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**EXECUTIVE
DIRECTOR**

Enrique Zuniga

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

February 10, 2022

In accordance with Sections 18-25 of Chapter 30A of the Massachusetts General Laws and [An Act Extending Certain COVID-19 Measures Adopting During the State of Emergency](#), notice is hereby given of a meeting of the Peace Officer Standards and Training Commission. The meeting will take place as noted below.

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

February 15, 2022

11:00 AM

Public Meeting #16

Remote Participation via [Zoom](#)

Meeting ID: 978 8225 3795

PUBLIC MEETING AGENDA

1. Call to Order
2. Approval of Minutes
 - a. January 14, 2022
3. Executive Director Report – Enrique Zuniga
 - a. Administrative update
 - b. Certifications process update (academy candidates & SSPO's) – Gina Joyce, Senior Certification Specialist
4. Plan for Officer Re-certifications (officers with last name A–H) – General Counsel Ravitz
5. Discussion of In Scope/Out of Scope Agencies – General Counsel Ravitz
6. Policy regarding officers unable to complete in-service or supplemental training due to exceptional circumstances – General Counsel Ravitz
7. Public comment
8. Matters not anticipated by the Chair at the time of posting

PEACE OFFICER STANDARDS & TRAINING COMMISSION

January 14, 2022

8:30 AM

**Peace Officer Standards and Training Commission
Remote Participation**

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Draft Meeting Minutes of November 22 and December 14, 2021
- Memorandum from Executive Director Enrique Zuniga to Commission Regarding Disciplinary Records Submittals Report
- Memorandum from Certification Specialist Gina Joyce to Commission Regarding Law Enforcement Officer Certification Standards Update
- Revised Draft Background Attestation Form and Questionnaire for Law Enforcement Officer Applicants
- Memorandum from Certification Specialist Gina Joyce to Commission Regarding Certification Process for Special State Police Officers
- Revised Draft Phase I Regulations

In Attendance:

- Chair Margaret R. Hinkle
- Commissioner Hanya Bluestone
- Commissioner Lawrence Calderone
- Commissioner Clementina M. Chéry
- Commissioner Larry Ellison
- Commissioner Marsha V. Kazarosian
- Commissioner Charlene D. Luma
- Commissioner Kimberly P. West
- Commissioner Michael Wynn

1. Call to Order

- The Chair recognized a quorum.
- The Commission will review the agenda out of order and discuss the draft Phase I Regulations after voting to approve minutes from the November 22 and December 14, 2021 meetings.

2. Approval of Minutes

- Commissioner Ellison moved to approve the minutes from the November 22 and December 14, 2021 meetings.
- Commissioner Chéry seconded the motion.
- The Commission unanimously approved the minutes from the November 22 and December 14, 2021 meetings.

2. Draft Phase 1 Regulations: Review of Complaints by an Agency, Preliminary Inquiries, Suspensions and Disciplinary Hearings – Attorneys Lon Povich, Mina Makarious and Annie Lee
 - Mr. Povich explained the revision process A&K has undertaken since the last December 14, 2021 meeting, including receiving comments from Commissioners, Commission staff, and the public.
 - Mr. Povich and Mr. Makarious then explained substantive changes to the draft regulations.
 - If a police department does not forward a complaint to the Commission (like an anonymous complaint or a complaint relating to an ongoing criminal investigation), it must maintain certain materials relative to that complaint. However, a department, in its discretion, can always forward a complaint to the Commission.
 - Commissioner Ellison raised a question about the standard for choosing not to forward a complaint to the Commission. Mr. Povich explained that the departments will be subject to their own policies, but retain discretion once they have complied with those policies.
 - The regulations do not create a right to counsel – officers have the right to counsel, a union representative or other representation to the extent allowed under other policies and rules.
 - The period for completing an investigation of a complaint has been shortened from 180 days to 90 days.
 - The Commission should receive any information regarding any immunity offers during an investigation.
 - An officer can appeal to single commissioner on their own – they do not require counsel or representation to do so.
 - Hearings are presumptively public unless requested to be private.
 - Change to definition of “officer-involved injury or death”
 - General Counsel Ravitz explained the change.
 - Ms. Lee explained the process and a proposed timeline for promulgating these regulations.
 - The Chair asked for a motion to approve the regulations for a public hearing and public comment.
 - Commissioner Kazarosian moved to approve the regulations for a public hearing and public comment.
 - Commissioner Wynn seconded the motion.
 - The Commission unanimously approve the regulations for a public hearing and public comment.
3. Executive Director Report
 - a. Administrative update
 - The Commission continues to hire and recruit for numerous positions.
 - The Commission continues to establish its technology infrastructure.
 - The Commission continues to engage with local Police Chiefs regarding their various questions and concerns.

