

# MCTF Subcommittee Guidance

This document presents guidance and expectations for the MCTF Subcommittees that have been assigned to draft recommendations for each of the directives established by the Legislature in [Chapter 120 of the Acts of 2020](#) - An Act To Mitigate Arbovirus in the Commonwealth. The guidance is brief. Supporting documents and references for each subcommittee are presented in separate appendices.

## Subcommittee charge

MCTF Subcommittees, in coordination with the MCTF “... shall review [the MCTF Report] and make recommendations regarding” each of the directives below:

### Mosquito Control Policy Structure Subcommittee

- (v) assessing the need to update the composition of the state reclamation and mosquito control board;*
- (x) identifying the challenges, including but not limited to financial barriers, facing municipalities in joining a regional mosquito control project or district;*

### Local Engagement Subcommittee

- (ii) promoting public participation in mosquito management decisions;*
- (iii) providing for local options regarding the use of pesticides;*
- (viii) providing for comprehensive annual evaluations of each season’s mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife;*

### Pesticide Selection Subcommittee

- (vii) promoting the use of the safest or minimum risk pesticides feasible and employing methods, including product disclosures or implementation of testing protocols and procedures, to avoid the use of pesticides containing per- and polyfluoroalkyl substances;*
- (ix) identifying known ingredients in pesticide products used for mosquito control, analyzing the ability, or lack of ability, to identify such ingredients, and making recommendations for determining such ingredients;*

### Best Practices Subcommittee

- (i) facilitating the use of integrated pest management, including surveillance, public education, enhanced habitat for mosquito predators and storm water management;*
- (vi) developing procedures to protect human and ecological health and minimize non-target impacts of mosquito pesticides, including, but not limited to, effects on persons with respiratory or immune system illnesses, drinking water supplies, pollinators and aquatic life;*
- (iv) protecting organic agriculture from pesticide use;*

## Conduct of Subcommittee Meetings

- Subcommittees will meet once every two weeks and attend a monthly meeting of the entire task force to report progress and coordinate work for directives that span subcommittees.
- Subcommittees are subject to M.G.L. c. 30A, Sections 118 – 25, the Massachusetts Open Meeting Law (“OML”).
- A quorum of the subcommittee is required for any meeting and is determined by the total number in members that were appointed to that subcommittee by the MCTF.
- Each subcommittee will be supported by an EEA representative in an administrative capacity and a facilitator and support staff from Eastern Research Group. The roles of these participants are presented in the appendices.
- While the MCTF report is a primary source of information for the subcommittees, other materials and presentations may be introduced. However, subcommittees should be mindful that the schedule for drafting recommendations does not allow for significant time to be spent gathering or discussing additional information sources (see guidance on Schedule below).

## Schedule

This schedule provides a guide to recommendation development. Each phase of development is allotted a fixed amount of time and the subcommittee will report out to the task force at the end of each phase. Subcommittees should plan to meet for the full block of allotted time for each meeting, and should continue ahead if a phase is finished early.

Phase	Actions	Work Products Due at End of Phase
Initial scoping 1 meeting	Introductions and review of guidance document	
Review and Discussion of Information ~3 meetings	Discuss information that helps define issues relevant to each directive and informs recommendations	Background for each directive
Outline Recommendations ~1 meeting	Outline recommendations	Present progress/drafts to MCTF for feedback
Draft Recommendations ~3 meetings	Revise, debate, vote on recommendations	Present recommendations to MCTF
Final Recommendations ~2 meetings	Finalization and/or revision of recommendations	Task Force vote on recommendations

### **Protocols for drafting recommendations and voting**

- Recommendations should take the form of one to two sentences that are clear and actionable. Each recommendation is to be accompanied by two to three paragraphs discussing the rationale and evidence for the recommendation.
- Voting
  - Once a recommendation is complete, Subcommittees can advance a draft recommendation to the full MCTF by vote of majority of members present.
  - Subcommittee members need to be present at the time of the vote to cast a vote.
  - Optional: A minority discussion (2-3 paragraphs) can be prepared and forwarded to the MCTF along the Subcommittee's recommendation.

