Division  
**DATE** January 10, 2023  
**SUBJECT** Delegating Authority to the Executive Director to Conclude Suspensions

### CHAIR

Margaret R. Hinkle

### COMMISSIONERS

Hanya H. Bluestone

Lawrence Calderone

Clementina Chéry

Larry E. Ellison

Marsha V. Kazarosian

Charlene D. Luma

Kimberly P. West

Michael Wynn

### EXECUTIVE DIRECTOR

Enrique A. Zuniga

This memorandum proposes that the POST Commission grant the Executive Director, or his designee, the authority to end two administrative suspensions of the certifications of a law enforcement officer and reinstate the officer's certification to the status in existence prior to the suspension, upon completion of the applicable requirements. Chapter 6E of the Massachusetts General Laws expressly references nine forms of suspension of a law enforcement officer's certification.<sup>1</sup> Here, however, the focus for the requested delegation is on two categories of administrative suspensions of certifications – (1) suspension of an officer for failing to complete in-service training requirements, M.G.L. c. 6E, § 9(b), and (2) suspension of an officer, who has a duty to report certain information to the Commission but fails to do so, M.G.L. c. 6E, § 9(c).<sup>2</sup>

These two types of administrative suspension were the subject of a unanimous vote by the Commission on November 22, 2022, expressly granting authority for the Executive Director, or the Executive Director's designee, to suspend an officer's certification, if the circumstances warranted.<sup>3</sup> Now, the Commission needs to grant the Executive Director the authority to end the suspensions, when the officer has complied. There is no governing law in either chapter 6E or the promulgated regulations that provides for the process by which the officer is reinstated after performing

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<sup>1</sup> See M.G.L. c. 6E, §§ 3(a), 8, 9, 10 (Chapter 6E of the Massachusetts General Laws references at least nine forms of suspension of a law enforcement officer's certification.); see also 555 CMR 1.06-1.10.

<sup>2</sup> These suspensions may be issued without regard to whether a preliminary inquiry has been initiated and without a prior hearing. See M.G.L. c. 6E, §§ 9(b) and (c).

<sup>3</sup> The Commission also voted to grant the Executive Director the authority to "immediately suspend the certification of any officer who is arrested, charged or indicted for a felony." M.G.L. c. 6E, § 9(a)(1); 555 CMR 1.08. The suspension continues until the Commission issues a final decision on the merits of the underlying complaint or revokes the suspension. See M.G.L. c. 6E, § 9(a)(5) ("A suspension order of the commission issued pursuant to this [§ 9(a)] shall continue in effect until issuance of the final decision of the commission or until revoked by the commission."); accord 555 CMR 1.08(4). There is no request for a delegation authority to the Executive Director with regard to this suspension, at this time.

## MEMORANDUM

all the necessary requirements or that provides for the person who is empowered to suspend officers to reinstate the officer who has satisfactorily performed. Thus, if the Executive Director is not granted the authority to lift the administrative suspensions that he is allowed to impose, those suspensions may be of indefinite length, unless the Commission otherwise acts.

### A. The two administrative suspensions at issue.

#### 1. Failure to complete in-service training – Section 9(b) states, in its entirety, as follows:

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.**

#### 2. Duty to report information – Section 9(c) provides, in its entirety:

The commission shall administratively suspend the certification of an officer with a duty to report information to the commission pursuant to [M.G.L. c. 6E, § 8] 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.**

The Commission need not await any action by another agency before issuing the administrative suspensions.<sup>4</sup> While Sections 9(b) and 9(c) do not include the term “immediately,” the statute appears to contemplate that an administrative suspension will be issued without significant delay. Section 9(b) limits to 90 days the grace period that is allowed before an officer must be administratively suspended after missing an in-service-training deadline, and Sections 9(b) and 9(c) each provide that a suspension may be issued prior to a hearing.

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<sup>4</sup> Cf. M.G.L. c. 6E, § 10(h) (providing that “[t]he commission shall not institute a revocation or suspension hearing pursuant to [§ 10] until the officer’s appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the commission, whichever is sooner,” but that “[t]his subsection shall not impact the commission’s authority to suspend a certification pursuant to [M.G.L. c. 6E, § 9]”).

