



# MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

October 11, 2024

## CHAIR

Margaret R. Hinkle

## COMMISSIONERS

Lester Baker

Hanya H. Bluestone

Lawrence Calderone

Eddy Chrispin

Deborah Hall

Marsha V. Kazarosian

Charlene D. Luma

Rev. Clyde D. Talley

## EXECUTIVE DIRECTOR

Enrique A. Zuniga

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

## NOTICE OF MEETING AND AGENDA

**Public Meeting #56**

**October 17, 2024**

**8:30 a.m.**

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

**Meeting ID: 985 7276 3319**

- 1) Call to Order
- 2) Approval of minutes
  - a. September 19, 2024
  - b. September 24, 2024
- 3) Executive Director Report – Enrique A. Zuniga
- 4) Finance & Administrative Update – Eric Rebello-Pradas
- 5) Division of Standards Semi-annual Report – Matthew P. Landry
- 6) Legal Update – Randall E. Ravitz, Pauline Nguyen, Elizabeth B. Smith, and Annie E. Lee
  - a. 555 CMR 12.00: Maintenance, Reporting, and Audits of Law Enforcement Records and Information
    - i) Vote on a revised version
  - b. Recommendations of the Subcommittee on Certification Policy
    - i) Overview of a draft, revised version of 555 CMR 7.00: Recertification
    - ii) Issues related to the certification requirement of being of good moral character and fit for employment in law enforcement

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## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

- iii) Collection and analysis of information relevant to the certification requirement concerning physical and psychological fitness
  - c. Agency Certification Initiative
    - i) Discussion of draft standard on Use of Force Reporting
    - ii) Discussion of draft standard on an Officer Code of Conduct
- 7) Matters not anticipated by the Chair at the time of posting
- 8) Executive Session in accordance with the following:
  - M.G.L. c. 30A, § 21(a)(1), to discuss “the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, . . . or individual”;
  - M.G.L. c. 30A, § 21(a)(5), to discuss the investigation of charges of criminal misconduct;
  - M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 6E, § 8(c)(2), and to the extent they may be applicable, M.G.L. c. 6, §§ 168 and 178, to discuss the initiation of preliminary inquiries and initial staff review related to the same, and regarding certain criminal offender record information; and
  - M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 30A, §§ 22(f) and (g), to discuss and approve the minutes of prior Executive Sessions
- a. Reports of Preliminary Inquiry in the following cases:
  - i) PI-2024-009
  - ii) PI-2024-026
- b. Division of Standards request to enter into voluntary decertification or suspension agreement in the following cases:
  - i) PI-2023-11-16-003
  - ii) PI-2023-10-24-005
- c. Division of Standards request for approval to conduct Preliminary Inquiries in the following cases:
  - i) PI-2024-061
  - ii) PI-2024-062
  - iii) PI-2024-063
  - iv) PI-2024-064
  - v) PI-2024-065
  - vi) PI-2024-066
  - vii) PI-2024-067
  - viii) PI-2024-068

## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

- d. Approval of the minutes of the Executive Session of September 24, 2024

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

2a.

**MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION**  
**Public Meeting Minutes**  
**September 19, 2024**  
**8:30 a.m.**  
**Via Zoom**

**Documents Distributed in Advance of Meeting**

- August 15, 2024, Public Meeting Minutes
- Executive Director Report
- Finance & Administrative Update
- Legal Update, including:
  - Presentation on Maintaining, Reporting, and Auditing of Law Enforcement Records and Information
  - 555 CMR 12.00: Maintenance, Reporting, and Audits of Law Enforcement Records and Information, revised version
  - 555 CMR 12.00: Maintenance, Reporting, and Audits of Law Enforcement Records and Information, prior version with comments and notes
  - Memo with Law Enforcement Agency Certification Timeline
  - Additional Comments on 555 CMR 13.00: Law Enforcement Agency Certification Standards
  - Agency Certification Standards – Draft Use of Force and Reporting Standards, with cover memo
  - Agency Certification Standards – Draft Code of Conduct Standards, with cover memo

**In Attendance**

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

**1. Call to Order**

- The meeting began at 8:38 a.m.
- Chair Hinkle took a roll call of the Commissioners present. The roll call proceeded as follows:
  - Commissioner Bluestone – Present
  - Commissioner Calderone – Present
  - Commissioner Chrispin – Present
  - Commissioner Hall – Present
  - Commissioner Kazarosian – Present
  - Commissioner Luma – Present
  - Commissioner Talley – Present
- Chair Hinkle noted that Commissioner Baker would be absent for this meeting.

**2. Approval of Minutes**

- Chair Hinkle asked for a motion to approve the August minutes. There was a motion by Commissioner Kazarosian, seconded by Commissioner Luma.
  - The Commissioners voted to approve the August 15, 2024, public meeting minutes as follows:
    - Commissioner Bluestone – Yes
    - Commissioner Calderone – Yes
    - Commissioner Chrispin – Yes
    - Commissioner Hall – Yes
    - Commissioner Kazarosian – Yes
    - Commissioner Luma – Yes
    - Commissioner Talley – Yes
  - The minutes were approved.
- 3. Executive Director Report – Enrique A. Zuniga**
- Executive Director Zuniga shared a PowerPoint presentation, which started with an update on stakeholder engagement opportunities. He highlighted the following events.
    - Massachusetts Association of Campus Law Enforcement Administrators Meeting (9/13);
    - Springfield Board of Police Commissioners meeting with POST Commission representatives (9/11);
    - Massachusetts Chiefs annual meeting (9/17 – 9/19);
    - Chairs of the Joint Committee on Children & Families meeting with POST Commission representatives (9/10);
    - International Association of Directors of Law Enforcement Standards and Training Peace Officer Standards and Training Directors Summit at the Federal Law Enforcement Training Centers, Glynco, GA (9/24 – 9/25);
    - International Association of Chiefs of Police Conference in Boston (10/18 – 10/21);
    - Public Safety & Police Accountability workshop, Harvard Kennedy School (10/22 – 10/23); and
    - Peace Officer Standards and Training workshop at Yale Law School (11/15 – 11/16).
  - Commissioner Luma asked whether there will be opportunities in the future to engage with other types of stakeholders, such as nonprofits or community-based organizations that have a vested interest.
  - Executive Director Zuniga stated that there will be, and that he will report on them moving forward.
  - Executive Director Zuniga then provided an update on the reports due to the POST Commission. He stated the following.
    - Individual agencies are required to submit incident, internal incident, and complaint reports to the Commission within two business days. Agencies should initiate an internal affairs investigation within 14 business days and submit the results of the investigation to the Commission within 90 days of the initial incident.
    - The second category of records involves instances where the Commission has information on the completed internal affairs investigation but does not have any information regarding discipline.

- In this instance, the Commission tracks the records to ensure they are not forgotten.
- The third category of complaints or records that the Commission tracks consists of those submitted directly by the public.
- The Commission forwards information from these records to the relevant agencies for their own investigation of the incident. The Commission then coordinates with the agencies to ensure that information regarding their investigation is received by the Commission.
- Commissioner Chrispin stated that the Office of Police Accountability and Transparency (OPAT) can take complaints from the public in the City of Boston, but that there is no requirement to report the complaints to the Commission. He then asked whether there are any thoughts on how to address that.
- Executive Director Zuniga stated that OPAT is not a law enforcement agency within the scope of the Commission, so the responsibility to report complaints from OPAT to the Commission lies with the police department. He acknowledged the reporting gap that this could create.
- Executive Director Zuniga then stated that there are 84 agencies with at least one open report or incident, and 4 agencies with more than 10 records to update.

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

- CFAO Rebello-Pradas began his presentation on fiscal year 2024 and fiscal year 2025. He stated as follows.
  - Fiscal year 2024 closed on June 30. Final spending came in around \$7.6 million, which is about 90% of the total principal amount that was budgeted.
  - Spending plans for fiscal year 2025 were submitted to the Executive Office for Administration and Finance on September 5.
  - The largest areas of spending within the fiscal year 2025 spending plan are payroll, information technology, and office space.
- CFAO Rebello-Pradas then provided a hiring update, stating as follows.
  - There have been two new additions to the General Counsel’s Office: Evert Fowle, Legal Counsel and Kimberly Shatford, Legal Fellow. Mia Katterman is returning as a Legal Intern.
  - There has been one new addition to the Division of Police Standards: William Aiello, Enforcement Counsel.
  - These new hires bring the total of Commission employees to 49 (excluding interns, Hearing Officers, and Commissioners).
- Chair Hinkle thanked Executive Director Zuniga and CFAO Rebello-Pradas for the quality of their reports.
- Executive Director Zuniga reminded the public that contact information for the Commission can be found on the Commission’s website.

**5. Legal Update – Randall E. Ravitz and Annie E. Lee**

- General Counsel Ravitz shared a PowerPoint presentation regarding a set of regulations concerning maintaining, reporting, and auditing law enforcement records and information. He explained as follows.

- The initiative began in May 2023 with an introductory presentation on the subject, followed by a presentation later that year discussing the process of drafting these regulations.
- Between June and August 2024, emails were sent to interested parties seeking public comment, and a public hearing for verbal comments was held on August 1.
- At the September Commission meeting, a revised set of draft regulations which consider the comments made by members of the public, as well as any others offered from within the agency itself, will be reviewed.
- General Counsel Ravitz then began summarizing the comments that were considered when revising the regulations. He stated as follows.
  - In response to comments suggesting that more requirements be added to the agency requirements to maintain records, language regarding the following was added.
    - Maintain more specific forms of information concerning separations from employment;
    - Maintain records on investigations by outside entities;
    - Maintain records of whether officers received training on policies;
    - Maintain records of scores on examinations and qualifications;
    - Maintain materials used in training or records of them; and
    - Use standardized terminology regarding dispositions and reasons for leaving employment.
  - Other commenters asked that agencies not be required to report on certain things. The following suggestions were added to the revised regulations:
    - Agencies should not be required to insert all records into individual personnel files.
    - Agencies should not be required to maintain all records and communications exchanged with any auditors, analysts, or consultants, and the like.
    - Agencies should not be required to recreate records that were lawfully destroyed previously.
    - Individual officers should not be required to maintain records.
  - The remaining comments regarding what agencies should not be required to report were not able to be accommodated, but they can be viewed in context at the appropriate time.
  - In response to comments regarding the reporting of information, language regarding the following suggestions was added.
    - Do not require agencies to report information on criminal matters involving agency members who are not officers.
    - Do not require individual officers to provide information on the heads of their collective bargaining units to agencies or the Commission.
    - Add provisions to help protect privacy, security, and confidentiality of sensitive information.
    - Allow the Commission to obtain materials from training or records of them.
    - Require reporting of certain civil service information required by statute.



- In response to comments regarding auditing, language regarding the following suggestions was added.
  - Enable others to request a Commission audit.
  - Define the necessary qualifications of auditors.
  - Add provisions to help protect privacy, security, and confidentiality of sensitive information.
  - Better define the standards and criteria by which auditees will be evaluated in an audit.
  - Do not provide for auditing of individual officers.
- Additional changes were made regarding smaller comments.
- General Counsel Ravitz elaborated on areas that represented larger changes. He stated as follows:
  - The provision on legal privileges allows agencies and officers to assert legal privileges that prevent them from disclosing information. This provides stronger protections than the previous draft regulations, which only stated that the regulations were not intended to require the disclosure the information if that would offend a privilege.
  - The updated regulations on reporting obligations do not comprehensively cover all reporting obligations to entities beyond the Commission, but do address reporting to some such entities.
  - Changes made in response to comments in the recertification context now require agencies and officers to make diligent efforts to ensure accuracy in their records and representations.
  - The updated regulations incorporate existing requirements for investigator qualifications, ensuring that contractor investigators and internal investigators maintain confidentiality and avoid conflicts of interest, while giving preference to individuals with relevant qualifications.
  - The provisions regarding the audit appeals process now establish that agencies will receive email notifications regarding the initiation of audits, and they can request less formal review by the executive director or a presiding officer, and in some cases, a more formal review process.
  - The revised enforcement language eliminates previous provisions about fines and penalties, now stating that violations may lead to administrative suspension, while also classifying violations as prohibited conduct.
- General Counsel Ravitz concluded his presentation.
- Chair Hinkle thanked General Counsel Ravitz for his presentation and turned the floor to Counsel Lee.
- Counsel Lee shared a PowerPoint presentation regarding law enforcement agency certification standards. She explained as follows.
  - As requested in the August Commission meeting, a timeline for the development and promulgation of agency certification standards was provided to the Commission.
  - Since the last Commission meeting, more comments have been received. However, they pertain to topics being discussed at a later date, so they will not be reviewed at this time.

- At the last Commission meeting, the elements of a use-of-force standard were discussed.
- Counsel Lee provided more information on the draft use-of-force standard. She explained as follows.
  - Definitions that appear in the use-of-force standard were added to the draft standard to provide clarity.
  - Language was revised to avoid any confusion or potential negative connotations.
  - The standard was revised to require agencies to include in their use-of-force policies a sub-policy that relates to the use of force in animal encounters.
  - Another revision, which directs officers to prepare Commission encounter reports regarding de-escalation efforts or the use of force, was included.
- Commissioner Luma stated that she feels it would be excessive to ask officers to report on every interaction they have that requires de-escalation.
- Counsel Lee stated that she does not believe the task would be burdensome, but that language within the standard could be revised to address her concern.
- Commissioner Chrispin stated that if, for example, a baton was used, a report should be written, but that writing a report for every incident involving de-escalation would be burdensome.
- Counsel Lee asked Commissioner Chrispin if there was a way to suggest that officers should be preparing reports regarding significant de-escalation efforts.
- Commissioner Chrispin recommended that the language “notable de-escalation” be used.
- Chair Hinkle interjected to note that Commissioner Calderone had left the meeting and was no longer in attendance.
- Commissioner Kazarosian agreed with Commissioner Luma and Commissioner Chrispin’s concerns, and she suggested that the regulation be amended to say something along the lines of, “direct officers to prepare POST encounter reports regarding de-escalation efforts used prior to the use-of-force.”
- Counsel Lee stated that she can amend the language to reflect the amendment made by Commissioner Kazarosian. She then asked Commissioner Chrispin whether the amendment was consistent with his concern.
- Commissioner Chrispin stated that it was.
- Counsel Lee concluded her presentation, and Chair Hinkle asked what she was intending the Commission do with this information.
- Counsel Lee stated that she would like to ask for a vote to approve the standard for inclusion in a larger agency certification regulation. She clarified that she is not asking for a vote to promulgate, adopt, or finalize.
- Commissioner Kazarosian stated that she was willing to make the motion, but that she was unsure of what the nature of the motion would be.
- Counsel Lee stated that she intended to have a vote to approve the standard for inclusion in the larger agency certification regulations.
- Commissioner Kazarosian moved to approve the direction that had been presented to the Commission by Counsel Lee. Commissioner Hall seconded the motion.
- Chair Hinkle took a roll call vote on the motion. The Commissioners voted as follows.
  - Commissioner Bluestone – Abstained

- Before completing the vote, Chair Hinkle asked whether Commissioner Bluestone understood that the vote was simply to move in the direction.
- Commissioner Bluestone stated that she would like to see more before moving in a specific direction.
- Counsel Lee stated that the ultimate use-of-force standard will probably look similar. A model use-of-force policy would be added, but it will not set any requirements throughout the Commonwealth. Rather, it will illustrate one way that departments might develop a use-of-force policy for their agency.
- Commissioner Luma suggested that they categorize this as a draft to avoid confusion.
- Commissioner Kazarosian modified her motion to incorporate the word draft. Commissioner Bluestone seconded the motion.
- Chair Hinkle took a roll call vote on the motion. The Commissioners voted as follows.
  - Commissioner Bluestone – Yes
  - Commissioner Chrispin – Yes
  - Commissioner Hall – Yes
  - Commissioner Kazarosian – Yes
  - Commissioner Luma – Yes
  - Commissioner Talley – Yes
  - Chair Hinkle – Yes
- The motion unanimously carried.
- Commissioner Chrispin then left the meeting and was no longer in attendance.
- Chair Hinkle stated the Commission no longer had a quorum.
- Counsel Lee suggested that she continue her presentation in an informational manner.
- Chair Hinkle told Counsel Lee to go ahead and stated that the Commission will not take any votes for the remainder of the meeting as they do not have a quorum.
- Counsel Lee shared a PowerPoint presentation regarding the reporting of use-of-force standard. She stated as follows.
  - The key elements proposed in the draft reporting of use-of-force standard were as follows:
    - Use-of-force incidents;
    - Excessive force;
    - Public complaints;
    - Investigation, analysis, and resolution;
    - Record and evidence maintenance; and
    - Training.
  - Sections A and B, on use-of-force and excessive force, call for agencies to develop reporting policies that meet or exceed the standards already articulated in the use-of-force regulations.
  - Section C directs members of the public on how they may file a complaint concerning a use-of-force incident.
  - Sections D and E relate to the procedures relative to investigation, analysis and resolution of use-of-force reports and complaints.
  - Section F relates to record and evidence maintenance.
  - Section G relates to training, namely, that agencies need to ensure that their officers are properly trained on use-of-force reporting.

- Counsel Lee then shared a PowerPoint presentation regarding the code-of-conduct standard. She explained as follows.
  - The approach in developing a code-of-conduct standard was very similar to the approach that was taken in developing the use-of-force standard.
  - The draft standard can be broken down into the following three parts:
    - Affirmative obligations, requiring officers to undertake certain actions or to uphold certain values.
    - Negative obligations, meaning prohibitions, precluding officers from engaging in certain activities.
    - An applicability section which would require that agencies have officers adhere to this code of conduct, not only in the execution of their official duties, but also in the workplace with their colleagues.
- Counsel Lee then concluded her presentation.
- Chair Hinkle thanked Counsel Lee for her presentation.

**Matters Not Anticipated by the Chair at the Time of Posting**

- Chair Hinkle indicated that there was a matter not anticipated at the time of the posting of the meeting notice. She then turned to Commissioner Bluestone.
- Commissioner Bluestone stated that she would like to take a moment on behalf of the Commission to acknowledge the devastating loss of Enrique Delgado-Garcia, a Massachusetts State Police Trooper.
- She stated that Enrique was a beloved member of the community, who was dedicated to service and dreamed of becoming a state trooper.
- She expressed the Commission's deep sympathy to Enrique's family and friends, as well as all members of law enforcement who have been directly and indirectly affected and impacted by this extremely traumatic and tragic event.
- Chair Hinkle thanked Commissioner Bluestone for her eloquent comments.
- Chair Hinkle thanked the members of the staff who worked on the matters that were addressed at the meeting, and her fellow Commissioners for the attention that they provided to the matters discussed.
- Chair Hinkle thanked the public, and the public meeting was adjourned at 10:20 a.m.

2b.

# MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

## Public Meeting Minutes

September 24, 2024

8:40 a.m.

Via Zoom

### In Attendance

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

### 1. **Call to Order**

- The meeting began at about 8:40 a.m.
- Chair Hinkle took a roll call of the Commissioners present. The roll call proceeded as follows:
  - Commissioner Baker – Present
  - Commissioner Bluestone – Present
  - Commissioner Chrispin – Present
  - Commissioner Kazarosian – Present
  - Commissioner Luma – Present
  - Commissioner Talley – Present
- Chair Hinkle noted that Commissioner Hall and Commissioner Calderone would be absent for this meeting.