### **Supporting Materials**

Materials relevant to each subcommittee are presented in the appendices, including:

- Subcommittee members and supporting personnel;
- Roles for Subcommittee participants;
- Ground Rules
- MCTF report sections relevant to each Subcommittees' charge;
- Identification of the Massachusetts Legislature's directives being handled by each Subcommittee;
  - Questions to consider in responding to each of the legislative directives;
  - Overlap of directives' scope;
- Example recommendations from the Cranberry Task Force;
- Massachusetts' open meeting law guidance

## Subcommittee Members and Supporting Personnel

### Mosquito Control Policy Structure Subcommittee

**Chair: Stephen Rich**

**Members:**

- Julia Blatt
- Russell Hopping
- Brad Mitchell
- Rich Pollack
- Heidi Ricci
- Derek Brindisi
- Heidi Porter

EEA staffer: Jessica Burgess and Alisha Bouchard

Facilitator/support staff:  
Diana Pietri and Elizabeth Weathers (ERG)

### Pesticide Selection Subcommittee

**Chair: Bob Mann**

**Members:**

- Priscilla Matton
- Brad Mitchell
- Jennifer Pederson
- Rich Pollack
- Helen Poynton
- Nicole Keleher

EEA staffer: Taryn LaScola

Facilitator/support staff:  
John Wilhelmi and Kaila Stein (ERG)

### Local Engagement Subcommittee

**Chair: Heidi Ricci**

**Members:**

- Russell Hopping
- Priscilla Matton
- Derek Brindisi
- Eve Schluter

EEA staffer: Alisha Bouchard

Facilitator/support staff:  
Jenny Helmick and Abby Burton (ERG)

### Best Practices Subcommittee

**Chair: Richard Robinson**

**Members:**

- Tonya Colpitts
- Anita Deeley
- Russell Hopping
- Kim LeBeau
- Priscilla Matton
- Rich Pollack
- Helen Poynton
- Heidi Ricci
- Kathy Baskin

EEA staffer: Jennifer Forman Orth

Facilitator/support staff:  
Cheryl Keenan and Beverly Ge (ERG)

## Roles of Subcommittee Participants

**EEA representative** – Notetaking for public meeting purposes. While facilitator will run the meeting, EEA representative may be required to enforce MA open meeting law (OML) rules. Per the OML, EEA representative will run the technical aspects of the meeting (i.e., initiating and ending the zoom meeting).

**Chair** – Provides leadership on framing the subcommittee’s charge and supporting input from the range of members. Chair introduces the agenda and coordinates with facilitator about who will initiate discussion. Chair may assist in identifying when discussion is off topic and how to accommodate out-of-scope input. If time is left at the end of a meeting, the Chair may recognize other attendees and allow time for them to speak (see below). Responsible for ensuring that all deliberations occur at scheduled subcommittee meetings per MA open meeting rules.

**Subcommittee members** – Responsible for working respectfully and constructively with other subcommittee members, following subcommittee ground rules, to develop recommendations and supporting materials for each directive assigned to the subcommittee. Responsible for ensuring that all deliberations occur at scheduled subcommittee meetings per MA open meeting law rules.

**Facilitator** – Serves in a neutral, non-content role. Responsible for managing the group meeting process without influencing group outcomes. Prepares and distributes the agenda ahead of each meeting, runs the meeting (ensuring that the meeting follows the agenda, stays on time, everyone is given the opportunity to contribute to the discussion, and no one dominates the discussion), identifies when discussion is off topic and whether/how to accommodate out-of-scope input, and manages the drafting of recommendations and voting process.

**Support staff** – Notetaking for the purposes of capturing the ideas that would be brought into the formulation of subcommittee recommendations. ERG support staff may also assist in drafting written documents based on subcommittee discussion.

