

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Thursday, June 20, 2024 11:53 AM
To: Lee, Annie (PST)
Subject: FW: Agency Certification

From: Dennis Galvin [REDACTED]
Sent: Thursday, June 20, 2024 11:46 AM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: Agency Certification

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Attention Annie Lee

Greetings Annie

I am the president of the Mass Association for Professional Law Enforcement (MAPLE). We are a 501C4 state registered nonprofit corporation chartered in 2018 and representing former, current, retired law enforcement officers and criminal justice educators who are deeply concerned about the public image and perception of the police service. Our goal is to improve that public image by advocating for improvements in the performance and quality of that service.

I regularly monitor the POST commissions meetings and I heard your presentation today as you discussed the role out of plans to implement policy agency certification in Massachusetts. On behalf of our organization I wish to extend our best wishes to you in this endeavor. This will be an arduous task with potentially many pitfalls and roadblocks but MAPLE supports this effort and we are prepared to offer our assistance and guidance to you and POST if you think we can be of assistance.

FYI we have begun our own review of state standards and intend at some point to publish the results of our review. I believe that this information would be helpful to you.

As commentary on today's discussion I would like to make the following points:

- (1) The decision to move incrementally on this issue is a prudent one. It will allow for a more closer analysis and refinement of the standards that you promulgate.
- (2) You referenced IMPACT and COLEA and while they are certainly good starting points and references, they are sometimes moot on the specifics of individual elements within policy which I think POST should not shy away from and needs to become knowledgeable about.

(3) This undertaking is going to require you to become an expert on industry best practices. This is an ambitious undertaking. Several of our members are very familiar with these standards and we can make them available for a consult free of charge.

In closing, good luck on your assignment, while it appears overwhelming, you gave the distinct impression

that you are more than capable of tackling it. Both Commissioners Baker and Calderone are familiar with our organization and have spoken at our meetings. Please do not hesitate to reach out to us if you have any question or you think we might be able to help.

Best regards

Dennis Galvin
President
MAPLE



www.maple-online.com

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Thursday, July 11, 2024 9:15 AM
To: Ravitz, Randall E (PST); Lee, Annie (PST)
Subject: FW: Standardized Practices Inquiry

Hello,

Below is a public comment about the Framework for Law Enforcement Agency Certification.

Thank you,

[Alia Spring](#)

Digital Communications Coordinator
Massachusetts POST Commission

Phone 857-310-0534

Web <https://www.mass.gov/orgs/post-commission>

Email alia.spring@mass.gov

[Massachusetts POST Commission - YouTube](#)

[Massachusetts POST Commission - Twitter](#)



The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct.

From: Robin LNU [REDACTED]
Sent: Wednesday, July 10, 2024 12:56 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: Re: Standardized Practices Inquiry

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Thank you so much for getting back to me.

It looks like there are a number of changes coming for Law Enforcement Agencies (LEA's) across the state, with the requirements "to meet over 100 standards". As the first mandatory certification program in the nation I am certain there will be significant input from Law Enforcement Officers (LEOs), Agency Heads, Politicians, and the public.

The development of the Standards to include the "use of force and reporting of the same", "in a way that does not jeopardize the health, safety, and welfare of the public" suggests there will be a level of uniformity for all LEAs. However, POST must consider the health, safety, and welfare of the LEOs that will have a duty to act in accordance with the POST approved standards concerning the eight (8) statutory mandated topics.

To that end, I am submitting this email as feedback for POST's consideration. When POST develops LEA standards, they must not only consider the "relief from some standards". They must clearly state the minimum standards to define a LEA within the Commonwealth regardless of the agency's identity within a private or quasi government organization. All communities, and community members, must have a universal understanding of what minimal services a LEO will bring in any given situation, while the agencies ensure all LEOs have the same abilities to protect the health, safety and welfare of the public, and themselves.

To do this, POST must identify the minimum standards not only for policy. The standards must identify the minimum equipment for LEOs and LEAs to properly do their job.

Robin Bousquet.

On Wed, Jul 10, 2024 at 10:19 AM POSTCcomments (PST) <POSTC-comments@mass.gov> wrote:

Hello,

Thank you for reaching out.

Some of the items you mentioned in your email will be addressed through the development of agency certification standards, which was recently introduced by the Commission. You can learn more at this link: [POST Commission Introduces Framework for Law Enforcement Agency Certification | Mass.gov](#).

Thank you.

From: Robin LNU [REDACTED]
Sent: Wednesday, July 10, 2024 7:18 AM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: Re: Standardized Practices Inquiry

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Hello,

I have yet to see a response to the question I posed. Now that Bridge Academies have ended, and all Officers should be trained to the same level, will there be a decision on the standardized equipment and policies?

On Sat, Feb 3, 2024 at 11:15 AM Robin LNU [REDACTED] wrote:

Hello,

Understanding that the goal of the POST Commission is to standardize practices by implementing a process for certifying agencies, including regulations, model policies and best practices that address use of force, ensure bias-free policing, and enhance officer wellness, how is it possible that the POST commission has not implemented a minimum level for standard issued equipment. Specifically, with the BRIDGE academy ending at the end of June this year, all of the Commonwealth's sworn officers WILL have the same level of training. That is, the standard level outlined and approved by the POST Commission and the MPTC.

However, not all departments are equipped the same, or able to respond to developing situations the same. The example one might raise are the unarmed college police departments in the commonwealth. With recent news developments, and the delayed responses that resulted in criminal and civil litigation, are you (POST) not failing to implement standardized practices, as POST was Charged to do by the legislature? It seems logical that in addition to the minimum level of training to be a POST certified officer, there should be a minimum level of standardized practices, policies, and equipment implemented across the state to ensure all agencies are certified. This may be the POST Commission's intention, once the officer training certification is completed in July. However, it would be nice to know what the POST Commission will do to ensure that each Law Enforcement agency in the Commonwealth is capable of providing a minimum level of response, whatever that may be, while ensuring model policies and best practices that address use of force, ensure bias-free policing, and enhance officer wellness in all the situations where they may be called upon to serve.

I look forward to your response.

Robin Bousquet.

[Redacted]

[Redacted]

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Friday, July 12, 2024 9:15 AM
To: Ravitz, Randall E (PST); Lee, Annie (PST)
Subject: FW: Framework for 555 CMR 13.00: Law Enforcement Agency Certification Standards (proposal)

From: [REDACTED]
Sent: Thursday, July 11, 2024 11:30 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: Framework for 555 CMR 13.00: Law Enforcement Agency Certification Standards (proposal)

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Greetings,

I am a campus Police Sergeant at an institution of higher education and Boston MA. I have also served for a while as our accreditation manager with MPAC which we have since moved away from. I recently saw that POST was looking for feedback regarding Agency Certification Standards. I want to take a moment to speak out on an important issue that could be a topic for the Certification Standards. The issue I speak of is a proposed mandate that Law Enforcement Agencies (LEAs) establish a minimum set of Use of Force (UOF) equipment to be fielded by Sworn Officers.

At present there are several LEAs (mostly College and Hospitals) that still do not field any type of Firearm. These agencies are unable to respond appropriately to any lethal situation of serious bodily injury or death that may require the use of deadly force. As I am sure you are aware studies have shown that time and time again that the longer deadly threats remain unchallenged particularly in a mass casualty scenario (active shooter, stabbing, bombing, driving a car towards a crowd, etc.) the higher the death and injury rate is.

Therefore, I implore that the Committee consider a mandate of standards that establishes the minimum requirements for the types of UOF equipment to be fielded by all LEAs.

To Cover all levels of force Officers should be equipped with the following at a minimum:
Firearms (Particularly Handguns)
Baton\Impact tool
Oleoresin Capsicum (pepper) spray\MACE
Handcuffs

The Committee may also wish explore the benefits of TASERs\ Electronic immobilization weapons and non-lethal munitions such as beanbags, rubber bullets, paintballs etc.

I understand that there may be some need to modify the proposed requirements particularly for LEAs that are tasked with protecting secure institutions\areas such as a psychiatric ward\mental health facility, correctional

facility etc. However, officers employed by these LEAs should still be able to readily access firearms and other UOF equipment and be able to carry in non-secure areas and or perimeters of their respected institution. I also understand that at some facilities it may not be practical to arm officers with rifles\shotguns due to the size of and or construction type of the facility. (facilities that are cramped in size, thin walls, or contain vulnerable\volatile equipment\material come to mind.)

I am sure you are aware that since the formation of POST the MPTC has required that all sworn officers regardless of their firearms carry status are required to attend at minimum two Handgun training courses per year. (one qualification and one fundamentals course) It is possible that both the Commonwealth and individual LEAs place themselves in potential legal jeopardy by mandating officers complete Handgun training and related Use of Force, and Active shooter training, but then do not mandate\allow employed officers to utilize the tools they trained with.

In truth, it appears the main reason there are still several LEAs that remain unarmed is political and not based on actual statistics or science. Based on internal conversations with the heads of some colleges the main reason for having unarmed police is due to a perceived negative backlash that would occur from a vocal minority of community members. However, the same heads of these institutions have stated off the record that they are either receptive to or neutral when it comes to the arming of their LEAs. The president of my institution has stated if firearms were mandated by the Commonwealth, it would make his job easy as the mandate itself would shield him from any possible culpability received from the campus community.

In closing I hope the Committee strongly considers mandating a minimum set of standard equipment to be fielded by LEAs with the primary focus on mandating that all LEAs field handguns.

Thanks for your time and I look forward to hearing from you.

Mackenzie A. Slocumb



Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Monday, July 22, 2024 8:11 AM
To: Lee, Annie (PST)
Subject: FW: LEA Certification Standards

From: Tom Shiple [REDACTED]
Sent: Sunday, July 21, 2024 11:34 AM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: LEA Certification Standards

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Counsel Annie E. Lee,

I don't know if this is within scope, but I recommend that LEAs be required to document and report ALL officer-initiated traffic stops, and not just those resulting in a citation. I believe it's estimated that over half of traffic stops result in a verbal warning, which are not currently recorded. In the spirit of bias-free policing, I think it's important to understand if bias is occurring in who gets stopped, and the outcome of the stop. I'll note that California's 2015 law (AB 953) requires the collection of data on all officer-initiated stops.

Regards,
Tom Shiple

[REDACTED]

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Tuesday, July 23, 2024 8:54 AM
To: Lee, Annie (PST)
Subject: FW: LEA Certification Standards: Conflicts of Interest
Attachments: POST-Comments_Berner_07232024.pdf

From: Kevin Berner [REDACTED]
Sent: Tuesday, July 23, 2024 7:32 AM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: LEA Certification Standards: Conflicts of Interest

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Attorney Lee and Members of POST Commission:

We are private citizens living in Braintree MA writing to provide public comments on [POST Commission's LEA Certification Standards](#). We are expressing support for the inclusion of clear conflict of interest guidelines and responses for section (2) *officer code of conduct*. Our family was directly impacted by unethical police conduct, and no policies or standards existed at our local department, nor were there any state-level agencies equipped to provide oversight or to address the unethical police conduct.

Our disabled 12-year-old child was a victim of sexual abuse from some children in his grade. The neighborhood bully lured [REDACTED] into a teammate's basement, coerced him into removing his clothes, had him pose naked for photos, and disseminated these naked photos to classmates in order to humiliate and harm. The bully was the son of a sergeant detective in our local police department, his mother works for the Mayor's office, and other relatives are also town employees. Other children who shared the naked photo had connections to law enforcement in surrounding municipalities, and one was the son of a municipal judge. The police investigation was assigned to Lt Detective Michael Moschella, the involved sergeant's direct supervisor. This obvious conflict of interest was not declared. Braintree Police immediately downplayed the seriousness of the incident as "boys being boys." We requested reassignment to the State Police or a neighboring department as the professional conflicts within Braintree PD were obvious to us and the Child Advocacy Center staff we spoke with. This request was denied. We requested an internal affairs review of this investigation. We received a response from then Braintree Police Chief Mark Dubois on 11/9/2022 that indicated that the investigation in question was overseen by him and the deputy chiefs *and* that he and the deputy chiefs reviewed the matter and found no bias. It is unreasonable for command officers to fairly review a matter that they were directly involved with overseeing. This internal affairs process was flawed and invalid and failed to appropriately review the conduct of the conflicted detective.

After the case was closed, we learned that the personal and professional conflicts were even deeper than we had initially understood. We learned from a town councilor and some neighbors that Detective Moschella and the involved Sergeant were close friends since the start of high school, played on sports teams together, and had remained close since. We learned that Detective Moschella and the involved Sergeant not only lived <.5 mile away from each other, but their older children were in the same grades and their families attended school events, fundraisers and church events together. We learned that Detective Moschella and the involved

Sergeant worked together in the small Braintree Police Department for 18 years, and had a supervisory relationship for at least 13 years. Deputy Chief Cohoon was aware of the extent of the personal and professional relationships, and declined to disclose or address the conflicts. We also learned that Detective Moschella had a personal friendship with another father of an involved child. A copy of the police report retrieved from the district attorney's office had been tampered with by Detective Moschella and was missing 2 lines describing the interview with this involved father. The POST Commission, DA and Attorney General's office refused to act on this.

The conflicts were only the start of it, a review of the police report revealed a deeply flawed investigation: 1) none of the involved children were interviewed at all, only the fathers of the involved children were interviewed, 2) **Detective Moschella had the involved sergeant interview his own son**, 3) Detective Moschella asked a civilian to interview a neighborhood child who had possessed the naked photo, 4) several involved children/families were not interviewed at all, and 5) there were no documented attempts to requested involved phones or to recover the naked photo evidence.

This was no trivial matter. Child sexual abuse and exploitation can have a serious and lifelong impact on a victim, as survivors of child sexual abuse have higher rates of substance use disorders, psychiatric illnesses, and suicidality. Failing to recover this naked photo not only impacted the potential for criminal charges in this case, it also made it impossible to determine how widely the image was shared. This greatly increases the likelihood that the naked image documenting our child's sexual abuse will re-emerge in the future to retraumatize. Braintree Police's failure to identify and address obvious conflicts of interest greatly increased the likelihood that our child will continue to be impacted by this trauma. This sickens us.

We reached out to our local elected officials and state agencies for help. The FBI indicated that the incident had to be addressed by the State Police or local police because it involved minors. A State Police Sergeant said they could not intervene because the local police department was already involved. The POST Commission indicated that conflicts of interest and ethical violations were out of their purview. The Attorney General's Office shared that they also could not intervene with a local police department, but suggested to seek solutions from our town council and mayor. Braintree then Mayor Kokoros declined multiple requests for an inquiry.

We were eventually able to convince the former mayor of Braintree to launch an independent review of this investigation using the former MA Commissioner of Public Safety Daniel Bennett's Comprehensive Investigations and Consulting (CIC) firm. This review identified serious ethical concerns, and concluded that multiple Braintree Police command staff violated the MA Conflict of Interest Law [M.G.L. 268A sec 23 a](#). Since there was no department policy against investigating someone with whom you have a close personal or professional relationship, Detective Moschella did not technically violate policies of the Braintree Police Department. Bennett recommended that *"Braintree Police Policies and Procedures should be modified,"* that there should be *"training on M.G.L.c 268A sec. 23 a. (3) for the command staff,"* and *"In the future, when an investigation involves a family member of a police officer, the department should determine whether the investigation should be referred to another agency or assigned to an officer within the department with no personal relationship."*

The [guidelines set forth by the International Association of Chiefs of Police Standards of Conduct](#) are clear: A police department, at minimum, needs to adopt standards that are consistent with best practices and recommendations, inclusive of a standard that *"officers shall not participate or interfere in investigations involving family members or persons with whom they have a close personal or business relationship."* In our case, Det Moschella investigated a colleague with whom he was closer than most people are with their own siblings.

The [Boston Globe published an investigative report of this incident](#) in February 2024. It is clear that Braintree PD's misconduct and unethical practices have further eroded public trust in law enforcement. The 500+ comments on [Bostonglobe.com](#) and the [Instagram post of the story](#) are highly critical of this morally bankrupt Braintree PD. Recent incidents in other South Shore towns like Stoughton and Canton have strengthened the perception that local police departments routinely cover up the misdeeds of the officers in their ranks. I am from a law enforcement family myself. My late father served for 18 years on the New York City Police

Department before duty-related injuries forced his retirement. His brother served in New Jersey, and his uncle served in Maine. I understand and respect the sacrifices every officer and police family makes each day when they pick up their badge. My father would be disgusted as to how his police “brothers” chose to serve themselves instead of serving the public.

Even though the December 2023 independent report recommended a conflict of interest policy, no policy was developed by Braintree PD until they were pressed by the new Mayor Joyce this Spring. A conflict of interest policy was eventually developed by now Chief Cohoon in April 2024, but it was insufficient and failed to address personal and professional conflicts. [Revisions in June of 2024](#) included personal and professional conflicts but still put the responsibility of addressing conflicts in the hands of the command staff. In the Braintree PD, multiple members of the command staff failed to identify, disclose or address multiple personal and professional conflicts. Two of these failed leaders were promoted, and another resigned to bring his unethical behavior to lead an out-of-state police department. Ethical misconduct occurred at the highest levels of the Braintree Police Department, and no higher-ranked officers exist to discipline involved officers or monitor for future ethical issues. It is unrealistic to expect a new mayor with a background in civil engineering to be equipped to monitor or address police misconduct. It is critical that a state agency set expectations on ethical conduct, and have a clear method for whistleblowers to identify ethical issues to be investigated. The POST needs to be the agency to address these ethical issues.

This is not a Braintree problem, this is a Massachusetts problem. Community Policing has many benefits, and we see these benefits in our own community. We felt proud and safe seeing our uniformed officer neighbor dropping his kids off at school when they were in my children’s classes. Officers patrolling on motorcycles give out candy to trick-or-treaters on Halloween. The school resource officers are beloved by *all* the students at my child’s middle school. We rallied around injured officers and K-9 Kitt when he was killed in the line of duty. However, expecting officers to police and investigate individuals with whom they have close personal, family, and business relationships is a clear conflict and deepens mistrust. POST must adopt clear state-wide standards expecting departments to adopt conflict of interest policies that addresses close personal, family, and business relationships.

Respectfully,

Thank you for your attention to this matter,
Kevin & Carine Berner



Lee, Annie (PST)

From: Danna Mauch <dannamauch@mamh.org>
Sent: Tuesday, July 23, 2024 6:37 PM
To: Lee, Annie (PST)
Cc: Zuniga, Enrique (PST); Ravitz, Randall E (PST); jennifer.honig@mamh.org
Subject: RE: POST Agency Certification Standards Invitation to Comment
Attachments: MAMH Comments to POST Commission 07 23 24.pdf

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Dear Annie,

Please find attached for your consideration comments from MAMH on the Post Commission standards. I have copied Jen Honig, a MAMH Director of Public Policy, who developed comments MAMH submitted on the POST standards in August 2022, which we reference here. In the comments provided above, we expand on that original work, and provide descriptions of and links to source documents that may help to inform the Commission's work in developing agency certification standards.

Feel free to call on Jen and me if we can be of further assistance to you and your colleagues. Between us, we have about 40 years of government agency experience (me at MA DMH and RI DMH and Jen at MHLAC) working on behalf of people living with behavioral health and disability conditions and collaborating across state agencies and secretariats on policy and program initiatives to improve practices affecting their health and well being. Thank you for inviting us to contribute to your efforts.

Best,

Danna

Danna E. Mauch, PhD
President and CEO
Massachusetts Association for Mental Health (MAMH)
50 Federal Street, 6th Floor
Boston MA 02110
Email: dannamauch@mamh.org
Cell: 617-680-8200



From: Lee, Annie (PST) <Annie.Lee@mass.gov>
Sent: Friday, July 12, 2024 4:51 PM
To: Danna Mauch <dannamauch@mamh.org>
Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>
Subject: RE: POST Agency Certification Standards Invitation to Comment

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Danna,

Absolutely. I can be reached at 857-283-8184. We look forward to hearing from you.

Best,
Annie

[Annie E. Lee \(she/her\)](#)
Counsel
Massachusetts POST Commission
Phone 857-283-8184
Web <https://www.mass.gov/orgs/post-commission>
Email annie.lee@mass.gov



The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct.

From: Danna Mauch <dannamauch@mamh.org>
Sent: Friday, July 12, 2024 4:49 PM
To: Lee, Annie (PST) <Annie.Lee@mass.gov>
Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>
Subject: RE: POST Agency Certification Standards Invitation to Comment

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Dear Annie,

I would be pleased to provide comments to the POST Commission on the matter of LEA Certification Standards. I reviewed the attached letter and believe I understand the scope of your request. May I call you with any questions that come up once I get into the task?

Best,

Danna

Danna E. Mauch, PhD
President and CEO
Massachusetts Association for Mental Health (MAMH)

50 Federal Street, 6th Floor
Boston MA 02110
Email: dannamauch@mamh.org
Cell: 617-680-8200



From: Lee, Annie (PST) <Annie.Lee@mass.gov>
Sent: Friday, July 12, 2024 1:15 PM
To: Danna Mauch <dannamauch@mamh.org>
Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>
Subject: POST Agency Certification Standards Invitation to Comment

You don't often get email from annie.lee@mass.gov. [Learn why this is important](#)

President Mauch:

On behalf of the Massachusetts Peace Officer Standards and Training (“POST”) Commission, I am reaching out in the hopes of engaging the Massachusetts Association for Mental Health in some of POST’s ongoing work.

By way of background, the POST Commission was established in 2020 as part of the criminal justice reform legislation enacted in Chapter 253 of the Acts of 2020, *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*. POST’s mission is to improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all law enforcement officers and agencies in the Commonwealth.

Last month, POST began considering law enforcement agency certification and specifically, agency certification standards. The Commission, however, before setting any such standards, stated that it would first benefit from hearing from stakeholders. The attached letter therefore invites the Massachusetts Association for Mental Health to submit comments on law enforcement agency certification standards. Should you be interested in this subject, further details regarding agency certification and how you may submit comments can be found in the letter.

Thank you for your attention to this matter. Please do not hesitate to reach out if you have any questions or would like to discuss.

Sincerely,
Annie

[Annie E. Lee \(she/her\)](#)
Counsel
Massachusetts POST Commission
Phone 857-283-8184
Web <https://www.mass.gov/orgs/post-commission>
Email annie.lee@mass.gov



The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct.



Danna E. Mauch, Ph
President and CEO

Ambassador (ret.) Barry B. White
Chairperson of MAMH Board of Directors

July 23, 2024

Annie Lee, Esq., Counsel
POST Commission
84 State Street, 2nd Floor
Boston, MA 02109
Annie.Lee@mass.gov

Dear Ms. Lee:

On behalf of the Massachusetts Association for Mental Health, we appreciate the invitation to comment on the standards by which law enforcement agencies (LEAs) are certified. We focus our comments on two of the eight delineated areas: 1) use of/reporting use of force; and 2) officer response procedures.

MAMH offers these comments through the lens of our mission, and the values, principles, and commitments underlying our efforts to address the mental health and well being of people living in the Commonwealth of Massachusetts. Formed over a century ago, MAMH is dedicated to promoting mental health and well-being, while preventing behavioral health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with behavioral health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH furthers its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies. MAMH works on behalf of people of all ages who are at risk for or live with behavioral health conditions and addresses as a priority the adverse conditions that most often disrupt mental health and well being.

We are pleased to participate in the examination of certification standards as people living with behavioral health conditions are at considerable risk during police encounters. Despite important improvements to mental health and substance use care in Massachusetts in recent years, disparities in access to care persist. There are sometimes significant delays in receipt of the right care and major gaps in the types of care available. These delays and gaps leave children, adolescents, adults, and older adults struggling with behavioral health conditions at risk in our communities, often placing community institutions, like schools and police in difficult positions to respond in lieu of the health system without the training or resources to do so.

This is particularly challenging when those with emergent behavioral health conditions find themselves in crisis encounters with the police. One study found that 17% of **use of force** cases involve a person

with a serious mental illness, and such individuals face 11.6 times the risk of experiencing a police use of force faced by persons without a serious mental illness.¹ Further, while representing only 22% of the population, individuals with disabilities may account for 30% to 50% of incidents of police use of force.²

In responding to this request, we reviewed a number of key resources, all of which we recommend for consideration by the Commission. These include:

- The U.S. Department of Justice and U.S. Department of Health & Human Service’s 2023 [Guidance for Emergency Responses to People with Behavioral Health or Other Disabilities](#), outlining best practices for public officials who respond to people with disabilities who are experiencing a behavioral health crisis. Citing the legal obligations of the Americans with Disabilities Act (ADA), the guidance notes that the Americans with Disabilities Act (ADA) applies to public entities’ emergency response and law enforcement systems, which must therefore make reasonable accommodations to serve people with disabilities including, when appropriate, sending responders trained in behavioral health service provision rather than law enforcement. In this way, people with behavioral health conditions receive the same types of accommodations currently provided to people with physical health conditions (who may now receive a health response rather than a police response). While it is impossible to adequately summarize the Guidance here, we note these key topics: **best practices for responders** (including person-centered approaches, diversion, peer support, and coordination between law enforcement and mental health and other disability service providers); **data-driven decisions**; **policies and trainings** focused on interactions with individuals (including youth) in crisis or with disabilities of various types, with a focus on cultural competency; reliance on **de-escalation** across the emergency response continuum; **use of federal resources**, including Medicaid; and, when appropriate, deferring to **clinically-trained individuals** who rely on person-centered practices and trauma-informed approaches.
- Center for Policing Equity’s [Mental Health Emergency Response Recommendations](#) which, among its recommendations, **advocates for the regulation of police response to mental health emergencies, in the same way that response to medical response is regulated**, to ensure prompt, safe, and appropriate treatment. To this end, police officers facing a mental health emergency should call for assistance from a specialty mental health team, as well as be trained to identify, stabilize and de-escalate the person until that team takes over responsibility.
- U.S. Department of Justice Bureau of Justice Assistance, [Research to Improve Law Enforcement Responses to Persons with Mental Illnesses and Intellectual/Developmental Disabilities](#), which includes a review of research on Stand-alone Mental Health/De-escalation Training models.
- Vera Institute of Justice, [Understanding Police Enforcement: A Multicity 911 Analysis](#), which while focused on 911, offers **recommendations related to police officer response, including: de-escalation tactics trainings; enhanced law enforcement response to children exposed to violence and childhood trauma; and tracking frequent callers with better data management**

¹ Lanionu, A. & Goff, P. (2021). Measuring Disparities in Police Use of Force and Injury Among Person with Serious Mental Illness. BMC Psychiatry, 21.

² Perry, D. (2016). The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability. Ruderman Family Foundation.

systems. The report also recommends **more comprehensive data collection, standardization, and evaluation including relating to calls to 911 and police response.**

- Academic Training to Inform Police Responses, Crit Core Concepts: Essential Tools for Trainers, <https://www.informedpoliceresponses.com/crit-core-concepts>. A resource library that provides recommended resources to support the planning and delivery of the Crisis Response and Intervention Training (CRIT), including general resources on police-mental health collaboration and crisis response and module-specific resources.
- Academic Training to Inform Police Response, Planning for Crisis Response, <https://www.informedpoliceresponses.com/planning-crisis-response>. With links to specific resources, some of which are included in this list.
- SAMHSA, National Guidelines for Behavioral Health Crisis Care – A Best Practice Toolkit Knowledge Informing Transformation, <https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf>. The purpose of this publication is to establish a solitary set of national guidelines for crisis care and offer a toolkit that supports program design, development, implementation, and continuous quality improvement in systems of care throughout the nation. The document outlines **essential principles and practices**: 1. Addressing **Recovery Needs**, 2. Significant Role for **Peers**, 3. **Trauma-Informed Care**, 4. **Zero Suicide/Suicide Safer Care**, 5. **Safety/Security for Staff and People in Crisis** and 6. **Crisis Response Partnerships** with Law Enforcement, Dispatch and Emergency Medical Services (EMS).
- SAMHSA, Trauma Training for Criminal Justice Professionals, <https://www.samhsa.gov/gains-center/trauma-training-criminal-justice-professionals>. The GAINS Center has developed training for criminal justice professionals to raise awareness about trauma and its effects. “How Being Trauma-Informed Improves Criminal Justice System Responses” is a **half-day training for criminal justice professionals** to: increase understanding and awareness of the impact of trauma, develop trauma-informed responses, and provide strategies for developing and implementing trauma-informed policies.
- Council on State Governments, Law Enforcement – Mental Health Learning Sites, <https://csgjusticecenter.org/projects/law-enforcement-mental-health-learning-sites/> A **peer-to-peer learning program** for law enforcement agencies to build collaborative responses to people with mental health needs.
- Bureau of Justice Assistance, Police – Mental Health Collaboration Toolkit, <https://bja.ojp.gov/program/pmhc>. The PMHC Toolkit provides **resources for law enforcement agencies to partner with service providers, advocates, and individuals with mental illness and/or intellectual and developmental disabilities (I/DD)**. The goal of these partnerships is to ensure the safety of all, to respond effectively, and to improve access to services and supports for people with mental illness and I/DD.
- International Association of Chiefs of Police, One Mind Campaign, <https://www.theiacp.org/projects/one-mind-campaign>. The One Mind Campaign seeks to ensure successful interactions between law enforcement and individuals with mental health conditions. The initiative focuses on **uniting local communities, law enforcement agencies, and**

mental health organizations so that the three become "of one mind." To join the campaign, law enforcement agencies must pledge to implement four promising practices over a 12-36 month time frame.