- b. Disciplinary Records Report
 - POSTCReports@mass.gov is currently receiving disciplinary records, which will be analyzed when all records have been received.
 - To date, 137 agencies have submitted their records, and 14 agencies have extensions (usually to Jan. 31).
- 4. Certification Standards Update
 - a. Certifications Issued – Gina Joyce, Senior Certification Specialist
 - The Commission has certified 115 officers from two police academics in the short term. In the future, the Commission plan to provide information regarding certification procedures to local departments so candidates are certified prior to beginning at the academy.
 - The Commission’s next certification task will be to certify currently active officers.
 - b. Certification Questionnaire and Attestations – General Counsel Ravitz
 - The background attestation and questionnaire forms have been merged into one documents; the substance of either has not been altered.
 - The Commission has reviewed the questions that sparked discussion (such as social media) against practices in other states.
 - The Chair ask for a motion to approve the background certification questionnaire and attestation. Commission Kazarosian moved to approve the background certification questionnaire and attestation. Commissioner Chéry seconded the motion. The Commission unanimously approved the background certification questionnaire and attestation.
- 5. Certification Process
 - a. Special State Police Officer (SSPO) – Gina Joyce, Senior Certification Specialist
 - Ms. Joyce suggested the Commission establish a process for warrant of appointment of SSPOs, as explained in the memorandum she provided to the Commission. In the meantime, Ms. Joyce requested approval to use a temporary process to issue certification to SSPOs. Requesting approval of temporary process to issue certification for these officers.
 - Ms. Joyce stressed the urgency for approving a temporary certification process, due to the currently understaffing experienced at institutions that employ SSPOs.
 - Commissioner Calderone moved to approve a temporary certification process for SSPOs. Commission Ellison seconded the motion. The Commission unanimously approved a temporary certification process for SSPOs.
 - b. School Resource Officer (SRO) – General Counsel Ravitz
 - General Counsel Ravitz sought approval for a protocol for certifying SROs.
 - Commission Ellison asked General Counsel Ravitz to explain how the proposed protocol differed from the certification of other LEOs.
 - Commissioner West moved to approve a protocol for certifying SROs. Commissioner Kazarosian seconded the motion. Commissioners Ellison and Bluestone abstained from the vote. The remaining Commissioners voted to approve the protocol for certifying SROs.

6. Process for Issuance of Advisories – General Counsel Ravitz
 - General Counsel Ravitz has received requests for guidance about the scope of Chapter 6E. He has explained the scope of 6E in response to requests, and will develop a process for issuing similar advisories.
7. Public comment
 - A member of the public asked who determines the adequacy of an anonymous complaint. The topic was addressed in response to Commissioner Ellison’s question and will be considered during the public comment period.
8. Matters not anticipated by the Chair at the time of posting
 - There were no new matters.
9. Executive Session to discuss a candidate for employment with the POST Commission, pursuant to M.G.L. c. 30A, s 21(a)(1), if approved by a majority of members through a roll-call vote, pursuant to M.G.L. c. 30A, s 21(b)(2)
 - The Commissioners approved the roll call vote to go into executive session. The Commission then moved into executive session.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**REQUIREMENTS AND PLAN FOR RECERTIFICATION
OF CERTAIN LAW ENFORCEMENT OFFICERS
(Proposed)**

The Peace Officer Standards and Training Commission hereby adopts this plan for recertifying, as law enforcement officers, those individuals who were automatically certified for a limited time through An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth, St. 2020, c. 253, § 102. Under the Act, the certification of each such officer is set to expire on either July 1, 2022, July 1, 2023, or July 1, 2024, depending upon the first letter of the officer’s last name. See St. 2020, c. 253, § 102(d). The Commission may “not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)].” M.G.L. c. 6E, § 4(i). This plan provides a mechanism for determining whether officers continue to satisfy such requirements, and for renewing their certifications where appropriate.

