

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

CONSTRUCTION OF SCOPE OF CHAPTER 6E OF THE MASSACHUSETTS GENERAL LAWS (Approved April 4, 2022)

The Peace Officer Standards and Training Commission hereby construes certain provisions of M.G.L. c. 6E in the manner described below. The provisions at issue are those that define the agencies and officers covered by, and subject to the terms of, M.G.L. c. 6E.

I. KEY STATUTORY PROVISIONS

M.G.L. c. 6E, § 1

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Agency”, a law enforcement agency.

...

“Law enforcement agency”, (i) 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; (ii) a sheriff’s department in its performance of police duties and functions; or (iii) 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, § 58, which concerns the Port of Boston Authority] or [M.G.L. c. 22C, § 63, which concerns educational institutions and hospitals]; 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.

....

M.G.L. c. 6E, § 2

(i) No employee of the division of standards, established pursuant to [\[M.G.L. c. 6E, § 8\]](#), or the executive director shall have previously been employed as a law enforcement officer, previously employed by a law enforcement agency or be a retired law enforcement officer or retired from a law enforcement agency;

provided, however, that such employee may have been a previous employee of or have retired from the division of standards.

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(1) act as the primary civil enforcement agency for violations of [M.G.L. c. 6E];

...

(3) certify qualified applicants[]

....

M.G.L. c. 6E, § 8

(g) The division of police standards shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.

II. CONSTRUCTION OF THE STATUTE

The Commission understands the following terms, as used in M.G.L. c. 6E, to have the meanings outlined below. Interpretive language has been added in brackets to the statutory text.

“Law enforcement agency”[means:]

- (i) a state, county, municipal or district law enforcement agency, including, but not limited to [the following,] [meaning that the agency is listed below, or the agency principally performs law enforcement functions that are the same as, or substantially similar to, those performed by the agencies listed below]:
 - [a.] a city, town or district police department,
 - [b.] the office of environmental law enforcement,
 - [c.] the University of Massachusetts police department,
 - [d.] the department of the state police,
 - [e.] the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and
 - [f.] the Massachusetts Bay Transportation Authority police department; [or]
- (ii) a sheriff’s department in its performance of police duties and functions[, meaning the part of the sheriff’s office that actually

- performs the full range of police duties and functions, including all types of arrests]; or
- (iii) a public or private college, university or other educational institution or hospital police department[; or]
- [(iv)] [the Division of Police Standards of the Massachusetts Peace Officer Standards and Training Commission].

“Law enforcement officer” or “officer” [means:]

- [i.] any officer of an agency, including the head of the agency, [if that person is an officer and carries a weapon];
- [ii.] a special state police officer appointed pursuant to[:]
 - [a.] [M.G.L. c. 22C, § 58, which applies to police for the Massachusetts Port Authority, also known as the Port of Boston Authority] or
 - [b.] [M.G.L. c. 22C, § 63, which applies to police for educational institutions and hospitals];
- [iii.] a special sheriff appointed pursuant to [M.G.L. c. 37, § 4] performing [the full range of] police duties and functions[, including all types of arrests];
- [iv.] a deputy sheriff appointed pursuant to [M.G.L. c. 37, § 3] performing [the full range of] police duties and functions[, including all types of arrests];
- [v.] a constable executing an arrest for any reason[, meaning a constable who executes, or expects to execute, arrests and carries a weapon]; or
- [vi.] any other special, reserve or intermittent police officer[, meaning a temporary or part-time officer who has the full range of powers of a police officer, including all powers of arrest, and is among the types of officers listed above].

Additionally, the Commission understands that the Legislature has given it discretion to decide whether to require two other types of officials to be certified as law enforcement officers.

The first type is an employee of the Civil Defense Agency who is serving as a special State Police officer pursuant to M.G.L. c. 22C, § 64. See St. 2020, c. 253, § 64 (amending M.G.L. c. 22C, § 64, and providing that such officers shall “receive *such certification* as the [POST Commission] *shall direct*,” even as they shall “have the same power to make arrests as the state police of any criminal offense committed in or upon lands or structures located in the town of Framingham within the charge of [the agency] director” (emphasis added)).

The second type is an employee of the State Auditor’s Office’s Bureau of Special Investigations who is serving as a special State Police officer pursuant to M.G.L. c. 22C, § 68. See St. 2020, c. 253, § 65 (amending M.G.L. c. 22C, § 68, and providing for the appointment of such officers “who have undergone certification *as required by* the [POST Commission],” even as they “shall have . . . the same powers as state police officers to serve warrants,” though “not . . . the authority to arrest without a warrant” or authorization, by way of that statute, to carry a firearm).