- Massachusetts Association for Mental Health & Technical Assistance Collaborative, Massachusetts 911 Call Study: Assessing the Potential to Divert Behavioral Health Calls to Alternative Responses (2023), <https://www.mass.gov/doc/massachusetts-911-call-study-0/download>. This report includes these **relevant recommendations**:
 - Require **standardized behavioral health training** for telecommunication operators (911, 988, BHHL, Overdose Prevention Helpline, Substance Use Helpline) and enhance training for law enforcement and behavioral health crisis staff;
 - Develop a **governance entity that enhances cross-sector collaboration** at the state and regional levels:
 - Identify or establish one entity under the co-direction of the Secretary of Health and Human Services and the Secretary of Public Safety and Security that would be responsible for overseeing crisis response planning and implementation.
 - Create opportunities for regional cross-sector planning and mutual understanding.
 - Improve **standardized data collection and outcome metrics**:
 - Standardize PSAP and law enforcement data collection and coding of behavioral health calls and deployments.
- Massachusetts Association for Mental Health & Technical Assistance Collaborative, Report of the Community Policing and Behavioral Health Advisory Council in accordance with Section 117 of Chapter 253 of the Acts of 2020 and Section 25 of Chapter 19 (2023), https://www.mamh.org/assets/files/MA-Crisis-System-Report_FINAL-2023.pdf. This report had these relevant findings:
 - There is a Need to Design and Implement a **Unified Approach to Crisis Services** across Sectors to Alleviate System Confusion, Implementation Inconsistencies, Service Delivery Gaps, and Cross-System Communication Challenges.
 - **Underutilization of Community-Based Stabilization Programs**, which could partially be addressed by reducing community confusion around the difference between crisis stabilization and community-based acute treatment.
 - **Transportation Issues** including challenges associated with transportation for individuals experiencing a behavioral health crisis and the inability to drop off individuals at non-hospital locations. For law enforcement, there is also the challenges of dropping individuals off at community-based crisis sites when they were not in the same town as the local police jurisdiction.
 - There is a Need for Better Utilization of **Peer Supports in Crisis Prevention, Crisis Response, and Post-Crisis Care**.

This report also includes recommendations, the first of which mirrors the recommendation in the 911 Report regarding developing a government entity to ensure cross-sector collaboration.

General principles for consideration in developing certification standards

From the above resources, a number of general principles emerge for consideration when developing certification standards for police officers. These include:

- Importance of person-centered responses;
- Ongoing commitment to diversion, by taking advantage of new behavioral health programs and services including those in Massachusetts offered through the EOHHHS Roadmap for Behavioral Health Reform. Diversion to community-based stabilization programs would be one example;
- Inclusion of peers in crisis response;
- Need to educate officers regarding behavioral health issues, including de-escalation methods and impacts of trauma;
- Legal requirement to respond to behavioral health emergencies in the same way in which one would respond to a medical emergency;³
- Need for greater cross-agency and cross-sector collaboration;
- Need to address the needs of people in substance use recovery;
- Need to focus on suicide prevention;
- Need to address transportation issues, including those that prevent diversion to behavioral health treatment programs;
- Importance of data collection and analysis, as well as data-driven decision-making.

Existing POST Commission standards and guidance

Applying these principles, we offer a few suggestions on current POST Commission standards. These include:

[555 CMR 600 Use of Force by Law Enforcement Officers](#)

The requirement to use de-escalation tactics is a good one. Trainings should explore the particular value of and rationale for using such tactics with persons who are living with behavioral health conditions. The description in the regulation of the tactics⁴ could address the additional resource of peers, in addition to the “medical or licensed mental health professionals” already listed. Peers offer a different and sometimes better-received approach to helping a person in mental health crisis. Additionally training regarding trauma should be included for officers, who may themselves experience trauma in the field, and who may be unaware of the trauma histories of people living with behavioral health conditions. How the officer intervenes when called to a crisis situation, for example, may evoke a trauma response from the individual in crisis that may in turn lead to escalation of the situation.

This regulation has a requirement for law enforcement agencies to report data to the National Use of Force Data Collection Database. However, this reporting only occurs in cases of death or serious bodily

³ A related concept is to ensure access to medical care for people who might be detained by police due to a behavioral health crisis. H.1759/S.1047 (Leg Sess. 2023-2024), An Act establishing medical civil rights, would require police to ensure access to medical care for people during a police encounter.

⁴ The regulation reads: “De-escalation Tactics. Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person’s voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, and requesting additional resources to resolve the incident including, but not limited to, calling in medical or licensed mental health professionals, as defined in M.G.L. c. 111, § 51½(a), to address a potential medical or mental health crisis. De-escalation shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible.”

injury of an individual, or when a law enforcement officer, in the absence of death or serious bodily injury, discharged a firearm at or in the direction of a person. Broader data collection and analysis at the state level of use of force should be addressed.

[POST Commission Guidance as to M.G.L. Chapter 123, §§12\(a\) and 12\(e\) and the Use of Force](#)

MAMH offered comments on this guidance to the POST Commission in August 2022, particularly on the last two paragraphs.⁵ MAMH noted that the first of these two paragraphs states that the Commission and the MPTC are of the “view” that nothing in the applicable law prohibits law enforcement officers from using “necessary” and “proportionate” force to bring an individual to a hospital under § 12 if de-escalation has failed or is not feasible. We worried that as written, this statement might encourage the use of force rather than limit it. We suggested that the Guidance should emphasize de-escalation techniques and discuss alternatives to the use of force. The second paragraph addresses whether any applicable law would “relieve” an officer of the duty to “effect” a hospitalization of a person with mental illness if the likelihood of serious harm is to the person and not to others. The Guidance instructs that officers are not relieved of that duty and, further, that officers may not substitute their own judgment for that of the clinician who made the determination under § 12(a). While we agree that there is nothing that “relieves” an officer of any duty under § 12, the POST Commission should provide more detailed guidance to officers about persons who are in an emotional crisis which may result in self-harm. The Guidance, for instance, could recognize the stress a person subject to a §12 involuntary hospitalization may be experiencing, including the stresses of a police encounter, and how that stress might be reduced.

The Guidance could also offer information about alternatives to the use of force (including de-escalation strategies) which may allow the office to pursue the hospitalization without resorting to force. These could include, for instance, assistance from an emergency services team, the new [988 Suicide and Crisis Lifeline](#) services, mental health urgent care centers, the [Behavioral Health Helpline](#) of the [Roadmap for Behavioral Health Reform](#), and the soon to open [Middlesex County Restoration Center](#).

We hope these suggestions are helpful to the POST Commission as you proceed. If we can provide any additional information, please let me know.

Sincerely,



Danna Mauch, PhD
President and CEO

⁵ These paragraphs read: “In the view of the Commission, nothing in Section 12, in Chapter 6E of the General Laws, in Chapter 253 of the Acts of 2020, or in 555 CMR 6.00 prohibits law enforcement officers from using “necessary” and “proportionate” force when “de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances” in order to bring an individual against their will to a hospital for evaluation pursuant to §12(a) or §12(e). Similarly, nothing in the General Laws or relevant regulations relieve law enforcement officers of the duty under §12(a) or §12(e) to effect, as required under the statute, a hospitalization of a person believed to have a mental illness when the likelihood of serious harm is to themselves, and not to others. The regulations in 555 CMR 6.00 do not allow officers to substitute their own judgement for those of licensed mental health professionals after a determination has been made under M.G.L. c.123, §12(a).”

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Wednesday, July 24, 2024 4:19 PM
To: Lee, Annie (PST)
Subject: FW: "LEA Certification Standards"
Attachments: MBA LTR POST Commission on LEA Certification Standards 7.24.24.pdf; MBA PRWG REPORT ON POLICE REFORM 9.23.20.pdf; MBA RESOLUTION ON SYSTEMIC POLICE REFORM 9.23.20.pdf

From: Richard Cole <rcole.bostonlaw@rcn.com>
Sent: Wednesday, July 24, 2024 3:49 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Cc: Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>; 'Marsha V. Kazarosian' <marsha@kazarosiancostello.com>; Healy, Martin (EXT) <mhealy@massbar.org>; 'Damian Turco' <damian@turcolegal.com>
Subject: RE: "LEA Certification Standards"

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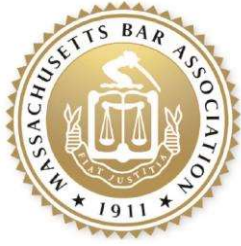
Dear POST Commission Counsel Lee:

In response to the Massachusetts POST Commission's invitation to the Civil Rights and Social Justice Council of the Massachusetts Bar Association ("MBA"), in an email dated July 12, 2024, with attached letter, to submit comments concerning the POST Commission's deliberations on setting further law enforcement agency ("LEA") certification standards, please find attached the MBA's three submissions: MBA's cover letter, "Report of the MBA's Police Reform Working Group in Support of Resolution on Systemic Police Reform" and the MBA's "Resolution on Systemic Police Reform."

Thank you,
Richard W. Cole, Esq.

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MASSBAR

A S S O C I A T I O N

July 24, 2024

Annie E. Lee, Counsel
Massachusetts POST Commission
84 State Street, Suite 200
Boston, MA 02109

RE: LEA Certification Standards

Dear POST Commission Counsel Lee:

We are writing on behalf of the Massachusetts Bar Association (“MBA”) in response to the Massachusetts POST Commission’s invitation to the Civil Rights and Social Justice Council of the MBA, in an email dated July 12, 2024, with attached letter, to submit comments concerning the POST Commission’s deliberations on setting further law enforcement agency (“LEA”) certification standards in addition to the eight statutory mandated standards under M.G.L. c. 6, § 5(b).

As its initial response, please note that the MBA respectfully requests that the POST Commission consider extending the submission deadline date to at least the end of October 2024, to allow the MBA and other stakeholders to fully and carefully research, study and address how the POST Commission should set “additional [LEA] standards in the categories of administration, personnel and training, and operations.” The POST Commission’s current August 9th deadline for receiving comments, however, regrettably makes that impossible. Neither the MBA’s Section Councils nor the MBA House of Delegates, its governing body, are active during the months of July and August. Rather, they are reconstituted and reactivated annually in September of each calendar year. Furthermore, we note that given the importance of the task, we are concerned that the relatively brief time frame the POST Commission has set for receiving comments will not provide stakeholders with ample opportunity to appropriately consider comments that would be helpful to the POST Commission in its deliberations.

Nevertheless, taking into account the August 9th deadline, the MBA submits for the POST Commission’s consideration the “Report of the MBA’s Police Reform Working Group in Support of Resolution on Systemic Police Reform” (“MBA Report”), provided to the



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A S S O C I A T I O N

MBA's letter to Annie E. Lee, Counsel
Massachusetts POST Commission
RE: LEA Certification Standards
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Massachusetts state legislature in the fall of 2020 to consider its fourteen proposed police reforms for inclusion into its police reform legislative package. The MBA's Police Reform Working Group drafted the seventeen-page MBA Report to address systemic issues in policing, after engaging in extensive research and study, including consulting with a broad range of experts in relevant law enforcement related fields (see MBA Report, page 1). The MBA also submits the MBA's "Resolution on Systemic Police Reform" ("MBA Resolution"), unanimously adopted by the MBA's House of Delegates in September 2020, reflecting the MBA's support and approval of the MBA's Police Reform Working Group's fourteen police reform recommendations.

In particular, the MBA draws the POST Commission's attention to recommendations numbered 10-14 in the MBA Report (pages 11-17) and in the MBA Resolution (pages 1, 4-7), in response to the POST Commission's invitation to submit comments in support of additional LEA certification standards on certain specific topics; i.e., "law enforcement officer wellness, recruitment and hiring, instruction requirements, and bias-free policing."

Thank you for your consideration. Please do not hesitate to contact us with any questions.

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A S S O C I A T I O N

REPORT OF THE MBA'S POLICE REFORM WORKING GROUP IN SUPPORT OF RESOLUTION ON SYSTEMIC POLICE REFORM

INTRODUCTION

The Massachusetts Bar Association's Police Reform Working Group ("PRWG") is a collaboration of its Criminal Justice Section Council and the Civil Rights and Social Justice Section Council, in cooperation with the Massachusetts Black Lawyers Association ("MBLA") and the Massachusetts Association of Hispanic Attorneys ("MAHA"). The PRWG is comprised of defense attorneys, prosecutors, civil rights attorneys and a law enforcement officer. Members and co-chairs include (in alphabetical order): Nate Beaudoin, Richard Cole (Co-Chair), John Diaz (MAHA), D'Andre Fernandez (MBLA), Lee Gartenberg, Anne "Beau" Kealy, Danielle Pires, Kevin Powers and Charu Verma (Co-Chair). Our shared goal and mission is to develop proposed legislative reforms to address systemic issues in policing that have been brought to the forefront with the killings of Sandra Bland, Michael Brown, Philando Castile, Eric Garner, George Floyd, Daniel Prude, Tamir Rice, Breonna Taylor and countless others, which have undermined public trust in law enforcement. After careful consideration, we identified three major areas for significant law enforcement reform to re-imagine a more just and equitable system of policing:

- Legal accountability
- Mandated mental health training and support
- Standardized statewide training; hiring and retention

Members of the PRWG researched and studied the selected topics to identify potential systemic solutions, including effective models in other states. This included presentations by and a dialogue via Zoom with a diverse range of experts to share their expertise and provide us additional supporting materials.

Many thanks to those experts: Professor Karen Blum, Suffolk University Law School; Michael Gaskins, Diversity Recruitment Officer, Boston Police Department; Tasha Ferguson, Director, Emergency Services Program, Boston Medical Center ("BEST TEAM"); Rahsaan Hall, Director of Racial Justice Program, ACLU of Massachusetts; Professor Jack McDevitt, Director, Institute on Race and Justice, Northeastern University; and Howard D. Trachtman, co-founder and President Emeritus, National Alliance on Mental Illness ("NAMI") Greater Boston.

**REPORT OF THE MBA’S POLICE REFORM WORKING GROUP
IN SUPPORT OF
RESOLUTION ON SYSTEMIC POLICE REFORM**

RESOLVED, That the Massachusetts Bar Association (“MBA”), which has long supported equal justice, due process, racial equality, and the rule of law as guaranteed by the United States Constitution and the Massachusetts Constitution and its Declaration of Rights, reaffirms its support for the protection of Constitutional and civil rights, racial justice and the rights of individuals to receive proper redress in the Courts. Accordingly, the MBA urges the Legislature to adopt the following principles set forth in this Resolution in enacting vital systemic police reform legislation aimed at promoting law enforcement accountability, supporting officer wellness and service-oriented policing, eradicating racial injustice, protecting the civil liberties of persons with mental illness, and providing full and fair consideration for those who suffer harm from unlawful policing practices. The MBA also urges the Legislature to appropriate the necessary funds and resources to achieve these essential police reforms.

1) Replacing Qualified Immunity for Law Enforcement Officers

Eliminate the judicially-created defense of qualified immunity for law enforcement officers and replace it with a different standard that only provides a defense when the defendant officer is able to establish that their actions or failure to act, under color of law, was objectively reasonable and taken in good faith.

RATIONALE

The defense of qualified immunity is not found in the federal civil rights statute, 42 U.S.C. 1983, or any other federal or Massachusetts state statute. It is a judicially created defense. The defense stems from a 1961 incident of systemic racism. See Pierson v. Ray, 386 U.S. 547 (1967). In Harlow v. Fitzgerald, 457 U.S. 800 (1982), the U.S. Supreme Court used the term “qualified immunity” for the first time. Since Harlow, the courts have taken an increasingly expansive view of qualified immunity. For example, the Supreme Court has decided that a judge, rather than a jury, should decide the issue of qualified immunity, thereby making it more difficult for plaintiffs to bring their cases before a jury. Anderson v. Creighton, 483 U.S. 635, 650 (1987).

The U.S. Supreme Court has mandated a two-step analysis to be used in civil rights cases, making it more difficult for victims of such violations to seek redress. The two-step process requires courts to decide, as a preliminary matter, whether: (1) the plaintiff articulated a violation of a constitutional right; and (2) if so, whether the right was clearly established at the time of the defendant’s alleged misconduct. The courts have also taken a very narrow

view of what it means for a constitutional violation to be “clearly established.” In a 2018 law review article, Professor Karen Blum of Suffolk University Law School found that the Supreme Court had confronted the issue of qualified immunity in over thirty cases, with the plaintiff prevailing in only two.¹ Professor Joanna Schwartz, who has written extensively on the subject, stated that, “the doctrine provides unnecessary protection to police officers who are indemnified for their wrongdoing in the overwhelming majority of cases.”²

The proposed statutory change would significantly improve plaintiffs’ likelihood of prevailing and obtaining monetary relief against officers for misconduct in a civil rights lawsuit under state law. Importantly, this proposed legislative change not only establishes a much fairer standard for courts and juries to evaluate civil rights violations by law enforcement officers, it would also shift the burden of proof to a defendant officer to establish that their actions or failure to act “was objectively reasonable and taken in good faith,” rather than requiring that the plaintiff establish that the alleged constitutional violation was “clearly established,” as presently defined by the courts.

2) Amending the Massachusetts Civil Rights Act

Amend the Massachusetts Civil Rights Act, M.G.L. Chapter 12, §§ 11H and 11I, by adding language that provides individuals the same ability to sue for violations of rights under color of law guaranteed by the United States or Massachusetts Constitutions or federal or state law, as provided in 42 U.S.C § 1983.

RATIONALE

M.G.L. Chapter 12, §§ 11H and 11I, also referred to as the Massachusetts Civil Rights Act (“MCRA”), is often considered the Massachusetts equivalent to 42 U.S.C. § 1983, the federal civil rights law. It is not. The Massachusetts Supreme Judicial Court contributed to this misunderstanding by stating that the MCRA was meant to be coextensive with 42 U.S.C. § 1983. See Redgrave v. Boston Symphony Orchestra, 399 Mass 93 (1987). Coextensive is commonly defined as extending over the same space or time, corresponding exactly in extent, or equal to. As discussed below, however, the MCRA does not provide the same rights as 42 U.S.C. § 1983, and the difference is substantial.

The primary genesis for enacting the MCRA in 1979 was the growing concern over acts of racially motivated violence that were occurring with increasing frequency in Massachusetts. See Batchelder v. Allied Stores, Inc, 393 Mass. 819, 822-823 (1985). The racial violence at

¹ Karen Blum, “Qualified Immunity: Time to Change the Message,” 93 Notre Dame L. Rev. 1887 (2018).

² Joanna Schwartz, “Police Indemnification,” 89 N.Y. L. Rev. 885 (2014).

that time was connected to the desegregation of the Boston Public Schools and Black families moving into predominantly white neighborhoods in Boston.

One of the two civil components of the MCRA, M.G.L. Chapter 12, § 11H was directed primarily at enabling the Attorney General to obtain civil rights injunctions against civil rights perpetrators of bias-motivated violence, harassment or intimidation. The other civil component of the MCRA, M.G.L. Chapter 12, § 11I, was enacted to provide a civil remedy for individuals against public officials or private persons who interfere with that individual's rights secured by the United States or Massachusetts Constitutions or federal or state law.

In one respect the MCRA provides a broader right than 42 U.S.C. § 1983, which requires the alleged bad actor to have acted under color of law. In contrast, the MCRA does not require that the defendant acted under color of law.

However, importantly here, the MCRA requires that the Attorney General or an individual plaintiff overcome a significant additional hurdle when seeking a civil legal remedy under the MCRA against a law enforcement officer engaged in an unlawful police practice under color of law. Unlike 42 U.S.C. § 1983, both MCRA Sections, 11H and 11I, require that a violation involve "threats, intimidation or coercion." As a series of state court decisions have demonstrated, a direct violation of a person's constitutional or civil rights is not sufficient to prevail under the MCRA. See for e.g., Longval v. Commissioner of Corrections, 404 Mass. 325, 333 (1989); Layne v. Supt. Mass. Correctional Inst. Cedar Junction, 406 Mass. 156, 158 (1989). Therefore, if a law enforcement officer unlawfully shoots and murders a civilian, without "threats, intimidation or coercion," the victimized plaintiff would not have a civil legal remedy under the MCRA.

As proposed, the amended MCRA would eliminate this almost impossible roadblock for the Attorney General and those persons seeking redress under state law for violations of their civil rights under color of law. By doing so, it would more effectively protect victims' rights and prevent police misconduct. It would also make the MCRA more consistent with the rights protected under 42 U.S.C. § 1983 for claims against persons acting under color of law, while maintaining the right under the MCRA to bring claims against private persons.

3) Decertifying Massachusetts Law Enforcement Officers

(A) Establish an independent "Police Officer Standards and Accreditation Committee" with the power to revoke, temporarily or permanently, the certification of any law enforcement officer in the Commonwealth. The Committee should include appointed members who represent the broad range of Massachusetts stakeholders with expertise in law enforcement practices, including members from the civil rights advocacy community.

(B) Provide the Committee with the power to independently investigate and conduct revocation proceedings for any complaint of officer misconduct. The Committee should decertify an officer if found to have engaged in any form of significant misconduct. When decertified, the officer should be prohibited from serving as a law enforcement officer in the Commonwealth, unless or until their decertification is removed. A decertification decision should be appealable pursuant to M.G.L. Chapter 30A, and not to the Civil Service Commission, or any other agency or entity.

RATIONALE

This police reform accountability provision assumes that the Legislature will adopt a certification and licensing system for law enforcement officers employed in the Commonwealth. As reported in the media, Massachusetts is one of only six states that currently has no licensing requirement for law enforcement officers. This is extraordinary when considering officers' power and legal authority to detain, search, arrest and use force, including deadly force, when at the same time, Massachusetts has licensing requirements for so many other professions.

There is general agreement that the current disciplinary system for law enforcement in the Commonwealth has been ineffective in addressing and holding accountable officers engaged in misconduct. Appropriate discipline is often long-delayed or not imposed at all. The "decertification" provision provides the broad outline for establishing an effective process to hold accountable law enforcement officers who have engaged in "any form of significant misconduct." This provision urges the Legislature to authorize "an independent 'Police Officer Standards and Accreditation Committee' with the power to revoke, temporarily or permanently, the certification of any law enforcement officer in the Commonwealth." As the provision states, "when decertified, an officer would be prohibited from serving as a law enforcement officer in the Commonwealth, unless or until their decertification is removed." Also, to streamline and make a more uniform process, the "decertification decision should be appealable pursuant to M.G.L. Chapter 30A, and not to the Civil Service Commission, or any other agency or entity."

4) Banning Profiling

(A) Ban differential treatment of civilians by a law enforcement officer, department or agency based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status or sexual orientation and gender identity, whether intentional or evidenced by statistically significant data showing disparate treatment.

(B) Provide that whenever data shows a statistically significant disparity in traffic stops or traffic searches or in pedestrian stops, frisks or searches by a law enforcement officer or a law enforcement department or agency, based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, or sexual orientation and gender identity, such data shall constitute rebuttable evidence sufficient to sustain a finding of profiling, constituting a violation of the Massachusetts Civil Rights Act, M.G.L. Chapter 12, §§ 11H and 11I.

RATIONALE

The “Banning Profiling” provision builds on the data collection Resolution approved by the MBA’s House of Delegates, as part of its adoption of a package of five criminal justice reform Resolutions in May 2017. The 2017 Resolution was titled, *“SUPPORTING ENHANCED DATA COLLECTION BY LAW ENFORCEMENT.”*

In the 2017 Resolution, the MBA urged its adoption “to promote effective, non-discriminatory policing, eliminate racial and gender profiling by law enforcement in Massachusetts, and enhance public trust and confidence in law enforcement by addressing the public perception that police use illegal forms of profiling.” It urged that “law enforcement agencies and departments throughout the Commonwealth . . . collect and report demographic data (including but not limited to racial and gender data) in a uniform and standardized manner,” and that the “state legislature . . . enact legislation similar to Chapter 228 of the Laws of 2000, ‘An Act Providing for the Collection of Data Relative to Traffic Stops,’ but expanding its applicability to include not only all traffic stops (identifying stops which resulted in a warning, citation, or arrest, and searches incident to traffic stops), but also pedestrian stops and encounters whenever a member of the public is interrogated, frisked, or searched by a law enforcement officer, including by a college or university law enforcement officer.” The 2017 Resolution further stated that, “Whenever data suggests the potential that law enforcement agency or department may have engaged in racial or gender profiling, these agencies and departments should use the data analysis to identify and address the reasons for any racial or gender disparity in their traffic enforcement or pedestrian stops, and implement changes in policies, practices, supervision and training that would help ensure that racial or gender profiling is not occurring in their community and the Commonwealth.”

Here, the “Banning Profiling” provision advocates for a state law that specifically bans profiling in “traffic stops or traffic searches or in pedestrian stops, frisks or searches.” It also urges the Legislature to specifically authorize a civil rights cause of action under the MCRA in circumstances where a plaintiff is able to prove that such profiling was intentional, or by establishing it through “statistically significant data showing disparate treatment.” This state cause of action under the MCRA would provide a strong incentive for law

enforcement departments and agencies to carefully monitor its data to identify and address any such “differential treatment,” while at the same time providing a strong disincentive for individual officers or law enforcement departments and agencies from engaging in the banned forms of profiling.

5) Providing for *Respondeat Superior* Liability for Law Enforcement Departments and Agencies

Amend the Massachusetts Civil Rights Act to provide that any law enforcement department or agency in the Commonwealth shall be held civilly liable and responsible for the acts and practices of any of its officers performed under color of state law, under *Respondeat Superior*. Liability should attach where an officer of that department or agency has been found to have violated a person’s federal or state constitutional rights by a use of force that resulted in serious harm or death, or where an officer of that department or agency has been found to have failed to intervene where it was possible to prevent the use of unreasonable force by another officer or officers and where such force resulted in serious harm or death.

RATIONALE

The “*Respondeat Superior* Liability” provision would clearly establish through state law that law enforcement departments and agencies in the Commonwealth are legally responsible for the harm caused by their officers who have engaged in the most serious forms of police misconduct, in violation of a person’s federal or state constitutional rights. Such liability would attach where an officer’s misconduct, through their actions or failure to act, “results in serious harm or death.” Presently, officers found responsible for misconduct through court judgment or agreement do not, except for the most extraordinary circumstances, pay-out-of-their-own-pocket the amount of damages awarded to a plaintiff, or any portion of the damages. Rather, the state or municipality itself indemnifies an officer found to have engaged in misconduct, including the most serious forms of misconduct.

Establishing a clear legal standard under state law for “*Respondeat Superior* Liability” for the most serious cases of police misconduct provides a needed legal remedy for individuals suffering serious harm or death by such unlawful policing practices. It would also motivate law enforcement departments and agencies, and the state and municipalities under which they serve, to make additional efforts to enhance their prevention and accountability measures. This includes creating more effective early warning systems to identify and address officers-in-trouble, improving needed supervision systems and training, and implementing more effective policies, standards of behavior, corrective action practices and disciplinary consequences.

6) Prohibiting Use of Choke-Holds

Prohibit law enforcement officers in the Commonwealth from using any form of choke-hold, including but not limited to applying pressure on the throat or windpipe, any action that restricts blood or oxygen flow to the brain or prevents or hinders breathing, or any other action that involves the placement of an object or any part of a law enforcement officer's body on or around a person's neck that limits the person's breathing or blood flow.

RATIONALE

This provision asks the Legislature to explicitly prohibit the use of any form of choke-hold by law enforcement officers in the Commonwealth. Although a number of law enforcement departments and agencies either have policies that ban choke-holds or indicate that such restraint methods are not sanctioned, recent tragic events in policing make clear the imperative to explicitly prohibit and make illegal under state law all choke-hold-related practices.

7) Authorizing Pattern and Practice Investigations by the Attorney General

Authorize the Massachusetts Office of Attorney General to investigate and bring a civil action for injunctive or other appropriate equitable or declaratory relief against any Massachusetts law enforcement department or agency, where the Attorney General has reasonable cause to believe that the department or agency has engaged in a pattern or practice of violating federal or state constitutional rights under color of law.

