

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

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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 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 November 8, 2024;
 - (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:

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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.

Audit. An audit of 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; 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.

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.

Policy. Any policy, rule, regulation, protocol, standard, guideline, operating procedure, 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.

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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.

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

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

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;

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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 known to the agency, 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;
 - b. A consultant, an investigative service, or a comparable entity retained by the officer's appointing authority; or
 - 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:

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- 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; 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;
 - (b) Employ certain recordkeeping practices; and/or
 - (c) Produce certain records, or categories of records, to prosecutors.

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- (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, in 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);
 - (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 6.07(2);
 - (b) Make all reports required by M.G.L. c. 31, § 67, if not exempt from the statute's requirements; and

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- (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.

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(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;

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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 codes 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;
- (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 under the pains and penalties of perjury, addressing one or more of the following:

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- (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) 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 of 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 12.12(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 on the petition.

12.12: continued

- (3) Within 30 days of receiving a decision from the Executive Director pursuant to 555 CMR 12.12(2)(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 12.12(3) 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) and (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 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 12.12(3) 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 harassing, intimidating, or retaliating against any individual for taking any step, or interfering 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 12.13(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 12.13(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).