### 2. **Vote to Enter Executive Session**

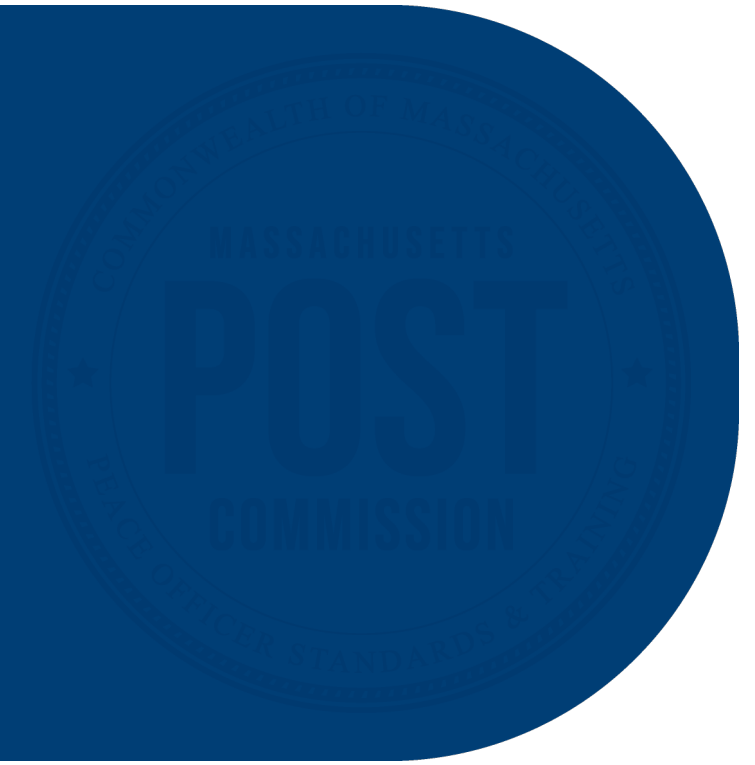
- The Chair raised the issue of moving into executive session in accordance with M.G.L. c. 30A, § 21(a)(5), in anticipation of discussion regarding the investigation of charges of criminal misconduct; under M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 6E, § (8)(c)(2), and to the extent they may be applicable, M.G.L. c. 6, §§ 168 and 178, in anticipation of discussion regarding the initiation of preliminary inquiries and initial staff review related to the same, and regarding certain criminal offender record information; and M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 30A, § 22(f) and (g), in anticipation of discussion and approval of the minutes of the prior executive session.
- The Chair took a roll call vote to enter executive session. The Commissioners voted as follows.
  - Commissioner Baker – Yes
  - Commissioner Bluestone – Yes
  - Commissioner Chrispin – Yes
  - Commissioner Kazarosian – Yes
  - Commissioner Luma – Yes
  - Commissioner Talley – Yes
  - Chair Hinkle – Yes
- The motion unanimously carried.

- The Chair informed members of the public that the Commission would not reconvene its public meeting after the executive session.
- The Chair thanked the public, and the public meeting was adjourned at 8:43 a.m.

4.



# Finance & Administrative Update



# FY25 Activity



17% of Budget Spent

Treasurer's Report: FY25 Q1	FY25 FIN SP	SEPTEMBER			ANNUAL
	BUDGET	YTD EXPENDED	YTD INCURRED (open enc amt)	YTD COMMITTED	PROJECTED EXPEND TOTAL
EMPLOYEE COMPENSATION (AA) TOTAL	6,407,238	1,252,045	0	1,252,045	6,266,071
EMPLOYEE TRAVEL (BB) TOTAL	25,000	2,767	0	2,767	2,767
CONTRACT EMPLOYEES (CC) TOTAL	130,800	14,865	0	14,865	122,865
PAYROLL TAX/FRINGE (DD) TOTAL	127,225	24,071	0	24,071	121,390
OFFICE SUPPLIES/POSTAGE/SUBSCRIPTIONS (EE) TOTAL	201,531	11,566	37,439	49,004	49,004
FACILITY OPERATIONS (FF) TOTAL	40,000	7,519	4,481	12,000	12,000
OFFICE SPACE LEASE (GG) TOTAL	631,157	147,140	456,733	603,873	610,416
CONSULTANTS/LEGAL SERVICES (HH) TOTAL	151,840	11,745	29,055	40,800	86,745
SUPPORT/AUXILIARY SERVICES (JJ) TOTAL	73,707	5,892	3,108	9,000	9,000
OFFICE FURNITURE/FIXTURES/EQUIPMENT (KK) TOTAL	3,000	-	0	0	0
OFFICE EQUIPMENT LEASE (LL) TOTAL	4,264	388	858	1,246	1,246
OFFICE MAINTENANCE/REPAIRS (NN) TOTAL	20,000	168	16,000	16,168	16,168
INFORMATION TECHNOLOGY (UU) TOTAL	931,714	40,954	141,977	182,930	881,671
<b>Grand Total :</b>	<b>8,747,476</b>	<b>1,519,119</b>	<b>689,650</b>	<b>2,208,769</b>	<b>8,179,342</b>

# FY26 Budget Development

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## Governor's Budget to be Filed January 22<sup>nd</sup>

- Developing a “Maintenance” Budget
  - Due to ANF by Oct 30<sup>th</sup>
- Similar to Last Year, POST will Submit an “Evolving” Budget
  - Leveling Off
- Detail Provided at the Next Commission Meeting
  - Treasurer & Executive Director Briefing

5.

# Division of Standards Report



# Division of Police Standards Update



## Complaint Case Load

(Reporting period: January 11 – September 30, 2024)

Complaints & Incident Reports	Number
Complaints submitted from the public	682*
Complaints submitted from law enforcement agencies via the new POST LEA portal	410

\* Not inclusive of complaints that were screened out, duplicates, etc.

- Division received 30+ new public complaints weekly
- Agencies reported 10+ new complaints per week via POST LEA portal

# Division of Police Standards Update



## Preliminary Inquiry / Disciplinary Case Summary

Division of Standards Cases	Count*	Notes
Active Preliminary Inquiries (as of 10/8/2024)	<b>68</b>	
Preliminary Inquiries concluded with recommendation of discipline per M.G.L. c. 6E, § 10	<b>58</b>	<b>+31 from last update (January)</b> Includes cases with final disposition, and cases still in the adjudicatory hearing process
Preliminary Inquiries concluded without discipline	<b>11</b>	
Suspensions (Active)	<b>53</b>	
Decertified Officers	<b>30</b>	<b>+21 from last update (January)</b>

6a.



555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

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

Section

- 12.01: Scope
- 12.02: Definitions
- 12.03: Law Enforcement Agency Creation and Maintenance of Records
- 12.04: Law Enforcement Agency Reporting of Information
- 12.05: Law Enforcement Agency Liaison to Commission
- 12.06: Officer Reporting of Information
- 12.07: Procedures for Audits
- 12.08: Areas of Examination in Audits
- 12.09: Verification of Information
- 12.10: Notice by the Commission
- 12.11: Review of Commission Decision to Conduct Audit
- 12.12: Review of Commission Action Following Audit
- 12.13: Enforcement and Disciplinary Action

12.01: Scope

- (1) 555 CMR 12.00 governs:
  - (a) The creation and maintenance of records by agencies and officers;
  - (b) The reporting of information by agencies and officers; and
  - (c) The auditing of agencies and officers by or on behalf of the Commission, pursuant to M.G.L. c. 6E, § 8(d) or otherwise.
- (2) ~~No person or entity~~Neither a law enforcement agency nor an officer shall be required to comply with any provision of 555 CMR 12.00 or any order issued thereunder if:
  - (a) Compliance would result in:
    - 1. A violation of a privilege against disclosure recognized by law and held by that agency or officer, including but not limited to, the attorney-client privilege and any privilege against self-incrimination; or
    - 2. A federal or state constitutional or statutory provision; and
  - (b) The agency or officer so informs the Commission, citing the pertinent privilege, protection, or provision.
- (3) Nothing in 555 CMR 12.00 is intended to:
  - (a) Limit any obligations that law enforcement agencies and officers otherwise have under M.G.L. c. 6E, 555 CMR, or another source of authority; or any practices that are consistent with generally accepted law enforcement or human resources standards;
  - (b) Require a law enforcement agency or officer to obtain or re-create any record that was lawfully destroyed prior to the effective date of 555 CMR 12.00;
  - (c) Limit the ability of the Commission to initiate an audit at any time and for any reason;
  - (d) Establish a standard of care;
  - (e) Create any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection on the part of any person or entity other than the Commission, except as expressly provided; or
  - (f) Otherwise waive or limit any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission.

12.02: Definitions

- (1) 555 CMR 12.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 12.02(2).

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

Appointing Authority. ~~In the case of an officer who is an appointed head of a law enforcement agency, the person or entity with the authority to appoint the individual as the law enforcement agency head; and, in the case of any other unelected officer, the law enforcement agency that employs the officer. The law enforcement agency that employs or seeks to employ an individual as an officer, or the person or entity with the authority to appoint an individual as the head of a law enforcement agency.~~

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

Body or Person of Authority. An officer's appointing authority; any supervisor of the officer therein; the Civil Service Commission; any arbitrator or other third-party neutral with decision-making power; ~~and~~ any court; ~~and any prosecutor's office.~~

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

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

Complaint. A "complaint" as defined in 555 CMR 1.01(1): *Transmittal of Complaint by Agency to Commission.*

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

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

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

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

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

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

Member. An officer, employee, or independent contractor.

SRO MOU. An "MOU" as defined in 555 CMR 10.03(2).

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

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

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

Official. Authorized or approved by a proper authority.

SRO Operating Procedures. “Operating procedures” as defined in 555 CMR 10.03(2).

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

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

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

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

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

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

#### 12.03: Law Enforcement Agency Creation and Maintenance of Records

(1) For each officer that a law enforcement agency employs, the agency shall create and maintain the following records, with the officer identified by name, and if practicable, shall place an original or a copy of each record within a “POST Commission file” for the officer:

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

1. The date of hiring;
2. With respect to any separation from employment:
  - a. The date of the separation from employment;
  - b. The nature of any separation, including whether the separation resulted from a retirement, another form of resignation, or a termination;
  - c. The reason for the separation that was provided to the officer;
  - d. Whether the officer was terminated for cause, and if so, the nature of the cause; and
  - e. Whether, if known to the agency, the separation occurred while the officer’s appointing authority or any other body or person of authority was conducting an investigation of the officer based on allegations that the officer violated any rule, policy, procedure, regulation, or other law, or engaged in other misconduct or improper action;
3. The date and nature of any leave time taken;
4. Any professional award, achievement, or commendation;

5. An email address that the Commission may use to correspond with the officer; and
  6. Either of the following items, with respect to a collective bargaining unit:
    - a. The name of a unit to which the officer belongs, and the name and an email address of the head of that unit, or if the unit has no head, the name and an email address of a representative of the unit;
    - b. A statement signed by the officer indicating that the officer is not a member of any unit; or
    - c. A statement signed by the officer indicating that the officer does not wish to have Commission communications concerning the officer transmitted to a representative of a collective bargaining unit, and waives the benefit of any provision that would otherwise require such a transmission;
- (b) A record reflecting each of the following matters, to the extent they were associated with an officer certification process:
1. Information generated by any background check;
  2. Information resulting from any physical or psychological evaluation;
  3. A summary of any interview;
  4. Each response to any questionnaire question;
  5. Any agency determination of whether an individual possesses good moral character and fitness for employment in law enforcement;
  6. Any other determination of whether an individual satisfies a qualification for certification;
  7. Any letter of reference or endorsement;
  8. An officer's satisfaction or failure to satisfy the conditions attached to any conditional certification; and
  9. Any other information required by statute, regulation, or Commission policy related to certification;
- (c) The following with respect to any SRO certification or service:
1. A record reflecting each of the matters listed in 555 CMR 12.03(1)(b);
  2. Each SRO MOU that is required by law;
  3. Each set of SRO operating procedures that is required by law;
  4. A record reflecting each form of training that the officer completed with respect to SRO service; and
  5. A record reflecting the officer's places and dates of assignment as an SRO;
- (d) A record reflecting each type of complaint against, investigation of, and discipline of the officer, including any and each:
1. Complaint against the officer;
  2. Investigation of the officer by:
    - a. An internal affairs unit, an internal review board, a civilian oversight board, or a comparable body; ~~and~~
    - b. A consultant, an investigative service, or a comparable entity retained by the officer's appointing authority; or
    - b.c. Any other body or person of authority;
  3. Discipline imposed on the officer, including any last chance agreement or separation agreement;
  4. Arrest of the officer;
  5. Criminal prosecution against the officer;
  6. Civil action against the officer that is related to the officer's service in law enforcement;
  7. Investigation or inquest arising from a fatality involving the officer;
  8. Civil Service Commission proceeding involving any allegation that the officer engaged in misconduct;

9. Written reprimand of the officer;
  10. Suspension of the officer’s employment or order that the officer take a leave from employment;
  11. Determination by a prosecutor’s office’s that the officer has engaged in, or has been accused of, misconduct that warrants not calling the officer as a witness in court or that must be disclosed to defendants; and
  12. Complaint, investigation, or disciplinary matter vacated or resolved in favor of the officer;
- (e) The following with respect to the officer’s training:
1. A record reflecting each form of in-service training, retraining, and training on policies that the officer completed;
  2. Any materials provided or presented to the officer in connection with each such form of training, or a record reflecting where such materials can be located;
  3. A record reflecting each score on an examination or firearms qualification obtained by the officer; and
  4. A record reflecting the officer’s failure to complete any required training, and any mitigating factor or other explanation offered by the officer for any such failure;
- (f) The following records concerning uses of force, crowd control, injuries, and deaths:
1. All records, including all policies, procedures, forms, reports, statements, plans, communications, and notifications, that are required to be created pursuant to 555 CMR 6.00: *Use of Force by Law Enforcement Officers* or any Commission policy;
  2. A record reflecting each “serious bodily injury” and “officer-involved injury or death” as those terms are defined in 555 CMR 6.03: *Definitions*, regardless of whether the injury or death was suffered by an officer or a member of the public; and
  3. A record reflecting the full content of each report submitted to:
    - a. The National Use of Force Data Collection database maintained by the Federal Bureau of Investigation;
    - b. The National Law Enforcement Accountability Database maintained by the United States Department of Justice; and-or
    - c. The National Violent Death Reporting System maintained by the United States Centers for Disease Control; and
- (g) All other records, or categories of records, designated by the Commission.

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

- (a) A record reflecting an address, telephone number, and email address for the constable; and
- (b) A record reflecting the beginning and end dates of the constable’s term or terms of appointment or election.

(3) Each law enforcement agency shall additionally maintain the following records, and if practicable, shall place an original or a copy of each record within a “POST Commission file” for the officer:

- (a) Each set of fingerprints of an agency member that the agency has obtained;
- (b) Each record pertaining to a type of complaint against, investigation of, or discipline of an agency officer, including each type listed in 555 CMR 12.03(1)(d); and
- (c) Each final and official description of the duties, powers, or functions of an agency member.

- (4) Each law enforcement agency shall also maintain the following records:
  - (a) Each agency policy;
  - (b) Each official communication by the agency to its personnel regarding its policies and applicable regulatory requirements;
  - (c) Each final and official annual report or periodic report for the agency or one of its units;
  - (d) Each final and official description of the duties, powers, or functions of the agency or one of its units;
  - (e) Each contract to which the agency is a party;
  - (f) With respect to any audit, analysis, or evaluation of the agency's records, finances, budget, personnel, resources, performance, compliance with legal requirements, satisfaction of accreditation or other standards, by any internal or external auditor, analyst, evaluator, consultant, or accreditor:
    - 1. An inventory of all records made available to the auditor, analyst, evaluator, consultant, or accreditor; and
    - 2. Each final report resulting from the audit, analysis, or evaluation; and
  - (g) Any other records, or categories of records, designated by the Commission.
  
- (5) Each law enforcement agency shall use the following terms, as defined below, in addressing disciplinary matters involving officers:
  - (a) Sustained: The investigation produced a preponderance of evidence to prove the allegation of an act that was determined to be misconduct;~~;~~
  - (b) Not Sustained: The investigation failed to produce a preponderance of evidence to either prove or disprove the allegation;~~;~~
  - (c) Exonerated: The allegation in fact did occur but the actions of the agency employee were legal, justified, proper and in conformance with the law and the agency policy and procedure;~~;~~ and
  - (d) Unfounded: The allegation concerned an act by an agency employee that did not occur.
  
- (6) The Commission may require a law enforcement agency to:
  - (a) Employ certain terminology regarding the disposition of complaints or other matters, incorporating Commission-prescribed definitions;~~and~~
  - (b) Employ certain recordkeeping practices; and/or
  - (c) Produce certain records, or categories of records, to prosecutors.
  
- (7) Each law enforcement agency head shall ensure that the agency complies with M.G.L. c. 149, § 52C.
  
- (8) Each law enforcement agency head shall make diligent efforts to ensure accuracy in representations made within agency records.

12.04: Law Enforcement Agency Reporting of Information

- (1) Each law enforcement agency shall report to the Commission regarding the following, without request, pursuant to 555 CMR 1.01: *Review of Complaints by Agency* if that regulation is applicable, or otherwise immediately:
  - (a) The satisfaction of conditions associated with an agency officer's conditional officer certification or conditional SRO certification;
  - (b) Each placement of an agency officer's name, or change of an agency officer's status or listing, on the National Decertification Index maintained by the International Association of Directors of Law Enforcement Standards and Training;
  - (c) The arrest of any agency officer, lodging of any criminal charge against such an individual, or disposition of any criminal charge against such an individual;



- (d) The assertion and disposition of any claim against any agency officer or other agency member in a civil action that relates to the member's service in law enforcement;
  - (e) The completion of in-service training required of an agency officer whose officer certification or SRO certification has been administratively suspended pursuant to M.G.L. c. 6E, §§ 3 and/or 9;
  - (f) The satisfaction of conditions required of an agency officer whose officer certification or SRO certification has been suspended, restricted, or limited pursuant to M.G.L. c. 6E, §§ 3, 9, and/or 10;
  - (g) The completion of retraining required of an agency officer pursuant to M.G.L. c. 6E, §§ 3 and/or 10(d); ~~and~~
  - (h) Each material change in any circumstances, condition, or matter that provided the foundation for:
    - 1. Any agency recommendation that the Commission suspend or revoke an individual's officer certification or SRO certification;
    - 2. Any agency recommendation that the Commission order an officer to undergo retraining;
    - 3. Any action by the Commission or any part of the Commission to pursue a suspension or revocation of the officer certification or SRO certification of an agency officer; or
    - 4. Any order that an agency officer undergo retraining; and
  - (i) Any change in:
    - 1. Contact information for the officer that has been provided to the Commission;
    - 2. Whether the officer is employed by the agency;
    - 3. Whether the officer is on an agency-imposed suspension;
    - 4. Whether the officer is on a period of leave of four weeks or more; or
    - 5. Information regarding the officer's collective bargaining unit, or a representative of such a unit, that has previously been provided to the Commission.
- (2) Each law enforcement agency shall also provide the following to the Commission, in accordance with Commission instructions:
- (a) Records of completion of training by officers;
  - (b) Any materials provided or presented to officers in connection with any training;
  - (c) Records concerning individuals elected or appointed to serve as constables within the agency's area of jurisdiction; and
  - (d) Any other records, or categories of records, designated by the Commission.
- (3) Each law enforcement agency shall additionally:
- (a) Report information to the National Use of Force Data Collection Database maintained by the Federal Bureau of Investigation pursuant to 555 CMR 6.08(2);
  - (b) Make all reports required by M.G.L. c. 31, § 67, if not exempt from the statute's requirements; ~~and~~
  - (c) To the extent feasible, report information to:
    - 1. The National Law Enforcement Accountability Database maintained by the United States Department of Justice; and
    - 2. The National Violent Death Reporting System maintained by the United States Centers for Disease Control.
- (4) Each law enforcement agency shall make diligent efforts to ensure accuracy in reporting information to the Commission or otherwise reporting information pursuant to 555 CMR 12.00.

12.05: Law Enforcement Agency Liaison to Commission

- (1) Each law enforcement agency shall designate one or more of its members to serve as a liaison to the Commission with respect to all areas in which information is exchanged between the agency and the Commission.

- (2) A law enforcement agency liaison shall be responsible for taking the following steps, in accordance with Commission instructions:
- (a) Providing the Commission with an email address that may be used for correspondence with the Commission;
  - (b) Regularly monitoring the mailbox associated with the email address provided;
  - (c) Ensuring that the agency makes required reports, and transmissions of information, to the Commission;
  - (d) Receiving information from the Commission;
  - (e) Ensuring that Commission policies, notices, and communications are transmitted to appropriate agency members;
  - (f) Making diligent efforts to ensure accuracy in all agency representations to the Commission; and
  - (g) Any other steps required by the Commission or the agency.