RATIONALE

Under this provision, the Legislature would grant the Massachusetts Office of Attorney General ("AGO") with new, vitally important statutory authority and responsibility to hold law enforcement departments and agencies accountable to address and eradicate systemic forms of unlawful policing practices in the Commonwealth. The AGO would be granted statutory authority to investigate state and local law enforcement departments and agencies in Massachusetts believed to have engaged in a pattern or practice of unconstitutional or unlawful policing. If the investigation reveals such pattern or practice, the AGO would then have the explicit statutory authority to file a lawsuit in state or federal court to seek civil remedies, including an injunction to stop the identified unlawful practice(s) and specific performance to change such practice(s). This new AGO "pattern or practice" statutory authority would be similar to the authority statutorily provided to the U.S. Department of Justice.

A pattern or practice of institutionalized misconduct and systemic deficiencies must be fixed at an organizational level. A law enforcement department or agency cannot remedy the problem simply by holding individual officers accountable. When law enforcement departments and

agencies are held accountable by the AGO for a pattern or practice of misconduct, through a fair and impartial process, such actions will build community trust and confidence in our system of justice.

Granting the AGO this statutory authority is not only particularly important at this time, where the public has increasingly recognized racial injustice in policing practices, but also because presently the U.S. Department of Justice has almost completely abdicated its investigative and enforcement authority to address unlawful policing practices in the United States.

8) Authorizing Independent Investigations by the Attorney General

Authorize the Massachusetts Office of Attorney General to act as an independent prosecutor, or appoint an independent special prosecutor, to investigate, and to prosecute a law enforcement officer when determined by the Attorney General or independent prosecutor to have violated a person’s federal or state constitutional rights under color of law by a use of force that resulted in serious harm or death, or where an officer of that department or agency has been found to have failed to intervene where it was possible to prevent the use of unreasonable force by another officer or officers where such force resulted in serious harm or death.

RATIONALE

Local prosecutors rely on law enforcement departments and agencies to gather evidence and testimony they need to successfully prosecute criminals. This can make it difficult for local prosecutors to investigate and prosecute the same officers they work with and rely upon. These serious criminal civil rights cases should not depend on law enforcement departments and agencies to investigate themselves. Additionally, District Attorney offices often have an actual or perceived conflict in prosecuting the officers they work with, or an actual or perceived predisposition to protect officers they work with from criminal culpability.

Under this proposed state statutory provision, the Massachusetts Office of Attorney General (“AGO”) (or independent special prosecutor designee) would be authorized to investigate and, where appropriate, prosecute cases where a law enforcement officer causes serious harm or death to a civilian, and cases where a civilian alleges criminal misconduct against a law enforcement officer. Data from research and studies establishes that people of color disproportionately suffer as a result of police misconduct and violence with devastating consequences.³

³ <https://www.aclum.org/sites/default/files/wp-content/uploads/2015/06/reports-black-brown-and-targeted.pdf>

The AGO (or independent special prosecutor designee) involvement in investigating serious officer misconduct is not only imperative to alleviate the public's valid concerns of potential conflicts of interest, but also to help promote and build trust of community members in law enforcement in Massachusetts. Providing the AGO (or independent special prosecutor designee) the authority to independently investigate, and prosecute, where appropriate, for serious misconduct that results in devastating injuries or death, also serves the goal of increasing police accountability.

9) Mandating the Duty to Intervene

(A) Require that an officer who observes another officer using physical force, including deadly physical force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, to intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.

(B) Require that an officer who observes another officer using physical force, including deadly physical force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances to report the incident to their direct supervisor as soon as reasonably possible but not later than the end of that officer's shift.

(C) Provide that an officer who has a duty to intervene and fails to do so may be held liable jointly and severally, and may be held criminally responsible, along with any officer who used unreasonable force for any injuries or death caused by such officer's unreasonable use of force.

RATIONALE

Mandating law enforcement officers to intervene and report excessive use of force is necessary to build community trust in law enforcement, especially in disenfranchised and over-policed neighborhoods in the Commonwealth. One of the reasons for community distrust of law enforcement departments and agencies is the perception that officers are often not held accountable. Sworn law enforcement officers have an obligation to protect the public, and to prevent their fellow officers from violating the law. Therefore, law enforcement officers should have the individual responsibility to intervene and stop any other officer from committing an unlawful or improper act, including but not limited to acts of brutality, abuses of authority and any other criminal act or major violation of their respective departmental or agency policies and procedures. Therefore, the Legislature should statutorily mandate a duty to intervene and report when law enforcement officers witness incidents of other officers using physical force, including deadly physical force, beyond that which is necessary or objectively reasonable. This would place an affirmative duty on all officers to police themselves.

10) Improving Response to Mental Health Crises and Promoting Law Enforcement Wellness

(A) Require “Crisis Intervention Team” Training (“CIT”), using a minimum forty (40) hour module, and de-escalation training for 911 dispatchers, first responders and all new recruits to properly screen and assess calls. The initial training of 911 dispatchers should focus on skills that will equip and enable them to properly identify and divert mental health-related calls to a qualified mental health professional and/or CIT-trained officer.

(B) Institute as a best practice having a co-responder clinician available to all police officers, including CIT-trained officers, to respond to appropriate calls on all shifts. This would include utilizing mobile-crisis clinicians, and peer support for officers and persons in crisis, in order to provide responding teams with the ability to make immediate and effective diversion referrals focused on connecting people to care.

(C) Provide officer wellness and comprehensive trauma-informed training and resources to fully support officers and enable them to provide appropriate response and meaningful engagement with members of the community. Adequate resources and training should include, but not be limited to, discussion of personal and family mental health, development of effective two-way communication skills and strategies about job and personal stress, detailed discussion about support available through the confidential and trusted Employee Assistance Program (“EAP”), peer counseling, personal crisis intervention, and cultivation and maintenance of a healthy work environment.

(D) Educate police departments and agencies about existing funding and availability of training to ensure adequate training both qualitatively and quantitatively, with effective grant research and application procedures in place and in coordination with regional training.

RATIONALE

Police and other law enforcement officers are often placed in unique positions where they respond to calls involving persons in mental health crises. Many, however, lack the formal training to safely and effectively deal with these types of situations. Often, a person who is experiencing a mental health crisis may appear to be non-compliant and is therefore placed under arrest for charges such as disorderly conduct or resisting arrest, when in fact they are unable to process the instructions given by officers. CIT training that emphasizes effective communication, de-escalation, and education about mental health concerns, will equip responders with tools to alleviate anxiety and agitation associated with persons in crisis.

While CIT training is geared toward addressing the needs of those they encounter in the community, officers also gain insight into self-care. Because they often see themselves as

caregivers, they may be reluctant to admit or not realize that they themselves also need help. Officer wellness plays a critical role in police work. While an officer's wellness is normally measured by physical fitness, mental health is as essential as physical health. The daily stress endured by police officers can have serious implications on both their physical and psychological well-being and may impact their initial on-scene assessment and response. Additionally, long hours often cause sleep deprivation and cumulative stress which builds as a consequence of the inability to decompress from daily challenges, adding to existing personal and family pressures. The outcome of a traumatic encounter may weigh heavily on an officer's ability to see things clearly. Along with responding to the mental health concerns of those they encounter on scene, preservation of their own mental health for some is a persistent concern. The stressors of police work have serious consequences to officer safety and overall wellness.

Therefore, police officers should receive adequate training and supportive services, when needed. These services should include access to counseling through credible, independent, offsite employee assistance programs, access to psychological services and access to peer-support groups who can provide confidential services to officers. As we support the idea of CIT training for officers to encourage healthy interactions between officers and persons in crisis, we should support the importance of good health and wellness for police officers. Through training and these services, officers can learn to identify and process trauma in a healthy way.

At the time of response, police officers can readily access criminal history but have little or no information about the person's mental health situation. Lack of CIT training impedes comprehensive need assessments. Assessments are more difficult because the person in crisis may not be able to explain what they are experiencing. As a result, they may respond to an officer's inquiries in a manner perceived as dangerous by an officer who is not CIT trained. This has the potential to escalate the interaction and result in an inappropriate arrest or unnecessary restraint, rather than diversion to treatment. While well-intentioned, if inadequately trained, an officer's response may not be effective.

CIT training promotes necessary partnerships between law enforcement, mental health and advocacy communities. These relationships enable better responses by fostering coordination with community mental health professionals and co-responders who provide peer counseling, or diversion to facilities that address crisis and trauma issues. Along with providing a more effective response, utilization of these resources, which are often provided by grant-funded organizations, saves money.

A greater and continuous focus on mental health and policing is imperative to create community interactions which promote the safety and personal dignity of persons with mental illness as well as the officers involved. Mandated CIT and officer wellness training enhances officer health and safety, while equipping them with the skills and support

needed to respond appropriately. Necessary funding and resources should be made available for the purpose of integrating these services and critical training for police officers.

11) Enhancing Law Enforcement Training

(A) The Commonwealth should develop and adopt model, standardized statewide training modules for mandatory implementation by all police academies and all law enforcement departments and agencies for recruit and in-service training. This mandatory training should include regular and effective training on bias and cultural competency, use of force, de-escalation, and mental health and officer wellness, to help ensure empathetic, skilled and lawful interactions with people of different races, religions, backgrounds and cultures, including members of the LGBTQ community.

(B) Any additional, specialized in-service training, as set forth in Section (A), should be incentivized by rewarding trainees with preference and/or points for promotion.

(C) All law enforcement departments and agencies should use body-camera footage (when available) and enhanced data collection as a training tool to identify and implement best practices.

RATIONALE

Model, standardized statewide training on bias and cultural competency, use of force, de-escalation, and mental health and officer wellness, starting at the police academy and continuing while in-service, is essential to the safety and well-being of officers. It also helps build departments and agencies that better reflect the ideals of the community they serve and protect. Mandated, standardized statewide training also offers an avenue for police reform that is rooted in evidence-based learning, with particular attention paid to implicit bias and cultural competency training. Curriculum should include education on the history of slavery, lynching and systemic institutionalized racism, especially in the criminal legal system.

In-service trainings should be implemented regularly throughout an officer's career to create awareness of prejudices and biases. In addition, the use of body-worn camera footage (when available) and enhanced data collection can assist in identifying patterns of bias, best practices in policing and serve as a useful training and accountability tool. Studies have shown that re-orienting training towards a non-stress model which emphasizes academic achievement, de-escalation, cultural competence, physical training and a supportive instructor-trainee relationship is more conducive to training officers that embody the ideals of just-policing.⁴ Rewarding officers who demonstrate a commitment by participating in additional, specialized in-service training by receiving promotion preference points, will encourage officers to evolve

⁴ https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

and adapt to the needs of their community. The selection process for officers to participate in additional, specialized training should be fair, equitable, open and transparent, and promotes diversity. In advocating for enhanced additional training for law enforcement officers, the MBA will join leading justice reform organizations such as the NAACP, the American Civil Liberties Union, the Institute for Criminal Justice Reform, and in the recent past, by the U. S. Department of Justice.

12) Increasing Diversity in Hiring

(A) All Massachusetts law enforcement departments and agencies should commit the necessary resources to engage in thoughtful and targeted recruitment and hiring to ensure that they reflect the diversity and values of the communities they serve, address issues of structural and institutional racism and promote equitable and inclusive workplaces for all their officers.

(B) Every law enforcement department and agency should hire a Chief Diversity Officer or utilize their municipal or agency's Chief Diversity Officer to ensure a diverse and inclusive recruitment and promotion process and workplace, promote improved training and community engagement, and to safeguard the due process concerns of officers facing disciplinary actions.

RATIONALE

Investing resources to expand hiring and recruiting efforts to foster diversity and inclusion will lead to law enforcement departments and agencies that reflect the communities they serve. Focusing on targeted recruitment will help address the disparity that persists between the percentage of white officers and the percentage of white community members. In Massachusetts, every law enforcement department and agency has a higher percentage of white officers than the percentage of white community members. For example, the Boston Police Department is comprised of 65.5% white officers while the city is comprised of only 46.1% white residents.⁵ In Lowell, 80.8% of the police force is white, but only 51.8% of their residents are white.⁶ In Springfield, 63.6% of the officers in the police department are white, but only 35% of their residents are white.⁷ In conjunction with targeted recruiting and hiring, enhanced data collection to track recruitment efforts, applicant pools and new hires will identify areas that require a greater focus.

⁵ <https://www.governing.com/gov-data/safety-justice/police-department-officer-demographics-minority-representation.html>

⁶ <https://www.governing.com/gov-data/safety-justice/police-department-officer-demographics-minority-representation.html>

⁷ <https://www.governing.com/gov-data/safety-justice/police-department-officer-demographics-minority-representation.html>

By engaging in targeted recruiting, law enforcement departments and agencies will have the opportunity to hire officers that possess the character traits and social skills that enable effective policing and positive community relationships. Encouraging departments and agencies to establish longer residency requirements for applicants will allow for officers with deeper ties to the communities they serve and ensure that the departments and agencies themselves are an accurate reflection of those communities.

Re-envisioning recruiting efforts to attract “guardians” to law enforcement by focusing less attention on the “warrior” role of policing and more attention towards community caretaking will foster a more holistic, community-oriented police force. Special consideration should be given to candidates who have engaged in activities that support characteristics and skills the department or agency is looking for, such as community service and/or volunteer activities that demonstrate the ability to work with diverse communities in different settings. In addition, utilizing input from civilian employees/officers and community stakeholders in the recruitment and hiring process will help build relationships between the police and the communities they serve, and help ensure that each community’s specialized needs are met.

Utilizing a Chief Diversity Officer (“CDO”) is an essential component in achieving a diverse and inclusive law enforcement department or agency. A CDO works across the organizational structure to optimize diverse and inclusive hiring in departments or agencies to help to align diversity and inclusion goals with desired outcomes, and respond to changes or policies that affect the organizational structure. CDO’s develop and manage data-based diversity and inclusion strategies, identify new programs or initiatives that can bolster diversity within the organization and oversee employee complaints related to discrimination, harassment and disciplinary action. In particular, a CDO serves as a liaison between the department or agency and the unions representing the officers, and facilitates conversations between the entities with the potential to create inclusive, cultural and structural change in both organizations.

Additionally, authorizing the Governor to appoint a State Police Colonel from outside the ranks of the State Police would expand the pool of applicants the Governor can consider for the position and could help spur some of the needed culture changes described above. A State Police Colonel from outside its ranks could offer a fresh perspective on law enforcement practices and implement best practices learned from departments or agencies she or he has previously worked with.⁸ Studies have shown that outside hires in the corporate world are more successful than inside hires in reversing poor performance practices and implementing major transformations.⁹

⁸ <https://www.dispatch.com/news/20181224/for-first-time-next-columbus-police-chief-could-come-from-outside-division>

⁹ <https://sloanreview.mit.edu/article/when-is-an-outsider-ceo-a-good-choice/>

13) Creating Statewide State Police Cadet Training Program

(A) Create a statewide State Police cadet program that emphasizes the recruitment of women, persons of color and individuals who are proficient in non-English languages that are widely spoken in communities across Massachusetts.

(B) Encourage municipal police departments and other law enforcement agencies to implement similar cadet programs.

(C) Ensure that those who have successfully completed cadet programs are given hiring preferences above other groups that also receive preferences.

RATIONALE

Law enforcement cadet programs primarily recruit young adults and have longer residency requirements than officer hiring programs.¹⁰ Newly recruited police cadets may more accurately reflect the communities they serve. Law enforcement departments and agencies can utilize cadet programs to further improve organizational diversity and to break down language barriers within communities.¹¹ Ensuring that those who have successfully completed cadet programs receive hiring preferences above other groups will aid in creating more diverse and effective law enforcement departments and agencies, as well as improve community engagement and trust.

14) Expanding Civilian Rank Preferences and Giving More Weight to Non-Standardized Portions of Entrance and Promotional Exams

(A) Law enforcement departments and agencies throughout the Commonwealth should expand civilian rank preferences to include factors such as gender, race, foreign language proficiency and sexual orientation to help ensure diverse applicant pools.

(B) Law enforcement departments and agencies should give greater weight to non-standardized portions of officer entrance and superior officer examinations to better reflect how applicants and officers interact with members of the community, and to reduce the impact of standardized tests that are often designed with implicit racial, cultural and socioeconomic biases.

¹⁰ <https://www.boston.gov/departments/police/police-cadet-program>

¹¹ <https://turnto10.com/news/local/massachusetts-police-departments-look-to-cadet-programs-to-aid-in-recruitment>

RATIONALE

The written civil service entrance exam has been widely criticized as being biased and unfair towards applicants of color. In an effort to hire more diverse and inclusive law enforcement, written officer entrance examinations, as well as written superior officer examinations, should include elements beyond standardized testing, such as oral examinations and interactive role playing. Additionally, the weight given to the written entrance exam should be re-examined, and instead focus on a more balanced distribution between the exam and education, experience and lived, real-world skills.

In addition, formalizing the operating procedure of the interview process would guarantee that each applicant is being held to the same standard and measured through the same lens. The oral interview process should focus more on community-oriented skills and capabilities, including (but not limited to) cultural competence skills, as well as lived and real-world experiences. Re-examining screening questions such as past marijuana use and past interactions with police and considering them within the context of race, gender, geographic location and age during the hiring process would deepen the pool of applicants, and allow for the hiring of a more diverse and inclusive law enforcement department or agency.

Utilizing input from community stakeholders also aids in the creation of inclusive, diverse law enforcement departments and agencies. For example, a “Peace Officer Exam Review Advisory Board,” with representatives from racial justice organizations, community stakeholders and affinity law enforcement organizations, would review all current examinations for appointment and promotion of law enforcement officers within the Commonwealth. This Board would help foster a collaborative relationship between departments, agencies and the communities they serve. It would also ensure that departments and agencies hire and promote officers that have the trust of the community.



MASSBAR

A S S O C I A T I O N

RESOLUTION ON SYSTEMIC POLICE REFORM

RESOLVED, That the Massachusetts Bar Association (“MBA”), which has long supported equal justice, due process, racial equality, and the rule of law as guaranteed by the United States Constitution and the Massachusetts Constitution and its Declaration of Rights, reaffirms its support for the protection of Constitutional and civil rights, racial justice and the rights of individuals to receive proper redress in the Courts. Accordingly, the MBA urges the Legislature to adopt the following principles set forth in this Resolution in enacting vital systemic police reform legislation aimed at promoting law enforcement accountability, supporting officer wellness and service-oriented policing, eradicating racial injustice, protecting the civil liberties of persons with mental illness, and providing full and fair consideration for those who suffer harm from unlawful policing practices. The MBA also urges the Legislature to appropriate the necessary funds and resources to achieve these essential police reforms.

1) Replacing Qualified Immunity for Law Enforcement Officers

Eliminate the judicially-created defense of qualified immunity for law enforcement officers and replace it with a different standard that only provides a defense when the defendant officer is able to establish that their actions or failure to act, under color of law, was objectively reasonable and taken in good faith.

2) Amending the Massachusetts Civil Rights Act

Amend the Massachusetts Civil Rights Act, M.G.L. Chapter 12, §§ 11H and 11I, by adding language that provides individuals the same ability to sue for violations of rights under color of law guaranteed by the United States or Massachusetts Constitutions or federal or state law, as provided in 42 U.S.C § 1983.

3) Decertifying Massachusetts Law Enforcement Officers

(A) Establish an independent “Police Officer Standards and Accreditation Committee” with the power to revoke, temporarily or permanently, the certification of any law enforcement officer in the Commonwealth. The Committee should include appointed members who represent the broad range of Massachusetts stakeholders with expertise in law enforcement practices, including members from the civil rights advocacy community.

(B) Provide the Committee with the power to independently investigate and conduct revocation proceedings for any complaint of officer misconduct. The Committee should decertify an officer if found to have engaged in any form of significant misconduct. When decertified, the officer should be prohibited from serving as a law enforcement officer in the Commonwealth, unless or until their decertification is removed. A decertification decision should be appealable pursuant to M.G.L. Chapter 30A, and not to the Civil Service Commission, or any other agency or entity.

4) Banning Profiling

(A) Ban differential treatment of civilians by a law enforcement officer, department or agency based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status or sexual orientation and gender identity, whether intentional or evidenced by statistically significant data showing disparate treatment.

(B) Provide that whenever data shows a statistically significant disparity in traffic stops or traffic searches or in pedestrian stops, frisks or searches by a law enforcement officer or a law enforcement department or agency, based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, or sexual orientation and gender identity, such data shall constitute rebuttable evidence sufficient to sustain a finding of profiling, constituting a violation of the Massachusetts Civil Rights Act, M.G.L. Chapter 12, §§ 11H and 11I.

5) **Providing for *Respondent Superior* Liability for Law Enforcement Departments and Agencies**

Amend the Massachusetts Civil Rights Act to provide that any law enforcement department or agency in the Commonwealth shall be held civilly liable and responsible for the acts and practices of any of its officers performed under color of state law, under *Respondent Superior*. Liability should attach where an officer of that department or agency has been found to have violated a person's federal or state constitutional rights by a use of force that resulted in serious harm or death, or where an officer of that department or agency has been found to have failed to intervene where it was possible to prevent the use of unreasonable force by another officer or officers and where such force resulted in serious harm or death.

6) **Prohibiting Use of Choke-Holds**

Prohibit law enforcement officers in the Commonwealth from using any form of choke-hold, including but not limited to applying pressure on the throat or windpipe, any action that restricts blood or oxygen flow to the brain or prevents or hinders breathing, or any other action that involves the placement of an object or any part of a law enforcement officer's body on or around a person's neck that limits the person's breathing or blood flow.

7) **Authorizing Pattern and Practice Investigations by the Attorney General**

Authorize the Massachusetts Office of Attorney General to investigate and bring a civil action for injunctive or other appropriate equitable or declaratory relief against any Massachusetts law enforcement department or agency, where the Attorney General has reasonable cause to believe that the department or agency has engaged in a pattern or practice of violating federal or state constitutional rights under color of law.

8) **Authorizing Independent Investigations by the Attorney General**

Authorize the Massachusetts Office of Attorney General to act as an independent prosecutor, or appoint an independent special prosecutor,

to investigate, and to prosecute a law enforcement officer when determined by the Attorney General or independent prosecutor to have violated a person's federal or state constitutional rights under color of law by a use of force that resulted in serious harm or death, or where an officer of that department or agency has been found to have failed to intervene where it was possible to prevent the use of unreasonable force by another officer or officers where such force resulted in serious harm or death.

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(B) Require that an officer who observes another officer using physical force, including deadly physical force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances to report the incident to their direct supervisor as soon as reasonably possible but not later than the end of that officer's shift.

(C) Provide that an officer who has a duty to intervene and fails to do so may be held liable jointly and severally, and may be held criminally responsible, along with any officer who used unreasonable force for any injuries or death caused by such officer's unreasonable use of force.

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(A) Require "Crisis Intervention Team" Training ("CIT"), using a minimum forty (40) hour module, and de-escalation training for 911 dispatchers, first responders and all new recruits to properly screen and assess calls. The initial training of 911 dispatchers should focus on skills that will equip and enable them to properly identify and divert mental health-related calls to a qualified mental health professional and/or CIT-trained officer.

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(D) Educate police departments and agencies about existing funding and availability of training to ensure adequate training both qualitatively and quantitatively, with effective grant research and application procedures in place and in coordination with regional training.

11) Enhancing Law Enforcement Training

(A) The Commonwealth should develop and adopt model, standardized statewide training modules for mandatory implementation by all police academies and all law enforcement departments and agencies for recruit and in-service training. This mandatory training should include regular and effective training on bias and cultural competency, use of force, de-escalation, and mental health and officer wellness, to help ensure empathetic, skilled and lawful interactions with people of different races, religions, backgrounds and cultures, including members of the LGBTQ community.

(B) Any additional, specialized in-service training, as set forth in Section (A), should be incentivized by rewarding trainees with preference and/or points for promotion.

(C) All law enforcement departments and agencies should use body-camera footage (when available) and enhanced data collection as a training tool to identify and implement best practices.

12) Increasing Diversity in Hiring

(A) All Massachusetts law enforcement departments and agencies should commit the necessary resources to engage in thoughtful and targeted recruitment and hiring to ensure that they reflect the diversity and values of the communities they serve, address issues of structural and institutional racism and promote equitable and inclusive workplaces for all their officers.

(B) Every law enforcement department and agency should hire a Chief Diversity Officer or utilize their municipal or agency's Chief Diversity Officer to ensure a diverse and inclusive recruitment and promotion process and workplace, promote improved training and community engagement, and to safeguard the due process concerns of officers facing disciplinary actions.

13) Creating Statewide State Police Cadet Training Program

(A) Create a statewide State Police cadet program that emphasizes the recruitment of women, persons of color and individuals who are proficient in non-English languages that are widely spoken in communities across Massachusetts.

(B) Encourage municipal police departments and other law enforcement agencies to implement similar cadet programs.

(C) Ensure that those who have successfully completed cadet programs are given hiring preferences above other groups that also receive preferences.

14) Expanding Civilian Rank Preferences and Giving More Weight to Non-Standardized Portions of Entrance and Promotional Exams

(A) Law enforcement departments and agencies throughout the Commonwealth should expand civilian rank preferences to include factors such as gender, race, foreign language proficiency and sexual orientation to help ensure diverse applicant pools.

(B) Law enforcement departments and agencies should give greater weight to non-standardized portions of officer entrance and superior officer examinations to better reflect how applicants and officers interact with members of the community, and to reduce the impact of standardized tests that are often designed with implicit racial, cultural and socioeconomic biases.

Lee, Annie (PST)

From: Gewirtz, Rebekah <rgewirtz.naswma@socialworkers.org>
Sent: Thursday, July 25, 2024 12:43 PM
To: Lee, Annie (PST)
Cc: Zuniga, Enrique (PST); Ravitz, Randall E (PST); Silva, Brianna; 'Deborah Goldfarb'; carrie burke
Subject: Re: POST Agency Certification Standards Invitation to Comment
Attachments: Post Commission Coments 7_24.pdf

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Hi Annie,
Please see attached comments from us at NASW-MA.

Thank you for this opportunity,
Rebekah

Rebekah Gewirtz, MPA
Executive Director
National Association of Social Workers - MA & RI
Phone: 617-379-3076 | 617-722-4990 x116
www.naswma.org | naswri.socialworkers.org

NASW-MA

6 Beacon Street Suite 915
Boston, MA 02108

NASW-RI

260 West Exchange Street Suite 005
Providence, RI 02903

NASW is Powered by Members! *Join/Renew*

Injustice anywhere is a threat to justice everywhere.

-Dr. Martin Luther King Jr.

I think creating empathy is a political act. It's the antithesis of bigotry and meanness of spirit.

-Barbara Kingsolver



EMPOWERING
SOCIAL WORKERS!

From: Lee, Annie (PST) <Annie.Lee@mass.gov>
Sent: Monday, July 22, 2024 10:32 AM
To: Gewirtz, Rebekah <rgewirtz.naswma@socialworkers.org>
Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>; Silva, Brianna <bsilva.naswma@socialworkers.org>
Subject: RE: POST Agency Certification Standards Invitation to Comment

[EXTERNAL]

Hi Rebekah,

How exciting to hear, we'll look forward to reviewing your comments! Please feel free to send your comments directly to me.

Thanks,

Annie

Annie E. Lee (she/her)

Counsel

Massachusetts POST Commission

Phone 857-283-8184

Web <https://www.mass.gov/orgs/post-commission>

Email annie.lee@mass.gov



The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct.

From: Gewirtz, Rebekah <rgewirtz.naswma@socialworkers.org>

Sent: Monday, July 22, 2024 10:26 AM

To: Lee, Annie (PST) <Annie.Lee@mass.gov>

Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>; Silva, Brianna <bsilva.naswma@socialworkers.org>

Subject: Re: POST Agency Certification Standards Invitation to Comment

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Hi Annie,

Thank you for reaching out to us about this. We will have comments to submit by Wednesday of this week. Can you please let me know if we submit our comments to you?

Thanks again,
Rebekah

Rebekah Gewirtz, MPA

Executive Director

National Association of Social Workers - MA & RI

Phone: 617-379-3076 | 617-722-4990 x116

www.naswma.org | naswri.socialworkers.org

NASW-MA

6 Beacon Street Suite 915

Boston, MA 02108

NASW-RI

260 West Exchange Street Suite 005

Providence, RI 02903

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Injustice anywhere is a threat to justice everywhere.

-Dr. Martin Luther King Jr.