## MEMORANDUM

**B. An “administrative suspension” can be viewed as a remedial and nonpunitive suspension of indefinite length that will be lifted as soon as the circumstance that led to the suspension is remedied.**

Chapter 6E does not elaborate on the meaning of an “administrative suspension.” However, the term can fairly be understood to refer to a remedial and nonpunitive suspension of indefinite length that, as highlighted above, will be lifted as soon as the circumstance that led to the suspension is remedied. Sections 9(b) and 9(c) each provide for an administrative suspension to last until the problematic condition is remedied, and no further. Indeed, neither section provides for the Commission to set a time limit on the suspension, and each section states that the Commission “shall reinstate the certification” when the officer’s failure to perform is remedied.<sup>5</sup> In the instance of these two administrative suspensions, there is no requirement under either section that the Commission make a finding or take any action.<sup>6</sup> The administrative suspensions, as discussed above, continue until the officer’s failing is remedied.<sup>7</sup>

In deciding to grant the Executive Director the authority to lift an administrative suspension, the Commission could view the action by the Executive Director as ministerial, as opposed to an action involving an exercise of judgment and discretion, as it did with granting the Executive Director the authority to impose the administrative suspension. In providing for the administrative suspension of an officer, Sections 9(b) and 9(c) mandate that the Commission respond automatically, and presumably without significant delay, in a particular way upon the occurrence of one of the events listed therein, leaving no room for the Commission to evaluate different options and decide among them—or at least where the Commission has not granted any exemption from an in-service training deadline, in a Section 9(b) situation.<sup>8</sup> Likewise, Sections 9(b) and 9(c) provide for reinstatement of the officer’s certification upon completion of the

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<sup>5</sup> See M.G.L. c. 6E, §§ 9(b), 9(c).

<sup>6</sup> M.G.L. c. 6E, § 10(c) states that the “[t]he commission *may reinstate* the certificate of an officer suspended pursuant to [§ 10(b)] at *the expiration of the suspension*, if the commission finds that all conditions of the suspension were met” (emphasis added). Suspensions under § 10(b) are imposed after a hearing and finding by clear and convincing evidence that the officer has been convicted of any misdemeanor, was biased, has a pattern of unprofessional police conduct, was suspended or terminated for disciplinary reasons and the appeal is completed, or has repeated sustained internal affairs complaints.

<sup>7</sup> A mandatory suspension under Section 9(a)(1) for a charge, indictment or arrest for a felony “shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.” M.G.L. c. 6E, § 9(a)(5) (referring to “[a] suspension order of the commission issued pursuant to this [§ 9(a)]”); accord 555 CMR 1.08(4).

<sup>8</sup> M.G.L. c. 6E, §§ 9(b) and 9(c) (stating, “shall administratively suspend the certification of an officer” in each provision).

## MEMORANDUM

action for which the officer was suspended.<sup>9</sup> Thus, this action also does not involve an exercise of judgment and discretion on the part of the Executive Director.

**Recommendation:** For the reasons set forth above, staff recommends that the Commission authorize the Executive Director to end the administrative suspensions, imposed pursuant to Sections 9(b) and 9(c), once it is determined that the officer has remedied either the in-service training requirements in 9(b) or reported necessary information to the Commission as required by 9(c). In lieu of voting on individual administrative suspensions at periodic public meetings, the Commission may expressly delegate such authority to the Executive Director. Such a delegation of authority would provide for a timely reinstatement of the officer's certification, without undue delay, and enhance the efficiency of agency operations with regard to ministerial matters. In exercising oversight of the process, the Commissioners may incorporate into the delegation a provision requiring the staff to report any and all certification reinstatements under Sections 9(b) and 9(c) at the earliest Commission meeting.

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<sup>9</sup> "The commission shall reinstate the certification of an officer suspended pursuant to [subsection 9(b)] upon completion of the in-service training requirements of the commission. M.G.L. c. 6E, § 9(b). "The commission shall reinstate the certificate of an officer suspended pursuant to [subsection 9(c)] upon completion of said report." M.G.L. c. 6E, § 9(c).





**MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

**Delegation of Authority to End Certain Administrative Suspensions of Certification  
(Proposed)**

**I. DELEGATION**

The Commission hereby delegates to the Executive Director, or the Executive Director's designee, the authority to end administrative suspensions of a law enforcement officer's certification under M.G.L. c. 6E, §§ 9(b) or 9(c).

## **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:

...

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

“Commissioner”, a member of the commission.

...

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

....

### **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. . . .

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

### **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;

...

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

...

(12) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;

...

(18) gather facts and information applicable to the commission’s obligation to

issue, suspend or revoke certifications for: (i) a violation of this chapter or any regulation adopted by the commission; (ii) a willful violation of an order of the commission; (iii) the conviction of a criminal offense; or (iv) the violation of any other offense which would disqualify a person from being certified;

...

(20) request and receive from the state police, the department of criminal justice information services or other criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation and the federal Internal Revenue Service, such criminal offender record information relating to the administration and enforcement of this chapter;

...

(23) restrict, suspend or revoke certifications issued under this chapter;

....

**M.G.L. c. 6E, § 8**

(b)(1) The head of an agency shall transmit any complaint received by said agency within 2 business days to the division of police standards, in a form to be determined by the commission; . . . .

(2) Upon completion of the internal investigation of a complaint, the head of each agency shall immediately transmit to the division of police standards an investigation report in a form to be determined by the commission; . . . .

(3) Upon final disposition of the complaint, the head of each agency shall immediately transmit to the division of police standards a final report in a form to be determined by the commission; . . . .

(4) If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the head of said agency shall immediately transmit to the division of police standards a report in a form to be determined by the commission; . . . .

**M.G.L. c. 6E, § 9**

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

(c) The commission shall administratively suspend the certification of an officer with a duty to report information to the commission pursuant to section 8 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. The terms of employment of a law enforcement officer whose certification is suspended by the commission pursuant to said subsection (a) (b) or (c) shall continue to be subject to chapter 31 and any applicable collective bargaining agreement to which the law enforcement officer is a beneficiary.

5a.



# FY23 Q2 Activity

- Payroll
  - Pace of Onboarding
  - Fluctuation in Hours for non-FTEs
  - Hiring Update
- Legal Services/Consulting
  - Increase Staffing in the Legal Division
  - Reduced Contracted Legal Services
- Rent
  - Postponed Office Move
- Information Technology
  - Delayed Invoicing
  - First Invoice Received – Q3 Payment Processing



# Salesforce Project Costs

*Identifying savings in FY23 allows us to advance project completion and reduce the FY24 budget*

Salesforce IT Solution		Revised	
Infrastructure	Slalom/SMX BAFO	\$ 2,528,000	\$ 2,528,000
	Total FY23 Expend	\$ (1,900,000)	\$ (2,440,081)
	SOW	\$ (362,916)	\$ (362,916)
	Task Order 1	\$ (656,715)	\$ (656,715)
	Last 24 Weeks for FY23	\$ (880,369)	\$ (1,420,450)
TPC Balance Needed for FY24		\$ 628,000	\$ 87,919

*Additionally, we have adjusted our FY24 forecast due to less reliance on Last Call Media, as well as moving enhancement work to FY23*





# FY24 Budget – As Submitted to ANF

## PST 0800-0000

	FY23	FY24	FY24 VS FY23	
	FY23 BASE	FY24 MNT	\$ Change	% Change
<b>EMPLOYEE COMPENSATION</b>	3,182,915	5,331,107	2,148,192	76%
<b>EMPLOYEE EXPENSES</b>	25,000	25,000		
<b>CONTRACT EMPLOYEES</b>	150,000	25,000	(125,000)	-83%
<b>PAYROLL TAX/FRINGE</b>	65,658	98,625	32,967	50%
<b>OFFICE SUPPLIES/POSTAGE/SUBSCRIPTIONS</b>	74,975	138,200	63,225	84%
<b>OFFICE SPACE LEASE</b>	357,552	837,740	480,188	134%
<b>CONSULTANTS/LEGAL SERVICES</b>	435,000	435,000		
<b>OFFICE FURNITURE/FIXTURES/EQUIPMENT</b>	25,000	105,000	80,000	320%
<b>OFFICE EQUIPMENT LEASE</b>		4,430	4,430	
<b>INFORMATION TECHNOLOGY</b>	683,900	4,114,711	3,430,811	502%
<b>Grand Total :</b>	<b>5,000,000</b>	<b>11,114,813</b>	<b>6,114,813</b>	<b>122%</b>