12.06: Officer Reporting of Information

- (1) Each officer shall:
- (a) Provide the following to the law enforcement agency that employs the officer, or if there is no such agency, to the Commission, in accordance with any Commission instructions:
    - 1. An email address that the Commission may use to correspond with the officer;
    - 2. Either of the following items, with respect to a collective bargaining unit:
      - a. The name of a unit to which the officer belongs, and the name and an email address of the head of that unit, or if the unit has no head, the name and an email address of a representative of the unit;
      - b. A statement signed by the officer indicating that the officer is not a member of any unit; or
      - c. A statement signed by the officer indicating that the officer does not wish to have Commission communications concerning the officer transmitted to a representative of a collective bargaining unit, and waives the benefit of any provision that would otherwise require such a transmission;~~;~~ **and**
    - 3. Any change in:
      - a. Contact information for the officer that has been provided to the Commission; **or**
      - b. Information regarding the officer's collective bargaining unit, or a representative of such a unit, that has previously been provided to the Commission;~~;~~
  - (b) Regularly monitor the mailbox associated with the email address that is provided pursuant to 555 CMR 12.06(1)(a)1. for messages from the Commission;~~;~~
  - (c) Make diligent efforts to ensure accuracy in representations made, in an official capacity as an officer:
    - 1. Within records related to the individual's service as an officer;
    - 2. To any body or person of authority; and
    - 3. To the Commission; and
  - (d) Take any other steps required by the Commission.

12.07: Procedures for Audits

- (1) The Commission may, at any time, at the request of any individual or entity or on its own initiative, conduct, or cause to be conducted, an audit of the records referenced in M.G.L. c. 6E, § 8(d) or other records or operations of a law enforcement agency.
- (2) Steps that may be taken in a Commission audit include the following, where not precluded by law:



- (a) Requiring a law enforcement agency auditee to:
  1. Identify one or more members who have sufficient authority to ensure that required actions are taken and recommendations will be evaluated;
  2. Identify one or more members who will be available to take administrative steps that may be required as part of the audit;
  3. Direct agency personnel to comply with the audit;
  4. Provide any auditor with sufficient access to the agency head;
  5. Provide any auditor with sufficient access to agency records;
  6. Provide any auditor with materials or information that sufficiently explain the structure and operation of the agency's electronic and non-electronic recordkeeping systems;
  7. Provide any auditor with appropriate administrative and technical assistance;
  8. Provide records in a designated electronic or non-electronic format;
  9. Cooperate in developing and implementing an audit plan;
  10. Ensure that appropriate personnel complete training necessary for the audit to be effective;
  11. Provide written or unwritten responses to recommendations by an auditor;
  12. Create or contribute to creating, and follow, a plan for future action, based on the audit;
  13. Inform other government officials or members of the public of certain findings made by Commission auditors, to the extent appropriate; and
  14. Take certain steps following the audit's conclusion, including filing reports with the Commission or complying with one or more subsequent audits;
- (b) Requiring a member of a law enforcement agency auditee to:
  1. Participate in a recorded or an unrecorded interview; and
  2. Complete a questionnaire or self-assessment;
- (c) Requiring an officer auditee to:
  1. Cooperate in developing and implementing an audit plan;
  2. Provide any auditor with sufficient access to records of the auditee;
  3. Participate in a recorded or an unrecorded interview;
  4. Complete a questionnaire or self-assessment;
  5. Provide written responses to recommendations by an auditor;
  6. Create or contribute to creating, and follow, a plan for future action, based on the audit; and
  7. Take steps following the conclusion of the audit, including filing reports with the Commission or complying with one or more subsequent audits;
- (d) Reviewing any records referenced in 555 CMR 12.03 or other records;
- (e) Obtaining relevant information from individuals and entities other than the auditee;
- (f) Developing a plan for the auditee to follow, or a set of recommendations for the auditee, based on the audit;
- (g) Issuing an order for the auditee to take or refrain from taking any specified action;
- (h) Informing other government officials or members of the public of certain findings made by Commission auditors, to the extent appropriate;
- (i) Executing a confidentiality agreement, or otherwise maintaining confidentiality, with respect to the auditee's records and/or aspects of the audit, to the extent confidentiality is not precluded by law;
- (j) Publicizing progress, achievements, and commendable practices by agencies and officers, and offering information on such matters in informing others in law enforcement about best practices; and

(k) Taking any other step that is consistent with the Commission's authority, or with generally accepted government auditing standards.

(3) Commission auditors may include individuals who are not Commission employees, but are retained by the Commission and subject to Commission oversight, provided that any auditor satisfies the requirements for an investigator of 555 CMR 1.05(3): *Contractor Investigators*.

(4) The Commission may also direct a law enforcement agency to conduct an internal audit of its own records and/or operations according to Commission guidelines, provided that any auditor satisfies the requirements for an investigator of 555 CMR 1.01(2)(b).

(5) In selecting auditors, the Commission and law enforcement agencies shall, when feasible, give preference to individuals with a certification and/or demonstrated experience in the auditing of law enforcement agencies or other government agencies.

(6) If the Commission concludes an audit by developing a plan for the auditee to follow, developing a set of recommendations for the auditee, or issuing an order for the auditee to take or refrain from taking any specified action, the Commission shall either:

- (a) Cite a preexisting source that supports each determination or action by the Commission; or
- (b) Acknowledge that it could locate no such source, if that is the case.

#### 12.08: Areas of Examination in Audits

(1) In conducting an audit, the Commission may examine any areas related to the Commission's statutory charge, including:

- (a) Law enforcement agency or officer functioning, generally or with respect to a particular matter, in the following areas:
  - 1. Recordkeeping or reporting of information, within the agency, to the Commission, and to other entities;
  - 2. Compliance with directives, sources of authority, policies, and standards related to law enforcement and agency management, including:
    - a. M.G.L. c. 6E;
    - b. 555 CMR;
    - c. Commission policies and standards;
    - d. Commission certification conditions, restrictions, and limitations;
    - e. Commission-issued compulsory legal process;
    - f. Other Commission directives;
    - g. M.G.L. c. 6, §§ 167 through 178B;
    - h. Other statutes and regulations;
    - i. Court judgments, consent decrees, orders, or rules;
    - j. Decisions by other bodies or persons or authority;
    - k. Other compulsory legal process; and
    - l. Agency policies;
  - 3. The adequacy of investigations and determinations, including:
    - a. The adequacy of background investigations concerning active and prospective agency members;
    - b. The adequacy of other investigations and analysis;
    - c. The accuracy and completeness of reports and factual recitations;
    - d. The adequacy of notifications to affected individuals;
    - e. The appropriateness of interview procedures;
    - f. The prevalence and adequacy of recordings and transcriptions;
    - g. The reliability of factfinding;

- h. The appropriateness of the time devoted to processes;
- i. The fairness of processes, and how they compare to those in comparable cases;
- j. The sufficiency of documentation generated;
- k. The honoring of individual rights; and
- l. The equity and justness of results, and how they compare to those in comparable cases;
- 4. Internal and external communication, including:
  - a. The communication of Commission and agency policies, and required notifications, to agency personnel;
  - b. The treatment of information that one agency member has reported to another;
  - c. Other communication and interaction with agency personnel;
  - d. Communication and interaction with the Commission and other agencies; and
  - e. Communication and interaction with complainants, victims, witnesses, and other members of the public; and
- 5. Other aspects of performance, including the sufficiency, fairness, equity, justness, soundness, timeliness, efficiency, and effectiveness of policies and operations; and
- (b) Substantive information that may warrant analysis or aid the Commission in developing or recommending policies or informing the public.

(2) A Commission audit may focus on subjects that are referenced in M.G.L. c. 6E, § 8(d) or are otherwise related to the Commission's statutory charge, including:

- (a) Officer certification;
- (b) SRO certification and activity, SRO MOUs, and SRO operating procedures;
- (c) Law enforcement agency certification, including standards concerning:
  - 1. Use of force and reporting of use of force;
  - 2. Officer code of conduct;
  - 3. Officer response procedures;
  - 4. Criminal investigation procedures;
  - 5. Juvenile operations;
  - 6. Internal affairs and officer complaint investigation procedures;
  - 7. Detainee transportation; and
  - 8. Collection and preservation of evidence;
- (d) Complaints, investigations, disciplinary matters, and misconduct involving officers, including conduct involving improper:
  - 1. Racial profiling or other forms of bias;
  - 2. Violence or dangerousness;
  - 3. Dishonesty;
  - 4. Nonintervention;
  - 5. Harassment, intimidation, or retaliation;
  - 6. Unlawfulness or obstruction of justice; or
  - 7. Unprofessionalism;
- (e) In-service training and retraining;
- (f) Uses of force, crowd control, injuries, and deaths;
- (g) The law concerning:
  - 1. The handling of evidence that may be exculpatory or otherwise relevant with respect to a criminal matter;
  - 2. Civil rights;
  - 3. Other aspects of criminal procedure;
  - 4. Labor and employment; and
  - 5. Public records, criminal record information, record retention, information disclosure, and fair information practices;
- (h) Other law enforcement activity;

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- (i) Patterns on the part of single individuals, multiple individuals within a law enforcement agency, or multiple individuals in different agencies; and
- (j) Any other area relevant to the development of public policy or another matter of public interest.

12.09: Verification of Information

- (1) The Commission, where not otherwise precluded by law, may require any law enforcement agency or officer to provide responses to inquiries verbally or in writing, including those the pains and penalties of perjury, addressing one or more of the following:
  - (a) Whether certain information in a record is accurate;
  - (b) Whether a record is authentic;
  - (c) Whether a record is a true and accurate copy of another;
  - (d) The contents or disposition of an original record;
  - (e) The circumstances surrounding the making of the record or similar records;
  - (f) Efforts made to locate a record;
  - (g) How records are kept and maintained; and
  - (h) Whether a record has certain characteristics that may have relevance to its authenticity or evidentiary admissibility.

12.10: Notice by the Commission

- (1) Notice by the Commission to a law enforcement agency, an officer, or the head of a collective bargaining unit, in implementing any aspect of M.G.L. c. 6E, 555 CMR, or a Commission policy:
  - (a) ~~S~~shall be sufficient if provided using an email address or other address that was furnished to the Commission, by or on behalf of the addressee or officer at issue, for such purpose; ~~and~~
  - (b) ~~Shall be provided to a person or entity through any attorney at law that the Commission knows to be representing the person or entity in connection with the matter at issue.~~
- (2) The Commission shall, in addition to any other notification it deems appropriate:
  - (a) Provide notification of any Commission decision to undertake an audit of a law enforcement agency, and the parameters of the intended audit, by email to the head of the agency at least 21 days in advance of the expected date of commencement of the audit; and
  - (b) Provide notification any final Commission report, and any Commission order to take or refrain from taking any specified action, as a result of a concluded audit by email to the head of the agency.

12.11: Review of Commission Decision to Conduct Audit

- (1) Within seven days of receiving notice of a Commission decision to undertake an audit pursuant to 555 CMR 12.10(2)(a), a law enforcement agency may submit a written petition, signed by the agency head, requesting review of the decision by the Executive Director and one or more specified forms of relief.
- (2) If the Executive Director receives a petition from a law enforcement agency pursuant to 555 CMR 12.11(1), the Executive Director:
  - (a) May ask the agency to provide additional information, orally or in writing, or to appear at a meeting concerning the matter; and
  - (b) Shall, within a reasonable time, provide the agency with a written decision, which shall be the final Commission decision on the petition.

12.12: Review of Commission Action Following Audit

- (1) Within 30 days of receiving a final Commission report and/or a final Commission order to take or refrain from taking any specified action as a result of a concluded audit pursuant to 555 CMR 12.10(2)(b), the agency may submit a

written petition, signed by the agency head, requesting review by the Executive Director and one or more specified forms of relief.

- (2) If the Executive Director receives a petition from a law enforcement agency pursuant to 555 CMR 12.11(3), the Executive Director:
  - (a) May ask the agency to provide additional information, orally or in writing, or to appear at a meeting concerning the matter; and
  - (b) Shall, within a reasonable time, provide the agency with a written decision on the petition.
  
- (3) Within 30 days of receiving a decision from the Executive Director pursuant to 555 CMR 12.11(4)(b), a law enforcement agency may submit to the Executive Director a written petition, signed by the agency head, requesting further review and one or more specified forms of relief.
  
- (4) If the Executive Director receives a petition from a law enforcement agency pursuant to 555 CMR 12.11(5) in which the agency requests relief from a Commission order to take or refrain from taking any specified action:
  - (a) A hearing on the matter shall be held by the full Commission, but may, in the Chair’s discretion, be heard in the first instance by a presiding officer selected pursuant to a policy established by the Commission; ~~and~~
  - (b) The matter shall proceed in conformance with 555 CMR 1.10(4)-(5), except that:
    1. Instead of following the provisions concerning notice of 555 CMR 1.10(4)(e)2.a., the presiding officer shall promptly provide the agency head with a copy of the presiding officer’s initial decision and file a copy of the same with the Commission;~~;~~
    2. Provisions of 555 CMR 1.10(4)(e)2.b. referring to an officer shall instead apply to the agency;~~;~~ ~~and~~
    3. Instead of applying the provisions of 555 CMR 1.10(4)(c): *Standard of Proof*, the Commission shall grant an agency relief such relief as is warranted by a preponderance of the evidence.
  
- (5) If the Executive Director receives a petition from a law enforcement agency pursuant to 555 CMR 12.11(5) that does not request relief from a Commission order to take or refrain from taking any specified action:
  - (a) The Executive Director shall promptly forward the petition to the Chair;
  - (b) The Chair shall promptly assign a presiding officer to review the matter; and
  - (c) The assigned presiding officer:
    1. May ask the agency to provide additional information, orally or in writing, or to appear at a meeting concerning the matter; and
    2. Shall, within a reasonable time, provide the agency with a written decision, which shall be the final Commission decision on the petition.

12.13: Enforcement and Disciplinary Action

- (1) Law enforcement agencies and officers are prohibited from engaging in the following forms of conduct:
  - (a) Failing to comply with 555 CMR 12.00 or an order of the Commission issued thereunder;
  - (b) “Untruthfulness” as defined in M.G.L. c. 6E, § 1; or
  - (c) ~~Violating M.G.L. c. 6E, § 12; or otherwise h~~Harassing, intimidating, or retaliating against any individual for taking any step, or interfering~~ingene~~ with one’s taking of any step, that is required by M.G.L. c. 6E, 555 CMR, the Commission, or a Commission audit.
  
- (2) If an officer violates 555 CMR 12.12(1):
  - (a) The Commission may administratively suspend the officer’s certification for a specified period of time or until specified conditions are satisfied; and

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(b) Upon issuing any such administrative suspension, the Commission shall follow the procedures specified in M.G.L. c. 6E, § 9(d) and 555 CMR 1.09: *Single Commissioner Review of Suspensions*.

(3) Conduct by an officer in violation of 555 CMR 12.12(1) may be treated as a form of “prohibited conduct” under M.G.L. c. 6E, § 8(c)(2) and 555 CMR 1.02(4).

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

REGULATORY AUTHORITY

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

6b(i).

555 CMR 7.00: RECERTIFICATION

Section

- 7.01: Authority and Scope
- 7.02: Definitions
- 7.03: Submission of Information to the Commission
- 7.04: Continuation of Certification Period
- 7.05: Conditional Certification
- 7.06: Determination of Character and Fitness
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7.01: Authority and Scope

- (1) 555 CMR 7.00 is promulgated pursuant to M.G.L. c. 6E, §§ 3(a) and 4.
- (2) 555 CMR 7.00:
  - (a) Governs the recertification of an applicant whose application is endorsed or supported by an appointing authority;
  - (b) Does not govern the initial certification of an individual; and
  - (c) Does not govern the recertification of an individual who submits, or intends to submit, an application to the Commission without the endorsement of an appointing authority, and whose recertification is thus governed by 555 CMR 9.00.
- (3) No person or entity shall be required to comply with any provision of 555 CMR 7.00 or any order issued thereunder if:
  - (a) Compliance would result in:
    - 1. A violation of a privilege against disclosure recognized by law and held by that person or entity, including, but not limited to, the attorney-client privilege and any privilege against self-incrimination; or
    - 2. A federal or state constitutional or statutory provision; and
  - (b) The person or entity so informs the Commission, citing the pertinent privilege, protection, or provision.
- (4) Nothing in 555 CMR 7.00 is intended to:
  - (a) Establish a standard of care;
  - (b) Create any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection on the part of any person or entity other than the Commission, except as expressly provided;
  - (b) Otherwise waive any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission; or
  - (c) Preclude the limiting, conditioning, restricting, suspending, or revoking of any certification in accordance with law.

7.02: Definitions

- (1) 555 CMR 7.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 7.02(2).
- (2) For the purposes of 555 CMR 7.00, the following terms have the following meanings, unless the context requires otherwise:

Applicant. An individual on whose behalf an application is submitted to the Commission.



Application. A request for an individual to be certified as an officer.

Appointing Authority. In the case of an applicant who seeks to begin serving or continue serving as an appointed head of a law enforcement agency, the person or entity with the authority to appoint the individual as the law enforcement agency head; and, in the case of all other applicants, the law enforcement agency that seeks to begin employing or continue employing an applicant in an unelected position as an officer.

Body or Person of Authority. An officer's appointing authority; any supervisor of the officer therein; the Civil Service Commission; any arbitrator or other third-party neutral with decision-making power; any court; and any prosecutor's office.

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

Certification Period. The period of time between the effective date and the expiration date of an individual's certification as an officer, including any period of continuation provided for under M.G.L. c. 30A, § 13 or 555 CMR 7.04 beyond the third anniversary of the individual's last certification.

Character and Fitness. Good moral character and fitness for employment in law enforcement, as that phrase is used in M.G.L. c. 6E, § 4(f)(1)(ix). Character and fitness means to have qualities that the public, other members of law enforcement, and the Commission have the right to demand of an officer, which qualities include, but are not limited to, honesty, integrity, diligence, reliability, fairness, candor, trustworthiness, respect for and obedience to the law, and respect for the rights of others and the judicial process.

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

Conditional Certification. A certification of the type described in 555 CMR 7.05.

Decertification or Revocation of Certification. A revocation of certification by the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and 10, an action distinct from a denial, a nonrenewal, an expiration, or a suspension of certification.

Denial of Certification. A Commission action declining to grant a certification, made pursuant to M.G.L. c. 6E, §§ 3(a) and 4, an action distinct from a revocation or a suspension of certification.

Division. The Division of Police Certification established pursuant to M.G.L. c. 6E, § 4.

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

Final Decision. The ultimate Commission decision on an application, following any review or hearing pursuant to 555 CMR 7.12 or the expiration of the time afforded for an applicant to seek such review or hearing, and following the satisfaction of any conditions attached to a conditional certification or the expiration of the time to satisfy any such conditions, and thus not including a decision granting a conditional certification.

Full Certification. A certification granted for three years pursuant to M.G.L. c. 6E, § 4(f)(3), without any condition, limitation, restriction, or suspension imposed pursuant to M.G.L. c. 6E, § 3(a) or any other provision.

Identified CBU Head. An individual identified by an applicant or an applicant's appointing authority as being the head of the applicant's collective bargaining unit.

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

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

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

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

Suspension. A suspension of a certification, including an administrative suspension, pursuant to M.G.L. c. 6E, §§ 3, 9, or 10.

### 7.03: Submission of Information to the Commission

- (1) The Division may establish the deadline by which, and the manner in which, any application, form, or information related to certification is to be submitted to the Commission by an applicant or appointing authority.
- (2) The Division may extend any deadline that it establishes one or more times for good cause, provided that no single extension exceeds 30 calendar days.
- (3) Any applicant or appointing authority seeking an extension of the time to submit one or more applications must submit to the Commission, with its first request for an extension, a roster of applicants as to whom it intends to seek certification and requires an extension.
- (4) An appointing authority may not submit an application on behalf of an individual, or endorse an individual’s application, unless the appointing authority has determined that the individual possesses “character and fitness” as defined in 555 CMR 7.02(2).

### 7.04: Continuation of Certification Period

- (1) Pursuant to M.G.L. c. 30A, § 13, the certification period for an applicant shall continue after the third anniversary of the applicant’s last certification, if:
  - (a) The application, in a form prescribed by the Division, is submitted in advance of such anniversary;
  - (b) The application is submitted in advance of any applicable deadline, and in conformity with any procedures, established by the Division; and
  - (c) The Division finds the application to be substantially complete.
- (2) The Division may establish that the inclusion of an applicant’s name in a roster submitted in accordance with 555 CMR 7.03(3) or Division guidelines shall be considered an application for purposes of 555 CMR 7.04(1).
- (3) A certification period continued pursuant to 555 CMR 7.04 shall end upon the issuance of a final decision.

