

555 CMR 2.00: CONSTRUCTION; APPLICATION OF RULES; NOTICE

Section

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2.01: Authority and Scope

555 CMR 1.00: *Procedural Rules* and all regulations contained in 555 CMR 2.00 are issued under and pursuant to the authority of M.G.L. c. 6E, § 3(a)(28).

2.02: Definitions

As used in 555 CMR, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Agency. A law enforcement agency.

Appointing Agency. The agency appointing a law enforcement officer.

Chair. The chair of the commission.

Commission. The Massachusetts Peace Officer Standards and Training Commission, established pursuant to M.G.L. c. 6E, § 1.

Commissioner. A member of the commission.

Conviction. An adjudication of a criminal matter resulting in any outcome except wherein the matter is dismissed or the accused is found to be not guilty including, but not limited, to an adjudication of guilt with or without the imposition of a sentence, a plea of guilty, a plea of *nolo contendere*, an admission to sufficient facts, a continuance without a finding or probation.

Division of Standards. The division of standards, established pursuant to M.G.L. c. 6E, § 8.

Division of Certification. 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).

Law Enforcement Agency.

- (a) a state, county, municipal or district law enforcement agency including, but not limited to, a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department;
- (b) a sheriff's department in its performance of police duties and functions; or
- (c) a public or private college, university or other educational institution or hospital police department.

Law Enforcement Officer or Officer. Any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to M.G.L. c. 22C, § 8 or § 63; a special sheriff appointed pursuant to M.G.L. c. 37, § 4 performing police duties and functions; a deputy sheriff appointed pursuant to M.G.L. c. 37, § 3 performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve or intermittent police officer.

2.01: continued

Officer-involved Injury or Death. Any event during which an officer:

- (a) discharges a firearm, as defined in M.G.L. c. 140, § 121, actually or proximately causing injury or death to another;
- (b) discharges any stun gun as defined in M.G.L. c. 140, § 121, actually or proximately causing injury or death to another;
- (c) uses a chokehold, actually or proximately causing injury or death of another;
- (d) discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another;
- (e) discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another;
- (f) deploys a dog, actually or proximately causing injury or death of another;
- (g) uses deadly force, actually or proximately causing injury or death of another;
- (h) fails to intervene, as required by M.G.L. c. 6E, § 15, to prevent the use of excessive or prohibited force by another officer who actually or proximately causes injury or death of another; or
- (i) engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result, provided that such medical care relates to an actual condition or injury that is more than *de minimis*. An injury is more than *de minimis* where it produces an observable injury or medical condition, the customary medical response to which would include that a person visit an emergency room, or have a doctor or other medical professional attend to, give an opinion regarding, diagnose, and/or provide medical treatment for the injury or condition.

Presiding Officer. The commissioner, panel of commissioners, or special hearing officer or panel of special hearing officers designated by the chair to conduct an adjudicatory proceeding pursuant to 555 CMR 1.10(1).

Serious Bodily Injury. A bodily injury that results in:

- (a) permanent disfigurement;
- (b) protracted loss or impairment of a bodily function, limb or organ; or
- (c) a substantial risk of death.

Single Commissioner. The commissioner assigned to conduct a hearing pursuant to 555 CMR 1.09: *Single Commissioner Review of Suspensions*.

2.03 Construction

(1) 555 CMR shall be liberally construed to permit the commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the commission.

(2) Unless otherwise specified, computation of any time period referred to in 555 CMR shall begin with the first day following the act which initiates the running of the time period. The last day of the time period is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day that is not a Saturday, Sunday, or legal holiday. When the time period is seven days or less, intervening Saturdays, Sundays, and legal holidays shall be excluded in the computation. When a time period is greater than seven days, each intervening calendar day shall be included in the computation.

(3) Any act that must be performed “immediately” under a provision of 555 CMR or M.G.L. c. 6E shall be performed as soon as the exercise of reasonable diligence will enable such performance.

(4) A finding by clear and convincing evidence requires more than a preponderance of the evidence, but less than the proof beyond a reasonable doubt required in criminal cases.

2.03: continued

(5) In any instance in which an individual has a conflict precluding that person from exercising their authority under 555 CMR, their duties shall be exercised by the next most senior supervisor within the Agency, or if there is no such supervisor without a conflict of interest within the Agency, by an individual designated by the most senior disqualified individual's appointing authority.

2.04: Notices to Public

(1) The commission shall maintain a list of individuals or entities that request notice of commission proceedings. Individuals or entities may request notice from the commission by completing a form available on the commission's website, or by mailing a request for notice with contact information to the commission's offices.

(2) Notice shall be provided, in a time and manner to be determined by the commission, to those individuals or entities on the list in advance for:

- (a) Meetings or hearings of the commission or a subcommittee thereof; and
- (b) Other events determined by the commission, in its discretion.

(3) The individual or entity is responsible for ensuring that the information provided to the commission for the purpose of receiving notice remains current.

2.05: Severability

If any portion of this title 555 CMR or the application thereof to any person or circumstance shall be held to be invalid by a court of competent jurisdiction for any reason, said portion shall be deemed a separate, distinct, and independent provision, and the validity of the other regulations shall not be affected.

REGULATORY AUTHORITY

555 CMR 2.00: M.G.L. c. 6E, § 3(a)(28).

NON-TEXT PAGE

(555 CMR 3.00 THROUGH 5.00: RESERVED

(PAGES 21 THROUGH 40 ARE RESERVED FOR FUTURE USE)