I. KEY STATUTORY PROVISIONS

M.G.L. c. 6, § 116

...
The [Municipal Police Training Committee (“MPTC”)] and the division of police certification established in [M.G.L. c. 6E, § 4] shall jointly establish minimum certification standards for all officers, pursuant to [M.G.L. c. 6E, § 4].
...

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:

- ...
- (2) establish, jointly with the [MPTC] established in [M.G.L. c. 6, § 116], minimum officer certification standards pursuant to [M.G.L. c. 6E, § 4];
 - (3) certify qualified applicants;
 - (4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable;
- ...
- (6) establish, in consultation with the [MPTC] established in [M.G.L. c. 6, § 116], minimum agency certification standards pursuant to [M.G.L. c. 6E, § 5];

(7) certify qualified agencies;

(8) withhold, suspend or revoke certification of agencies;

(9) conduct audits and investigations pursuant to [M.G.L. c. 6E, § 8];

...

(21) demand access to and inspect, examine, photocopy and audit all papers, books and records of any law enforcement agency;

...

(23) restrict, suspend or revoke certifications issued under [M.G.L. c. 6E];
[and]

...

(28) adopt, amend or repeal regulations in accordance with [M.G.L. c. 30A] for the implementation, administration and enforcement of [M.G.L. c 6E], including, but not limited to, regulations:

...

(ii) determining whether an applicant has met the standards for certification; [and]

...

(iv) establishing a physical and psychological fitness evaluation pursuant to [M.G.L. c. 6E, § 4] that measures said fitness to ensure officers are able to perform essential job duties

.....

M.G.L. c. 6E, § 4

(a)(1) There shall be within the commission a division of police certification. The purpose of the division of police certification shall be to establish uniform policies and standards for the certification of all law enforcement officers, subject to the approval of the commission. The head of the division shall be the certification director, who shall be appointed by the commission.

...

(f)(1) The division of police certification and the [MPTC] established in [M.G.L. c. 6, § 116] shall jointly establish minimum certification standards for all officers that shall include, but not be limited to:

(i) attaining the age of 21;

(ii) successful completion of a high school education or equivalent, as determined by the commission;

- (iii) successful completion of the basic training program approved by the [MPTC];
- (iv) successful completion of a physical and psychological fitness evaluation approved by the commission;
- (v) successful completion of a state and national background check, including, but not limited to, fingerprinting and a full employment history; provided, that if the applicant has been previously employed in law enforcement in any state or United States territory or by the federal government, the applicant's full employment record, including complaints and discipline, shall be evaluated in the background check;
- (vi) passage of an examination approved by the commission;
- (vii) possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the commission;
- (viii) successful completion of an oral interview administered by the commission; and
- (ix) being of good moral character and fit for employment in law enforcement, as determined by the commission.

[(f)](2) The commission shall not issue a certificate to an applicant who:

- (i) does not meet the minimum standards enumerated in [M.G.L. c. 6E, § 4(f)(1)] or the regulations of the commission;
- (ii) has been convicted of a felony or whose name is listed in the national decertification index or the database of decertified law enforcement officers maintained by the commission pursuant to [M.G.L. c. 6E, § 13(a)(i)]; or
- (iii) while previously employed in law enforcement in any state or United States territory or by the federal government, would have had their certification revoked by the commission if employed by an agency in the commonwealth.

[(f)](3) The commission may issue a certificate to a qualified applicant consistent with the provisions of this [M.G.L. c. 6E]. The commission shall determine the form and manner of issuance of a certification. A certification shall expire 3 years after the date of issuance.

[f](4) An officer shall remain in compliance with the requirements of [M.G.L. c. 6E] and all rules and regulations promulgated by the commission for the duration of their employment as an officer.

...

(i) Each certified law enforcement officer shall apply for renewal of certification prior to its date of expiration as prescribed by the commission. The commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)].

.....

M.G.L. c. 6E, § 5

...

(b) The division of police certification in consultation with the [MPTC] established in [M.G.L. c. 6, § 116], and subject to the approval of the commission, shall establish minimum certification standards for all law enforcement agencies that shall include, but shall not be limited to, the establishment and implementation of agency policies regarding:

- (i) use of force and reporting of use of force;
- (ii) officer code of conduct;
- (iii) officer response procedures;
- (iv) criminal investigation procedures;
- (v) juvenile operations;
- (vi) internal affairs and officer complaint investigation procedures;
- (vii) detainee transportation; and
- (viii) collection and preservation of evidence.