### 7.05: Conditional Certification

- (1) The Division shall conditionally certify an applicant if it is unable to grant a full certification and the inability is directly and solely attributable to one of the following or a combination of the following:
  - (a) A failure to satisfy training requirements, where the applicant has been afforded additional time to satisfy such requirements by the MPTC;
  - (b) Circumstances that are beyond the applicant’s control and are attributable to a current or former employer of the applicant, the MPTC, or the Commission;
  - (c) The applicant’s having been on approved leave;
  - (d) The applicant’s having experienced a demonstrable hardship; or
  - (e) Circumstances beyond the applicant’s control.
- (2) The Division otherwise may conditionally certify an applicant if:
  - (a) The provisions of 555 CMR 7.07(2) are satisfied;
  - (b) The applicant’s application is substantially complete and does not reveal any basis for denying certification, but the Division is unable to grant a full certification

because certain additional details need to be supplied or certain information needs to be verified; or

(c) The Division determines that an applicant has satisfied all requirements for certification, but nevertheless deems a conditional certification warranted.

(3) Where the Division conditionally certifies an applicant, it shall set appropriate conditions that must be met in order for the applicant to maintain a certification.

(4) An applicant shall not be required to satisfy any conditions attached to a conditional certification, nor shall any time periods associated with any such conditions begin to elapse, before the conclusion of any review or hearing pursuant to 555 CMR 7.12, or the expiration of the time afforded for the applicant to seek such review or hearing, pursuant to 555 CMR 7.12.

(5) When an applicant fails to satisfy a condition of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 7.05(4), the Division shall terminate the applicant's certification, unless good cause for an extension of time for the applicant to satisfy the condition has been shown.

(6) When an applicant satisfies all conditions of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 7.05(4), and the Commission has not otherwise limited, restricted, or suspended the applicant's certification, the Division shall convert the conditional certification into a full certification and may set an effective date for the certification according to 555 CMR 7.13(2).

7.06: Determination of Character and Fitness

(1) General Standards Utilized by Appointing Authority and Commission.

(a) Any assessment of whether an applicant possesses "character and fitness" as defined in 555 CMR 7.02(2), shall take into account on-duty and off-duty conduct.

(b) Character and fitness can be assessed through the consideration of the totality of the circumstances, weighing all factors, both favorable and unfavorable. No one factor is necessarily dispositive.

(2) Submission by Appointing Authority.

(a) Each applicant's appointing authority shall provide a submission to the Commission concerning whether the applicant possesses character and fitness, in accordance with Commission policy.

(b) In assessing character and fitness, an appointing authority shall take into account whether an applicant, both on duty and off duty:

1. Follows any mission and values statement developed or approved by the Commission;
2. Adheres to laws, regulations, and orders;
3. Demonstrates accountability and responsibility;
4. Engages in conduct that demonstrates a problem with the applicant's integrity, honesty, moral judgment, or character; brings discredit to a law enforcement agency; or impairs a law enforcement agency's efficient and effective operation;
5. Is "untruthful" as defined by M.G.L. c. 6E, § 1 in any matter;
6. Neglects the duties of an officer;
7. Engages in misconduct towards the public or other law enforcement personnel;
8. Abuses one's law enforcement authority or position;
9. Knowingly engages in prohibited associations with individuals or prohibited visitation of establishments; and
10. Is worthy of the public trust and of the authority given to officers.

(c) In making such an assessment, the appointing authority also may rely on the following, without limitation:

1. Questionnaires;
2. Guidance or forms approved by the Commission;
3. Performance reviews;
4. Relevant education;
5. Specialized training;
6. Professional awards;

7. Achievements;
8. Commendations by law enforcement agencies or officials or others;
9. Instances of imposed discipline;
10. Credible allegations of misconduct;
11. The applicant's age at the time of any conduct;
12. The amount of time since any conduct;
13. The reliability of the information concerning any conduct;
14. The seriousness of any conduct;
15. The type of substantiated allegations (e.g., untruthfulness, excessive force);
16. The type of discipline imposed for each substantiated complaint;
17. Decisions from a body or person of authority;
18. Whether any conduct would subject the applicant to discipline under M.G.L. c. 6E;
19. The cumulative effect of conduct or information;
20. The evidence of rehabilitation;
21. The applicant's positive social contributions since any conduct;
22. The applicant's positive contributions to public welfare and safety since any conduct;
23. The applicant's candor in the certification process;
24. The materiality of any omissions or misrepresentations;
25. The length of service in law enforcement at the federal, state, and municipal levels; and
26. Other evidence of past performance.

(d) An appointing authority may take into account factors other than those listed in 555 CMR 7.06(2)(b), if the appointing authority provides a written report that satisfies 555 CMR 7.06(2)(g)1.

(e) An appointing authority shall not base a determination of character and fitness on any factor other than as provided in 555 CMR 7.06(2)(b) or (d).

(f) If an appointing authority determines that an applicant possesses character and fitness, the appointing authority shall provide, upon request by the Commission, documentation supporting such a determination.

(g) If an appointing authority determines that it cannot find that an applicant possesses character and fitness, the appointing authority shall make a written report to the Commission, a copy of which shall be simultaneously provided to the applicant and any identified CBU head for the applicant.

1. The written report shall contain an explanation for the appointing authority's determination including, but not limited to, a description of specific conduct supporting the appointing authority's determination. The written report must be sufficient to permit the Commission to evaluate the basis for the appointing authority's determination, and to permit the Commission to determine whether the applicant possesses character and fitness.

2. As to each instance of specific conduct cited in the appointing authority's report as evidence that the applicant may lack character and fitness, the appointing authority shall address:

- a. Any discipline imposed or decision issued by a body or person of authority as a result of the conduct, or the reasons why there was no discipline or decision;

- b. The extent to which the applicant complied with any such discipline or decision;

- c. Any similar conduct allegedly undertaken by the applicant subsequent to any such discipline or decision; and

- d. The dates of each instance of conduct, and imposition of discipline or issuance of a decision.

(h) Response by Applicant. Within 14 calendar days of the submission of the report to the Commission, or a longer period of time allowed by the Commission upon a showing of good cause, the applicant may submit a written response to the Commission, a copy of which shall be simultaneously provided to the applicant's appointing authority.

(3) Assessment and Determination by Commission.

(a) The Division shall render an initial determination as to whether an applicant possesses character and fitness, in accordance with any protocols adopted by the

Commission, upon giving due consideration to all information available to it, including, but not limited to, the following:

1. An attestation that an applicant possesses character and fitness and accompanying information;
2. Any report by an appointing authority of the type described in 555 CMR 7.05(2)(d); and
3. Any response by an applicant of the type described in 555 CMR 7.05(2)(h).

(b) The Division may, to the extent reasonably possible, obtain additional information that may prove helpful in determining whether an applicant possesses character and fitness.

(4) Consideration of Particular Matters. In rendering a determination regarding an applicant's character and fitness, unless there have been allegations that an applicant has engaged in multiple instances of similar or related misconduct, neither the appointing authority nor the Division shall consider an allegation of a particular instance of misconduct, where:

- (a) A body or person of authority has made a decision in the applicant's favor on the merits of a complaint alleging such misconduct;
- (b) The alleged misconduct is currently the subject of a pending investigation or adjudication by any authority;
- (c) The applicant has complied, or is in the process of complying, with any disciplinary action or other adverse decision by a body or person of authority, in relation to the alleged misconduct, and the applicant has not engaged in any similar conduct since the discipline or decision;
- (d) The alleged misconduct did not result in either a disciplinary proceeding or court action, and the appointing authority has not offered a reasonable explanation as to why no such proceeding or action was commenced; or
- (e) The allegation is not specifically and credibly supported.

(5) Notwithstanding 555 CMR 7.06(4), the appointing authority and the Division may consider allegations of the following types of misconduct even where an applicant may have engaged in only a single instance of the alleged misconduct:

- (a) Misconduct that infringes on the rights of another individual, including, but not limited to:
  1. Being biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level in their conduct; or
  2. Sexual misconduct;
- (b) "Untruthfulness" as defined in M.G.L. c. 6E, § 1;
- (c) Abuse of law enforcement authority or one's position;
- (d) Misconduct that requires the Commission to revoke an officer's certification pursuant to M.G.L. c. 6E, § 10(a); or
- (e) Violation of the conflict of interest law, M.G.L. c. 268A.

#### 7.07: In-service Training

(1) The annual in-service training requirements and deadlines of the Commission shall be the same as those established by the MPTC.

(2) Where an applicant is unable to satisfy the annual in-service training requirements, the applicant may be conditionally certified and receive a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b) if:

- (a) The applicant applies to the applicant's appointing authority for such a conditional certification and temporary exemption;
- (b) The applicant provides documentation to the appointing authority that sufficiently establishes that the applicant has been unable to complete required in-service training due to injury, physical disability, or a leave of absence;
- (c) The applicant otherwise meets all qualifications for certification; and
- (d) The applicant's appointing authority certifies that the applicant meets the criteria for a conditional certification and temporary exemption described in 555 CMR 7.07(2)(a) through (c).

#### 7.08: Division Evaluation of an Application

- (1) The Division shall evaluate each substantially complete application that it receives.
- (2) The Division may:
  - (a) Evaluate whether an applicant has satisfied the requirements set forth in 555 CMR 7.09 in any order that the Division considers expedient; and
  - (b) Refrain from evaluating whether any requirement has been satisfied after having determined that an applicant's failure to satisfy any other requirement is sufficient to warrant denial of the application.
- (3) Except as provided in 555 CMR 7.05 or 555 CMR 7.07(2), the Division may grant an application only if the Division determines that:
  - (a) The Division has received sufficient information relevant to the application; and
  - (b) The applicant satisfies all requirements set forth in 555 CMR 7.09.
- (4) If the Division determines that the applicant has not satisfied any of the requirements set forth in 555 CMR 7.09, and it has not found the circumstances described in 555 CMR 7.05(1), 555 CMR 7.05(2), or 555 CMR 7.07(2) to apply, it shall issue a decision denying the application in accordance with 555 CMR 7.11.

7.09: Satisfaction of Certification Requirements

Except as otherwise provided in 555 CMR 7.05 and 7.10, the Division shall evaluate whether the applicant has satisfied the requirements for certification established by M.G.L. c. 6E, §§ 4(f)(1), 4(f)(2), and 4(i), and 555 CMR 7.00, as follows.

- (1) Age 21. The requirement of attaining the age of 21, established by M.G.L. c. 6E, § 4(f)(1)(i), shall be deemed satisfied if, and only if, the applicant attained the age of 21 before the third anniversary of the applicant's last certification.
- (2) High School Education or Equivalent. The requirement of successful completion of a high school education or equivalent, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(ii), shall be deemed satisfied if, and only if, before the third anniversary of the applicant's last certification, the applicant:
  - (a) Successfully completed a high school education; or
  - (b) Obtained a General Educational Development (GED) certificate from an accredited program.
- (3) Basic Training Program. The requirement of successful completion of the basic training program approved by the MPTC, established by M.G.L. c. 6E, § 4(f)(1)(iii), shall be deemed satisfied if, and only if, at any point in time prior to the third anniversary of the applicant's last certification, the applicant successfully completed either:
  - (a) A basic training program approved by the MPTC; or
  - (b) A reserve training program approved by the MPTC and all additional training and service required by the MPTC pursuant to St. 2020, c. 253, § 102(b).
- (4) Physical and Psychological Fitness Evaluation. The requirement of successful completion of a physical and psychological fitness evaluation approved by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(iv), shall be deemed satisfied if, and only if:
  - (a) Between the applicant's last certification and the third anniversary of the applicant's last certification, there has been an evaluation that conforms to Commission specifications; and
  - (b) Any documentation or recording of questions posed, topics discussed, statements made, or assessments rendered in such an evaluation are preserved as directed by the Commission.
- (5) State and National Background Check. The requirement of successful completion of a state and national background check, including, but not limited to, fingerprinting and a full employment history, established and further described by M.G.L. c. 6E, § 4(f)(1)(v), shall be deemed satisfied if, and only if:
  - (a) The applicant's appointing authority either:
    1. Certifies that, since the applicant's last certification, it has provided the Commission with information conforming to Commission guidelines

concerning any of the following occurring during that time period:

- a. Discipline imposed on the applicant in relation to a matter reportable to the Commission under 555 CMR 1.01;
  - b. An arrest of the applicant;
  - c. The commencement, continuation, or termination of:
    1. A criminal prosecution against the applicant;
    2. A civil action against the applicant related to the applicant's service in law enforcement; or
    3. An administrative agency action against the applicant related to the applicant's service in law enforcement; and
- (b) The Division does not discern any basis for finding the requirement unmet.

(6) Examination. The requirement of passage of an examination approved by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(vi), shall be deemed satisfied if, and only if, the applicant successfully completes a Commission-prescribed examination between the applicant's last certification and the third anniversary of the applicant's last certification.

(7) First Aid and Cardiopulmonary Resuscitation Certificates. The requirement of possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(vii), shall be deemed satisfied if, and only if, the applicant possesses such certificates or the equivalent that will not expire before the third anniversary of the applicant's last certification.

(8) Oral Interview. The requirement of successful completion of an oral interview administered by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(viii), shall be deemed satisfied if, and only if:

- (a) Between the applicant's last certification and the third anniversary of the applicant's last certification, the head of the applicant's appointing authority or the head's designee orally interviews the applicant in accordance with Commission guidelines, which may require one or more of the following:
  1. A set of questions to be asked and answered;
  2. A set of written questionnaire questions to be answered and discussed;or
  3. A set of topics to be discussed;
- (b) Any such interview is audio-recorded and preserved as directed by the Commission.

(9) Character and Fitness. The requirement of being of good moral character and fit for employment in law enforcement, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(ix), shall be deemed satisfied if, and only if, the Division determines that the applicant meets the criteria set out in 555 CMR 7.06.

(10) No Felony Conviction. The requirement of not having been convicted of a felony, established by M.G.L. c. 6E, § 4(f)(2)(ii), will be deemed satisfied if, and only if, the Division does not find the applicant to have ever been so convicted, after the Division diligently takes steps to ascertain such fact.

(11) No Listing in a Decertification Database. The requirement of not being listed in the National Decertification Index or the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i), established by M.G.L. c. 6E, § 4(f)(2)(ii), shall be deemed satisfied if, and only if, the Division does not find the applicant to have ever been so listed, after the Division diligently takes steps to ascertain such fact.

- (a) The National Decertification Index to be consulted is the database of the same name maintained by the International Association of Directors of Law Enforcement Standards and Training.

(12) Would Not Have Been Decertified Previously. The requirement that the applicant, while previously employed in law enforcement in any state or United States territory or by the federal government, would not have had their certification revoked by the Commission if employed by an agency in the Commonwealth, established by M.G.L. c. 6E, § 4(f)(2)(iii), shall be addressed as follows:

- (a) The requirement shall be deemed satisfied if, and only if, the Division does not conclude that the applicant, while so employed within or outside of

Massachusetts, would ever have had a certification revoked pursuant to M.G.L. c. 6E, § 10(a) if, at the relevant time, the applicant had been employed by an agency in Massachusetts and M.G.L. c. 6E, § 10(a) had been in effect.

(13) In-service Training. An applicant must successfully complete all in-service training mandated under 555 CMR 7.07(1) as a requirement for certification, established pursuant to M.G.L. c. 6E, §§ 3(a) and 4.

(a) The requirement shall be deemed satisfied if, and only if, the Division determines that the applicant successfully completed all in-service training required for the period of time between the effective date of the applicant's last certification and June 30 prior to the third anniversary of the applicant's last certification.

#### 7.10: Performance Review

The Commission may establish that one or more requirements for certification set forth in 555 CMR 7.09 may be satisfied through a performance review, in lieu of any method prescribed by 555 CMR 7.09.

#### 7.11: Issuance of a Certification Decision

(1) The Division shall provide notification of a decision on the application by email to each of the following:

- (a) The applicant;
- (b) The applicant's appointing authority; and
- (c) Any identified CBU head for the applicant.

(2) As a decision declining to grant full certification is distinct from decertification, the procedures prescribed by M.G.L. c. 6E, § 10 need not be followed before such a decision is issued.

(3) If the Division's decision on an application provides for anything other than full certification, the notification described in 555 CMR 7.11(1) shall also inform the applicant of:

- (a) Any condition, limitation, or restriction attached to the certification, and any associated terms; and
- (b) The ability to seek review by the Executive Director as provided for in 555 CMR 7.12(1) and a hearing as provided for in 555 CMR 7.12(2) and 555 CMR 1.10.

#### 7.12: Possible Action Following Decision Declining to Grant Full Certification

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

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

1. If an applicant submits the petition, the applicant shall provide a copy of the petition to the applicant's appointing authority and any identified CBU head for the applicant at the time of its submission.

2. If an appointing authority submits the petition, the appointing authority shall provide a copy of the petition to the applicant and any identified CBU head for the applicant at the time of its submission.

(b) The Executive Director may ask any entity or individual to provide additional information, orally or in writing, or to appear at a meeting concerning the matter.

1. At any such meeting, the Executive Director shall have discretion to determine the extent to which anyone other than such entity or individual, and any attorney at law representing such entity or individual in connection with the matter, may attend and participate.

(c) The Executive Director shall, within a reasonable time, provide a written decision on the petition to:

1. The applicant;
2. The applicant's appointing authority; and
3. Any identified CBU head for the applicant.

(2) Following the process described in 555 CMR 7.12(1), an applicant or an applicant's



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appointing authority may request a hearing before the Commission concerning an application in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

(3) The Commission may place an individual's certification on restricted status while review pursuant to 555 CMR 7.12(1) or a hearing pursuant to 555 CMR 7.12(2) is pending.

(4) Where an applicant has received a decision declining to grant a full certification, the Commission may attach conditions, limitations, or restrictions on the applicant's ability to reapply.

### 7.13: Certification Status

(1) An application process shall be deemed ongoing and not "finally determined," as that term is used in M.G.L. c. 30A, § 13, absent a final decision.

(2) Notwithstanding the provisions of 555 CMR 7.04, a final decision to certify an applicant made after the third anniversary of the applicant's last certification may be made retroactive to a date on or after such anniversary.

(3) The granting of a certification shall not preclude the conditioning, limiting, restricting, suspending, or revoking of the certification in accordance with law, when warranted.

(4) Except as expressly provided herein, an individual who holds a conditional, limited, or restricted certification is "certified," as that term is used in M.G.L. c. 6E.

(5) The Commission may reconsider, and revise or vacate, a decision on an application, when such action is warranted.

(6) If a decision to certify an applicant is vacated, the applicant shall be deemed to have been certified during the period of time between the decision to certify and the decision to vacate.

(7) A certification granted pursuant to 555 CMR 7.00 shall be active only while the certified individual is serving as an officer for a law enforcement agency, and shall otherwise be restricted.

(8) The following individuals may not execute any type of "arrest" as defined in 555 CMR 9.02(2), or otherwise perform police duties and functions:

- (a) An individual who is serving as a "law enforcement officer" as defined in M.G.L. c. 6E, § 1 – whether as an officer of a law enforcement agency; a special state police officer; a special sheriff; a deputy sheriff; a constable; or a special, reserve, or intermittent police officer – but is not certified;
- (b) An individual whose certification is suspended;
- (c) An individual whose certification has been revoked;
- (d) An individual whose certification has been conditioned, limited, or restricted in a manner that precludes the relevant form of activity; and
- (e) An individual who otherwise lacks the legal authority to engage in the relevant form of activity.

### 7.14: Supervision by the Executive Director

Notwithstanding any other provision of 555 CMR 7.00, each member of the Commission staff shall be subject to the supervision and direction of the Executive Director in implementing any aspect of 555 CMR 7.00.