**Other participants** – The Chair may recognize other attendees, including other members of the task force and the public, and allow time for them to speak. It is recommended that discussion be limited to subcommittee membership during scheduled business of the subcommittee. Once a motion is made, discussions should be limited to members of the subcommittee. Members of the public are encouraged to provide comments via the comment portal, which will be regularly shared with task force members, at: <https://www.mass.gov/forms/comments-for-the-mosquito-control-task-force>

## Rules and expectations for subcommittee members

- Join meetings on time and participate in each meeting for the full two hours. When that is not possible, notify the chair and facilitator in advance that you cannot attend the meeting or let them know what portion of the meeting you will be attending.
- Raise your virtual hand when you would like to speak.
- Throughout the meeting, stay focused on the meeting goals. Ensure that all your input is within scope—i.e., relevant to developing recommendations on the assigned directives. To the extent you introduce information beyond that in the MCTF report, ensure that it is relevant and salient to developing recommendations and provide it as clearly and succinctly as possible.
- Participate constructively and maintain an atmosphere of respect for all participants.
  - All subcommittee members should participate; no one should dominate.
- Support the facilitator in maintaining a positive, inclusive, and solution-focused meeting environment for all members. Listen actively and with an open mind. Explore the interests behind the positions. Build on other member’s ideas.
- Work toward finding common ground, not differences.
- Notify the chair if you would like to call on a meeting attendee (e.g., member of the task force or the public) to speak and clearly state the purpose of that input.
- Subcommittees are subject to M.G.L. c. 30A, Sections 118 – 25, the Massachusetts Open Meeting Law (“OML”). All communication between subcommittee members, including written or oral and even if no response is required or requested, may only be at a public meeting. Information may not be shared between any subcommittee and the MCTF outside of a public meeting. All meetings must be held in accordance with the OML and roll call votes are required for any meeting held remotely.
  - Don’t have side conversations in the chat, via email, or in any other setting outside subcommittee meetings.

## Background Materials and MCTF Report Sections Relevant to Subcommittees' Charges

Subcommittee	Relevant MCTF Report Sections
<b>Best Practices</b>	1: Arbovirus History in MA 3: Opt-out and exclusions 4: Chemical Composition and Toxicity of Pesticides 5: IPM and non-chemical mosquito controls 6: Best Practices 7: Drinking Water Regulations 8: Impact of mosquitoes and mosquito control 9: Climate Change Impacts <i>Presentation by Subject Matter Expert: A summary of how pesticides are regulated in the state of Massachusetts (132B and 333 CMR).</i>
<b>Local Engagement</b>	1: Arbovirus History in MA 2: Existing Mosquito Control Policy 3: Opt-out and exclusions 4: Chemical Composition and Toxicity of Pesticides 5: IPM and non-chemical mosquito controls 6: Best Practices 8: Impact of mosquitoes and mosquito control <i>Presentation by Subject Matter Expert: legal/regulatory basis for opt-out and exclusions</i>
<b>Mosquito Control Policy Structure</b>	1: Arbovirus History in MA 2: Existing Mosquito Control Policy 3: Opt-out and exclusions <i>Presentation by Subject Matter Expert: A summary of 252, enabling legislation, and current structure of mosquito control.</i>
<b>Pesticide Selection</b>	1: Arbovirus History in MA 4: Chemical Composition and Toxicity of Pesticides 5: IPM and non-chemical mosquito controls <i>Presentation by Subject Matter Expert: A summary of how pesticides are registered on the federal and state level.</i>

## Subcommittee Directives and Understory Questions

Understory questions are provided for each subcommittee's directives to help guide the discussion in consideration of key questions. Potential areas of overlap between subcommittees are identified.

One set of questions is provided for each subcommittee on the following pages.

There are several topics that are a component of more than one directive and being addressed by more than one subcommittee. These overlaps are noted in the following pages and in **Overlapping Scope in Directives Assigned to Different Subcommittees**.



## Local Engagement Subcommittee

### Directives:

- (ii) promoting public participation in mosquito management decisions;*
- (iii) providing for local options regarding the use of pesticides;*
- (viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife;*

## Understory Questions

### *(ii) promoting public participation in mosquito management decisions;*

- What are the goals of public participation in mosquito management decisions?
- Which mosquito management decisions, at what times, should be subject to public input?
- What new processes should be created, or existing processes modified, to improve public understanding of mosquito management and allow public participation in mosquito management decisions?
- What resources should be created or developed to increase public participation?