I think creating empathy is a political act. It's the antithesis of bigotry and meanness of spirit.

-Barbara Kingsolver



From: Lee, Annie (PST) <Annie.Lee@mass.gov>

Sent: Friday, July 12, 2024 1:24 PM

To: Gewirtz, Rebekah <rgewirtz.naswma@socialworkers.org>

Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>

Subject: POST Agency Certification Standards Invitation to Comment

[EXTERNAL]

Director Gewirtz:

On behalf of the Massachusetts Peace Officer Standards and Training ("POST") Commission, I am reaching out in the hopes of engaging the Massachusetts Chapter of the National Association of Social Workers in some of POST's ongoing work.

By way of background, the POST Commission was established in 2020 as part of the criminal justice reform legislation enacted in Chapter 253 of the Acts of 2020, [An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth](#). POST's mission is to improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all law enforcement officers and agencies in the Commonwealth.

Last month, POST began considering law enforcement agency certification and specifically, agency certification standards. The Commission, however, before setting any such standards, stated that it would first benefit from hearing from stakeholders. The attached letter therefore invites the Massachusetts Chapter of the National Association of Social Workers to submit comments on law enforcement agency certification standards. Should you be interested in this subject, further details regarding agency certification and how you may submit comments can be found in the letter.

Thank you for your attention to this matter. Please do not hesitate to reach out if you have any questions or would like to discuss.

Sincerely,
Annie

Annie E. Lee (she/her)

Counsel

Massachusetts POST Commission

Phone 857-283-8184

Web <https://www.mass.gov/orgs/post-commission>

Email annie.lee@mass.gov



The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct.

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Annie E. Lee
Counsel
Massachusetts POST Commission

July 25, 2024

Re: NASW-MA Comments on Law Enforcement Agency Certification

Dear Ms. Lee:

On behalf of the National Association of Social Workers, MA Chapter and the nearly 6,300 social workers in our membership, we are grateful for the opportunity to provide comments to the Massachusetts Peace Officer Standards and Training (POST) Commission. The POST Commission plays an invaluable role improving policing and enhancing public confidence in law enforcement. One way it does this is by implementing a fair process for mandatory certification, discipline, and training for all peace officers in the Commonwealth.

Social workers active with our NASW-MA Criminal Justice Committee have unique experience and expertise serving in various professional and personal roles that intersect with the criminal legal system. It is through this lens that we provide these comments regarding the possibility of additional standards the POST commission may adopt. We believe these future standards should include:

- Mandatory annual implicit bias training
- Adoption of standards that include input from community oversight boards that include members with lived experience, and that could include training in restorative practices led by community stakeholders
- Capping overtime pay and/or not allow officers to participate in overtime if they are in disciplinary action proceedings

We also recommend that additional funds, currently allocated for police, are made available for the POST Commission's work to ensure accountability, transparency, and continued change in officers' roles in our communities. Ultimately, as we continue to move toward decarceration and rehabilitative programs that meet the needs of people in the system, we appreciate the role of the POST commission in ensuring law enforcement continues further training in these practices.

Thank you for your time and consideration of our recommendations.

Sincerely,

Rebekah Gewirtz, MPA
NASW-MA Executive Director

Deb Goldfarb, LICSW, Carrie Burke, LICSW
NASW-MA Criminal Justice Committee Co-Chairs

6 Beacon Street, Suite 915, Boston, MA 02108
617.227.9635 » naswma.org



Lee, Annie (PST)

From: Hill, Carrie (SDA)
Sent: Tuesday, July 30, 2024 2:23 PM
To: POSTCcomments (PST)
Cc: McDermott, Patrick (SDN); Dan Bair; Zuniga, Enrique (PST); Ravitz, Randall E (PST); Lee, Annie (PST); Cocchi, Nicholas (SDH); katie.fitzgerald
Subject: LE Certification Standards: Response by the Massachusetts Sheriffs' Association
Attachments: MSA POST re Agency Certification 7 30 2024.pdf

Good Afternoon Chair Hinkle,
Please see the response from the Massachusetts Sheriffs' Association in regards to POST's request for comments on the *Law Enforcement Certification Standards*.

If you have any questions, or would like to discuss further, please do not hesitate to contact me.

Respectfully,



Carrie Hill
Executive Director
Massachusetts Sheriffs' Association
612-306-4831
Carrie.hill@mass.gov
<https://www.masssheriffs.org/https://www.masssheriffs.org/>

Official Information Notice:

This e-mail and any files transmitted with it are Official Massachusetts Sheriffs' Association documents and they may contain confidential information and is intended solely for the use of the individual or entity to whom they are addressed. If you are not the named addressee, you should not disseminate, distribute, or copy this e-mail and/or attachments. If you have received this e-mail in error, please notify the sender by return e-mail.



Massachusetts Sheriffs' Association

44 School Street, Suite 300
Boston, Massachusetts 02108



President

Nicholas Cocchi
Hampden County

Vice President

Patrick W. McDermott
Norfolk County

Associate Vice President

Robert W. Ogden
Dukes County

Executive Director

Carrie Hill, Esq.

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Paul R. Heroux
Bristol County

Robert W. Ogden
Dukes County

Kevin F. Coppinger
Essex County

Christopher J. Donelan
Franklin County

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Nantucket County

Patrick McDermott
Norfolk County

Joseph D. McDonald, Jr.
Plymouth County

Steven W. Tompkins
Suffolk County

Lewis G. Evangelidis
Worcester County

July 30th, 2024

The Honorable Margaret Hinkle (Ret.)

POST Commission

84 State Street, Suite 200

Boston, MA 02109

POSTC-comments@mass.gov

(Sent VIA Email Only)

Re: POST LE Certification Standards "Agency Feedback"

Dear Chair Hinkle,

On or about July 12, 2024, each of the elected Fourteen (14) Sheriffs of the Commonwealth (the "Sheriffs") along with the Massachusetts Sheriffs' Association (MSA) received an invitation from the Massachusetts Peace Officer Standards & Training Commission ("Commission" or "POST") to submit comments concerning law enforcement agency certification. Specifically, the Commission invited the Sheriffs to comment on ". . . what additional standards in the categories of administration, personnel and training, and operations the Commission should require LEAs to meet as a prerequisite to certification." The Sheriffs, through the MSA, respectfully suggest the Commission, not consider any additional standards at this time, aside from the eight (8) mandatory standards set forth in Massachusetts General Laws, Chapter 6E, § 5 (b).

This suggestion is based upon the volume of change which came with the significant reform instituted in response to the passage of Chapter 6E and the subsequent creation of the Commission itself over the past three (3) years. The Sheriffs suggest a pause in implementing additional mandates (beyond the eight [8] required under the statute) at this time in favor of a period of retrospective assessment and perhaps "fine-tuning" of these changes. Additionally, while the Sheriffs are sure the Commission is aware, Chapter 6E, as it relates to Sheriffs' Offices, is only applicable to POST certified Deputy

Sheriffs engaged in full-time police activities. The statute does not pertain to any of the Sheriffs' correctional activities and authority mandated under State law.

Finally, the Sheriffs and the MSA want to reiterate their support and commend the mission and hard work of the POST Commission in interpreting, implementing and enforcing Massachusetts General Laws, Chapter 6E.

Please feel free to contact us with any questions.

Respectfully,

Sheriff Nicholas Cocchi, President
Hampden County Sheriff's Office



Carrie Hill, Executive Director
Massachusetts Sheriffs' Association



Cc: Sheriff Patrick McDermott, Vice President
Enrique Zuniga, POST Executive Director
Annie Lee, POST Counsel

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Wednesday, July 31, 2024 11:00 AM
To: Lee, Annie (PST)
Cc: Ennis, Jamie (PST)
Subject: FW: LEA Certification Standards

From: Sternman, Mark (SEN) <Mark.Sternman@masenate.gov>
Sent: Wednesday, July 31, 2024 10:40 AM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: LEA Certification Standards

Submitting the comment below from Sen. Keenan:

Thank you for accepting comments on law enforcement agency certification standards.

In response to a recent case, the Town of Braintree has adopted a conflict-of-interest policy that may help the POST Commission in its review of crafting a statewide policy; there are national templates that can be used for guidance as well. My hope is that the POST Commission will ultimately produce a conflict-of-interest policy that becomes the national standard.

I appreciate your consideration of this matter and wholeheartedly support the important work of the POST Commission.

Sincerely,
John F. Keenan

Mark S. Sternman
Chief of Staff
Office of Senator John F. Keenan
State House, Room 413-F
Boston, MA 02133
(617) 722-1494

Lee, Annie (PST)

From: Leon Smith <leonsmith@cfjj.org>
Sent: Thursday, August 1, 2024 5:29 PM
To: Lee, Annie (PST)
Cc: Zuniga, Enrique (PST); Ravitz, Randall E (PST); Sana Fadel
Subject: CfJJ Comment - POST Law Enforcement Agency Certification Standards
Attachments: CfJJ Letter_POST_Law Enforcement Agency Certification Standards_8.1.24.pdf

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Good afternoon,

Please find attached the comments of Citizens for Juvenile Justice with respect to certification for law enforcement agencies (LEAs).

We appreciate the opportunity to weigh in on this important issue. If there are any questions or concerns, please don't hesitate to contact us.

Kind regards,

--

Leon Smith, Esq.
Executive Director

[Citizens for Juvenile Justice](#)



44 School Street, Suite 415
Boston, MA 02108
617-338-1050



August 1, 2024

Enrique A. Zuniga, Executive Director
Randall E. Ravitz, General Counsel
Massachusetts Peace Officers Standards & Training Commission
100 Cambridge Street, 14th Floor
Boston, MA 02114

To Director Zuniga and the esteemed members of the POST Commission,

This letter is offered on behalf of Citizens for Juvenile Justice (CfJJ), an independent, statewide nonprofit organization that works to improve the Commonwealth's juvenile justice, and other youth serving systems, through advocacy, research, coalition building and public education. We believe that both youth and public safety are best served by systems that are fair, effective, utilize resources wisely and center rehabilitation and positive development.

We are honored to offer comments on the development of the law enforcement agency (LEA) certification program. Based upon our research and advocacy, we strongly believe, and offer, that the certification process of law enforcement units whose primary role involves engaging with children and youth should include provisions implemented by our legislature to prevent unnecessary criminalization of young people. Specifically, we offer that law enforcement agencies with school police and school resource officer units should be required to align with and abide by the standards and requirements included in M.G.L.c. 71 § 37P(b), especially the statewide school resource officer memorandum of understanding developed by a permanent commission created by this section.

As the Executive Director of CfJJ, I had the honor and privilege of being appointed to, and serving on, the Model School Resource Officer Memorandum of Understanding Review Commission, which was charged with creating a statewide model memorandum of understanding "for schools and police departments as the minimum requirement for schools to formalize and clarify implementation of the partnership between the school and the school resource officer."¹ In executing the development of the Model MOU, the 25 person commission followed its legislative charge to "determine the necessary provisions to achieve the district's educational and school safety goals and to help maintain a positive school environment for all students." Given the tremendous work of the commission to develop the Model MOU and provide an important and necessary statewide standard to govern the interactions between students and SRO's, it is critical that LEAs with school

¹ Id at c. 71 § 37P(b)

resource officer or other school police units be required to abide by this law and the memorandum of understanding as a precondition to certification. This is necessary to ensure that these LEA's follow the minimum requirements for the assignment of SROs to school districts and for interactions between young people in schools and law enforcement officers.

The legislature acknowledged and acted upon the necessity for distinct protections for children during police interactions by creating additional requirements and standards for all police officers who interact with children and even further standards and requirements for officers choosing to work primarily with children in school settings. POST should ensure that the certification process for LEAs with school police units follow this legislative intent.

1. The legal requirement that a law enforcement agency submit an approved SRO MOU and standard operating procedures for their school resource officer/school police units should be a prerequisite to LEA certification.

If the POST Commission shifts from individual officer certification to LEA certification, it is imperative that these certification requirements and the statutory requirements in the model SRO MOU are harmonized to create a common and consistent standard governing the role and responsibilities of SROs in our schools. This includes the absolute necessity of ensuring that each district has the model SRO MOU implemented and that the LEA has a written protocol in place that ensures that any SROs employed by the district are trained on the provisions of the model SRO MOU. If said MOU is not in place, we run the risk of LEAs school resource officer units being placed district schools without critical guidance on their role, responsibilities and standards governing their interaction with students. This is why it's so important that LEA certification standards include the guidelines and protocols created by the MOU provisions in c.71 § 37P. This language was adopted to honor the Legislature's clear intent of providing law enforcement and school agencies clear "rules of engagement" and with standard operating procedures that provide SROs with the necessary level of guidance to avoid some of the harmful impacts that occur when school administrators and SROs lack explicit guidance about the use of law enforcement in schools. To ensure this, **certification must state that in order for an LEA to have or maintain a SRO or school policing unit, there must be a finalized MOU between the school district and the police department and adopted standard operating procedures that meet the minimum requirements of the model SRO MOU and legal requirements of 37P filed with the Executive Office of Public Safety and Security (EOPSS) and the Department of Elementary and Secondary Education (DESE).²**

² The superintendent and the chief of police shall adopt, at minimum, the model memorandum of understanding developed by the commission pursuant to subsection (b) and may add further provisions as they mutually deem fit; provided, however, that no further provision included in the memorandum of understanding adopted by said superintendent and said chief of police shall conflict with or omit any provisions of this section.

2. LEA certification should include a requirement for a formal complaint process specific to school resource officer and school police units.

The Commonwealth's model SRO MOU mandates that "a simple and objective complaint resolution system for all members of the school community to register concerns that may arise with respect to the SRO."³ The language is critical to ensuring that there are formal avenues for parents and guardians to submit complaints about school resource officers and school police officers and that these complaints are handled in a timely manner, including communication of the resolution to the complaints. During the SRO MOU commission's work in developing the SRO MOU, parents and students expressed frustration about the lack of process to file complaints about SRO behavior as well as the lack of complaints that are made being addressed in a satisfactory and timely manner. Given the harmful impact that negative experiences with law enforcement can have on youth and overall school climate, we firmly believe that the LEA certification process should require implementation of a complaint process that are clear and easily accessible for any agencies with school resource officer or school police units. This should also be reinforced by the POST creating protocols for the timely sharing of decisions on complaints where an SRO or school police officer is found to be out of compliance with the SRO MOU or state law or is otherwise engaging in conduct that is unsuitable and unbecoming of the position.

In conclusion, if the POST implements a certification process for law enforcement agencies, it should include specific requirements for certification that focus on the LEAs interaction with young people. Recent legal reforms were implemented to ensure that students are not negatively impacted by the presence of police in schools.⁴ These legal requirements and standards should be embedded in the LEA certification process to ensure that SROs and school police in Massachusetts are held to the higher standard set by our general laws and to ensure that LEAs are properly balancing both the best interests of our students and school safety.

Sincerely,



Leon Smith, Esq.
Executive Director
Citizens for Juvenile Justice

³ See Section VII at <https://www.mass.gov/doc/2022-school-resource-officer-memorandum-of-understanding/download>

⁴ Citizens for Juvenile Justice, *Fail: School Policing in Massachusetts*, 2020. Available at <https://www.cfji.org/policing-in-schools>

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Thursday, August 1, 2024 8:58 AM
To: Lee, Annie (PST)
Cc: Ennis, Jamie (PST)
Subject: FW: LEA Certification Standards - replacement comment
Attachments: POST Commission Comments from Jack Lu 7 26 2024.docx

From: Jack Lu [REDACTED]
Sent: Wednesday, July 31, 2024 6:36 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: LEA Certification Standards - replacement comment

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If permissible, please replace my previous comment with the attached Word document. The only change I have made is I have corrected the last paragraph number from "4" to "3."

Thank you.

Jack Lu

From: Jack Lu [REDACTED]
Date: Wednesday, July 31, 2024 at 4:05 PM
To: POSTC-comments@mass.gov <POSTC-comments@mass.gov>
Subject: LEA Certification Standards

Dear POST Commission:

Please find attached (as a Word document) a formal comment on proposed standards for certification of law enforcement agencies.

If possible, please confirm receipt of this email.

Sincerely,
s/Jack Lu
John (Jack) Lu
[REDACTED]



Formal Comment to the Massachusetts POST Commission on standards for law enforcement agencies.

Dated: July 31, 2024

As authorized by:

[M.G.L. Ch. 6E, section 5 . . . establish minimum standards for . . .
. (vi) internal affairs and officer complaint investigation
procedures]

Please consider adoption of the following:

Delay due to related civil or criminal litigation

1. The Commission will not certify a law enforcement agency that delays disciplinary proceedings to avoid prejudice to the legal position of the agency, to that of the Commonwealth, or to that of the federal government in any civil or criminal litigation in any state or federal court, or that routinely delays disciplinary proceedings because of related civil or criminal litigation for any reason.

2. Certified agencies may delay disciplinary proceedings to avoid impinging on a police officer's constitutional rights when that police officer is a defendant in a related state or federal criminal

investigation, or has been notified by a law enforcement agency that it is a target of a related criminal investigation.

Disclosure of aggregate complaint data

3. Law enforcement agencies seeking certification are required to disclose 3 years of aggregate anonymous data listing the total number of complaints for which misconduct was not sustained.

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Friday, August 2, 2024 8:46 AM
To: Ravitz, Randall E (PST); Lee, Annie (PST)
Cc: Ennis, Jamie (PST)
Subject: FW: LEA Certification Standards - second comment attached.
Attachments: POST Commission Comments from Jack Lu 08 01 2024.docx

From: Jack Lu [REDACTED]
Sent: Thursday, August 1, 2024 4:50 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: LEA Certification Standards - second comment attached.

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Dear POST Commission:

Please find attached my second formal comment on the proposed standards for law enforcement agency certification.

Thank you.

Jack Lu
[REDACTED]

Formal Comment to the Massachusetts POST Commission on standards for law enforcement agencies.

Dated: August 1, 2024

As authorized by:

[M.G.L. Ch. 6E, section 5 . . . establish minimum standards . . . :

The police testimony at the POST Hearing was gratifyingly open-minded and constructive, and the police testimony contains many helpful and insightful comments. For example, exempting letters of counseling, or some simple notes to a personnel file by a supervisor might be a good idea. Even expungement after a period of time may be wise. But, it is critical to not defang or render the Mass. POST commission weak, and unable to improve policing in Massachusetts.

In the police comments, no evidence was provided that there are violations of federal or state law in the proposed standards that are a major problem. It is a normal part of the drafting process to resolve these issues through a group drafting process.

To facilitate this the POST Commission should place on its website all of the comments, not just a summary, so that the public has input on those comments. After a suitable period of time, the POST Commission should re-open the comment period so that the public (including me) can comment on the comments. This can be expected to result in a better ultimate product: standards that are careful, well-thought out, and take into account all points of view.

The police testimony includes the question of whether these changes are “necessary and appropriate at this moment.” The direct response is that we have a national problem of intentional, unintentional, and unprofessional misconduct by police. It is not limited to a department, like the Mass. State Police, the Boston

Police Department, or the Springfield Police Department, but rather includes the majority of police departments (more than 50%).

Look at the [REDACTED] or [REDACTED] cases for why the proposed MASS POST regulations should be strengthened (for an example see my first comment on related civil or criminal litigation not delaying police disciplinary hearings) and not watered down.

Our problems are not confined to Massachusetts—this is a cancer eating at American policing. Decisive action is required.

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Friday, August 2, 2024 8:46 AM
To: Ravitz, Randall E (PST); Lee, Annie (PST)
Cc: Ennis, Jamie (PST)
Subject: FW: LEA Certification Standards
Attachments: MPAC's Submission to POST on Agency Certification.pdf

From: Rick Rathbun <rick@masspoliceaccred.net>
Sent: Thursday, August 1, 2024 5:23 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Cc: Rick Rathbun <rick@masspoliceaccred.net>
Subject: LEA Certification Standards

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Ms. Lee,

On behalf of the Massachusetts Police Accreditation Commission (MPAC), I have attached comments on the Peace Officer Standards and Training (POST) Commission's solicitation email on the POST certification of agencies pursuant to *MGL Part I, Title II, Chapter 6E, § 5*.

The attached .pdf file with MPAC's comments includes several pages of resource or reference documentation to support the information provided in our letter.

We appreciate the opportunity to present these comments to the POST. We hope that MPAC can work with the POST on the certification of agencies for the 257 law enforcement agencies across the Commonwealth who currently participate in our program.

Respectfully Submitted,



Rick Rathbun
Executive Director
Massachusetts Police Accreditation Commission

Phone: (978) 834-5660

Colonel/Chief of Police, Warwick RI Police Department, Retired





MASSACHUSETTS POLICE ACCREDITATION COMMISSION'S RESPONSE TO THE MASSACHUSETTS PEACE OFFICERS STANDARDS AND TRAINING COMMISSION'S REQUEST FOR COMMENTS ON AGENCY CERTIFICATION

MPAC'S SUBMISSION SUMMARY

The Massachusetts Police Accreditation Commission (MPAC) offers the following comments to the Massachusetts Peace Officer Standards and Training (POST) Commission for consideration of MPAC's working with POST and the 257 law enforcement agencies who participate in MPAC's program for the certification of agencies as outlined in *MGL Part I, Title II, Chapter 6E, § 5*.

Expressly, MPAC is submitting a request for POST consideration of allowing MPAC to be a credentialing body on behalf of the POST for the certification of our participating agencies through a documented review process and confirmation of compliance with any and all mandated policies through a process established by the POST.

MPAC submits the below information for review:

- A history and description of our program,
- Information that identifies where our program currently complies with reform law agency certification policy areas, as well as existing POST requirements,
- An overview and information of our previously serving as an independent credentialing body for the United States Department of Justice, Community Oriented Policing Services (COPS) Office for the review of Massachusetts Law Enforcement Agencies, both within and outside of our program, through review/assessment of a grant applicant's use of force policies as part of the federal grant certification process required under United States Presidential Executive Order #13929 *Safe Policing for Safe Communities*, June 16, 2020,
- A request for consideration of MPAC being a credentialing body for the agencies within the program for compliance with established agency certification by the POST, and
- Various attachments for reference.

ABOUT MPAC

The Massachusetts Police Accreditation Commission formally began in October 1996 under the direction and control of the Executive Office of Public Safety and Security (EOPSS) to develop standards of accreditation that were current with the latest advances in law enforcement training, techniques, and procedures and assess participating agencies for compliance with those standards.



***MASSACHUSETTS POLICE ACCREDITATION COMMISSION'S RESPONSE TO THE
MASSACHUSETTS PEACE OFFICERS STANDARDS AND TRAINING COMMISSION'S
REQUEST FOR COMMENTS ON AGENCY CERTIFICATION***

In February 2004, MPAC became a non-profit organization and continued its mission of accrediting law enforcement agencies across the Commonwealth.

The Commission offers an accreditation process with two award levels or tiers (certification and accreditation) for police departments in Massachusetts. Like other accreditation programs, the process consists of two major components: (1) establishing professional standards for police departments to meet and (2) administering a voluntary assessment process by which police departments can be officially recognized for meeting best practices.

MPAC currently has 257 agencies participating in our program. These agencies represent state, municipal, higher education (university/college), housing authority, transit, and port authority departments from each county and region of the Commonwealth. MPAC does not have any participating agencies that are not under the authority of POST, nor do we have any sheriff's departments participating in our program.

Our participating agencies include thirteen certification-awarded departments (first tier of the program), 119 accreditation-awarded departments (second tier of the program), and 125 departments in self-assessment or have not yet completed an assessment. MPAC's Commission is currently re-organizing how we administratively classify agencies currently in self-assessment and will update these classifications in the fall of this year. Awards are valid for three years and require a reassessment that verifies continued compliance with all program standards and requirements before the expiration of an award for an agency to maintain its certification or accreditation.

Our program's standards consist of 394 total standards. Requirements for certification (tier 1) include 178 standards, all of which are mandatory. Accreditation requires compliance with all 178 certification standards, another 96 mandatory accreditation standards, and a percentage of 120 optional accreditation standards based on an agency's staffing levels.

MPAC currently uses a series of nearly six hundred pages of checklists to verify compliance with their standards through a documented paper process. In July of 2023, MPAC approved the use of a third-party software product, NeoGov's (PowerDMS) *PowerStandards*, to move from a hard copy checklist process to an electronic assessment using a newly developed standards manual that is built based on the two thousand-plus standard statements/questions in our existing checklists.



MASSACHUSETTS POLICE ACCREDITATION COMMISSION'S RESPONSE TO THE MASSACHUSETTS PEACE OFFICERS STANDARDS AND TRAINING COMMISSION'S REQUEST FOR COMMENTS ON AGENCY CERTIFICATION

It should also be noted that MPAC is part of AccredNet, an organization of the thirty-six states with law enforcement accreditation programs. Membership in AccredNet allows MPAC to access the latest updates and best practices for accreditation of law enforcement agencies nationwide.

MPAC PROGRAM'S CURRENT COMPLIANCE WITH THE ACTS OF 2020, CHAPTER 253, AN ACT RELATIVE TO JUSTICE, EQUITY, AND ACCOUNTABILITY IN LAW ENFORCEMENT IN THE COMMONWEALTH, AND CURRENT POST REGULATIONS REQUIREMENTS.

MPAC currently has seventeen (17) specific standards within our program that directly apply to police reform legislation of 2020 and/or POST requirements. Within those seventeen (17) standards, there are 96 standard statements or questions, many of which have multiple bullets or years that require documentation, bringing the statement total to over 200 questions that must be answered and confirmed in the affirmative for an agency to receive credit and be in compliance with the standards as a whole.

Additionally, when considering the minimum eight specific policy areas that the POST is mandated to review as part of your certification of agencies, there are a total of 117 MPAC Standards that cover the mandated minimum eight policy areas, each with multiple statements/questions, required to comply with mandated areas of a written directive or agency protocols to be reviewed or assessed.

The specific breakdown by each policy area within the law includes:

(i) use of force and reporting of use of force; - fifteen (15) standards from MPAC's *Chapter 1, Use of Force*, and potentially an additional six (6) standards from other chapters within our program, based on how POST establishes compliance.

(ii) officer code of conduct; - twelve (12) standards from MPAC's *Chapter 26, Code of Conduct*, and potentially additional standards, based on how POST establishes compliance.

(iii) officer response procedures; - twenty-eight (28) standards from MPAC's *Chapter 41, Patrol Operations*, and potentially an additional nineteen (19) standards from other chapters within our program, based on how POST establishes compliance.

(iv) criminal investigation procedures; - nineteen (19) standards from MPAC's *Chapter 42 Criminal Investigations* and potentially an additional ten (10) standards, based on how POST establishes compliance.

(v) juvenile operations; - six (6) standards from MPAC's *Chapter 44 Juvenile Operations* and potentially additional standards, based on how POST establishes compliance.



MASSACHUSETTS POLICE ACCREDITATION COMMISSION'S RESPONSE TO THE MASSACHUSETTS PEACE OFFICERS STANDARDS AND TRAINING COMMISSION'S REQUEST FOR COMMENTS ON AGENCY CERTIFICATION

(vi) internal affairs and officer complaint investigation procedures; - fifteen (15) standards from MPAC's Chapter 52, *Internal Affairs*, and potentially additional standards based on how POST establishes compliance.

(vii) detainee transportation; - thirteen (13) standards from MPAC's *Chapter 70, Detainee Transportation*.

(viii) collection and preservation of evidence. – nine (9) standards from MPAC's *Chapter 83, Collection and Preservation of Evidence*, and potentially an additional nine (9) standards from other chapters within our program, based on how POST establishes compliance.

NOTE - Each of the standards above has multiple statements/questions that must be answered in the affirmative to prove compliance.

MPAC also has language within our standards for the requirements of Section 555 (POST Regulations) of the Code of Massachusetts Regulations (CMRs) established by the POST. For example, we include the CMR's language and guidance within standard 44.2.4 *School Resource Officer Program* for 555 CMR 10.00, which covers POST School Resource Officer (SRO) Certification Requirements.

Regarding comments for additional standards on the policy areas to be reviewed for agency certification by POST, MPAC's Standards encompass many areas previously identified for consideration by POST at your June 20, 2024 meeting. MPAC can immediately support our participating agencies' certification through the standards within our program applicable to the minimum eight policy areas in the legislation. If the POST were to add any additional areas, any timeline on MPAC's part would depend on whether an existing standard covers the policy area or if any new standards need to be developed, published, and disseminated in our program.