### 7.15: Cooperation, Enforcement, and Disciplinary Action

(1) Law enforcement agencies and officers are prohibited from engaging in the following forms of conduct in connection with any matter related to the provisions of 555 CMR 7.00:

- (a) Failing to comply with 555 CMR 7.00, an order of the Commission issued thereunder, or a limitation or restriction on a certification;
- (b) "Untruthfulness" as defined in M.G.L. c. 6E, § 1; or

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- (c) Harassing, intimidating, or retaliating against any individual for taking any step, or interference with one's taking of any step, that is required by M.G.L. c. 6E, 555 CMR, or the Commission.
- (2) If an officer violates 555 CMR 7.15(1):
  - (a) The Commission may administratively suspend the officer's certification for a specified period of time or until specified conditions are satisfied; and
  - (b) Upon issuing any such administrative suspension, the Commission shall follow the procedures specified in M.G.L. c. 6E, § 9(d) and 555 CMR 1.09: *Single Commissioner Review of Suspensions*.
- (3) Conduct by an officer in violation of 555 CMR 7.15(1) may be treated as a form of "prohibited conduct" under M.G.L. c. 6E, § 8(c)(2) and 555 CMR 1.02(4).
- (4) The Commission may refer information that it obtains in the certification process to an appropriate government office for possible criminal or civil enforcement action, pursuant to M.G.L. c. 6E, §§ 3(a) or 8(c)(2).

REGULATORY AUTHORITY

555 CMR 7.00: MG.L. c. 6E.



555 CMR 7.00: RECERTIFICATION

Section

- 7.01: Authority and Scope
- 7.02: Definitions
- 7.03: Submission of Information to the Commission
- 7.04: Continuation of Certification Period
- 7.05: Conditional Certification
- 7.06: Determination of Character and Fitness
- 7.07: In-service Training
- 7.08: Division Evaluation of an Application
- 7.09: Satisfaction of Certification Requirements
- 7.10: Performance Review
- 7.11: Issuance of Decision
- 7.12: Possible Action Following Decision Declining to Grant Full Certification
- 7.13: Certification Status
- 7.14: Supervision by the Executive Director
- 7.15: Enforcement and Disciplinary Action

Notes:

- This draft set of regulations is intended in part to:
  - Incorporate ideas for how the recertification process can be refined beginning with the July 1, 2025 class of applicants, including ideas offered by Commission personnel, stakeholders, and other members of the public, many of which were based on the experience of the Commission and others in applying the existing regulations, and certain of which have already been incorporated into 555 CMR 9.00: *Initial Certification of Officers; and Renewed Certification of Independently Applying Officers* or the current draft of 555 CMR 12.00: *Maintenance, Reporting, and Audits of Law Enforcement Records and Information*.
  - Limit the regulations to establishing the key rules governing the recertification process, leaving the details of how certain rules will be implemented to be further developed;
  - Harmonize the recertification regulations with 555 CMR 9.00, which govern all initial certifications and the recertification of independent (self-sponsored) applicants; and
- The redlined version of this draft shows changes that have been made since the Certification Policy Subcommittee meeting of October 1, 2024, except changes made solely to ensure consistency in phrasing, or that were made to the draft's formatting, ordering of items, numbering, punctuation, summaries of public comments, or explanatory notes.
- Certain policy questions and alternatives are identified in boldface and underlining within Notes.

7.01: Authority and Scope

Notes:

- This "Authority and Scope" section in part confirms that these regulations would apply only to endorsed applicants for recertification who seek to serve in appointed positions within law enforcement agencies, while 555 CMR 9.00 would continue to govern independent applicants for recertification, including applicants in elected positions, as well as all initial certifications.
- It includes language clarifying that the regulations do not require action that would result in a violation of a legally recognized privilege or other law, based in part on public comments submitted with respect to 555 CMR 12.00.

- (1) 555 CMR 7.00 is promulgated pursuant to M.G.L. c. 6E, §§ 3(a) and 4.
- (2) 555 CMR 7.00:
  - (a) Governs the recertification of an applicant whose application is endorsed or supported by an appointing authority;
  - (b) Does not govern the initial certification of an individual; and
  - (c) Does not govern the recertification of an individual who submits, or intends to submit, an application to the Commission without the endorsement of an appointing authority, and whose recertification is thus governed by 555 CMR 9.00.
- (3) No person or entity shall be required to comply with any provision of 555 CMR 7.00 or any order issued thereunder if:
  - (a) Compliance would result in:

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1. A violation of a privilege against disclosure recognized by law and held by that person or entity, including, but not limited to, the attorney-client privilege and any privilege against self-incrimination; or
  2. A federal or state constitutional or statutory provision; and
- (b) The person or entity so informs the Commission, citing the pertinent privilege, protection, or provision.
- (4) Nothing in 555 CMR 7.00 is intended to:
- (a) Establish a standard of care;
  - (b) Create any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection on the part of any person or entity other than the Commission, except as expressly provided;
  - (b) Otherwise waive any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission; or
  - (c) Preclude the limiting, conditioning, restricting, suspending, or revoking of any certification in accordance with law.

### 7.02: Definitions

#### Public Comments Relevant to this “Definitions” Section:

- Massachusetts Coalition of Police (MCOP):
  - The definition of “Appointing Authority” should be revised to make clear that a person or entity with the authority to appoint an agency head is the “appointing authority” only for an agency head, as opposed to being an alternative appointing authority for any and all applicants.

#### Notes:

- This “Definitions” section, among other things, seeks to :
  - Make clear that a recertification is a type of certification, not a wholly different action, and thus simply speak in terms of certification, as opposed to both certification and recertification;
  - Make clear that “recertification” and “renewal” are synonymous;
  - Provide a clear definition of “character and fitness”; and
  - Address the public comment about the definition of “appointing authority” summarized above.
- Other, smaller changes to the terminology used in the recertification regulations can be highlighted if helpful.

(1) 555 CMR 7.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 7.02(2).

(2) For the purposes of 555 CMR 7.00, the following terms have the following meanings, unless the context requires otherwise:

Applicant. An individual on whose behalf an application is submitted to the Commission.

Application. A request for an individual to be certified as an officer.

Appointing Authority. In the case of an applicant who seeks to begin serving or continue serving as an appointed head of a law enforcement agency, the person or entity with the authority to appoint the individual as the law enforcement agency head; and, in the case of all other applicants, the law enforcement agency that seeks to begin employing or continue employing an applicant in an unelected position as an officer.

Body or Person of Authority. An officer’s appointing authority; any supervisor of the officer therein; the Civil Service Commission; any arbitrator or other third-party neutral with decision-making power; ~~and any court;~~ and any prosecutor’s office.

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

Certification Period. The period of time between the effective date and the expiration date of an individual's certification as an officer, including any period of continuation provided for under M.G.L. c. 30A, § 13 or 555 CMR 7.04 beyond the third anniversary of the ~~officer's~~ individual's last certification.

Character and Fitness. Good moral character and fitness for employment in law enforcement, as that phrase is used in M.G.L. c. 6E, § 4(f)(1)(ix). Character and fitness means to have qualities that the public, other members of law enforcement, and the Commission have the right to demand of an officer, which qualities include, but are not limited to, honesty, integrity, diligence, reliability, fairness, candor, trustworthiness, respect for and obedience to the law, and respect for the rights of others and the judicial process.

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

Conditional Certification. A certification of the type described in 555 CMR 7.05.

Decertification or Revocation of Certification. A revocation of certification by the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and 10, an action distinct from a denial, a nonrenewal, an expiration, or a suspension of certification.

Denial of Certification. A Commission action declining to grant a certification, made pursuant to M.G.L. c. 6E, §§ 3(a) and 4, an action distinct from a revocation or a suspension of certification.

Division. The Division of Police Certification established pursuant to M.G.L. c. 6E, § 4.

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

Final Decision. The ultimate Commission decision on an application, following any review or hearing pursuant to 555 CMR 7.12 or the expiration of the time afforded for an applicant to seek such review or hearing, and following the satisfaction of any conditions attached to a conditional certification or the expiration of the time to satisfy any such conditions, and thus not including a decision granting a conditional certification.

Full Certification. A ~~decision-granting~~ certification granted for three years pursuant to M.G.L. c. 6E, § 4(f)(3), without any condition, limitation, restriction, or suspension imposed pursuant to M.G.L. c. 6E, § 3(a) or any other provision.

Identified CBU Head. An individual identified by an applicant or an applicant's appointing authority as being the head of the applicant's collective bargaining unit.

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

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

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

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

Suspension. A suspension of a certification, including an administrative suspension, pursuant to M.G.L. c. 6E, §§ 3, 9, ~~and~~ or 10.

### 7.03: Submission of Information to the Commission

#### Notes:

- This "Submission of Information to the Commission" section and others shift certain functions from the Executive Director to the Division of Police Certification. However, Section 7.14 below affirms that all staffers operate under the supervision and direction of the Executive Director.
- While applications would likely be submitted by agencies, as opposed to officers, this section gives

the Division the latitude to require or allow either approach.

- This section, like 555 CMR 9.00, provides that, if an agency has not found an individual to possess character and fitness, the agency is precluded from endorsing the individual and submitting an application on the individual's behalf. Rather, the applicant would need to proceed independently under 555 CMR 9.00.

(1) The Division may establish the deadline by which, and the manner in which, any application, form, or information related to certification is to be submitted to the Commission by an applicant or appointing authority.

(2) The Division may extend any deadline that it establishes one or more times for good cause, provided that no single extension exceeds 30 calendar days.

(3) Any applicant or appointing authority seeking an extension of the time to submit one or more applications must submit to the Commission, with its first request for an extension, a roster of ~~officers~~ applicants as to whom it intends to seek certification and requires an extension.

(4) An appointing authority may not submit an application on behalf of an individual, or endorse an individual's application, unless the appointing authority has determined that the individual possesses "character and fitness" as defined in 555 CMR 7.02(2).

#### 7.04: Continuation of Certification Period

##### Notes:

- This "Continuation of Certification Period" section, which is similar to its predecessor, enables an officer to maintain an existing certification if the officer's recertification application has not been fully processed by the date on which the prior certification would normally expire.
- This section would also enable the Division to pursue its intended approach of shifting expiration dates to the birthdays or birth-months of applicants. At the same time, this section would not compel such an approach.
- Where an applicant's original certification period extends beyond the applicant's birthday because the applicant is pursuing a challenge to an adverse decision, the Division will be able to make the start date for any new certification period retroactive to the applicant's birthday (or another date), provided the date is not within the period of three years after the applicant's last certification, under Section 7.13(2) below.

(1) Pursuant to M.G.L. c. 30A, § 13, the certification period for an applicant shall continue after the third anniversary of the applicant's last certification, if:

- (a) The application, in a form prescribed by the Division, is submitted in advance of such anniversary;
- (b) The application is submitted in advance of any applicable deadline, and in conformity with any procedures, established by the Division; and
- (c) The Division finds the application to be ~~sufficient~~ substantially complete.

(2) The Division may establish that the inclusion of an applicant's name in a roster submitted in accordance with 555 CMR 7.03(23) or Division guidelines shall be considered an application for purposes of 555 CMR 7.04(1)(a).

(3) A certification period continued pursuant to 555 CMR 7.04 ~~shall~~ will end upon the issuance of a final decision.

#### 7.05: Conditional Certification

##### Notes:

- This "Conditional Certification" section addresses two types of conditional certification:
  - Those provided where the Division has not yet found an individual to have satisfied all certification requirements but there are grounds for temporarily certifying the individual nonetheless; and
  - Those provided where the Division has found an individual to have satisfied all requirements but still finds grounds to add a condition.
- The phrase "unable to grant a full certification" is intended to apply to:
  - Situations where an individual has not satisfied all requirements; and



- Situations where the Division has been unable to complete the certification process.
- This section, like its predecessor, provides protection for officers who, for example, failed to satisfy a requirement through no fault of their own or because of an understandable reason.
- At the same time, this section is less forgiving than its predecessor, given that officers and agencies now have had more notice of the requirements and have more familiarity with the system, and there is no longer the same need to “equalize” the three thirds of the alphabet.
- The list of grounds for granting a conditional certification should not extend to failures such as:
  - Failing a background check;
  - Lacking character and fitness;
  - Having a felony conviction;
  - Being listed in a decertification database;
  - Having a background event that would have led to decertification in Massachusetts; and
  - Failing to complete training without having been excused.
- **A policy question** is whether to allow for conditional certification in situations involving failures other than those listed, such as not possessing current first aid and CPR certificates.

(1) The Division shall conditionally certify an applicant if it is unable to grant a full certification and the inability is directly and solely attributable to one of the following or a combination of the following:

- (a) A failure to satisfy training requirements, where the applicant has been afforded additional time to satisfy such requirements by the MPTC;
- (b) Circumstances that are beyond the applicant’s control and are attributable to a current or former employer of the applicant, the MPTC, or the Commission;~~or~~
- (c) The applicant’s having been on approved leave;~~;~~
- (d) ~~T~~he applicant’s having experienced a demonstrable hardship;~~;~~ or
- (e) ~~C~~ircumstances beyond the applicant’s control.

(2) The Division otherwise may conditionally certify an applicant if:

- (a) The provisions of 555 CMR 7.07(~~23~~) are satisfied;
- (b) The applicant’s application is substantially complete and does not reveal any basis for denying certification, but the Division is unable to grant a full certification because certain additional details need to be supplied or certain information needs to be verified; or
- (c) The Division determines that an applicant has satisfied all requirements for certification, but nevertheless deems a conditional certification warranted.

(3) Where the Division conditionally certifies an applicant, it shall set appropriate conditions that must be met in order for the applicant to maintain a certification.

(4) An applicant shall not be required to satisfy any conditions attached to a conditional certification, nor shall any time periods associated with any such conditions begin to elapse, before the conclusion of any review or hearing pursuant to 555 CMR 7.12, or the expiration of the time afforded for the applicant to seek such review or hearing, pursuant to 555 CMR 7.12.

(5) When an applicant fails to satisfy a condition of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 7.05(4), the Division shall terminate the applicant’s certification, unless good cause for an extension of time for the applicant to satisfy the condition has been shown.

(6) When an ~~officer~~ applicant satisfies all conditions of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 7.05(4), and the Commission has not otherwise limited, restricted, or suspended the ~~officer’s~~ applicant’s certification, the Division shall convert the conditional certification into a full certification and may set an effective date for the certification according to 555 CMR 7.13(2).

#### 7.06: Determination of Character and Fitness

##### Public Comments Relevant to this “Determination of Character and Fitness” Section:

- American Civil Liberties Union of Massachusetts (ACLU):
  - “[A] clear definition of “good character and fitness” [should] be added to 555 CMR 7.01”;
  - “[N]ondiscretionary criteria that an agency must consider when assessing character [should] be added to 555 CMR 7.05(2)(a)”;
  - There should be “a requirement under 555 CMR 7.05(2)(b) that agencies provide a written



explanation for a determination that an officer possesses good character where that officer engaged in recent misconduct or has a pattern of complaints alleging the same or similar misconduct”;

- There should be “an adoption of a new recertification plan that enacts the above requirement retroactively such that an agency must explain their determination that an officer that has engaged in misconduct since 2015 meets the character standard”;
- There should be “[t]he addition of questions to the questionnaire to capture all aspects of an officer’s history, including any adverse judicial credibility determinations consistent with [*Graham v. District Attorney for Hampden District*, 493 Mass. 348 (2024)], civil findings of liability for civil rights violations, and other admissions of misconduct”; and
- The Commission should “[n]o longer allowing agencies to attest without providing proof that a qualification standard has been met.”

Notes:

- This “Determination of Character and Fitness” section clarifies that a character and fitness assessment requires a consideration of the totality of the circumstances and that no one factor is dispositive.
- They provide the factors a law enforcement agency must take into account in determining an officer’s character and fitness.
- The consideration of those character and fitness factors is now mandatory rather than discretionary.
- The International Association of Chiefs of Police’s (IACP’s) Code of Ethics and Standards of Conduct are no longer incorporated by reference in the regulations.
- In lieu of protocols adopted by the Commission under 555 CMR 7.05(4), the regulations at 555 CMR 7.04(5) identify instances of misconduct that can be considered by the law enforcement agency even if the officer has not “engaged in multiple instances of similar or related misconduct.”
- Two policy questions identified by the Subcommittee are being described in a separate document.

(1) General Standards Utilized by Appointing Authority and Commission.

- (a) Any assessment of whether an applicant possesses “character and fitness” as defined in 555 CMR 7.02(2), shall take into account on-duty and off-duty conduct.
- (b) Character and fitness can be assessed through the consideration of the totality of the circumstances, weighing all factors, both favorable and unfavorable. No one factor is necessarily dispositive.

(2) Submission by Appointing Authority.

- (a) Each applicant’s appointing authority shall provide a submission to the Commission concerning whether the applicant possesses character and fitness, in accordance with Commission policy.
- (b) In assessing character and fitness, an appointing authority shall take into account whether an applicant, both on duty and off duty:
  1. Follows any mission and values statement developed or approved by the Commission;
  2. Adheres to laws, regulations, and orders;
  3. Demonstrates accountability and responsibility;
  4. Engages in conduct that demonstrates a problem with the applicant’s integrity, honesty, moral judgment, or character; brings discredit to a law enforcement agency; or impairs a law enforcement agency’s efficient and effective operation;
  5. Is “untruthful” as defined by M.G.L. c. 6E, § 1 in any matter;
  6. Neglects the duties of an officer;
  7. Engages in misconduct towards the public or other law enforcement personnel;
  8. Abuses one’s law enforcement authority or position;
  9. Knowingly engages in prohibited associations with individuals or prohibited visitation of establishments; and
  10. Is worthy of the public trust and of the authority given to officers.
- (c) In making such an assessment, the appointing authority also may rely on the following, ~~which includes but is not limited to~~ without limitation:
  1. Questionnaires;
  2. Guidance or forms approved by the Commission;
  3. Performance reviews;
  4. Relevant education;
  5. Specialized training;

6. Professional awards;
7. Achievements;
8. Commendations by law enforcement agencies or officials or others;
9. Instances of imposed discipline;
10. Credible allegations of misconduct;
11. The applicant's age at the time of any conduct;
12. The amount of time since any conduct;
13. The reliability of the information concerning any conduct;
14. The seriousness of any conduct;
15. The type of substantiated allegations (e.g., untruthfulness, excessive force);
16. The type of discipline imposed for each substantiated complaint;
17. Decisions from a body or person of authority;
18. Whether any conduct would subject the applicant to discipline under M.G.L. c. 6E;
19. The cumulative effect of conduct or information;
20. The evidence of rehabilitation;
21. The applicant's positive social contributions since any conduct;
22. The applicant's positive contributions to public welfare and safety since any conduct;
23. The applicant's candor in the certification process;
24. The materiality of any omissions or misrepresentations;
25. The length of service in law enforcement at the federal, state, and municipal levels; and
26. Other evidence of past performance.

(d) An appointing authority may take into account factors other than those listed in 555 CMR 7.06(2)(b), if the appointing authority provides a written report, ~~in accordance with that satisfies~~ 555 CMR 7.06(2)(g)1., ~~which requires, among other things, an explanation for the appointing authority's determination, and the explanation is sufficient to permit the commission to evaluate the basis for the appointing authority's determination, and to permit the commission to determine whether the officer possesses character and fitness.~~

(e) An appointing authority shall not base a determination of character and fitness on any factor other than as provided in 555 CMR 7.06(2)(b) or (d).

(f) If an appointing authority determines that an applicant possesses character and fitness, the appointing authority shall provide, upon request by the Commission, documentation supporting such a determination.

(g) If an appointing authority determines that it cannot find that an applicant possesses character and fitness, the appointing authority shall make a written report to the Commission, a copy of which shall be simultaneously provided to the applicant and any identified CBU head for the applicant.

1. The written report shall contain an explanation for the appointing authority's determination including, but not limited to, a description of specific conduct supporting the appointing authority's determination. The written report must be sufficient to permit the Commission to evaluate the basis for the appointing authority's determination, and to permit the Commission to determine whether the applicant possesses character and fitness.

2. As to each instance of specific conduct cited in the appointing authority's report as evidence that the applicant may lack character and fitness, the appointing authority shall address:

- a. Any discipline imposed or decision issued by a body or person of authority as a result of the conduct, or the reasons why there was no discipline or decision;
- b. The extent to which the applicant complied with any such discipline or decision;
- c. Any similar conduct allegedly undertaken by the applicant subsequent to any such discipline or decision; and
- d. The dates of each instance of conduct, and imposition of discipline or issuance of a decision.

(h) Response by Applicant. Within 14 calendar days of the submission of the report to the Commission, or a longer period of time allowed by the Commission upon a showing of good cause, the applicant may submit a written response to the

Commission, a copy of which shall be simultaneously provided to the applicant's appointing authority.