# Largest Areas of Spending

- Payroll - \$5.3M
  - Additional 10 FTEs
  - Total of 41 Employees
- Office Space - \$838K
  - New Lease at 84 State Street
  - Equipment and Fit-Out
- Information Technology - **\$4.1M**
  - Balance of Salesforce Development & Enhancements
  - Salesforce Maintenance
  - Jira Transition (LCM)



# Filed FY24 Budget

- The final number – *as filed on March 1<sup>st</sup>* – will range anywhere from **\$9M** (IT revisions) to **\$11.1M** (submitted in November)
- February meeting will include a vote on the budget





# MEMORANDUM

**TO** Commissioners

**FROM** Finance & Administration

**DATE** January 10, 2023

**SUBJECT** F&A Update

## CHAIR

Margaret R. Hinkle

## COMMISSIONERS

Hanya H. Bluestone

Lawrence Calderone

Clementina Chéry

Larry E. Ellison

Marsha V. Kazarosian

Charlene D. Luma

Kimberly P. West

Michael Wynn

## EXECUTIVE DIRECTOR

Enrique A. Zuniga

### **FY23 Q2**

December 31<sup>st</sup> closed the second quarter of the fiscal year. Similar to Q1, all major categories of spending remain under budget for the Oct-Dec period (see report entitled *FY23 Q2*).

- Employee Compensation is 9% under projections due to the pace of onboarding new and backfilled positions, and fluctuations in hours worked.
- Legal Services is more than 50% below estimates due to shifting work from the consultant to the Legal Division.
- Information Technology expenses are way below estimates due mostly to delayed invoicing. These costs will catch up in Jan/Feb.

### **IT Solution (Salesforce)**

In October, we reported Salesforce development and support activity will not be reflected in our financials until Q2. While we have incurred just over \$1 million to date, we now know actual expenditures will not be reflected until sometime in January or February (Q3). This is due to delayed invoicing from the vendor. Nevertheless, POST is in constant communication with Smartronix/Slalom, and we are pleased to report our first invoice was received December 30<sup>th</sup>. As with any highly complex IT project, reconciliation of the invoice will require some time. We have already noted some discrepancies with the vendor, and the invoice is currently being updated.

### **Salesforce Cashflow**

Salesforce Development & Support Allocation	\$ 1,900,000
SOW/Task Order 0 (Aug 30 - Oct 14)	\$ (362,916) Q1-Q2
Task Order 1 (Oct 17 - Jan 6)	\$ (656,715) Q2-Q3
<b>Balance</b>	<b>\$ 880,369</b>

With the completion of Task Order 1 last week, the next phase of the project – *Task Order 2* – will most likely begin this week, as we have recently reached agreement with Smartronix/Slalom on what is to be delivered by June 30<sup>th</sup>. At the beginning of the fiscal year, we planned on allocating \$1.9 million for Salesforce development and support. With the passage of half of the fiscal year, we have identified a significant amount of savings, as alluded to at the start of this memo. With savings being generated from attrition, reduced consultant services, a delayed office move, and less reliance on a major IT vendor, POST is now positioned to advance Salesforce work to the current fiscal year that was initially planned for FY24. In short, POST can afford most of the Salesforce project in FY23, thereby requiring less resources in FY24. What’s more, POST will have most of the work completed sooner than originally anticipated.

## MEMORANDUM

The table below illustrates how the projected savings will take us from an initial allocation of \$1.9 million worth of work to \$2.4 million worth. Please note the revised allocation is closer to the original BAFO ( Best-and-Final-Offer) from the vendor.