MPAC'S CREDENTIALLING OF MASSACHUSETTS LAW ENFORCEMENT AGENCIES FOR THE USDOJ COPS OFFICE UNDER PRESIDENTIAL EXECUTIVE ORDER #13929, 2020 – 2023

On June 16, 2020, President Trump signed United States Presidential Executive Order #13929, *Safe Policing for Safe Communities*. This order established a requirement that any law enforcement agency that seeks federal discretionary (grant) funding from the USDOJ COPS Office must be certified with the following two requirements by a recognized independent credentialing body:



**MASSACHUSETTS POLICE ACCREDITATION COMMISSION'S RESPONSE TO THE
MASSACHUSETTS PEACE OFFICERS STANDARDS AND TRAINING COMMISSION'S
REQUEST FOR COMMENTS ON AGENCY CERTIFICATION**

1) that the agency's use of force policies prohibit chokeholds, except in situations where the use of deadly force is allowed by law; and

2) that the agency's use of force policies adhere to all applicable federal, state, and local laws.

The USDOJ COPS Office established independent credentialing bodies in all states. While the Municipal Police Training Committee (MPTC) and MPAC were both identified as the authorized credentialing bodies in Massachusetts, only MPAC completed the reviews of agencies for grant certification.

From 2020 through the end of 2023, based on COPS Office grant cycles, MPAC had ninety agencies express interest or begin the grant certification process for USDOJ Funding. Of those ninety agencies, eighty-one were certified by MPAC as part of grant applications based on a documented review of their use of force policies. The review process continued from President Trump's administration to President Biden's. Also, our reviews evolved as use of force requirements were updated through the reform legislation and establishment of POST CMRs inclusions.

MPAC REVIEW AND CONFIRMATION OF POST AGENCY CERTIFICATION REQUIREMENTS

As noted above, MPAC has ensured that our program is updated to meet any statutory and/or regulation requirements under the POST's authority. We remain committed to reviewing and assessing our agencies through a thorough, documented process.

The 257 agencies participating in our program, including the 132 departments with active awards, are a considerable portion of the total number of agencies that the POST will have to certify. We recognize that MPAC can be a staffing multiplier for the POST and assist in agency certification through a process established for MPAC's role as a credentialing body by POST.

MPAC brings nearly three decades of experience in the certification and accreditation of law enforcement agencies across the Commonwealth. We believe that our organization's experience can seamlessly support POST's mandate of certifying agencies through a detailed and documented process.

Respectfully submitted:

Chief Russell Stevens
MPAC President

Rick Rathbun
MPAC Executive Director

attachments: (10)

Massachusetts Police Accreditation Program
Participating Agencies FY2024 – as of 6/26/24

Agency Participants 257,
This Total Includes 5
Applicant Agencies

Accredited (119)

Acton
Amesbury
Amherst
Andover
Arlington
Ayer
Babson College
Belchertown
Bentley University
Boston College
Boston University
Boxborough
Boxford
Braintree
Bridgewater
Bristol Community College
Brookline
Bunker Hill Com College
Burlington
Canton
Chelmsford
Chelsea
Concord
Dedham
Dennis
Douglas
Dunstable
Duxbury
Easton
Edgartown
Essex
Fairhaven
Fall River
Foxborough
Framingham
Franklin
Freetown
Georgetown
Great Barrington
Greenfield
Groton
Groveland
Hamilton
Haverhill
Holden
Holliston
Hopkinton
Hudson
Lexington
Lincoln
Littleton
Longmeadow
Lowell
Lunenburg
Malden
Manchester-by-the-Sea
Marblehead
Marion
Marlborough
Mashpee

Mass State Police
Maynard
Merrimack College
Methuen
Middleborough
Mount Holyoke College
Newburyport
North Andover
North Attleborough
North Reading
Northampton
Northborough
Norton
Norwood
Orleans
Peabody
Plymouth
Quinsigamond Comm College
Randolph
Reading
Rockport
Rowley
Salem
Salisbury
Sandwich
Saugus
Smith College
Somerset
Somerville
South Hadley
Southborough
Southbridge
Stoughton
Sturbridge
Swansea
Tewksbury
Topsfield
Tufts University
UMass Amherst
UMass Boston
Upton
Uxbridge
Waltham
Watertown
Wellesley
Wenham
West Bridgewater
West Newbury
West Tisbury
Westborough
Western NE University
Westford
Weston
Westwood
Weymouth
Wilmington
Winchester
Woburn
Worcester Poly Tech

Certified (13)

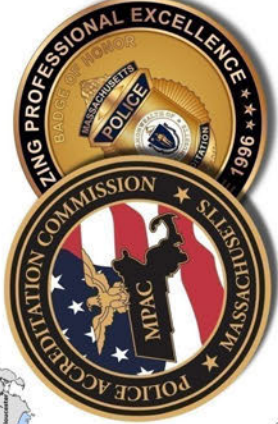
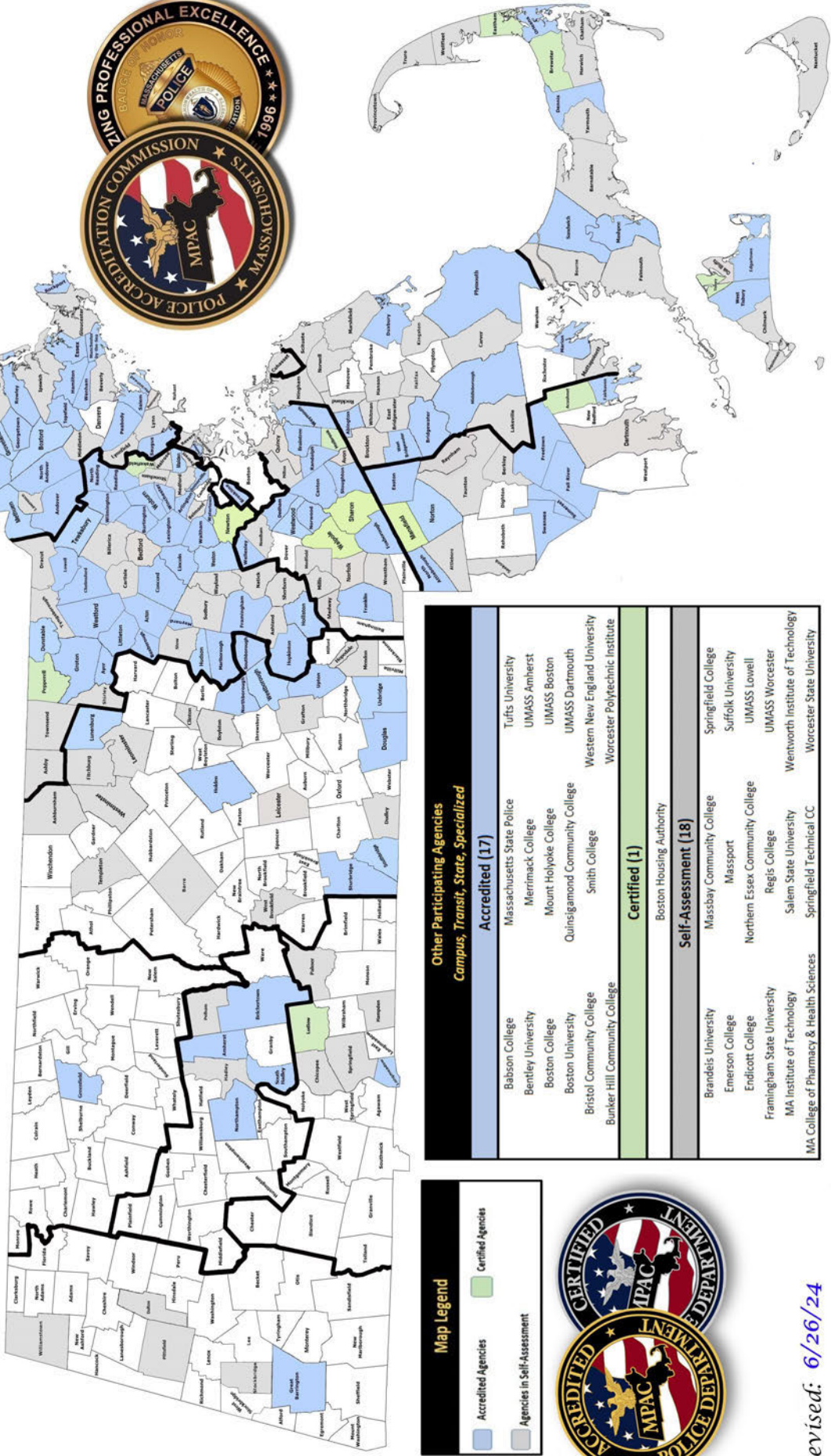
Acushnet
Boston Housing Authority
Brewster
Eastham
Holbrook
Ludlow
Mansfield
Newton
Pepperell
Sharon
Tisbury
Wakefield
Walpole

Self Assessment (120)

Abington
Aquinnah
Ashburnham
Ashby
Ashland
Attleboro
Avon
Barnstable
Barre
Bedford
Belmont
Berkley
Beverly
Billerica
Bourne
Boylston
Brandeis University
Brockton
Carlisle
Carver
Chatham
Chicopee
Chilmark
Clinton
Cohasset
Dalton
Dartmouth
Dracut
Dudley
East Bridgewater
Emerson College
Endicott College
Everett
Falmouth
Fitchburg
Framingham State Univ
Gloucester
Grafton
Hadley
Halifax
Hampden
Hanson
Harwich
Hingham
Hopedale
Hull
Ipswich
Kingston
Lakeville
Lawrence
Leicester
Leominster

Lynn
Lynnfield
Marshfield
MA Coll of Pharm & Health Sciences
Massbay Com College
MassPort
Mattapoisett
Medfield
Medford
Medway
Melrose
Mendon
Merrimac
Middleton
Millis
Milton
MIT
Nahant
Nantucket
Natick
Needham
Newbury
Norfolk
Northern Essex CC
Norwell
Oak Bluffs
Palmer
Pelham
Pittsfield
Provincetown
Quincy
Raynham
Regis College
Revere
Rockland
Salem State University
Scituate
Seekonk
Sherborn
Shirley
Springfield
Springfield College
Springfield Technical CC
Stockbridge
Stoneham
Stow
Sudbury
Suffolk University
Swampscott
Taunton
Templeton
Townsend
Truro
Tyngsborough
UMass Dartmouth
UMass Lowell
UMass Worcester
Wayland
Wellfleet
Wentworth Inst of Tech
West Brookfield
Westminster
Whitman
Williamstown
Winthrop
Worcester State Univ
Wrentham
Yarmouth

MPAC Participating Agencies



Map Legend

- Accredited Agencies (Blue square)
- Certified Agencies (Green square)
- Agencies in Self-Assessment (Grey square)



Other Participating Agencies Campus, Transit, State, Specialized	
Accredited (17)	
Babson College	Tufts University
Bentley University	UMASS Amherst
Boston College	UMASS Boston
Boston University	UMASS Dartmouth
Bristol Community College	Western New England University
Bunker Hill Community College	Worcester Polytechnic Institute
Massachusetts State Police	
Merrimack College	
Mount Holyoke College	
Quinsigamond Community College	
Smith College	
Certified (1)	
Boston Housing Authority	
Self-Assessment (18)	
Brandeis University	Springfield College
Emerson College	Suffolk University
Endicott College	UMASS Lowell
Framingham State University	UMASS Worcester
MA Institute of Technology	Wentworth Institute of Technology
MA College of Pharmacy & Health Sciences	Worcester State University
Regis College	
Salem State University	
Springfield Technical CC	

Revised: 6/26/24

The Commission offers two tiers in our professional credentialing program: **Certification and Accreditation**.

The **Certification Tier** of our program currently consists of 178 standards, all of which are mandatory. These carefully selected standards impact officer and public safety, address high liability/risk management issues and promote operational efficiency throughout an agency. Therefore, any standard that is not a function or responsibility of the agency will be deemed *not applicable* and waived through a formal waiver process.

Since the 178 standards for certification are part of the 274 mandatory standards for accreditation, certification is a significant milestone toward accreditation.

Below are the standards in the Certification Tier of our program.

Chapter 1: Use of Force

- 1.1.0 Legal Authority to Carry/Use Weapons
- 1.1.1 Use of Physical Force
- 1.1.2 Use of Deadly Force
- 1.1.3 Warning Shots
- 1.1.4 Use of Authorized Less Lethal Weapons
- 1.1.5 Rendering Medical Aid After Use of Force or LE Action
- 1.1.6 Reporting Uses of Force
- 1.1.7 Reviewing Use of Force Reports from 1.1.6
- 1.1.8 Removal from Line of Duty Assignment - Use of Force
- 1.1.9 Authorized Weapons and Ammunition
- 1.1.10 Demonstrating Proficiency with Weapons
- 1.1.11 Annual Proficiency Weapons Training
- 1.1.12 Biennial Weapons Training and Defensive Tactics
- 1.1.13 Issuing UOF Written Directives Prior to Carrying a Weapon
- 1.1.14 Use of Force Analysis

Chapter 11: Organization and Administration

- 11.1.2 Organizational Chart
- 11.4.3 Accreditation Maintenance System

Chapter 12: Direction

- 12.1.3 Obey Lawful Orders
- 12.2.1 The Written Directive System
- 12.2.2 Dissemination and Storage

Chapter 16: Agency Personnel

- 16.3.0 Legal Authority Defined
- 16.3.1 Part-Time Police Officers
- 16.3.2 Minimum Selection Criteria for Part-Time Police Officers
- 16.3.3 Entry-Level Training for Part-Time Police Officers
- 16.3.4 Uniforms and Equipment
- 16.3.5 In-Service Training
- 16.3.6 Use of Force Training and Firearms Proficiency
- 16.3.7 Bonding/Liability Protection
- 16.3.8 Educational Requirements
- 16.4.1 Non-Sworn, Unarmed, Uniformed in the Field
- 16.5.1 Volunteer Program Description
- 16.6.1 Non-Sworn/Armed Personnel

Chapter 17: Fiscal Management and Agency Equipment

- 17.4.2 Cash Funds / Accounts Maintenance

Chapter 22: Compensation Benefits and Work Conditions

- 22.2.1 Military Activation and Reintegration
- 22.2.5 Clothing, Equipment, and Appearance
- 22.2.6 Personnel Identification

Chapter 26: Conduct and Discipline

- 26.0.1 Oath of Office
- 26.0.2 Code of Ethics
- 26.0.3 Code of Conduct
- 26.0.4 Duty to Intervene / Anti-Retaliation Protections
- 26.1.1 Appearance Guidelines
- 26.1.3 Harassment in the Workplace
- 26.1.8 Disciplinary Records

Chapter 32: Selection

- 32.2.1 Background Investigations
- 32.2.2 Background Investigations Training
- 32.2.3 Medical Examinations
- 32.2.4 Emotional Stability / Psychological Fitness Examinations
- 32.2.5 POST Certification of Law Enforcement Officers

Chapter 33: Training and Career Development

- 33.3.1 Employee Training Record Maintenance
- 33.3.2 Training Class Records Maintenance
- 33.4.1 Training on Written Directives
- 33.4.2 Entry-Level Training Required
- 33.5.1 Annual Retraining Program, aka In-Service Training
- 33.5.4 Accreditation Manager Training
- 33.6.2 Tactical Team Training Program
- 33.8.2 Skill Development Training Upon Promotion

Chapter 41: Patrol

- 41.1.2 Shift Briefing
- 41.1.4 Agency Owned or Controlled Animals
- 41.2.1 Responding Procedures
- 41.2.2 Pursuit of Motor Vehicles
- 41.2.3 Forcible Stopping / Roadblocks
- 41.2.5 Missing Persons
- 41.2.6 Missing Children
- 41.3.1 Patrol Vehicles: Lights, Sirens
- 41.3.3 Occupant Safety Restraints
- 41.3.4 Authorized Personal Equipment

Chapter 41: Patrol (continued)

- 41.3.5 Protective Vests
- 41.3.6 Protective Vests/ Pre-Planned, High-Risk Situations
- 41.4.0 Bias-Free Policing
- 41.4.1 Search and Seizure
- 41.4.2 Strip and Body Cavity Searches
- 41.4.3 Arrest With/Without a Warrant

Chapter 42: Criminal Investigation

- 42.2.0 Compliance with Constitutional Requirements
- 42.2.7 Confidential Informants
- 42.2.10 Designated Rooms for Interviews and Interrogations
- 42.2.11 Lineups
- 42.2.12 Showups
- 42.2.13 Facial Recognition Technology

Chapter 44: Juvenile Operations

- 44.2.1 Handling Offenders
- 44.2.2 Procedures for Custody
- 44.2.3 Custodial Interrogation and Non-Custodial Interviews
- 44.2.4 School Resource Officer Program

Chapter 46: Critical Incidents, Spec Ops & Homeland Security

- 46.1.1 Position Responsible for Planning
- 46.1.2 All Hazard Plan
- 46.1.3 Command Function
- 46.1.4 Operations Function
- 46.1.5 Planning Function
- 46.1.6 Logistics Function
- 46.1.7 Finance/Administration Function
- 46.1.8 Activities: Quarterly Inspections of Equipment
- 46.1.9 Annual Training: All Hazard Plan
- 46.1.10 Active Threat Response
- 46.1.12 Crowd Control Response and Training
- 46.2.1 Tactical Team Procedures
- 46.2.3 Tactical Team Equipment
- 46.3.1 Liaison for Exchange of Terrorism Information
- 46.3.2 Reporting and Relaying Terrorism Information

Chapter 52: Internal Affairs

- 52.1.1 Complaint Investigation
- 52.1.2 Records, Maintenance, and Security
- 52.1.3 CEO, Direct Accessibility
- 52.1.4 Complaint or Commendation Procedures
- 52.2.1 Investigation Responsibility
- 52.2.2 CEO Notification
- 52.2.3 Investigation Time Limits
- 52.2.4 Informing Complainant
- 52.2.5 Statement of Allegations / Rights
- 52.2.6 Submission to Tests, Procedures
- 52.2.7 Relieved from Duty
- 52.2.8 Conclusion of Fact
- 52.2.9 Submission of Records to POST

Chapter 55: Victim/Witness Assistance

- 55.2.2 Assistance, Threats
- 55.2.6 Next-of-Kin Notification

Chapter 61: Traffic

- 61.1.2 Uniform Enforcement Procedures
- 61.1.7 Stopping / Approaching
- 61.1.11 DUI Procedures

Chapter 61: Traffic (continued)

- 61.3.1 High Visibility Retroreflective Vests or Clothing

Chapter 70: Detainee Transportation

- 70.1.1 Pre-Transport Detainee Searches
- 70.1.2 Searching Transport Vehicles
- 70.1.3 Procedures, Transporting by Vehicle
- 70.1.4 Interruption of Transport
- 70.1.6 Procedures, Transport Destination
- 70.1.7 Procedures, Escape
- 70.2.1 Detainee Restraint Requirements
- 70.3.1 Sick, Injured, or Disabled Detainees
- 70.3.2 Hospital Security and Control
- 70.4.1 Vehicle Safety Barriers
- 70.4.2 Rear Compartment Modifications
- 70.5.1 Detainee ID and Documentation

Chapter 71: Processing and Temporary Detention

- 71.1.1 Authorized Rooms or Areas
- 71.2.1 Training User Personnel
- 71.3.1 Procedures, Use and Supervision
- 71.3.2 Securing to Immovable Objects
- 71.3.3 Procedures, Security
- 71.4.1 Physical Conditions
- 71.4.2 Fire Prevention / Suppression
- 71.4.3 Inspections

Chapter 72: Holding Facility

- 72.1.1 Training User Personnel
- 72.1.2 Access, Nonessential Persons
- 72.2.1 Minimum Conditions
- 72.3.1 Fire, Heat, Smoke Detection Systems and Inspections
- 72.3.2 Posted Evacuation Plan
- 72.4.1 Securing Firearms
- 72.4.2 Entering Occupied Cells
- 72.4.3 Cell Door Key Control
- 72.4.5 Security Checks
- 72.4.7 Tool and Culinary Equipment
- 72.4.8 Alerting Control Point
- 72.4.9 Duress Alarms
- 72.4.10 Procedures, Escape
- 72.4.11 Reports, Threats to Facility
- 72.5.1 Detainee Searches
- 72.5.2 Intake Forms
- 72.5.3 Sight and Sound Separation
- 72.5.4 Segregation
- 72.5.7 Identification, Released Detainees
- 72.6.1 Procedures, Medical Assistance
- 72.6.2 First Aid Kit
- 72.6.4 Dispensing Medication
- 72.7.1 Procedures, Detainee Rights
- 72.8.1 24-Hour Monitoring
- 72.8.3 Supervision, Opposite Gender
- 72.8.4 Receiving Personal Items
- 72.8.5 Visitors

Chapter 74: Legal Process

- 74.3.1 Procedures, Criminal Process

Chapter 81: Communications

- 81.2.2 Continuous, Two-Way Capability

Chapter 81: Communications (continued)

- 81.2.8 Recording and Playback
- 81.3.2 Alternate Power Source - Generator

Chapter 82: Central Records

- 82.1.1 Privacy and Security
- 82.1.2 Juvenile Records
- 82.1.7 Computerized Security Protocol

Chapter 83: Collection and Preservation of Evidence

- 83.2.1 Guidelines and Procedures

Chapter 84: Property and Evidence Control

- 84.1.1 Evidence / Property Control System
- 84.1.2 Storage and Security
- 84.1.3 Temporary Security
- 84.1.4 Controlled Substances, Weapons
Explosives for Training/Investigative Purposes
- 84.1.5 Records, Status of Property
- 84.1.6 Inspections and Reports
- 84.1.9 Prescription Drug Disposal Program

The Commission offers two tiers in our professional credentialing program: **Certification and Accreditation**.

The **Accreditation Tier** of our program currently consists of 216 standards, 96 of which are mandatory, and 120 are optional. The accreditation standards expand and build on the 178 certification standards. As is the case with the Certification Tier of our program, any standard that is not a function or responsibility of the agency will be deemed *not applicable* and waived through a formal waiver process.

NOTE - The 178 standards required for certification, listed separately, are all part of the 274 mandatory standards for accreditation.

Below are the standards in the Accreditation Tier of our program. Mandatory standards are identified in the list below in **black** colored font, and the optional standards are in **blue** colored font.

Chapter 2: Agency Jurisdiction & Mutual Aid

- 2.1.1 Geographical Boundaries
- 2.1.2 Concurrent Jurisdiction
- 2.1.3 Mutual Aid
- 2.1.4 Requesting National Assistance

Chapter 11: Organization and Administration

- 11.1.0 Agency's Values & Mission Statement
- 11.1.1 Description of Organization
- 11.2.1 Direct Command Component
- 11.3.1 Responsibility/Authority
- 11.3.2 Supervisory Accountability
- 11.4.1 Administrative Reporting Program
- 11.4.2 Agency Forms
- 11.4.4 Notifying the CEO of Incidents: Liability and/or Heightened Community Interest
- 11.5.1 Software Policy

Chapter 12: Direction

- 12.1.1 CEO Authority and Responsibility
- 12.1.2 Command Protocol

Chapter 15: Planning, Goals and Crime Analysis

- 15.1.1 Multi-Year Plan
- 15.2.1 Annual Updating/Goals and Objectives
- 15.2.2 System For Evaluation/Goals and Objectives
- 15.3.1 Crime Analysis: Procedures

Chapter 16: Agency Personnel

- 16.1.1 Position Management System
- 16.2.1 Annual Review Specialized Assignments
- 16.2.2 Announce Openings of Specialized Assignments
- 16.2.3 Temporary or Rotating Assignments

Chapter 17: Fiscal Management and Agency Equipment

- 17.1.1 CEO Authority and Responsibility
- 17.2.1 Budget Process and Responsibility Described
- 17.3.1 Annual Budget Recommendations
- 17.4.1 Accounting System
- 17.4.3 Independent Audit
- 17.5.1 Inventory and Control
- 17.5.2 Operational Readiness

Chapter 21: Duties and Responsibilities

- 21.1.1 Job Descriptions

Chapter 22: Compensation, Benefits, Work Conditions

- 22.1.1 Salary Program
- 22.2.0 Leave Program
- 22.2.2 Benefits Program
- 22.2.3 Personnel Support Services Program
- 22.2.4 Services: Line of Duty Death or Serious Injury
- 22.2.7 Employee Assistance Program
- 22.3.1 Physical Examinations
- 22.3.2 General Health and Physical Fitness
- 22.3.3 Fitness and Wellness Program
- 22.3.4 Off-Duty Employment
- 22.3.5 Extra-Duty Employment (Paid Details)

Chapter 24: Collective Bargaining

- 24.1.1 Ratification Responsibilities

Chapter 25: Grievance Procedures

- 25.1.1 Grievance Procedures
- 25.1.2 Coordination and Control of Records

Chapter 26: Conduct and Discipline

- 26.1.2 Employee Awards
- 26.1.4 Disciplinary System
- 26.1.5 Role and Authority of Supervisors
- 26.1.6 Appeal Procedures
- 26.1.7 Termination Procedures

Chapter 31: Recruitment

- 31.1.1 Agency Participation
- 31.2.1 Equal Employment Opportunity Plan
- 31.3.1 Job Announcements

Chapter 32: Selection

- 32.1.1 Selection Process Described
- 32.1.2 Candidate Information
- 32.1.3 Notification of Ineligibility
- 32.1.4 Selection Records
- 32.2.6 Entry Level Probation

Chapter 33: Training

- 33.1.1 Attendance Requirements
- 33.1.2 Training Reimbursement
- 33.1.3 Lesson Plan Requirements
- 33.2.1 Remedial Training

Chapter 33: Training (continued)

- 33.4.3 Field Training Program
- 33.5.2 Shift Briefing Training (aka Roll-Call Training)
- 33.5.3 Accreditation Training
- 33.6.1 Specialized Training
- 33.7.1 Civilian/Non-Sworn Orientation
- 33.7.2 Civilian/Pre-Service & In-Service Training
- 33.8.3 Career Development Program
- 33.8.4 Training for Career Development Program
- 33.8.5 Succession Planning

Chapter 34: Promotions

- 34.1.1 Agency Role
- 34.1.2 Authority and Responsibility
- 34.1.3 Promotional Process Described
- 34.1.4 Promotional Announcement
- 34.1.5 Eligibility Lists
- 34.1.6 Promotional Probation

Chapter 35: Performance Evaluations

- 35.1.1 Performance Evaluation System
- 35.1.2 Annual Evaluations
- 35.1.3 Quarterly Evaluation of Probationary Employee
- 35.1.4 Evaluation Period & Ratings
- 35.1.5 Unsatisfactory Performance
- 35.1.6 Employee Career Counseling
- 35.1.7 Rater Evaluation
- 35.1.8 Personnel Early Warning System

Chapter 41: Patrol

- 41.1.1 Shift/Beat Assignment
- 41.1.3 Special Purposes Vehicle
- 41.1.5 Unmanned Aircraft Systems (UAS)
- 41.2.4 Notification Procedures
- 41.2.7 Mental Health Issues
- 41.3.2 Equipment Specifications/Replenishment
- 41.3.7 Mobile Data Access
- 41.3.8 In-Car and/or Body-Worn Cameras
- 41.3.9 License Plate Readers
- 41.4.4 Alternatives to Arrest
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ACCREDITATION STANDARDS MANUAL

CHAPTER 1: USE OF FORCE

Accreditation Standards and Assessment Checklists – 6th Edition

1.1.2	Use of Deadly Force	CERTIFICATION	Revision Date: 03/31/2024	<u>Written Directive Documentation</u>
Note to Accreditation Managers and Assessors			Proofs of Compliance	
<p>This standard requires a written directive governing an officer’s (sworn employee’s) use of deadly force within the parameters established Per MGL Part I, Title II, Chapter 6E, as noted below.</p> <p>NOTE - hyperlinks to the law’s language or applicable sections are provided in blue font.</p> <p>Officers include any agency personnel with the authority to make an arrest.</p>			<input type="checkbox"/> Written Directive <input type="checkbox"/> Written Documentation of agency compliance within the past year for an initial assessment or for each year of the current award period.	