(3) Assessment and Determination by Commission.

(a) The Division shall render an initial determination as to whether an applicant possesses character and fitness, in accordance with any protocols adopted by the Commission, upon giving due consideration to all information available to it, including, but not limited to, the following:

1. An attestation that an applicant possesses character and fitness and accompanying information;
2. Any report by an appointing authority of the type described in 555 CMR 7.05(2)(d); and
3. Any response by an applicant of the type described in 555 CMR 7.05(2)(h).

(b) The Division may, to the extent reasonably possible, obtain additional information that may prove helpful in determining whether an applicant possesses character and fitness.

(4) Consideration of Particular Matters. In rendering a determination regarding an applicant's character and fitness, unless there have been allegations that an applicant has engaged in multiple instances of similar or related misconduct, neither the appointing authority nor the Division shall consider an allegation of a particular instance of misconduct, where:

- (a) A body or person of authority has made a decision in the applicant's favor on the merits of a complaint alleging such misconduct;
- (b) The alleged misconduct is currently the subject of a pending investigation or adjudication by any authority;
- (c) The applicant has complied, or is in the process of complying, with any disciplinary action or other adverse decision by a body or person of authority, in relation to the alleged misconduct, and the applicant has not engaged in any similar conduct since the discipline or decision;
- (d) The alleged misconduct did not result in either a disciplinary proceeding or court action, and the appointing authority has not offered a reasonable explanation as to why no such proceeding or action was commenced; or
- (e) The allegation is not specifically and credibly supported.

(5) Notwithstanding 555 CMR 7.06(4), the appointing authority and the Division may consider allegations of the following types of misconduct even where an applicant may have engaged in only a single instance of the alleged misconduct:

- (a) Misconduct that infringes on the rights of another individual, including, but not limited to:
  1. Being biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level in their conduct; or
  2. Sexual misconduct;
- (b) "Untruthfulness" as defined in M.G.L. c. 6E, § 1;
- (c) Abuse of law enforcement authority or one's position;
- (d) Misconduct that requires the Commission to ~~mandatorily~~ revoke an officer's certification pursuant to M.G.L. c. 6E, § 10(a); or
- (e) Violation of the conflict of interest law, M.G.L. c. 268A.

7.07: In-service Training

Notes:

- This "In-service Training" section makes clear that satisfaction of the MPTC's in-service training requirements is a requirement for recertification.
- This section is generally consistent with policies previously approved by the Commission, including provisions of the [Requirements and Plan for Recertification of Certain Law Enforcement Officers](#) approved by the Commission on March 16, 2022.

(1) The annual in-service training requirements and deadlines ~~for~~of the Commission shall be the same as those established by the MPTC.

(2) Where an applicant is unable to satisfy the annual in-service training requirements, the applicant may be conditionally certified and receive a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b) if:

- (a) The applicant applies to the applicant’s appointing authority for such a conditional certification and temporary exemption;
- (b) The applicant provides documentation to the appointing authority that sufficiently establishes that the applicant has been unable to complete required in-service training due to injury, physical disability, or a leave of absence;
- (c) The applicant otherwise meets all qualifications for certification; and
- (d) The applicant’s appointing authority certifies that the applicant meets the criteria for a conditional certification and temporary exemption described in 555 CMR 7.07(2)(a) through (c).

7.08: Division Evaluation of an Application

Notes:

- This “Division Evaluation of an Application” section is based on provisions of 555 CMR 9.00.

- (1) The Division shall evaluate each substantially complete application that it receives.
- (2) The Division may:
  - (a) Evaluate whether an applicant has satisfied the requirements set forth in 555 CMR 7.09 in any order that the Division considers expedient; and
  - (b) Refrain from evaluating whether any requirement has been satisfied after having determined that an applicant’s failure to satisfy any other requirement is sufficient to warrant denial of the application.
- (3) Except as provided in 555 CMR 7.05 or 555 CMR 7.07(2), the Division may grant an application only if the Division determines that:
  - (a) The Division has received sufficient information relevant to the application; and
  - (b) The applicant satisfies all requirements set forth in 555 CMR 7.09.
- (4) If the Division determines that the applicant has not satisfied any of the requirements set forth in 555 CMR 7.09, and it has not found the circumstances described in 555 CMR 7.05(1), ~~555 CMR 7.05(2), or 555 CMR 7.07(2)~~ to apply, ~~the Division~~it shall issue a decision denying the application in accordance with 555 CMR 7.11.

7.09: Satisfaction of Certification Requirements

Public Comments Relevant to this “Satisfaction of Certification Requirements” Section:

- Massachusetts Coalition of Police (MCOP):
  - Treat certain requirements—particularly those related to physical and psychological fitness, an oral interview, and an examination—as satisfied as long as they were met once in an officer’s career, as opposed to evaluating them and requiring them to be found satisfied in each certification cycle.
  - Provide for certain requirements to be treated as presumptively satisfied absent a showing otherwise and/or that a finding of non-satisfaction must be supported by clear and convincing evidence.

Notes:

- Unlike its predecessor, this “Satisfaction of Certification Requirements” section incorporates the provisions of M.G.L. c. 6E, § 4(f)(2) (no felony conviction; no listing in a decertification database; would not have been decertified previously; and satisfying certification standards in Commission regulations) in addition to the requirements of M.G.L. c. 6E, § 4(f)(1).
- The subsections below use the phrase “if, and only if” as a way of establishing that certain actions or factors:
  - Will be sufficient to satisfy a requirement; and
  - Must be undertaken or present in order for the requirement to be satisfied.
- The regulations do not treat the requirements related to physical and psychological fitness, an oral interview, and an examination as satisfied as long as they were met once in an officer’s career. Rather, the regulations call for them to be evaluated and found satisfied in each certification cycle. They also do not provide for certain requirements to be treated as presumptively satisfied absent a showing otherwise and/or that a finding of non-satisfaction must be supported by clear and

convincing evidence. The regulations take such approaches based in part on:

- The statutory provision stating that “[t]he commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of subsection (f)” of Section 4, M.G.L. c. 6E, § 4(i);
- The statutory provision stating that “[t]he commission shall have . . . the power to: . . . adopt . . . regulations . . . establishing a physical and psychological fitness evaluation pursuant to section 4 that measures said fitness to ensure officers are able to perform essential job duties,” M.G.L. c. 6E, § 3(a);
- Provisions of M.G.L. c. 6E, §§ 3(a) and 4 authorizing the Commission to supplement the statutory certification requirements;
- The Legislature’s declining to statutorily establish any guarantee of recertification even where the statutory requirements have been met;
- The nature of Chapter 6E and the larger session law through which it was adopted in their entirety, and the events surrounding the law’s enactment;
- The public benefits of periodically and regularly ensuring that officers continue to possess certain qualifications; and
- The ability to evaluate such requirements each certification period in a manner that does not create undue burden.

Except as otherwise provided in 555 CMR 7.05 and 7.10, the Division shall evaluate whether the applicant has satisfied the requirements for certification established by M.G.L. c. 6E, §§ 4(f)(1), 4(f)(2), and 4(i), and 555 CMR 7.00, as follows.

(1) Age 21. The requirement of attaining the age of 21, established by M.G.L. c. 6E, § 4(f)(1)(i), shall be deemed satisfied if, and only if, the applicant attained the age of 21 before the third anniversary of the applicant’s last certification.

(2) High School Education or Equivalent. The requirement of successful completion of a high school education or equivalent, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(ii), shall be deemed satisfied if, and only if, before the third anniversary of the applicant’s last certification, the applicant:

- (a) S~~the applicant~~ successfully completed a high school education; or
- (b) O~~btained~~ a General Educational Development (GED) certificate from an accredited program ~~before the third anniversary of the applicant’s last certification.~~

Notes:

- An officer who fails to satisfy the “Basic Training program” requirement below can, as noted above, obtain a conditional certification only in limited circumstances under Section 7.05.

(3) Basic Training Program. The requirement of successful completion of the basic training program approved by the MPTC, established by M.G.L. c. 6E, § 4(f)(1)(iii), shall be deemed satisfied if, and only if, at any point in time prior to the third anniversary of the applicant’s last certification, the applicant successfully completed either:

- (a) A basic training program approved by the MPTC; or
- (b) A reserve training program approved by the MPTC and all additional training and service required by the MPTC pursuant to St. 2020, c. 253, § 102(b).

Public Comments Relevant to the “Physical and Psychological Fitness Evaluation” Subsection Below:

- Written and/or verbal comments were received from:
  - The Bridgewater Police Chief and Massachusetts Police Association Vice President.
  - A Police Peer Support Coordinator.
  - The Massachusetts Coalition of Police (MCOP).
  - The Fraternal Order of Police of Massachusetts.
  - National Public Safety Solutions (NPSS).
  - A Licensed Mental Health Clinician.
  - The Reading Police Chief.
- Given their volume, the comments are not summarized here.
- More information about such comments can be provided.

Notes:

- The “Physical and Psychological Fitness Evaluation” subsection below cites the statutory section that lists the successful completion of such an evaluation among the minimum certification requirements, M.G.L. c. 6E, § 4(1)(iv).
- Notably, as observed above, another statutory section provides that “[t]he commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited



to, the power to” “adopt, amend or repeal regulations in accordance with [M.G.L. c. 30A] for the implementation, administration and enforcement of [M.G.L. c. 6E], including, but not limited to, regulations” “establishing a physical and psychological fitness evaluation pursuant to [M.G.L. c. 6E, § 4] that measures said fitness to ensure officers are able to perform essential job duties.” M.G.L. c. 6E, § 3(a).

- The subsection below calls for completion of a Commission-prescribed evaluation.
- The subsection further calls for the preservation of any recording or documentation of the evaluation, without requiring the making of any recording or documentation or requiring the automatic provision of any recording or documentation to the Commission.
- Additionally, separate regulations that would require agencies to create, maintain, and provide specific forms of information are being developed as 555 CMR 12.00.
- **Another alternative** would be to provide in this subsection that any recording or documentation must be preserved, but refrain from treating the preservation of such items as a prerequisite for finding that the evaluation requirement has been satisfied.
- The details regarding the implementation of statutory provisions regarding physical and psychological fitness continue to be developed, and this subsection accommodates that continued development.

(4) Physical and Psychological Fitness Evaluation. The requirement of successful completion of a physical and psychological fitness evaluation approved by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(iv), shall be deemed satisfied if, and only if:

- (a) Between the applicant’s last certification and the third anniversary of the applicant’s last certification, there has been an evaluation that conforms to Commission specifications; and
- (b) Any documentation or recording of questions posed, topics discussed, statements made, or assessments rendered in such an evaluation are preserved as directed by the Commission.

Public Comments Relevant to the “State and National Background Check” Subsection Below:

- American Civil Liberties Union of Massachusetts (ACLU):
  - Agencies should be required to provide the Commission with documentation concerning the results of background checks.
  - Any questionnaire should include questions that capture additional aspects of an officer’s history, such as adverse civil judgments and judicial findings, and admissions of misconduct.

Notes:

- The “State and National Background Check” subsection below does not call for a collection and evaluation of information that presumably would have been collected and evaluated in a prior certification process, either under 555 CMR 7.00 or 555 CMR 9.00.
- It instead focuses on ensuring that the Commission has received, or will receive, information on certain matters that occurred within the last certification period.
- Such information concerns discipline, arrests, criminal prosecutions, civil actions, and administrative agency actions.
- The subsection states, “as established and further described in the statute,” because the statute adds a proviso stating that, “if the applicant has been previously employed in law enforcement in any state or United States territory or by the federal government, the applicant’s full employment record, including complaints and discipline, shall be evaluated in the background check.”

(5) State and National Background Check. The requirement of successful completion of a state and national background check, including, but not limited to, fingerprinting and a full employment history, established and further described by M.G.L. c. 6E, § 4(f)(1)(v), shall be deemed satisfied if, and only if:

- (a) The applicant’s appointing authority either:
  1. Certifies that, ~~between-since~~ the applicant’s last certification ~~and the third anniversary of the applicant’s last certification~~, it has provided the Commission with information conforming to Commission guidelines concerning any of the following occurring during that time period:
    - a. Discipline imposed on the applicant in relation to a matter reportable to the Commission under 555 CMR 1.01;
    - b. An arrest of the applicant;
    - c. The commencement, continuation, or termination of:
      1. A criminal prosecution against the applicant;
      2. A civil action against the applicant related to the applicant’s service in law enforcement; or

3. An administrative agency action against the applicant related to the applicant’s service in law enforcement; ~~and; or 2. Provides to the Commission any information of the type described in 555 CMR 7.09(5)(a) that it has not previously provided to the Commission; and~~
- (b) The Division does not discern any basis for finding the requirement unmet.

Public Comments Relevant to the “Examination” subsection below:

- American Civil Liberties Union of Massachusetts (ACLU):
  - The examination requirement should need to be satisfied anew in each certification period, with officers completing examinations based on current training standards.
- Massachusetts Coalition of Police (MCOP):
  - This requirement should be deemed to have been satisfied upon completion at the hiring stage. Thereafter, the process should focus on whether the officer is in good standing and any statutory disqualifier applies.
  - Agencies should not be required to undertake additional steps without adequate funding.

Notes:

- An examination:
  - Does not need to be developed by the Commission, but can be approved by the Commission after being developed by others;
  - Does not need to be written;
  - Could be developed with input from law enforcement professionals; and
  - Could be administered online.
- The Commission could take a page from the State Ethics Commission’s conflict-of-interest training exam, which:
  - Is completed online;
  - Focuses on the law administered by the State Ethics Commission and the consequences of violating the law;
  - Largely presents clear right/wrong issues, as opposed to debatable ones;
  - Allows those who answer questions incorrectly to keep trying, while providing explanatory information;
  - Thus focuses on educating, as opposed to passing and failing; and
  - Highlights certain rules that are more complex or less obvious.
- Thus, for example, the POST Commission could develop an exam that tests an officer’s understanding of:
  - Matters on which Chapter 6E focuses:
    - Adhering to criminal and other laws;
    - Policing without bias, particularly bias based on characteristics listed in the statute;
    - Avoiding corrupt practices and conduct prejudicial to the administration of justice, and otherwise policing with integrity; and
    - Refraining from using force improperly, intervening when witnessing improper uses of force, and avoiding conduct that may lead to injury or death; and
  - The disciplinary, civil, and criminal consequences of violations.

(6) Examination. The requirement of passage of an examination approved by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(vi), shall be deemed satisfied if, and only if, the applicant successfully completes a Commission-prescribed examination between the applicant’s last certification and the third anniversary of the applicant’s last certification.

Notes:

- The “First Aid and Cardiopulmonary Resuscitation Certificates” subsection below, unlike the prior regulations, does not automatically allow for conditional certification of up to 90 days for those who fail to satisfy the requirement to possess such certifications.
- A policy question is whether to take a more forgiving approach.
  - On one hand, officers now have had more notice of the requirement and time to comply.
  - On the other hand, an officer in this situation presumably once satisfied the requirement but simply allowed the certificates to expire without timely renewing them. And it should not be difficult for an officer to attain compliance.

(7) First Aid and Cardiopulmonary Resuscitation Certificates. The requirement of possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(vii), shall be deemed satisfied if, and only if, the applicant possesses such certificates or the equivalent that will not

expire before the third anniversary of the applicant’s last certification.

Public Comments Relevant to the “Oral Interview” Subsection Below:

- American Civil Liberties Union of Massachusetts (ACLU):
  - Agencies should be required to record each oral interview and provide a copy of the recording to the Commission.
- Massachusetts Coalition of Police (MCOP):
  - This interview requirement should be deemed to have been satisfied upon completion of an interview at the hiring stage.
  - “In the first round of recertifications, there was an oral interview requirement that most departments did not complete. Reasons included that it is too burdensome on already cashstrapped and understaffed departments to dedicate personnel to compete these unnecessary tasks.”
  - As to the questions that were developed previously:
    - They “serve[d] no legitimate purpose because they [were] not asked or received by the Commission . . . unless the POST request[ed] them”;
    - “It is doubtful that any agency needs to ask or receive answers to these questions in order to decide whether an officer should be recommended for recertification,” and “[t]here is no evidence that . . . [they] provided any useful guidance to recommendations by agencies for officers to be recertified or of POST to make recertification decisions”;
    - “[T]he substance of the questions pertain to fitness and conduct issues that are best addressed locally through disciplinary process or evaluations”;
    - Questions regarding personal interactions with the criminal justice system, domestic violence, neglect, physical altercations, bankruptcy, social media use, and alcohol and cannabis use concern matters that can be addressed through the disciplinary process, are unrelated to effectiveness in policing, do not involve a widespread problem, are overreaching and too broad, or involve issues that should be dealt with individually with a goal of assistance and recovery.
  - Any requirement should be deemed satisfied not by an oral interview “in accordance with Commission guidelines” but if the appointing authority representative “meets with the applicant to discuss the application for recertification and provides an opportunity to discuss any concerns of the appointing authority or applicant.”
  - The provision requiring a recording and its preservation should be stricken.

Notes:

- The “Oral Interview” subsection provides for an interview to be conducted in accordance with Commission guidelines, which may require:
  - A set of questions to be asked and answered;
  - A set of written questionnaire questions to be answered and discussed; or
  - A set of topics to be discussed.
- The subsection would also require an agency to record an oral interview.
- It would not require an agency to automatically provide the Commission with the recording, but it would require preservation of the recording.
- Additionally, separate regulations that would require agencies to create, maintain, and provide specific forms of information are being developed as 555 CMR 12.00.
- The details regarding the implementation of the oral-interview provisions, and any interview topics or questions, could continue to be developed.
- The Commission could provide, for example, that the interview should cover one or more of the following:
  - The applicant’s achievements;
  - Challenges faced by the applicant;
  - Discipline imposed on the applicant, and how it might have been avoided;
  - An officer’s appreciation for matters on which Chapter 6E focuses, as listed above; or
  - Matters that the Commission believes should be better understood by members of law enforcement.
- Performance reviews are further addressed in 555 CMR 7.10 below.
- **Another alternative** would be to provide in this subsection that a recording must be made and preserved, but refrain from treating the making and preservation of a recording as a prerequisite for finding that the applicant has satisfied the oral interview requirement.

(8) Oral Interview. The requirement of successful completion of an oral interview administered by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(viii), shall be deemed satisfied if, and only if:



(a) Between the applicant’s last certification and the third anniversary of the applicant’s last certification, the head of the applicant’s appointing authority or the head’s designee orally interviews the applicant in accordance with Commission guidelines, which may require one or more of the following:

1. ~~A~~ set of questions to be asked and answered;
2. ~~A~~ set of written questionnaire questions to be answered and discussed; ~~or~~;
3. ~~A~~ set of topics to be discussed; ~~or~~ a performance review to be conducted; and

(b) Any such interview is audio-recorded and preserved as directed by the Commission.

(9) Character and Fitness. The requirement of being of good moral character and fit for employment in law enforcement, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(ix), shall be deemed satisfied if, and only if, the Division determines that the applicant meets the criteria set out in 555 CMR 7.06.

(10) No Felony Conviction. The requirement of not having been convicted of a felony, established by M.G.L. c. 6E, § 4(f)(2)(ii), will be deemed satisfied if, and only if, the Division does not find the applicant to have ever been so convicted, after the Division diligently takes steps to ascertain such fact.

(11) No Listing in a Decertification Database. The requirement of not being listed in the National Decertification Index or the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i), established by M.G.L. c. 6E, § 4(f)(2)(ii), shall be deemed satisfied if, and only if, the Division does not find the applicant to have ever been so listed, after the Division diligently takes steps to ascertain such fact.

(a) The National Decertification Index to be consulted is the database of the same name maintained by the International Association of Directors of Law Enforcement Standards and Training.