### *(iii) providing for local options regarding the use of pesticides;*

- What changes to the municipal opt-out process and/or individual property opt-out and exclusion process are needed (if any)?
- What should the procedure be to request and approve an opt out request (individual and municipal)?
- Should there be a point in time where exclusions are not recognized due to risk/benefit of public health?
- What changes to MCD structure, policies, and membership services are needed to enable local options regarding pesticide use (if any)?
- Are there, or should there be, other processes enabling local control of pesticide use that can be improved?

### *(viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife;*

- What information or data is currently gathered to enable evaluation of mosquito control processes? (Consider at what organizational level(s) the evaluation will be performed)
  - effectiveness in controlling arbovirus
  - effects of spraying on
    - the environment,
    - agriculture [impacts on organic agriculture are also considered as part of *iv*, in Best Practices Subcommittee], and
    - wildlife?

- What additional information or data is needed to assess the effectiveness of mosquito control and its effects on environment, agriculture, and wildlife?
  - What needed information could feasibly be gathered and used in future mosquito control decisions? Are there critical data gaps that cannot be feasibly filled?
  - What changes are needed to information gathering or data reporting to enable annual assessment of effectiveness?
  - Is funding needed to assess the effectiveness of mosquito control?
- How will currently measured or measurable data be used to comprehensively evaluate each season's process? [also considered as part of *i*, Best Practices Subcommittee]

## Pesticide Selection Subcommittee

Note: These two directives combine a) identifying ingredients, b) promoting use of minimum risk pesticides, and c) avoiding PFAS.

*Directives:*

*(vii) promoting the use of the safest or minimum risk pesticides feasible, and employing methods, including product disclosures or implementation of testing protocols and procedures, to avoid the use of pesticides containing per- and polyfluoroalkyl substances*

*(ix) identifying known ingredients in pesticide products used for mosquito control, analyzing the ability, or lack of ability, to identify such ingredients, and making recommendations for determining such ingredients;*

## Understory Questions

*(vii)(a) promoting the use of the safest or minimum risk pesticides feasible*

- What elements of the pesticide selection process, if any, need to change in order to identify the safest/minimum risk pesticides (considering both human and ecological health), including, for example, consideration of non-listed constituents (i.e., non-active ingredients and contaminants/impurities)?
- What can be done to promote/ensure consistency in how pesticide selection is carried out across all entities responsible for mosquito pesticide applications, including the SRB, MCDs, and other entities (e.g., municipalities and commercial applicators)?
  - If not, how can these processes be changed to encourage use of the identified pesticide(s) over other pesticides state-wide?

*(ix) identifying known ingredients in pesticide products used for mosquito control, analyzing the ability, or lack of ability, to identify such ingredients, and making recommendations for determining such ingredients;*

And

*(vii)(b) employing methods, including product disclosures or implementation of testing protocols and procedures, to avoid the use of pesticides containing per- and polyfluoroalkyl substances*

- Which, if any state agencies have the authority to require disclosures of non-active, intentionally added ingredients and/or impurities/contaminants in mosquito pesticides used in the Commonwealth?
  - If no state agency has the authority to require these disclosures, what other information sources would be valuable for decision-making, including testing of pesticide formulation components?
  - If testing is required,
    - What chemicals should be tested for and how frequently?
    - How can testing results be disseminated in a systematic way to inform pesticide selection by all entities and interested parties?
    - Will funding be needed to provide the testing?

## Best Practices Subcommittee

### Directives:

*(i) facilitating the use of integrated pest management, including surveillance, public education, enhanced habitat for mosquito predators and storm water management;*

*(vi) developing procedures to protect human and ecological health and minimize non-target impacts of mosquito pesticides, including, but not limited to, effects on persons with respiratory or immune system illnesses, drinking water supplies, pollinators and aquatic life;*

*(iv) protecting organic agriculture from pesticide use;*

### Understory Questions

*(i) facilitating the use of integrated pest management, including surveillance, public education, enhanced habitat for mosquito predators and storm water management;*

- What are the goals and measures of success for IPM?
- What expertise and resources are needed to carry out IPM successfully, and do MCDs have those resources?
- What changes, if any, to individual IPM components or IPM programs are warranted: surveillance, public education, enhanced habitat for mosquito predators and storm water management?