WRITTEN DIRECTIVE:

Definitions for the Use of Deadly Force:
<p>Per MGL Part I, Title II, Chapter 6E, Section 1:</p> <p>“deadly force” is <u>defined</u> as “physical force that can reasonably be expected to cause death or serious physical injury.”</p> <p>“serious bodily injury” is <u>defined</u> as “bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss of impairment of a bodily function, limb or organ; or (iii) a substantial risk of death.”</p> <p>“chokehold” is <u>defined</u> as “the use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer’s body on or around a person’s neck in a manner that limits the person’s breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness or death.”</p> <p>“de-escalation tactics”, are <u>defined</u> as “proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options, and resources are available to gain a person’s voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis.”</p>

- Continue to the Next Page -

Agency: _____ Assessor: _____ Date: _____

ACCREDITATION STANDARDS MANUAL

CHAPTER 1: USE OF FORCE

Accreditation Standards and Assessment Checklists – 6th Edition

1.1.2 Use of Deadly Force (continued)

Parameters for the Use of Deadly Force:

Per MGL Part I, Title II, Chapter 6E, Sections 14 and 15:

Section 14:

- “(b) A law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.” ([linked here](#))
- “(c) A law enforcement officer shall not use a chokehold. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer’s body on or around a person’s neck in a manner that limits the person’s breathing or blood flow.” ([linked here](#))
- “(d) A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person.” ([linked here](#))

Section 15:

- “(a) An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.” ([linked here](#))
- “(b) An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer’s shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer’s written statement shall be included in the supervisor’s report.” ([linked here](#))
- (c) A law enforcement agency shall develop and implement a policy and procedure for law enforcement personnel to report abuse by other law enforcement personnel without fear of retaliation or actual retaliation.” ([linked here](#))

STANDARD / EVALUATION MEASURES:

WRITTEN DIRECTIVE:

1. The agency has a written directive defining:
 - A. deadly force. Y N
 - B. de-escalation tactics. Y N
 - C. defining chokeholds/neck restraints. Y N
 - D. defining serious bodily injury. Y N

Agency: _____ Assessor: _____ Date: _____

ACCREDITATION STANDARDS MANUAL

CHAPTER 1: USE OF FORCE

Accreditation Standards and Assessment Checklists – 6th Edition

1.1.2 Use of Deadly Force (continued)

1. The agency has a written directive establishing its policy on the use of deadly force, consistent with the parameters established in MGL Part I, Title II, Chapter 6E, Section 14 (b). **(NOTE – The specific parameters from the law must be listed/noted in the agency’s written directive)** Y N
2. The agency has a written directive prohibiting neck restraints, including chokeholds, consistent with the parameters established in MGL Part I, Title II, Chapter 6E, Section 14 (c). Y N
3. The agency has a written directive that prohibits the discharge of a firearm into or at a fleeing motor vehicle, consistent with the parameters established in MGL Part I, Title II, Chapter 6E, Section 14 (d). Y N
4. The agency has a written directive stating an officer present and observing another officer using deadly force beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual. Y N
5. The agency has a written directive requiring an officer who observes another officer using deadly force beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the observing officer’s shift. Y N
6. The agency has a written directive that officer(s) reporting unreasonable or unjustified use of force shall prepare a detailed written statement describing the incident consistent with uniform protocols. Y N
7. The agency has a written directive requiring that a supervisor not directly involved in the use of force Incident will complete a report including the reporting officer(s)’ written statement(s). Y N

WRITTEN DOCUMENTATION:

8. The agency provided documentation for the use of deadly force by agency officers that:
 - Verified the force was within the definitions and scope of MGL Part I, Title II, Chapter 6E, Sections 1, 14, and 15, *and*
 - Addressed duty to intervene (*if applicable*)

Year 1: Y N N/A – (No Use of Deadly Force Instances for this Year)

Year 2: Y N N/A – (No Use of Deadly Force Instances for this Year or an Initial Assessment)

Year 3: Y N N/A – (No Use of Deadly Force Instances for this Year or an Initial Assessment)

Agency: _____ Assessor: _____ Date: _____

1.1.2 Use of Deadly Force (C)

Mandatory

Standard

The agency has a written directive governing the use of force that meets the requirements outlined in MGL Part I, Title II, Chapter 6E.

Additionally, the written directive:

- **defines and establishes procedures for the use of deadly force;**
- **defines and establishes procedures for de-escalation tactics;**
- **defines and prohibits chokeholds and/or neck restraints;**
- **defines serious bodily injury;**
- **pre-service and annual documented training for all sworn officers (part-time and full-time) according to MGL Part I, Title II, Chapter 6E, Sections 14 & 15 and non-sworn personnel authorized to use deadly force according to agency written directive requirements on the proper and legal use of deadly force;**
- **prohibits the discharge of a firearm into a fleeing motor vehicle;**
- **requires officers to intervene when witnessing another officer using deadly force beyond that which is necessary or objectively reasonable unless intervening would result in imminent harm to the officer or another individual according to MGL Part I, Title II, Chapter 6E;**
- **requires that an officer who witnesses another officer using deadly force beyond that which is necessary or objectively reasonable reports the incident to a supervisor and submits a detailed written statement to that supervisor describing the incident, as soon as possible, but no later than the end of the witnessing personnel's shift; and**
- **requires and establishes procedures for a supervisor not involved directly in the use of deadly force incident to review the incident and submit a written report that includes statements from any officers who witnessed the unreasonable or unjustified use of deadly force.**

Note to Accreditation Managers and Assessors

This standard requires a written directive governing an officer's (sworn employee's) use of deadly force within the parameters established Per MGL Part I, Title II, Chapter 6E, as noted below.

NOTE - [hyperlinks to the law's language or applicable sections](#) are provided in blue font.

Officers include any agency personnel with the authority to make an arrest.

Per MGL Part I, Title II, Chapter 6E, Section 1:

"deadly force" is [defined](#) as "physical force that can reasonably be expected to cause death or serious physical injury."

"serious bodily injury" is [defined](#) as "bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss of impairment of a bodily function, limb or organ; or (iii) a substantial risk of death."

"chokehold" is [defined](#) as "the use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits

the person's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness or death."

"de-escalation tactics", are defined as "proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options, and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis."

Parameters for the Use of Deadly Force: Per MGL Part I, Title II, Chapter 6E, Sections 14 and 15:

Section 14:

"(b) A law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm." ([linked here](#))

"(c) A law enforcement officer shall not use a chokehold. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow." ([linked here](#))

"(d) A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person." ([linked here](#))

Section 15:

"(a) An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual." ([linked here](#))

"(b) An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report." ([linked here](#))

"(c) A law enforcement agency shall develop and implement a policy and procedure for law enforcement personnel to report abuse by other law enforcement personnel without fear of retaliation or actual retaliation." ([linked here](#))

File Guidance / Suggested Evidence

- Use of Force Report for a use of deadly force.
- If a use of deadly force did not occur either in any year or at all during the assessment period, indicate non-occurrence(s) in the Agency's Use of Force Annual Analysis.

Attachment Frequency

Written Directive: Attach once for the assessment period unless an update is issued, then attach the updated version of the written directive.

Initial: 1 proof (evidence dated within the past 12 months)

Re-Assessment: 1 proof (evidence for EACH year of the assessment period)

44.2.4 School Resource Officer Program (C)

Mandatory

Standard

The agency has a written directive that addresses:

- an MOU between the agency and school system/district as required by law;
- documented reviews of the School Resource Officer (SRO) program, if MOU requires;
- the requirement of POST Certification - SRO for all agency SROs;
- the SRO's uniform standards;
- specialized training required for the SRO position;
- duties and responsibilities of the SRO; and
- selection procedures for the SRO position.

The agency has a job description for the SRO position.

N/A by Function (WAIVER) - If the agency does not employ a School Resource Officer(s) assigned within its school district, this standard is N/A by Function.

Note to Accreditation Managers and Assessors

Mandated Memorandum of Understanding (MOU) required for a School Resource Officer(s) (SRO) Program:

MGL Reference: Ch.71 § 37P as amended by MGL Chapter 6E of Section 109, Chapter 253 of the Acts of 2020 defines School Resource Officers (SROs) and statutory guidance on their use by agencies ([linked here](#));

POST Certification - SRO: Agency School Resource Officers will be certified per the provisions of 555 CMR 10.00: SPECIALIZED CERTIFICATION FOR SCHOOL RESOURCE OFFICERS ([linked here](#));

POST Certification - SRO is an additional certification beyond the POST Certification - Sworn Officers.

File Guidance / Suggested Evidence

- Written Directive
- Job Descriptions
- MOU with schools for SRO position
- Documentation showing SRO program is operational
- SRO Training Certificates (including NASRO)
- Documentation of POST Certification - SRO (separate from officer POST Certification - Sworn Officers)
- SRO MOU reviews (if required)

Attachment Frequency

Written Directive: Attach once for the assessment period unless an update is issued, then attach the updated version of the written directive.

Initial: 1 proof (evidence dated within the past 12 months)

Re-Assessment: 1 proof (evidence for EACH year of the assessment period)

555 CMR 10.00: SPECIALIZED CERTIFICATION FOR SCHOOL RESOURCE OFFICERS

Section

- 10.01: Authority
- 10.02: Scope
- 10.03: Definitions
- 10.04: SRO Certification Requirement
- 10.05: Application for SRO Certification
- 10.06: Division Evaluation of SRO Certification Application
- 10.07: Conditional SRO Certification
- 10.08: Possible Action Following Decision Declining to Grant Full SRO Certification
- 10.09: SRO Certification Status
- 10.10: In-service SRO Training
- 10.11: Number of SROs
- 10.12: Sub-specialties
- 10.13: Restricted Status

10.01: Authority

The Commission promulgates 555 CMR 10.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b).

10.02: Scope

- (1) 555 CMR 10.00 governs SRO certification pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b).
- (2) 555 CMR 10.00 amends any initial certification process concerning SRO certification, and otherwise supersedes any policy or protocol concerning SRO certification, that was previously adopted by the Commission, other than as provided in 555 CMR 10.09(3), except 555 CMR 10.00 does not negate any grant of SRO certification for an individual, or any effective dates of such a certification, that were previously approved by the Commission.
- (3) 555 CMR 10.00 does not govern the suspension or revocation of SRO certification, except as provided in 555 CMR 10.09 and 10.10.
- (4) Nothing in 555 CMR 10.00 is intended to:
 - (a) Establish a standard of care or create any independent private right, entitlement, 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;
 - (b) Otherwise waive any power, right, privilege, protection, or immunity that may be available to the Commission; or
 - (c) Preclude the limiting, conditioning, restricting, suspending, or revoking of any certification in accordance with law.

10.03: Definitions

- (1) 555 CMR 10.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 555 CMR 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 10.03(2).
- (2) For the purposes of 555 CMR 10.00, the following terms have the following meanings, unless the context requires otherwise:

Applicant. A person or entity that submits an application for SRO certification regarding an individual to the Commission.

Application. An application for SRO certification.

Chief of Police. The chief of police or the board or officer having control of the police department in a city or town.

10.03: continued

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

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

SRO Certification. A specialized certification of an individual as an SRO under M.G.L. c. 6E, § 3(b).

SRO-MOU Commission. The Model School Resource Officer Memorandum of Understanding Review Commission established under M.G.L. c. 71, § 37P(b).

10.04: SRO Certification Requirement

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

- (a) The individual, an agency, or an officer to represent that the individual is an SRO; or
- (b) The individual to serve as an officer appointed by the chief of police who is specially charged with performing all the following duties:

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

(2) An individual is not required to possess an SRO certification in circumstances other than those described in 555 CMR 10.04(1).

10.05: Application for SRO Certification

(1) The Division shall develop, and shall make available on the Commission website, an application form by which an officer or an officer's chief of police may apply for SRO certification for the officer, which form shall, in part:

- (a) Direct the applicant to ensure that the information and materials identified in 555 CMR 10.05(3) are submitted to the Division;
- (b) Require the officer to agree that, when acting as an SRO, the officer will not: serve as a school disciplinarian, an enforcer of school regulations or in place of licensed school psychologists, psychiatrists or counselors; or use police powers to address traditional school discipline issues, including non-violent disruptive behavior;
- (c) Require the applicant to make any assertions in the application under the pains and penalties of perjury;
- (d) Request that the applicant identify the head of the applicant's collective bargaining unit, if any; and
- (e) Require the applicant to provide an email address that may be used for correspondence related to the SRO certification process for each of the following:
 1. The applicant;
 2. The individual for whom SRO certification is sought;
 3. The individual's chief of police; and
 4. The head of the individual's collective bargaining unit, if the unit head is identified by name in the application.

(2) The Executive Director shall set a deadline for the submission of applications for SRO certification for individuals who are serving as SROs on the effective date of 555 CMR 10.00.

- (a) An officer or chief of police may request that the Executive Director grant an extension of the initial deadline or any revised deadline, provided that the requester identifies, in writing, each individual to which the request applies.
- (b) The Executive Director may extend the initial deadline or any revised deadline, provided that no extension exceeds 30 calendar days.



Fact Sheet

www.cops.usdoj.gov

Safe Policing for Safe Communities

Section 2. Standards for Certification

Implementation of the Executive Order on Safe Policing for Safe Communities

On June 16, 2020, President Donald J. Trump issued Executive Order (EO) 13929 on Safe Policing for Safe Communities.¹ The EO's goal is to ensure that law enforcement agencies continue striving to provide transparent, safe, and accountable delivery of services to communities. This delivery will enhance community confidence in law enforcement and facilitate the identification and correction of internal issues before they result in injury to the public or to law enforcement officers.

Pursuant to authority vested in the Attorney General by the EO, a group of designated organizations will serve as the independent credentialing bodies. An independent credentialing body will be responsible for certifying that an applying law enforcement agency is in compliance with two mandatory safe policing principles in the U.S. Department of Justice (DOJ) *Standards of Certification*. A list of approved certifying agencies and the DOJ Standards of Certification can be found at <https://cops.usdoj.gov/SafePolicingEO>.

Contact the COPS Office

For more information about COPS Office programs and resources, please call the COPS Office Customer Care Center at 800-421-6770 or by email at AskCopsRC@usdoj.gov or visit the COPS Office website at www.cops.usdoj.gov.

The DOJ *Standards of Certification* identifies two **safe policing principles that independent credentialing bodies must consider**² when assessing certification of applying law enforcement agencies:

- 1. Adherence to applicable laws.** The applying agency maintains use of force policies that adhere to all applicable federal, state, and local laws.³
- 2. Prohibition of choke holds.** The applying agency maintains use of force policies that prohibit the use of choke holds,⁴ except in situations where the use of deadly force is allowed by law.

Certification of adherence to the two required principles is a prerequisite to a law enforcement agency's eligibility for DOJ discretionary grant funding. Agencies will be required to be certified or in the process of certification at the time of grant application in order to be eligible for DOJ discretionary grant funds in that year's funding cycle. Certifications will be good for three years from their date of issue. The credentialing body will maintain a list of certified agencies within its jurisdiction and submit this list **by January 31** to the DOJ's Office of Community Oriented Policing Services (COPS Office), which will serve as the repository for the list of all eligible law enforcement agencies.

Independent credentialing bodies in each state will be able to provide agencies with guidance on how they can obtain certification. Agencies should contact their state bodies directly for this information. Agencies in areas where there is not an independent credentialing body should contact the International Association of Directors of Law Enforcement Standards and Training (IADLEST).

1. The White House, *Executive Order on Safe Policing for Safe Communities*, Executive Order 13929, June 16, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-safe-policing-safe-communities/>.

2. The DOJ *Standards* document identifies other factors that the credentialing bodies may also consider in their own reviews.

3. Policies apply to both paid and volunteer law enforcement officers.

4. A *choke hold* is a physical maneuver or technique that restricts an individual's ability to breathe for the purpose of incapacitation.

Frequently Asked Questions

FOR ALL

EO 13929 and the DOJ *Standards of Certification* apply to which entities?

The EO and DOJ *Standards of Certification* are applicable to state, local, and university or college law enforcement agencies (LEA) seeking DOJ discretionary (i.e., competitive) grant funding. They do not apply to tribal law enforcement agencies.

How are law enforcement officers or deputies defined?

A law enforcement officer or deputy is a state, local, or university or college employee or volunteer who is licensed under applicable state law or certified by an applicable POST commission.

Are state, county, or local agencies that house offenders but do not have arrest authority or who are not otherwise considered by the state to be an LEA required to be certified?

Agencies that employ officers who meet the definition of a law enforcement officer as described in the EO and prescribed by state statute or regulatory measure should be certified.

Are parole and probation agencies required to be certified?

If the parole and probation agency (1) employs officers who meet the definition of a law enforcement officer as described in the EO and prescribed by state statute or regulatory measure and (2) applies for federal funding from a DOJ component, the agency should be certified.

Are methods to reduce blood flow included in the definition of a choke hold?

According to the EO, a choke hold is defined as "a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation." Therefore, methods to reduce blood flow are not included.

What does "in process of certification" mean?

A law enforcement agency is considered in the process of certification if they have contacted an independent credentialing body to begin the process of certification. For the purposes of applying for an award, the law enforcement agency will need to affirm that they are in process of certification with the funding application.

Where do I go if I have questions or receive inquiries?

For questions related to the certification process, we encourage you to reach out to your state or national certification organization. Updated information will continue to be posted to the COPS Office website at <https://cops.usdoj.gov>, and you may also contact the COPS Office at 800-421-6770.

FOR INDEPENDENT CREDENTIALING BODIES

What entity will serve as the primary credentialing or certifying body for law enforcement agencies seeking certification?

In states where there is a state accreditation program, that accreditation program will serve as the primary credentialing or certifying body. If the program has or experiences a capacity challenge (meaning the volume of requests exceeds its capabilities), the default credentialing or certifying body will be the respective Peace Officer Standards and Training (POST) board. In states without an existing accreditation program, the state POST will be responsible for certifying agencies. IADLEST will be available to provide assistance to these states without certifying agencies.

The Commission on Accreditation for Law Enforcement Agencies (CALEA) will serve as the certifying body for its client pool; however, if a requesting agency would prefer certification from its state accreditation program (if a program exists in its state), the state accreditation program will serve as the certifying body.

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Frequently Asked Questions, *cont'd*

The International Association of Campus Law Enforcement Administrators (IACLEA) will serve as the certifying body for its client pool of colleges and universities; however, if a requesting law enforcement agency prefers to be certified by a state accreditation program, the state program will serve to certify the agency.

What processes will certifying entities use to issue their certifications?

Each individual certifying entity will develop its own locally tailored process. Some may conduct policy reviews of law enforcement agencies to ensure that they are compliant with the two mandatory requirements of the EO. Other entities may request that law enforcement agencies provide a statement of declaration attesting that agency policy has been reviewed and is compliant with the EO. The statement of declaration is a legally binding document and assures that the agency head has reviewed the policy or policies and complies with the two mandatory requirements of the EO. Other certifying entities may require both a policy review and a statement of declaration or other means that they develop to assure that agencies are in compliance. Beginning in 2021, on or before January 31 of each year, independent credentialing bodies must provide the names of each certified law enforcement agency to the Director of the COPS Office or his or her delegate. Each certified law enforcement agency is qualified to receive DOJ discretionary funds for up to (i) 36 months from the date of its most recent certification by an independent credentialing body or (ii) the life cycle of any discretionary grant awarded, whichever is longer.

Should the credentialing bodies review the policies after the LEA has certified compliance?

There are three approaches to certifying law enforcement agencies to meet the requirements of the EO:

1. The chief, sheriff, or chief executive officer of the law enforcement agency submits to the certifying body a "letter of declaration" attesting that their agency is in compliance with the two mandatory conditions of the EO.

2. The certifying body may choose to review the use of force policies for compliance with the understanding that the certification applies only to the mandatory requirements. This option will serve two purposes: (1) for the certifying body to develop a comprehensive set of best practices and (2) to determine which agencies are including in their respective policies the "should" principles spelled out in the EO.
3. This option is a combination of the first two options whereby the certifying body accepts a "letter of declaration" for certification but will also at a later date review the other "should" principles.

One of the requirements of certification is that the applying agency maintain use of force policies that adhere to all applicable federal, state, and local laws. What are the applicable federal laws?

The federal laws pertaining to use of force are context-specific and as such cannot be succinctly defined in their entirety for a state or local law enforcement agency. At a minimum, law enforcement agencies may want to review 18 U.S.C. § 242, Deprivation of Rights Under the Color of Law; 42 U.S.C. § 1983, Civil Action for Deprivation of Rights; and federal case law such as the following:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- *Tennessee v. Garner*, 471 U.S. 1 (1985)
- *Kingsley v. Hendrickson*, 576 U.S. 389 (2015)
- *Whitley v. Albers*, 475 U.S. 312 (1986)
- *Albright v. Oliver*, 510 U.S. 266 (1994)
- *Brothers v. Klevenhagen*, 28 F.3d 452 (5th Cir. 1994)
- *Wright v. Whiddon*, 951 F.2d 297 (11th Cir. 1992)

We plan on having law enforcement agencies submit a letter of declaration for the certification process. Is an agency allowed to submit the letter with an electronic signature?

The COPS Office will accept an electronic signature on documents submitted to us. However, agencies should consult with state and local laws to determine if electronic signatures are allowed on legal documents.

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Frequently Asked Questions, *cont'd*

Are the independent credentialing bodies authorized to start work right away?

Yes. The independent credentialing bodies are authorized to start certifying law enforcement agencies.

Who can help the credentialing body develop its process for certification, particularly if it doesn't already have one?

For existing state accreditation programs that do not have an established process, programs in Texas, Michigan, Tennessee, and New Jersey are available to provide technical assistance at no cost to assist in the development of a process, forms, etc. For states without an accreditation program, IADLEST will provide technical assistance at no cost to assist in the development process (including forms, etc.).

I am an independent credentialing body. How do I submit my list of certified agencies?

Certifying entities will be provided a standardized spreadsheet on which to capture the list of agencies they have certified. Credentialing bodies will be provided additional information on the submission process.

What identifiers will need to be collected from agencies applying for certification?

The COPS Office will need to have the following identifiers to be able to match lists obtained from the independent certifying bodies to agencies applying for funding:

- Originating Agency Identifier (ORI)
- Employer Identification Number (EIN)
- Data Universal Number System (DUNS) number
- Agency name
- Agency address
- The name of the agency's chief executive.

ORI is assigned by the Federal Bureau of Investigation for crime reporting. EIN is assigned by the Internal Revenue Service and can be found on an employee's W2 or payroll statement. A DUNS number is a unique nine- or 13-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds.

When is the list of certified agencies due to the COPS Office?

Please submit your list of certified agencies to the COPS Office each year by January 31.

How were the credentialing bodies identified?

The agencies that have been initially identified to serve as the credentialing bodies are organizations that are recognized for routinely establishing law enforcement standards and processes for reviewing adherence to those standards. The Attorney General has sole discretion for the selection of these organizations.

How can corrections be made to the names of participating credentialing bodies?

If a credentialing body has an update to how their name is listed, please contact the COPS Office.

Is there a process of becoming a DOJ-approved independent credentialing body?

The Attorney General has already identified numerous entities to serve in this capacity. However, an entity inquiring about becoming a DOJ-approved independent credentialing body can petition the DOJ by submitting an application to the Director of the COPS Office. Applications should include (1) the name of the entity, (2) point of contact and contact information, and (3) detailed information as to why the entity requires the ability to serve as an independent credentialing body.

FOR LAW ENFORCEMENT AGENCIES

As it relates to certification of safe policing standards, what does an LEA that plans to apply for DOJ discretionary grant funds in fiscal year (FY) 2021* need to do?

LEAs that plan to *or could* apply to receive DOJ discretionary grant funds should begin reviewing their policies to determine whether they meet the criteria as set forth in the *Standards of Certification*.

* FY 2021 grant solicitations occur between October 1, 2020, and September 30, 2021.

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Frequently Asked Questions, *cont'd*

LEAs can contact the DOJ-approved independent credentialing body or bodies in their state or a nationally recognized entity with questions and assistance. Those LEAs that believe they comply with the *Standards of Certification* can immediately initiate a letter to one of the independent credentialing bodies seeking further review and approval. LEAs that plan to apply for DOJ discretionary grant funds for FY 2021 must be certified or have started the certification process at the time of grant application.

Does the certification requirement apply to funds awarded prior to FY 2021?

No, the certification requirement does not apply to existing awards. The certification requirement will be applicable beginning with FY 2021 funds and going forward.

Will an LEA be permitted to apply for FY 2021 discretionary grant funds if it is not on the list of certified agencies submitted to the COPS Office by January 31, 2021?

Yes, applicants must affirm that they are certified or in the process of becoming certified as complying with safe policing practices at the time of making a grant application. Being in the process of receiving certification means that the LEA must have contacted a local credentialing body. Applicant agencies that are in the process of certification and that are selected to receive discretionary grant funds must be certified by the time they accept the grant award.

Do these requirements apply to LEAs receiving subawards from a primary grant recipient under a DOJ discretionary grant program?

Yes, DOJ discretionary grant program recipients are required to apply these eligibility requirements to any subrecipient state or local law enforcement agency. The EO does not apply to statutory-formula grant programs and therefore also does not apply to subawards made by statutory-formula grant recipients.

Will there be language about the *Standards of Certification* in the FY 2021 solicitations?

Yes. Specific language regarding certifications will be included in all FY 2021 solicitations.

Will the credentialing bodies charge a fee to certify pursuant to the EO and DOJ Standards?

Some credentialing bodies could charge a nominal fee to certify law enforcement agencies. LEAs can contact the DOJ-approved independent credentialing body or bodies in their state or a nationally recognized entity with questions and assistance.

What if there is not a credentialing body in the state?

LEAs that do not have a DOJ-approved independent credentialing body in their state may use one of the following approved nationally recognized entities:

- The Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA)
- International Association of Campus Law Enforcement Administrators (IACLEA)
- International Association of Directors of Law Enforcement Standards and Training (IADLEST)

Can I use my CALEA or IACLEA accreditation in lieu of certification?

Agencies that have current active accreditation from CALEA or IACLEA may request certification from the respective agencies, and certification may be issued using the existing accreditation as a basis provided the required safe policing principles are also taken into consideration.

Is there recourse if my application for certification is denied?

Applying agencies denied certification by an independent credentialing body may make an appeal to the Deputy Attorney General for review and relief.

How often do I need to renew my certification?

The certifications will be valid for a three-year period and will need to be renewed according to that schedule.