III. APPLICATION OF THE ABOVE CONSTRUCTION OF THE STATUTE

In light of the above construction of the statute, below are lists of individuals who would, and would not, be considered “law enforcement officers” subject to M.G.L. c 6E. Given the range of individuals as to whom questions may be raised, the lists below should not be seen as exclusive.

A. Individuals Subject to the Statute

1. City, town, or district police officers, including department heads who are officers.
2. Civil Defense Agency employees serving as special State Police officers under M.G.L. c. 22C, § 64, to the extent that the Commission has exercised its discretion to require their certification pursuant to that statute.
3. Constables who carry a weapon, and who execute or expect to execute arrests.
4. Deputy sheriffs appointed pursuant to M.G.L. c. 37, § 3 who perform the full range of police duties and functions, including all types of arrests, and who carry a weapon.
5. Educational institution special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads who are officers.
6. Harbormasters and assistant harbormasters appointed or employed as law enforcement officers by law enforcement agencies.
7. Hospital Police Department special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads who are officers.
8. Massachusetts Bay Transportation Authority Police Department officers, including the department head if that person is an officer.
9. Massachusetts Port Authority Police Department (Port of Boston Authority Police Department) special State Police officers serving pursuant to M.G.L. c. 22C, § 58, including the department head if that person is an officer.
10. Natural resource officers, shellfish constables, and shellfish wardens appointed or employed as law enforcement officers by law enforcement agencies.
11. Office of Environmental Law Enforcement officers, including the office head if that person is an officer.
12. Peace Officer Standards and Training Commission Division of Police Standards employees, including the agency head, if they are officers.
13. Sheriffs who perform the full range of police duties and functions, including all types of arrests, and who carry a weapon, and thus may be viewed as both heads and officers of the parts of their offices that perform such duties and functions.
14. Special sheriffs appointed pursuant to M.G.L. c. 37, § 4 who perform the full range of police duties and functions, including all types of arrests.

15. State Auditor's Office Bureau of Special Investigation special State Police officers serving under M.G.L. c. 22C, § 68, to the extent that the Commission has exercised its discretion to require their certification pursuant to that statute.
16. State Police officers, including the Superintendent.
17. University of Massachusetts Police Department officers, including the department head if that person is an officer.
18. Other special, reserve, and intermittent police officers who are temporary or part-time officers, have the full range of powers of a police officer, including all powers of arrest, and are among the types of officers listed above.

B. Individuals Not Subject to the Statute

1. Alcoholic Beverages Control Commission special investigators.
2. Constables who do not execute or expect to execute arrests.
3. Court officers.
4. Department of Youth Services officers.
5. Federal officers.
6. Harbormasters and assistant harbormasters not appointed or employed as law enforcement officers by law enforcement agencies.
7. Natural resource officers, shellfish constables, and shellfish wardens not appointed or employed as law enforcement officers by law enforcement agencies.
8. Parole officers.
9. Peace Officer Standards and Training Commission employees, including the agency head, if they do not serve in the Division of Police Standards or they do not serve as officers.
10. Probation officers.
11. Sheriffs and deputy sheriffs who do not perform the full range of police duties and functions, including all types of arrests, and who do not carry a weapon, and thus cannot be viewed as officers of the parts of their offices that perform such duties and functions.
12. Special State Police officers who derive their powers from a section of M.G.L. c. 22C other than §§ 58 and 63, including:
 - a. Civil Defense Agency employees serving under § 64, to the extent that the Commission has not exercised its discretion to require their certification pursuant to that statute.
 - b. Employment and Training Division employees serving under § 66.
 - c. Humane society and association agents serving under § 57.
 - d. Massachusetts Society for Prevention of Cruelty to Children agents serving under § 56.
 - e. Mental health or developmental services department employees serving under § 59.
 - f. Middlesex County Sanatorium employees serving under § 65.
 - g. Public Health Department employees serving under § 60.

- h. Railroad corporation, railway company, The Boston Terminal Corporation, Railway Express Agency, Inc., or common carrier of passengers by water for hire employees serving under § 51.
 - i. Soldiers' home employees serving under § 62.
 - j. State Auditor's Office Bureau of Special Investigation employees serving under § 68, to the extent that the Commission has not exercised its discretion to require their certification pursuant to that statute.
 - k. State Lottery Commission employees serving under § 67.
- 13. State and county correctional officers who are not: sheriffs who perform the full range of police duties and functions, including all types of arrests, and who carry a weapon; special sheriffs appointed pursuant to M.G.L. c. 37, § 4 who perform the full range of police duties and functions, including all types of arrests, and who carry a weapon; or deputy sheriffs appointed pursuant to M.G.L. c. 37, § 3 who perform the full range of police duties and functions, including all types of arrests, and who carry a weapon.

IV. RESERVATION OF RIGHTS

The Commission reserves the ability to adopt a revised construction of M.G.L. c. 6E at any time.