(c) An agency shall remain in compliance with the requirements of this [M.G.L. c. 6E] and all rules and regulations promulgated by the commission.

M.G.L. c. 6E, § 9

(b) The commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission; provided, however, that the commission may promulgate reasonable exemptions to this subsection, including,

but not limited to, exemptions for: (1) injury or physical disability; (2) a leave of absence; or (3) other documented hardship. The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

St. 2020, c. 253, § 102

(a) Notwithstanding [M.G.L. c. 6E, § 4], a law enforcement officer, as defined in [M.G.L. c. 6E, § 1], who has completed an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22] on or before the effective date of this section[, July 1, 2021,] and is appointed as a law enforcement officer as of the effective date of this section, shall be certified as of the effective date of this section. Notwithstanding [M.G.L. c. 6E, § 4] or the preceding sentence, a law enforcement officer, as defined in [M.G.L. c. 6E, § 1], who has completed an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22C] on or before December 1, 2021, and is appointed as a law enforcement officer as of December 1, 2021, shall be certified as of the effective date of this section. No officer who is certified pursuant to this section shall be required to complete or repeat a basic training program if such officer previously completed a basic training program provided or approved by the [MPTC] or its predecessor, the criminal justice training council or received previous basic training that the [MPTC] deems equivalent to Massachusetts training standards.

(b) All law enforcement officers who have completed a reserve training program on or before the effective date of this section shall be certified as of the effective date of this section. Prior to the expiration of that certification, the officer shall complete additional training as required by the [MPTC].

...

(d) The certification of a law enforcement officer who has graduated from an academy or training program certified by the [MPTC] or the training programs prescribed by said [M.G.L. c. 22C] who is certified as a result of this section and whose last names begin with: (i) A to H, inclusive, shall expire 1 year after the effective date of this section; (ii) I to P, inclusive, shall expire 2 years after the effective date of this section; and (iii) Q to Z, inclusive, shall expire 3 years after the effective date of this section.

II. STATEMENT OF POLICIES AND PRINCIPLES

The Commission declares as follows.

1. The Commission is committed to acting in accordance with the letter and spirit of An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth, St. 2020, c. 253, and satisfying the expectations of the Massachusetts Legislature.

2. Chapter 6E of the General Laws reflects certain competing goals that need to be balanced and harmonized. The first is ensuring that the Commission the authority to develop, with input from others where appropriate, comprehensive standards that will ensure that officers are fit for duty. See M.G.L. 6, § 116; c. 6E, §§ 3(a), 4. The second is having a very large number of officers certified in a short amount of time. See 2020, c. 253, § 102. The third is achieving consistency and uniformity in the standards applied to law enforcement officers. See M.G.L. c. 6E, §§ 4(a)(1), 4(f)(1); cf. M.G.L. c. 6E, § 3(a)(28)(iii) (similar, as to disciplinary regulations). The fourth is evaluating officers on an individualized basis. See M.G.L. c. 6E, §§ 3(a), 4.
3. Section 4(f)(1) of Chapter 6E sets forth “minimum certification standards.” The Commission is not statutorily *required* to certify an officer who meets those minimum standards in M.G.L. c. 6E, § 4(f)(1); that is, the statute does not grant an officer who satisfies those standards an *entitlement* to certification. See M.G.L. c. 6E, § 4. Moreover, additional standards may be set by the Commission and the MPTC acting jointly. See M.G.L. c. 6, § 116; c. 6E, §§ 3(a)(2), (f)(1). Or, they may be set by the Commission alone. See M.G.L. c. 6E, §§ 3(a), 4(a)(1).
4. Neither the requirements for certification, nor a decision not to recertify, is intended to be punitive in nature.
5. Rather, such requirements and decisions are intended to ensure that members of our communities are protected and treated properly, to help each law enforcement agency maintain a corps of qualified officers, to further the interests and welfare of individual officers, and to generally promote the public interest.
6. Where an officer’s failure to satisfy a standard does not necessitate that the officer be removed from the ranks of law enforcement, it is preferable that the officer receive assistance so that the officer may reach a level of fitness for service.
7. Declining to recertify an officer whose certification has expired is materially different from decertifying an officer—that is, revoking the officer’s certification. M.G.L. c. 6E, §§ 1, 3(a), 4(i), 10. Thus, the mere fact that an officer has not been recertified would not expose the officer to the various consequences of decertification. See M.G.L. c. 6E, §§ 4(d), (f)(2), 4(h), 8(e), 10(g), 11, 13(a), 13(b), 16.
8. While it might not be practicable for the Commission and the MPTC, or even employing agencies, to conduct extensive, individualized evaluations of each officer, based on a series of criteria, within the time provided by St. 2020, c. 253, § 102(d), the Commission can and should be informed about officers as to whom agencies have developed significant concerns.
9. Officers have not been provided with extensive notice of the need for recertification, as St. 2020, c. 253 was enacted on December 31, 2020. And those whose