Salesforce Cashflow					<b>Revised</b>
SOW/Task Order 0 (Aug 30 - Oct 14)	\$ 362,916	Q1-Q2		Savings Allocated for IT	\$ 362,916
Task Order 1 (Oct 17 - Jan 6)	\$ 656,715	Q2-Q3			\$ 656,715
Task Order 2* (Jan 7 - Jun 30)	\$ 880,369	Q3-Q4	➔	\$ 540,081	➔ \$ 1,420,450
<b>Total</b>	<b>\$ 1,900,000</b>				<b>\$ 2,440,081</b>

\*Estimated cost and time

### Exposure Update

At the beginning of FY23, we warned of two potential budgetary exposures: \$150K in payroll, and \$500K in IT. With the passage of Q1, we were pleased to report that attrition savings led to the elimination of any payroll gap. Now, with our updated forecast showing even more savings, we are again pleased to report the potential \$500K IT exposure is no longer an issue.

### Hiring Status

Last month we reported seven open positions, including the Director of Police Standards. Interviews are continuing for all, except for the two Senior Certification Specialist positions. Two individuals have accepted our offers. As of their start date on January 23<sup>rd</sup>, POST will have a total of 24 employees.

While we have been forecasting a total of 29 employees by June 30<sup>th</sup>, the recently identified savings will allow us to advance an additional two positions that we were not planning on filling until FY24: a second paralegal for the Legal Division, and a Deputy Director of Police Certification (see updated *FY23 Org Chart*). As a result, we have updated our forecast from 29 to 31 employees by June 30<sup>th</sup>.

### FY24 Budget Development

Working closely with the commission's division heads, executive director, as well as Chair Hinkle and Treasurer Ellison, F&A submitted a preliminary FY24 operating budget request to ANF in November. These figures will be presented to you at the January 12<sup>th</sup> commission meeting. With the new Administration now in place, we anticipate continued discussions with ANF throughout the remainder of January and early February with the goal of achieving a final number. Per statute, Governor Healey will file her maiden budget proposal (H1) on March 1<sup>st</sup>. While most of the POST budget is solid, such as payroll and office space lease, IT cost estimates typically fluctuate, especially with the development of a major project. As noted in the presentation, the IT cost estimate will most likely be reduced by up to \$2.1 million. Since we will be closer to the March 1<sup>st</sup> filing deadline, we anticipate presenting "final" numbers to the commission during the February commission meeting. A vote on the budget will also be expected during the February meeting.



# Treasurer's Report

	FY23							
	Annual	YTD					Annual	
	BUDGET	YTD Proj Exp	YTD Act Exp	\$ Chg	% Chg	Notes	BALANCE	EST FINAL SPENDING
EMPLOYEE COMPENSATION	3,341,340	1,320,042	1,200,791	(119,251)	-9.0%	Actual came in less due to the pace of hiring and fluctuating hours for non-FTEs.	2,140,549	3,084,922
EMPLOYEE TRAVEL	25,000	10,000	1,292	(8,708)	-87.1%		23,708	25,000
CONTRACT EMPLOYEES	150,000	-	-	-	-		150,000	-
PAYROLL TAX/FRINGE	65,658	24,868	22,630	(2,238)	-9.0%		43,029	65,658
OFFICE SUPPLIES/POSTAGE/SUBSCRIPTIONS	74,975	17,826	11,759	(6,066)	-34.0%		63,216	74,975
OFFICE SPACE LEASE	357,552	75,042	75,044	-	-		282,508	247,030
CONSULTANTS/LEGAL SERVICES	435,000	175,875	84,293	(91,582)	-52.1%	Deviations from the average monthly estimate is normal for an "as needed" service	350,707	233,089
OFFICE FURNITURE/FIXTURES/EQUIPMENT	25,000	10,000	-	(10,000)	-100.0%		25,000	25,000
OFFICE EQUIPMENT LEASE	-	-	-	-	-		-	-
OFFICE MAINTENANCE/REPAIRS	-	-	-	-	-		-	-
INFORMATION TECHNOLOGY	3,583,330	1,486,324	6,786	(1,479,538)	-99.5%		3,576,544	3,830,900
RESERVES	-	-	-	-	-		-	-
Grand Total :	8,057,855	3,119,976	1,402,595	(1,717,383)	-55.0%		6,655,261	7,586,574



5b.



# FY23 Organizational Chart

Updated: 1/12/2023