*(vi) developing procedures to protect human and ecological health and minimize non-target impacts of mosquito pesticides, including, but not limited to, effects on persons with respiratory or immune system illnesses, drinking water supplies, pollinators and aquatic life;*

- Which measures that prevent non-target impacts of pesticides targeting mosquitoes have been demonstrated to be effective, and are feasible in Massachusetts?
- What needs to change within current legislations, regulations, programs, and policies to promote or put protective practices in place?

*(iv) protecting organic agriculture from pesticide use;*

- What is the definition of an “organic agriculture operation”?
- To what extent are organic agriculture operations in Massachusetts impaired or potentially impaired due to pesticide use for mosquito control? [the impact of spraying on agriculture is also considered as part of *viii*, in Local Engagement Subcommittee]
- What changes to the individual property exclusion process are needed (if any)? [also considered as part of *iii*, in Local Engagement Subcommittee]
- What other changes to mosquito pesticide use in Massachusetts are needed to protect organic agriculture? [MCD, municipal, private and state-level programs and policies] [also considered as part of *viii*, in Local Engagement Subcommittee]

## Mosquito Control Policy Structure Subcommittee

### Directives:

*(v) assessing the need to update the composition of the state reclamation and mosquito control board;*

*(x) identifying the challenges, including but not limited to financial barriers, facing municipalities in joining a regional mosquito control project or district;*

### Understory Questions

- What are the goals of the Commonwealth's mosquito control?
- What existing components of the policy structure are effective?
- What existing components of the policy structure are not effective, and what changes are needed to the current structure to improve effectiveness for achieving the Commonwealth's goals?
- In an amended or newly-defined structure, what role, if any, should SRB, MAG, MDAR, DPH, DEP, MCDs, and other Commonwealth governmental agencies be given? Are any new entities required?
  - Are changes needed to the composition of the SRB?
  - Are changes needed to MCD structure and function?
    - What challenges are faced by municipalities while joining MCDs and after joining MCDs?
    - How can the funding structure be improved?
    - What should be the role and oversight responsibilities of the MCD commissioners?
    - What should be the role, oversight responsibilities, and composition of the SRB?

## Overlapping Scope in Directives Assigned to Different Subcommittees

Subcommittees are encouraged to coordinate their efforts by presenting their respective assessments of issues and draft recommendations at the full MCTF meetings and attending other subcommittee meetings. Topics for collaboration are not limited to what is listed below.

### **Topic: Protection of organic agriculture**

*(iv) protecting organic agriculture from pesticide use; **Best Practices Subcommittee***

*(viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife; **Local Engagement Subcommittee***

### **Topic: Evaluation of mosquito controls**

*(i) facilitating the use of integrated pest management, including surveillance, public education, enhanced habitat for mosquito predators and storm water management; **Best Practices Subcommittee***

*(viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife; **Local Engagement Subcommittee***

### **Topic: Property exclusions**

*(iii) providing for local options regarding the use of pesticides; **Local Engagement Subcommittee***

*(iv) protecting organic agriculture from pesticide use; **Best Practices Subcommittee***

## Example recommendations from the Cranberry Task Force

The Massachusetts Cranberry Revitalization Task Force was convened in 2016 with the objective to “examine the status of the industry and the complex challenges ahead, and to develop a multi-pronged action plan geared toward stabilizing and revitalizing this beleaguered industry.” The Cranberry Task Force developed recommendations for the legislature, industry, and executive office. While not following the MCTF format for recommendations (background, recommendation, rationale for recommendation, and suggested statutory and regulatory language changes), these examples may be useful for the Mosquito Control for the 21<sup>st</sup> Century Task Force subcommittees in developing recommendations.