certifications are set to expire on July 1, 2022 will not have had a great deal of notice as to any standards adopted by the Commission before their expiration date arrives.

10. Some officers may understandably face challenges in achieving a certain level of fitness, and it may require significant time and effort for them to do so.
11. While the Legislature's design of a staggered certification system through St. 2020, c. 253, § 102 was understandable and beneficial in certain ways, it would be inequitable to require some officers to achieve a certain level of fitness by July 1, 2022 while allowing other officers until July 1, 2024 in which to do so.
12. The Commission is dedicated to continuing to raise the level of fitness and professionalism among officers over time.
13. The above goal will be best achieved through a careful process that incorporates input from the MPTC, other stakeholders, experts, and members of the public, and that accounts for considerations such as the terms of collective bargaining agreements.
14. The process of continuing to develop standards will benefit from the gathering of information regarding the practices and experiences of individual agencies.
15. Requiring agencies to contribute in certain ways to the development of standards, and to the implementation of the certification process, will enable the Commission to utilize their expertise, will enable agencies to tailor plans based on their own needs, and will promote efficiency through the division of labor.
16. In order to be most effective, the Commission aims to adopt a plan that will provide for flexibility, and it reserves the ability to exercise the full range of the broad powers granted to it by law.

III. RECERTIFICATION PLAN AND STANDARDS

The Commission adopts the following plan for recertifying officers. The Commission hereby "certifies that," where the standards set forth in this Section III are met, an individual "continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)]." M.G.L. c. 6E, § 4(i). And, unless the Commission exercises its power to "deny an application or limit, condition, restrict, revoke or suspend a certification," M.G.L. c. 6E, § 3(a), the individual may be recertified as a law enforcement officer.

The Commission further authorizes the Executive Director to develop a form attestation as to any standard requiring an attestation.

Standard (i): "attaining the age of 21"

- This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

Standard (ii): “successful completion of a high school education or equivalent, as determined by the commission”

- This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

Standard (iii): “successful completion of the basic training program approved by the [MPTC]”

- This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

Standard (iv): “successful completion of a physical and psychological fitness evaluation approved by the commission”

- Until July 1, 2024, this standard will be deemed satisfied where the officer successfully completed a physical and psychological fitness evaluation that was required for “graduat[ion] from an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22C],” St. 2020, c. 253, § 102.
- If an employing agency head concludes that an officer is not “able to perform essential job duties,” M.G.L. c. 6E, § 3(a)(28)(iv), the employing agency head must report that conclusion to the Commission. See M.G.L. c. 6E, § 3(a).
- For these purposes, “essential job duties” means the actual, and primary or dominant, duties of a law enforcement officer who holds the specific position in which the individual serves. Cf. St. 2020, c. 253, § 51 (inserting M.G.L. c. 22C, § 10A, which provides in part that “[t]he [State Police cadet] qualifying examination shall fairly test the applicant’s knowledge, skills and abilities that can be fairly and reliably measured and that are actually required to perform the primary or dominant duties of the position of state police cadet”), § 108(c) (charging new commission with, inter alia, “study[ing] the feasibility and benefits of establishing” “a statewide law enforcement officer cadet program,” and “proposed standards, including form, method and subject matter, for a qualifying examination which shall fairly test the applicant’s knowledge, skill and abilities that can be fairly and reliably measured and that are actually required to perform the primary or dominant duties of a law enforcement cadet”).
- Where such a report is made, unless the Commission otherwise directs, the employing agency will be required to develop a plan with the goal of enabling the officer “to perform essential job duties,” M.G.L. c. 6E, § 3(a)(28)(iv), which plan shall be treated as

a form of in-service training, subject to the provisions of M.G.L. c. 6E, § 9(b). See M.G.L. c. 6E, § 3(a).