MASSACHUSETTS Law Enforcement Agencies that have certified that they meet the use of force standards as presented in the DOJ guidance document. 12/31/2021

Agency ORI	Agency EIN	Agency DUNS	Agency Name	Assessor	City	State	Zip	Title of Chief/Executive	Chief/Executive Name	Date Certified	Policies Rec'd?
MA0030100	04-6001063	783950223	Acushnet Police Department	GM	Acushnet	MA	02743	Chief of Police	Christopher Richmond	02/23/21	Yes
MA0140400	04-6001080	956428973	Barre Police Department	GM	Barre	MA	01005	Chief of Police	John F. Carbone	02/23/21	Yes
MA0090600	04-6001082	097451355	Bedford Police Department	GM	Bedford	MA	01730	Chief of Police	Robert Bongiorno	02/22/21	Yes
MA0080200	04-6001083	956818116	Belchertown Police Department	GM	Belchertown	MA	01007	Chief of Police	Christopher G. Pronovost	02/18/21	Yes
MA0090800	04-6001089	604442004	Billerica Police Department	JF	Billerica	MA	01821	Chief of Police	Daniel Rosa	02/24/21	Yes
MA0090900	04-6001094	956161871	Boxborough Police Department	JF	Boxborough	MA	01719	Chief of Police	Warren B. Ryder	02/24/21	Yes
MA0010300	04-6001098	958272999	Brewster Police Department	JF	Brewster	MA	02631	Chief of Police	Heath J. Eldredge	03/04/21	Yes
MA0120200	04-6001099	079529939	Bridgewater Police Department	JF	Bridgewater	MA	02324	Chief of Police	Christopher D. Delmonte	03/01/21	Yes
MA0030000	04-6002284	556747269	Bristol County Sheriff's Office	JF	Dartmouth	MA	02747	Sheriff	Thomas M. Hodgson	04/09/21	Yes
MA0130300	04-6001384	114144954	Chelsea Police Department	MW	Chelsea	MA	02150	Chief of Police	Brian A. Kyes	02/21/21	Yes
MA0110700	04-6001128	603946401	Dedham Police Department	MW	Dedham	MA	02026	Chief of Police	Michael d'Entremont	02/21/21	Yes
MA0040001	27-3092654	021160366	Dukes County Sheriff's Office	MW	Edgartown	MA	02539	Sheriff	Robert W. Ogden	02/23/21	Yes
MA0070600	04-6001139	079218921	East Longmeadow Police Department	MW	East Longmeadow	MA	01028	Chief of Police	Mark A. Williams	02/21/21	Yes
MA0010600	04-6001140	047045810	Eastham Police Department	MW	Eastham	MA	02642	Chief of Police	Adam E. Bohannon	02/21/21	Yes
MA0080500	04-6001141	097440838	Easthampton Police Department	TD	Easthampton	MA	01027	Chief of Police	Robert J. Alberti	03/02/21	Yes
MA0030600	04-6001142	791904857	Easton Police Department	TD	North Easton	MA	02356	Chief of Police	Gary Sullivan	03/02/21	Yes
MA0050600	04-6001146	081579807	Essex Police Department	TD	Essex	MA	01929	Chief of Police	Paul D. Francis	03/02/21	Yes
MA0050000	04-6002284	782197149	Essex County Sheriff's Department	TD	Middleton	MA	01949	Sheriff	Kevin F. Coppinger	03/02/21	Yes
	04-6001388	627544414	Fitchburg Police Department	TD	Fitchburg	MA	01420	Chief of Police	Ernest F. Martineau	03/02/21	Yes
	04-6002284	120456244	Franklin Sheriff's Office	MW	Greenfield	MA	01301	Sheriff	Christopher J. Donegan	02/22/21	Yes
MA0080700	04-6001160	168745024	Granby Police Department	MW	Granby	MA	01033	Chief of Police	Alan P. Wishart, Jr.	02/23/21	Yes
MA0020900	04-6001162	051276814	Great Barrington Police Department	MW	Great Barrington	MA	01230	Chief of Police	Paul Storti	02/23/21	Yes
MA0091900	04-6001164	876444100	Groton Police Department	MW	Groton	MA	01450	Chief of Police	Michael F. Luth	02/23/21	Yes
	04-6001167	075370296	Halifax Police Department	MW	Halifax	MA	02338	Chief of Police	Joao A. Chaves	04/11/21	Yes
	04-6001169	956050611	Hampden Police Department	MW	Hampden	MA	01036	Chief of Police	Scott B. Trombley	09/15/21	Yes
	04-6002284	194885559	Hampden County Sheriff's Department	MW	Ludlow	MA	01056	Sheriff	Nicholas Cocchi	02/22/21	Yes
MA0080000	04-6002284	032699552	Hampshire Sheriff's Office	MW	Northampton	MA	01060	Sheriff	Patrick J. Cahillane	03/06/21	Yes
MA0120800	04-6001171	076620525	Hanover Police Department	GM	Hanover	MA	02339	Chief of Police	Walter L. Sweeney	04/28/21	Yes
MA0120900	04-6001172	945818946	Hanson Police Department	MW	Hanson	MA	02341	Chief of Police	Michael Miksch	03/06/21	Yes
MA0010800	04-6001175	949152110	Harwich Police Department	MW	Harwich	MA	02645	Chief of Police	David J. Guillemette	03/06/21	Yes
MA0092100	04-6001186	780570086	Hopkinton Police Department	MW	Hopkinton	MA	01748	Chief of Police	Joseph E. Bennett III	03/06/21	Yes
MA0121200	04-6001192	957632383	Kingston Police Department	MW	Kingston	MA	02364	Chief of Police	Maurice J. Splaine	03/06/21	Yes
MA0051300	04-6001394	020229543	Lawrence Police Department	GM	Lawrence	MA	01840	Chief of Police	Roy P. Vasque	03/02/21	Yes
MA0142500	04-6006004	075364216	Leominster Police Department	GM	Leominster	MA	01453	Acting Chief of Police	Aaron Kennedy	03/03/21	Yes
MA0071100	04-6001204	603074170	Longmeadow Police Department	GM	Longmeadow	MA	01106	Chief of Police	Robert Stocks	03/11/21	Yes

MASSACHUSETTS Law Enforcement Agencies that have certified that they meet the use of force standards as presented in the DOJ guidance document. 12/31/2021

Agency ORI	Agency EIN	Agency DUNS	Agency Name	Assessor	City	State	Zip	Title of Chief/Executive	Chief/Executive Name	Date Certified	Policies Rec'd?
MA0071200	04-6001205	066982414	Ludlow Police Department	GM	Ludlow	MA	01056	Chief of Police	Daniel J. Valadas	03/03/21	Yes
MA0146200		968099387	Lunenburg Police Department	GM	Lunenburg	MA	01462	Chief of Police	Thomas L. Gammel	03/02/21	yes
MA0092800	04-6001399	045633484	Marlborough Police Department	GM	Marlborough	MA	01752	Chief of Police	David A. Giorgi	03/12/21	yes
	04-6001215	956406714	Maynard Police Department	GM	Maynard	MA	01754	Chief of Police	Michael A. Noble	03/12/21	Yes
	04-6001401		Melrose Police Department	GM	Melrose	MA	02176	Chief of Police	Michael L. Lyle	03/15/21	Yes
MA0143000	04-6001227	801261863	Milville Police Department	GM	Milville	MA	01529	Chief of Police	Ronald S. Landry	03/11/21	Yes
MA0073000	04-6001230	604449660	Monson Police Department	GM	Monson	MA	01057	Chief of Police	Stephen Kozloski	06/21/21	Yes
	04-6001231	957915853	Montague Police Department	GM	Turners Falls	MA	01376	Chief of Police	Chris Williams	05/14/21	Yes
	04-6001244	781574751	Norfolk Police Department	GM	Norfolk	MA	02056	Chief of Police	Charles H. Stone, Jr.	03/23/21	Yes
MA0031200	04-6001246	808052679	North Attleboro Police Department	GM	North Attleboro	MA	02760	Chief of Police	John J. Reilly	03/22/21	Yes
MA0081200	04-6001406	079217444	Northampton Police Department	GM	Northampton	MA	01060	Chief of Police	Jody Kasper	03/23/21	Yes
MA0011000	04-6001258	071715957	Orleans Police Department	GM	Orleans	MA	02653	Chief of Police	Scott W. MacDonald	05/14/21	Yes
MA0071500	04-6001261	140233458	Palmer Police Department	GM	Palmer	MA	01069	Chief of Police	Christopher J. Burns	03/31/21	Yes
MA0052500	04-6001407	062158563	Peabody Police Department	GM	Peabody	MA	01960	Chief of Police	Thomas M. Griffin	03/24/21	Yes
MA0121900	04-6001264	957103351	Pembroke Police Department	MW	Pembroke	MA	02359	Interim Chief of Police	Richard G. MacDonald	03/21/21	Yes
MA0122000	04-6001271	083386508	Plymouth Police Department	MW	Plymouth	MA	02360	Chief of Police	Michael Botieri	03/21/21	Yes
MA0011100	04-6001274	088522842	Provincetown Police Department	GM	Provincetown	MA	02657	Chief of Police	James F. Golden	05/14/21	Yes
	04-6001409	106413537	Quincy Police Department	MW	Quincy	MA	02169	Chief of Police	Paul Keenan	03/21/21	Yes
MA0112100	04-6001275	195754718	Randolph Police Department	MW	Randolph	MA	02368	Chief of Police	William F. Pace	03/21/21	Yes
	04-6001284	557447992	Rowley Police Department	TD	Rowley	MA	01969	Chief of Police	Scott A. Dumas	04/03/21	Yes
MA0031600	04-6001294	604502088	Seekonk Police Department	TD	Seekonk	MA	02771	Chief of Police	Dean Isabella	03/31/21	Yes
MA0031700	04-6001302	099422255	Somerset Police Department	TD	Somerset	MA	02726	Chief of Police	GM	03/31/21	Yes
	04-6001302	066982950	South Hadley Police Department	TD	South Hadley	MA	01075	Chief of Police	Jennifer Gundersen	04/04/21	Yes
MA0144400	04-6001305	956411706	Southborough Police Department	TD	Southborough	MA	01772	Chief of Police	Kenneth M. Paulhus	04/04/21	Yes
MA0144500	04-6001306		Southbridge Police Department	GM	Southbridge	MA	01550	Chief of Police	Shane D. Woodson	04/05/21	Yes
MA0073300	04-2444774	066983636	Springfield Technical Community College Police Department	GM	Springfield	MA	01102	Chief of Police	Jose Rivera	04/02/21	Yes
MA0094100	04-6001313	025901398	Stow Police Department	GM	Stow	MA	01775	Chief of Police	Michael Sallase	04/02/21	Yes
MA0144800	04-6001314	783977770	Sturbridge Police Department	GM	Sturbridge	MA	01566	Chief of Police	Earl J. Dessert	04/07/21	Yes
MA0040600	04-6001232	149043213	Tisbury Police Department	GM	Vineyard Haven	MA	02568	Chief of Police	Mark G. Saloio	04/26/21	Yes
MA0053200	04-6001325	949858070	Topsfield Police Department	GM	Topsfield	MA	01923	Chief of Police	Neal S. Hovey	04/23/21	Yes
	04-6001328	781246558	Tyngsborough Police Department	MW	Tyngsborough	MA	01879	Chief of Police	Richard Howe	04/26/21	Yes
MA0072000	04-6001333		Wales Police Department	MW	Wales	MA	01081	Chief of Police	Earl Dessert	04/26/21	Yes
MA0112500	04-60001343	076617935	Wellesley Police Department	GM	Wellesley	MA	02482	Chief of Police	Jack Pilecki	04/23/21	Yes
	04-6001349	160213682	West Bridgewater Police Department	GM	West Bridgewater	MA	02379	Chief of Police	Victor R. Flaherty, Jr.	05/27/21	Yes
MA0145800	04-6001359	961470747	Westminster Police Department	MW	Westminster	MA	01473	Acting Chief of Police	Ralph LeBlanc	04/12/21	Yes

MASSACHUSETTS Law Enforcement Agencies that have certified that they meet the use of force standards as presented in the DOJ guidance document. 12/31/2021

Agency ORI	Agency EIN	Agency DUNS	Agency Name	Assessor	City	State	Zip	Title of Chief/Executive	Chief/Executive Name	Date Certified	Policies Rec'd?
MA0112700	04-6001363	945543742	Weymouth Police Department	MW	Weymouth	MA	02188	Chief of Police	Richard M. Fuller	04/12/21	Yes
MA0095400	04-6001417	608187332	Woburn Police Department	GM	Woburn	MA	01801	Chief of Police	Robert F. Rufo, Jr.	05/14/21	Yes
	04-6002284		Worcester County Sheriff's Office	MW	West Boylston	MA	01520	Superintendent	David H. Tuttle	04/20/21	Yes
	04-2121659	041508581	Worcester Polytechnic Institute Police Department	MW	Worcester	MA	01609	Chief of Police	Cheryl Martunas	04/12/21	Yes
MA0011500	04-6001377	079515607	Yarmouth Police Department	MW	West Yarmouth	MA	02673	Chief of Police	Frank Frederickson	04/12/21	Yes

meet the use of force standards as presented in the DOJ guidance document. 06/11/23												
Agency ORI	Agency EIN	Agency UEI	Agency DUNS	Agency Name	Assessor	City	State	Zip	Title of Chief Executive Officer	Chief/Executive Name	Date Certified	Policies Rec'd?
MA0130100	046-00-1380	KJBSAU7MXX7	808850333	Boston Police Department	MW	Boston	MA	02114	Commissioner	Michael Cox	05/10/23	Yes
MA0071700	046-00-1307	not provided	021725031	Southwick Police Department	MW	Southwick	MA	01077	Chief of Police	Robert Landis	06/02/23	Yes
MA0021900	046-00-1405	not provided	829717839	North Adams Police Department	MW	North Adams	MA	01247	Chief of Police (interim)	Mark Bailey	06/23/23	Yes

Lee, Annie (PST)

From: Lisa Thureau <lht@strategiesforyouth.org>
Sent: Wednesday, August 7, 2024 4:22 PM
To: Lee, Annie (PST); Ravitz, Randall E (PST); Zuniga, Enrique (PST)
Cc: Kristen Wheeler; Shelly Jackson
Subject: Comments on LEA Certification
Attachments: SFY Letter to POST 080724.pdf

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Annie:

Thank you for inviting us to share additional considerations about certification of LEAs.

Attached is a letter that outlines some concerns.

Regards,

Lisa Thureau

Lisa H. Thureau
Executive Director

lht@strategiesforyouth.org

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August 7, 2024

By Email

Annie E. Lee, Esq.
Randall E. Ravitz, General Counsel
Enrique A. Zuniga, Executive Director
Peace Officers Standards & Training
School Street
Boston, MA

RE: LEA Certification Standards

Dear Ms. Lee, Mr. Ravitz and Mr. Zuniga:

Thank you for your email of July 12, 2024 inviting Strategies for Youth to submit comments on LEA certification. We appreciate the opportunity to share with you our views on creating Juvenile Operations standards, as well as additional standards in the categories of administration, personnel, training, instructional requirements, and operations.

In addition to providing initial comments consistent with your request, this letter is to also confirm that we are currently developing a short white paper for the POST on the definition and scope of one of the core eight statutorily mandated standards: "Juvenile Operations." While SFY has previously provided the POST with our 12 Model Law Enforcement Policies for Interactions with Youth, all of which we would consider under the umbrella of "Juvenile Operations," these model policies focus primarily on interactions with youth in the delinquency context. However, law enforcement is also involved in a wide array of interactions with youth at the behest of child welfare authorities in myriad situations, ranging from petitions to terminate parental rights to protecting youth during domestic violence incidents. As such, we will be offering additional thoughts on the breadth of "Juvenile Operations," through the above referenced white paper.

In response to the current solicitation for comments on standards for LEA certification beyond the core eight statutorily mandated standards, in the categories of administration, personnel and training, and operations, SFY has three primary recommendations:

1. Training

- Paramount to the effectiveness of any standard and associated policy, is the requirement that officers be trained on those standards and associated policies.
- As such, the POST should create a standard that mandates that all statutorily required policies for LEAs be coupled with the relevant training.
- SFY would be interested in working with and supporting the MPTC in the development of a training related to “Juvenile Operations,” that integrates policies in its training requirements for supporting effective interactions between law enforcement and youth.

2. Administration

- All LEAs should be required to collect data on youth who are engaged by law enforcement and referred to the juvenile justice system, including data on the officers involved, the location of incidents, and important demographics of the youth, including age, race, disability, and LGBTQ+ status.
- Notably, the state’s 2018 Criminal Justice Reform bill encouraged Massachusetts law enforcement agencies to collect such data but only 35 of the 352 agencies did so. Similarly, just 20 years ago, only 54% of state LEAs submitted such data to the federal government. Indeed, efforts to enact a statute that would collect such data have been routinely blocked in the last 12 legislative sessions, including by organizations representing law enforcement.
- Making meaningful data collection a requirement of certification will surely increase data collected and assist LEAs in planning how to deploy resources based on firm data.

3. Code of Conduct

- Officers and all members of an LEA should be expected to adhere to a Code of Conduct that reflects a special obligation to protect children and youth who cannot always protect themselves, and who may be especially vulnerable to predatory behaviors of adults, [including sexual exploitation](#). In the context of working with youth, reiteration of this value should occur at the administrative

level through the code of conduct and associated discipline, and in all instructional efforts within agencies and through the MPTC.

Finally, SFY wants to raise the issue recently discussed at the August 1, 2024 public hearing regarding the POST's proposed regulations for audits of LEAs. While SFY endorses and is hopeful for the comprehensive approach the POST has adopted for the audits, we have some questions and ideas regarding the metrics of LEA compliance for functions involving juvenile operations. Similarly, we hope the POST will consider persons with special expertise in working with youth when assigning evaluators to ensure compliance of the LEA (and LEOs) with auditing requirements.

We look forward to continuing our partnership with the POST and sharing additional ideas and concerns.

Sincerely yours,



Lisa H. Thurau,
Executive Director

Cc:

Shelley R. Jackson, Esq.
Kristen E. Wheeler, Esq.

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Thursday, August 8, 2024 4:47 PM
To: Lee, Annie (PST)
Cc: Ennis, Jamie (PST)
Subject: FW: LEA Certification Standards
Attachments: Resource Addendum.pdf

From: Deborah D. Werneburg <ddwerneburg@jri.org>
Sent: Thursday, August 8, 2024 4:24 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Subject: LEA Certification Standards

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Dear Commission:

Thank you for including Justice Resource Institute, Inc. (JRI) in your request for input as you further develop the law enforcement agency (LEA) certification program. Peace Officer Standards and Trainer (POST) is critical to our communities, as it directly impacts every law enforcement department we work with throughout the Commonwealth. The Massachusetts Peace Officer Standards and Training Commissioner has the honor and mission to “improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all peace officers in the Commonwealth.” JRI is grateful for the dedicated and commendable service of all commission members. This critical public service entails the intricate task of devising public policies that establish a framework of transparency, accountability, and training. We commend all commission members for their service.

JRI has been providing services throughout the Commonwealth since 1973. The scope of our work has crossed all law enforcement agencies throughout Massachusetts and service needs. In the interest of being brief, we will not include the scope, history, and services JRI has provided with LE to communities for over 50 years. We respectfully submit the following recommendations:

I. General Recommendations

- JRI suggests that before introducing additional LEA certification standards, the Commission should first assure that the current eight statutorily mandated LEA standards have been successfully adopted, implemented, and anchored across all Massachusetts police departments.
- It may also benefit the goals of the Commission to create feedback and data collection systems on the introduction and rollout of the currently required LEA standards to assess department challenges with meeting this initial expectation, and help identify potential supports to overcome the identified challenges, and to assist in the potential introduction of additional certification standards.

- JRI suggests that the introduction of the three additional LEA certification standards not be implemented at this time should their introduction negatively impact Massachusetts police departments resources that could in turn take away policing resources from our communities and impact the safety of the Commonwealth's citizens.
- Unfunded mandates: Any new state/ POST mandates must be funded appropriately and NOT risk public safety. For any new resources required for any and all mandates, an assessment should be made on what and if it would require any department to pull officers from patrol and the subsequent cost of coverage to assure public safety.
- Transparency and failed certification posts, public trust: The Certification list for 2023 was inaccurate. This should be corrected, updated, and disseminated for public review. <https://www.bostonglobe.com/2023/08/24/metro/massachusetts-police-discipline-database-issues/>
- Ask for feedback in real ways, which are public and include direct feedback from police departments about POST standard challenges. If no one replies, that is a problem, as valid input requires an adequate level of responses.
- We must take care of those entrusted to care for the safety of our communities.
- Town and Municipality LE are not entitled to free tuition: Let's allow these officers to get an education and find a way to support student loans for those educated to stay in service.

II.Administration

Community Engagement and Communication

- It is vital to encourage communication between the area police and agencies and collaborations within their catchment area. There are community meetings bringing together professionals across multiple disciplines to hold case conferences assisting individuals and families in need. Having the police department be a part of these meetings can assist in sharing information and accessing resources for people in need. Please see the attached Resource Addendum for a list of community engagement opportunities.

Planning and Research:

- It is important for departments to review the available evidence regarding the effectiveness of potential practices that are being proposed. Please see the Resource Addendum for information on a searchable database of relevant resources.
- Data collection and analysis processes will enable departments to objectively evaluate if identified goals and objectives are being met. Consider utilizing metrics that are already being collected – such as the number of instances of use of force with a minor during a defined period of time (i.e. month or quarter) - at baseline (i.e. before implementing a new practice) and at follow up (i.e. after implementing a new practice).

Agency Wellness: Departments should offer a multi-phase system of response to stress and trauma within their own environments, including support related to Prevention, Stabilization, and Restoration. Employees should have access to resources that can be utilized independently and as a tool for department leaders to utilize with groups. Below is a list of specific recommendations related to agency wellness and building officer resiliency. Resources supporting these efforts are included in the attached Resource Addendum.

III. Personnel and Training

Anti-Sexual Harassment:

- Updated trainings should emphasize the "bystander" point of view, as few people inherently identify as a "harasser" or a "victim" during the time of training. Thinking of oneself as the bystander builds capacity for watching out for sexual harassment as well as knowing what to do if you are experiencing sexual harassment yourself.
- Training should embed gender and sexuality spectrum conversations into examples.

Training:

- Educate officers about specific issues related to children and adolescents through hands-on, first-hand experiences by spending some time with the children at residential programs, specialized schools, etc. This should help encourage a better understanding of ways to communicate and interact with children experiencing difficulties such as Autism Spectrum Disorder, ADHD, aggression, etc. See attached Resource Addendum for information on the Yale Child Development-Community Policing Program.
- Add newer, specialized training material, such as the White Paper on the Science of Late Adolescence. See the attached Resource Addendum for details.
- Incorporate staff training on power and privilege and psychological safety.

IV. Operations

Persons in custody:

- Transport for adults and juveniles should be separated, not transported together. Specifically, when a juvenile is committed to Motivating Youth Recovery in Worcester, MA, after being found a danger to themselves due to their substance misuse, they must be transported to this facility by Sheriff's van. This mode of transportation adds to the already heightened, emotionally charged situation for the youth.

De-escalation:

- Utilize role-playing scenarios to learn calmer ways of approaching a heightened situation involving children and adolescents.
- Utilize information learned from training on the developing adolescent brain to understand ways to approach and communicate with children/adolescents. For example, do not question them within earshot of others, but do ask them if they want a trusted adult present; tell them you want to hear their point of view, their opinion about the current situation; do not go into classrooms to remove a child – ask them to come to the office or have them sent home if feasible.

- Teach officers quick stress-relieving techniques to practice with people during heightened situations, like structured deep breathing, focusing on senses, or stretching.

Crisis Intervention: JRI is part of the orientation for the Crisis Intervention Team Youth (CIT-Y) training for Braintree Police Department, providing training on understanding the mental health needs of youth. Our recommendations include:

- Officers must recognize and understand a child’s perspective during any situation – they most likely have no control within the current situation, and they will tend to act impulsively without thought of potential consequences. Offering a child choices assist in giving him/her a sense of control. For example, when an officer responds to a domestic dispute between a child and his mother, the officer could ask the child if he wants to share his perspective with him alone or with his aunt present, outside or in his bedroom.
- Officers should define and clearly communicate their role and authority in each situation/encounter at the outset with community members, including youth and families, and agency representatives working with them within the community.

This concludes JRI’s recommendations in general and within the topics of administration, personnel and training, and operations. Contributors to this document are listed below. Thank you again, for including us in your request for input regarding the law enforcement agency (LEA) certification program. We value the work of the Peace Officers and appreciate the efforts of the commission.

Sincerely,

Deborah Werneburg

Deborah Werneburg (she/her)
Agency Grant Writer
Justice Resource Institute, Inc.
160 Gould Street, Suite 300
Needham, MA 02494
www.jri.org

Contributors:

Mia DeMarco, MPA, President and Chief Executive Officer

Mia began working in the human service field in 1992 as a Direct Care Staff for JRI. She received her MPA from Suffolk University and completed the Executive Education Program at Harvard University. After becoming a Program Director of Glenhaven Academy in 2001 and then a Division Director, Mia continued to take on roles of increasing responsibility, such as of Vice President at JRI in 2009, Senior Vice President in 2012, followed by Chief Operating Officer. Mia was selected as President and CEO in 2024.

Robert S. Gervais, Vice President of Operations

Robert joined JRI in 1997 and since this time, he performed in escalating leadership capacities across an array of congregate treatment models. Robert’s role changed in 2018 when he was promoted into the organizational-wide position of Vice President of Operations in which he currently works closely with the JRI senior executive team in developing, holding, and supporting numerous organizational systems and operations. Robert also continues to directly oversee a diverse portfolio of programs and divisions. Robert earned a Bachelor’s degree in sociology from Suffolk University, a Master’s degree in business with a concentration in management, project management, and operations from Southern New Hampshire

University, as well as completed both the Executive and Performance leadership programs from Cornell University's SC Johnson College of Business.

Meredith Rapoza, LMHC, Senior Director of Quality and Compliance

Meredith began her career at JRI in 2005 as a clinician and since then has held various clinical and program leadership positions including her most recent position leading QM for Massachusetts congregate care. Meredith has a bachelor's degree from Providence College, a Master's degree from Rhode Island College and is an independently licensed mental health counselor (LMHC).

Tara Sagor, Director of Training and Trauma Response

Tara received her Certificate of Advanced Graduate Studies in Counseling Psychology from Lesley University where she is currently an adjunct professor in their graduate department. She has 14 years of experience within residential programs in various roles across departments including educationally, clinically and within the residential milieu. She has spent the majority of her professional career working with adolescents and their caregivers at Glenhaven Academy, a facility specializing in the treatment of complex trauma. She has also worked within inpatient settings and for child advocacy centers. She is trained in Sensory-Motor Arousal Regulation Treatment (SMART), Neurofeedback and Trauma-focused CBT. She has led multiple training initiatives and implementation teams to establish high standards of trauma-informed treatment within programs both internally and through her role as a consultant.

Hilary Hodgdon, Ph.D., Director of Research

Dr. Hodgdon is a licensed clinical psychologist, trainer and researcher specializing in the study and treatment of traumatic stress. She received her Ph.D. in Clinical Psychology from Temple University in 2009. Dr. Hodgdon is the Research Director of Justice Resource Institute (JRI) and serves as the Principal Investigator of a National Child Traumatic Stress Network (NCTSN) Category II Training center focused on dissemination of evidenced based practices for trauma-impacted children, youth, and families both locally and nationally. Through her role as JRI's Research Director, Dr. Hodgdon conducts treatment outcome and basic science research with trauma-impacted populations, co-chairs the Institutional Review Board, oversees federal grant funded initiatives, and manages academic collaborations. She is a certified trainer in the Child Welfare Toolkit and Resource Parent Curriculums of the NCTSN and the Attachment, Regulation and Competency (ARC) treatment framework for children with complex trauma. Dr. Hodgdon provides training on the neurobiology and developmental impact of complex trauma and evidenced based interventions for traumatic stress to a variety of provider groups including social workers, mental health practitioners, and administrative, milieu and nursing staff at outpatient, residential, inpatient and community mental health settings. Her research interests center on deepening understanding of the etiology and sequelae of childhood trauma, elucidating mechanisms that convey risk for psychopathology among vulnerable populations, and development and evaluation of trauma-informed treatment approaches. She has co-authored over two dozen peer reviewed journal articles and book chapters and presents regularly at scientific conferences, including ISTSS and APA. Dr. Hodgdon has extensive experience mentoring and supervising graduate students, clinical and research staff, interns and volunteers, and predoctoral and postdoctoral fellows in psychology.

Rebecca Harrington, LICSW, CJCC I, QSW, Program Director, Southeast Juvenile Court Clinic

Rebecca earned her BA in psychology with a minor in sociology at the State University of New York, College at Buffalo, before earning her MSW from Boston University in 1996. Her career includes working with children, adolescents, and families in residential treatment facilities, outpatient clinics, and DYS residential homes. She was the Outpatient Clinic Director for Catholic Charities in Brockton, MA, before beginning her career with the SE Juvenile Court Clinic Program through JRI in 2001. Working primarily in Plymouth County, she developed lasting relationships with court personnel and community agencies. After becoming a Certified Juvenile Court Clinician I, she was one of the first Qualified Social Workers appointed by the state and DMH to conduct Section 35 (civil commitment applications due to substance misuse) evaluations for the court. In 2021,

Rebecca transitioned into the Southeast Juvenile Court Clinic Program Director role, collaborating with the other Juvenile Court Clinic Program Directors across the state, participating in statewide initiatives and programming (including Care and Protections evaluations, the Certified Juvenile Court Clinician credentialing panel, and the Massachusetts Alliance for Juvenile Court Clinics – MAJCC). Rebecca continues to develop and oversee the student intern program for both Master’s level and Doctoral level students for the SE Juvenile Court Clinics.