### **Example #1 - Extension of Minimum Gross Sales Requirement Exemption**

In 2014 the Massachusetts State Legislature amended the M.G.L. Ch. 61A program by allowing an exception for cranberry producers to still remain in the program even if they are not producing a crop. The 61A program stipulates that a minimum of \$500 must be produced each year to remain eligible. With many cranberry growers not producing a crop, this eligibility cannot be achieved. The law was amended to enable growers to stay in the program through 2017, even with no income generated from the sale of a crop. With the immediate financial outlook for many growers still dire, there will be cranberry farmers not growing a crop beyond the 2017 harvest. As a result, the Task Force recommends that the language allowing for inclusion in the program for cranberry growers with no crop produced be extended to calendar year 2020.

### **Example #2 - Amend 61A: Cranberry Land Assessment for Conversion to Permanent Protection**

Massachusetts M.G.L. Ch. 61A offers a property tax break for landowners willing to commit to keep some or all of their land undeveloped for a specified period of time. Cranberry acreage enrolled in Ch. 61A agricultural land assessment are required to pay a roll-back tax when those lands are converted to non-agricultural use. The rollback tax is assessed if the land use changes while enrolled in Ch. 61A or within 5 years of withdrawal from the Ch. 61A program. Rollback taxes are the difference between what the property tax would have been at the full assessment, known as Ch. 59 taxes, and the tax paid under Ch. 61A, plus 5% simple interest per year. The intent is to penalize landowners who utilized Ch. 61A for preferential tax treatment when the land was converted to a potentially high value use such as a housing development. The Task Force identified that the same roll-back may be assessed even though the land may be converted to a conservation use through a federal conservation program, permanently protecting the land through an easement. This seems to counter the intent of Ch 61A which is to encourage continuance of open space.

Federal agencies such as the USDA Natural Resource Conservation Service have existing programs that purchase agricultural rights from prior converted wetlands such as cranberry bogs and restore them to their previous wetland function. The Task Force recommends that Ch 61A section 12 be amended to insure no conveyance or rollback tax shall be assessed if the land involved, or a lesser interest in that land, is acquired for a natural resource purpose by a federal agency. The law already exempts the change of use for natural resource purposes if the property or a lesser interest is acquired by a city or town, the commonwealth or a land trust.

## Open Meeting Law Guide

The following paragraphs are extracted from the *Open Meeting Law Guide and Educational Materials*.<sup>1</sup> These excerpts are meant as guidance for subcommittees and are not comprehensive.

### ***Purpose of the Law***

*The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.*

### ***What meetings are covered by the Open Meeting Law?***

*With certain exceptions, all meetings of a public body must be open to the public. A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.*

*These four questions will help determine whether a communication constitutes a meeting subject to the law:*

- 1) is the communication between or among members of a public body;*
- 2) if so, does the communication constitute a deliberation;*
- 3) does the communication involve a matter within the body's jurisdiction; and*
- 4) if so, does the communication fall within an exception listed in the law?*

### ***What constitutes a public body?***

*While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches<sup>1</sup> of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose.*

### ***What constitutes a deliberation?***

*The Open Meeting Law defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction." Distribution of a meeting agenda, scheduling or procedural information, or reports or*

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<sup>1</sup>Commonwealth of Massachusetts Office of Attorney General Maura Healey. (January 2018). Open Meeting Law Guide and Educational Materials. <https://www.mass.gov/doc/open-meeting-law-guide-and-educational-materials-0/download>



*documents that may be discussed at a meeting is often helpful to public body members when preparing for upcoming meetings. These types of communications generally will not constitute deliberation, provided that, when these materials are distributed, no member of the public body expresses an opinion on matters within the body's jurisdiction. Additionally, certain communications that may otherwise be considered deliberation are specifically exempt by statute from the definition of deliberation (for example, discussion of the recess and continuance of a Town Meeting pursuant to G.L. c. 39, § 10A(a) is not deliberation).*

*To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a simple majority of the members of a public body. Thus, a communication among less than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a serial manner in order to evade the application of the law.*

*Note that the expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. For example, if a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds.*