- Any such plan shall be designed and implemented with the goal of assisting the officer in attaining the requisite level of fitness, and shall not have punitive elements.
- The Commission will continue developing an evaluation of physical and psychological fitness, through the formal promulgation of sections of the Code of Massachusetts Regulations or otherwise.
- The Commission will also explore the development of standards for agency certification that require certain measures relative to the physical and psychological fitness of officers. See M.G.L. c. 6E, §§ 3(a), 5(b), 5(c).
- Agencies are not precluded from developing their own standards or training requirements separate from the certification process.
- The Executive Director shall be authorized to require agencies to provide the Commission with information concerning their current and past practices with respect to physical or psychological evaluations. See M.G.L. c. 6E, §§ 3(a), 5(b), 5(c).

Standard (v): “successful completion of a state and national background check . . .”

- This standard will be deemed satisfied if all of the following criteria are met.
 - The employing agency attests that such background check of the type described in M.G.L. c. 6E, § 4(f)(1)(v) was successfully completed at any point in time before the expiration of the officer’s certification.
 - The employing agency has provided all disciplinary records that it was required to submit, relative to the officer, prior to the expiration of the officer’s certification. See St. 2020, c. 253, § 99 (providing for each agency to submit to the Commission “a comprehensive disciplinary record for each law enforcement officer” containing certain information).
 - The employing agency attests to certain key facts regarding the officer’s background.
 - The Commission does not discern any basis, within information it has received, for finding the standard unmet.

Standard (vi): “passage of an examination approved by the commission”

- This standard will be deemed satisfied if the officer’s employing agency or the MPTC attests that it was satisfied at any point in time before the expiration of the officer’s certification.

Standard (vii): “possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the commission”

- This standard will be deemed satisfied if the officer’s employing agency submits an attestation stating that the officer currently possesses such certificates or the equivalent.

Standard (viii): “successful completion of an oral interview administered by the commission”

- The Commission shall develop a reasonable set of questions to be asked, or topics to be discussed, with each officer.
- Each employing agency shall develop a system to ensure that a supervisor conducts an interview covering such questions or topics with each officer.
- Each employing agency head shall arrange for him/herself to be interviewed in the same manner by an appropriate appointing authority.
- Each employing agency head and appointing authority shall make a report to the Commission where an interview raises significant concerns about an officer’s “moral character and fit[ness] for employment in law enforcement,” M.G.L. c. 6E, § 4(f)(1)(ix).
- Where no such report is made, this standard will be deemed satisfied.
- The Commission reserves the ability to further refine such interviews in the future, through the formal promulgation of sections of the Code of Massachusetts Regulations or otherwise. See M.G.L. c. 6E, §§ 3(a), 4.
- Agencies are not precluded from asking additional questions, or conducting additional interviews or evaluations, separate from the certification process.

Standard (ix): “being of good moral character and fit for employment in law enforcement, as determined by the commission”

- This standard will be deemed satisfied if the employing agency attests that the officer currently possesses such character and fitness.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**CONSTRUCTION OF SCOPE OF CHAPTER 6E OF THE
MASSACHUSETTS GENERAL LAWS**

(Proposed)

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 range of agencies and officers that are 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, § 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[]

....

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.

“Law enforcement agency”[means:]

- (i) a state, county, municipal or district law enforcement agency, including, but not limited to[the following, provided that, any agency not listed below nevertheless constitutes a police department or sheriff’s department and 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;
- (ii) a sheriff’s department in its performance of police duties and functions[, meaning that it 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.

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

- [i.] any officer of an agency, including the head of the agency;
- [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 can be expected to exercise arrest powers]; or
- [vi.] any other special, reserve or intermittent police officer[, meaning a temporary or part-time officer who has the powers of a police officer 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.
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 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.
5. Educational institution special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads.
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.