AGENCY WELLNESS RESOURCES:

Resources and examples of training for Law Enforcement on the topics of Vicarious Trauma / Secondary Traumatic Stress and officer wellness:

1. **OVC Training and Technical Assistance Center:** <https://ovc.ojp.gov/program/law-enforcement/overview>
 - a. **What is Vicarious Trauma?:** <https://ovc.ojp.gov/program/vtt/what-is-vicarious-trauma>
 - b. **The Vicarious Trauma Toolkit:** <https://ovc.ojp.gov/program/vtt/introduction>
 - c. **The Vicarious Trauma – Organizational Readiness Guide (VT-ORG):** <https://ovc.ojp.gov/program/vtt/vt-org-and-compendium>
 - d. **OVC Vicarious Trauma Toolkit – Tools for Law Enforcement:** <https://ovc.ojp.gov/program/vtt/tools-law-enforcement>
 - e. **OVC TTAC Compassion Fatigue/Vicarious Trauma:** <https://www.ovcttac.gov/views/TrainingMaterials/dspTrainingByRequest.cfm?nm=tta&ns=td&nt=cfvt>
2. **Police1 – 6 trauma management best practices for police organizations**
 - a. <https://www.police1.com/wellness-week/articles/6-trauma-management-best-practices-for-police-organizations-072vcMU52kLWSRhH/>
3. **IACP Vicarious Trauma Response Initiative**
 - a. <https://www.theiacp.org/projects/vicarious-trauma-response-initiative>
4. **National Child Traumatic Stress Network (NCTSN):**
 - a. **Creating a Trauma-Informed Law Enforcement System**
 - i. <https://www.nctsn.org/resources/service-systems-brief-creating-trauma-informed-law-enforcement-system>
 - b. **Secondary Traumatic Stress**
 - i. <https://www.nctsn.org/trauma-informed-care/secondary-traumatic-stress>
 - ii. <https://www.nctsn.org/trauma-informed-care/secondary-traumatic-stress/introduction>
 - iii. <https://www.nctsn.org/trauma-informed-care/secondary-traumatic-stress/nctsn-resources>
 - iv. <https://www.nctsn.org/trauma-informed-care/creating-trauma-informed-systems/justice>

Work that is currently being done in the Commonwealth regarding officer wellness that may serve as an example for other departments:

1. **Boston Police Foundation**
 - a. <https://bostonpolicefoundation.org/officer-wellness-and-safety/>
2. **Northampton Police Department**
 - a. <https://northamptonpd.com/employee-wellness.html>
3. **Great Barrington Police Department**
 - a. <https://greatbarringtonpolice.com/21st-century-policing/officer-wellness-and-safety/>
4. **City of Cambridge**
 - a. <https://www.cambridgema.gov/iwantto/learnaboutofficerwellness>
 - b. <https://www.cambridgema.gov/news/2016/09/cpdtraumatraining>

OFFICER TRAINING RESOURCES:

Resource: **Yale Child Development-Community Policing (CD-CP) Program**

- International Association of Chiefs of Police and Yale Child Study Center, *Enhancing Police Responses to Children Exposed to Violence: A Toolkit for Law Enforcement* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2017):
<https://ojdp.ojp.gov/library/publications/enhancing-police-responses-children-exposed-violence-toolkit-law-enforcement>
- <https://medicine.yale.edu/childstudy/services/community-and-schools-programs/yctsr/community-policing/>

Resource: White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys, and Policy Makers by Dr. Robert Kinscherff, Ph.D., J.D., CLBB Executive Director, 2022.

COMMUNITY ENGAGEMENT OPPORTUNITIES:

- HUBs currently being utilized in Plymouth County
<https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:167b47a6-77e8-4e4a-b239-41acb9b664b3>
- Local Systems of Care meetings are being held at most Community Service Agencies to address the needs of children, adolescents and families.
- Coordinating information with juvenile court clinicians in courthouses to review concerning cases, such as warrants of apprehension for sections 12 and 35.

PLANNING AND RESEARCH RESOURCE:

OVC Resource Compendium: A searchable database of a variety of resources including available research articles on organizational strategies and interventions for law enforcement (enter “Research Literature” under Resource Type and “Law Enforcement” under discipline)

<https://ovc.ojp.gov/program/vtt/compendium-resources>

Lee, Annie (PST)

From: POSTCcomments (PST)
Sent: Thursday, August 8, 2024 1:58 PM
To: Lee, Annie (PST)
Cc: Ennis, Jamie (PST)
Subject: FW: LEA Certification Standards
Attachments: Comment on POST Commission Law Enforcement Agency Certification Standards .pdf

From: Stathulis, Katherine <k.stathulis@northeastern.edu>
Sent: Thursday, August 8, 2024 1:53 PM
To: POSTCcomments (PST) <POSTC-comments@mass.gov>
Cc: Williams, Lucy <lu.williams@northeastern.edu>; Frankel, Renay <r.frankel@northeastern.edu>; Stewart, Erin <er.stewart@northeastern.edu>
Subject: LEA Certification Standards

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Hello,

Attached please find our comment on law enforcement agency certification standards.

Thank you,
Katherine Stathulis

Katherine Stathulis, Esq.
J.D. Fellow
Center for Public Interest, Advocacy, and Collaboration
k.stathulis@northeastern.edu
614.551.8426



August 8, 2024

Re: POST Commission Law Enforcement Agency Certification Standards – Comment

Dear Massachusetts Peace Officer Standards and Training Commission:

The Center for Public Interest, Advocacy, and Collaboration (CPIAC) at Northeastern University School of Law (NUSL) is pleased to offer comments on the Law Enforcement Agency Certification Standards. Please note that these comments do not reflect the official position of Northeastern University, as we are solely representing the Center for Public Interest Advocacy and Collaboration.

The Center for Public Interest Advocacy and Collaboration (CPIAC) supports Northeastern University School of Law's long-standing commitment to social justice by piloting programs and initiatives that address broader social justice issues. Through interdisciplinary teaching, practice, and research, CPIAC seeks to enhance the role of law and legal practice in creating innovative and holistic solutions to contemporary social justice challenges. Through a grant from Northeastern University, the Center is currently engaged in an innovative and multi-disciplinary project to disrupt the Cradle-to-Prison Pipeline, which we define as a web of legal and social systems that diverts youth, especially marginalized youth, toward juvenile and adult incarceration. Our Cradle-to-Prison Pipeline Project (C2P) focuses on collecting, analyzing and visualizing data related to points of intervention along the pipeline, such as the juvenile justice, school discipline, and child welfare systems.

Data is a critical foundation for understanding the scope of a problem, identifying effective policy responses, and creating systemic change. This essential need for accurate and comprehensive data is the primary reason we decided to focus the Center's Cradle-to-Prison Pipeline Project on collecting and analyzing data pertaining to intervention points on the pipeline.

As the Commission considers whether to include additional standards for law enforcement agencies beyond the eight statutorily mandated standards, we strongly encourage you to develop a standard for data collection and reporting as a prerequisite to certification.

Over the past year, we filed 303 Public Records Requests with police departments in Massachusetts to gather data on arrests that occurred at schools. The process for obtaining this data is labor intensive, often requiring numerous communications with each police department and engaging data experts to clean and process the data. Each law enforcement agency provided data in a wide variety of digital and physical formats, organized in inconsistent

categories, which made it challenging to compare data from one jurisdiction to another and garner a comprehensive understanding of school-based arrests in Massachusetts.

Interpreting and comparing these complex data sets is essential to understanding inequities and how police interact with youth in Massachusetts. Creating state-wide, standardized record-keeping practices through the agency certification process will increase transparency and allow this vital public information to inform law enforcement training and policies impacting youth in the Commonwealth.

We urge you to consider setting standards for law enforcement agencies to collect and report data in a variety of important categories. Standardized data collection will aid in the enforcement of the eight minimum certification standards codified in MGL c. 6E s. 5(b) and support accountability of these standards in practice. Moreover, our current laws and regulations governing data from law enforcement agencies do not provide robust and equitable access to data, and undermine clear and effective data analysis. Statewide standards for documenting, formatting, and producing law enforcement agency data would significantly impact the Commonwealth's ability to understand inequities, improve policing, and increase positive outcomes for youth in Massachusetts.

Thank you for your consideration of this important measure. We would be glad to be a resource to the committee and further discuss our suggestions for adding data collection and reporting standards to law enforcement agency certification.

Respectfully submitted,

Renay Frankel, Managing Director
Katie Stathulis, JD Fellow
Center for Public Interest Advocacy and Collaboration
Northeastern University School of Law

Lee, Annie (PST)

From: Cohen, Jared (AGO)
Sent: Friday, August 9, 2024 4:51 PM
To: POSTCcomments (PST)
Cc: Lee, Annie (PST); Sachse, Helle (AGO)
Subject: LEA Certification Standards
Attachments: 8.9.24 AGO Comment Ltr re POST LEA Certification Standards.pdf

Good afternoon,

Please see the attached comment letter from the Attorney General's Civil Rights Division, Police Accountability Unit. Please let us know if we can provide any further information or assistance to support the Commission's work in this process.

Thank you,

Jared B. Cohen
Assistant Attorney General
Civil Rights Division
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2833 (office)
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August 9, 2024

By Email

Annie E. Lee
Legal Division
Massachusetts POST Commission
84 State Street 2nd Floor
Boston, MA 02109

Re: Comment on Law Enforcement Agency Certification Standards

Dear Ms. Lee:

Thank you for the opportunity to comment on the POST Commission's development of law enforcement agency ("LEA") certification standards pursuant to G.L. c. 6E, § 5(b). The Attorney General's Office ("AGO") is pleased that the Commission is considering additional areas of LEA certification standards beyond those statutorily mandated.¹ While there are undoubtedly several areas where additional certification standards may be appropriate, the AGO submits this letter to especially encourage the Commission to adopt mandatory certification standards for the establishment and implementation of agency policies in two distinct areas: (1) bias-free policing (including, but not limited to, racial profiling and implicit or unconscious bias); and (2) departmental data collection, maintenance, retention, transparency, and use. Both areas require an agency-level approach to complement individual officer requirements.

Progress toward bias-free policing is an important objective that could and should be advanced by sensible LEA certification standards. The Legislature—both in the 2020 Police Reform Act that established the POST Commission, and elsewhere—has consistently emphasized the importance of ensuring that system-wide policing practices are free of racial and other biases that harm

¹ As noted in your letter of July 11, 2024, the Legislature has specified that the Commission "shall establish minimum certification standards for all law enforcement agencies that shall include, *but shall not be limited to*, the establishment and implementation of agency policies regarding: (i) use of force and reporting of use of force; (ii) officer code of conduct; (iii) officer response procedures; (iv) criminal investigation procedures; (v) juvenile operations; (vi) internal affairs and officer complaint investigation procedures; (vii) detainee transportation; and (viii) collection and preservation of evidence." G.L. c. 6E, § 5(b) (emphasis added). Thus, the statute expressly authorizes the Commission to set additional certification standards in policy areas beyond those eight enumerated categories.

communities and impair public trust in law enforcement.² The Supreme Judicial Court has similarly raised systemic concerns about racial profiling, implicit or unconscious bias, and related law enforcement practices.³ The AGO shares these concerns, especially where recent studies have shown that racial disparities persist in Massachusetts law enforcement practices and outcomes, which could be caused (at least in part) by profiling and bias.⁴ LEA certification standards would help address this concern by ensuring that police departments take some steps (including, for example, through the development of training programs and implementation of appropriate policies and procedures) to mitigate it.⁵ An LEA standard focused on bias-free policing could also address the specific role that implicit or unconscious bias plays in disparate outcomes, and how it serves as a major barrier to bias-free policing. The AGO, given its complementary role in addressing patterns and practices of racial profiling and other bias by LEAs, *see* G.L. c. 6E, § 3(a)(29), believes that clear regulatory guidance by the Commission establishing LEA certification standards could helpfully advance the objective of eliminating bias in policing.

LEA certification standards are also needed to help establish best police practices for data collection, maintenance, retention, transparency, and use. The issues involved in law enforcement

² *See* G.L. c. 6E, §§ 1, 2(b), 3(a)(28)-(29), 8(b)(1); G.L. c. 12, § 11H (“All persons shall have the right to bias-free professional policing.”); G.L. c. 90, § 63(h) (“A law enforcement agency . . . shall not engage in racial or other profiling.”); St. 2000, c. 228, § 1 (prior version of law providing for data collection “to determine whether State and local police engage in the practice of racial profiling”).

³ *See Commonwealth v. Long*, 485 Mass. 711, 726-34 (2020) (recognizing central role of implicit or unconscious bias in racial profiling by police officers, and need for systemic change to address it); *id.* at 749-64 (Budd, J. concurring) (“In addition to well-disguised proxies for conscious racial bias, unconscious bias is also at play and by definition may not be easily identified. . . . [T]he phenomenon of racial profiling [by law enforcement] is a product of more than one-off cases of individual bias or animus -- it is a systemic problem that has flourished [under existing rules and practices].”) (citations omitted); *Commonwealth v. McCowen*, 458 Mass. 461, 499 (2010) (Ireland, J., concurring) (citing many studies showing that “implicit biases are real, pervasive, and difficult to change” and that “people possess [implicit racial biases] over which they have little or no conscious, intentional control”) (citation omitted); *Commonwealth v. Lora*, 451 Mass. 425, 444-47 (2008) (“Justices of this court have expressed considerable concern about the practice of racial profiling. . . . [T]he important responsibility of eliminating racial considerations in the day-to-day enforcement of our laws lies principally with the executive branch of government.”); *see also* Letter from the Seven Justices of the Supreme Judicial Court to Members of the Judiciary and the Bar (June 3, 2020) (calling to recognize, address, and root out conscious and unconscious racial biases in legal system); SJC Model Jury Instructions on Implicit Bias (Sept. 29, 2021).

⁴ “Study finds racial disparities in outcomes of police stops across Mass.,” WBUR News, <https://www.wbur.org/news/2024/02/29/racial-disparities-traffic-stop-massachusetts>; “Massachusetts police discriminate in traffic stops, previously unreleased data reveals,” Northeastern Global News, <https://news.northeastern.edu/2023/11/20/massachusetts-police-racial-discrimination/>.

⁵ Research shows that acknowledging and examining implicit or unconscious biases may help to mitigate their negative effects. *See, e.g.*, “Six Interventions to Tackle Unconscious or Implicit Bias,” Georgetown University National Center for Cultural Competence, <https://nccc.georgetown.edu/bias/module-4/2.php>; ABA Bias Guide, https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit_bias/; <https://www.americanbar.org/news/abanews/publications/youraba/2017/july-2017/the-first-step-to-eliminating-implicit-bias--admit-you-have-it-/>.

agencies' approaches to data are increasingly salient for a high-tech society as concerned as ever with public trust, accountability, and transparency.⁶ The Commission could develop useful LEA certification standards around the treatment of agency-held data, especially data concerning demographic or geographic trends in enforcement activities and outcomes.⁷ Data collection and use standards would better ensure compliance with applicable law. Data maintenance and retention standards would further a sense of competence, consistency, and reliability in government handling of potentially sensitive information. And data transparency standards would make clear that Massachusetts police departments have nothing to hide, thereby increasing public trust in law enforcement while protecting people's right to understand how they are being policed. Moreover, setting workable standards in each of these areas would serve the interests of good

⁶ See Criminal Justice Statistics Interagency Working Group of the National Science and Technology Council, "Report on Equity And Law Enforcement Data Collection, Use, And Transparency," <https://www.whitehouse.gov/wp-content/uploads/2023/05/NSTC-Equity-and-Law-Enforcement-Data.pdf>, at 2 ("Data on policing activity provides the foundation to ensure that our justice system respects the dignity and rights of all persons and provides equal treatment to all. . . . More law enforcement agencies could publish detailed data on police activities, such as calls for service, searches, stops, frisks, arrests, and complaints. In addition, police datasets often do not include demographic, geographic, and other variables necessary to advance more equitable policing outcomes."); Sarah Brayne, "The Criminal Law and Law Enforcement Implications of Big Data," *Annual Review of Law and Social Science*, Vol. 14, Oct. 2018, <https://www.annualreviews.org/content/journals/10.1146/annurev-lawsocsci-101317-030839>, at 293-308 ("Law enforcement agencies increasingly use big data analytics in their daily operations . . . [which] highlights open legal questions about data collection, suspicion requirements, and police discretion . . . [and] poses challenges for existing legal frameworks governing police activity.").

⁷ An LEA certification standard on data collection, maintenance, retention, transparency, and use could also reinforce constitutional, privacy, and disclosure obligations with respect to the collection and maintenance of certain investigative data, including individual location, internet, social media, or communications data collected through investigative means. See, e.g., *Commonwealth v. Augustine*, 467 Mass. 230, 251-55 (2014) (restrictions on warrantless collection and use of cellular site location information ["CSLI"] data); *Commonwealth v. Feliz*, 481 Mass. 689, 690-91 (2019) (restrictions on collection and monitoring of GPS data for probationers); *Commonwealth v. Mora*, 485 Mass. 360, 375-76 (2020) (restrictions on prolonged electronic visual surveillance of a home and warrantless collection of pole-camera video footage); *Commonwealth v. McCarthy*, 484 Mass. 493, 503-04 (2020) (recognizing "mosaic theory" or "aggregation principle for the technological surveillance of public conduct" by law enforcement, under which "the cumulative nature of the information collected implicates a privacy interest on the part of the individual who is the target of the tracking," even when the individual activities or data points surveilled would not themselves, taken alone, enjoy constitutional protection) (quotations and citations omitted); *Commonwealth v. Davis*, 487 Mass. 448, 449-50 (2021) (convictions reversed due to improper admission of data from new type of GPS technology and device); *Commonwealth v. Kostka*, 489 Mass. 399, 413-15 (2022) (although no prejudice requiring reversal, prosecution should have provided defendant with complete results of police detective's CSLI data analysis); *Commonwealth v. Perry*, 489 Mass. 436, 437-38 (2022) (restrictions on collection of CSLI data from multiple devices via cell phone "tower dumps"); *Commonwealth v. Dilworth*, SJC-13547 (argued May 6, 2024) (forthcoming decision regarding defendant's claim of selective enforcement and racial profiling in police investigation and surveillance of online social media accounts); see also *Attorney General v. District Attorney for Plymouth District*, 484 Mass. 260, 262-63 (2020) (to satisfy public's interest in knowing whether public officials are carrying out their duties properly and lawfully, public records law requires agencies to provide broad access to government records, broadly defined to include all data, in any form, made or received by a public officer or employee, subject to narrowly construed exceptions) (citations omitted).

government and effective law enforcement practices, especially given the importance of access to comprehensive, reliable data in identifying agency patterns, practices, and systemic issues that require reform or remedial action. This is one critical reason the issues of data integrity and bias-free policing are, to some degree, inextricably linked: patterns of bias cannot be uncovered and addressed without adequate access to reliable data on law enforcement practices. Agency standards in both areas are needed to address these problems.

Thank you for the opportunity to comment, and for your consideration of the AGO's input in this important matter. Please do not hesitate to reach out if we can provide any additional information or be of any assistance to the Commission or its staff as you proceed with developing the LEA certification program.

Sincerely,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

/s/ Helle Sachse
Helle Sachse
Deputy Director, Police Accountability Unit

/s/ Elizabeth Matos
Elizabeth Matos
Chief, Civil Rights Division

Jared B. Cohen
David R. Rangaviz
Assistant Attorneys General, Civil Rights Division

cc: Abigail Taylor, Acting First Assistant Attorney General
Amanda Hainsworth, Senior Legal Advisor

Lee, Annie (PST)

From: Quinan, Rob (CSC)
Sent: Friday, August 9, 2024 5:08 PM
To: Lee, Annie (PST)
Cc: Zuniga, Enrique (PST); Ravitz, Randall E (PST); Bowman, Christopher (CSC)
Subject: RE: POST Agency Certification Standards Invitation to Comment
Attachments: CSC GC's comment on proposed LEA certif'n standard.pdf

Good afternoon, Attorney Lee:

Thank you for this opportunity to comment on the POST Commission's development of a law enforcement agency certification program. Please note that the attached letter reflects my suggestion, as General Counsel to the Massachusetts Civil Service Commission (CSC), for one element that could usefully be incorporated into the forthcoming LEA certification standard regulations. Given that one or more CSC Commissioner has been on vacation all of this week (and last), I am writing only for myself in the attached letter. Nonetheless, I hope you find my suggestion helpful. Please do not hesitate to be in touch should I be able to be of further assistance.

Best,

Rob Quinan

Robert L. Quinan, Jr.
General Counsel
MA Civil Service Commission
100 Cambridge St., Suite 200
Boston, MA 02114
(617) 979-1907
Rob.Quinan@mass.gov

From: Lee, Annie (PST) <Annie.Lee@mass.gov>
Sent: Thursday, July 11, 2024 1:07 PM
To: Bowman, Christopher (CSC) <christopher.bowman@mass.gov>; Quinan, Rob (CSC) <Rob.Quinan@mass.gov>
Cc: Zuniga, Enrique (PST) <Enrique.Zuniga@mass.gov>; Ravitz, Randall E (PST) <Randall.E.Ravitz@mass.gov>
Subject: POST Agency Certification Standards Invitation to Comment

Chair Bowman and General Counsel Quinan:

On behalf of the Massachusetts Peace Officer Standards and Training ("POST") Commission, I am reaching out in the hopes of engaging the Civil Service Commission in some of POST's ongoing work.

By way of background, the POST Commission was established in 2020 as part of the criminal justice reform legislation enacted in Chapter 253 of the Acts of 2020, [An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth](#). POST's mission is to improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all law enforcement officers and agencies in the Commonwealth.

Last month, POST began considering law enforcement agency certification and specifically, agency certification standards. The Commission, however, before setting any such standards, stated that it would first benefit from hearing from stakeholders. The attached letter therefore invites the Civil Service Commission to submit comments on law enforcement agency certification standards. Should you be interested in this subject, further details regarding agency certification and how you may submit comments can be found in the letter.

Thank you for your attention to this matter and please do not hesitate to reach out if you have any questions or would like to discuss.

Sincerely,
Annie

Annie E. Lee (she/her)

Counsel

Massachusetts POST Commission

Phone 857-283-8184

Web <https://www.mass.gov/orgs/post-commission>

Email annie.lee@mass.gov



The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct.



**THE COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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OFFICE MANAGER
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August 9, 2024

Massachusetts Peace Officer Standards and Training Commission
84 State Street, Suite 200
Boston, MA 02109
Attention: Annie E. Lee, Esq.
POSTC-comments@mass.gov

Dear Attorney Lee:

Thank you for this opportunity to comment on the POST Commission's development of a law enforcement agency ("LEA") certification program. As General Counsel to the Massachusetts Civil Service Commission, I write to offer one simple recommendation—to specify in the LEA certification standard (as reflected in your forthcoming regulation) that full compliance with Mass. Gen. Laws c. 31, § 67, is expected of all LEAs not exempt from the provisions of Chapter 31. This statutory provision requires that each municipal appointing authority (in the policing field, this is often but not exclusively the Police Chief) submit to the Commonwealth's Human Resources Division – on or before March first of each year – a list of civil service appointees employed by their police (or fire) department as of January second of the same year (the "annual Section 67 Report"; or the "Report"). As currently codified, § 67 also provides:

Such list shall be in such form as is required by the [HRD chief] administrator, shall be made under the penalties of perjury, shall specify the series and title of the position of each such employee and the seniority of such employee as determined pursuant to section [33].

Each such appointing authority shall sign such list and post it forthwith in all areas under its control where five or more civil service employees begin their tour of duty. *Such list shall be so posted immediately after it is submitted to the [HRD] administrator so that it may be inspected during a reasonable period before May first of the year it is submitted. The date of posting such list shall appear on the list which shall remain posted for one year after such date of posting.*

(emphasis added)

As you may be aware, the Massachusetts House of Representatives passed legislation to be engrossed toward the end of June that would comprehensively amend Mass. Gen. Laws c. 31 (the “Civil Service Law”). This Joint Committee on Public Service bill wound up folded into the major economic development bond bill (H. 4804) that ultimately remained “pending conference committee consensus” as the formal sessions of the 193rd General Court concluded on July 31, 2024. I maintain hope, however, that the civil service-related content of H. 4804 will soon see favorable action in the Legislature and that a law that includes civil service reform will be laid upon the Governor’s desk before the end of this year. Within H. 4804, section 78ZZ would amend § 67 of the Civil Service Law to require that the annual submission of the list of civil service employees include “available demographic data, in aggregate form, regarding the complement of civil service employees in each [police or fire] department.” I believe that inclusion of such statutory text amending the annual submission requirement of the existing annual Section 67 Report to specifically include “demographic data” reflects a growing awareness of the importance of cultivating diverse municipal police forces throughout Massachusetts.

As it turns out, the current HRD template for the annual Section 67 Report¹, in addition to the statutorily required data noted above, already asks for data on a variety of demographic indicators. HRD’s template features columns for employee ethnicity, gender, and veteran status – and each such dataset plays an important role in measuring diversity and ensuring fair employment opportunities. Of similar importance, the annual Section 67 Report also asks for the date of each employee’s assumption of his or her permanent title, which acts in concert with the date of original appointment to provide invaluable information to civil service employees about potential opportunities for advancement. Requiring that each police department, as a pre-condition for LEA certification, comply with the statutory mandate to complete and post an annual Section 67 Report would accomplish two noteworthy objectives: (i) ensuring reliable access to information that assists civil service police officers with planning for future career opportunities; and (ii) allowing the Commonwealth to track key barometers of diversity within municipal police departments across the state. Importantly, Section 67 Reports also help ensure compliance with other crucial parts of the Civil Service Law, as illustrated below.

While Section 67 of the Civil Service Law is designed to promote transparency within civil service departments and measure the strides made in developing diverse police forces, progress is stymied when appointing authorities fail to comply with this critical requirement. I point to problems that arose when the City of Methuen (the “City”), under prior mayoral and police department leadership, failed to file, on behalf of the Methuen Police Department, an annual Section 67 Report for the 2017 and 2018 calendar years and subsequently filed an

¹ The current HRD template, effective as of March 2, 2022, can be found within the Civil Service Unit’s section of HRD’s website at: <https://www.mass.gov/lists/hiring-authority-forms>. Navigating down this webpage to “Personnel Transactions,” the HRD template can be downloaded by clicking on the hyperlinked text: “Annual Section 67 Report and Guidelines.”

inaccurate report for calendar year 2019. As part of a lengthy investigation yielding a report published on January 26, 2023,² the Civil Service Commission determined that the City's Section 67 omissions helped hide unlawful hiring practices within the Methuen Police Department. Methuen's former police chief, Joseph Solomon, has since been indicted on criminal charges that, in part, key into failures to (1) comply with Section 67 (*see* p. 24, CSC Findings ¶ 81 & ¶ 82; p. 37, conclusion ¶ 7); and, more generally, (2) abide by the Civil Service Law.

During the time period that the City and its former police chief failed to comply with Section 67, Methuen Police Department employees had a critical avenue of career planning eliminated when they were unable to confirm accurately their relative seniority within the organizational hierarchy. The public was misled regarding the civil service status of at least one sworn full-time police officer who, in fact, had never graduated from a full-time police officer academy. Moreover, HRD could not access important demographic data during the relevant time period. For various reasons, it is critical that civil service police departments comply with Section 67 of the Civil Service Law – and thus, in my opinion, for POST to make compliance a precondition for LEA certification would undoubtedly create a strong incentive for local police departments to furnish timely and accurate annual Section 67 Reports.

I express my gratitude for your consideration of my agency's recommended insertion of Section 67 compliance as an additional minimum certification standard. Please do not hesitate to contact me should you have any questions about Section 67 of the Civil Service Law, how it applies to certain LEAs, or anything else mentioned in this letter. I look forward to seeing the POST Commission's final regulatory scheme for LEA certification, and the positive impact it undoubtedly will have on civil service departments across the Commonwealth.

Sincerely,

/s/ Robert L. Quinan, Jr.

Robert L. Quinan, Jr.
General Counsel

cc: Christopher C. Bowman, Chair of the Massachusetts Civil Service Commission

Enclosures

² The Civil Service Commission's *Findings, Conclusions, Orders and Recommendations* ("CSC Findings") summarizing its investigation into the City of Methuen Police Department's hiring practices can be downloaded here: <https://www.mass.gov/doc/methuen-police-department-investigation-findings-conclusions-orders-and-recommendations-12623/download>



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Full Text of Mass Gen. Laws c. 31, § 67

§ 67. Annual list of civil service employees; posting; enforcement; penalties

Each appointing authority shall submit to the administrator, on or before March first of each year, a list of civil service employees in its department as of January second of the same year. Such list shall be in such form as is required by the administrator, shall be made under the penalties of perjury, shall specify the series and title of the position of each such employee and the seniority of such employee as determined pursuant to section thirty-three.

Each such appointing authority shall sign such list and post it forthwith in all areas under its control where five or more civil service employees begin their tour of duty. Such list shall be so posted immediately after it is submitted to the administrator so that it may be inspected during a reasonable period before May first of the year it is submitted. The date of posting such list shall appear on the list which shall remain posted for one year after such date of posting.

When used with respect to employees in the labor service of the highway division in the Massachusetts Department of Transportation, the word "division" as used in this section shall mean the districts established by such division in which such employees serve.

The superior court may enforce this section and said section thirty-three upon petition by one or more taxable inhabitants of a city or town or upon suit by the attorney general.

Any appointing officer who neglects or wilfully refuses to post a copy of such list shall be punished by a fine of not more than one hundred dollars.

The provisions of House bill No. 4804 (as passed to be engrossed by the House of Representatives on June 27, 2024) that would amend G.L. c. 31, § 67

SECTION 78ZZ. Section 67 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 6 to 7, the words “and the seniority of such employee as determined pursuant to section thirty-three” and inserting in place thereof the following words:- , the seniority of such employee as determined pursuant to section 33 and available demographic data, in aggregate form, regarding the complement of civil service employees in each department.

SECTION 78AAA. Said section 67 of said chapter 31, as so appearing, is hereby further amended by inserting after the word “the”, in line 21, the following words:- commission or the.

SECTION 78BBB. Said section 67 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 23 to 24, the words “one hundred dollars” and inserting in place thereof the following figure:- \$500.