Notes:

- The “Would Not Have Been Decertified Previously” subsection below concerns the statutory requirement that an applicant “while previously employed in law enforcement in any state or United States territory or by the federal government, would [not] have had their certification revoked by the commission if employed by an agency in the commonwealth.”
- The subsection makes clear that the phrase “any state or United States territory or by the federal government” includes Massachusetts.
- It focuses on whether a certification would have been revoked pursuant to M.G.L. 6E, § 10(a)—which concerns mandatory decertification—if, at the relevant time, the applicant had been employed by an agency in Massachusetts and M.G.L. c. 6E, § 10(a) had been in effect.
- M.G.L. c. 6E, § 10(a) provides as follows:
  - The commission shall, after a hearing, revoke an officer’s certification if the commission finds by clear and convincing evidence that:
    - (i) the officer is convicted of a felony;
    - (ii) the certification was issued as a result of administrative error;
    - (iii) the certification was obtained through misrepresentation or fraud;
    - (iv) the officer falsified any document in order to obtain or renew certification;
    - (v) the officer has had a certification or other authorization revoked by another jurisdiction;
    - (vi) the officer is terminated by their appointing agency, and any appeal of said termination is completed, based upon intentional conduct performed under the color of office to: obtain false confessions; make a false arrest; create or use falsified evidence, including false testimony or destroying evidence to create a false impression; engage in conduct that would constitute a hate crime, as defined in [M.G.L. c. 22C, § 32]; or directly or indirectly receive a reward, gift or gratuity on account of their official services;
    - (vii) the officer has been convicted of submitting false timesheets in violation of [M.G.L. c. 231, § 85BB];
    - (viii) the officer knowingly files a written police report containing a false statement or commits perjury, as defined in [M.G.L. c. 268, § 1];
    - (ix) the officer tampers with a record for use in an official proceeding, as defined in [M.G.L. c. 268, § 13E];

- (x) the officer used force in violation of [M.G.L. c. 6E, § 14];
- (xi) the officer used excessive use of force resulting in death or serious bodily injury;
- (xii) the officer used a chokehold in violation of said [M.G.L. c. 6E, § 14];
- (xiii) the officer engaged in conduct that would constitute a hate crime, as defined in [M.G.L. c. 22C, § 32];
- (xiv) the officer engaged in the intimidation of a witness, as defined in [M.G.L. c. 268, § 13B];
- (xv) the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of [M.G.L. c. 6E, § 15]; [or]
- (xvi) the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.

- **A policy question** is whether to extend the focus to non-mandatory grounds for decertification.

(12) **Would Not Have Been Decertified Previously.** The requirement that the applicant, while previously employed in law enforcement in any state or United States territory or by the federal government, would not have had their certification revoked by the Commission if employed by an agency in the Commonwealth, established by M.G.L. c. 6E, § 4(f)(2)(iii), shall be addressed as follows:-

(a)      The requirement ~~will~~shall be deemed satisfied if, and only if, the Division does not conclude that the applicant, while so employed within or outside of Massachusetts, would ever have had a certification revoked pursuant to M.G.L. c. 6E, § 10(a) if, at the relevant time, the applicant had been employed by an agency in Massachusetts and M.G.L. c. 6E, § 10(a) had been in effect.

(13) **In-service Training.** An applicant must successfully complete all in-service training ~~mandated by the MPTC~~mandated under 555 CMR 7.07(1) as a requirement for certification. ~~This requirement,~~ established pursuant to M.G.L. c. 6E, §§ 3(a) and 4.~~5~~

(a)      ~~The requirement~~ shall be deemed satisfied if, and only if, the Division determines that the applicant successfully completed all in-service training required for the period of time between the effective date of the applicant’s last certification and June 30 prior to the third anniversary of the applicant’s last certification.

## 7.10: Performance Review

### Public Comments Relevant to this “Performance Review” Section:

- Massachusetts Coalition of Police (MCOP):
  - “[P]erformance evaluations are a mandatory subject of bargaining and many, if not all, departments have some sort of formal, or informal, procedure for evaluating their officers that was properly negotiated with their bargaining units.”
  - “We are opposed to any reduction in collective bargaining rights that govern how our members are evaluated.”
  - “The POST could encourage or mandate evaluations, but it should not dictate the method, criteria or implementation of them.”
  - The regulations should not allow the Commission to require performance reviews, as MCOP believes that regulating performance evaluations goes beyond the Commission’s statutory charge with respect to certification and addressing misconduct.

### Notes:

- This “Performance Review” section generally provides that the Commission may allow agencies to utilize a performance review as an alternative vehicle for satisfying, and evaluating the satisfaction of statutory certification requirements.
- A performance review could potentially encompass, for example, one or more of the following:
  - An oral interview;
  - An examination;
  - A background check;
  - A check into first aid and CPR certificates;
  - A character and fitness evaluation;
  - A physical and psychological fitness evaluation; or
  - Anything else that the Commission deems appropriate.
- A performance review could be designed to test an officer’s appreciation for matters on which Chapter 6E focuses, as listed above.
- **A policy question** is whether to further develop such a provision or to leave it more general.

The Commission may establish that one or more requirements for certification set

forth in 555 CMR 7.09 may be satisfied through a performance review, in lieu of any method prescribed by 555 CMR 7.09.

Notes:

- Sections 7.11 through 7.13 below, which concern “Issuance of a Certification Decision,” “Possible Action Following Decision Declining to Grant Full Certification,” and “Certification Status,” respectively, blend provisions found in the prior recertification regulations and those found in 555 CMR 9.00.
- Among these are provisions of 9.00 stating that:
  - A certification shall be active only while one is serving as an officer for a law enforcement agency; and
  - An individual is precluded from executing arrests or otherwise performing police duties and functions in various circumstances.
- Such sections provide additional forms of notice for identified CBU heads.

7.11: Issuance of a Certification Decision

- (1) The Division shall provide notification of a decision on the application by email to each of the following:
  - (a) The applicant;
  - (b) The applicant’s appointing authority; and
  - (c) Any identified CBU head for the applicant.
- (2) As a decision declining to grant full certification is distinct from decertification, the procedures prescribed by M.G.L. c. 6E, § 10 need not be followed before such a decision is issued.
- (3) If the Division’s decision on an application provides for anything other than full certification, the notification described in 555 CMR 7.11(1) shall also inform the applicant of:
  - (a) Any condition, limitation, or restriction attached to the certification, and any associated terms; and
  - (b) The ability to seek review by the Executive Director as provided for in 555 CMR 7.12(1) and a hearing as provided for in 555 CMR 7.12(2) and 555 CMR 1.10- and 555 CMR 7.12(2).

7.12: Possible Action Following Decision Declining to Grant Full Certification

- (1) An applicant who receives a decision from the Division declining to grant a full certification may seek review by the Executive Director as follows.
  - (a) Within 21 days of service by email of the Division’s decision, the applicant or the applicant’s appointing authority may submit a written petition to the Executive Director requesting review of the decision.
    1. If an applicant files-submits the petition, the applicant shall provide a copy of the petition to the applicant’s appointing authority and any identified CBU head for the applicant at the time of its filingsubmission.
    2. If an appointing authority files-submits the petition, the appointing authority shall provide a copy of the petition to the applicant and any identified CBU head for the applicant at the time of its filingsubmission.
  - (b) The Executive Director may ask any entity or individual to provide additional information, orally or in writing, or to appear at a meeting concerning the matter.
    1. At any such meeting, the Executive Director shall have discretion to determine the extent to which ~~an individual anyone who does not have a right to appear~~ other than such entity or individual, and any attorney at law representing such entity or individual in connection with the matter, may attend and participate.
  - (c) The Executive Director shall, within a reasonable time, provide a written decision on the petition to:
    1. The applicant;
    2. The applicant’s appointing authority; and
    3. Any identified CBU head for the applicant.
- (2) Following the process described in 555 CMR 7.12(1), an applicant or an applicant’s appointing authority may request a hearing before the Commission concerning an application

## 555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

- (3) The Commission may place an individual's certification on restricted status while review pursuant to 555 CMR 7.12(1) or a hearing pursuant to 555 CMR 7.12(2) is pending.
- (4) Where an applicant has received a decision declining to grant a full certification, the Commission may attach conditions, limitations, or restrictions on the applicant's ability to reapply.

### 7.13: Certification Status

- (1) An application process shall be deemed ongoing and not "finally determined," as that term is used in M.G.L. c. 30A, § 13, absent a final decision.
- (2) Notwithstanding the provisions of 555 CMR 7.04, a final decision to certify an applicant made after the third anniversary of the applicant's last certification may be made retroactive to a date on or after such anniversary.
- (3) The granting of a certification shall not preclude the conditioning, limiting, restricting, suspending, or revoking of the certification in accordance with law, when warranted.
- (4) Except as expressly provided herein, an individual who holds a conditional, limited, or restricted certification is "certified," as that term is used in M.G.L. c. 6E.
- (5) The Commission may reconsider, and revise or vacate, a decision on an application, when such action is warranted.
- (6) If a decision to certify an applicant is vacated, the applicant shall be deemed to have been certified during the period of time between the decision to certify and the decision to vacate.
- (7) A certification granted pursuant to 555 CMR 7.00 shall be active only while the certified individual is serving as an officer for a law enforcement agency, and shall otherwise be restricted.
- (8) The following individuals may not execute any type of "arrest" ~~as as that term is~~ defined in 555 CMR 9.02(2), or otherwise perform police duties and functions:
  - (a) An individual who is serving as a "law enforcement officer" as ~~that term is~~ defined in M.G.L. c. 6E, § 1 – whether as an officer of a law enforcement agency; a special state police officer; a special sheriff; a deputy sheriff; a constable; or a special, reserve, or intermittent police officer – but is not certified;
  - (b) An individual whose certification is suspended;
  - (c) An individual whose certification has been revoked;
  - (d) An individual whose certification has been conditioned, limited, or restricted in a manner that precludes the relevant form of activity; and
  - (e) An individual who otherwise lacks the legal authority to engage in the relevant form of activity.

### 7.14: Supervision by the Executive Director

Notwithstanding any other provision of 555 CMR 7.00, each member of the Commission staff shall be subject to the supervision and direction of the Executive Director in implementing any aspect of ~~such regulations~~ 555 CMR 7.00.

### 7.15: Cooperation, Enforcement, and Disciplinary Action

#### Public Comments Relevant to this "Cooperation, Enforcement, and Disciplinary Action" Section:

- American Civil Liberties Union of Massachusetts (ACLU):
  - Agencies should not be allowed to submit an attestation supporting an officer without providing proof that qualifications have been met.

#### Notes:

- Neither this "Cooperation, Enforcement, and Disciplinary Action" section nor any other section of

## 555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

these regulations would require agencies to automatically provide the Commission with proof that requirements have been met. But, as noted above:

- These regulations would preclude an agency from endorsing an applicant, and submitting an application for the applicant, where the agency has not found the applicant to possess character and fitness; and
- Separate regulations that would require agencies to create, maintain, and provide specific forms of information are being developed as 555 CMR 12.00.
- The subsections regarding enforcement take into account feedback regarding these regulations and 555 CMR 12.00 and mirror those included in the latest draft of 555 CMR 12.00.

(1) Law enforcement agencies and officers are prohibited from engaging in the following forms of conduct in connection with any matter related to the provisions of 555 CMR 7.00:

- (a) Failing to comply with 555 CMR 7.00, an order of the Commission issued thereunder, or a limitation or restriction on a certification;
- (b) “Untruthfulness” as defined in M.G.L. c. 6E, § 1; or
- (c) Harassing, intimidating, or retaliating against any individual for taking any step, or interference with one’s taking of any step, that is required by M.G.L. c. 6E, 555 CMR, or the Commission.

(2) If an officer violates 555 CMR 7.15(1):

- (a) The Commission may administratively suspend the officer’s certification for a specified period of time or until specified conditions are satisfied; and
- (b) Upon issuing any such administrative suspension, the Commission shall follow the procedures specified in M.G.L. c. 6E, § 9(d) and 555 CMR 1.09: *Single Commissioner Review of Suspensions*.

(3) Conduct by an officer in violation of 555 CMR 7.15(1) may be treated as a form of “prohibited conduct” under M.G.L. c. 6E, § 8(c)(2) and 555 CMR 1.02(4).

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

### REGULATORY AUTHORITY

555 CMR 7.00: M.G.L. c. 6E.

6b(ii).



## Character and Fitness

### **Policy Decision: Whether to use the term “credible allegations” or “substantiated allegations”**

One section of the proposed regulations lists the types of information an agency must take into account when evaluating an officer’s character and fitness. It is intended to be a non-exhaustive list and demonstrates that such an evaluation requires a totality of the circumstances review that includes looking at both the positive and negative factors of an officer’s history.

At the September subcommittee meeting, it was suggested by Commissioner Calderone that allegations should be “substantiated” to be considered in a character and fitness evaluation. There was a suggestion to use something less than “substantiated,” such as “non-frivolous,” “credible,” or “allegations that have not been rejected.” Commissioners Kazarosian and Bluestone preferred the term “credible.” Commissioner Bluestone recommended that this particular item be brought to the full Commission for discussion. At the end of the September subcommittee meeting, a member of the public submitted a comment stating that: “[t]here must be a finding with regard to any allegations”; “otherwise they should be disregarded” “given the nature of the policing,” “that is the only fair way to deal with these issues”; and if unsubstantiated allegations are considered, it will “open the door to smearing.”

In the character and fitness context, the term “credible” or “credibly” is currently in 555 CMR 7.05(4) and 555 CMR 9.07(1)(c)5., providing that an appointing authority may not consider an “allegation [that] is not specifically and credibly supported” in determining an officer’s character and fitness. The term credible also appears in other instances, such as describing the type of complaint that is reportable to the Commission. See 555 CMR 1.01(1) (“The head of an agency shall, within two days of their receipt of a complaint, which is any credible report, written or oral....”)

The proposed regulations state specifically:

(a) In making such an assessment, the ~~agency appointing authority~~ also may rely on the following, without limitation:

1. Questionnaires;<sub>5</sub>
2. ~~Any g~~Guidance or forms approved by the Commission;<sub>5</sub>
3. Performance reviews;<sub>5</sub>
4. Relevant education;<sub>5</sub>
5. Specialized training;<sub>5</sub>
6. Professional awards;<sub>5</sub>
7. Achievements;<sub>5</sub>

8. Commendations by law enforcement agencies or officials or others;
9. Instances of imposed discipline;
10. ~~patterns~~ Credible (or substantiated) allegations of misconduct,
11. The applicant's age at the time of any conduct;
12. The amount of time since any conduct;
13. The reliability of the information concerning any conduct;
14. The seriousness of any conduct;
15. The type of substantiated allegations (e.g., -untruthfulness, excessive force);
16. The type of discipline imposed for each substantiated complaint;
17. Decisions from a body or person of authority;
18. Whether any conduct would subject the individual to discipline under M.G.L. c. 6E;
19. The cumulative effect of conduct or information;
20. The evidence of rehabilitation;
21. The applicant's positive social contributions since any conduct;
22. The applicant's positive contributions to public welfare and safety since any conduct;
23. The applicant's candor in the certification process;
24. The materiality of any omissions or misrepresentations;
25. The length of service in law enforcement at the federal, state, and municipal levels; and
26. Any other evidence of past performance.

Finally, whichever term the Commission decides to use to describe the type of allegation an agency may consider should be applied consistently to this list. Therefore, the change would apply to #10 and #15 in the list.

Please note that the use of “substantiated” in #16 is warranted in this case because it is presumed that the complaint must have been substantiated for discipline to have been imposed.

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**Policy Decision: Whether to require law enforcement agencies to provide a written explanation for a positive attestation, and if so in which circumstances.**

On October 1, 2024, the subcommittee decided to have the full Commission discuss this matter. The regulations currently in effect provide for agencies to provide written explanations regarding any attestation that an officer *does not* possess the requisite good moral character and fitness for employment in law enforcement. One public comment stated that “agencies have no affirmative obligation under the regulations to explain any determination that an officer does possess good



character, even if an officer is known to have engaged in misconduct or has been repeatedly alleged to have engaged in a pattern of the same or similar misconduct.” Another public comment noted that “[appointing authorities] are required to merely attest to character and fitness without any explanation.”

The Commission may require that an appointing authority submit a written report or attestation where the appointing authority has determined that an officer does possess the requisite good moral character and fitness for employment as a law enforcement officer. In considering this proposal, the Commission should take into account the burdens of implementation, including the administrative tasks, associated with collecting positive attestation reports and weigh them against the benefit of understanding an appointing authority’s determination that an officer possessed the requisite character and fitness. It is noted that the Commission maintains a database of all officers’ disciplinary histories and would have the ability to collect information from that as well.

The Commission has the discretion to determine how and in which cases it would collect positive attestations. Options for the Commission’s consideration may be to:

1. Keep the regulations the same: the current regulations require an appointing authority to provide documentation supporting its determination that an officer possesses good character and fitness only at the request of the Commission. Where the appointing authority determines that an officer does *not* possess good character and fitness, it must submit a written report to the Commission, including an explanation, in accordance with 555 CMR 7.05(2)(c).
2. Require a positive attestation report, but to collect it only on request by the Commission.
3. Require that all attestations, both positive and negative, be submitted to the Commission. This would require a written attestation and explanation for all officers.
4. Require that a positive attestation report be submitted to the Commission in certain circumstances, based on a standard defined by the Commission.

The following proposal is for your consideration. It limits the circumstances in which a positive attestation would be made and submitted to the Commission. It requires that a positive attestation must be supported by a written report and collected by the Commission in two cases: 1) where an officer is alleged to have engaged in the type of conduct that is listed in the subcommittee’s proposed regulations, and 2) where an officer has engaged in two or more of instances of similar

or related misconduct. The requirements for the written report are similar to those already required for a negative attestation.

*Current proposed regulation:*

(~~f~~b) If an appointing authority determines that an applicant possesses character and fitness, the appointing authority shall provide, upon request by the Commission, documentation supporting such a determination.

*New proposed regulation:*

(f) If an appointing authority determines that an applicant possesses character and fitness, the appointing authority shall:

1. Provide, upon request by the Commission, documentation supporting such a determination; and

2. Make a written report to the Commission where:

a. Since the applicant's last certification, there has been an allegation that the applicant engaged in a form of conduct listed in 555 CMR 7.06(5); or

b. The allegation, regardless of whether it was substantiated or resulted in discipline, is related to one of the factors listed in 555 CMR 7.06(2)(b); and the applicant engaged in two or more of instances of similar or related misconduct, one of which occurred since the applicant's last certification.

(g) The written report shall contain an explanation for the appointing authority's determination including, but not limited to, a description of specific conduct supporting the appointing authority's determination. The written report must be sufficient to permit the Commission to evaluate the basis for the appointing authority's determination, and to permit the Commission to determine whether the applicant possesses character and fitness.

(h) As to each instance of specific misconduct or suspected misconduct cited in the appointing authority's report, the appointing authority shall address:

1. Any discipline imposed or decision issued by a body or person of authority as a result of the conduct, or the reasons why there was no discipline or decision;
2. The extent to which the applicant complied with any such discipline or decision;
3. Any similar conduct allegedly undertaken by the applicant subsequent to any such discipline or decision; and
4. The dates of each instance of conduct, and imposition of discipline or issuance of a decision.

(i) The Commission may make a determination regarding an applicant's character and fitness that is different from the appointing authority's determination.

6b(iii).



# MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

## MEMORANDUM

### CHAIR

Margaret R. Hinkle

### COMMISSIONERS

Lester Baker

Hanya H. Bluestone

Lawrence Calderone

Eddy Chrispin

Deborah Hall

Marsha V. Kazarosian

Charlene D. Luma

Rev. Clyde D. Talley

### EXECUTIVE DIRECTOR

Enrique A. Zuniga

**TO:** Commissioners of the POST Commission  
**FROM:** Elizabeth B. Smith, Hearings Administrator/Paralegal  
Annie E. Lee, Counsel  
**DATE:** October 9, 2024  
**RE:** Physical and Psychological Fitness Update

This memorandum provides a brief overview of advancements and initiatives concerning physical and psychological fitness requirements for incumbent law enforcement officers in the Commonwealth. The following provides: (1) a summary of the Certification Policy Subcommittee meetings that addressed physical and psychological fitness; (2) an update on an agency survey concerning the same; and (3) information on an upcoming physical fitness panel discussion.

### Certification Policy Subcommittee Meetings

February 2024: The Subcommittee received written and oral comments from stakeholders regarding physical and psychological fitness, and its members engaged in questioning and discussion regarding the subject.

April 2024: Research on physical and psychological fitness standards from other jurisdictions was presented to the Subcommittee. The Subcommittee determined it would benefit from a survey sent to agencies to collect information on existing physical and psychological fitness resources.