8. Massachusetts Bay Transportation Authority Police Department officers, including the department head.
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.
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.
12. Sheriffs.
13. 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.
14. 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.
15. State Police officers, including the Superintendent.
16. University of Massachusetts Police Department officers, including the department head.
17. Other special, reserve, and intermittent police officers who are temporary or part-time officers, have the powers of a police officer, 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 will never 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. Probation officers.
10. 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. Soldiers' home employees serving under § 62.
 - i. 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.
 - j. State Lottery Commission employees serving under § 67.
11. State and county correctional officers who are not: sheriffs; 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; 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.

IV. RESERVATION OF RIGHTS

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

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**AUTHORIZATION OF CONDITIONAL RECERTIFICATION FOR CERTAIN LAW ENFORCEMENT OFFICERS WHO ARE UNABLE TO COMPLETE IN-SERVICE OR SUPPLEMENTAL TRAINING DUE TO DOCUMENTED HARDSHIP
(Proposed)**

The Peace Officer Standards and Training Commission hereby establishes a procedure for recertifying certain law enforcement officers, who are unable to timely complete in-service or supplemental training required of them and can sufficiently document the same, on the condition that such training be completed within a specified period of time. The criteria for, and the terms of, such a conditional certification are provided below. Those terms incorporate certain proposals offered by the Municipal Police Training Committee.

I. KEY STATUTORY PROVISIONS

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:

...

(3) certify qualified applicants;

(4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable;

...

(23) restrict, suspend or revoke certifications issued under [M.G.L. c. 6E]; [and]

...

(28) adopt, amend or repeal regulations in accordance with [M.G.L. c. 30A] for the implementation, administration and enforcement of [M.G.L. c 6E], including, but not limited to, regulations:

...

(ii) determining whether an applicant has met the standards for certification

....

M.G.L. c. 6E, § 4

(a)(1) There shall be within the commission a division of police certification. The purpose of the division of police certification shall be to establish uniform policies

and standards for the certification of all law enforcement officers, subject to the approval of the commission. The head of the division shall be the certification director, who shall be appointed by the commission.

...

(f)(1) The division of police certification and the [MPTC] established in [M.G.L. c. 6, § 116] shall jointly establish minimum certification standards for all officers that shall include, but not be limited to:

- (i) attaining the age of 21;
- (ii) successful completion of a high school education or equivalent, as determined by the commission;
- (iii) successful completion of the basic training program approved by the [MPTC];
- (iv) successful completion of a physical and psychological fitness evaluation approved by the commission;
- (v) successful completion of a state and national background check, including, but not limited to, fingerprinting and a full employment history; provided, that if the applicant has been previously employed in law enforcement in any state or United States territory or by the federal government, the applicant's full employment record, including complaints and discipline, shall be evaluated in the background check;
- (vi) passage of an examination approved by the commission;
- (vii) possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the commission;
- (viii) successful completion of an oral interview administered by the commission; and
- (ix) being of good moral character and fit for employment in law enforcement, as determined by the commission.

[(f)](2) The commission shall not issue a certificate to an applicant who:

- (i) does not meet the minimum standards enumerated in [M.G.L. c. 6E, § 4(f)(1)] or the regulations of the commission;
- (ii) has been convicted of a felony or whose name is listed in the national decertification index or the database of decertified law enforcement

officers maintained by the commission pursuant to [M.G.L. c. 6E, § 13(a)(i)]; or

(iii) while previously employed in law enforcement in any state or United States territory or by the federal government, would have had their certification revoked by the commission if employed by an agency in the commonwealth.

[(f)](3) The commission may issue a certificate to a qualified applicant consistent with the provisions of this [M.G.L. c. 6E]. The commission shall determine the form and manner of issuance of a certification. A certification shall expire 3 years after the date of issuance.

[f](4) An officer shall remain in compliance with the requirements of [M.G.L. c. 6E] and all rules and regulations promulgated by the commission for the duration of their employment as an officer.

...

(i) Each certified law enforcement officer shall apply for renewal of certification prior to its date of expiration as prescribed by the commission. The commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)].

....

M.G.L. c. 6E, § 9

(b) The commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission; provided, however, that the commission may promulgate reasonable exemptions to this subsection, including, but not limited to, exemptions for: (1) injury or physical disability; (2) a leave of absence; or (3) other documented hardship. The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

St. 2020, c. 253, § 102

(a) Notwithstanding [M.G.L. c. 6E, § 4], a law enforcement officer, as defined in [M.G.L. c. 6E, § 1], who has completed an academy or training program certified by the [MPTC] or the training programs prescribed by [M.G.L. c. 22] on or before the effective date of this section[, July 1, 2021,] and is appointed as a law enforcement officer as of the effective date of this section, shall be certified as of the effective date of this section. Notwithstanding [M.G.L. c. 6E, § 4] or the preceding sentence, a law enforcement officer, as defined in [M.G.L. c. 6E, § 1], who has completed an academy or training program certified by the [MPTC] or

the training programs prescribed by [M.G.L. c. 22C] on or before December 1, 2021, and is appointed as a law enforcement officer as of December 1, 2021, shall be certified as of the effective date of this section. No officer who is certified pursuant to this section shall be required to complete or repeat a basic training program if such officer previously completed a basic training program provided or approved by the [MPTC] or its predecessor, the criminal justice training council or received previous basic training that the [MPTC] deems equivalent to Massachusetts training standards.

(b) All law enforcement officers who have completed a reserve training program on or before the effective date of this section shall be certified as of the effective date of this section. Prior to the expiration of that certification, the officer shall complete additional training as required by the [MPTC].

...

(d) The certification of a law enforcement officer who has graduated from an academy or training program certified by the [MPTC] or the training programs prescribed by said [M.G.L. c. 22C] who is certified as a result of this section and whose last names begin with: (i) A to H, inclusive, shall expire 1 year after the effective date of this section; (ii) I to P, inclusive, shall expire 2 years after the effective date of this section; and (iii) Q to Z, inclusive, shall expire 3 years after the effective date of this section.

II. AUTHORIZATION FOR CONDITIONAL CERTIFICATIONS

- A. The Commission affirms that officers are generally expected to complete all in-service and supplemental training that is required of them in advance of any applicable deadline. See M.G.L. c. 6E, §§ 3(a), 9(b); St. 2020, c. 253, § 102.
- B. However, where an individual is unable to satisfy such training requirements due to certain documented hardship, the individual may be conditionally recertified as a law enforcement officer. See M.G.L. c. 6E, § 3(a).
- C. An individual will be eligible for such conditional certification if:
 - 1. The individual was automatically certified as a law enforcement officer pursuant to St. 2020, c. 253, § 102;
 - 2. The individual is unable to complete required in-service training or training mandated pursuant to St. 2020, c. 253, § 102(b) due to a circumstance listed in Subsection II.E, below that is adequately documented;

3. The individual otherwise meets all qualifications for recertification, see M.G.L. c. 6, § 116; c. 6E, §§ 3(a), 4; and
 4. The individual's employing agency certifies that the individual meets the other criteria for conditional certification, and that the agency will adhere to the provisions of Subsection G below.
- D. Such certification will be conditioned on the individual's completion of the required training before the expiration of an extension afforded under Subsection II.E below. See M.G.L. c. 6E, § 3(a).
- E. Extensions of time may be afforded according to the following terms, based on a proposal by the MPTC:
- Military leave: 90 days after the military leave ends
 - Injured-on-duty leave under G.L. c. 41, § 111F: 90 days after the injury leave ends
 - Workers' compensation leave: 90 days after the workers' compensation [leave] ends
 - Chemotherapy/radiation treatment: 90 days after the [medical leave related to] chemotherapy/radiation treatment ends
 - Pregnancy/maternity leave: 90 days after maternity leave ends
 - FMLA/PFML leave: 90 days after the leave ends
 - Medically documented unforeseen exigent circumstances that preclude completion of certification requirements: 90 days after the medical exigency ends
 - Emergency exigencies approved by majority vote of the POST Commission: 90 days or such other period as the POST Commission in its discretion decides

Any recertification extension that has not ended by five years after the original deadline shall lapse and application for reinstatement shall be required.

- F. An individual's failure to satisfy a training requirement before the expiration of an extension will be addressed in accordance with M.G.L. c. 6E, § 9(b).
- G. The powers of an individual who is conditionally certified must be appropriately limited. At a minimum, the individual must be denied the power to arrest and denied any power to carry a firearm that is based on law-enforcement-officer status.