July 2024: A sample survey was included in the Subcommittee's packet, but was not discussed due to time constraints.

September 2024: A revised survey was presented to and approved by the Subcommittee.

### Agency Survey

The survey is limited to gathering information on agencies' physical and psychological fitness resources and officer utilization of the same. The survey was sent to collective bargaining units on October 10, 2024 for feedback. After any edits or suggestions are incorporated, the survey will be sent to agency heads to complete. Agencies will have one month to complete the survey. Reminder emails will be sent with two weeks and one week remaining. A summary of data will be presented at a later Commission meeting.

# MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

## **Physical Fitness Pre-Conference**

We are excited to inform you about an upcoming panel discussion on Friday, October 18, 2024. POST will lead a discussion on physical fitness testing and standards with six experts from all over the world. More information on the event can be found on our website.

We welcome any questions or suggestions you may have regarding these initiatives, and we look forward to your continued support.



## Sample Agency Questionnaire

Thank you for participating in our survey. We aim to gather detailed information on physical and psychological fitness resources and programs available to law enforcement agencies across Massachusetts as part of the POST Commission's charge to periodically recertify all law enforcement officers in the Commonwealth. Your input will help us assess and enhance the physical and psychological fitness and support available to our officers. This survey should take approximately 5-10 minutes to complete.

These questions apply to officers seeking recertification, including command staff.

### Basic Information

1. Name of Agency
2. Number of sworn officers ( ) Full time ( ) Part time ( )

### Physical Fitness

3. Does your agency have any physical fitness requirements for officers?
  - Yes
  - No
  - 3a. If yes, what are those requirements? (Please select all that apply)
    - o Cooper Test
    - o Physical Ability Test (PAT)
    - o Physical examination by doctor
    - o Other (please specify)
  - 3b. How often does your agency require officers to meet those requirements?
    - o Annually
    - o Every other year
    - o Every three years
    - o Every five years
    - o Only if an individual shows signs of being unable to meet the physical requirements of their assignment
    - o Other (please specify)
4. What fitness facilities, opportunities, or resources does your agency offer, including any voluntary programs? (Please select all that apply)
  - On-site gym/fitness center
  - Free or discounted access to off-site gym/fitness center
  - Free or discounted fitness classes (yoga, Pilates, CrossFit, etc.)
  - Strength training programs organized or sponsored by the agency
  - On-site cardio programs (high-intensity interval training (HIIT), boxing, etc.)
  - Outdoor fitness activities (sports league, hiking, etc.) organized or sponsored by the agency
  - Physical fitness workshops and other educational activities
  - On-duty time to exercise (please specify amount of time or associated requirements)
  - Reimbursement/stipend



- Other (Please specify):
- 5. To what extent do officers take advantage of the resources offered?
  - High participation (more than 60%)
  - Moderate participation (30% - 60%)
  - Low participation (less than 30%)
- 6. What physical fitness facilities, opportunities, or resources has your agency found to yield a high level of participation and results?
- 7. What are some of the challenges to maintaining physical fitness for officers in your agency? (Please select all that apply)
  - Time
  - Expense
  - Lack of resources
  - Information
  - Motivation
  - Other (Please specify):
- 8. Does your agency have a process and/or policy to identify and support individuals for whom physical fitness is a concern? If so, please describe.
- 9. What do you think physical fitness requirements should be?

#### Psychological Fitness

- 10. Does your agency have any psychological fitness requirements or associated programs?
  - Yes
  - No
  - 10a. What are those requirements or programs? (Please select all that apply)
    - o Optional wellness visit
    - o Ad-hoc referrals to a licensed psychologist
    - o Written psychological exam
    - o Mandatory exam by licensed mental health provider
    - o Other (please specify)
  - 10b. How often does your agency require officers to meet those requirements?
    - o Annually
    - o Every other year
    - o Every three years
    - o Every five years
    - o After a critical incident or significant emotional event
    - o Only if an individual shows signs of needing support / follow up
    - o Other (please specify)
- 11. What psychological fitness programs, opportunities, or resources does your agency offer, including voluntary programs? (Please select all that apply)
  - On-staff clinician/psychologist
  - Peer support network
  - Employee assistance program (EAP)
  - Mental health days and/or paid time off for counseling visit

- Other (please specify)
12. To what extent do officers take advantage of the resources offered?
- High participation (more than 60%)
  - Moderate participation (between 30% and 60%)
  - Low participation (less than 30%)
13. What mental health resources has your agency found to yield a high level of participation and results?
14. What are the biggest barriers to maintaining psychological fitness for officers in your agency? (Please select all that apply)
- Stigma
  - Time
  - Expense
  - Availability or proximity to resources
  - Information
  - Motivation
  - Other (Please specify):
15. Does your agency have a process and/or policy to identify and support individuals for whom psychological well-being is a concern? If so, please describe.
16. What do you think psychological fitness requirements should be?

#### Wrapping Up

17. Would you be open to follow-up communication and/or additional information?
- Yes
  - No
- 17a. If yes, please provide your email address and phone number.

6c(i).



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

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

CC: Enrique A. Zuniga, Executive Director  
Randall E. Ravitz, General Counsel

From: Annie E. Lee, Counsel

Re: Use of Force Reporting

Date: October 17, 2024

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During the Commission's last two meetings, the Commission considered a use of force reporting standard<sup>1</sup>, which is enclosed for the Commission's convenience. That draft use of force reporting standard addresses the following key areas:

- Use of force incidents;
- Excessive force;
- Public complaints;
- Investigation, analysis, and resolution;
- Record and evidence maintenance; and
- Training.

The draft use of force reporting standard incorporates a number of use of force reporting requirements set forth in the Commission's regulation 555 CMR 6.00: *Use of Force by Law Enforcement Officers*. Specifically, the draft use of force reporting standard requires agencies to report the use of force in accordance with the requirements of 555 CMR 6.07-6.09, which in turn requires agencies to report use of force incidents, including those resulting in injury or death or that involved the discharge of a firearm at or in the direction of a person, and excessive force.

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<sup>1</sup> Massachusetts General Laws chapter 6E, section 5(b) requires the Commission to develop at least eight agency certification standards, of which "reporting of use of force" is one.

555 CMR 6.07(1) also calls on agencies to report use of force incidents via “a standard use of force reporting form as approved by the [Municipal Police Training Committee (“MPTC”)] and the Commission,” and 555 CMR 1.10(2) states that the Commission and the MPTC “shall jointly develop a model use of force policy.” Commission staff continues to work with the MPTC to develop such a form and model policy and expects to review a draft form and model policy with the Commission in due course.



555 CMR 13.00: LAW ENFORCEMENT AGENCY CERTIFICATION STANDARDS

Section

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

13.01: Definitions

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

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

Commission. The Massachusetts Peace Officer Standards and Training Commission as established in M.G.L. c. 6E, § 2.

Deadly Force. Deadly force as defined in 555 CMR 6.03.

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

De-escalation Tactics. De-escalation Tactics as defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03.

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

Force. Force as defined in 555 CMR 6.03.

Incident. An encounter in which an officer used force.

Non-deadly Force. Non-deadly Force as defined in 555 CMR 6.03.

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

13.03: Standards

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

- (1) Use of force. An agency's use of force policy shall:
  - (a) Emphasize the dignified and respectful treatment of all members of the public witness to and involved in an encounter;
  - (b) Direct officers to implement their agency's use of force policy and sub-policies in a manner that is fair and unbiased;
  - (c) Include a sub-policy concerning de-escalation that:
    1. Directs officers to focus on de-escalation throughout an encounter, while ensuring the safety of themselves and any member of the public witness to or involved in the encounter;
    2. Directs officers on the use of various de-escalation tactics, including:
      - a. Actively and empathetically listening;
      - b. Explaining what the officer is doing and why;
      - c. Remaining calm;
      - d. Exhibiting patience;
      - e. Waiting;
      - f. Verbal communication;
      - g. Non-verbal communication;
      - h. Creating physical distance between the officer and a member of the public;
      - i. Placing barriers or using existing structures to provide a shield or other protection between the officer and a member of the public;
      - j. Requesting and using additional support and resources; and





Agency Certification Standards – Draft Use of Force and Reporting Standards

- i. Using a calm and natural demeanor;
    - ii. Avoiding language that is likely to escalate an encounter; and
    - iii. Other tactics consistent with the Commission’s guidance entitled *Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to the Use of Force for Minor Children* (2021);
  - c. Modify their use of force as appropriate.
- (d) Emphasize de-escalation in accordance with the standards specified in 555 CMR 13.03(1)(c);
- (e) Authorize the use of force in accordance with the requirements specified in 555 CMR 6.04 and 6.05;
- (f) Set forth comprehensive and specific requirements governing the use of non-deadly force that meet or exceed the requirements specified in 555 CMR 6.04;
- (g) Set forth comprehensive and specific requirements governing the use of deadly force that meet or exceed the requirements specified in 555 CMR 6.05;
- (h) For each device available to an officer for the application of force, including firearms and less lethal substances and devices, include a sub-policy concerning the use of that device that:
  1. Sets forth comprehensive and specific requirements governing the use, including the drawing, pointing, or discharging, of the device; and
  2. Directs officers to consider their surroundings and potential risks to members of the public, to the extent reasonable, before using the device;
- (i) Include a sub-policy concerning the use of force during mass demonstrations and for the purposes of crowd management that sets forth comprehensive and specific requirements that meet or exceed the requirements specified in 555 CMR 6.08;

Agency Certification Standards – Draft Use of Force and Reporting Standards

- (j) Include a sub-policy concerning the use of force in animal encounters that encourages officers to utilize non-deadly or less-than-deadly force when available and appropriate;
  - (k) Direct officers to de-escalate force without delay as resistance decreases;
  - (l) Direct officers to stop using force without delay when the member of the public with whom the officer is engaging stops resisting, the threat has been overcome, or the member of the public with whom the officer is engaging is secured or in custody;
  - (m) Prohibit officers from using tactics designed to escalate the level of force necessary to resolve an encounter;
  - (n) Prohibit officers from using excessive force;
  - (o) Direct officers present and observing another officer using or attempting to use force beyond that which is necessary or objectively reasonable based on the totality of the circumstances to intervene in accordance with the requirements specified in 555 CMR 6.06;
  - (p) Direct officers to provide an appropriate and timely medical response to, or otherwise procure appropriate medical assistance in a timely manner for, members of the public when safe and tactically feasible in accordance with the requirements specified in 555 CMR 6.04(4) and 6.05(7);
  - (q) Direct officers to prepare post-encounter reports regarding de-escalation efforts attempted or used prior to the use of force and the use of force;
  - (r) Direct officers to engage in post-encounter discussions regarding de-escalation efforts or the use of force;
  - (s) Direct supervisors to routinely conduct de-escalation reviews to identify officer behaviors that may have successfully prevented force and accompanying injuries;
  - (t) Direct supervisors to routinely conduct use-of-force reviews to identify officer behaviors that, if altered, could have prevented force and accompanying injuries; and
  - (u) Ensure that all officers are trained in use of force in accordance with all applicable training requirements.
- (2) Reporting of use of force. An agency's use of force reporting policy shall:

Agency Certification Standards – Draft Use of Force and Reporting Standards

- (a) Direct officers to report use of force incidents in accordance with the procedures and requirements specified in 555 CMR 6.07, 6.08(4), and 6.09;
- (b) Direct officers who observe another officer using force beyond that which is necessary or objectively reasonable based on the totality of the circumstances to report the incident in accordance with the procedures and requirements specified in 555 CMR 6.07(4);
- (c) Direct members of the public on how they may file a complaint concerning a use of force incident;
- (d) Set forth comprehensive and specific procedures and requirements governing the timely investigation, analysis, and resolution of allegations of use of force violations, which shall include provisions addressing:
  - 1. The collection, preservation, and use of evidence, consistent with the requirements specified in 555 CMR 13.03(8); and
  - 2. The appropriate administration of discipline.
- (e) Provide for the agency to analyze use of force reports and complaints on at least an annual basis to:
  - 1. Identify trends in use of force over time;
  - 2. Identify officers who are involved in a disproportionate share of use of force reports and complaints, for the purposes of determining whether intervention would be beneficial to improving the officer's use of force behavior and practices, and intervening to improve the officer's use of force behavior and practices when a positive determination is made; and
  - 3. Issue an annual summary of use of force reports and complaints to the public, which shall be maintained on the agency's website and available on agency premises for inspection, for the purposes of increasing transparency and community trust;
- (f) Provide for the agency to maintain records and evidence concerning use of force and complaints in accordance with the requirements specified in 555 CMR 6.07(8) and 12.04(1)(f); and
- (g) Ensure that all officers are trained in use of force reporting in accordance with all applicable training requirements.

6c(ii).



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

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

CC: Enrique A. Zuniga, Executive Director  
Randall E. Ravitz, General Counsel

From: Annie E. Lee, Counsel

Re: Law Enforcement Agency Certification Standards – Code of Conduct

Date: October 17, 2024

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Enclosed for the Commission's convenience is a draft code of conduct standard<sup>1</sup>, which was presented to the Commission during its September meeting.

The Commission considered the following key elements of a draft code of conduct standard:

- Affirmative obligations. Officers' affirmative obligations, meaning requirements, can be sorted into two categories:
  - Priorities and values. To reflect the priorities and values underlying the Commission's enabling legislation, Chapter 253 of the Acts of 2020, *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*, the Commission's governing statute, chapter 6E of the Massachusetts General Laws, and the International Association of Chiefs of Police's *Code of Ethics and Standards of Conduct*, which the Commission has incorporated by reference into the criteria for assessing officers' good character and fitness for employment, *see* 555 CMR 7.05(2)(a) and 9.07(1)(b)(1), agencies

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<sup>1</sup> Massachusetts General Laws chapter 6E, section 5(b) requires the Commission to develop at least eight agency certification standards, of which an "officer code of conduct" is one.

should articulate the following priorities and values in their codes of conduct policies: life and bodily integrity; impartial and unbiased policing; protection of vulnerable populations; service to the public; worthiness of public trust and the authority given to law enforcement; transparency, accountability, and responsibility; and truthfulness.

- Compliance. To reflect officers' ongoing compliance responsibilities, whether set by federal or state law, rules, regulations, policies, or regulatory or judicial orders, agencies should be required to include in their codes of conduct policies officers' compliance with: the Constitution; equal employment opportunity obligations; training requirements; certification requirements; and all other applicable laws, rules, regulations, policies, mission or value statements, and judicial or regulatory orders.
- Negative obligations. To further the priorities of the Commission's enabling legislation and governing statute and to support officers' ongoing compliance obligations while proactively addressing behavior that has historically formed the basis for many complaints against law enforcement officers, agencies should prohibit in their codes of conduct policies: criminal activity; sexual misconduct; prohibited associations and visitations; retaliation; action prejudicial to the administration of justice; neglect of duties; abuse of authority or position as an officer; and conduct unbecoming an officer.
- Applicability. Because officers are also employees in a larger organization, agencies should require officers to adhere to their codes of conduct not only in the execution of their official duties in the public, but also in the workplace with their colleagues, whether they be other officers or civilian employees, as well as in their private lives unless other prohibited.

Following its September meeting, the Commission received feedback concerning the importance of protecting the constitutional rights of those who are targets of law enforcement surveillance, investigation, and arrest. The code of conduct standard was therefore revised to require compliance with constitutional requirements concerning surveillance and investigation, and the revisions are reflected in the enclosed standard.

Commission staff continues to consult with the Municipal Police Training Committee and expects to review a further revised code of conduct standard with the Commissioners in due course.





555 CMR 13.00: LAW ENFORCEMENT AGENCY CERTIFICATION STANDARDS

Section

- 13.01: Purpose and Scope
- 13.02: Definitions
- 13.03: Standards
- 13.04: Compliance
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- 13.08: Waiver
- 13.09: Enforcement and Disciplinary Action
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13.01: Definitions

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

MPTC. The Municipal Police Training Committee as defined in M.G.L. c. 6, § 116.

Sexual Harassment. Unwelcome conduct of a sexual nature that creates an intimidating, hostile, or offensive environment. Sexual harassment includes unwelcome sexual advances and requests for sexual favors or acts, whether verbal, physical, graphic, or otherwise.

Sexual Misconduct. Conduct of a sexual nature or conduct based on sex or gender that is nonconsensual or has the effect of threatening, intimidating, or coercing a person. Sexual misconduct includes sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, stalking, and retaliation.

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

13.03: Standards

All agencies shall develop and implement written policies on the following topics in accordance with the following standards:

- (3) Officer code of conduct. An agency's officer code of conduct policy shall:
  - (a) Require officers to act professionally and ethically;
  - (b) Require officers to treat others with dignity and respect;
  - (c) Require officers to evince a respect for life and bodily integrity;

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- (d) Require officers to act impartially and avoid the appearance of bias, and prohibit officers from harassing and discriminating against others based on bias, including bias on the basis of actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, limited English proficiency, accent, religion, sex, sexual orientation, gender identity, mental or physical disability, genetic information, ancestry, pregnancy or a condition related to said pregnancy, status as a veteran, marital status, parental status, public assistance reciprocity, socioeconomic level, education level, or professional level except where prohibiting the behavior would conflict with applicable law, rules, regulations, or judicial and regulatory orders;
- (e) Require officers to act in the best interests of the most vulnerable populations of the public, including children and young people; people experiencing medical, behavioral, or mental health crises; unhoused people; survivors of domestic violence, sexual assault, or human trafficking; differently-abled people; people living in poverty; veterans; and people historically harmed by policing;
- (f) Require officers to act with an ethic of service to the public;
- (g) Require officers to be worthy of the public trust and of the authority given to officers;
- (h) Require officers to uphold transparency, accountability, and responsibility principles;
- (i) Require officers to be truthful in any matter related to the officer's execution of their official duties, and prohibit officers from lying, falsifying, concealing, purposely distorting, diminishing, embellishing, or failing to disclose facts associated with the officer's execution of their official duties, except those matters in which there is a legitimate need for deception or non-disclosure of information in furtherance of the officer's execution of their official duties;
- (j) Require officers to comply with constitutional requirements, including those concerning:
  - 1. Investigatory stops;
  - 2. Traffic stops;
  - 3. Surveillance;
  - 4. Searches;

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5. Seizures;
  6. Investigation;
  7. Arrests;
  8. No-knock entries;
  9. Interviews;
  10. Interrogations;
  11. Access to counsel;
  12. Exculpatory evidence; and
  13. Free assembly and expression.
- (k) Require officers to support the equal opportunity in employment throughout the workplace to all persons, regardless of actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, proficiency in a language other than English, accent, religion, sex, sexual orientation, gender identity, mental or physical disability, genetic information, ancestry, pregnancy or a condition related to said pregnancy, status as a veteran, marital status, public assistance recipiency, socioeconomic level, or education credential not material to job performance where it does not conflict with existing laws, rules, regulations, or judicial and regulatory orders;
- (l) Require officers to attend all required initial and ongoing training, including those trainings required by the MPTC;
- (m) Require officers to attain and maintain good moral character and fitness for employment in law enforcement necessary for certification in accordance with the requirements specified in 555 CMR 7.05 and 9.07;
- (n) Require officers to adhere to all applicable mission and values statements;
- (o) Require officers to adhere to their agency's policies and subpolicies;
- (p) Require officers to comply with all other applicable laws, rules, regulations, and judicial and regulatory orders;
- (q) Prohibit officers from engaging in criminal activity;
- (r) Prohibit officers from engaging in sexual misconduct;

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- (s) Prohibit officers from engaging in prohibited associations with individuals or prohibited visitations of establishments;
- (t) Prohibit officers from engaging in any retaliatory action, including harassment and intimidation, against any other person based on that person's involvement in a report, complaint, participation in an inquiry or investigation, or testimony against that officer or any other officer;
- (u) Prohibit officers from taking action that is prejudicial to the administration of justice;
- (v) Prohibit officers from neglecting their duties as an officer;
- (w) Prohibit officers from abusing their authority or position as an officer;
- (x) Prohibit officers from engaging in any other action that demonstrates a problem with the officer's integrity, honesty, moral judgment, or character; brings discredit to the agency; or impairs the efficient and effective operation of the agency; and
- (y) Apply equally in an officer's execution of their official duties, in the workplace, and in their private life unless prohibited by applicable law, rules, regulations, and judicial or regulatory orders.